Supplementary Materials for "How the Trump Administration's Quota Policy Transformed Immigration Judging" (*American Political Science Review*)

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Article Abstract

The Trump administration implemented a controversial performance quota policy for immigration judges in October 2018. The policy's political motivations were clear: to pressure immigration judges to order more immigration removals and deportations as quickly as possible. Previous attempts by U.S. presidents to control immigration judges were ineffective, but this quota policy was different because it credibly threatened judges' job security and promotion opportunities if they failed to follow the policy. Our analysis of hundreds of thousands of judicial decisions before and after the policy's implementation demonstrates that the quota policy successfully led immigration judges to issue more immigration removal orders (both *in absentia* and merits orders). The post-policy change in behavior was strongest among those judges who were less inclined, pre-policy, to issue immigration removal decisions. These findings have important implications for immigration judge independence, due process protections for noncitizens, and presidential efforts to control the federal bureaucracy.

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Online Appendix

Additional Details on 2018 "Performance Plan"

The 2018 "EOIR Performance Plan" for adjudicative employees noted that the plan was associated with the "critical" job element of "accountability for organizational results" (Sessions III 2018*b*), defined for immigration judges by the memo as:

> Exercises effort to ensure the integrity of the organization. Holds self accountable for organizational goals and objectives. Ensures cases are completed in a timely, efficient, and effective manner that meets objectives. Focuses on established organizational goals, results, and attainment of outcomes.

Under the memo, the goals immigration judges must meet annually (from October 1 to September 30) to have "Satisfactory performance" included:

- Case Completions: 700 cases per year.
- Remand Rate (including BIA and Circuit Courts): less than 15%.

The memo also outlined additional case processing speed and completion "Benchmarks" for immigration judges in their decisions.

Leading up to the implementation of the 2018 "Performance Plan," Attorney General Sessions emphasized that the quotas were the DOJ's "concerted effort" to address immigration backlogs and the "steady stream of criticism" that the system is overwhelmed by cases (Sessions III 2017). EOIR Director James McHenry argued that "court performance measures and case completion goals are common, well-established, and necessary mechanisms for evaluating how well a court is functioning at performing its core role of adjudicating cases" (McHenry III 2018, 4). However, the administration also hinted at the political goals behind the new policy, with EOIR Director McHenry arguing that performance metrics were "vital to ensure that the immigration court system is . . . addressing its pending caseload *in support of the principles established by the Attorney General*" (McHenry III 2018, 4 (emphasis added)). As we detail in the main text, the policy received extensive criticism for the political motivations behind it.

Data and Variable Details

Data

As detailed in the main text, the data for our analysis are sourced from the EOIR. The EOIR makes publicly available, because of FOIA requirements, its "case file electronic database," updated monthly on its website (https://www.justice.gov/eoir/foia-library-0). We follow prior studies using these or similar immigration court data when paring down our data to cases of relevance (e.g., United States Government Accountability Office 2008, 2016; Hausman 2016; Hausman et al. N.D.; Kim and Semet 2020; Miller, Keith and Holmes 2014). We exclude cases pertaining to administrative closure or other types of review not pertaining to removal proceedings and select only cases coded as DEP = Deportation, EXC = Exclusion, or RMV = Removal by EOIR. We do not include cases ending in the following ways: AOC (Asylum Only)[1], CDR (Continued Detention Review), CFR (Credible Fear Review), CSR (Claimed Status Review), DCC (Departure Control), DDC (DD Appeal), NAC (NACARA Adjustment), REC (Rescission), RFR (Reasonable Fear Case), and WHO (Withholding Only). Across the EOIR's publicly available data, these excluded case categories account for only around 3% of observations.

[1] Many removal cases include asylum claims. These are included in our data.

