

Voting to Build Prisons: Exploring Support for Prison Construction Bond Referenda

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Abstract

During the period of prison expansion from the late 1970s to the 1990s, public opinion generally supported stricter criminal justice measures. This support did not necessarily extend to building correctional facilities, however, encouraging some states to pursue cost-saving and privatization strategies. This paper explores the extent to which voters supported prison construction bond referenda, compared to other kinds of referenda. Evidence from fixed-effects models suggests that voters were less likely to support prison construction and that voter support for prison construction is linked with race. These results demonstrate the direct and sometimes contradictory ways that public opinion influences the criminal justice system.

The United States is unique in its high level of incarceration, imprisoning a higher percentage of its citizens than any other country in the world (NAS, 2014). This heightened amount of incarceration, often called mass incarceration, is also unique in American history. The US prison system, at the state and federal level, has grown dramatically from the late 1970s until the late 2000s, remaining relatively stable since then.

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One of the key elements in understanding the shift to mass incarceration is public opinion on crime and imprisonment. A large literature has documented the ways that citizens in this time period endorse punitive, tough-on-crime policies that encouraged legislators to change sentencing laws to increase sentence lengths and the number of people serving time, leading to a large boom in imprisonment. This preference for punitive policies is linked to race in a number of ways. Despite this general preference for punitive policies, many states had difficulty passing bond referenda on prison construction while incarceration rates were rising. This paper explores support for prison bond referenda during this time period. While voters may have supported “tough on crime” policies, they were actually somewhat less likely to support prison construction bonds than other kinds of bond issues. Additionally, county-level voter support for referenda is associated with a county’s racial composition.

Public Opinion, Criminal Justice, and Race

Public opinion studies consistently find a tendency to support strict measures to combat crime. For one example of many, from 1976-1996, 80 percent of Americans thought local courts were too lenient with criminals, with numbers somewhat higher for whites ([The Associated Press-NORC Center for Public Affairs Research, 2014](#)). Importantly, public opinion on crime has been shown to have an important effect on levels of incarceration. [Nicholson-Crotty, Peterson, and Ramirez \(2009\)](#) argue that criminal justice policy forms a second dimension of policy mood, and a Granger test shows that punitive shifts in this dimension cause increased incarceration. Similarly, [Enns \(2014\)](#) finds that public opinion on crime is a fundamental determinant of

incarceration rates, as well as that the public led political elites in measures of Congressional attention. On the other hand, [Zimring and Johnson \(2006\)](#) argue that the US public did not get more punitive and is not more punitive than other countries. The US is distinct instead in that there is a greater political salience for crime and a greater role for the political system, especially at the state level, in the execution of criminal justice. Other countries are more professionalized, so political considerations are less important in determining incarceration rates. Similarly, [Boushey \(2016\)](#) demonstrates that crime policy salience determines changes in punitive policies, though the target of the group and its corresponding social status and political power also have a role.

This preference for punitive policies is at least partially motivated by racial considerations. For whites, there is a strong relationship between preferences for punitive (not preventive) policies and images of African-Americans ([Hurwitz and Peffley, 1997](#)) or negative evaluations of black prisoners ([Peffley and Hurwitz, 2002](#)). Essentially, when whites think of punitive policies, they think of black prisoners. Similarly, [Green, Staerklé, and Sears \(2006\)](#) find that symbolic racism is associated with support for punitive crime policies and opposition to preventive policies. Specifically regarding fiscal preferences, [Barkan and Cohn \(2005\)](#) use GSS data to show that whites who perceive blacks as more violent are more likely to support more money being spent on crime. There is also some evidence, however, of African-American support for tough-on-crime policies ([Fortner, 2015](#); [Forman, 2017](#)). African Americans are particularly likely to be victims of crime and often felt that the criminal justice system needed to do more to protect their communities.

