

# On the Emergence and Influence of Fiscal Incentives on Judicial Decision Making: Evidence from Drivers' License Suspensions in Indiana

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## Abstract:

*In the wake of the riots in Ferguson Missouri, the question of how local governments, court systems and law enforcement agencies respond to fiscal incentives has become a topic of popular and academic interest. One interpretation is that, rightly or wrongly, municipal judges behave as one might expect; presented with a revenue source they sought to extract the maximum amount possible. This certainly seems to be a large part of what was taking place in Ferguson; however, the more important question from a public policy perspective is to what extent does this behavior speak to the natural inclination of local court systems? Are they classical revenue maximizers or by restricting the ability of local governments to raise revenue through traditional taxes do state legislatures and state constitutions create an environment in which fiscal incentives hold greater sway? This paper addresses this question by studying drivers' license suspensions in the state of Indiana. In 2015 the Indiana State Legislature enacted legislation designed to reduce drivers' license suspensions by granting judges increased discretion in sentencing. Using a unique data set on traffic and ordinance infractions filed in the state of Indiana in 2014 and 2015, combined with financial data on the state's circuit breaker tax credits, I ask two questions; first will judges take advantage of an increase in discretion available in suspending drivers' licenses to decrease suspension rates, resulting in foregone fine, fee and associated revenues? Second, will the response vary across fiscal condition of the general purpose governments? A difference and difference research design reveals that judges responded to the change in the law by decreasing suspension rates. However this response is driven by judges working in areas that were unaffected by the property tax caps; these judges were found to be 40 percent less likely to suspend a license following the change in legislation while their peers in fiscally stressed areas were just eight percent less likely. That judges working in governments whose budgets were constrained were more likely to avail themselves of the financial benefits of suspensions supports the argument that it is restriction of fiscal options available to local governments, more so than a natural disposition towards revenue maximization, that is responsible for revenue-orientated behavior observed among state and local court systems.*

## **I. Introduction**

The overwhelming majority of civil and criminal cases in the United States are adjudicated in state or local trial courts,<sup>1</sup> meaning these courts are the only contact the majority of Americans have with the judicial system. Despite this fact the literature on the impact of judicial discretion, the flexibility judges have in the sentencing phase of proceedings, has focused on outcomes of federal cases in federal courts. One likely reason for this is most cases in state court deal with relatively “minor” matters, such as civil disputes or traffic tickets. Of course, such issues are not minor to the individuals involved, as the residents of Ferguson Missouri and millions of other Americans can attest, even relatively small events such as the loss of driving privileges or a court fine of a few hundred dollars, can have life altering consequences. Neither are they negligible to the state or local governments, for example in 2014 trial courts in the state of Indiana generated \$173,601,840, which was distributed between state, county and local governments.

Our understanding of how judicial behavior in this context and the relationship with other areas of government is not well understood. Returning to the Ferguson example, it is now popular knowledge that municipal courts were used as funding mechanisms for municipal governments. What is lesser known is that in 1980 the state passed the Hancock Amendment, which effectively made fines and fees one of the only avenues through which local governments could increase revenues. That judicial officers would behave in such a way contradicts our intuitive understanding of how the judicial branch functions, tells us judges are impartial, their actions guided by precedent and legal statutes and some notion of what is right. However, at the same time, basic economic theory tells us judges are rational actors maximizing their utility, which may well mean increasing fine revenue to balance a budget (Posner 2005). A growing body of behavioral research suggests an even more complicated picture, that we think more carefully about what is included a judge’s utility function. For example, a recent paper by Eren and Mocan (2016) found that juvenile sentence lengths increased after the local football team, the Louisiana State University Tigers, experienced an unexpected loss and this effect was driven by judges who received their bachelor’s degree from the university. Similarly, Danziger et al. (2011) found that favorable parole decisions jump considerably following a judge’s lunch break. All this begs the question, should we expect judicial sentencing in state trial courts

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<sup>1</sup> Trial courts are courts where new cases are filed- in Indiana they are the Circuit, Superior and City/Town Courts. The Indiana Supreme Court, The Court of Appeals and The Indiana Tax Court are appellate courts, meaning they only hear cases that have previously been decided by a trial court. State trial courts are referred to as state courts because they enforce state law however they are funded by a combination of state and county funds. Local courts (also called municipal or city and town courts) are established, and typically funded, by municipalities.

(which are financed primarily through county (city/town)<sup>2</sup> funds) to be immune from fiscal pressures (which logic would tell us are stronger motivators than sporting disappointment or peckishness) faced by elected officials in general purpose county governments?

This paper develops a framework to analyze judicial decision making given financial considerations of both the court and other branches of government. Using a unique data set of all infractions and ordinance violations filed in the state of Indiana in 2014 and 2015 I conduct an empirical analysis using a difference and difference design to exploit a change in Indiana state law, House Enroll Act 1279 (HEA 1279). HEA 1279 was intended to reduce the rate of drivers' license suspensions in the state through increasing judicial discretion, by for example eliminating mandatory minimum suspension periods. I also take advantage of Indiana's circuit breaker tax credits (commonly referred to as property tax caps), a state imposed limitation on local property tax rates, which produced a large amount of variation in fiscal stress among local governments.

