

Judicious Judges?

Effects of Judicial Discretion and Crime Type on Sentencing

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Introduction

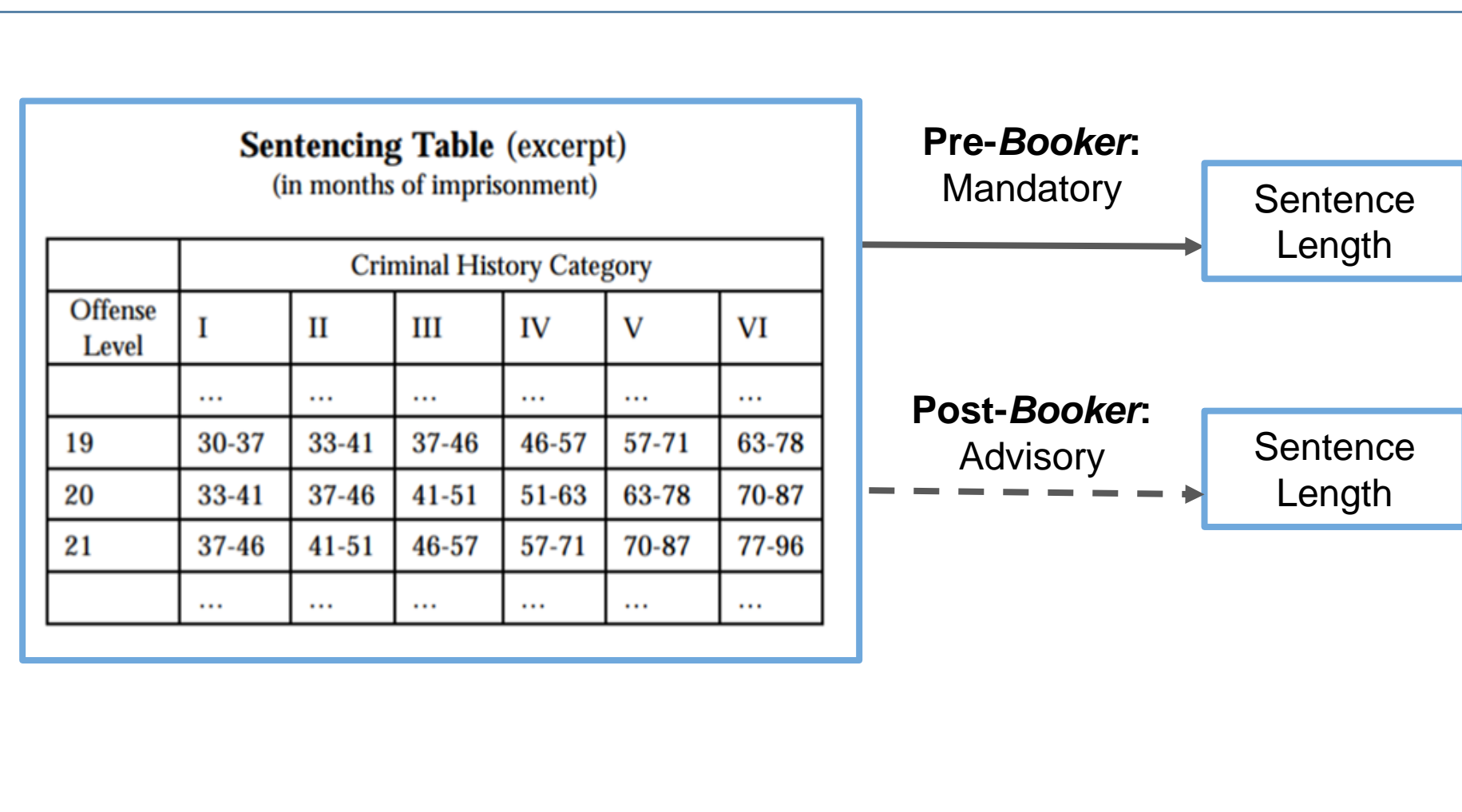
Background

- In 2005, the Supreme Court case *U.S. v. Booker* increased judicial discretion in federal sentencing¹
- *Booker* held that sentencing ranges² would be advisory instead of mandatory¹ (fig 1)