We exclude any cases at the MPP ("Remain In Mexico") immigration courts that were created in January 2019. We also remove any "rider" cases where more than one immigrant petitions as a family. Finally, exclusively for our case-level analysis (connected to our *Merits Removal Order* dependent variable), we also exclude any hearings or subsequent decisions rendered after the first substantive decision (e.g., cases reopened upon remand from appeals processes). *In absentia* removal orders are excluded from our case level (*Merits Removal Order* focused) analysis since these decisions are not based on the merits of the case. Note that we end our data at the start of the COVID-19 pandemic when courts of all types, including immigration courts, and other government operations came to a temporary standstill.

Judge Party Variables

How to best capture immigration judges' political preferences in a variable has been a vexing problem for those studying immigration judge behavior. Using party of the appointing presidential administration or attorney general as a proxy for the immigration judges' own partisanship is not an ideal option in this setting since presidents have struggled to "systematically appoint ideological allies" to immigration courts (Hausman et al. N.D., 15). Creative solutions, including a factor score that summarizes immigration judges' prior employment experience (Miller, Keith and Holmes 2014), have emerged largely because, at least historically, "[i]nformation about the party affiliation of [immigration judges was] unavailable" (Keith, Holmes and Miller 2013, 271). Using the Bonica (2016) "Database on Ideology, Money in Politics, and Elections" (DIME) methodology, Bonica and Sen (2016, 2017, 2020) provide ideological common-space scores for millions of lawyers and judges across the profession based on campaign contribution data. Bonica and Sen (2017) report that government lawyers and administrative judges have much lower rates of political donations than other legal professionals in their data. This holds true for our data, where only 10% of our in-sample judges had a DIME score assigned. As such, these scores are ill-suited for our purposes.

As we detail in the main text, our *Judge Party* variables are coded from L2's voter registration records. To record political partisanship of our immigration judges, we adopt L2's party affiliation measure (Democrat, Republican, Independent/Non-Partisan) which is based on a person's public partisan voter registration or their participation in partisan primary ballots (depending on the state of voter registration). Where L2 records an immigration judge as Independent/Non-Partisan, we further examined the judge's L2 voting record for reliable information indicating Republican or Democratic leanings through consistent cues of partisan primary balloting. In the absence of that, household partisan composition, also provided by L2, was used for coding of Republican or Democratic party affiliation since research indicates that party affiliation matching within households is high (Hersh and Ghitza 2018). Democratic, Republican, and Independent/Non-Partisan partisanship are measured as dichotomous variables, with the Democratic variable serving as the baseline in our modeling.

Other Variables

In addition to *Judge Party*, our data include a number of additional judge-specific variables. These variables are all dichotomous, coded as a 1 if the attribute listed is present for a judge and 0 if it is not. Unless otherwise noted, these variables are coded from immigration judge biographies provided by the EOIR and the DOJ memos announcing their selection to the immigration court. These variables include:

- *DHS, INS, or EOIR Experience* is coded as 1 when an immigration judge had previous non-judicial employment experience with an immigration enforcement agency (INS, DHS, or EOIR).
- *Prosecutor/Government Experience* captures prior experience working for the government, including as a prosecuting attorney. This includes federal and state prosecutors and extends to special assistant U.S. Attorneys for the DOJ. This variable excludes immigration specific work for the government, which is instead captured in the *DHS, INS, or EOIR Experience* variable.