HEA 1279 did not change the fiscal incentives at play; license suspension is still the revenue maximizing option as it increases funds through a number of channels, for example; a larger fine relative to a lesser charge, the license reinstatement fee that must be paid to regain the license and an increased probability of another suspension. HEA 1279 did, however, increase the range of responses available to judges. Therefore, we may expect to see a few things. If, all else equal, increasing incoming revenue flow is the decisive factor in a judge's utility calculation then we would expect an increase in discretion to have little to no effect on the suspension rates. Alternatively, if judge's suspension patterns are influenced by the budgetary needs of legislators (rather than the 'more is better' approach described above) we might expect changes in suspension rates vary with the fiscal condition of the county government. Finally, it is possible that judges are suspending licenses primarily because it is what the law prescribes, in which case an increase in judicial discretion would reduce the likelihood of suspension, as judges are now able to decline to suspend a license where previously they would have been obligated.

I hypothesize that suspension rates will decrease following HEA 1279. However because judges incorporate the fiscal position of their funding government into their sentencing behavior judges working in fiscally distressed counties will be more likely to engage in activities that increase

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<sup>2</sup> Circuit and Superior courts are financed primarily through county funds while city and town courts are financed primarily by municipal funds. From here forwards county will be used to refer to both county and city and town courts unless otherwise stated.

revenues.<sup>3</sup> Results provide support for my hypotheses, the probability of such a suspension fell following HEA 1279 indicating judges took advantage of increased flexibility in sentencing to reduce the suspension rate. However, further analysis reveals this effect to be driven by judges counties where government budgets were largely unaffected by the property tax caps, these judges were 40 percent less likely to suspend a license whereas their peers in fiscally distressed areas were just 8 percent less likely to suspend. The outcome among the latter group is in direct opposition to the state policy goal as communicated by HEA 1279, indicating that judges working in fiscally distressed areas prioritize the financial position of the county government (or perhaps their relationship with county government officials) in a way that judges in fiscally sound areas do not.

The paper is organized as follows. The second section lays out the institutional details while the third section provides a brief overview of the relevant literature and current policy surrounding drivers' license suspensions. Section 4 describes the data. The empirical approach is described in Section 5 and results are presented in Section 6. Section 7 includes a short discussion of the results and Section 8 concludes.

## **II. Institutional Context**

### Courts and Tickets

Circuit and superior courts form the backbone of the Indiana state trial court system. These courts are organized along county lines; every county has a circuit court<sup>4</sup> and 71 counties have at least one superior court. Apart from judicial salaries, which in accordance with the Indiana State Constitution are set and paid for out of the state general fund, state trial courts rely on the county property taxes for the majority of their budget (Baker 2008). For example, in the 2014/2015 fiscal year total expenditure on the judicial system was over \$473 million; the majority of this amount, \$304,283,329 (64 percent), came from the county, the state provided just under \$149 million (32 percent) and the remaining \$19 million (four percent) came from the local level (Indiana Supreme Court, 2015). In addition, any second or third class city or town may create a city or town court though local

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<sup>3</sup> Trial courts are courts where new cases are filed- in Indiana they are the Circuit, Superior and City/Town Courts. The Indiana Supreme Court, The Court of Appeals and The Indiana Tax Court are appellate courts, meaning they only hear cases that have previously been decided by a trial court

<sup>4</sup> The exception to this is Dearborne and Ohio counties who, due to their small size, share a circuit court

ordinance<sup>5</sup>. These courts have jurisdiction over traffic infractions and local ordinance violations and are operated and financed entirely by the originating municipality.

When a law enforcement officer issues a ticket (s)he files the ticket with the clerk of court in the jurisdiction where the offense occurred; if both a county and local court exists the officer chooses in which court to file the ticket. State law sets the overall parameters governing fines and fees for infraction and ordinance violations, for example according to state law the fine for run of the mill speeding may not exceed \$35.<sup>6</sup> Court costs make up the large share of a typical infraction ticket, which themselves are made up of a dozen smaller fines and fees. FIGURE XXX shows the distribution of court costs for ordinance/infraction violations. Total costs total \$133.50, the largest component being \$70 court costs. The fine for the actual offense is deposited into the state general fund. Like the fine amount court costs and the \$25 late fee are set by state law. As a result, for a given offense there is little difference in the ticket amounts across the state.

