Why Enforce? Police Discretion under Non-Prosecution Policies

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Race and the US Carceral System

October 26, 2026

Outline

1. Motivation
2. Theory
3. Setting
4. Data & Methods
5. Results
6. Conclusion
7. Next Steps

Part 1

Motivation

San Francisco, 2020: A New District Attorney



"Today we take action. We send a message that is loud and clear to the police department and to communities of color. We will no longer participate in, condone, tolerate or amplify racist police tactics."

— Chesa Boudin, San Francisco DA

Non-Prosecution Policies



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Non-Prosecution Policies



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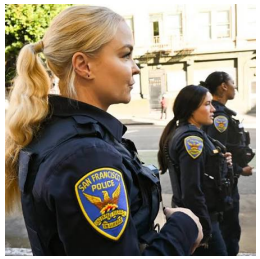
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Would the officers making arrests respond?

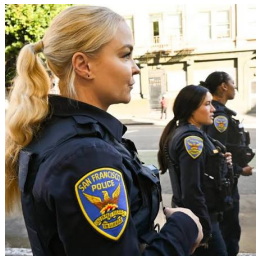
An Effect on Enforcement?



"The D.A. won't do anything to prosecute if we make an arrest, so we're here to protect people like you from the bad elements."

— SFPD officer to a Tenderloin resident (*SF Chronicle*)

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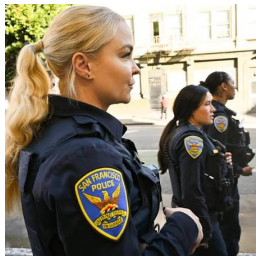
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"There is no point in investigating or arresting perpetrators of crime because the District Attorney will not prosecute."

— What Supervisor Hillary Ronen says officers told residents (*SF Chronicle*)

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— What Supervisor Hillary Ronen says officers told residents (*SF Chronicle*)



"We've seen, on body-worn camera footage, police officers telling victims there's nothing they can do and, 'Don't forget to vote in the upcoming recall election."'

— Chesa Boudin (*ProPublica*)

SFPD's Response



"Despite the reason that an officer may be in that mental state where they might think it's not a big deal for them to bother with it, it is a big deal. And when they don't do their job, I have to hold them accountable."

— Bill Scott, SFPD Chief

A Nation-Wide Debate

Enforcement will fall

Enforcement shouldn't change

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Enforcement shouldn't change

- "What is completely unacceptable is telling a community member that you will not take police action because the District Attorney refuses to prosecute cases."
  — Portland Police Chief Chuck Lovell to officers

Research Question

Who is right?

Do non-prosecution policies impact enforcement?

Preview: Police kept enforcing without prosecution.

Findings

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- Some target offenses became relatively more common after policy adoption

Part 2

Theory

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- Policing can be a political response to prosecutors (Kyriazis, Schechter, and Yogev 2023; Stashko and Garro 2023)
- Misdemeanor enforcement is discretionary (Wilson 1968; Brown 1981)

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  - Business/community pressure (Vitale 2008)

So What?

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- **Rule of law:** What does it mean if arrest itself is the punishment?

Part 3

Setting

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- Unique way to isolate effect of prosecutorial policy
- Patrol officers have changed behavior in reaction to policy before (Mummolo 2018)

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- Both DAs made public statements announcing the policies
- Both targeted high-discretion misdemeanors
- Target offenses constituted a non-trivial proportion of enforcement
  - 12% of arrests/summons in the Bronx (2015-2019)
  - 6% of arrests/summons in Manhattan (2017-2021)

The Test: Non-Prosecution Policies in NYC

Both the Bronx and Manhattan

- Trespass
- Criminal Trespass in the Third Degree
- Fare Evasion
- Disorderly Conduct
- Possession of a Knife
- (Aggravated) Operation of a Vehicle Without a License

Bronx Only

- Criminally Possessing a Hypodermic Instrument
- Loitering for Prostitution
- Unlawful Assembly
- Criminal Possession of Marijuana in the Fourth Degree

Manhattan Only

- Criminal Trespass in the Second Degree
- Prostitution
- Resisting Arrest
- Obstructing Governmental Administration in the Second Degree
- Criminal Possession/Sale of Marijuana in the Third Degree
- Adultery & Obscenity

Part 4

Data & Methods

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Analytical Approach

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- Area-weighted interpolation of ACS data to precincts

Instincts Behind the Method

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- Staggered adoption to accommodate two different treatment times

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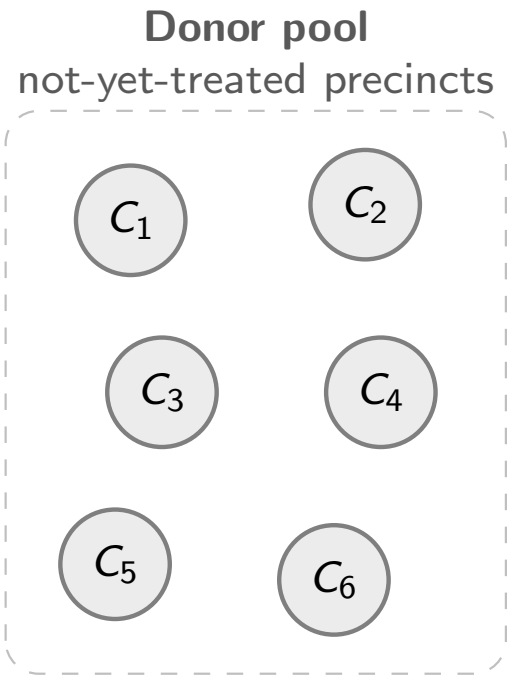
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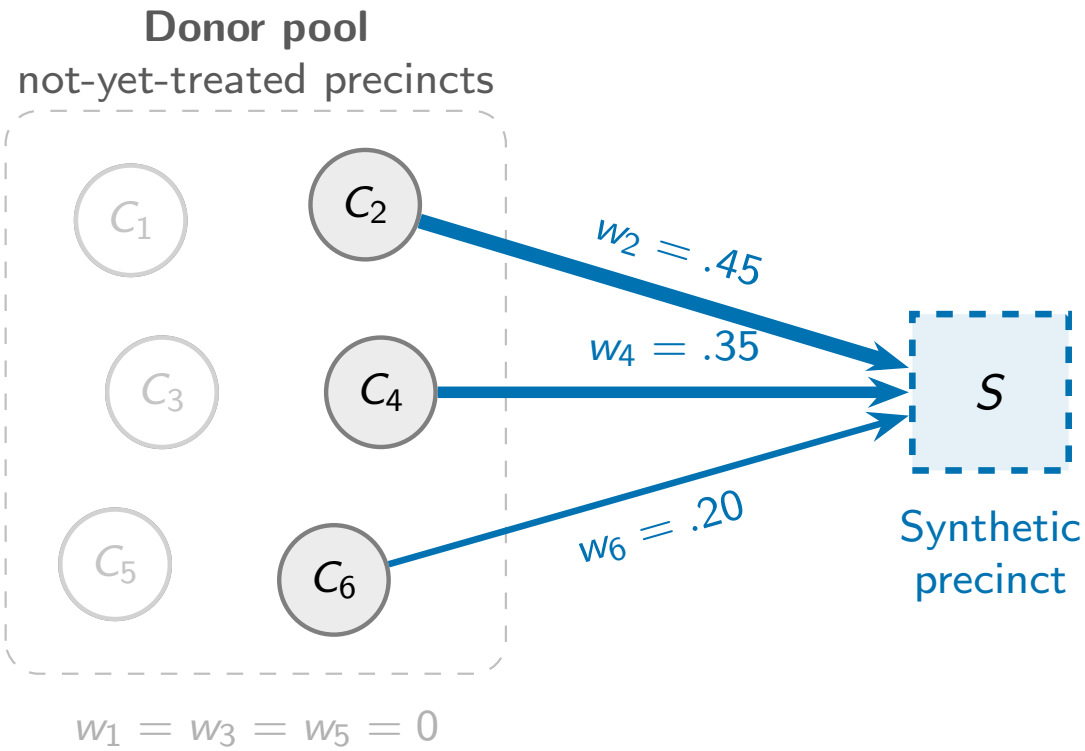
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- Partial pooling optimizes precinct and borough level fit

