

# How Judges' Professional Experience Impacts Case Outcomes: An Examination of Public Defenders and Criminal Sentencing\*

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May 6, 2022

## Abstract

How do judges' previous professional experiences affect case outcomes? In this short article, we investigate the question by documenting the effect of judges' previous criminal justice experience on sentencing. Leveraging thousands of federal sentences from 2010 to 2019, we find that defendants with charges assigned to a former public defender are, on average, less likely to be incarcerated. In some cases, their sentences are also shorter, which we show is partially attributable to former defenders being less likely to give out extremely long sentences. The findings make two key contributions. First, they contribute to growing evidence of disparities in the criminal legal system, particularly those associated with judge characteristics. Second, the findings showcase the potential impact of judges' previous professional experience (as opposed to demographic characteristics) on decision-making. Both illustrate a new strategy in how political actors can influence policy through judicial selection on the basis of professional experience.

Word Count: 3962

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\*Many thanks to Rachel Barkow, Christina Boyd, John Kestelc, George Krause, Jeff Jenkins, Michael Nelson, and Ariel White for helpful feedback. Special thanks to Keely Hoag, Susan Long, and Josiah Pineda for data assistance.

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# 1 Introduction

During his 2020 campaign, then-candidate Joe Biden promised that he would reshape the federal courts by appointing more diverse nominees. This included the specific promise to appoint more former criminal defense attorneys. Out of Biden’s 42 federal courts nominees, a third have had criminal defense experience, a figure that includes Biden’s Supreme Court nominee Ketanji Brown Jackson. Many proponents of criminal justice reform hope that these judges will help bring criminal sentencing outcomes more in line with reform goals like decreasing incarceration.

In this short article, we use the example of judges who have been criminal defense lawyers to investigate how judges’ previous professional experience could shape important policy outcomes. Our investigation is guided by two important questions: 1) how does this kind of experience translate into different outcomes for criminal defendants; and 2) what can we learn about the politics of judicial decision making?

To answer these questions, we leverage an enormous and rich dataset on hundreds of thousands of federal sentences, combining these with data on judges’ previous professional experience. We find that previous criminal justice experience is predictive of sentencing. Specifically, criminal defendants assigned to a former public defender are, on average, less likely (by up to 2.3 percentage points) to be sentenced to incarceration and more likely to be sentenced to community service or probation, regardless of the judge’s political affiliation. In some instances, criminal defendants assigned to former public defenders are also more likely to receive shorter incarceration sentences—by about 16 months. As explanation, we show evidence that former defenders are less willing to render extremely long sentences tantamount to life in prison.

This article makes two important contributions. First, we document a new area of discrepancies faced by criminal defendants. Research has mostly focused on sentencing disparities associated with defendant characteristics, including studies showing that non-White defendants receive more punitive sentences (e.g., Arnold, Dobbie and Yang, 2018;

Demuth and Steffensmeier, 2004; Steffensmeier and Demuth, 2000). Such sentencing discrepancies are important: more punitive sentences lead to greater political disengagement among those incarcerated (Weaver and Lerman, 2010) (and their families and communities, Burch (2013); White (2019)) and may increase recidivism (Doleac, Forthcoming). Our findings corroborate a growing literature showing that the characteristics of criminal legal system actors may also impact sentencing discrepancies and therefore have similar downstream consequences.

This article’s second contribution is to the growing literature on the impact of judicial backgrounds on decision making, which mostly focuses on judges’ race and gender. This includes papers showing that defendants—particularly Black defendants—whose cases are assigned to Black federal judges receive less punitive sentences than those whose cases are assigned to White judges (Scherer, 2004), that women judges sentence more harshly than men Steffensmeier and Hebert (1999), that women judges’ rulings are less racially disparate Cohen and Yang (2019), and that Republican-appointed judges award more punitive and racially disparate sentences than do Democratic-appointed judges (e.g., Cohen and Yang, 2019, among others).

Older studies have considered how judges’ *professional* experience might relate to decision making (see George and Weaver, 2017, for an overview), but research has yet to explore the possible impact of previous criminal defense experience on sentencing outcomes. However, an important theme from the literature on judicial characteristics and decision making is that judges’ characteristics predict case outcomes primarily as they relate to important features of a case (Boyd, 2016; Haire and Moyer, 2015; Kastellec, 2013; Boyd, Epstein and Martin, 2010), which suggests pathways for the relationship between criminal defense experience and sentencing. For example, in their influential paper, Boyd, Epstein and Martin (2010) find that federal appeals panels with at least one woman vote differently than all-male panels in cases where gender is salient. The authors argue this may be due to “informational accounts,” suggesting that “unique and valuable information

emanating from shared professional experiences” (Boyd, Epstein and Martin, 2010, p. 391) play an important role in decision making.

We follow from these scholarly advances to generate the following expectations about former public defenders’ sentencing decisions. First, per Boyd, Epstein and Martin’s learning account, we expect former public defenders to have more knowledge about how incarceration impacts defendants’ lives. Public defenders routinely form empathetic connections with their clients, likely developing sensitivity to the costs of incarceration. Second, their proximity to clients may highlight structural contributions to offender status, leading public defenders to prefer less punitive sentences. Third, defenders are likely aware of prosecutors’ power and resources, especially compared to defendants’ relative lack of power. For then-Judge Ketanji Brown Jackson, public defender experience was a reminder “that every person who is accused of criminal conduct by the government, regardless of wealth and despite the nature of the accusations, is entitled to the assistance of counsel” (Jackson, 2021, p. 5). We also do not rule out the possibility that lawyers with greater sensitivity to the costs of incarceration may sort into criminal defense practice.