Literature

- Previous studies found variations in *Booker's* effects by defendant, circuit, and judge demographics³
- This research additionally analyzes variations in *Booker's* effects depending on crime type

Figure 1



Results

Iteration 1 (fig 5)

- Model estimated as described
- Results show variation in *Booker's* effects depending on crime type
- Effects in different directions, so looking at all crime types together may understate the effects

Figure 5

	Crime Type Coefficient	Booker X Crime Type Coefficient	Marginal Effect
Drug Trafficking	-105.805**	-3.002**	-108.807
Firearms	-87.727**	7.793**	-79.934
Fraud	-51.853**	6.564**	-45.289
Immigration	-63.115**	1.058	-63.115

* p<0.05; ** p<0.01

Iteration 2 (fig 6)

- Data divided into subsets corresponding to the four main crime types
- Model estimated as described for each subset
- Variation by crime type reiterated for race variables
- Supports efficacy of differentiating crime types to increase overall accuracy
- Generally adverse effects for Blacks and Hispanics, except for in fraud crimes
- Potential implicit discrimination

Figure 6

	Race Coefficient	Booker X Race Coefficient	Marginal Effect
Black Drug Trafficking	5.877**	1.015	5.877
Hispanic Drug Trafficking	3.007**	1.936**	4.934
Black Firearms	4.239**	1.206*	5.445
Hispanic Firearms	-0.534	0.115	--
Black Fraud	-3.497**	0.572	-3.497
Hispanic Fraud	-3.951**	-1.366	-3.951
Black Immigration	-0.547	2.264**	2.264
Hispanic Immigration	0.497	0.084	--
Black Other	4.239**	1.206*	5.445
Hispanic Other	-0.534	0.115	--

* p<0.05; ** p<0.01

Methods

Data⁴

- Released Annually by the Federal Sentencing Commission
- Includes details for federal criminal cases
- Primary explanatory variable: crime type (Fig 2)
- Primary outcome variable: sentence length (Fig 3)
- Final sample: 974,799 cases