Public opinion on crime, which is influenced by racial considerations, has been shown to have some impact on incarceration rates. Race has also been shown to play a role in levels of state imprisonment in non-public opinion studies. Some studies find that percent black linearly increases state incarceration rates ([Smith, 2004](#); [Yates and Fording, 2005](#)). Others argue that this relationship is actually linear, with percent black increasing and then lowering incarceration rates ([Keen and Jacobs, 2009](#))

Prison Construction Referenda

This paper will explore the limits to enthusiasm for government spending on incarceration, even in the era of prison construction. In addition to sentencing and general punitive preferences is the public's level of willingness to spend money on constructing new prisons. This element of public opinion is crucial to understanding the buildup to mass incarceration in the 1980s. First, the skyrocketing numbers of prison commitments in many states, along with longer sentences for those committed, caused overcrowding crises and required some kind of policy change ([Mumford, Schanzenbach, and Nunn, 2016](#)). Many states were faced with prison and jail overcrowding crises. States were essentially left with two options: reduce the number of people in prison or increase prison capacity. While there were efforts at the former, states built around 400 prisons between the mid-1970s and 2000, increasing the total number of state prisons from about 600 to about 1,000 ([Lawrence and Travis, 2004](#)).

The politics of this period of prison expansion are related to, but somewhat different from, the politics of sentencing. The main difference is that building new prisons requires a clear cost, which is often quite high, whereas the cost of sending

more people to prison is less immediately salient. As a result, anti-spending attitudes, as part of the “taxpayer revolt” in this time period, play a large role in how citizens think about the question of spending money on prisons (Hagan et al., 2015).

In some states, the public had a direct role in prison construction via bond referenda. In order to finance new prison construction, 14 states held a total of 31 prison construction bond lease referenda (Inter-University Consortium for Political and Social Research, 2013). While the majority (61%) of these bond measures passed, the margin of victory was not particularly high. The average yes vote was just 53%. The relatively frequent failure and close passage of many of these prison bond referenda had a number of consequences on state criminal justice policy. For many lawmakers, this margin was worrying and led to the general abandonment of the bond lease referendum in favor of more privatized financial instruments (Aviram, 2015). The pressures of overcrowding and the lack of willingness to reduce prison populations forced legislators to find other solutions. In New York, for example, the Department of Corrections followed up a bond referendum loss by continuing prison construction anyway (E.J. Dionne, Jr., 1981). In order to do this, states used lease revenue bonds, in which private companies contract with a state government to build a correctional facility, which is then leased to the government (Aviram, 2015; Tolchin, 1985). These arrangements allow state governments to both bypass the need for voter approval and avoid directly raising taxes to pay for prison construction.

The relative unpopularity of prison construction bonds also served as a signal to legislators about voter preferences on incarceration more broadly. North Carolina illustrates this point. Throughout the 1980s, North Carolina, like many other states,

was dealing with severe prison overcrowding, due to increasing prison commitments (Freeman, 2011). The state created a sentencing commission, which recommended constructing new prisons, among other reforms. The state held a referendum in 1990 on a \$200 million bond for construction of corrections facilities, which passed by less than half of one percent. The North Carolina Sentencing Commission report argues that this close result essentially spooked legislators, making them wary of additional spending on prison construction. Indeed, as overcrowding continued to be an issue, the legislature rejected an initial proposal from the North Carolina Sentencing Commission in 1992 for \$300 million in new prison construction. The legislature went so far as to change the commission's enabling legislation, requiring it to submit a plan that would maintain current levels of prison and jail "Standard Operating Capacity." While the crime laws that eventually passed in 1993 and 1994 in North Carolina included \$300 million in spending, some of which went to prison construction, there were also financial incentives built into the law for counties to implement intermediate punishments, and community corrections programs were fully funded. To summarize, the narrow passage of North Carolina's prison bond referendum likely influenced the ways the legislature addressed criminal justice policy, by reinforcing concern over cost.

In general, then, prison bond referenda demonstrate a central aspect of public opinion that shaped the development of the prison system. Voters, especially during the buildup to mass incarceration, were enthusiastic in supporting stricter sentencing policy, but they were more reticent to support the funding to increase capacity needed as a result of the sentencing policies. This reticence could come from general

fiscal conservatism, as evidenced by the taxpayer revolt during the 1970s and 80s (Gottschalk, 2015). Alternatively, the lack of clear support for prison construction could stem from a lack of concern about prison overcrowding, as poor conditions were perceived as an appropriate form of punishment. (Mullen, 1985).