Filing Fees/Costs for Traffic and Ordinance Violations			
Fee Type	Fee Amount	Distribution	
		Circuit/Superior Court	Town/City Court
Infraction or Ordinance Violation Costs Fee	\$70.00	70% State GF 27% County GF 3% Local GF	55% State GF 20% County GF 35% Local GF
Law Enforcement Continuing Education Fee	\$4.00	100% County GF	100% Local GF
Highway Work Zone Fee	\$0.50 *only applies to traffic violations	100% State User Fee Fund	100% State User Fee Fund

<sup>5</sup> According to IC 36-4-1-1 a second class city is one with a population between 35,000 to 599,999, third class cities have of less than 35,000 and a town in any other (non city) municipality of any population

<sup>6</sup> IC § 34-28-5-4

Jury Fee	\$2.00	100% County User Fee Fund	100% County User Fee Fund
Document Storage Fee	\$5.00	100% County Clerk Record Perpetuation Fund	100% Local Clerk Record Perpetuation Fund
Automated Record Keeping Fee	\$19.00	100% State User Fee Fund	100% State User Fee Fund
Public Defense Administration Fee	\$5.00	100% State GF	100% State GF
Judicial Insurance Adjustment Fee	\$1.00	100% State Judicial Branch Insurance Adjustment Account	100% State Judicial Branch Insurance Adjustment Account
Judicial Salaries Fee	\$20.00	100% State GF	75% State GF 25% Local GF Fund
DNA Sample Processing Fee	\$2.00	100% State GF	100% State GF
Court Administration Fee	\$5.00	100% State GF	100% State GF
Late Payment Fee	\$25.00	100% County GF	100% Local GF
Total Infraction/Ordinance Violations Fees	\$133.50 (\$158.50 including late fee)		

In 2015 all trial courts<sup>7</sup> combined generated \$175,019,020 in revenue; \$88,680,759 (51 percent) of that went to state level funds, \$70,625,340 (40 percent) went to county coffers and \$15,712,921 went to a variety of local funds (Indiana Supreme Court, 2015).

### Property Tax Caps

Indiana's circuit breaker tax caps limit a taxpayer's property tax burden to a fixed percentage of the assessed value of their property, for residential property owner liability is limited to one percent. Property tax cap losses indicate insufficient revenues as the government has set its property tax levy with a revenue total in mind however is unable to collect the desired amount. Losses vary widely across the state, in my data set Cumberland City Town, located in Marion county, was unable to collect 48 percent of its desired levy in 2014 (40.3 percent in 2015) while Jasper County was unaffected losing less than 0.00 percent in both 2014 and 2015.

### Suspensions

In 2014 the Indiana legislature passed HEA 1279, with the intent of reducing the number of driver license suspensions. This is accomplished in two ways. First, the wording of much of the statute was altered, replacing the phrase "judges shall" to "judges may" in the relevant places. Second, explicit changes were made that eliminated mandatory minimum suspension periods for certain offenses; an example of a mandatory minimum that was stricken from the statute is: "*In addition to other penalties under this subsection, the minor's driver's license, permit, or driving privileges shall be suspended for up to one (1) year in accordance*". HEA 1279 applies to offenses committed on or after January 1, 2015.

These suspensions are straightforward, a driver is convicted of a crime and a period of suspension is imposed. In my data set the most common offense resulting in a suspension is driving with a suspended license. The license is suspended, typically for 90 days, after this period and upon completing any additional requirements, the driver is able to reinstate his/her license.

## **II. Literature and Policy**

WORKING ON IT

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**Comment [SM1]:** Talk about why property tax caps are an unusually strong measure of fiscal stress. Something about warrants and structural deficit

Two broad literatures, a criminal justice literature on judicial discretion and a public finance literature on responses to fiscal stress. The goal here is not to detail either but to highlight the aspects of each that are relevant to the impact of fiscal pressure on judicial discretion.

Essentially are interested in the behavioral calculation of trial court judges as it relates to the treatment of individuals that appear before them. Posner (2005) outlines an economic approach to judicial behavior, which is understood as being a utility maximizing response to the particular incentives and constraints placed on judges by their institutional environment. In relation to elected state court judges he sees two defining forces, democratic elections and electoral campaigns. These combine to make appointed judges less independent than appointed judges as it is clearly in their interest to consider the preferences of the public and perhaps more importantly the preferences of those who donate to their election campaigns. This is consistent with my hypothesis that Indiana judges' decisions take into account both the preferences of the state legislature as well as the local funders.

Empirical studies of how the forces outlined by Posner manifest themselves are largely confined to the federal level. DO RESEARCH HERE, try to find some stuff on state judges.

How state imposed fiscal limits effect behavior of judges, or other local government agents, is largely unexplored. Borge (2000) finds that local Norwegian governments significantly increase utility charges when access to regulated tax revenue is restricted. In the American context Makowsky and Stratmann (2009) and Baicker and Jacobson (2007) pursue this line of enquiry in the context of law enforcement. Makowsky and Stratmann analyze the determinants of speeding tickets. They hypothesize that police are agents of budget maximizing principles and when issuing speeding tickets will take into account the financial state of the local government. Using data from all traffic citations in Massachusetts over a two-month period in 2001, they find both the likelihood and amounts of speeding tickets to be decreasing functions of local property tax revenues. Additionally, the probability of receiving a fine (as opposed to a warning) is greater in municipalities that are in fiscal straights, indicated by voter rejection of a referendum allowing for an increase in the property tax limit.