Figure 2

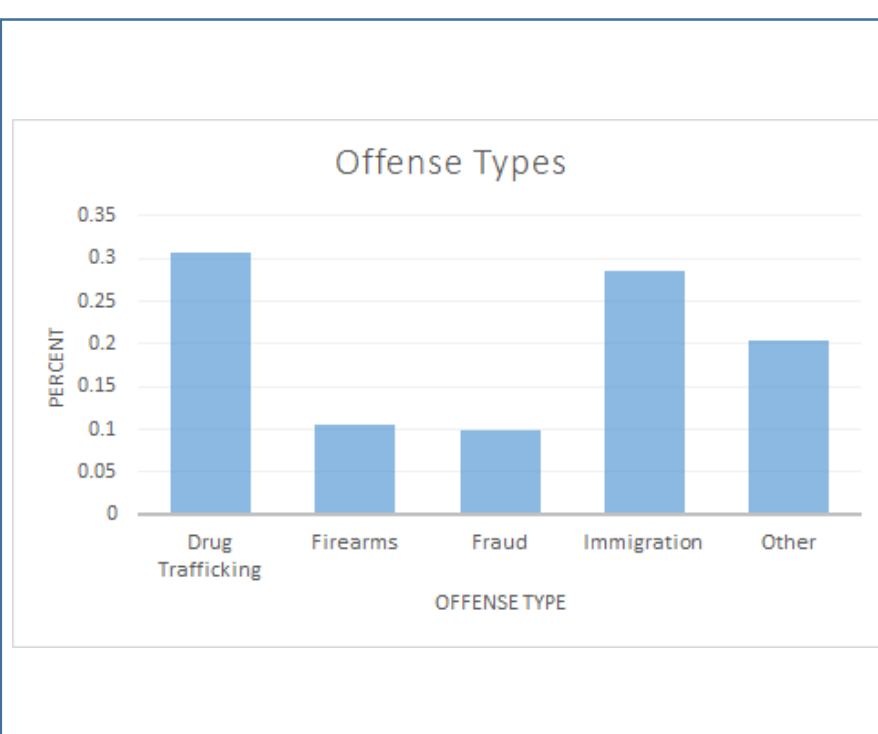
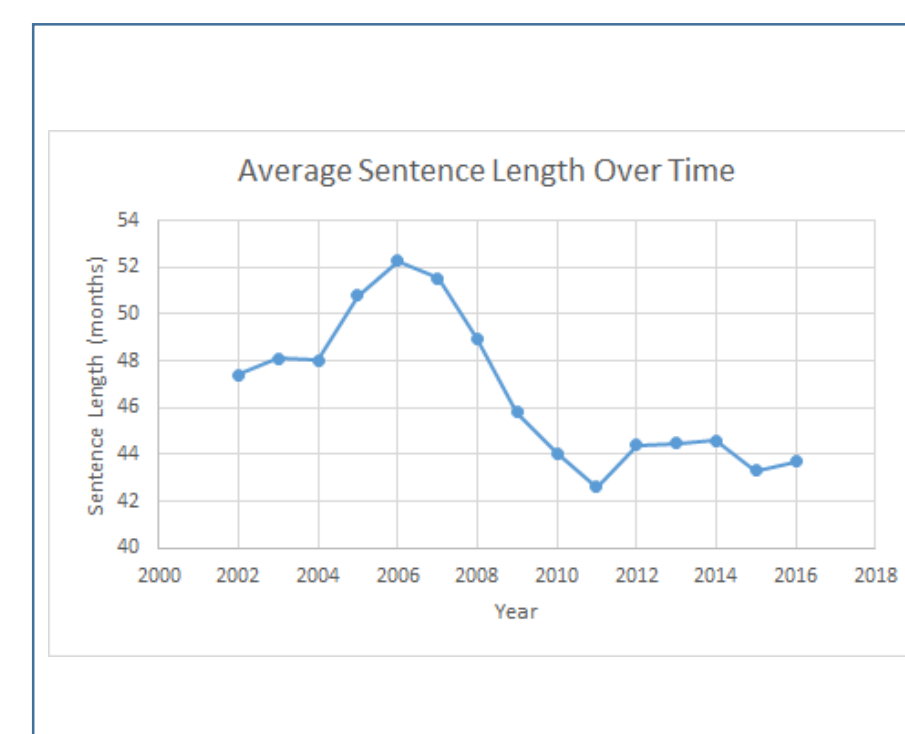