- *Military Service* is coded as 1 for immigration judges with prior service in the military. Our coding of this variable includes instances where the military service was as a military lawyer, such as JAG Corps as well as military judges (who are also coded as having *Prior Judicial Experience*).
- *Legal Aid Experience* captures prior experience working for organizations providing legal aid to the indigent population, including legal aid societies and public defense work. This variable was referred to as *NGO* in some prior studies (e.g. Ramji-Nogales, Schoenholtz and Schrag 2007).
- *Latinx Judge* captures whether the immigration judge is presumed to be of Latinx ethnicity (coded as 1; 0 otherwise). To code this, we follow Juenke (2014) by cross-referencing the U.S. Census Bureau's Spanish surname list with independent verification based on names and additional individual information provided on a person in the L2 data.
- *Judge Gender* captures the sex of the immigration judge (coding: male = 1 and female = 0). We utilize the Social Security Administration's top 500 most popular baby names, by gender, to initially assign judge gender. We then utilize immigration judge EOIR biographies and DOJ selection announcements to verify using pronouns and photographs.
- *Prior Judicial Experience* is coded as 1 if an immigration judge previously held a judging position outside of the EOIR (e.g., state judge, federal judge, other administrative agency judge, or military judge).
- *Private Practice Experience* captures prior legal practice (post-law school) with a for-profit law firm or corporation.
- *Length of Tenure (Immigration Court)* tracks the number of years an immigration judge had been serving in that position prior to the decision in a case. We code *Length of Tenure* by tracking initial appointment year for immigration judges based on their biographies and DOJ selection announcements.
- *Previous Caseload* is the average monthly number of cases that each immigration judge decided during the year prior to the quota policy (as coded from EOIR data).

We note that while some prior empirical work has also included an immigration judge's prior academic experience as a faculty member and corporate experience as additional judge-level variables, these factors are very uncommon in our data (accounting for around 1% of judges in our data). That rarity combined with the weak theory connecting these factors to specific immigration judging behavior (instead of, for example, predicting one's relative liberalness) leads us to exclude these variables from our analysis.

We include a number of case and immigrant-specific variables in our study. These variables are coded as 1 if the factor is present in the case and 0 otherwise. Unless otherwise noted, the variables are sourced from the EOIR data. These variables include:

- *Legal Representation* captures as a dichotomous variable whether the immigrant was represented by an attorney in the immigration court. The presence of counsel presents an unquestionable advantage for litigants in courts (Dumas 2016; Gunderson 2021, 2022; Ryo and Peacock 2021). The positive effect of counsel is notably potent in the highly discretionary *in absentia* context of immigration courts (Eagly and Shafer 2015), leading us to expect that noncitizen cases without attorneys may be particularly likely to experience *in absentia* removals in the post-quota world.
- *Asylum Application*, which accounts for whether a noncitizen applies for asylum as a form of relief from removal. Immigration cases with and without applications for asylum can play out differently in the court system (Ramji-Nogales, Schoenholtz and Schrag 2007).
- *In Custody* dichotomously captures whether the immigrant was detained by the government at the time of the decision in our study. Noncitizens who are detained during their immigration court proceedings are less likely to be ordered removed *in absentia* (Eagly and Shafer 2020) and their other immigration case outcomes may be affected as well.

- *Mexican or Central American Origin* and *Chinese Origin*: These variables measure when an immigrant originates from Mexico or Central American countries (former variable) or China (latter variable). Prior work indicates that noncitizens originating from Mexico or Central American countries are more likely to receive negative immigration court outcomes than those from most other countries (United States Government Accountability Office 2008), while numerous studies highlight the outcomes of immigration proceedings for noncitizens with Chinese origin (e.g., United States Government Accountability Office 2008, 2016; Hausman et al. N.D.; Hausman 2016).

- *English Speaker* accounts for whether the noncitizen speaks English since prior work finds that noncitizens with English-language ability are less likely to be ordered removed than those who cannot speak English (Kim and Semet 2020).

- *Border Court* captures immigration cases heard near the U.S.-Mexico border. This variable helps account for the large amount of immigration enforcement taking place in these locations, plus other community-level forces that may affect judicial decision making due to these courts' unique location (Chand, Schreckhise and Bowers 2017). We follow Chand, Schreckhise and Bowers (2017) and code *Border Court* as follows: "immigration courts that are within a 3-h drive of the border as border jurisdictions. This includes all the judges serving in states on the United States-Mexico border except those in Dallas and Houston, Texas and San Francisco, California" (186).

