

## Online Appendix A: Data and coding procedures

### Data source and processing

The federal corruption prosecution data come from the 2009 edition of the National Caseload Statistical Data (NCSD), an anonymized database that is regularly released by the Offices of the United States Attorneys at the Department of Justice under the Freedom of Information Act.<sup>1</sup> This dataset includes the universe of federal prosecution files and is effectively a snapshot of the DOJ database of cases (including cases filed and closed in previous years) as of the end of the 2009 fiscal year. We retain the non-appellate criminal cases within the fifty states<sup>2</sup> that were categorized by DOJ as pertaining to state, local, or other public corruption (i.e., federal public corruption cases were excluded<sup>3</sup>). We excluded the 171 charges listed as “opened in error.” In order to avoid double-counting charges that were either superseded by a new filing or included in another case, we used the record from the final case that included

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<sup>1</sup>Gordon (2009) uses data from the Transactional Records Access Clearinghouse and the Bureau of Justice Statistics but these secondary sources should be drawn from the raw data we accessed directly.

<sup>2</sup>Cases filed in territories such as Guam and Puerto Rico were excluded because partisan politics might be less salient or operate differently in those areas. Those filed in Washington, D.C. were also excluded because of the differing political environment (cases in D.C. might, for instance, have less direct effects on Congressional or state campaigns than those in the fifty states) and the possibility that cases filed there might come under closer scrutiny from or be more influenced by “Main Justice,” the central administration of the Department of Justice.

<sup>3</sup>It is of course possible that U.S. attorneys are also biased in deciding whether to prosecute cases of federal public corruption that could damage their own party. However, few members of the opposition party are presumably charged in such cases and we therefore do not examine them here.

the defendant in question.<sup>4</sup> Legally, public corruption can range from a government employee stealing office supplies to embezzlement and bribery. To focus on cases that are high-profile enough to have the potential for political repercussions, we follow Gordon (2009, 551) and restrict our attention to the cases coded as national priorities.<sup>5</sup> We therefore exclude 977 defendants whose cases were coded as only district priorities, which Gordon (2009, 551) reports “are typically clerical workers,” as well as the 2041 defendants whose cases were coded as neither a national or district priority or whose priority was undetermined.<sup>6</sup>

### **Defendant identification**

Defendants were identified using the Public Access to Court Electronic Records (PACER) website ([www.pacer.gov](http://www.pacer.gov)), a fee-based service provided by the federal courts to offer public access to electronic court records. Research assistants initially searched PACER for cases

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<sup>4</sup>The record includes each defendant’s full case history. The charges that were eventually superseded are visible in the later case and are still used when analyzing the initial charges filed against the defendant.

<sup>5</sup>These were coded as either a national priority only or as both national and district priorities.

<sup>6</sup>We were concerned that some districts did not appear to use the national or national/district priority codes. As a validation step, we coded all 250 defendants from this group who were charged within 24 weeks of an election in a district that did not use the national or national/district priority codes for any public corruption defendants during an entire presidential administration (either Clinton or Bush). All but twenty of these 250 defendants were charged in New Jersey during the Bush years when then-U.S. attorney Chris Christie launched an unprecedented anti-corruption crusade (e.g., Sampson 2007). Of these, 80 were partisans and all were from New Jersey during the Bush administration. However, we observe no clear partisan patterns in case timing or severity around elections, which likely reflects the intense scrutiny that Christie received due to allegations that his efforts were politically motivated (e.g., Conte 2012).

in which the United States was a party that were filed within two calendar days of the case filing date provided in the Department of Justice (DOJ) data. If no matches were found, they expanded the window to four days on either side of the case filing date.

They then matched cases in the DOJ data to PACER using the case filing date, the number and type of charges against the defendant, the case closing date (if any), and the punishment (fine amount and/or months of probation/incarceration). Additional steps were taken to match defendants in the DOJ data to PACER records in multiple defendant cases, including using separate spreadsheets to record information from PACER on all defendants and then match them to the DOJ records.