In sum, votes on prison bond referenda are a crucial piece of the trend toward higher incarceration in many states. In addition to understanding their significance for influencing policy and policymakers, these bond referenda also provide an opportunity to study revealed public opinion on correctional spending. By using county-level vote shares, this paper will explore how different political, economic, and demographic contexts are correlated with voting on prison construction.

Data/Analysis

The data in this analysis comes from the “Referenda and Primary Election Materials” dataset collected by the Inter-university Consortium for Political and Social Research (Inter-University Consortium for Political and Social Research, 2013). It includes county-level returns from approximately 4,241 state referenda elections from 1968-1990. I separated out the bond issue referenda and then sorted them into categories based on the text of the referendum, summarized in Table 1. There are a total of 449 referenda in 13 states in this dataset, displayed in Table 2).

Table 1: Bond Referenda by Category

Bond Category	Total Referenda	Passed Referenda	% Vote Yes	Mean Vote Yes
Education	72	53	74%	0.569
Transportation	56	37	66%	0.549
Public Infrastructure	54	44	81%	0.616
Corrections	41	28	68%	0.561
Recreation	41	29	71%	0.551
Environment	40	34	85%	0.602
Economic	30	20	67%	0.555
Veterans	26	23	88%	0.623
Mental Health	21	20	95%	0.666
Gov Construction	19	9	47%	0.474
Health Care	18	12	67%	0.564
Housing	12	7	58%	0.505
Social Services	9	7	78%	0.564
Public Safety	8	7	88%	0.615
Bond	2	2	100%	0.692
Total	449	332	74%	0.574

Uniqueness of Prison Bond Referenda

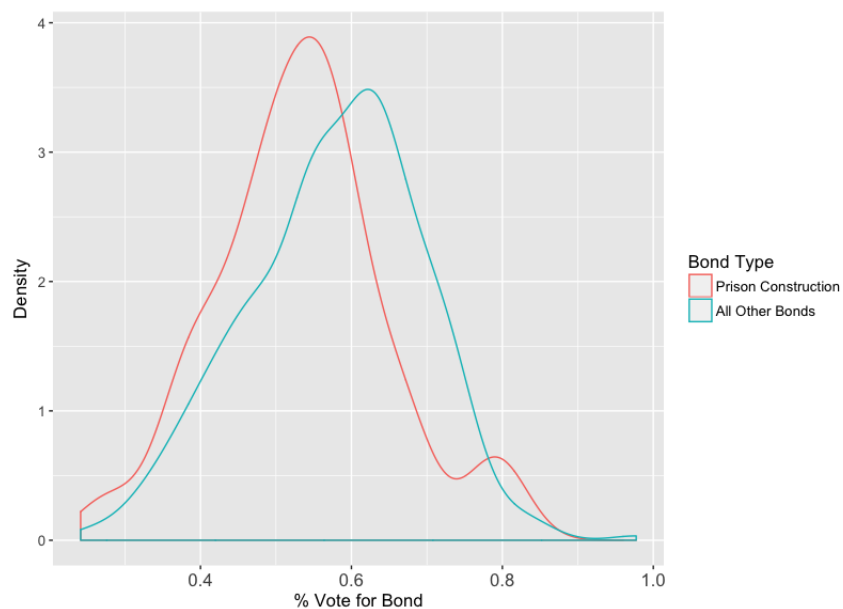
One initial question is whether prison bonds are unique to voters. In other words, do voters tend to support prison construction more than, less than, or the same as other kinds of bonds? Table 1 shows that 28 of the 41 prison bond referenda passed, a rate of 68%. The mean vote share in support of the bonds are 0.561. These numbers are somewhat below the total for all of the bonds, though not by a large amount. Figure 1 plots the density of support for bond measures across the sample of referenda, divided into bonds that are specific to prison or jail construction, and all other bonds. This graph shows that prison construction bonds appear to receive somewhat less support than other referenda.

Figure 2 provides another look at the distribution of support for bond referenda.