Baicker and Jacobson (2004) study how local governments and police agencies respond to state level forfeiture policies. They discover a complex set of responses, police departments increase forfeitures when they keep a larger percentage of the seized assets however local governments offset these gains



by reducing allocations to police departments in the next year. They also find that counties with a budget deficit reduce allocations by much more than do those without a deficit. These findings are consistent with the tax and expenditure limitation literature which finds restricting how governments may raise revenue from the property tax and other traditional taxes alter the structure of local government finance; namely it causes a shift away from broad based, traditional taxes towards increased reliance on user charges and other non-tax instruments (Mullins and Joyce, 1996; Skidmore, 1999; Shadbegian, 1999).

.Experience suggests, however, that fines, fees and forfeitures are not a particularly efficient way to raise revenue. There mere number of suspensions<sup>8</sup> for failing to pay a ticket or appear in court, in this paper's data covering a two year time period they number 119,787, suggest that many driver's will not, or cannot pay. This is corroborated by budgetary data, in 2014 the BMV reported \$131 million in unpaid reinstatement fees. An increase in these fees in 2015 (in some cases by 233 percent!<sup>9</sup>) was projected by the Office of Fiscal and Management Analysis to increase collections to 17.7 million dollars in 2015 (Ind. Office of Fiscal & Management Analysis, 2014). Actual revenues collected in that year totaled just under 9.8 million, a small increase from 2014. If fact from 21 July 2014 through December 31 2014 the BMV held a tax holiday of sorts, offering drivers 50 percent off reinstatement fees that were over a year old (Perleberg, 2014).

On the other hand court systems are an ideal place to turn for revenue. Politically it is an easy sell as the public is generally not in love with footing the bill for dealing with law breakers. Drivers' license suspensions also have some attractive features for the purpose, they have the unique capacity to generate revenue through a number of channels. Every ticket issued by law enforcement entails court costs, the actual fine and late fees if the ticket is not paid on time. Drivers may be required to enroll in driving safety programs, at a cost of course, and in some Indiana counties may have the option of enrolling in a traffic deferral program in which by paying a fee and meeting a handful of conditions a driver can avoid an official ticket and the points on their driving record. Furthermore, reinstatement fees must be paid to the Bureau of Motor Vehicles before regaining driving rights; in Indiana reinstatement fees alone may be up to \$1000. Finally, evidence suggests that one license suspension increases the likelihood of another, studies have found that up to 70 percent of individuals

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<sup>8</sup> Unfortunately the way the data is coded makes it impossible to provide a reliable estimate of the total number of suspensions outstanding. Data indicates that out of the 119,787 13,771 observations are coded as having paid.

<sup>9</sup> As of Jan 1 2015 reinstatement fee for a first suspension is \$250, reinstatement costs \$500 after a second suspension and \$1000 after a third (H.R. 1059, 118th Gen. Assemb., 2d Reg. Sess. (Ind. 2014) (enacted)).

whose license is suspended will continue to drive (National Highway Safety Administration, 2009; Eby et al, 2002).

Second due to the importance most Americans place on driving the threat of losing this privilege is a powerful behavior modification tool and its use has grown exponentially. Following a handful of federal policies in the 1990's, a 1991 law tied state highway funding to prosecuting the drug war and a 1996 mandate requiring states to suspend the drivers' licenses of parents who were delinquent on child support payments, states began revoking driving privileges for a variety of reasons, many of which are completely unrelated to driving. For example, in Indiana a driver can lose her license for offenses as diverse as failing to obtain car insurance, truancy, underage drinking, failure to pay a traffic ticket/failing to appear in court when required, a host of drug related offenses, writing back checks and graffiti (Schwier and James, 2014). In fact, the most common reason for suspension in Indiana is the failure to pay court fines or fees an offense clearly unrelated to road safety. This is not unique policy to Indiana, according to a 2009 report from the National Highway Safety Administration (NHSA) 31 states (61 percent) allow the suspension of drivers' license for failing to pay court fines, fees and surcharges (National Highway Safety Administration, 2009). Given all this driving license suspensions appear to be an ideal proxy to study the relationship between fiscal strain and judicial decision making.

#### **IV. Data**

The primary data for this paper was obtained from the Indiana State Court Administration. It includes all infraction and ordinance violations filed over the period 1 January 2014 through January 1 2016 in trial courts using the Odyssey Case Management system in Indiana.<sup>10</sup>

Information on the property tax caps as well as other revenue and budget data was retrieved from Indiana Gateway for Government Units, a platform where Indiana local governments are required to submit financial information. This data is matched on a unit level; county courts are matched with county level budget information while city and town courts are matched with city or town budget information

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<sup>10</sup> This represents about two thirds of the statewide caseload. The author is currently working at obtaining data from the remaining counties.

## V. Empirical Strategy

Legislation such as HEA 1279 signals a state level policy objective to lower levels and different areas of government as well as to the public. Courts are an independent branch of government and judges are not required to act in accordance with overarching state policy objectives such as reducing the frequency of drivers' license suspensions. However, it is also true that the judicial branch works in partnership with the executive and legislative branches of government; judges enforce laws enacted by the executive and legislative branches of government. It therefore seems reasonable to assume that when the legislature alters an existing law or introduces a new one judges will pay attention and incorporate the desired policy outcomes into their sentencing behavior. At the same time due to their budgetary dependence judges have a strong incentive to prioritize revenue generation if that is a top priority of the funding government. There is potential for conflict here as the policy intent comes from the state level but budgetary stress emanates from the county. Therefore we may expect a few different outcomes; judicial behavior may not change at all in response to HEA 1279, judges may act in parallel with the law's intent to reduce the number of suspension or responses may vary according to the fiscal condition of the county. Based on these observations I develop a theory of judicial behavior related to statutory and FTP suspensions.