Matching

As noted in the main text, we pre-process the data using exact matching (Ho et al. 2011). This creates covariate balance and increases our confidence in drawing causal inferences about the effects of the quota policy. Given the large number of case- and hearing-level observations available in our EOIR data, we can perform this exact matching without sacrificing efficiency. We perform the matching exercise separately for our hearings-level data (for the *In Absentia Removal Order* analysis) and our case-level data (for the *Merits Removal Order* analysis). For each, we match on judge, the judge's base city, and case characteristics including *Legal Representation*, *Asylum Application*, *English Speaker*, the detention status of the noncitizen at the time of the hearing (with options of detained, never detained, and previously detained), and the EOIR's full set of noncitizen origin nationalities (for simplicity, the balance statistics report just two nationality groupings). Tables A.1 and A.2 report the balance statistics for our raw and matched data's control and treatment groups. Cells contain category percentages. Tables A.3 and A.4 report all logistic regression parameter estimates and standard errors.

Variable	Raw Data (Control)	Raw Data (Treated)	Matched Data (Control)	Matched Data (Treated)
Legal Representation	65.2	59.3	60.0	60.0
Asylum Application	39.1	40.1	39.2	39.2
In Custody	28.9	23.9	22.5	22.5
Mexican/Central Amer.	73.0	70.0	77.1	77.1
Chinese	3.1	3.0	3.2	3.2
English Speaker	11.0	9.0	5.7	5.7
Border	26.8	29.3	30.8	30.8
Num. Obs.	256,379	263,535	203,280	207,713

Table A.1: Matching balance statistics for *in absentia* removal order data. Cells report percentages of observations within category.

Variable	Raw Data (Control)	Raw Data (Treated)	Matched Data (Control)	Matched Data (Treated)
Legal Representation	61.4	65.3	66.2	66.2
Asylum Application	34.8	42.0	40.9	40.9
In Custody	53.9	46.5	46.5	46.5
Mexican/Central Amer.	73.9	71.3	79.9	79.9
Chinese	4.0	3.9	4.5	4.5
English Speaker	13.9	12.4	8.0	8.0
Border	22.0	20.1	20.6	20.6
Num. Obs.	110,025	107,112	81,292	78,390

Table A.2: Matching balance statistics for merits removal order data. Cells report percentages of observations within category.

	(1)	(2)	(3)
Post Policy	0.061**	0.103**	0.182
	(0.021)	(0.036)	(0.112)
Judge: Latinx		0.051	-0.254
		(0.125)	(0.167)
Judge Gender: Male		-0.092	-0.087
		(0.063)	(0.071)
Judge: Republican		-0.055	0.040
		(0.069)	(0.078)
Judge: Independent/Nonpartisan		-0.506***	-0.494***
		(0.092)	(0.107)
Judge Background: Legal Aid Experience		-0.150*	-0.137
		(0.074)	(0.090)
Judge Background: EOIR/INS/DHS		-0.093	-0.044
		(0.063)	(0.073)
Judge Background: Prosecutor/Government Experience		-0.009	-0.020
		(0.061)	(0.069)
Judge Background: Military Service		-0.200*	-0.314**
		(0.093)	(0.106)
Post Policy × Latinx Judge			0.584**
			(0.191)
Post Policy × Male Judge			-0.012
			(0.072)
Post Policy × Republican Judge			-0.187*
			(0.078)
Post Policy × Independent/Nonpartisan Judge			-0.024
			(0.123)
Post Policy × Legal Aid Experience			-0.027
			(0.090)
Post Policy × EOIR/INS/DHS			-0.096
			(0.076)
Post Policy × Prosecutor/Government Experience			0.022
			(0.071)
Post Policy × Military Service			0.225*
			(0.094)
Judge Background: Prior Judge		0.519***	0.521***
		(0.071)	(0.071)
Judge Background: Private Practice		0.215***	0.217***
		(0.062)	(0.062)
Judge Tenure (Years)		0.008**	0.008**
		(0.003)	(0.003)
Judge Previous Caseload		-0.001***	-0.001***
		(0.000)	(0.000)
Legal Representation		-2.610***	-2.568***
		(0.045)	(0.054)
Asylum Application		-0.859***	-0.860***
		(0.039)	(0.039)
In Custody		-5.980***	-6.101***
		(0.191)	(0.309)
Mexican or Central American Origin		0.814***	0.816***
		(0.090)	(0.090)
Chinese Origin		0.699***	0.700***
		(0.124)	(0.124)
English Speaker		-0.332***	-0.332***
		(0.068)	(0.068)
Border Court		-1.202***	-1.205***
		(0.077)	(0.077)
Post Policy × Legal Representation			-0.089
			(0.059)
Post Policy × In Custody			0.216
			(0.304)
Num.Obs.	410,993	410,993	410,993
Pseudo R^2	0.00	0.42	0.42