Table 2: Bond Referenda by State

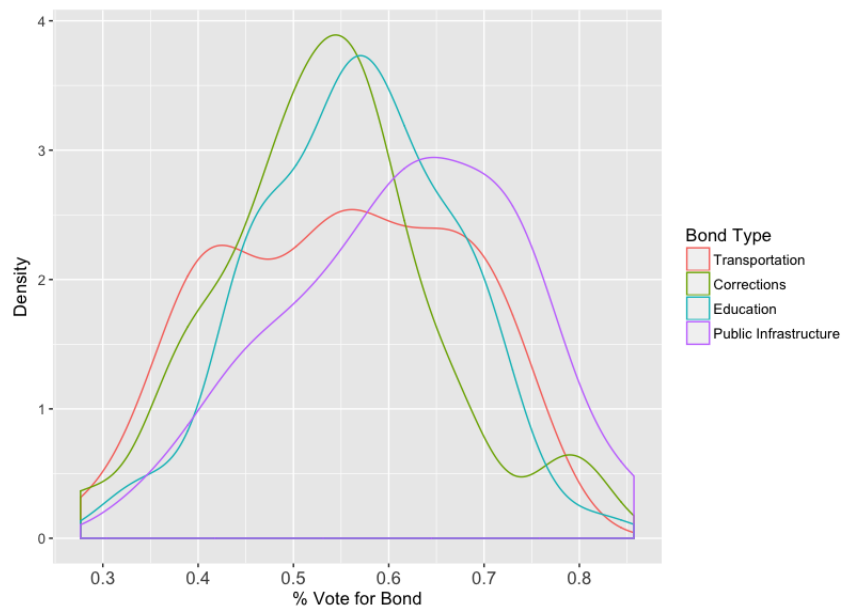
State	Total Referenda	Passed Referenda	% Passed	Mean Vote Yes
Alabama	9	8	89%	0.611
Alaska	3	3	100%	0.675
California	79	61	77%	0.574
Maine	103	81	79%	0.586
Michigan	8	5	62%	0.576
New Jersey	47	36	77%	0.567
New York	11	6	55%	0.517
North Carolina	6	6	100%	0.636
Oregon	3	2	67%	0.687
Pennsylvania	10	10	100%	0.705
Rhode Island	108	65	60%	0.543
Texas	16	13	81%	0.596
Wyoming	2	1	50%	0.528
Total	449	332	74%	0.574

Figure 1: Support for Bond Referenda, Prison Construction



This figure shows the top four categories for bond referenda: transportation, corrections, education, and public infrastructure (sewers, water treatment, etc.). This calculation of bond categories removes bonds with overlap, for simplicity and clarity. The most clear trend here is that public infrastructure bonds, including items such as sewers and water treatment, clearly receive the most support. Referenda dealing with corrections tend to show the least support here, though the differences are fairly small.

Figure 2: Support for Bond Referenda - Top Categories



Role of Race in Prison Bond Voting

The following scatterplot in Figure 3 demonstrates a first look at the role of race in voting for bond referenda. In each of these plots, a smooth line was drawn for prison construction and other bonds to show the correlation between percent black

and percent for bond, at the county level. There is a general positive trend for both lines in both plots, indicating that as county percent black increases, votes for bond referenda in general increase. The slope for the lines varies, however. In Figure 3, it is apparent that at lower levels of percent black, where most of the data is, the correlation between percent black and vote shares is higher for votes on prison construction. This higher correlation is a result of counties with very low shares of blacks voting less for prison bond referenda than they do for other referenda, indicating a potential reluctance among whiter areas to pay for prisons. This gap narrows as percent black grows, suggesting that areas with a higher percent black do not vote for prison referenda much differently from other referenda. Of course, it is unclear whether this is because black voters are more supportive of prison referenda, or if white voters who live near more black residents are more supportive of prison referenda. A logged version of the scatterplot is in the appendix.