I assume judges are aware of their court's budgetary needs as well as the fiscal condition of the funding government (county) and the policy positions state government. Because a court system keeps very little of the fines and fee revenue it generates it is important for judges to stay in the good graces of the elected county officials in the other two branches. This means being perceived as operating efficiently and effectively. This pressure is particularly acute when budgets are stretched. Of course judges are obligated (legally, professionally and ethically) to follow the law, but it is also true that they have a great deal of latitude in this regard, this is the concept of judicial discretion. Judges in counties where the general purpose government is struggling financially have less incentive to be lenient, that is to decline to suspend a license, as this entails a reduced fine, forgone reinstatement fees, and a reduced probability of re-offense. Judges will also want to avoid the perception by county government officials that their decisions are costing the government much needed revenue. I will call this the budgetary effect.

Judges of course have other considerations outside of budgetary ones. There is a safety and deterrence rationale for statutory suspensions, which would predict the probability of a suspension to decrease as the seriousness of the offense decreases. However, as previously discussed, the

**Comment [SM2]:** These officials may desire an increase in court-generated revenues because these revenues are often used to fund functions of government outside the periphery of the judicial branch. Judges may also believe it is in their interest to maintain good relations with the executive and legislative branches as they are the financial managers of their courthouse and, like bureaucrats and financial managers in other areas of government, they rely on the executive and legislative branches of government for their budgetary allocations. Finally, judges in many states (including Indiana<sup>1</sup>) are elected in partisan elections meaning they rely on the support of their party to run in and finance their election campaigns.

motivation underlying HEA 1279 suggests for the class of cases in this data set this rationale is weak. Rather the policy intent motivation, that judges act in accordance with the overarching policy agenda pursued by state lawmakers, is considered. This is, however, often inconsistent with budgetary incentives operating at the county level discussed above. Thus the expected effect of legislation regarding judicial sentencing, like HEA 1279, is ambiguous and may vary across fiscal condition of general purpose governments. I hypothesize judges will take into account the intention of HEA 1279 to reduce suspension rates however the budgetary effect will dominate in fiscally strained counties, resulting a smaller behavioral response from these judges.

### Specifications

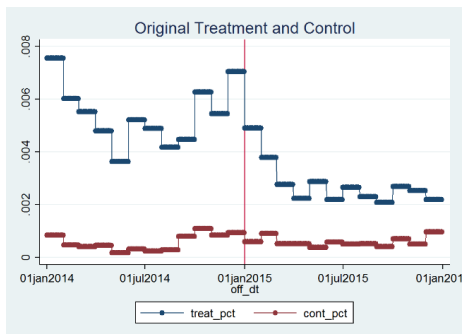
To test the suspension hypotheses a difference and difference model is employed in which a treatment group, composed of cases where the charged statute was affected by HEA1279 (meaning the legislation *increased* judicial discretion), is compared to a control group, composed of offenses with mandatory minimum suspension periods that were unaffected by HEA 1279. The specification is:

$$(1) \text{Susp}_{ijtc} = \beta_0 + \beta_1(\text{HEA}_i * \text{Post}_t) + \beta_2\text{HEA}_i + \beta_3\text{Post}_t + \alpha\text{Judge}_{jc} + \delta\text{Driver}_{ic} + \gamma\text{Fiscal}_{tc} + \rho_t + \zeta_c + \varepsilon_{ijtc}$$

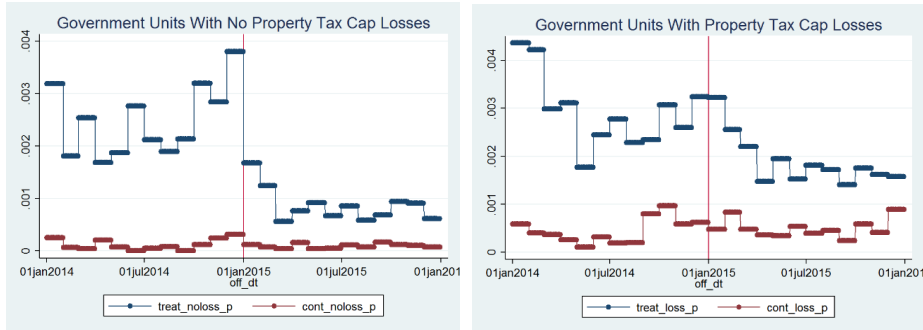
Here the county indicator is  $c$ ,  $j$  indicates the presiding judge,  $i$  is an indicator for the driver and  $t$  represents the time. Thus the indicator  $\text{Suspend}_{ijtc}$  is binary with a value of one indicating defendant  $i$ 's license was suspended by judge  $j$  in time  $t$  in county  $c$  while a value of 0 means the license was not suspended.  $\beta_1$  is the variable of interest, the treatment effect,  $\beta_2$  captures the relationship between judicial discretion and license suspension and  $\beta_3$  accounts for the time trend in suspensions.  $\alpha$  is a vector of characteristics of judges, which includes a dummy for the gender of the judge and a dummy for the party affiliation, 1 for republican 0 for other. It also includes a series of dummies indicating the seriousness of the charge where a class A infraction is the most serious and class D the least-class A is the omitted category. Various demographic characteristics of the drivers including sex, race, age and whether the driver resides out of state are captured in a series of dummy variables, which are included in the vector  $\delta$ .  $\gamma$  contains a number of fiscal variables of the counties in Indiana; these are the percent of budget in surplus, public employee compensation and the percent of the population living in incorporated areas. The employee compensation measure is intended to capture