Table A.3: Logistic regression results for *In Absentia Removal Order*. Baseline categories: Democratic judges and other nationality origins. Standard errors are clustered at the matching strata level. + p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

	(1)	(2)	(3)
Post Policy	0.089***	0.113***	0.287***
	(0.013)	(0.017)	(0.063)
Judge: Latinx		0.042	-0.122
		(0.092)	(0.107)
Judge Gender: Male		0.298***	0.327***
		(0.048)	(0.054)
Judge: Republican		0.504***	0.559***
		(0.057)	(0.061)
Judge: Independent/Nonpartisan		0.170**	0.170*
		(0.059)	(0.070)
Judge Background: Legal Aid Experience		0.237***	0.254***
		(0.061)	(0.070)
Judge Background: EOIR/INS/DHS Experience		0.259***	0.317***
		(0.063)	(0.071)
Judge Background: Prosecutor/Government Experience		0.012	-0.012
		(0.047)	(0.052)
Judge Background: Military Service		0.083	0.108
		(0.071)	(0.079)
Post Policy × Latinx Judge			0.322**
			(0.115)
Post Policy × Male Judge			-0.058
			(0.036)
Post Policy × Republican Judge			-0.109**
			(0.037)
Post Policy × Independent/Nonpartisan Judge			0.000
			(0.049)
Post Policy × Legal Aid Experience			-0.033
			(0.048)
Post Policy × EOIR/INS/DHS			-0.117**
			(0.038)
Post Policy × Prosecutor/Government Experience			0.047
			(0.033)
Post Policy × Military Service			-0.051
			(0.046)
Judge Background: Prior Judge		0.318***	0.319***
		(0.068)	(0.068)
Judge Background: Private Practice		0.104*	0.104*
		(0.051)	(0.051)
Judge Tenure (Years)		0.005+	0.005+
		(0.003)	(0.003)
Judge Previous Caseload		0.000	0.000
		(0.000)	(0.000)
Legal Representation		-1.198***	-1.220***
		(0.066)	(0.073)
Asylum Application		1.346***	1.348***
		(0.056)	(0.056)
In Custody		1.205***	1.292***
		(0.056)	(0.062)
Mexican or Central American Origin		0.596***	0.597***
		(0.073)	(0.073)
Chinese Origin		-0.811***	-0.813***
		(0.121)	(0.122)
English Speaker		-0.283***	-0.283***
		(0.054)	(0.054)
Border Court		-0.138**	-0.139**
		(0.051)	(0.051)
Post Policy × Legal Representation			0.044
			(0.045)
Post Policy × In Custody			-0.174***
			(0.041)
Num.Obs.	159,682	159,682	159,682
Pseudo R^2	0.00	0.23	0.23

Table A.4: Logistic regression results for *Merits Removal Order*. Baseline categories: Democratic judges and other nationality origins. Standard errors are clustered at the matching strata level. + $p < 0.1$, * $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$