Fixed-Effects Models

Corrections vs. All Other Bonds

Next, I present several OLS fixed-effects models to further explore the relationship between type of bond, demographics, and level of support. First, Table 3 splits the sample into prison construction bonds and non-prison bonds and runs OLS fixed-effects models on each set. These models test the relationship between prison bonds, race, and other demographic and political variables. First, Models 1 and 2 test only prison construction bonds. Model 1 uses state and year fixed effects, while Model 2 uses county and year fixed effects. In both models, the coefficients for log amount

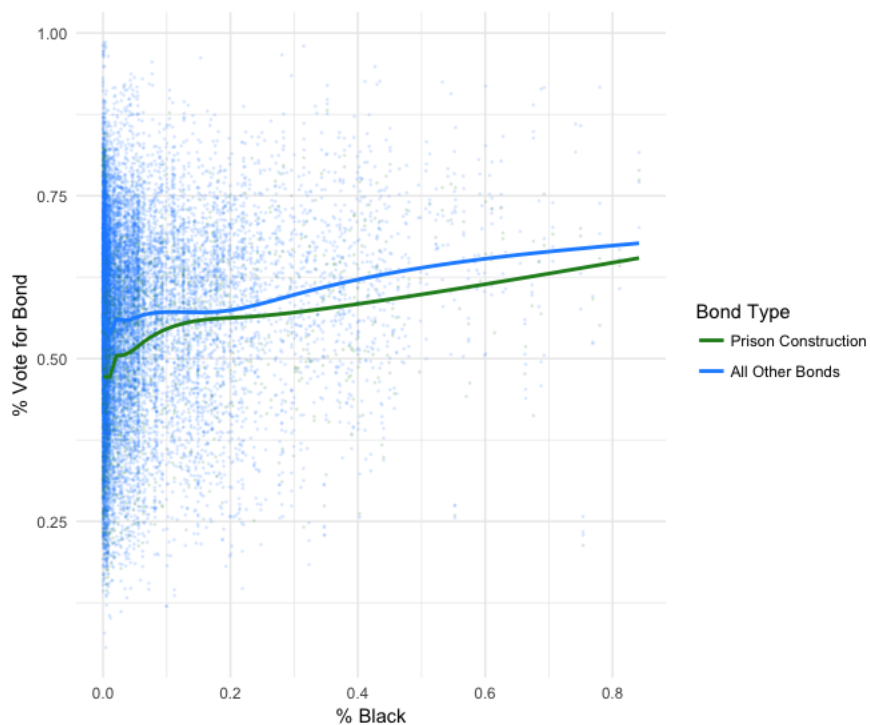
Table 3

	<i>Dependent variable:</i>			
	Pct Vote for Bond			
	Prison Construction (1)	(2)	All Other Bonds (3)	(4)
General	-0.024 (-0.062)	-0.024 (-0.112)	0.013*** (0.001)	0.014*** (0.001)
Pres	0.008 (0.074)	0.011 (0.137)	-0.014*** (-0.002)	-0.016*** (-0.003)
Log amount	0.277*** (-0.066)	0.278** (-0.122)	0.001 (-0.001)	0.001 (-0.001)
Pct urban	0.086*** (-0.003)	-0.085*** (0.028)	0.067*** (0.001)	-0.027*** (0.001)
Pct black	0.172*** (0.0001)	0.216*** (0.046)	0.066*** (0.002)	0.333*** (-0.026)
Pct hisp	0.087*** (-0.002)	0.317*** (0.060)	0.066*** (0.003)	-0.010 (0.016)
Unemp rate	-0.025*** (0.006)	-0.052 (-0.109)	-0.157*** (-0.013)	0.280*** (-0.011)
Median inc	0.001*** (-0.0001)	-0.007* (-0.004)	0.002*** (-0.0001)	0.003*** (-0.0001)
Prior pres Dem share	0.067*** (-0.004)	0.127 (-0.104)	0.211*** (-0.008)	0.185*** (-0.012)
Constant	-3.782*** (0.994)	-3.462* (1.905)	0.511*** (0.033)	0.513*** (0.044)
State fixed effects	✓		✓	
County fixed effects		✓		✓
Year fixed effects	✓	✓	✓	✓
Observations	1,298	1,298	12,115	12,115
R ²	0.680	0.834	0.365	0.478

Note:
SE's are clustered at the state level.

*p<0.1; **p<0.05; ***p<0.01

Figure 3: Scatterplot: Support for Bond Referenda by Percent Black



of the bond issue, county percent black, and county percent Hispanic are positive, large and statistically significant. Percent urban and median income are smaller and flip signs from positive to negative when switching from state to county fixed effects. Prior Democratic presidential vote share is positive and significant in the state FE model but not the county FE model.