Our expectations imply that former public defenders are more likely to be skeptical of excessive punishments, which would make appointing more public defenders attractive to policymakers seeking criminal policy change through the courts. Indeed, supporting the appointment of more public defenders onto the courts appears to be part of an emerging pattern of using diversity in professional backgrounds to advance a policy agenda. According to one observer, an increase in the number of public defenders appointed would mean that “[i]t would take two or three presidencies, and an overwhelming number of governors and state lawmakers working to change their judiciaries,” but it would lead to “a real shift in the scales of justice” (Geidner, 2021).

## 2 Data on Sentencing and Judges’ Criminal Justice Experience

Our data draw on two sources: (1) federal criminal sentencing data and (2) data on federal judges’ previous work experience.

**Federal Charging and Sentencing Outcomes.** We obtained data for all available federal criminal charges heard from January 1, 2010, to December 31, 2019 from the Transactional Records Access Clearinghouse (TRAC), which invokes the Freedom of Information Act to make repeated requests regarding all criminal charges heard in federal courts. We then restrict the data to include only unique charges assigned to a federal district judge. (The dropped cases included many assigned to magistrate judges, who are not Article III judges and for whom there is no professional experience data.<sup>1</sup>) This left us with 740,786 unique charges handled by 1,381 unique federal judges. We examine two main sentencing outcomes—whether a case ended with an incarceration sentence and the length of incarceration, measured in months. Table 1 provides a more detailed breakdown of sentences by disposition reason.

	All Charges	All Pleas	All Trials
% Guilty	97.95	98.23	83.37
% Any Incarceration	80.00	79.92	86.50
% Any Community Service	2.09	2.16	2.69
% Any Probation	8.70	8.92	6.35
N	740786.00	623382.00	37404.00

Table 1: Summary statistics on unique federal charges (among those assigned to a federal district or appeals judge only).

<sup>1</sup>Many misdemeanor and all petty offense charges are handled by magistrate judges. The Appendix includes analyses restricting the sample to felonies, which would drop such charges. The substantive results are unaffected.

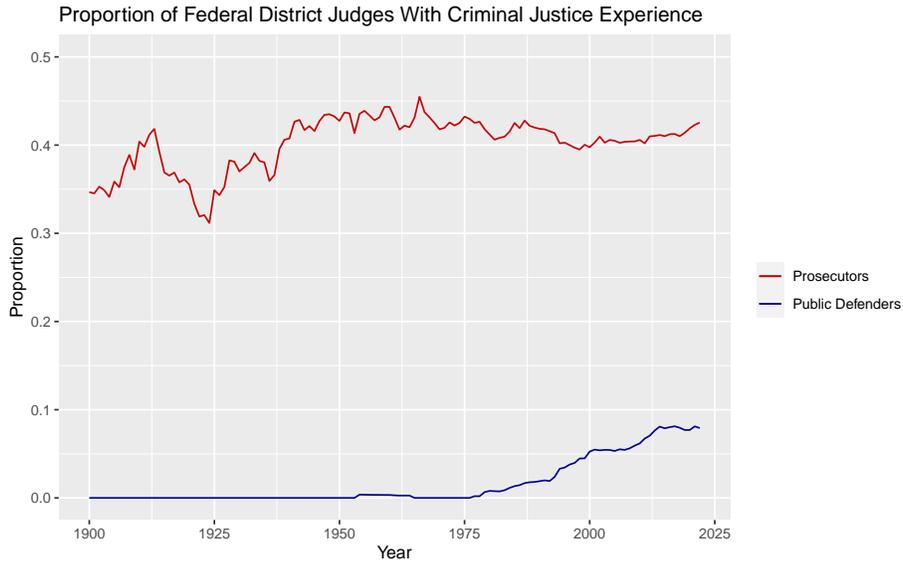


Figure 1: Proportion of federal district judges with prosecutorial (red) or defender (blue) experience over time. Source: Federal Judicial Center.

**Judges’ Previous Criminal Justice Experience.** We collected biographical data on judges from the Federal Judicial Center (FJC) biographical database, which includes age, race and ethnicity, gender, duration and type of service, and political factors. The database also provides a brief description of judges’ professional experience. For criminal defense experience, we included an indicator for any entries that mentioned “public defender,” “defender,” or “defense” at least once.<sup>2</sup> To examine which judges had previous prosecutorial experience, we included an indicator for entries that had at least one mention of “prosecutor,” “district attorney,” “attorney general,” “U.S. Attorney,” or “Assistant U.S. Attorney.”<sup>3</sup>

Figure 1 shows how the share of former public defenders and prosecutors has shifted over time, highlighting both the strong presence of prosecutors and the rising presence of public defenders. Looking at the present day, Table 2 presents summary statistics on

<sup>2</sup>In two instances out of 122, the judge had volunteer public defender experience and in one instance had part-time experience. We dropped those with volunteer experience but kept part-time experience.

<sup>3</sup>All pattern matching allowed for alternative punctuation and/or capitalization.

the 1,752 federal district judges appointed since 1960. Of these, about 6% list public defender experience, while 36% list prosecutorial experience, most as U.S. attorneys. (Twenty judges, or 1.9 percent, have both.) That said, the largest shares of judges have some sort of private practice experience. And interestingly, more judges attended Harvard Law School than have public defender experience.