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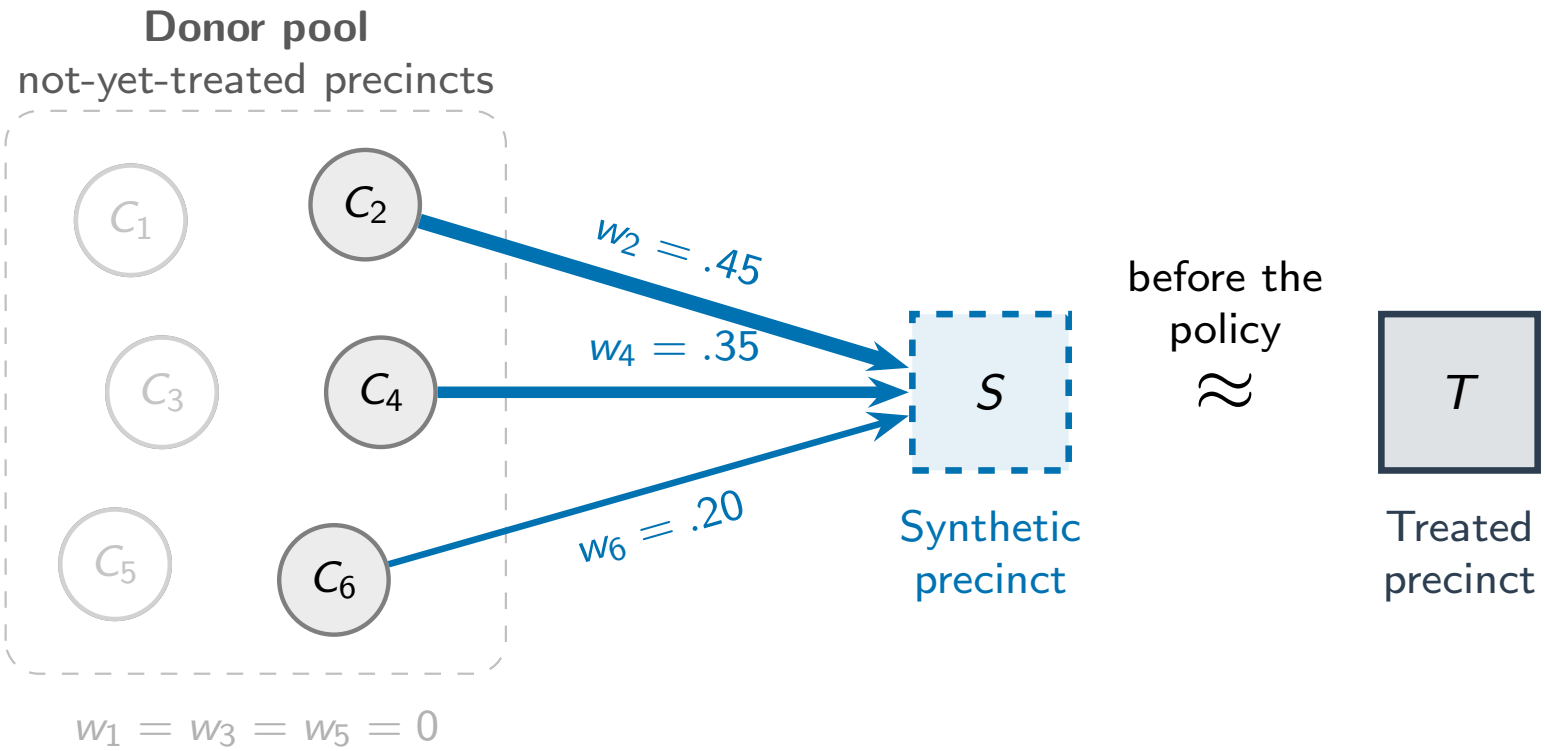
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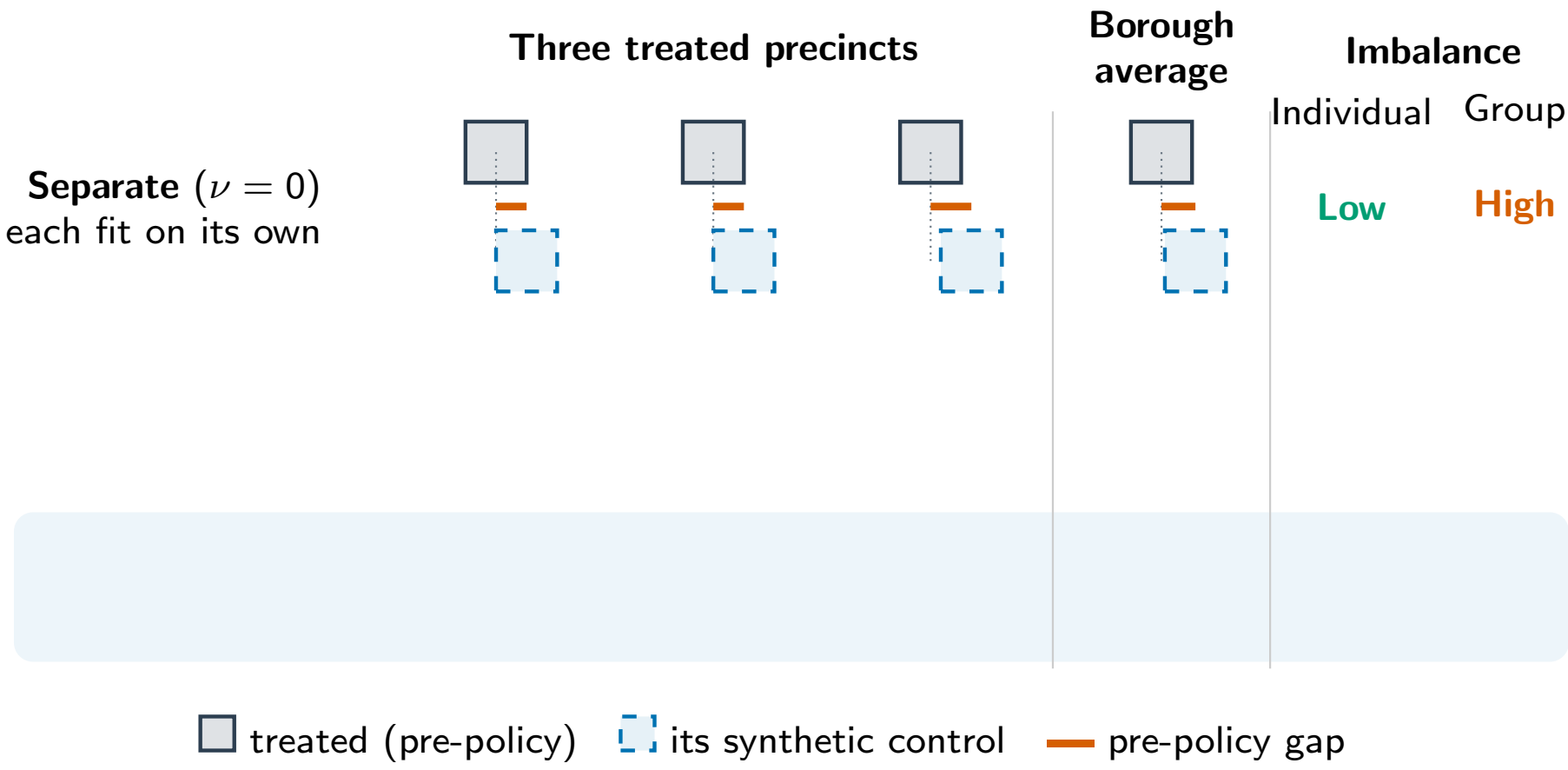


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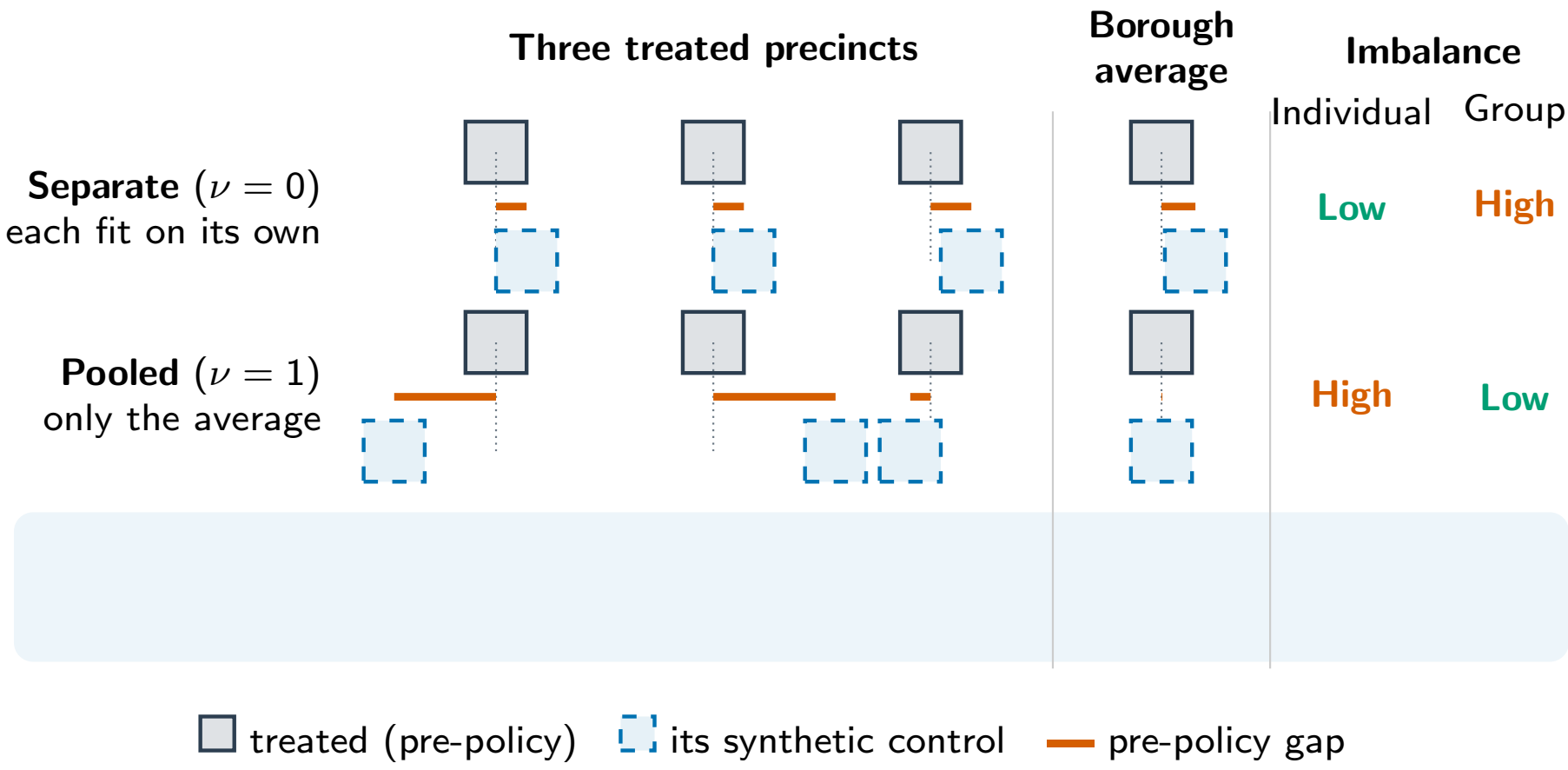


After the policy, the gap $T - S$ is the estimated effect for that precinct.