For comparison, Models 3 and 4 display results from the same two models run on the non-prison construction set of bonds. When splitting the sample this way, a few similarities are apparent. Percent black continues to be significant and positive, and percent urban continues to be positive for state FE and negative for county FE. Percent Hispanic is significant and positive but only in the state FE model. There are

a number of differences as well. Notably, unemployment rate, median income, and prior Democratic presidential vote share now have positive and significant coefficients in the county FE model. Election timing also matters, as general elections are associated with increased support for bonds, while presidential elections are associated with less support for bonds.

These four models suggest a few general points. First, race is an important predictor of support for prison construction bond referenda, as expected. But this correlation is not unique to prison construction, as it applies to other bonds as well. It also appears that prison bonds may be somewhat less partisan-influenced than other bonds, as the coefficients on prior presidential vote share are much smaller for prison bonds. Additionally, the amount of the bond is much more important for prison construction bonds.

Bond Category and Level of Support

In addition to differences in predictors for bond support, prison construction bonds may also differ from other bonds in their overall level of support. Table 4 presents OLS fixed-effects models that include an indicator for whether the bond is meant for prison construction or not. In both the state and county FE models, the coefficient on prison bond referenda is significant and negative, indicating that this kind of referendum is associated with about a 4 percentage point decrease in county vote share supporting the bond. Models 3 and 4 include an interaction with county percent black to further test the relationship between corrections bonds and racial context. In both models, the coefficient is positive and significant, indicating that

Table 4

	Dependent variable: % Vote for Bond			
	(1)	(2)	(3)	(4)
Prison construction	-0.039*** (0.0001)	-0.038*** (-0.00003)	-0.046*** (0.0003)	-0.043*** (0.0002)
General	0.008*** (0.001)	0.009*** (-0.0002)	0.007*** (0.001)	0.008*** (-0.0002)
Pres	-0.002 (-0.002)	-0.003* (-0.002)	-0.002 (-0.002)	-0.003 (-0.002)
Log amount	0.002** (-0.001)	0.002** (-0.001)	0.002** (-0.001)	0.002*** (-0.001)
Pct urban	0.067*** (0.001)	-0.022*** (-0.0003)	0.067*** (0.001)	-0.021*** (-0.0003)
Pct black	0.081*** (0.002)	0.337*** (-0.020)	0.072*** (0.002)	0.337*** (-0.020)
Pct hisp	0.070*** (0.003)	0.026*** (0.009)	0.070*** (0.003)	0.029*** (0.009)
Unemp rate	-0.124*** (-0.012)	0.294*** (-0.008)	-0.124*** (-0.011)	0.290*** (-0.008)
Median inc	0.002*** (-0.0001)	0.004*** (-0.0001)	0.002*** (-0.0001)	0.004*** (-0.0001)
Prior pres Dem share	0.196*** (-0.006)	0.167*** (-0.008)	0.195*** (-0.006)	0.165*** (-0.008)
Prison constr. * Pct black			0.072*** (-0.002)	0.049*** (-0.003)
State fixed effects	✓		✓	
County fixed effects		✓		✓
Year fixed effects	✓	✓	✓	✓
Observations	13,413	13,413	13,413	13,413
R ²	0.377	0.486	0.377	0.486

Note:

*p<0.1; **p<0.05; ***p<0.01

county percent black has a greater associated with higher votes for prison bonds than other bonds.

Next, Table 5 further breaks down the relationship between bond referendum type and voter support. Instead of just separating out the bonds into prison or non-prison, these models include a variable for the general category of bond issue. For this model, I have excluded bonds that include more than one category and only included the top 9 bond category types for simplicity. Here, the state and county FE models show very consistent results for the type of bonds. Social services, public infrastructure (sewers, drinking water, etc), and the environment see the largest positive and significant coefficients, indicating more support. Government construction (renovation of public buildings) receives the lowest support. The variable of interest for this paper, corrections, maintains the negative and significant coefficient, but the effect is much smaller. Referendums on prison construction and other correctional issues receive less support than the typical referendum, but only by a small amount.