Matches were allowed when minor discrepancies existed between the DOJ and PACER data if the PACER defendant data matched the DOJ defendant data on at least two identifying variables either and no other defendant in PACER did so. When too many discrepancies existed or a match could not be found, the identity of the defendant in the DOJ data was coded as missing. Minor date variation (e.g., five days or less) between the DOJ and PACER data was considered to reflect normal bureaucratic imprecision and delays in data entry. Charge/count variation between the DOJ and PACER data sometimes occurs and appears to reflect differences between charges filed (PACER) and those sustained (DOJ at least in some cases). The fact that a charge is listed in PACER but not DOJ is therefore relatively common.

A second research assistant blindly double-coded the most difficult cases, including multiple defendant cases and those for which defendants matched on two identifying variables, and resolved any discrepancies with the first coder and/or the authors to ensure that defendants were matched properly.

Due to a lack of case summary information in PACER, it was not possible to identify defendants in the following districts: California Central, Indiana South, Louisiana Middle, Nevada, New York East, Oregon, Texas West, and Virginia West. A lack of case summaries also precluded defendant identification for cases filed between December 16, 1993 and July 20, 1995 in Maryland.

After matching the defendant, research assistants copied and pasted a series of fields from

the PACER case summary into the data.

### **Defendant partisanship**

Research assistants searched for the defendant in Lexis-Nexis Academic, Google, Google News, Proquest, and the list of federal candidates compiled by Open Secrets. When possible, they identified each defendant's job title or position, city, county, state, and the level of government in which they worked: federal government, state executive branch/bureaucracy, state legislative, local government, private/nonprofit, relative/personal relationship with accused, or a military or postal worker (excluded from federal category).

The research assistants also coded the public partisanship of each defendant and any supervisor, associate, or ally of the defendant who was mentioned in news accounts or official documents about the case using the same data sources used to identify the defendant. When possible, partisan codings were corroborated using data from Gordon (2009). It is important to note that partisan codings do *not* reflect party registration or other private behavior by defendant or their associates. Individuals were only coded as partisans if they were publicly identified as members of the Democratic or Republican party in news accounts or public documents or as associates of prominent partisans.

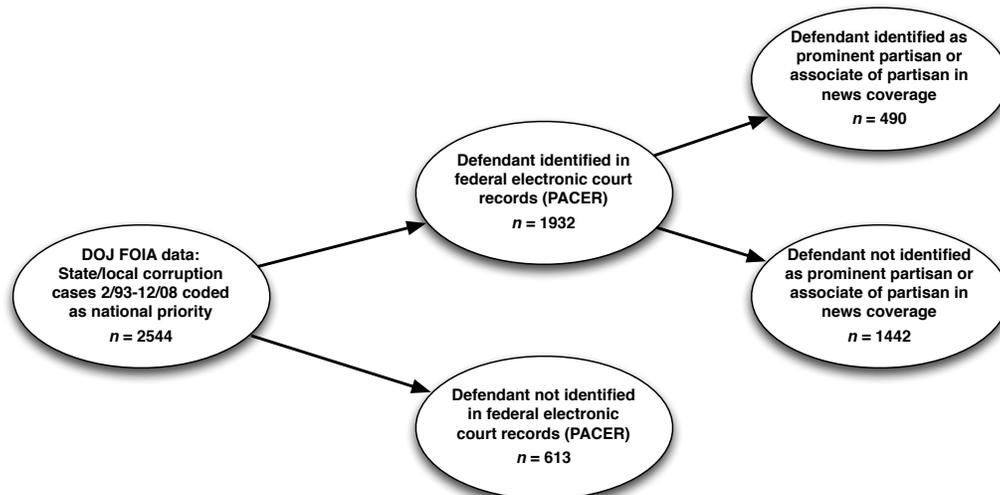
The data employed in the analysis above classifies as partisans both defendants in public corruption cases who were publicly identified with one of the major parties as well as defendants with ties to prominent partisan figures.