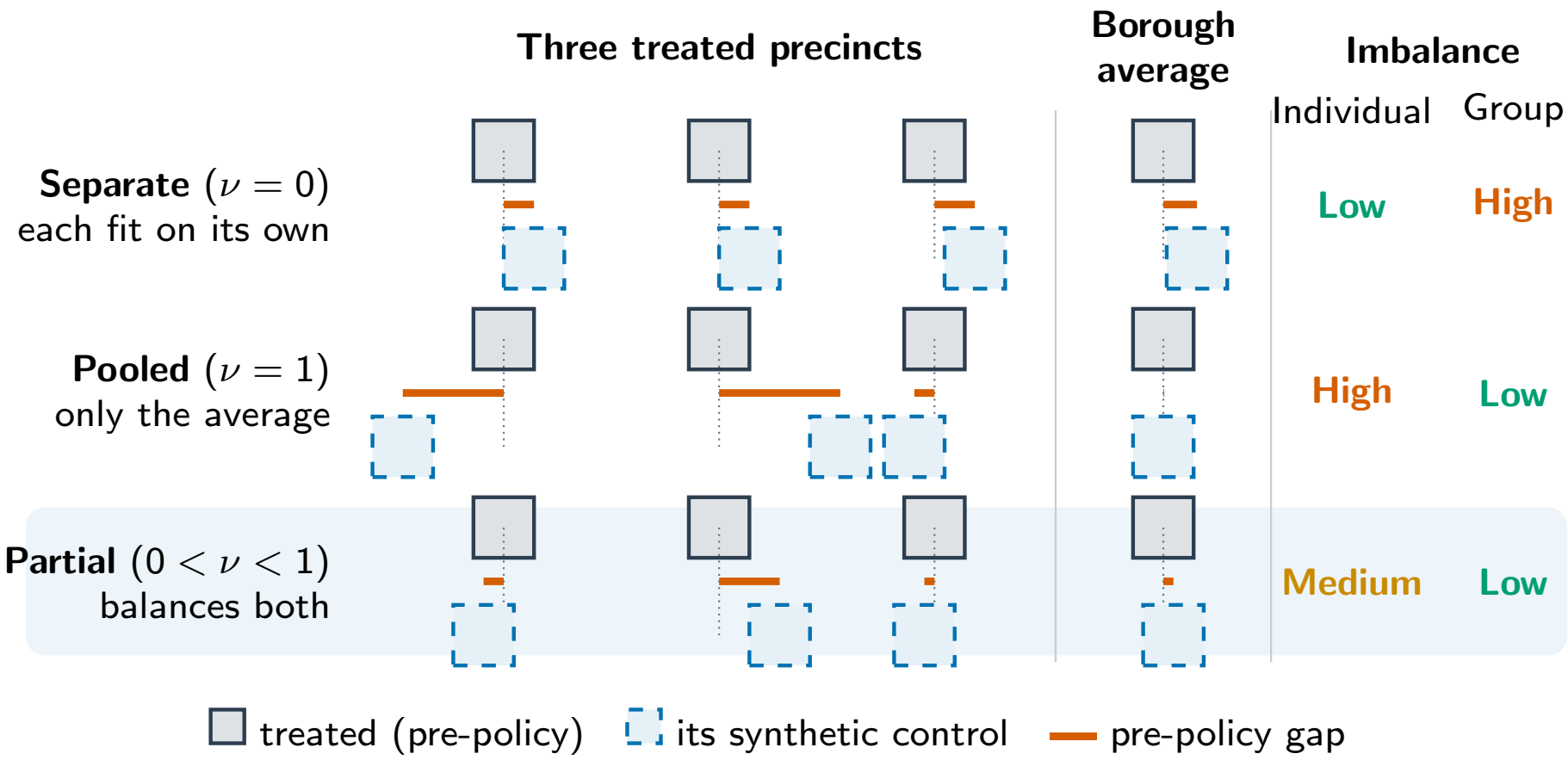
Partial Pooling: Individual vs. Group Fit



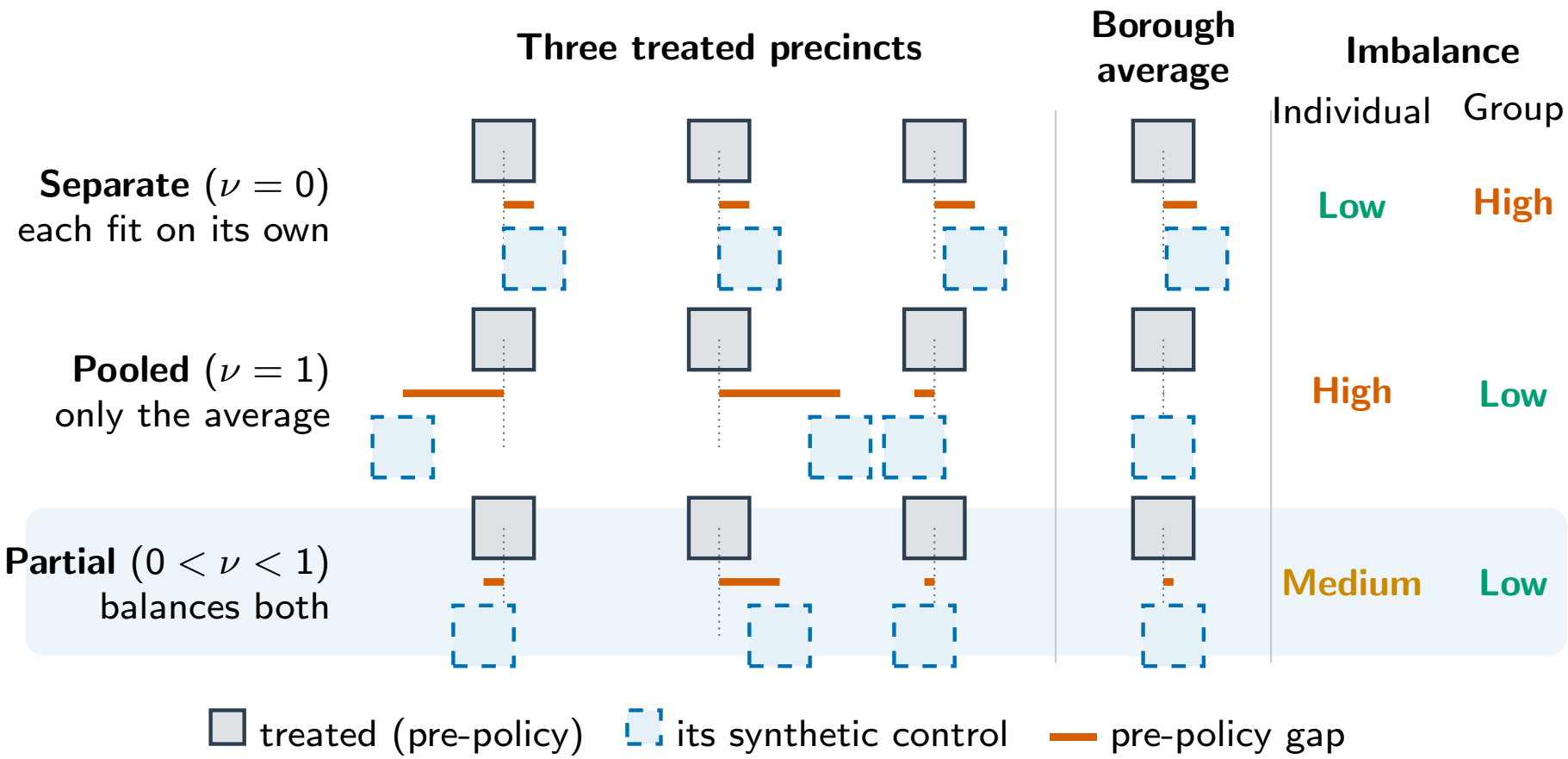
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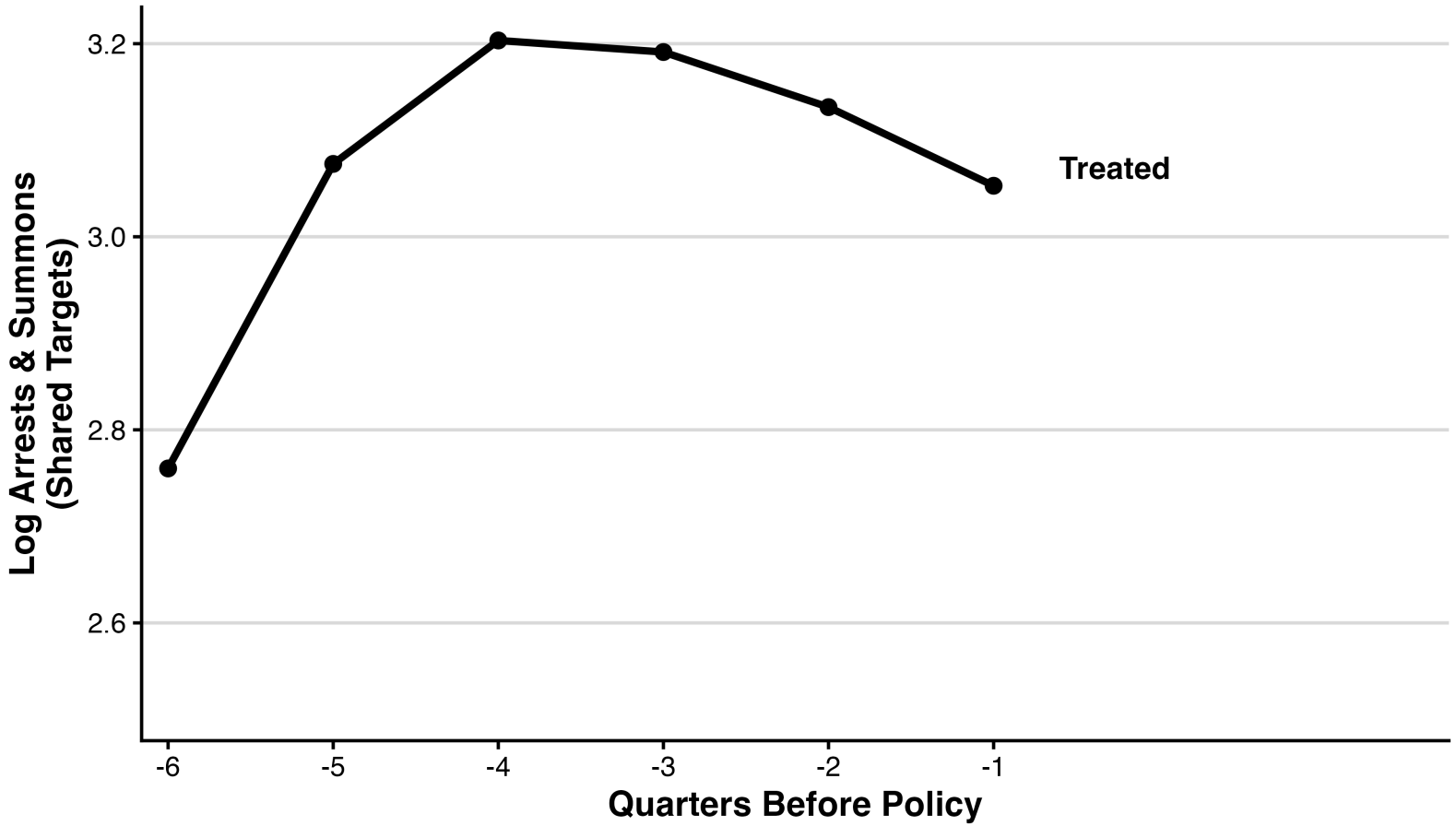