demand for public services. The percentage of the population living in an incorporated area is included because experts have noted that it is the factor most highly correlated with TEL related revenue losses (Deboer 2015). Finally, the specification contains time fixed effects ( $\rho_t$ ) and court fixed effects ( $\rho_c$ ) (is time fixed effects, standard errors are clustered at court level).

The identifying assumption is that any change in suspension rates for either treatment group is due to the change in judicial discretion resulting from HEA 1279. For this assumption to hold it is necessary that trend of the variable of interest, license suspensions, follow the same pattern in the control and treatment group in the pretreatment period. In this case any divergence seen in the post treatment period can be attributed to the intervention. The trends in license suspensions are depicted if Figure XXX. The number of suspensions are aggregated by month and are expressed as a percentage of total caseload of the given month.



It is clear in Figure XXX that suspensions in the treatment group decrease in the months following implementation of the legislation. Because I believe this response may differ across local government fiscal condition the sample is split into “high loss” and “low loss” groups; the former is composed of judges working in courts located in areas whose general purpose government lost five percent or more of their property tax levy and counts in areas where losses were below five percent belong to the latter group. Figure XXX below shows the parallel trends for the divided sample.



## VI. Results

ABOUT DATA AND SUMMARY STATISTICS. Summary statistics are presented in Table XXX.

Table XXX presents results of the difference and difference analysis across a variety of specifications. The first column is the baseline results which do not include control variables. The treatment effect is negative and highly significant; a driver charged with an offense whose sentencing guidelines were altered by HEA 1279 is 16.1 percent less likely to have their license suspended following the law change taking effect. The inclusion of control variables, presented in column 2, does not alter the magnitude of the coefficient of interest slightly, a positive sign for causal inference. This result supports the hypothesis that on aggregate judges viewed the growing number of license suspensions as problematic and took advantage of the new flexibility granted by the legislation or they acted in accordance with the intent of the policy, regardless of their personal beliefs.

	Susp_lim b/se	Suspcnt_lim b/se	Suspnlis_lim b/se	Suspls_lim b/se
time	-0.000 (0.00)	-0.002 (0.00)	0.004 (0.00)	-0.006 (0.00)
treated	0.277*** (0.07)	0.245** (0.07)	0.549*** (0.09)	0.150** (0.05)
effect	-0.161* (0.07)	-0.161* (0.06)	-0.401* (0.13)	-0.084* (0.04)
surp_pct		-0.042 (0.02)	0.028 (0.04)	-0.018 (0.03)
pc_emp_comp		0.000 (0.00)	-0.000 (0.00)	0.000** (0.00)
pc_pop_inc~p		0.016 (0.02)	0.106** (0.03)	0.046** (0.01)
black		0.003 (0.00)	-0.001 (0.00)	0.002 (0.00)
female		-0.000 (0.00)	-0.001 (0.00)	0.000 (0.00)
out_st		-0.001 (0.00)	0.000 (0.00)	-0.001 (0.00)
age		-0.000 (0.00)	-0.000* (0.00)	-0.000 (0.00)
class_b		-0.032** (0.01)	-0.017 (0.01)	-0.036** (0.01)
class_c		-0.033*** (0.01)	-0.012 (0.01)	-0.038** (0.01)
class_d		-0.033*** (0.01)	-0.015* (0.01)	-0.038** (0.01)
town		-0.022 (0.02)	-0.068* (0.02)	-0.030*** (0.01)
repub		0.000 (0.00)	0.000 (0.01)	0.009** (0.00)
jdgfemale		0.000 (0.00)	0.000 (.)	-0.001 (0.00)

However, upon further analysis it is clear this response was driven by judges working in environments where county budgets were not constrained. Columns 3 and 4 present results when the sample is split into the low and high loss groups respectively. The sign and significance level is unchanged however the magnitude of the coefficients differs dramatically; the likelihood of a judge issuing a suspension in low loss areas decreased by 40.1 percent following the policy change while

the probability of suspension among their peers working in high loss counties decreased by only 8.4 percent. This also supports the hypothesis that concerns regarding the budgetary position of the county government where budgets were circumscribed by the property tax caps seem to have suppressed the response to the policy goals of state lawmakers.