	All	Democrats	Republicans
% Women	23.10	30.40	16.70
% Whites	79.90	71.50	87.20
% Blacks	10.40	16.70	4.90
% Hispanics	6.50	7.20	5.90
% Harvard Law School	6.60	8.60	4.80
% Yale Law School	3.70	5.00	2.50
% Public Defender	6.40	10.30	3.00
% Prosecutor	41.70	39.20	43.80
Number	1752.00	832.00	949.00

Table 2: Characteristics of U.S. District Court judges appointed since 1960. Source: Federal Judicial Center.

### 3 Relationships Between Sentencing Outcomes and Judges' Public Defender Experience

We now examine the impact of public defender or prosecutorial status on (1) whether a charge results in incarceration and (2) length of incarceration. At times we evaluate pleas and trials (jury or bench) separately because, although judges have the authority to deviate in pleas, they may be likely to defer to agreements.

The Appendix also includes analyses on community service and probation as outcomes, analyses with interactions, and analyses looking at length public defender experience, all of which are consistent with what we present here. In the Appendix, we also examine the decision to plea or go to trial as outcomes to check whether assignment to a former public defender might affect defendants' decisions. These results are either precisely estimated

zeroes or insignificant, suggesting that the effects presented here on sentence length are not due to selection bias.

The following analyses include fixed effects for (1) district court, (2) year of charge, and (3) month of charge to invoke the as-if random assignment of case to judge. They also include fixed effects or dummies for (4) whether the charge was a felony,<sup>4</sup> (5) judge gender, (6) party of the judge’s appointing president, (7) judge race/ethnicity, and (8) judge commission year, which approximates age and experience. Lastly, because there may be multiple charges and defendants in the same case, all models present standard errors clustered at the case and participant level.

### 3.1 Whether a Sentence Involves Any Incarceration

We first examine whether a charge results in any period of incarceration. Table 3 shows a series of linear probability models with any incarceration as the outcome. We condition the universe of charges to instances where there is a jury or bench trial verdict (Column 1) or a plea (Column 2). The table shows a negative, significant relationship between the probability of incarceration and assignment to a former public defender. Across all charges (Column 3), assignment to a former public defender decreases the probability of incarceration by up to 2.3 percentage points.

The effect may appear substantively small (up to 2.3 percentage points), but, given the volume of sentences, it has meaningful ramifications. A back-of-the-envelope calculation suggests that if 8 percent of federal district judges have public defender experience (as was the case in 2020) rather than prosecutorial experience there would be approximately 1360 fewer incarceration sentences over a ten-year period. Hypothetically, if the current share of judges with prosecutorial experience (35 percent) instead had public defender experience, there would be about 20,000 fewer incarceration sentences over a ten-year period.

The models also evaluate the effect of judges’ previous *prosecutorial experience*, which,

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<sup>4</sup>This variable is frequently missing; substantive inferences are unchanged when dropping it.

Table 3: Outcome is whether sentence (if any) included any incarceration. All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Jury or Bench Trial	Pled	All Charges
Pub Defender	-0.018* (0.009)	-0.018*** (0.003)	-0.023*** (0.003)
Prosecutor	-0.007 (0.005)	0.038*** (0.002)	0.030*** (0.001)
Female	-0.007 (0.005)	0.013*** (0.002)	0.017*** (0.001)
Black	0.006 (0.007)	0.007** (0.002)	0.009*** (0.002)
Hispanic	0.050*** (0.007)	-0.015*** (0.002)	-0.015*** (0.002)
Asian American	-0.022 (0.025)	0.019** (0.006)	0.037*** (0.004)
American Indian	0.078 (0.123)	-0.092*** (0.015)	-0.077*** (0.014)
Two or More Races/Ethnicities	0.090* (0.044)	0.039*** (0.008)	0.046*** (0.008)
Judge Commission Year	-0.003** (0.001)	-0.004*** (0.000)	-0.004*** (0.000)
Charge is a Felony	0.092*** (0.012)	0.094*** (0.004)	0.109*** (0.004)
Num.Obs.	37 404	623 381	740 785
R2	0.031	0.068	0.062
Log.Lik.	-12 311.432	-292 456.665	-348 508.405
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

for pleas and for all charges, leads to an increase in the probability of incarceration sentences of 3–3.8 percentage points. These results suggest the potential for massive impact, but there is obvious inconsistency across procedural posture—for example, the lack of a significant relationship for charges resulting in trials (Column 1).

### 3.2 Length of Incarceration

We next consider incarceration length, which we calculate as the total number of months sentenced. However, for some charges, the sentence was tantamount to life in prison, if not more. For example, 361 incarceration sentences in our data exceeded 100 years and 14 exceeded 1000 years. These extremely long sentences create concerns about data entry and about a rightward skew that could bias analyses. Thus, for any sentence of 100 or more years, we imputed 100 years, which is greater than the average human lifespan. (In the Appendix we show that substantive inferences are unaffected by choice of truncation point.)

We test the relationship between professional experience and incarceration length in Table 4, which shows OLS regressions of total months incarcerated as the outcome. As Table 4 demonstrates, for criminal charges that are resolved via a jury or bench trial (Column 1) defendants assigned to a former public defender receive sentences that are around *16 months shorter*, a significant and large effect. There is no significant effect on charges that were pled (Column 2) or among all charges (Column 3). We find no effect of prosecutorial experience on sentence length for cases that advanced to trial (Column 1), but we do see significant and positive effects (a modest increase of 1.5 months) among pleas and all charges (Columns 2 and 3).