### **Defendant data: Match rate and reliability**

We were able to identify 1931 of the 2544 qualifying defendants (76%) spread across 1177 cases (out of 1336 total). Of the 1932 identified defendants, 489 (25%) were publicly identified with one of the major parties (352 Democrat, 137 Republican) either individually (152), as an associate of a publicly-identified partisan (314), or as both a publicly-identified partisan and

an associate of a partisan (23).<sup>7</sup> We illustrate the steps in this process of identifying partisan defendants from the set of qualifying public corruption prosecutions in Figure A1.

Figure A1: Partisan defendant identification procedure



Sample: All federal criminal cases targeting state and local public corruption filed by U.S. attorneys between February 1993 and December 2008 and coded as national priorities or national and local priorities.

As a validation step, we merged our data with the replication files from Gordon (2009)

<sup>7</sup>One potential concern is that the availability or quality of information on defendants may vary over time. We find no significant relationship between year and the probability of defendant identification once we exclude the apparently anomalous outlier of 1994, which had a 45% match rate (details available upon request). A linear time trend does exist in the probability of partisan identification among the set of defendants whose names could be identified ( $\beta = .01, p < .01$ ), which could reflect the growing proportion of media sources that are available in electronic form during the 1993–2008 period, increasing partisanship in the population of public corruption defendants, and/or partisans being more likely to be targeted by prosecutors in public corruption cases. However, unless partisan identification rates by year are correlated with the timing of individual cases around elections, this time trend should not affect our results.

and resolved any unintended discrepancies in defendant identification, party affiliation, or position among partisan defendants. After this step, we matched 94% of his defendants, including 99.4% of the partisans (one defendant appears to be omitted from our DOJ data). The sentencing data corresponds almost perfectly between datasets as well (98% on incarceration, probation, and fines among matching defendants). Finally, our coding matches Gordon's very closely on party identification (90% of those defendants who match across datasets) and public/private sector positions (95% of matching defendants).<sup>8</sup>

Table A1 compares the distribution of the summary statistics presented in Table 1 between those defendants we were able to identify with those that we could not. We find that the defendants whom we could not identify faced fewer charges and counts and were found guilty less often and of less severe crimes. In particular, the mean sentence for non-identified defendants was only eight months compared with 22 months among those whom we could identify (the median sentences were 0 months and 6 months, respectively), suggesting that the defendants we identified were those who were incriminated in more severe corruption cases.

## **U.S. attorneys**

The public corruption cases in our sample were matched to the U.S. attorney who was serving on the date that the case was filed using data on U.S. attorney tenures during the administrations of Bill Clinton and George W. Bush from the Department of Justice. We observe case filings by 220 U.S. attorneys who took office during the Clinton and Bush administrations in 75 judicial districts.<sup>9</sup> More than 1,000 were filed in ten judicial districts (California East: 81, Florida South: 85, Pennsylvania East: 88, Indiana North: 90, Mississippi South: 93, Michigan East: 104, Massachusetts: 105, Arizona: 115, New York South: 137, and Illinois North:

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<sup>8</sup>The remaining differences appear to reflect slight variations in coding rules and procedures.

<sup>9</sup>The supervising U.S. attorney could not be identified in 52 cases out of a total of 2545. These cases were filed before the first U.S. attorney nominated by the Clinton administration took office in that district (our data on U.S. attorneys begin with the Clinton administration).

Table A1: Summary statistics

	Non-identified		Identified	
	Mean	SD	Mean	SD
<b>Charge characteristics</b>				
Number of distinct charges	1.670	[1.357]	2.129	[1.399]
Total counts	4.042	[17.64]	5.770	[15.35]
Statutory max: most serious charge (months)	158.9	[76.79]	161.7	[80.79]
<b>Case resolution</b>				
Guilty of any charge	0.615	[0.487]	0.867	[0.339]
Number distinct charges pled guilty	0.473	[0.789]	0.972	[0.876]
Number counts pled guilty	1.302	[12.99]	2.383	[6.221]
Statutory max: most serious guilty plea (months)	113.4	[108.2]	161.8	[105.8]
Months of incarceration	8.388	[29.86]	22.29	[47.07]
Plea agreement	0.346	[0.476]	0.715	[0.452]
Sentencing departure	0.0326	[0.178]	0.0782	[0.269]
<b>Timing</b>				
Weeks from case received to filed	46.15	[57.58]	45.41	[62.50]
Number of defendants	613		1931	