## **FALSIFICATION/ROBUSTNESS TESTS**

### **WORKING ON IT**

FTP suspensions differ in that they are indefinite, they are lifted as soon as the delinquent fine is paid. However, this does not mean driving privileges are restored, like suspensions described above the driver must complete all other attached requirements, paying reinstatement fees and obtaining insurance for example. Although the data is not available to say with certainty all indications are that these type of suspensions account for the majority of license suspensions in the state of Indiana (Schwier and James, 2014), a conclusion that is supported by our data. FTP suspensions are not affected by HEA 1279, judges have full discretion in their issuance both before and after HEA 1279.

## **VII. Findings Summary**

Findings regarding suspensions support contention that judges are attuned to the policy goals of the state government. However when these desires come into conflict with the financial needs of county governments, who providing the majority of the court's funding judges seem to prioritize the fiscal needs of the county government (and by extension their own). This result did not carry over to suspensions resulting from a failure to appear in court or pay a traffic ticket. Although the rate of these suspensions did decrease in areas unaffected by the state property tax caps, the size of the decrease was small and statistically insignificant.

## **VIII. Conclusion**

**Comment [SM3]:** Think about logic of falsification test. If the effect is due to judicial discretion expect to see no effect in FTP suspensions. If HEA 1279 is picking up some other effect, such as desire for revenue, might expect to see FTP suspensions increase in the post period.

Or judges could interpret this as a signal of intent from the legislature and act to reduce suspensions across the board. Since they do not ....

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Recent research has shown that fiscal condition of local governments affects the behavior of law enforcement and that a wider range of factors influence judicial making. This is the first paper to connect these two strands of research. I show that judges use license suspensions as a revenue tool and the propensity to do so depends on the fiscal condition of the funding general purpose government. I explain this by pointing out that courts are fiscally reliant on the executive and legislative branches and wish to stay in their good books, I call this the budgetary effect. The budgetary effect operates at the county level and may conflict with what I dub the policy intent as communicated by state government legislation (or policies passed down from the Indiana Supreme Court). Thus judges may get caught between county level budget pressures and state level policy agendas. According to this paper what happens hinged on the county level fiscal situation- when financially squeezed judges appear to give less credence to macro policy goals and bow to the fiscal pressures whereas when budgets are not threatened judges tend to behave in line with macro policy objectives. Moreover, this behavioral change did not extend to the frequent and controversial practice of revoking a license for unpaid court fees, which judges seem to engage in regardless of fiscal health.

By analyzing suspensions resulting from failing to pay a fine separately I show these two types of license suspensions are treated as fundamentally different and require distinct policy action. Moreover, policy focused on altering sentencing guidelines (such as HEA 1279) may not be effective at all in other circumstances; if sub-state governments budgets are squeezed or if the preferences/circumstances of the sub-state government differ from those of the state.

These findings also raise important questions regarding the distribution of the tax burden and how local governments raise revenue. The literature on TELs tells us that limiting local government access to the property tax causes an increase in reliance on revenue sources such as user charges and miscellaneous revenues, sources such as court fines and fees. While the economic incidence of the property tax is a long debated topic in the public finance the result of this shift is almost certainly increases the regressivity of local taxation. However the impact of this shift, how it affects the behavior of other agencies of government like as the judicial branch but also school districts, law enforcement and other agencies and special districts to name a few is an understudied area. **In terms of individual outcomes citizens living in fiscally strained counties are likely to be treated more harshly by the judicial system than their peers living in other areas of the state.** To the that tax cap losses are correlated with other measures of disadvantage the regressivity of local taxation is intensified. As local governments increasingly turn to alternative sources of revenue, whether it be

local sales and income taxes, user charges or fines and fees it is important to broaden our scope to look at the incidence of local government revenue structure more broadly.