What is driving the large decrease in sentence length in Table 4, Column 1? A possible answer lies in Figure 2, which shows the density of incarceration length for charges that eventually went to a jury or bench trial (left) and those pled (right). The figure shows that, for charges proceeding to trial, former public defenders appear to give very long sentences

Table 4: Outcome is incarceration length truncated at 100 years (1200 months). Sentences exceeding 100 years are coded as 100 years. All models are OLS and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Jury or Bench Trial	Pled	All Charges
Pub Defender	-15.923** (6.018)	-0.092 (0.459)	-0.974+ (0.540)
Prosecutor	1.149 (3.627)	1.643*** (0.281)	1.507*** (0.326)
Female	-5.614 (3.679)	1.191*** (0.298)	0.912** (0.337)
Black	2.062 (6.026)	-1.184** (0.455)	-0.987+ (0.572)
Hispanic	-9.914** (3.644)	-5.140*** (0.362)	-4.771*** (0.407)
Asian American	-35.294** (12.640)	-2.367* (1.086)	-2.870** (0.891)
American Indian	166.781 (130.005)	-4.246*** (1.090)	-1.466 (1.487)
Two or More Races/Ethnicities	-28.444 (27.342)	-2.211* (0.911)	-2.101* (0.961)
Judge Commission Year	0.683 (0.946)	-0.025 (0.067)	-0.090 (0.082)
Charge is a Felony	8.104 (7.455)	1.124 (0.757)	3.307*** (0.846)
Num.Obs.	37 404	623 381	740 785
R2	0.107	0.075	0.062
Log.Lik.	-250 790.157	-3 485 497.499	-4 295 506.755
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

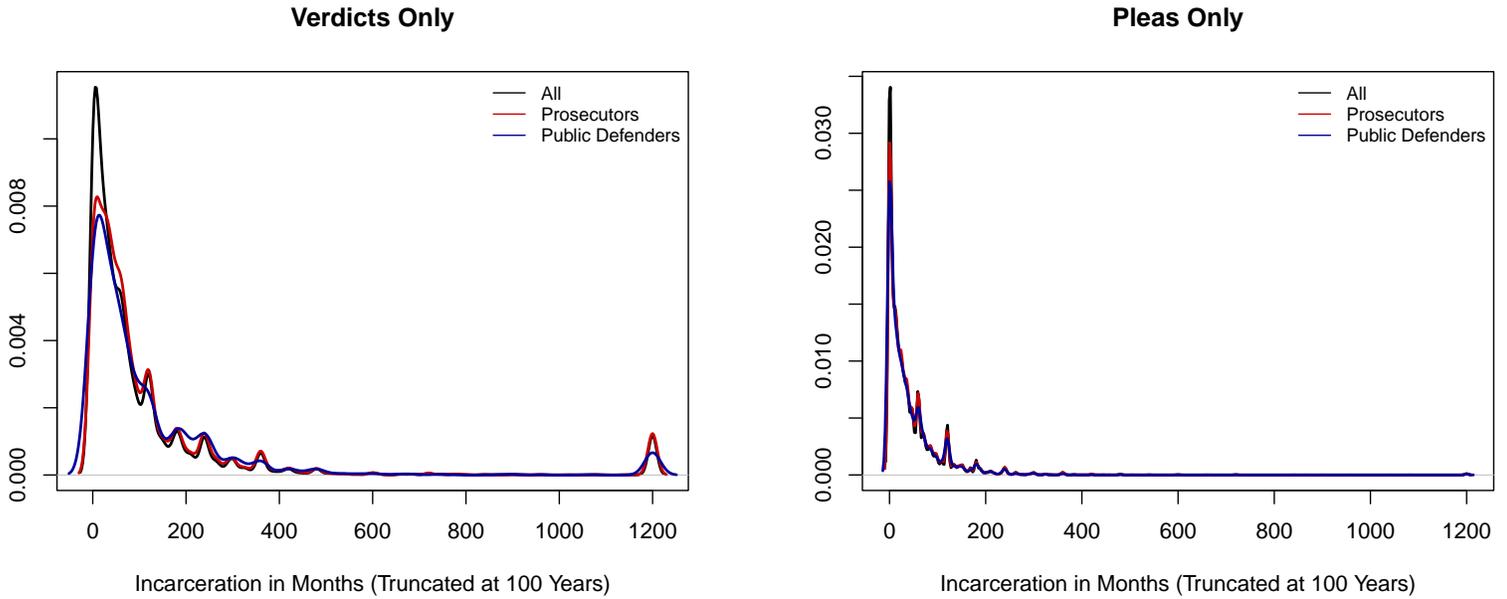


Figure 2: Density of incarceration length for all (black), prosecutor (red) or defender (blue) judges. Left panel—charges resolved in a jury or bench trial; right panel—charges that were pled. Incarceration length truncated at 100 years (1200 months).

less frequently. Sentence lengths for pleas, on the other hand, appear similar across judges.

To examine how former public defenders approach such extremely long sentences, we present a series of regressions in Table 5 in which we dichotomize long sentences versus not – specifically considering the probability that a sentence was longer than 100, 70, or 30 years. We do so only for charges that involved a jury or bench trial, which is the subset showing a large difference in Table 4. The results support the intuition that former public defenders are less likely to mete out extremely long sentences. At each dichotomized level, public defenders are 1-2 percentage points less likely to give that sentence. We see no pattern for former prosecutors.