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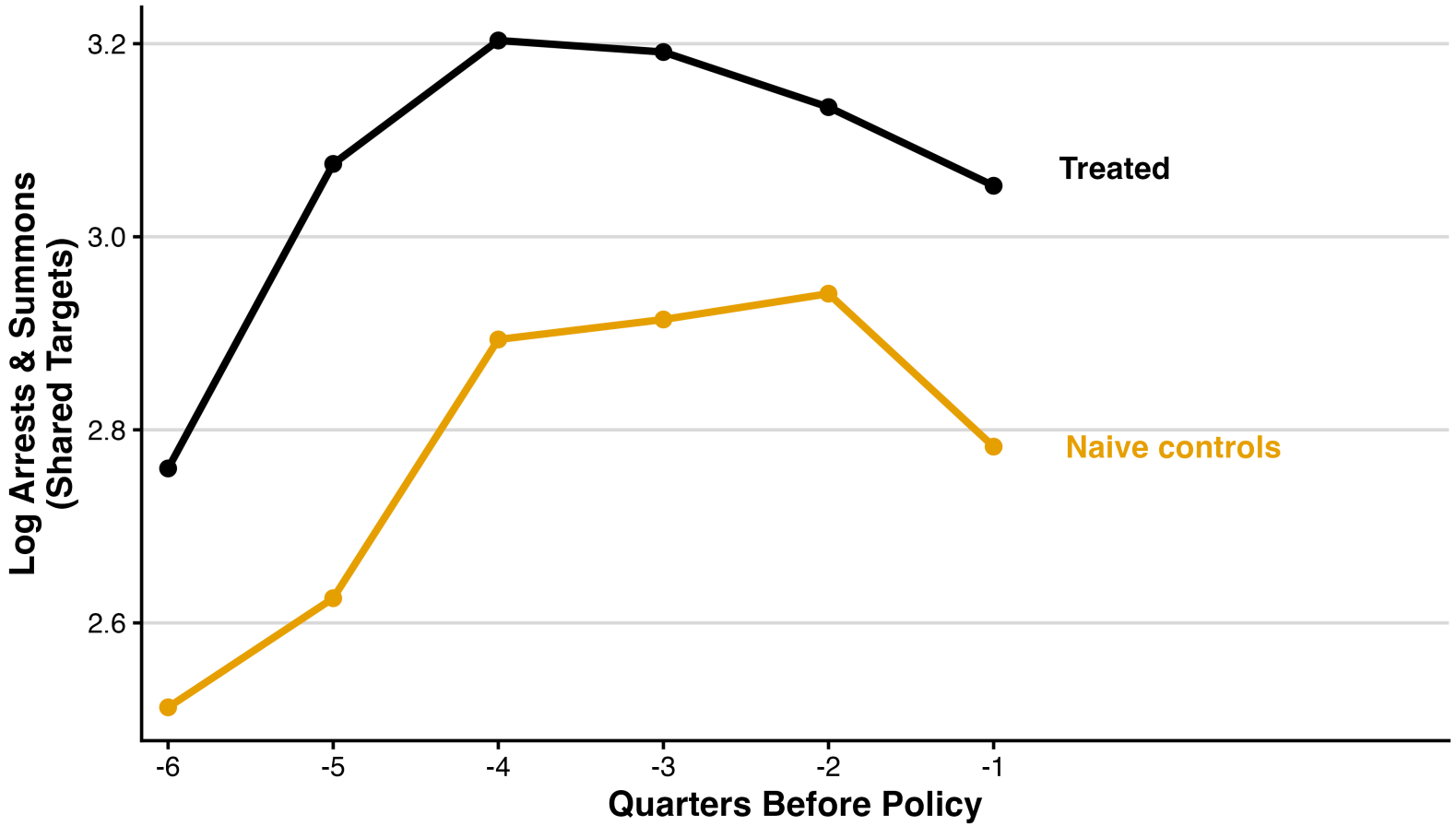
Partial pooling keeps each fit close while the misses cancel (my models: $\nu \approx 0.4$–0.8).

Pre-Treatment Fit: Synthetic Control vs. Naive Comparison



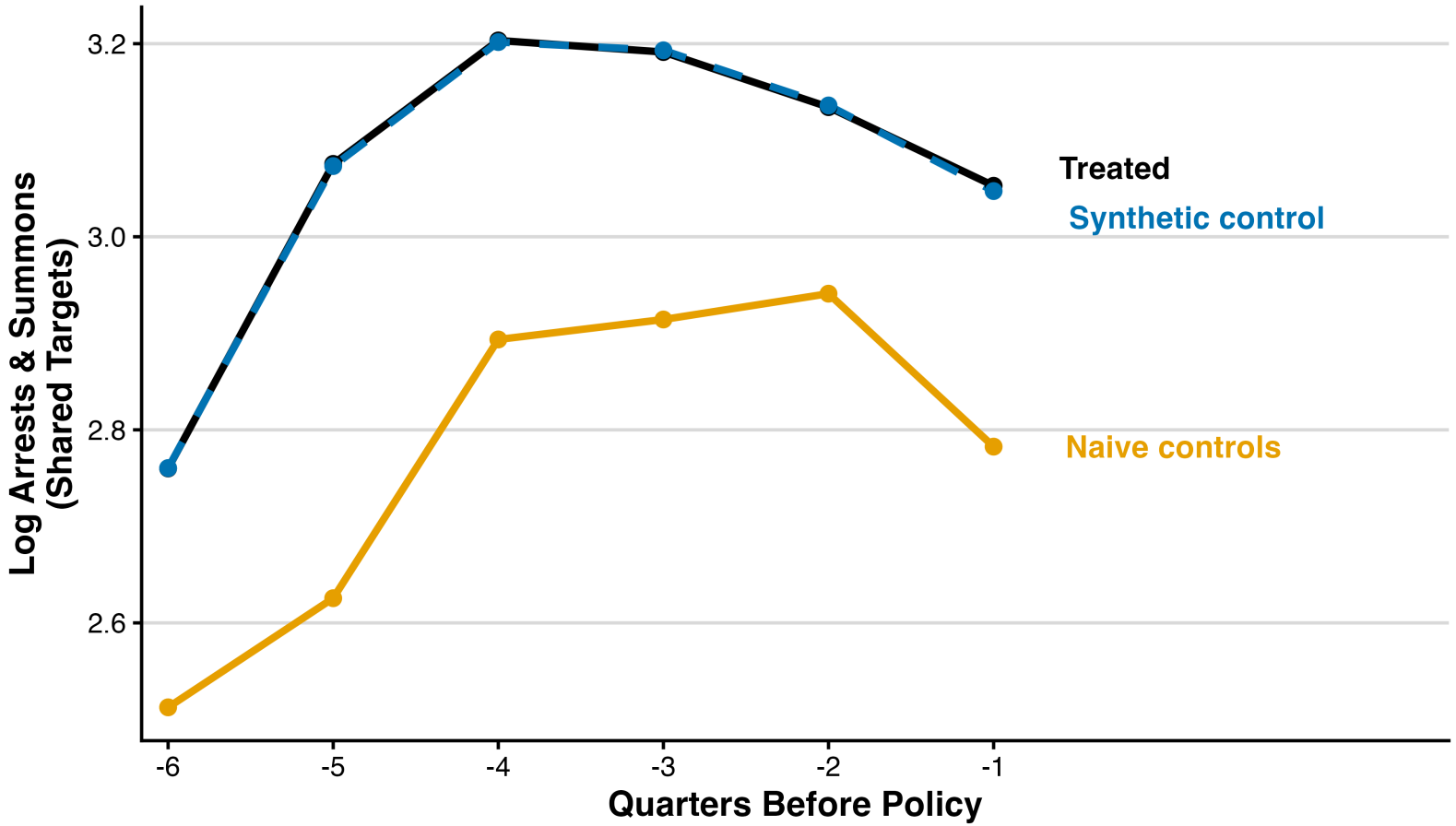
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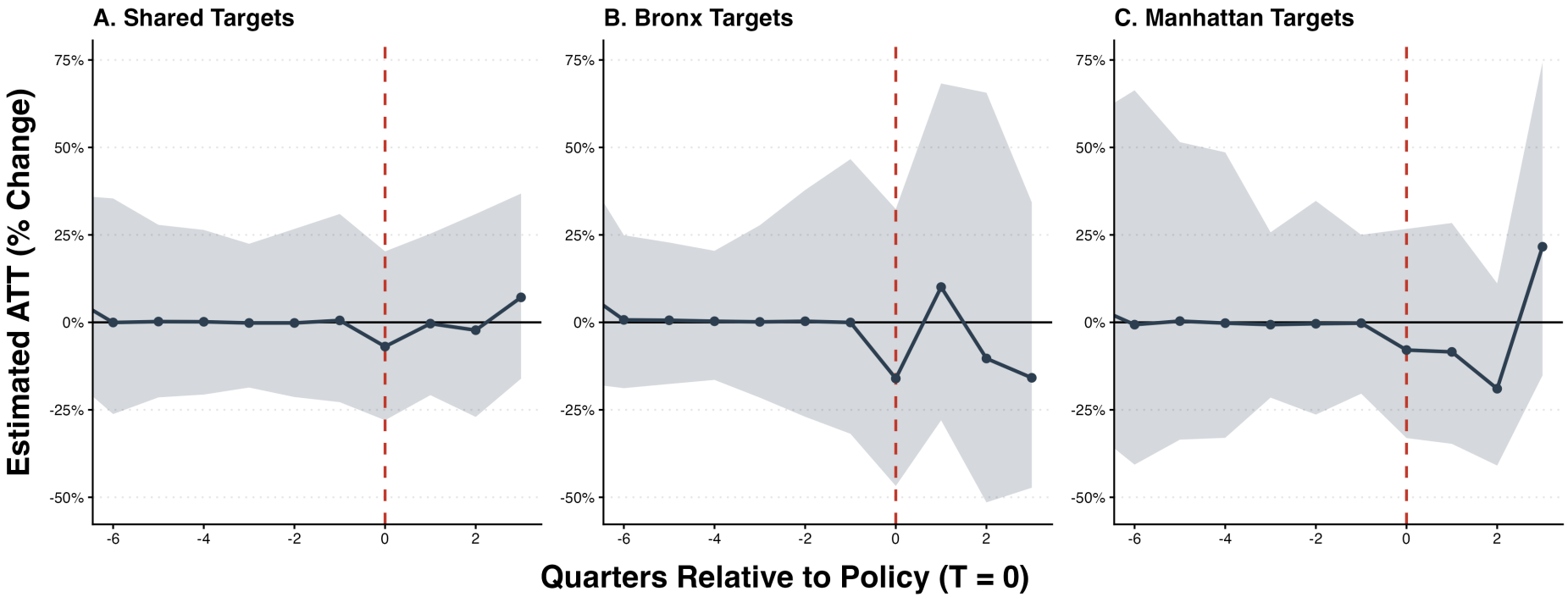