### Works Cited

- Baicker, Katherine & Jacobson, Mireille (2007). Finders keepers: Forfeiture laws, policing incentives, and local budgets. *Journal of Public Economics*, 91(11), 2113-2136.
- Baker, John G. (2008). Now or Never: Reforming Indiana's Court System. *Ind. L. Rev.*, 41, 817.
- Bannon, A., Nagrecha, M., & Diller, R. (2010). *Criminal Justice Debt: A Barrier to Reentry*. Brennan Center for Justice at New York University School of Law.
- Borge, L. E. (2000). Charging for public services: The case of utilities in Norwegian local governments. *Regional Science and Urban Economics*, 30(6), 703-718.
- Council of Economic Advisors. (2015). Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor. Washington, DC: U.S. Available at [https://www.whitehouse.gov/sites/default/files/page/files/1215\\_cea\\_fine\\_fee\\_bail\\_issue\\_brief.pdf](https://www.whitehouse.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf)
- Danziger, Shai, Jonathan Levav, and Liora Avnaim-Pesso (2011). "Extraneous factors in judicial decisions". Proceedings of the National Academy of Sciences of the United States of America 108 (17), pp. 6889–6892.
- Deboer, Larry. (2015). *What Do We Know About Indiana's Property Tax Caps?* Indianapolis, IN: Indiana Fiscal Policy Institute.
- Douglas, James W. & Hartley, Rodger E. (2003). The politics of court budgeting in the states: Is judicial independence threatened by the budgetary process?. *Public Administration Review*, 63(4), 441-454.
- Eby, D W , et al (2002) An Evaluation of Michigan's Repeat Alcohol Offender Laws: Executive Summary. Michigan: The University of Michigan Transportation Research Institute
- Eren, Ozkan & Mocan, Naci. (2016). Emotional Judges and Unlucky Juveniles. NBER Working Paper No. 22611.
- Fain, Travis. (2016, November 11). DOJ: Virginia Drivers License Suspension Law Unconstitutional. *Daily Press*. Retrieved from: <http://www.dailypress.com/news/politics/dp-nws-doj-suspended-licenses-20161110-story.html>.
- Ind. Office of Fiscal & Management Analysis, Fiscal Impact Statement Related to H.B. 1059, at 2 (2014) [hereinafter Fiscal Impact Statement], available at <http://iga.in.gov/legislative/2014/bills/house/1059#document-84e77989>.
- Ross, Justin and Cheek, Caitlyn. (2014). Indiana University Public Policy Institute. Indiana's Property Tax Caps: Effects on Equity, Service Delivery, and Tax Competitiveness. Retrieved from [http://policyinstitute.iu.edu/uploads/PublicationFiles/FB\\_IndianaTaxCaps\\_Brief\\_WEB.pdf](http://policyinstitute.iu.edu/uploads/PublicationFiles/FB_IndianaTaxCaps_Brief_WEB.pdf)
- Lamber, J., & Luskin, M. L. (1991). City and Town Courts: Mapping Their Dimensions. *Ind. LJ*, 67, 59.
- Makowsky, Michael. D., & Stratmann, Thomas. (2009). Political Economy at Any Speed: What Determines Traffic Citations?. *The American Economic Review*, 99(1), 509-527.

- Mullins, D. R., & Joyce, P. G. (1996). Tax and Expenditure Limitations and State and Local Fiscal Structure: An Empirical Assessment. *Public Budgeting & Finance*, 16(1), 75-101.
- National Highway Safety Administration. (2009). file:///C:/Users/smughan/Downloads/811092.pdf
- NPR (2015). Guilty and Charged “How Driver’s License Suspensions Unfairly Target the Poor”
- Pawasarat, John. (2006). The driver license status of the voting age population in Wisconsin.
- Perleberg, Mike. (2014). Some Suspended Drivers Licenses Can be Reinstated for Half-Price. Eagle Country Online, retrieved from <http://eaglecountryonline.com/local-article/suspended-drivers-licenses-can-reinstated-half-price/>.
- Posner, Richard A. (2005). Judicial Behavior and Performance an Economic Approach. *Fla. St. UL Rev.*, 32, 1259.
- Schwier, Ryan. T., & James, Autumn. (2014). Roadblock to Economic Independence: How Drivers’ License Suspension Policies in Indian Impede Self-Sufficiency, Burden State Government and Tax Public Resources. Health an Human Rights Clinic, Indian University Robert H McKinney School of Law. Available at [https://mckinneylaw.iu.edu/practice/clinics/docs/DL\\_Rpt\\_2-1-16.pdf](https://mckinneylaw.iu.edu/practice/clinics/docs/DL_Rpt_2-1-16.pdf).
- Shadbeian, R. J. (1999). The Effect of Tax and Expenditure Limitations on the Revenue Structure of Local Government, 1962–87. *National Tax Journal*, 221-237.
- Skidmore, M. (1999). Tax and Expenditure Limitations and the Fiscal Relationships Between State and Local Governments. *Public Choice*, 99(1-2), 77-102.
- The Indiana Supreme Court. (2015). *2015 Indiana Judicial Services Report*. Available at: <http://www.in.gov/judiciary/admin/files/rpts-ij-s-2015-judicial-v1-review.pdf>.
- Tarr, G. Alan. 1999. Judicial Independence and State Judiciaries. In *Judicial Independence: Essays, Bibliography, and Discussion Guide*, edited by the American Bar Association, Division for Public Education, 5-7. Chicago: ABA
- The Atlantic. (2016). No Driver’s License, No Job  
<https://www.theatlantic.com/business/archive/2016/06/no-drivers-license-no-job/486653/>
- Washington Post. (2016). Virginia Wages War on the Poor with Driver’s License Suspensions.  
[https://www.washingtonpost.com/opinions/virginia-wages-war-on-the-poor-with-drivers-license-suspensions/2016/07/13/e28c3496-4859-11e6-acbc-4d4870a079da\\_story.html?utm\\_term=.801f26830db6](https://www.washingtonpost.com/opinions/virginia-wages-war-on-the-poor-with-drivers-license-suspensions/2016/07/13/e28c3496-4859-11e6-acbc-4d4870a079da_story.html?utm_term=.801f26830db6)
- Yang, Crystal S. (2015). Free at last? Judicial Discretion and Racial Disparities in Federal Sentencing. *The Journal of Legal Studies*, 44(1), 75-111.