Table 5: Outcome is incarceration length being greater than some length (yes or no). All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	More than 100 Years	More than 70 Years	More than 30 Years
Pub Defender	-0.010* (0.005)	-0.010* (0.005)	-0.019** (0.007)
Prosecutor	-0.001 (0.003)	-0.001 (0.003)	0.003 (0.004)
Female	-0.003 (0.003)	-0.004 (0.003)	-0.005 (0.004)
Black	0.003 (0.005)	0.002 (0.005)	0.006 (0.007)
Hispanic	0.001 (0.003)	0.002 (0.003)	0.003 (0.004)
Asian American	-0.014 (0.010)	-0.016 (0.010)	-0.037** (0.013)
American Indian	0.107 (0.120)	0.107 (0.120)	0.205 (0.134)
Two or More Races/Ethnicities	-0.026*** (0.008)	-0.027*** (0.008)	-0.034 (0.029)
Judge Commission Year	0.000 (0.001)	0.000 (0.001)	0.001 (0.001)
Charge is a Felony	-0.004 (0.006)	-0.005 (0.006)	0.002 (0.007)
Num.Obs.	37 404	37 404	37 404
R2	0.034	0.035	0.066
Log.Lik.	16 191.590	14 960.507	1159.573
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

Table 6: For Columns 1-3, outcome is whether sentence (if any) included any incarceration. Models are linear probability models and include fixed effects for district, month, and year. For Column 4, outcome is truncated sentence length for sentences with jury or bench trials. For all models, standard errors clustered at the case and defendant level.

	Any Incarceration (Trials)	Any Incarceration (Pleas)	Any Incarceration (All)	Incarceration Length
Pub Defender	-0.027* (0.011)	-0.013*** (0.003)	-0.021*** (0.003)	-13.017+ (7.412)
Republican	0.002 (0.005)	0.026*** (0.002)	0.026*** (0.001)	7.667* (3.160)
Prosecutor	-0.008 (0.005)	0.037*** (0.002)	0.029*** (0.001)	1.251 (3.533)
Female	-0.008 (0.005)	0.014*** (0.002)	0.018*** (0.001)	-6.836+ (3.650)
Black	0.006 (0.007)	0.007** (0.002)	0.010*** (0.002)	1.353 (5.949)
Hispanic	0.053*** (0.007)	-0.015*** (0.002)	-0.014*** (0.002)	-10.018** (3.556)
Asian American	-0.025 (0.024)	0.018** (0.006)	0.039*** (0.004)	-37.210** (12.630)
American Indian	0.057 (0.122)	-0.102*** (0.014)	-0.089*** (0.014)	159.618 (129.962)
Two or More Races/Ethnicities	0.070 (0.043)	0.031*** (0.008)	0.035*** (0.008)	-36.198 (27.037)
Judge Commission Year	-0.001** (0.000)	0.000* (0.000)	-0.001*** (0.000)	0.144 (0.172)
Charge is a Felony	0.091*** (0.012)	0.094*** (0.004)	0.110*** (0.004)	7.891 (7.466)
Pub Defender * Republican	0.022 (0.018)	-0.021** (0.008)	-0.013+ (0.007)	-9.247 (12.221)
Num.Obs.	37 404	623 381	740 785	37 404
R2	0.030	0.067	0.062	0.107
Log.Lik.	-12 336.025	-292 570.173	-348 710.614	-250 799.387
FE: District	X	X	X	X
FE: Month	X	X	X	X
FE: Year	X	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

### 3.3 Differences by Party

The analyses included fixed effects for appointing president because, even conditional on party, some presidents are more focused on crime than others. However, there may be an association between public defender experience and sentencing that varies with party. For example, because the Republican Party has generally been “tough on crime,” public defender experience may attenuate these tendencies and result in an even stronger effect. (In the Appendix, we evaluate—and rule out—other interactions, for example, with race or gender.)

Table 6 examines this possibility by including an interaction with Republican-appointment and public defender status. Interpretation here must be tempered by the fact that only about 3 percent of Republican appointees have public defender experience, compared to about 10 percent of Democratic appointees (Table 2). That said, the results suggest differ-

ent effects of public defender experience by party across some subsets of the data, although the narrative is not uniform. There is no significant difference between Republican and Democratic appointments in the probability of incarceration when it comes to trials (Column 1), but there is evidence of a heightened effect among Republican appointed judges—reducing incarceration by a further 2 percentage points— for pleas. We cannot rule out that there is no difference between judges from the two parties when it comes to all charges (Column 3) or with respect to incarceration length (Column 4). In all, the differences here are suggestive at most.

## 4 Discussion and Conclusion

The results provide evidence that criminal cases assigned to federal district judges who are former public defenders are less likely to lead to incarceration. We observe these results for both Republican- and Democratic-appointed judges, with suggestive evidence that the effect may be stronger in some cases for Republicans. In addition, for charges proceeding to a trial, assignment to a former public defender results in incarceration sentences that are about 16 months shorter on average. Former public defenders' lower likelihood of handing down extremely long sentences—30 years or more—partly drives this result. The relationship between previous prosecutorial experience and sentencing is less straightforward. In some cases, defendants whose cases are assigned to former prosecutors may be more likely to receive sentences of incarceration, but the length of the sentences they receive are generally unaffected.

What does this mean for our understanding of fairness in the courts and of the politics of judicial behavior? First, from a policy perspective, the results suggest that policy makers can indeed shape substantive outcomes with careful selection of judicial appointees. In this case, more progressive politicians can impact criminal justice outcomes by appointing judges with defense experience. Consistently appointing former public defenders would reduce the number of people incarcerated and, potentially, prison sentence length, even

among judges appointed by the same president. A subtle shift would result in thousands of fewer sentences of incarceration per year.