Sample: All federal criminal cases targeting state and local public corruption filed by U.S. attorneys between February 1993 and December 2008 and coded as national or national/local priorities. Charge severity measures were calculated using the approach developed in Rehavi and Starr (2014), which estimates the maximum potential sentence under the law for every criminal charge used by the Department of Justice. Weeks to file were calculated from the date the case was received to the date on which charges were filed (the 25 cases in which defendants were charged before the case was received due to a pre-arrest indictment are coded as 0; none were partisans). Number of defendants represents totals in the data; individual cell sample sizes vary slightly due to missing data. See Appendix A for further details.

274). The 489 publicly identified partisans in the data are distributed somewhat more evenly across 60 judicial districts. The most cases against partisans were filed in Illinois North (102), Pennsylvania East (38), and Indiana North (37). The 483 cases that could be matched to U.S. attorneys<sup>10</sup> were filed by 98 U.S. attorneys, but nearly half (48 of 98) filed cases against only one or two partisan defendants. The remaining 50 U.S. attorneys filed 420 cases against partisan defendants. The most prolific U.S. attorneys were Scott Lassar in Illinois North (43 par-

<sup>10</sup>Six were filed before the first Clinton administration U.S. attorneys took office (five in California East, one in Kentucky East).

tisan defendants from 1998–2001), Patrick Fitzgerald in Illinois North (33 from 2001–2010), Joe Van Bokkelen in Indiana North (30 from 2001–2007), Pat Meehan in Pennsylvania East (28 from 2001–2008), and Jim Burns in Illinois North (26 from 1993–1997).

### **Assistant U.S. attorneys and federal judges**

We extract the set of assistant U.S. attorneys (AUSAs) listed in the PACER judicial database as representing the United States in the set of cases that constitute our sample (federal criminal cases targeting state and local public corruption filed between February 1993 and December 2008 that were coded as national priorities and for which the defendant could be determined). For each AUSA who prosecuted a public corruption case, we determined the number of cases they prosecuted against defendants who were publicly identified as a member of a major party or a prominent associate of a well-known partisan. We then compared the balance of prosecutions by party among those cases filed against partisans within 24 weeks of a federal or state election, counting each case for each AUSA who represented the federal government (often more than one was listed). An identical procedure was employed for each U.S. attorney who took office during the Clinton and Bush administrations (see above). Specifically, we compared the partisan balance of all public corruption cases meeting the above criteria that were filed by the U.S. attorney’s office under their supervision within 24 weeks of a federal or state or federal election. Data on federal judges was derived from Federal Judicial Center (N.d.). Name matching was used to link individuals across datasets; official biographies and *Who’s Who* were consulted to resolve any remaining ambiguities (e.g., inconsistent use of nicknames).

### **Election timing**

For each case, we calculated the electoral distance variable to the closest election before or after the case filing date in the DOJ data (i.e., the minimum absolute value), which is the one