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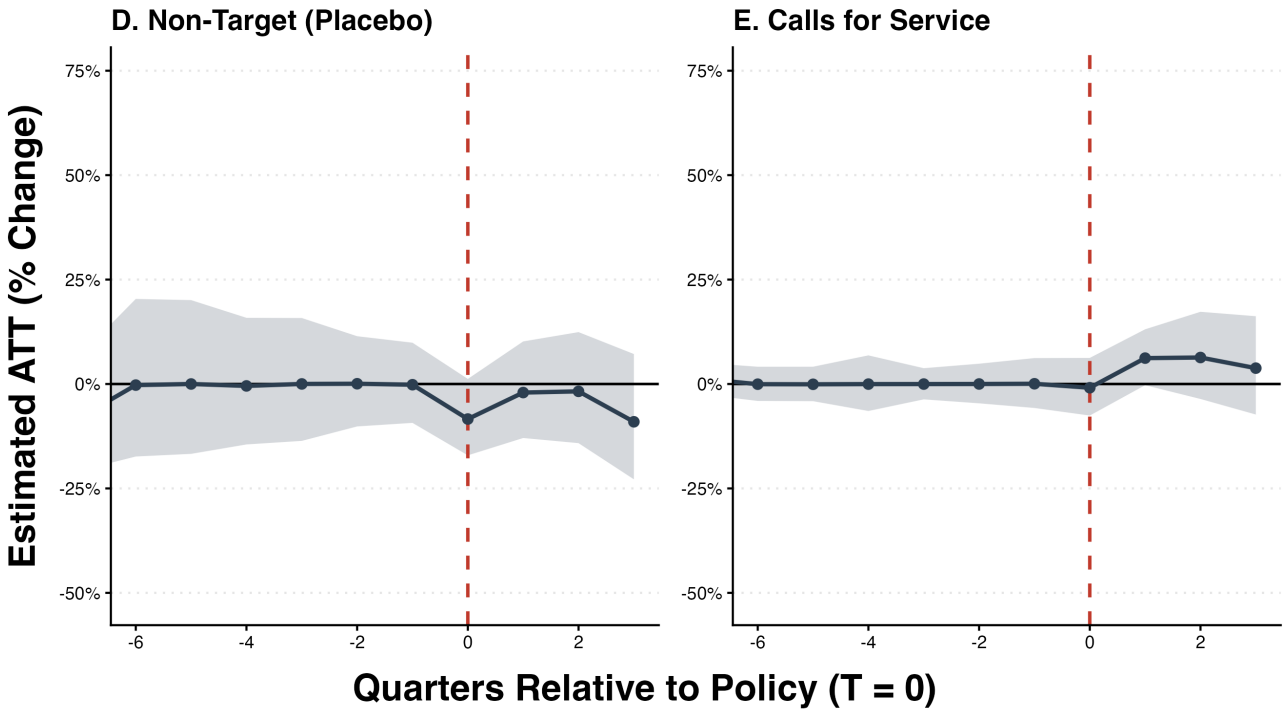
Part 5

Results

Results: Target Offenses



Results: Non-Target Offenses + Calls for Service



Results: ATTs

Term	Shared Targets	Bronx Targets	Manhattan Targets	Non-Target	Calls for Service
Aggregate ATT	-0.01	-0.09	-0.05	-0.06	0.04
	(0.10)	(0.16)	(0.12)	(0.05)	(0.04)
p-value	p = 0.941	p = 0.585	p = 0.697	p = 0.242	p = 0.355
Scaled Global L2 Imbalance	0.009	0.005	0.019	0.037	0.011
Scaled Individual L2 Imbalance	0.219	0.077	0.196	0.168	0.139
Pooling (ν)	0.392	0.765	0.522	0.597	0.622
N (Units)	34 Tr / 43 Co	12 Tr / 65 Co	22 Tr / 55 Co	34 Tr / 43 Co	34 Tr / 43 Co

Leads/Lags Covariates Monthly

Results: Precision

Model	95% CI (log)	MDE @ 80% Power
Shared Targets	[-0.200, 0.186]	24.1%
Bronx Targets	[-0.410, 0.230]	36.7%
Manhattan Targets	[-0.282, 0.189]	28.6%
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Model	95% CI (log)	MDE @ 80% Power
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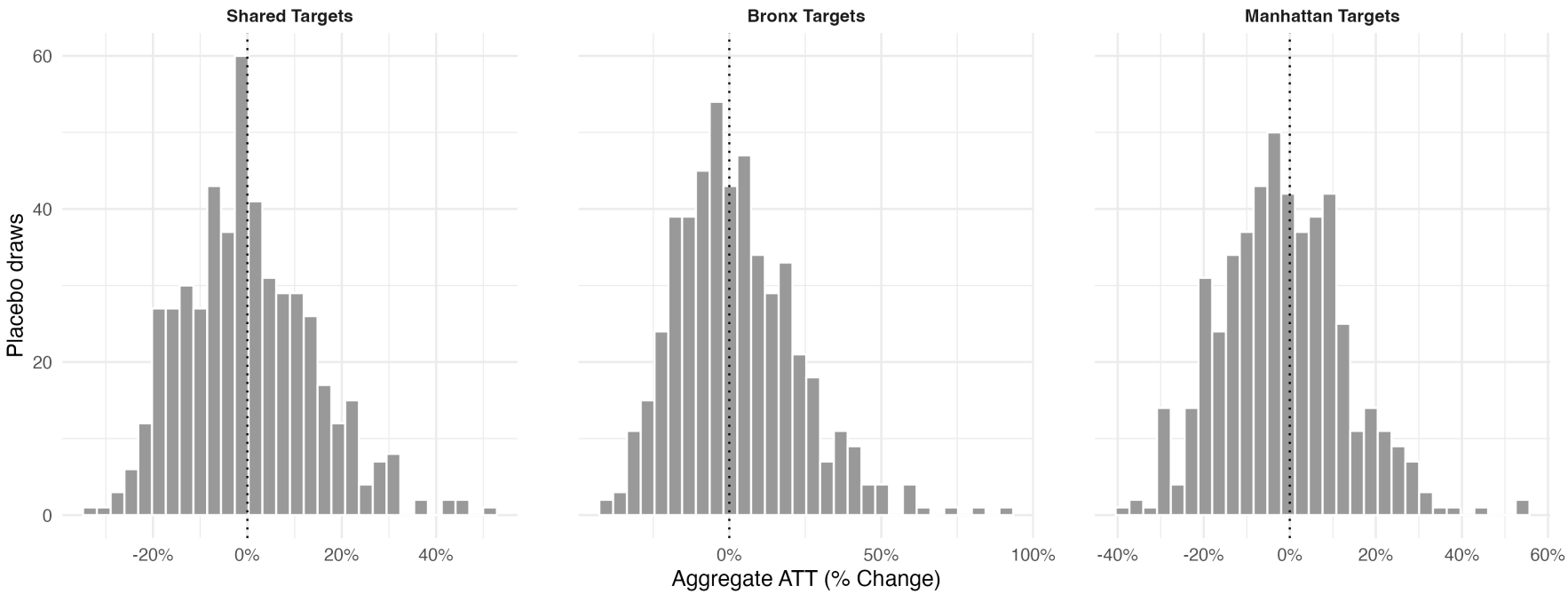
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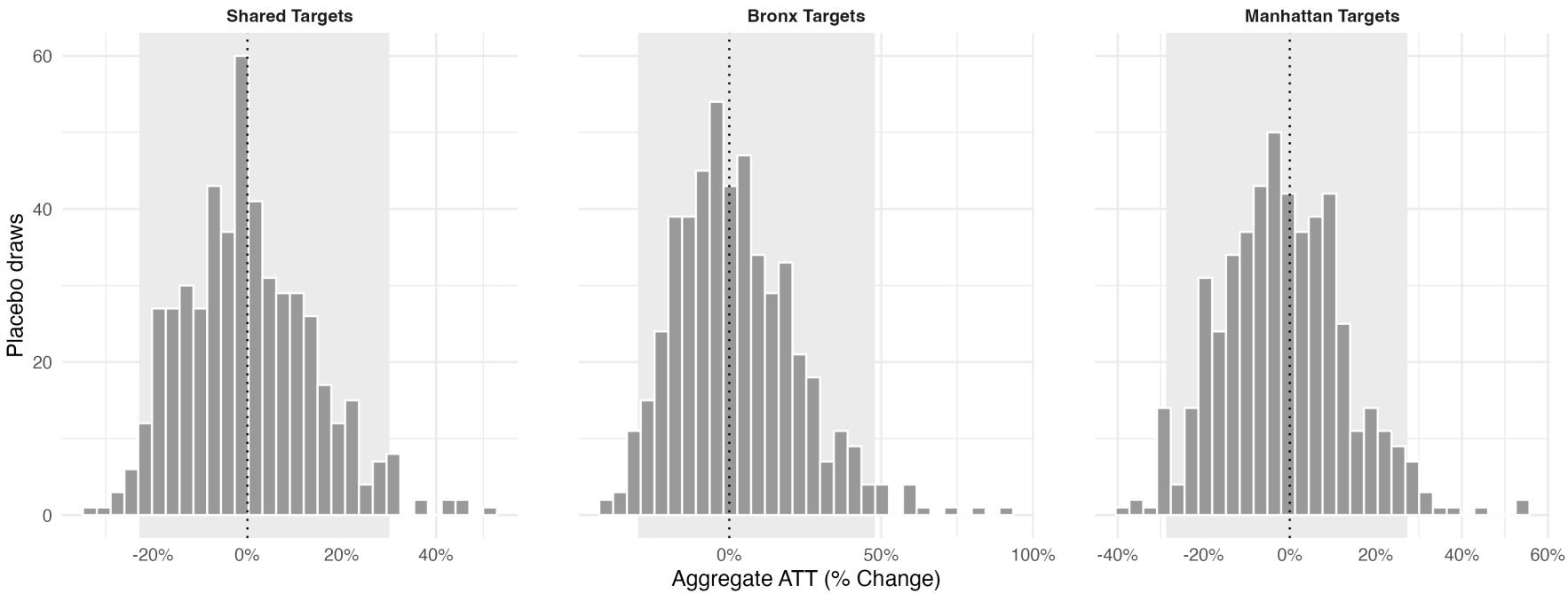
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- Largest possible declines are substantively meaningful
  - 18% decline in shared targets $\approx$ 1,102 arrests/summons per year