Second, the findings contribute to our understanding of judicial decision making. Previous work has shown how judges' personal characteristics influence their decision making, especially when some dimension of a case is relevant to that identity. Here, we show that professional experience—specifically, criminal defense experience—can work similarly. This finding is consistent with the recent judicial politics literature on decision making, expanding it in the important direction of professional background.

We conclude by noting areas of further research. First, in this analysis, assuming mostly random assignment of cases to judges is reasonable given district and month fixed effects. This makes it safe to say, as we do here, that there is a causal treatment effect associated with having a case assigned (or not) to a former public defender. However, perhaps individuals with greater empathy toward the plight of criminal defendants gravitate toward public defender careers. Future research might explore the reasons why some judges pursue certain kinds of careers and further disentangle these motivations and their implications for judicial decision making.

Second, and more broadly, our work engages the increasing desire of policymakers to shape judicial outcomes at an institutional level. Policymakers wanting certain outcomes from the courts have previously relied on ideology as their main vehicle for judicial selection. The strategy of naming judges with certain professional profiles is more novel, and more research is needed on the political motivations behind this shift, as well as its implications for policy making through the courts.

## 5 Appendix

This Appendix contains additional analyses for “How Judges’ Professional Experience Impacts Case Outcomes: An Examination of Public Defenders and Criminal Sentencing.”

### 5.1 Analysis of Procedural Choices That Could be Affected by Public Defender Status

A defendant’s choice to plea or go to trial could itself be impacted by a judge’s criminal justice experience, since the decision to enter into a plea bargain would take place “in the shadow” of the judge. For example, if a judge is perceived to be more lenient in sentencing (perhaps precisely because of their past experience as a public defender), then the defense may have an incentive to not enter into a plea and instead push for a trial. This type of decision-making process would plausibly explain the pattern observed in the main text, since judges with defense experience would presumably have more cases shifted to trials, and we would expect these cases to include less “severe” charges that would entail less punitive sentencing (i.e., incarcerations).

To better understand how these patterns may vary according to public defender/prosecutor status – and thus, whether selection bias may be explaining some of the main results at the sentencing stage – Table 7 looks at the two procedural outcomes that could be affected by “bargaining in the shadow of the judge” as the quantities of interest: (1) whether any incoming charge was eventually proceeds to trial (bench or jury); or (2) whether the defendant entered into a plea agreement. Interestingly, assignment to a public defender (Column 1) is slightly – 0.3 percentage points – less likely to be associated with charge going to a trial. This is close enough to 0 not to be a meaningful effect. The relationship of public defender status to the decision to plea is not significant (Column 2).

Is this step the primary (or even partial) explanation behind the findings in the main text regarding incarceration status and length? The answer appears to be no. For *incarceration length*, we found a relationship between public defender experience and incarceration

Table 7: Outcome is whether any charge, regardless of guilt or procedural posture that could be influenced by public defender status, proceeded to a jury or bench trial (Column 1), or was pled (Column 2). All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Jury or Bench Trial	Pled
Pub Defender	-0.003*** (0.001)	-0.004 (0.003)
Prosecutor	-0.003*** (0.000)	-0.001 (0.002)
Female	-0.002*** (0.000)	-0.006*** (0.002)
Black	-0.003*** (0.001)	-0.003 (0.003)
Hispanic	-0.009*** (0.001)	-0.022*** (0.002)
Asian American	-0.003*** (0.001)	-0.005 (0.006)
American Indian	0.008*** (0.001)	0.036* (0.015)
Two or More Races/Ethnicities	-0.001 (0.001)	-0.026** (0.009)
Judge Commission Year	-0.001*** (0.000)	0.003*** (0.000)
Charge is a Felony	-0.001 (0.001)	0.058*** (0.004)
Num.Obs.	740 785	740 785
R2	0.063	0.074
Log.Lik.	465 907.211	-509 266.452
Std.Errors	by: Case & Participant	by: Case & Participant
FE: District	X	X
FE: President	X	X
FE: Month	X	X
FE: Year	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

length primarily for charges resolved via a jury or bench trial, and here, the difference, while statistically significant, appears to be a precisely estimated zero. For *incarceration probability*, the answer also appears to be no, as there is no significant decreased probability of defendants entering into a plea deal for former public defenders. We also see consistent effects in the main text for all sentences (not a subset).

## 5.2 Analysis of (Post Treatment) Guilty Dispositions

In the analyses presented in the main text, we do not condition on guilty status (coded in the data for each charge as a “guilty disposition”). We do not condition on guilt status because it is – especially for bench trials and or pleas – determined after a charge has been assigned to a judge. For example, it would be possible for trial proceedings presided over by former public defenders to be more likely to end with a finding of “not guilty.” Looking only at guilty dispositions could therefore potentially bias our inferences.

Intuitively, the decision not to condition on guilty disposition may seem odd: it would make sense to examine defendants who plead or are found guilty, as these are overwhelmingly the individuals who are sentenced, particularly to a punishment such as incarceration. In addition, policy makers may care about how policy-related judicial appointments may impact individuals who plea or are found guilty, regardless of whether the assigned judge’s characteristics impacted this finding.

Mindful of the post-treatment nature of this subsetting, we therefore replicated the analyses in the text but conditioned on a charge having resulted in a guilty disposition. This dropped some pleas (about 1.5%) and some charges that proceeded to trial (about 16%). Table 8, 9, and 10 replicate the main results and, in all cases, they are substantively identical in direction, rough magnitude, and significance as the unconditional results presented in the main text.

