

This working paper was prepared by Abt Associates, Inc., for the Bureau of Justice Statistics (BJS) and the Department of Justice's Racial Disparities Working Group. It looks at patterns of federal sentencing disparity and judicial variation since the 2005 U.S. Supreme Court ruling in *United States v. Booker*.

It summarizes U.S. Sentencing Guidelines, discusses how the study design differs from the study design used by other researchers who have studied sentence disparity, defines disparity as used in this study, and explains the methodology. The paper is principally a discussion of methods; however, findings are discussed. This paper is released to inform interested parties of research and to encourage discussion.

The views expressed are those of the authors and not necessarily those of BJS or the U.S. Department of Justice. The authors accept responsibility for errors. Data for this study are collected by the BJS-sponsored Federal Justice Statistics Program (FJSP), which annually assembles federal criminal justice processing data from various federal agencies. The authors used FJSP data from the U.S. Sentencing Commission and the Administrative Office of the U.S. Courts.

Racial disparity

In the 8-year period between 2005 and 2012, black men received roughly 5% to 10% longer prison sentences than white men for similar crimes, after accounting for the facts surrounding the case. While there has been a trend toward more lenient sentences overall, white males have seen larger declines in average prison sentences than black males.

Black males did not benefit as much from this increased leniency, which widened the existing racial sentencing disparity between these two groups. The disparity

between black and white males narrowed as crimes became more serious. Race probably correlated with other characteristics—such as education, income, demeanor, and location—which might have accounted partially for the differing sentences among white and black males.

Judge effect

The exercise of prosecutorial discretion did not change much during the study period, although racial disparity increased during that time. The trend is likely attributable to individual judges' behavior. Evidence from the study suggests considerable differences in the sentences that judges assigned for white and black offenders. Judges disagreed about the relative sentences for white and black males, and some judges gave black males especially longer sentences.

However, judges who imposed above-average prison terms on black offenders also tended to impose above-average prison terms on white offenders. And judges who sentenced white offenders to below-average prison terms also commonly gave below-average prison terms to black offenders. Sentences were disparate in that similarly situated offenders who had committed similar crimes received sentences that differed depending on the judge who imposed the sentence.

Female sentencing

Judges were found to disagree more about the sentences for females than the sentences to be imposed on males. As a whole, females and white males received less severe sentences than black males over the 8-year study period. Black females were found to not be disadvantaged compared to white females.

The full report (*Federal Sentencing Disparity, 2005–2012*, NCJ 248768), related documents, and additional information about the Bureau of Justice Statistics can be found on the BJS website at www.bjs.gov.