	(1)	(2)
Post Policy	0.133***	0.190***
	(0.028)	(0.034)
Judge: Latinx	-0.044	0.043
	(0.035)	(0.034)
Judge Gender: Male	0.025	0.226***
	(0.016)	(0.016)
Judge: Republican	-0.033+	0.404***
	(0.018)	(0.017)
Judge: Independent/Nonpartisan	-0.358***	0.044*
	(0.023)	(0.020)
Judge Background: Legal Aid Experience	-0.225***	0.110***
	(0.022)	(0.021)
Judge Background: EOIR/INS/DHS Experience	-0.041*	0.273***
	(0.017)	(0.017)
Judge Background: Prosecutor/Government Experience	-0.045**	0.013
	(0.015)	(0.015)
Judge Background: Military Service	-0.321***	0.159***
	(0.025)	(0.022)
Post Policy × Latinx Judge	0.328***	0.234***
	(0.043)	(0.051)
Post Policy × Male Judge	-0.124***	0.056**
	(0.021)	(0.022)
Post Policy × Republican Judge	-0.112***	-0.028
	(0.023)	(0.024)
Post Policy × Independent/Nonpartisan Judge	-0.105***	0.052+
	(0.030)	(0.027)
Post Policy × Legal Aid Experience	0.014	0.024
	(0.029)	(0.029)
Post Policy × EOIR/INS/DHS	-0.134***	-0.165***
	(0.021)	(0.022)
Post Policy × Prosecutor/Government Experience	-0.057**	0.018
	(0.020)	(0.020)
Post Policy × Military Service	0.124***	-0.113***
	(0.031)	(0.029)
Judge Background: Prior Judge	0.437***	0.223***
	(0.016)	(0.018)
Judge Background: Private Practice	0.116***	0.050***
	(0.011)	(0.011)
Judge Tenure (Years)	0.007***	0.004***
	(0.001)	(0.001)
Judge Previous Caseload	-0.001***	0.000
	(0.000)	(0.000)
Legal Representation	-2.744***	-1.244***
	(0.015)	(0.018)
Asylum Application	-0.856***	1.199***
	(0.012)	(0.013)
In Custody	-6.647***	1.510***
	(0.114)	(0.018)
Mexican or Central American Origin	0.485***	0.642***
	(0.013)	(0.013)
Chinese Origin	0.418***	-0.592***
	(0.033)	(0.028)
English Speaker	-0.380***	-0.274***
	(0.022)	(0.016)
Border Court	-1.116***	-0.234***
	(0.013)	(0.013)
Post Policy × Legal Representation	0.201***	0.178***
	(0.021)	(0.024)
Post Policy × In Custody	0.942***	-0.375***
	(0.141)	(0.023)
Num.Obs.	519,914	217,137
Pseudo R^2	0.40	0.18

Table A.5: Alternative logistic regression estimates without pre-processing by matching. *In Absentia Removal* in column (1) and *Merits Removal* in column (2). Standard errors clustered at case-level. + p < 0.1, * p < 0.05, ** p < 0.01, *** p < 0.001

Robustness: Bandwidth, Anticipation, and Placebo Tests

In the main text, we compare case outcomes before and after the policy change. If we restrict the data to a smaller window around October 1, 2018, we can more credibly attribute changes in judge behavior to the quota policy. To do this, Figure A.1 plots the estimated treatment effects on *Merits Removal Order*, varying the size of this bandwidth around the policy's implementation. As the figure reveals, when the bandwidth is just 1 month (i.e., includes only September and October 2018 in isolation), there is not a significant difference in immigration judge rulings before and after the quota. This non-effect in this zoomed in period of time around the policy's implementation may reflect anticipatory behavior by immigration judges. Immigration judges were informed of the forthcoming quota policy earlier in 2018 and could begin to make changes to their behavior in anticipation of the October 1st implementation (meaning that the formal assumptions of a regression discontinuity design are likely violated with these data). While the DOJ released the new policy plans in April 2018 (with an October 1 start date) and even began to make vague threats of forthcoming "numeric performance standards" in 2017 (Sacchetti 2017), the immigration judges' union and immigration lawyers association both vehemently opposed the change (Torbati 2018; American Immigration Lawyers Association 2018), and many immigration judges likely held out hope that the Trump Administration would not implement the policy or would revise it to remove individual judge performance metrics. However, it became clear by the end of the summer of 2018 – perhaps driven by Attorney General Sessions' remarks to an immigration judge training program during the summer that reiterated his quota plans and urged immigration judges to work "every day to meet and exceed" the new 700 cases per year goals (Sessions III 2018*a*) – that the quota would be implemented as planned. As such, some immigration judges began to change how they ruled on cases a few weeks in advance of the October 1 rollout. Returning to Figure A.1, when the bandwidth is 2 months or greater, the estimated treatment effects are consistently positive and statistically different from 0.