Table 8: Analyses for charges that result in a guilty disposition only. Outcome is whether sentence (if any) included any incarceration. All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Jury or Bench Trial	Pled	All Guilty
Pub Defender	-0.016+ (0.009)	-0.017*** (0.003)	-0.022*** (0.003)
Prosecutor	-0.006 (0.005)	0.038*** (0.002)	0.030*** (0.001)
Female	-0.008 (0.005)	0.013*** (0.002)	0.017*** (0.001)
Black	0.001 (0.008)	0.007** (0.002)	0.009*** (0.002)
Hispanic	0.032*** (0.007)	-0.015*** (0.002)	-0.013*** (0.002)
Asian American	-0.005 (0.025)	0.017** (0.006)	0.037*** (0.004)
American Indian	0.009 (0.138)	-0.094*** (0.015)	-0.079*** (0.014)
Two or More Races/Ethnicities	0.095* (0.042)	0.039*** (0.008)	0.044*** (0.008)
Judge Commission Year	-0.003* (0.001)	-0.003*** (0.000)	-0.004*** (0.000)
Charge is a Felony	0.091*** (0.013)	0.094*** (0.004)	0.141*** (0.004)
Num.Obs.	31 182	612 363	725 607
R2	0.028	0.069	0.064
Log.Lik.	-8988.606	-287 567.446	-340 334.850
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

Table 9: Analyses for charges that result in a guilty disposition only. Outcome is incarceration length truncated at 100 years (1200 months). Sentences exceeding 100 years are coded as 100 years. All models are OLS and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Jury or Bench Trial	Pled	All Guilty Charges
Pub Defender	-18.016* (7.033)	-0.015 (0.462)	-0.925+ (0.546)
Prosecutor	1.451 (4.110)	1.605*** (0.283)	1.507*** (0.330)
Female	-6.157 (4.232)	1.230*** (0.301)	0.920** (0.341)
Black	2.481 (7.058)	-1.168* (0.458)	-0.968+ (0.580)
Hispanic	-10.146* (4.462)	-5.160*** (0.365)	-4.763*** (0.410)
Asian American	-35.940* (13.976)	-2.339* (1.112)	-3.161*** (0.895)
American Indian	177.269 (145.681)	-4.208*** (1.095)	-1.805 (1.494)
Two or More Races/Ethnicities	-30.410 (29.357)	-2.195* (0.912)	-2.447* (0.984)
Judge Commission Year	0.746 (1.065)	-0.022 (0.067)	-0.089 (0.083)
Charge is a Felony	6.572 (9.268)	1.253+ (0.757)	5.907*** (0.813)
Num.Obs.	31 182	612 363	725 607
R2	0.096	0.075	0.062
Log.Lik.	-211 392.433	-3 422 776.204	-4 205 712.227
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

Table 10: Analyses for charges that result in a guilty disposition only. Outcome is incarceration length being greater than some length (yes or no). All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	More than 100 Years	More than 70 Years	More than 30 Years
Pub Defender	-0.011* (0.006)	-0.012* (0.006)	-0.022** (0.008)
Prosecutor	-0.001 (0.003)	-0.001 (0.003)	0.003 (0.005)
Female	-0.003 (0.003)	-0.004 (0.003)	-0.007 (0.005)
Black	0.004 (0.006)	0.003 (0.006)	0.008 (0.008)
Hispanic	0.001 (0.003)	0.001 (0.003)	0.004 (0.005)
Asian American	-0.015 (0.011)	-0.017 (0.011)	-0.039** (0.015)
American Indian	0.120 (0.137)	0.119 (0.137)	0.232 (0.146)
Two or More Races/Ethnicities	-0.026** (0.009)	-0.027** (0.009)	-0.034 (0.032)
Judge Commission Year	0.000 (0.001)	0.000 (0.001)	0.001 (0.001)
Charge is a Felony	-0.006 (0.008)	-0.006 (0.008)	0.002 (0.009)
Num.Obs.	31 182	31 182	31 182
R2	0.033	0.034	0.062
Log.Lik.	10 888.131	9898.776	-1458.647
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

### 5.3 Possible Interactions Besides Party

We conducted various analyses interacting public defender status with other characteristics of interest to scholars, namely (1) race or ethnicity and (2) gender.

**Race.** Research on criminal sentencing points to important differences between Black and white judges on sentencing, with Black judges at times being more or less harsh than their white counterparts. (To our knowledge, similar effects have not been found for judges who identify as Latino/Hispanic, although the number of Latino/Hispanic judges has historically been smaller, which has made scholarly inquiry challenging.) However, this does vary according to defendant's race, an important interplay.

While we do not have defendant race in our data – meaning that these analyses are not necessarily assessing the same interactive effects as previous work – we do have judges' race or ethnicity coded in the judicial biographical data. Table 11 shows analyses that interact public defender status with whether the assigned judge is Black. As the table shows, there is no significant interaction between judge race and public defender experience, suggesting no increase/decrease in the likelihood of incarceration or on incarceration length.

**Gender.** Along with judge race, there are corresponding studies looking into the relationship between gender and judicial decision making. As we discussed, most of these connect gender and decision making concerning civil complaints involving gender/sex discrimination or harassment, Title IX, and reproductive rights. However, some papers have shown gender-based differences in sentencing (Steffensmeier and Hebert, 1999), although, given that an overwhelming majority of defendants are male, the mechanisms are not so clear.