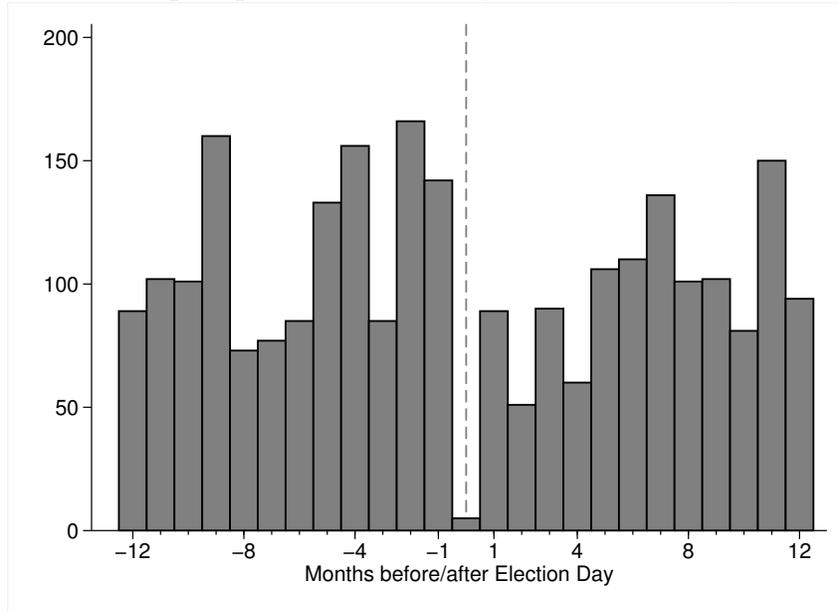
we expect to be most salient.<sup>11</sup> Since most state elections coincide with federal elections, this variable measures the number of weeks until or since the closest federal election except for a subset of cases in the five states with off-year electoral cycles (Kentucky, Louisiana, Mississippi, New Jersey, and Virginia). For those five states, the closest election was a state gubernatorial or legislative election for 153 of 200 defendants. The resulting electoral distance variable ranges from -365 (a case filed on November 8, 1999 in West Virginia South — approximately one year before the 2000 federal elections) to 366 (two cases, including one filed in Missouri East on November 4, 1993—one year and one day after the 1992 federal elections). As described in the main text, we round our electoral distance variable down to the nearest complete week from the election. This week variable ranges from -52 to 52. Cases filed less than 7 days before and after the election were classified as 0.5 and -0.5, respectively. Figure A2 presents the distribution of these cases for all defendants.

We also construct placebo election dates on the first Tuesday of November in off-years for partisan defendants charged with public corruption in the 45 states that hold state elections on the federal election calendar (excludes Kentucky, Louisiana, Mississippi, New Jersey, and Virginia) and estimate the number of weeks to the closest placebo election for these defendants. This measure is constructed analogously to the main electoral distance measure.

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<sup>11</sup>The DOJ data only provide one case filing date. For cases with superseding indictments, the filing date may be the date of the most recent filing in the case. These are a relatively small proportion of the sample — 22% of all identified defendants and 24% of partisans have a superseding count in the charges listed in PACER. We expect that the incentives that affect the filing of new charges around an election should also apply to filing additional or updated charges in the period around an election. To the extent that the superseding indictments are otherwise not sensitive or consequential, however, their presence should add noise to the data and make it more difficult for us to find significant results.

Figure A2: Public corruption prosecution case filings over the electoral cycle (all defendants)



Sample: All federal criminal cases targeting state and local public corruption filed by U.S. attorneys between February 1993 and December 2008 and coded as national priorities. For each case, we calculated the number of weeks from the date the case was filed to the closest election (before or after) at the federal or state level.