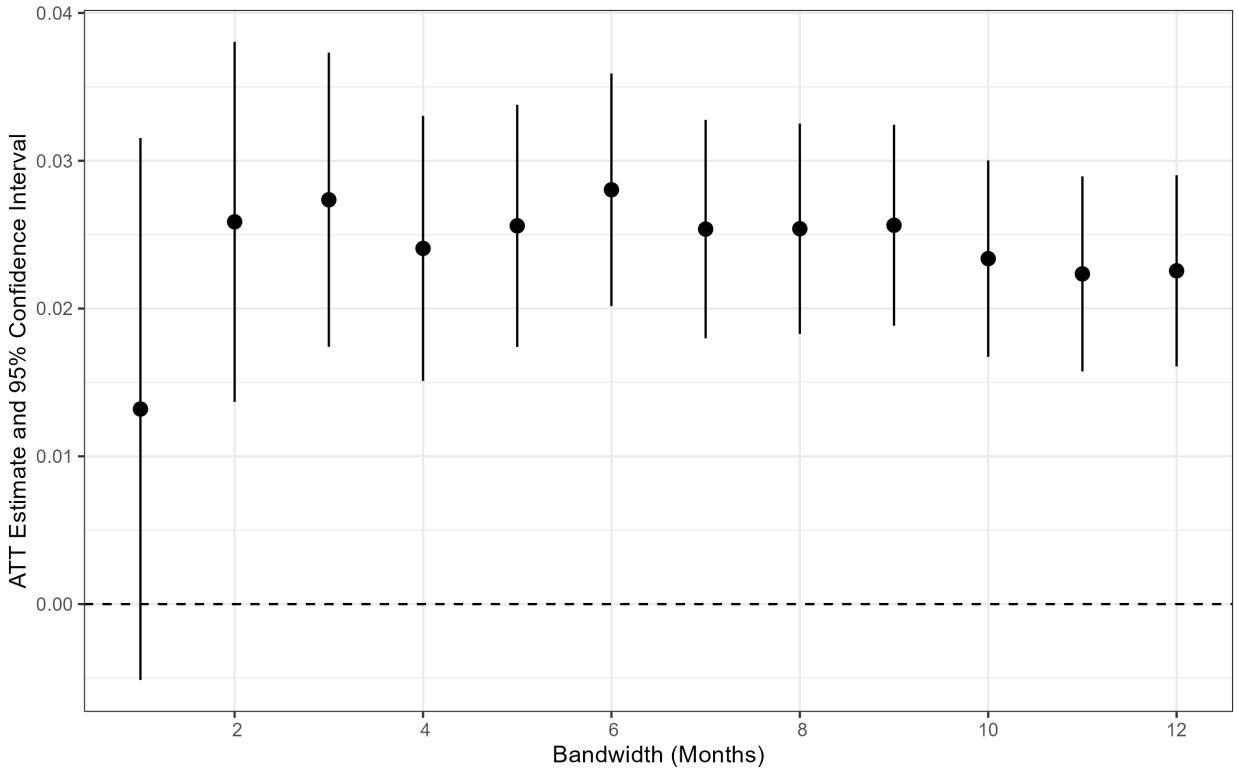

Figure A.1: Robustness to bandwidth selection. X-axis values denote the number of months before and after the quota policy included in the estimation (following the estimation strategy presented in Table A.4). Points are the estimated treatment effects of the policy on merits removals with 95% confidence intervals. Regression tables for each bandwidth are available on *APSR* Dataverse.