Discussion

In general, the results shown here support the idea that voters that may support punitive crime policies are not necessarily supportive of building more prisons to adequately house those who are incarcerated. If anything, voters are actually somewhat less supportive of prison construction than the generic bond referendum, or than particular comparable bond referenda. State legislators could gain more support from issues related to social services, public infrastructure, and the environment, but cor-

Table 5

	Pct Vote for Bond	
	(1)	(2)
Social Services	0.057*** (-0.004)	0.056*** (-0.004)
Recreation	0.010*** (-0.002)	0.009*** (-0.002)
Public Infrastructure	0.068*** (-0.003)	0.067*** (-0.003)
Gov Construction	-0.047*** (-0.011)	-0.048*** (-0.011)
Environment	0.054*** (-0.003)	0.053*** (-0.003)
Education	-0.007*** (0.0001)	-0.008*** (0.0001)
Economic	0.009*** (-0.003)	0.008** (-0.003)
Corrections	-0.007*** (-0.002)	-0.007*** (-0.002)
General	-0.003 (0.002)	-0.004* (0.002)
Pres	0.0004 (-0.003)	0.0004 (-0.003)
Log amount	0.008*** (-0.001)	0.008*** (-0.001)
Pct urban	0.066*** (0.001)	-0.008*** (0.001)
Pct black	0.075*** (0.002)	0.279*** (0.002)
Pct hisp	0.074*** (0.003)	0.102*** (0.003)
Unemp rate	-0.182*** (-0.022)	0.169*** (-0.022)
Median inc	0.002*** (-0.0001)	0.004*** (-0.0001)
Prior pres Dem share	0.217*** (-0.008)	0.231*** (-0.008)
State fixed effects	✓	
County fixed effects		✓
Year fixed effects	✓	✓
Observations	12,266	12,266
R ²	0.429	0.539

Note: *p<0.1; **p<0.05; ***p<0.01

rectional facilities were not as well supported. Perhaps the most supported finding here is that prison bond referenda were fairly typical in terms of their level of support. Even in the time period of rapidly increasing prison populations, corrections were treated very much the same as a typical bond issue during referenda.

The similarity between prison construction bonds and other bonds also extends to the relationship between race and other demographic variables and bond support, though some distinctions remain. Counties with larger black populations are associated with increased support for prison construction referenda, but the relationship also holds for other referenda. The positive interaction between prison bonds and race suggests that race plays an even larger role in prison bond referenda than other referenda, which supports the lengthy literature on the role of race in public opinion on crime.

There are a few different ways to interpret the lower support for prison construction and the greater role of race. It could be that compared to other bond issues that received more support, such as social services, the environment, and public infrastructure, are seen as more universally needed. Prison construction is much more specific. Additionally, voters may be unsympathetic to the conditions of people in prison, and despite the need to relieve overcrowding, many voters were reticent. The racial effects could imply a few trends, among others. First, white voters near larger black populations could perceive a greater threat or a greater need to send potential offenders to prison, increasing support for prison construction. Alternatively, black voters could sympathize more with the need for overcrowding, leading to support. Of course, both of these and other explanations could be at play. Unfortunately,

FBI county-level crime data does not go back before 1985, which would help further explain these patterns.

Conclusion

In general, these findings help demonstrate the complex ways in which white and black public opinion, or perhaps urban and rural public opinion, are linked to mass incarceration. The preference for punitive policies among whites is well-established. The bond referenda results suggest either that blacks are more supported of spending on corrections construction than whites, or that whites who live near more blacks are more supportive of prison construction bonds. The bond referenda results also suggest that voter enthusiasm for incarceration is less pronounced when it comes to supporting the actual construction of prisons. This reticence has important implications for the ways state legislators balanced support for punitive policies with cost concerns, pushing states to possibly explore cost-saving or privatization policies.

Future research could examine the direct implications of these bond referenda. Did states with close or failed votes adopt different policies? Are there systematic differences between states that used referenda versus those that either chose not to or did not need to? In general, future analyses could work to determine the impact of bond referenda on state variation in incarceration rates.

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Appendix

Figure 4: Scatterplot: Support for Bond Referenda by Log Percent Black

