

# Black defendants receive longer prison terms from Republican-appointed judges, study finds

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Federal judges appointed by Republican presidents give black defendants sentences that are, on average, six to seven months longer than the sentences they give to similar white defendants, according to [a new working paper](#) from Alma Cohen and Crystal Yang of Harvard Law School.

That racial sentencing disparity is about twice as large as the one observed among judges appointed by Democrats, who give black defendants sentences that are three to four months longer than the sentences they give to white defendants with similar histories who commit similar crimes.

Cohen and Yang estimate that differences between how Democratic and Republican judges treat black and nonblack defendants account for 65 percent of the total racial sentencing gap observed at the federal level.

To arrive at these numbers, Cohen and Yang examined over 500,000 sentences handed down by nearly 1,400 federal judges between 1999 and 2015. By merging data sets from the [U.S. Sentencing Commission](#), the [Federal Judicial Center](#) and Syracuse University's [Transactional Records Access Clearinghouse](#), the authors were able to see how the individual characteristics of federal judges, like demographics and the political affiliation of their appointing president, influenced the sentences given to various types of federal criminal defendants.

Federal judges are assigned to specific cases at random, setting up the sort of "natural experiment" that can yield valuable insights in social science research -- no need to worry about judges shopping for certain kinds of cases, or defendants or prosecutors shopping for certain judges. But to arrive at their conclusions, Cohen and Yang still had to correct for many other factors that play into sentencing decisions: [federal sentencing guidelines](#) that judges must consult, but not necessarily adhere to, and the [discretion of federal prosecutors](#) to decide which charges to bring in a given case, to name a few.

They found that the difference in the racial sentencing gaps observed for Democratic and Republican judges couldn't be explained by differences in the use of sentencing guidelines, prosecutors' decisions or judge characteristics such as race, gender or former prosecutorial experience.

They did find, however, that the gap between sentences for black and white defendants was smaller for more-experienced judges than for less-experienced ones. They also found that differences between how Republican and Democratic judges treat black and white defendants grew larger after the Supreme Court's 2005 decision in [United States v. Booker](#), which gave federal judges much more leeway to depart from federal sentencing guidelines.

Importantly, however, they found that growing differences between Democratic and Republican judges in the post-*Booker* era are due to Democratic judges reducing disparities in how they sentence black and white defendants. Given more discretion, in other words, Democratic judges treated defendants of different races more equally, while Republican judges continued to carry on as they had before.

Cohen and Yang also found one important geographical effect: Black defendants fared particularly poorly in states with high amounts of population-level racial bias, measured here by the percentage of white residents in a given state who believe there should be laws against interracial marriage. These states tend to be clustered in the South, and [previous research](#) has shown a similar racial sentencing bias in these states when it comes to capital punishment.

Finally, they also observed an opposite effect in how Democratic and Republican judges treated female defendants: While all judges tended to hand down shorter sentences to women than to men charged with similar crimes, Republican judges were considerably more lenient to women.

"Overall, these results indicate that judicial ideology may be a source of the persistent and large racial and gender disparities in the criminal justice system," Cohen and Yang conclude.

They note that a typical president appoints about 160 district court judges in a four-year term. That means a president has the power to shift the partisan composition of the 677-judge district court system by anywhere from 15 to 20 percentage points, "which could substantially alter gender and racial disparities in the criminal justice system depending on the political affiliation of the appointing president."