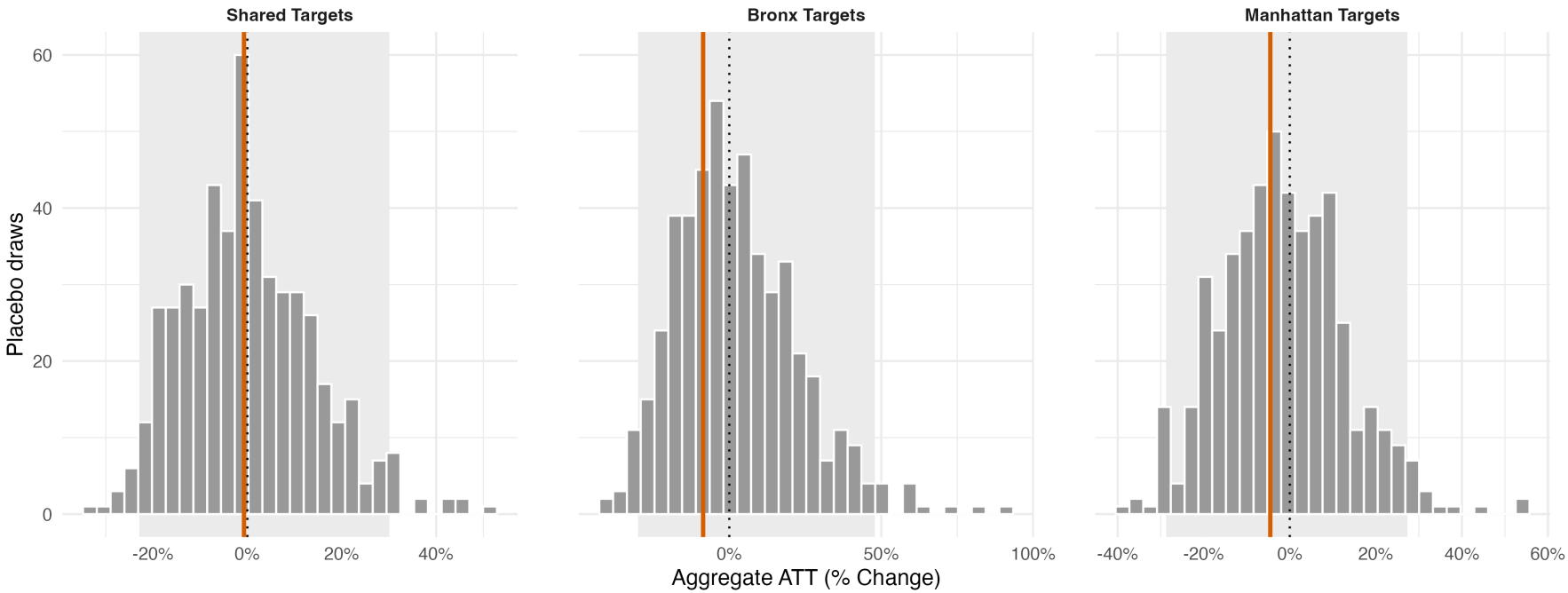
Results: Placebo Tests



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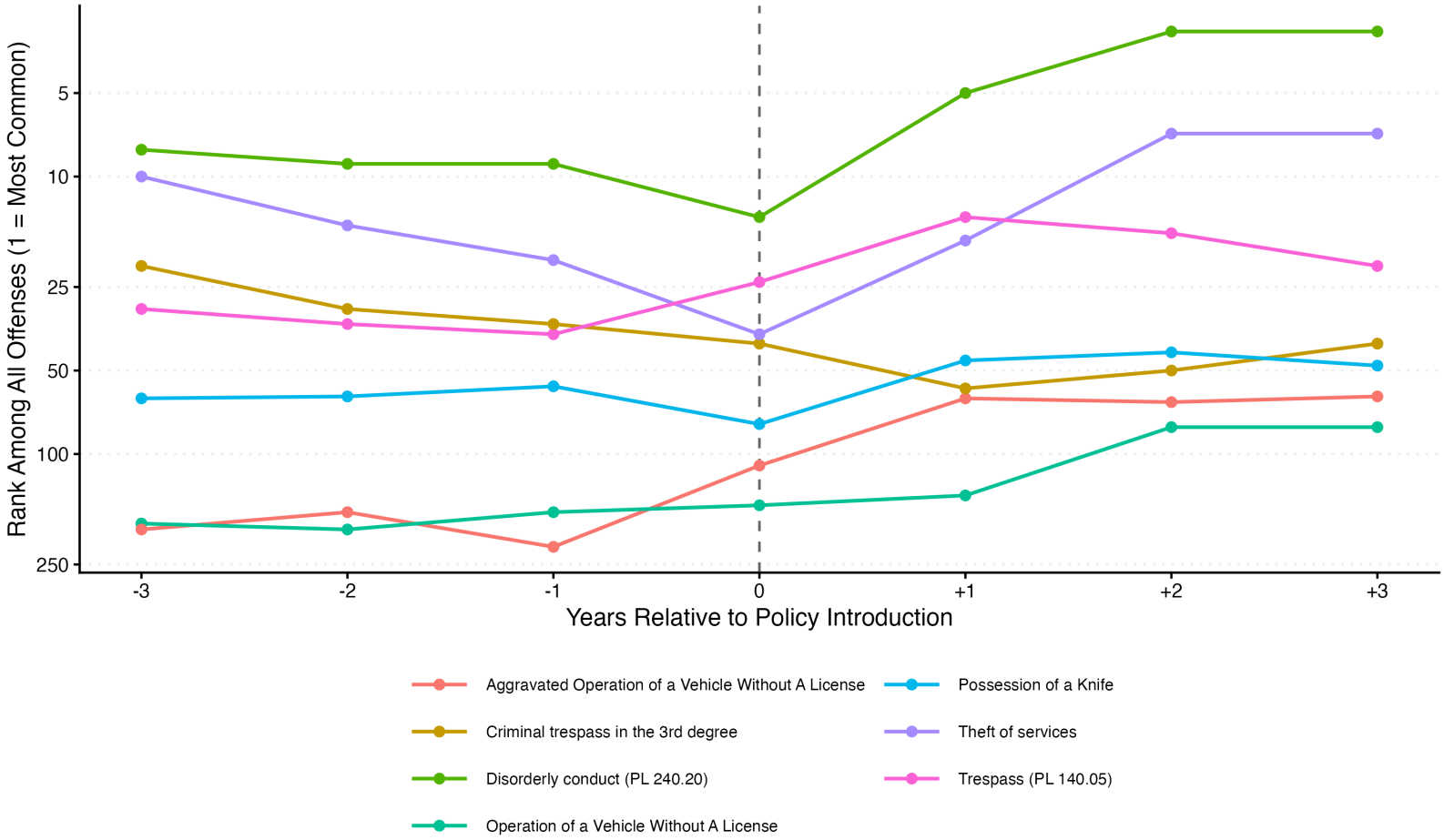
Relative Frequency

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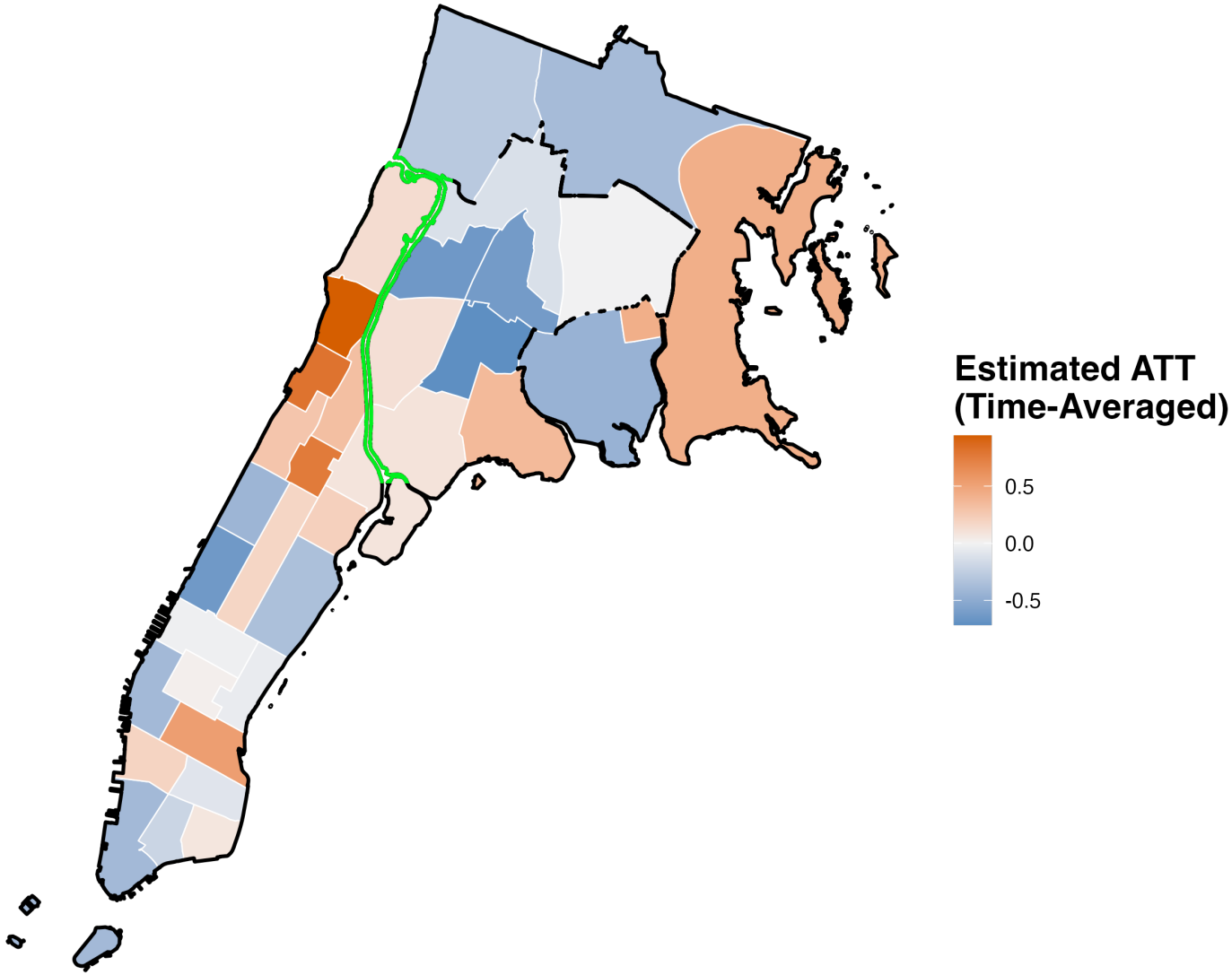
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- Many target offenses became relatively *more* common