We also conduct a series of placebo tests where we estimate the difference in the likelihood of removal on the merits for two months before and after a series of placebo treatment dates. The results are reported in Figure A.2, with the Trump quota policy's implementation highlighted in red. As this test reveals, the quota policy stands out, with no other placebo dates in the data yielding a higher estimated treatment effect than Trump's quota implementation.

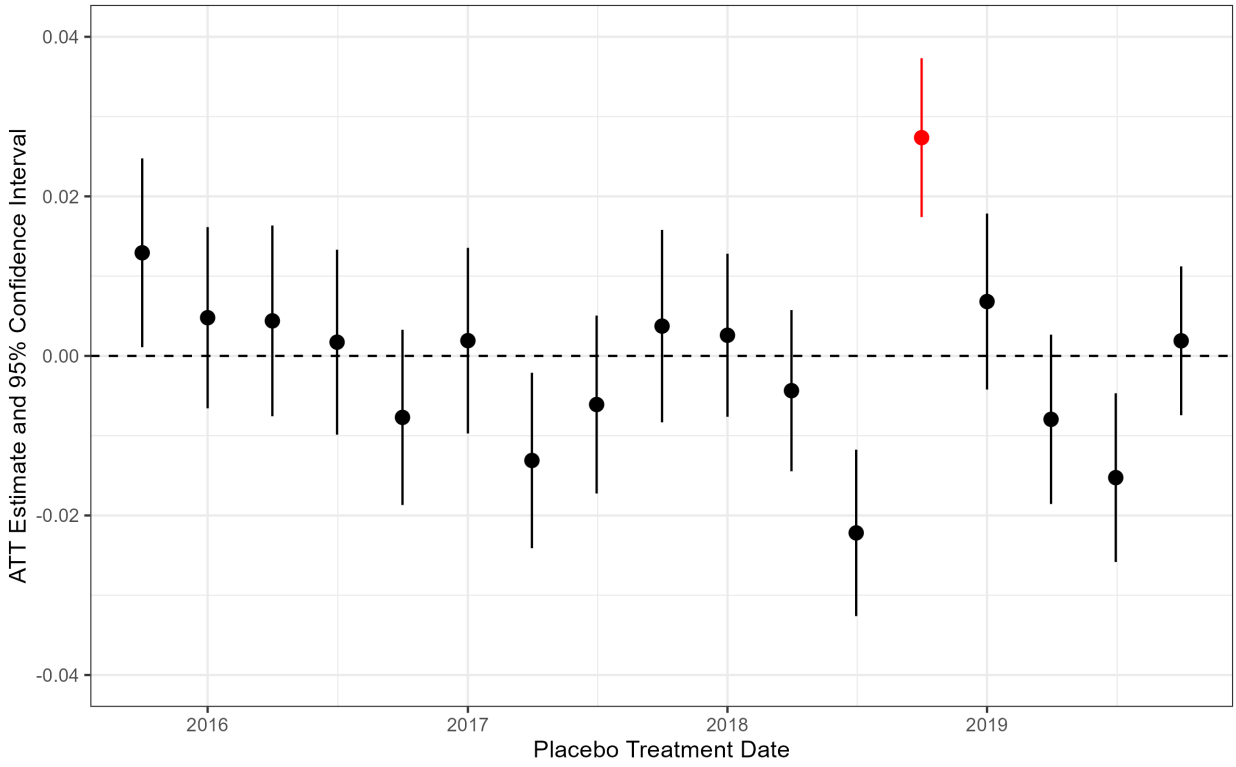

Figure A.2: Estimated placebo effects for merits removals and 95% confidence intervals. The red point is the estimated effect at the actual date of policy implementation. Regression tables for each placebo treatment date are available on *APSR* Dataverse.

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