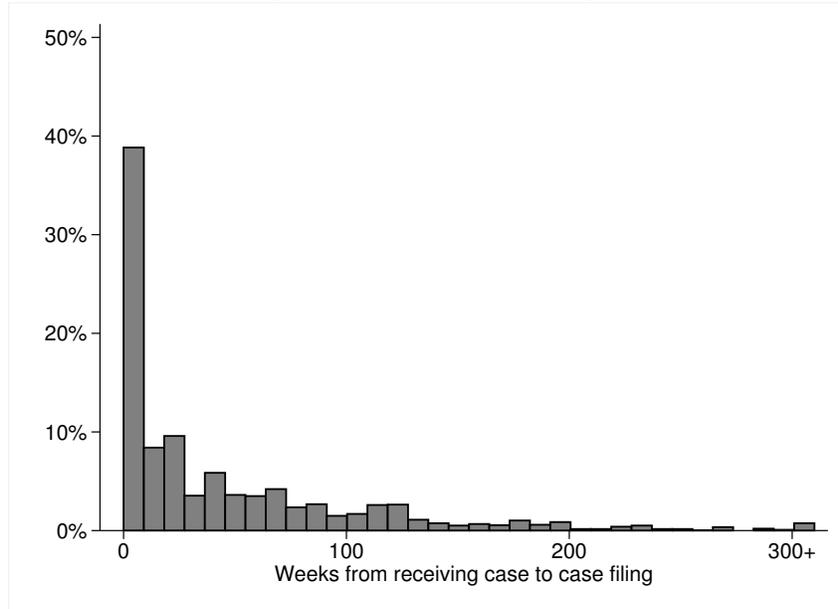
**Weeks to file**

We calculate the number of days elapsed from the date the case was recorded as being received by DOJ to the date that the prosecutor filed charges. A histogram of this measure, which is rounded to the nearest complete week, appears below (the 19 cases in which more than 300 weeks elapsed are collapsed in the rightmost bin).

**Charge severity**

In both government databases and court documents, criminal charges are recorded using the exact section of the U.S. Code that the defendant is accused of violating. For example, a charge of 18:1347A refers to Title (18), Section (1347), Subsection (A) of the U.S. Code. When the relevant code has numerous subsections and paragraphs, the exact reference will be indicated in the charge by an additional series of lower case letters and numbers enclosed

Figure A3: Time to case filings



Sample: All federal criminal cases targeting state and local public corruption filed by U.S. attorneys between February 1993 and December 2008 and coded as national priorities or national and local priorities.

in parentheses. Lastly, the category (F for felony or M for misdemeanor) indicates whether the individual was charged with the felony or misdemeanor version of the offense when both exist for that crime. The severity of the individual charges filed against a defendant, the lead charge in the defendant's case, and the individual charges sustained against each defendant were quantified by matching each charge to the the charge severity measures developed by Rehavi and Starr (2014), which provide the maximum potential sentence under the law for every criminal charge used by DOJ since 2000 (i.e., the statutory maximum; see the data appendix in Rehavi and Starr 2014 for a detailed description).

### All charges filed/sustained

The NCSD includes detailed information on every charge ever filed against a defendant (including those that were dropped or superseded). Using the charge severity matrix from Rehavi and Starr (2014), we calculated the maximum potential sentence among all charges filed

against each defendant as well as the potential maximum among all charges that were sustained. Because most federal sentences are served concurrently, this measure calculates the maximum severity of the charges filed against each defendant as well as the maximum sustained charge.

### **Election-related offenses**

According to the federal handbook for prosecuting election-related crime (Donsanto and Simmons 2007), the following statutes can be used to charge election-related offenses: conspiracy against rights (18 U.S.C. § 241), deprivation of rights under color of law (18 U.S.C. § 242), false information in and payments for registering and voting (42 U.S.C. § 1973i(c)), voting more than once (42 U.S.C. § 1973i(e)), voter intimidation (42 U.S.C. § 1973gg-10(1), 18 U.S.C. § 594, 18 U.S.C. § 610, 18 U.S.C. § 241 and § 242, 18 U.S.C. § 245(b)(1)(A)), fraudulent registration or voting (42 U.S.C. § 1973gg-10(2)), voting by non-citizens (42 U.S.C. § 1973gg-10(2)), false claims to register to vote (18 U.S.C. § 911), and campaign “dirty tricks” (2 U.S.C. § 441d and 2 U.S.C. § 441h). While used to charge election-related crimes, these statutes can also be applied to non-election-related offenses. The frequencies presented in the main text are thus likely to overestimate the number of public corruption cases stemming from election-related crimes.

## Online Appendix B: Robustness checks and additional results

Table B1: Post-election change in probability of opposition-party case

	Window around election (weeks)			
	24	20	16	12
<u>Local linear regression</u>				
Election discontinuity	-0.40*	-0.43*	-0.48*	-0.49*
	(0.19)	(0.19)	(0.19)	(0.19)
LLR 200% optimal bandwidth	9.56	9.25	9.02	8.90
<u>Flexible polynomial RD (logit)</u>				
Election discontinuity	-0.59*	-0.68**	-0.60*	-0.45
	(0.26)	(0.25)	(0.30)	(0.45)
N	250	207	151	113