Heterogeneity



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- Variation isn't strongly correlated with precinct attributes

	(1)	(2)	(3)	(4)
Constant	-0.084	-0.010	0.010	0.490
	(0.149)	(0.097)	(0.073)	(0.576)
% Black & Hispanic Residents	0.133			
	(0.225)			
Commercial-Residential Ratio (log)		0.004		
		(0.100)		
Gentrification Index			0.174	
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2019 Average Arrests				-0.087
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N (Precincts)	34	34	34	34
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Part 6

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- At least 4 out of 5 shared target enforcement actions persist in the absence of prosecution
- Moderate drops possible, especially in the Bronx
- However, estimates are well-within placebo range
- No systematic variation between precincts
- Enforcement of some targets became relatively *more* common

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- These offenses were selected because they were visible, inequitably enforced, and common
- Specifically targeted "catch-all" offenses (Moskos 2009)
- Prosecutors targeting exactly offenses where enforcement has most non-punishment utility

Takeaways

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  - Stabilizing forces in the system push back

Part 7

Next Steps

Other Projects

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- **Extension of this project:** Staggered adoption of marijuana non-prosecution policies across many more jurisdictions

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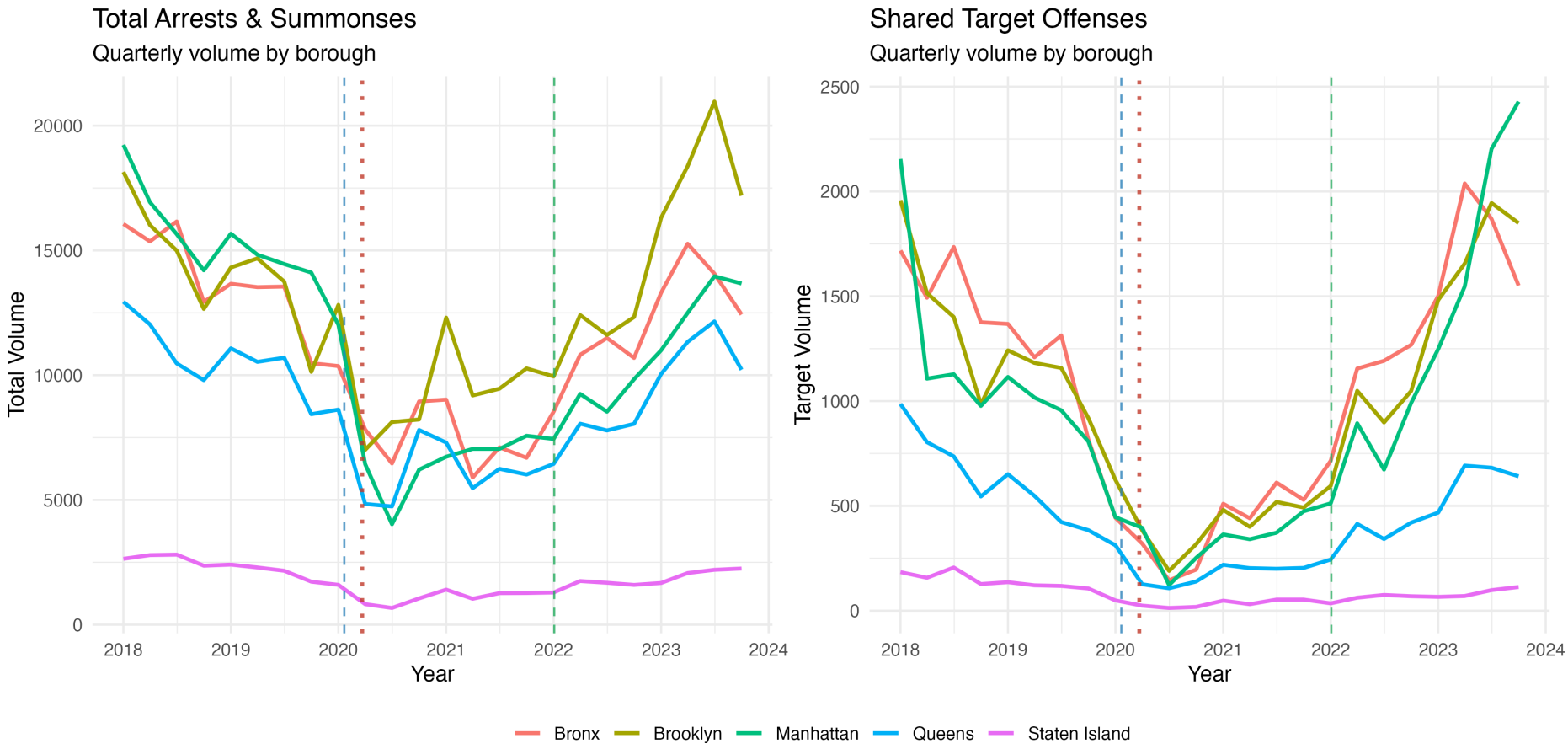
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- **Information, Resource Constraints, and Prosecution:** Do resource constraints in prosecutors' offices contribute to trial delays?
- **Electoral Cycles in Criminal Sentencing:** When, where, and why do judges decide on longer sentences as elections grow closer?
- **Habit Formation in Sentencing:** Do judges grow accustomed to harsh sentencing guidelines?

Thank you!

nmr2162@columbia.edu

Appendix: Misdemeanor Arrest Trends (COVID)



Vertical lines: Bronx policy (Jan 2020), NYS COVID PAUSE (Mar 2020), Manhattan policy (Jan 2022).

Back

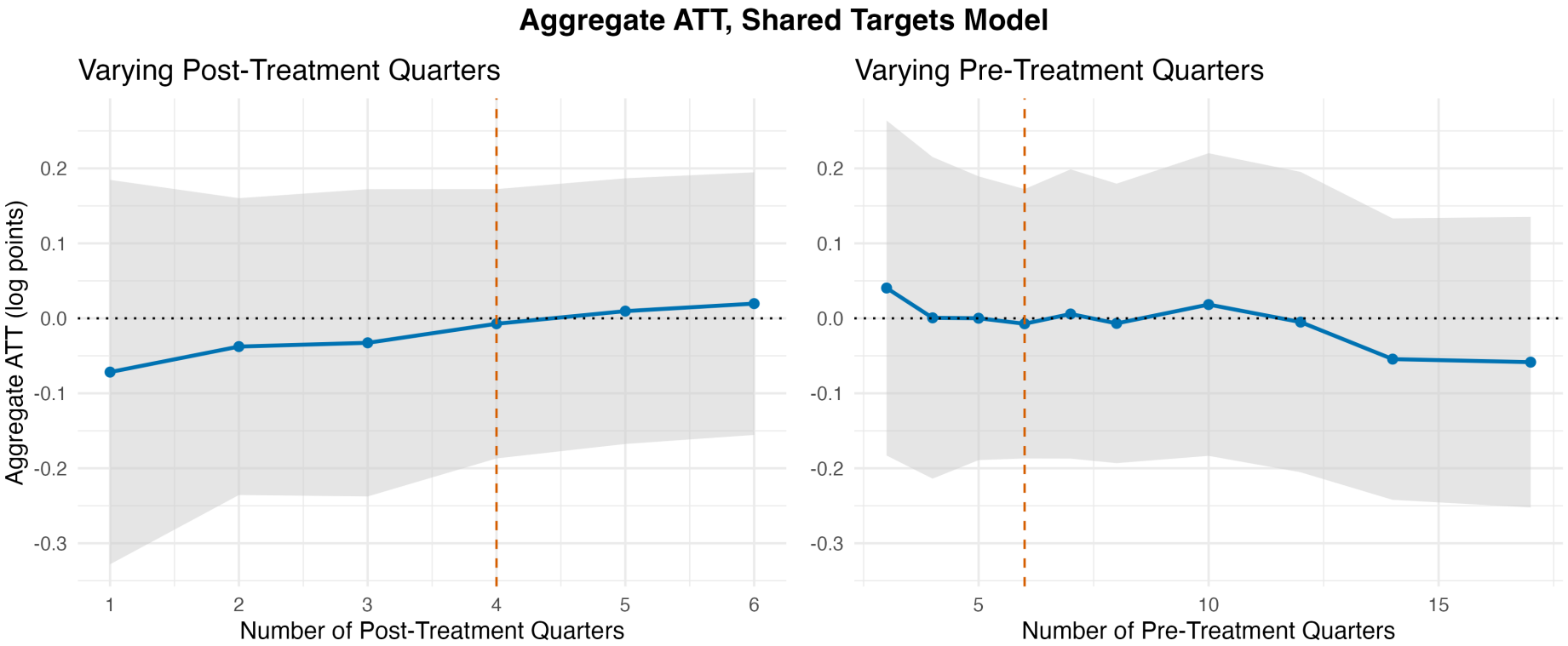
Appendix: Covariate-Adjusted Models

Term	Shared Targets	Bronx Targets	Manhattan Targets	Non-Target	Calls for Service
Aggregate ATT	-0.15 (0.14)	-0.32 (0.29)	-0.19 (0.17)	-0.11* (0.05)	0.00 (0.04)
p-value	p = 0.273	p = 0.273	p = 0.247	p = 0.033	p = 0.961
Scaled Global L2 Imbalance	0.026	0.056	0.564	0.054	0.040
Scaled Individual L2 Imbalance	0.436	0.159	0.583	0.286	0.164
Pooling (ν)	0.146	0.515	0.343	0.258	0.387
N (Units)	33 Tr / 43 Co	12 Tr / 64 Co	21 Tr / 55 Co	33 Tr / 43 Co	33 Tr / 43 Co

Synthetic control weights balance share Black and Hispanic residents, average 2019 arrests, average household income, and NYCHA density. Precinct 22 (Central Park) dropped. Pre-treatment fit is substantially worse than in the main models.