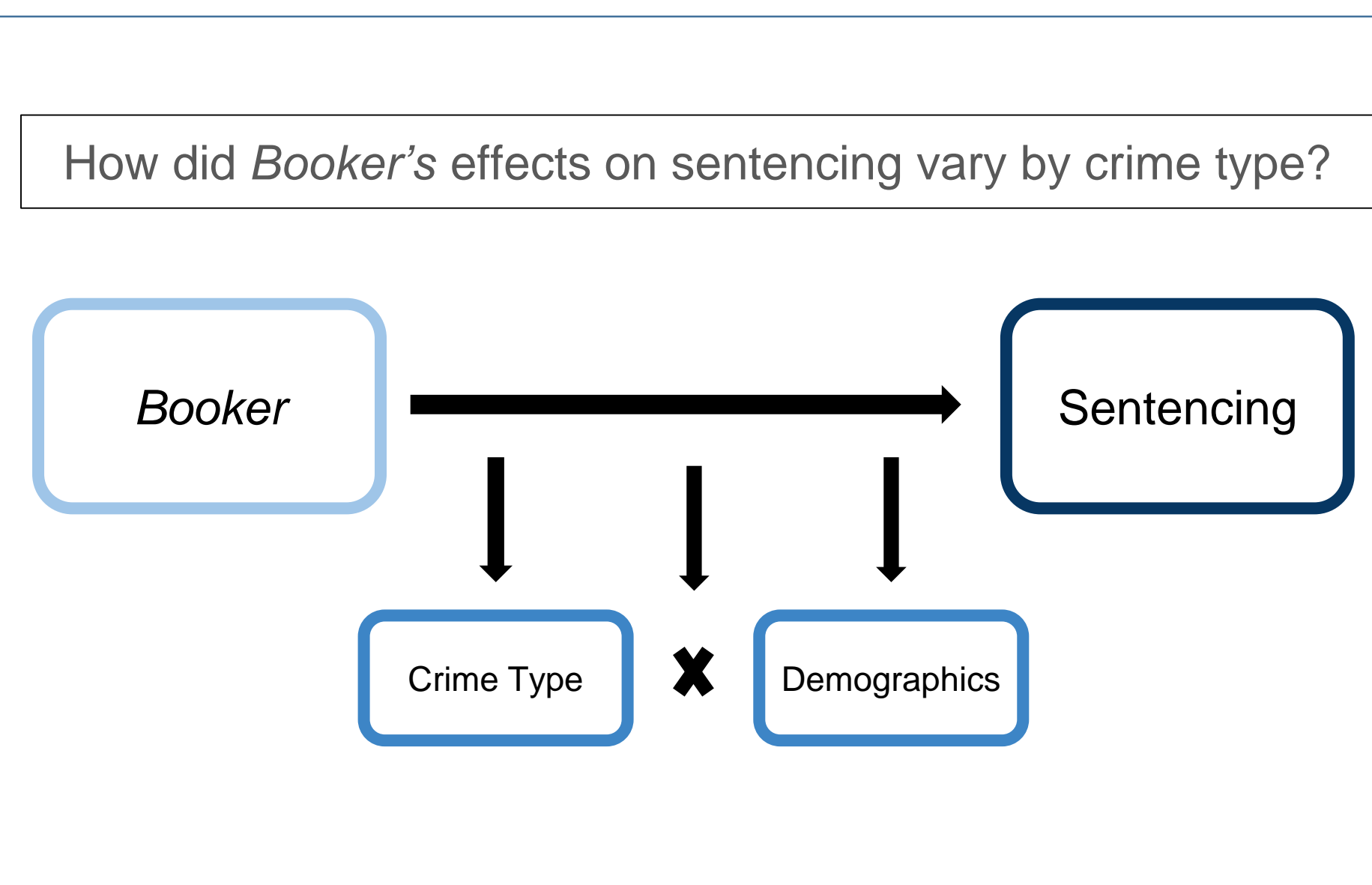
Figure 3



Model⁵ (fig 4)

- Sentence length in months regressed on
 - Pre or post *Booker* variable
 - Year trend
 - Defendant demographics
 - *Booker* X defendant demographics
 - Crime severity measures
 - *Booker* X crime severity
 - Crime type
 - *Booker* X crime type for drug trafficking, firearms, fraud, and immigration
 - Circuit of sentencing fixed effects

Figure 4



Conclusion

Because of the **variation in *Booker's* effects by crime type**, analyzing *Booker* separately by crime type **more accurately represents its effects**

References

1. *U.S. v. Booker* 543 U.S. 220 (2005).
2. United States Sentencing Commission, Guidelines Manual, §3E1.1 (Nov. 2018)
3. Yang, C. S. (2013). Have Inter-Judge Sentencing Disparities Increase in an Advisory Guidelines Regime? Evidence from *Booker*. *Harvard University Economics Dissertation*. <https://doi.org/10.1017/CBO9781107415324.004>
4. United States Sentencing Commission. Monitoring of Federal Criminal Sentences. [United States], 2002-2016. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [distributor], 2018-05-23. <https://doi.org/10.3886/ICPSR36962.v1>
5. Nutting, A. W. (2013). The *Booker* decision and discrimination in federal criminal sentences. *Economic Inquiry*, 51(1), 637-652. <https://doi.org/10.1111/j.1465-7295.2011.00449>.