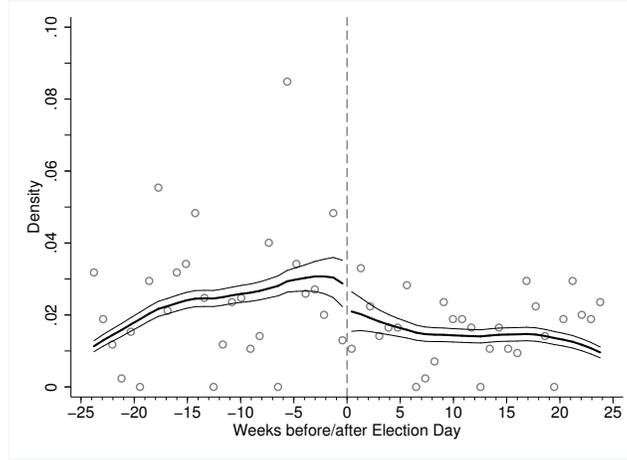
+, \*, and \*\* denote significance at the 10%, 5% and 1% levels, respectively. Local linear regression estimated in Stata 11 using `rd` (Nichols 2011) with 200% of bandwidth calculated using the approach in Imbens and Kalyanaraman (2012). Flexible polynomial estimator includes third order polynomials estimated using logistic regression. Standard errors in parentheses (clustered by criminal case for logit models).

Sample consists of all federal criminal cases targeting state and local public corruption filed by U.S. attorneys during the February 1993–December 2008 period and coded as national or national and local priorities in which the defendants were publicly identified as a member of a major party or a prominent associate of a well-known partisan. For each case, we calculated the number of weeks from the date the case was filed to the closest election before or after at the federal or state level. See Appendix A for further details.

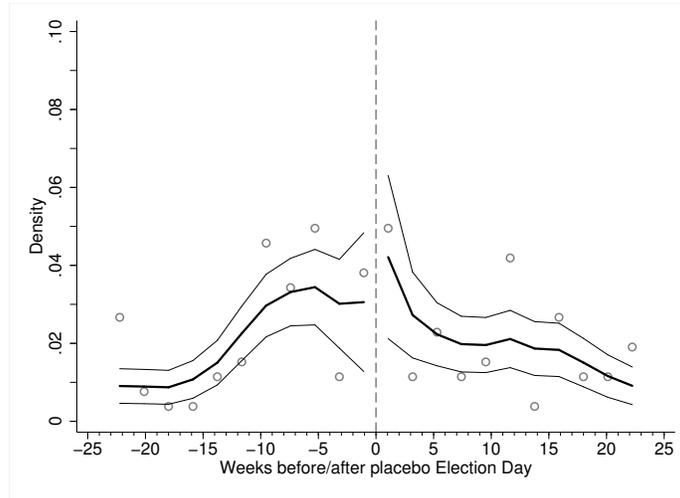
Neither the timing of non-partisan case filings in Figure B1(a) nor filings around placebo off-year election dates in Figure B1(b) show a discontinuous change in density at Election Day.

Figure B1: Falsification tests for discontinuity in opposition corruption case timing

(a) *Non-partisan defendants*



(b) *Opposition party: Weeks to placebo elections*



Plots calculated using the McCrary (2008) density test in Stata with default bin size and bandwidth calculations; thick lines represent density estimates, while thin lines represent 95% confidence intervals.

Sample: All federal criminal cases targeting state and local public corruption filed by U.S. attorneys between February 1993 and December 2008 within 24 weeks of an election. The sample for subfigure (a) consists of all defendants who could not be publicly identified as a member of a major party or a prominent associate of a well-known partisan. For each case in this sample, we calculated the number of weeks to the closest election (before or after) the case was received at the federal or state level. The sample for subfigure (b) consists of all defendants in states that hold state elections on the federal election calendar (all but Kentucky, Louisiana, Mississippi, New Jersey, and Virginia) who could be publicly identified as opposition party members or as prominent associates of well-known opposition partisans in state or local politics. For each case in this sample, we calculated the number of weeks to the closest placebo election (early November in off-years) before or after the case was received. See Appendix A for further details.

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