Back

Appendix: Sensitivity to Leads and Lags



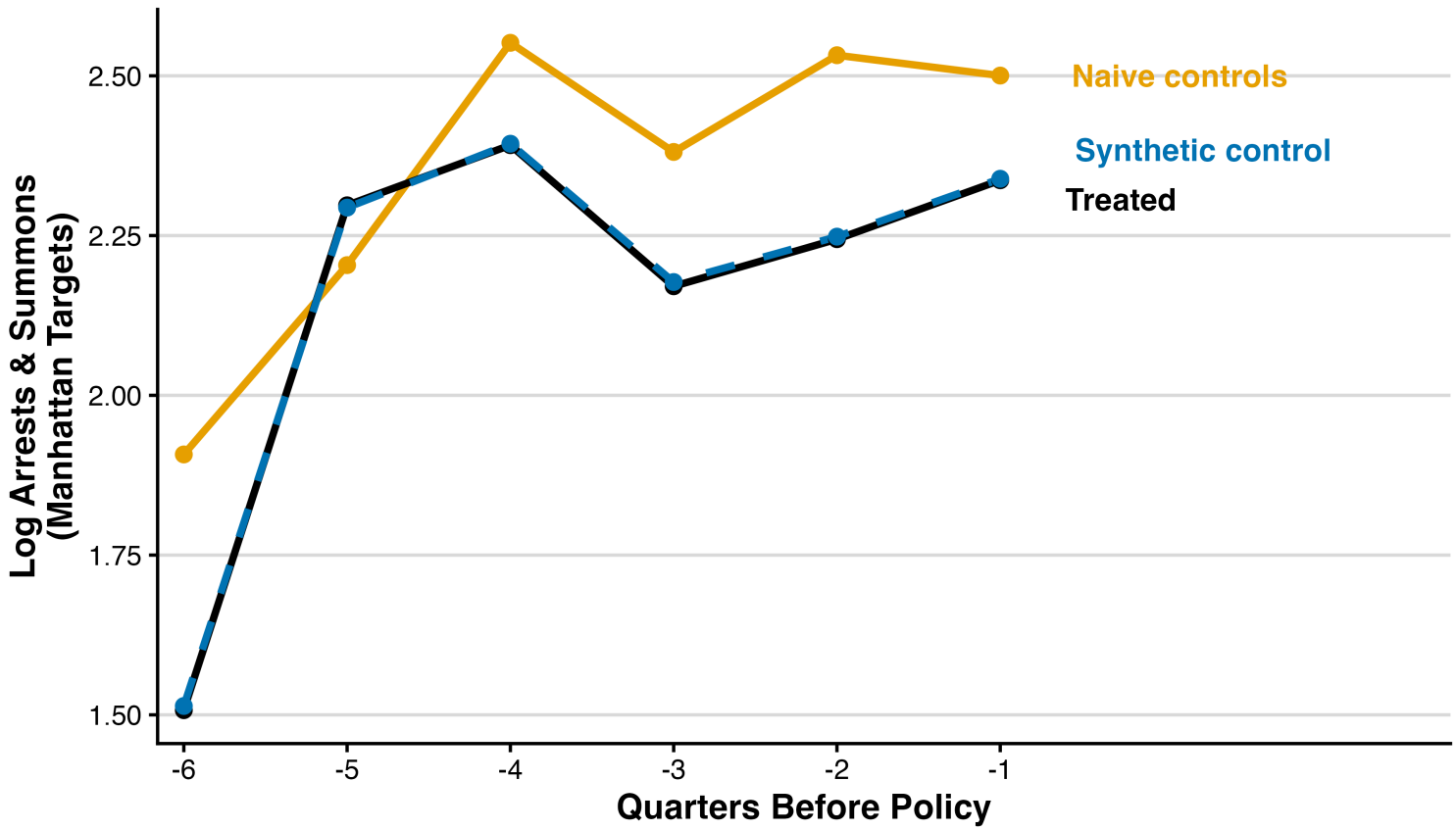
Back

Appendix: Monthly Groupings

Term	Shared Targets	Bronx Targets	Manhattan Targets	Non-Target	Calls for Service
Quarterly (91-day periods)					
Aggregate ATT	-0.01	-0.09	-0.05	-0.06	0.04
	(0.10)	(0.16)	(0.11)	(0.05)	(0.04)
p-value	p = 0.940	p = 0.584	p = 0.686	p = 0.261	p = 0.360
Monthly (28-day periods)					
Aggregate ATT	0.00	-0.19	0.04	-0.04	0.05
	(0.09)	(0.19)	(0.12)	(0.06)	(0.04)
p-value	p = 0.973	p = 0.334	p = 0.700	p = 0.436	p = 0.184
Scaled Global L2 Imbalance	0.063	0.100	0.090	0.257	0.100
Scaled Individual L2 Imbalance	0.436	0.217	0.519	0.256	0.154
Pooling (ν)	0.230	0.496	0.230	0.362	0.492
N (Units)	34 Tr / 43 Co	12 Tr / 65 Co	22 Tr / 55 Co	34 Tr / 43 Co	34 Tr / 43 Co

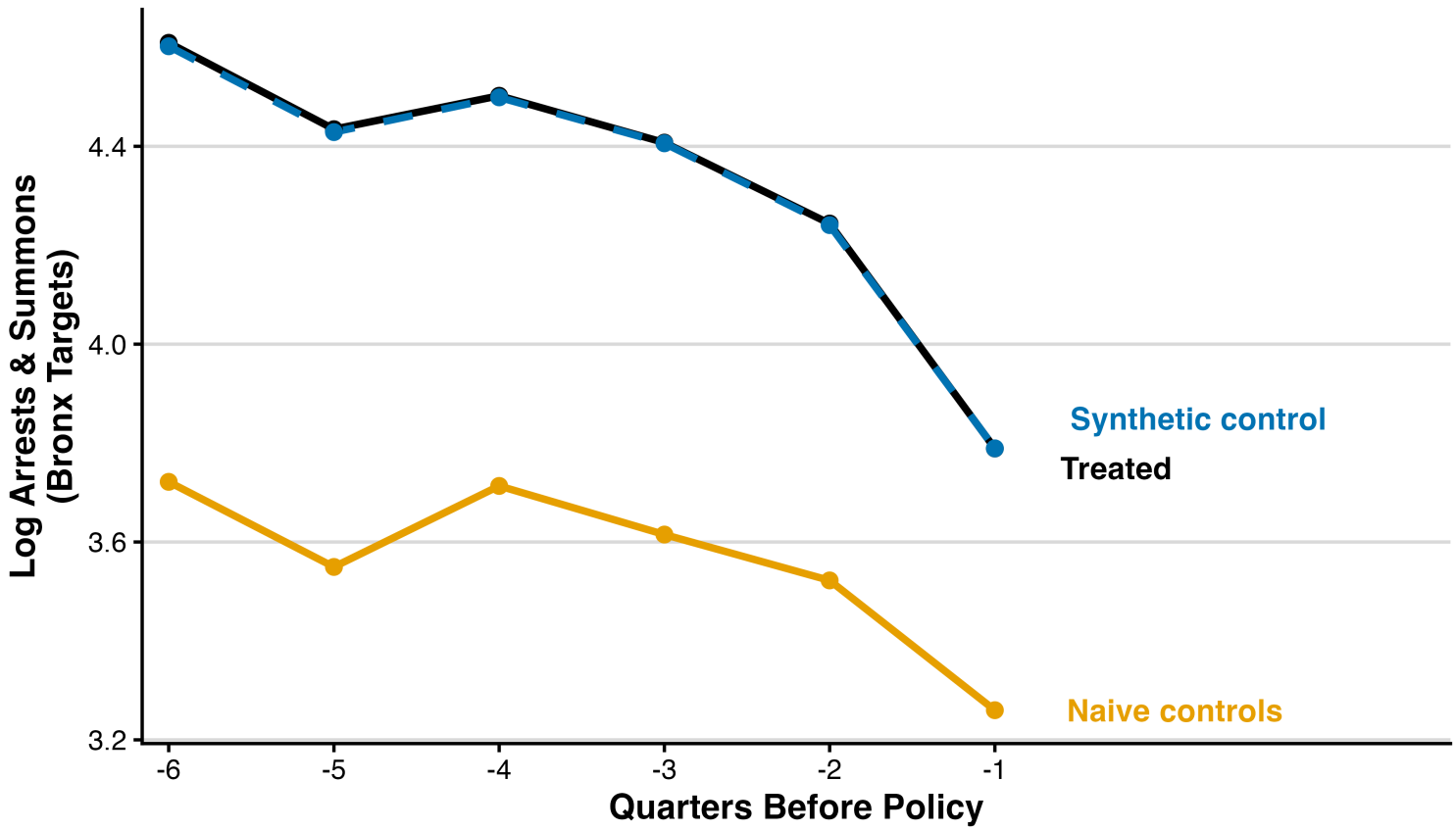
Back

Appendix: Manhattan Pre-Treatment Fit



Back

Appendix: Bronx Pre-Treatment Fit



Appendix: Goldrosen 2026

- This paper approaches a similar question, but with differing method and results
- Simple DiD examines the impact of the Manhattan policy only, considers the Bronx an untreated borough
- Finds decrease in arrests, increase in summons, no impact on non-target offenses
- Similar finding of heterogeneity between precincts
- Breaks out arrests and summons into different analyses, needs further theoretical development