In our context, the possibly important fact is that women are overrepresented as public defenders, the opposite of most other legal practice areas (<https://www.zippia.com/public-defender-jobs/demographics/>). Thus, perhaps it may be the case former public

Table 11: For Columns 1-3, outcome is whether sentence (if any) included any incarceration. Models are linear probability models and include fixed effects for district, month, year, and identity of appointing president interacted with public defender. For Column 4, outcome is truncated sentence length for sentences with jury or bench trials. For all models, standard errors clustered at the case and defendant level.

	Any Incarceration (Trials)	Any Incarceration (Pleas)	Any Incarceration (All)	Incarceration Length
Pub Defender	-0.010 (0.010)	-0.019*** (0.003)	-0.028*** (0.003)	-15.950* (6.825)
Black	0.003 (0.008)	0.010*** (0.003)	0.008*** (0.002)	4.719 (6.647)
Prosecutor	-0.005 (0.005)	0.036*** (0.002)	0.028*** (0.001)	1.021 (3.622)
Female	-0.002 (0.005)	0.011*** (0.002)	0.014*** (0.001)	-6.362+ (3.660)
Judge Commission Year	-0.004** (0.001)	-0.003*** (0.000)	-0.004*** (0.000)	0.716 (0.945)
Charge is a Felony	0.094*** (0.012)	0.094*** (0.004)	0.109*** (0.004)	7.651 (7.468)
Pub Defender * Black	-0.011 (0.021)	-0.006 (0.007)	0.012+ (0.007)	-7.915 (13.612)
Num.Obs.	37 404	623 381	740 785	37 404
R2	0.030	0.067	0.062	0.107
Log.Lik.	-12 346.258	-292 549.113	-348 641.710	-250 800.993
FE: District	X	X	X	X
FE: President	X	X	X	X
FE: Month	X	X	X	X
FE: Year	X	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

Table 12: For Columns 1-3, outcome is whether sentence (if any) included any incarceration. Models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. For Column 4, outcome is truncated sentence length for sentences with jury or bench trials. For all models, standard errors clustered at the case and defendant level.

	Any Incarceration (Trials)	Any Incarceration (Pleas)	Any Incarceration (All)	Incarceration Length
Pub Defender	-0.021* (0.010)	-0.011** (0.003)	-0.022*** (0.003)	-15.993* (6.369)
Female	-0.008 (0.005)	0.015*** (0.002)	0.017*** (0.001)	-5.633 (3.756)
Prosecutor	-0.007 (0.005)	0.038*** (0.002)	0.030*** (0.001)	1.149 (3.627)
Black	0.006 (0.007)	0.008** (0.002)	0.009*** (0.002)	2.055 (6.059)
Hispanic	0.050*** (0.007)	-0.014*** (0.002)	-0.015*** (0.002)	-9.910** (3.644)
Asian American	-0.022 (0.025)	0.017** (0.006)	0.037*** (0.004)	-35.275** (12.673)
American Indian	0.079 (0.123)	-0.094*** (0.015)	-0.077*** (0.014)	166.803 (130.009)
Two or More Races/Ethnicities	0.091* (0.044)	0.039*** (0.008)	0.046*** (0.008)	-28.432 (27.350)
Judge Commission Year	-0.003* (0.001)	-0.004*** (0.000)	-0.004*** (0.000)	0.684 (0.946)
Charge is a Felony	0.092*** (0.012)	0.094*** (0.004)	0.109*** (0.004)	8.106 (7.443)
Pub Defender * Female	0.015 (0.021)	-0.019*** (0.006)	-0.005 (0.005)	0.334 (14.872)
Num.Obs.	37 404	623 381	740 785	37 404
R2	0.031	0.068	0.062	0.107
Log.Lik.	-12 311.118	-292 445.701	-348 507.543	-250 790.156
FE: District	X	X	X	X
FE: President	X	X	X	X
FE: Month	X	X	X	X
FE: Year	X	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

defenders who are women have different or more empowering experiences. Table 12 shows the analyses, with public defender status interacted with judge gender. In contrast to a story where female public defenders have a distinctive experience, the data suggest we cannot rule out that there is no difference in how public defender experience operates across genders. The only exception here is the significant coefficient on the interaction of public defender and judge gender for pleas. But there is no consistent story.

## 5.4 Robustness on Truncation Decisions

There is huge variation in incarceration length, particularly at the higher end. This makes it easy for outlier sentences (for example, those in excess of 100 years) to skew results. In the main analysis we used data that were truncated at 100 years; that is: any sentence above 100 years (for example, a sentence of 250 years) was just re-recorded as 100 years in the data. However, Table 13 shows different years of truncation starting with 80 years, 70 years, and so on. The table shows that, regardless of how we truncate the data, public defenders still a sentence defendants to fewer months of incarceration (among charges that proceeded to trial). This confirms the key difference is in how judges handle sentences at the extreme high end. These results also correspond substantively with the results in Table 4, which show that dichotomizing sentences into “extremely long” sentence shows a difference in charges assigned to public defenders versus not.

Table 13: Outcome is sentence length truncated at different years. For all models, standard errors clustered at the case and defendant level. Models include fixed effects for district, month, year, and identity of appointing president.

	80 Years	70 Years	60 Years	50 Years
Pub Defender	-10.529** (3.324)	-9.609** (3.238)	-8.647** (3.145)	-7.479* (3.034)
Prosecutor	3.223+ (1.941)	3.087+ (1.858)	2.979+ (1.767)	2.916+ (1.660)
Female	-3.632+ (1.934)	-3.363+ (1.862)	-3.117+ (1.784)	-2.909+ (1.686)
Black	1.317 (3.279)	0.908 (3.091)	0.562 (2.904)	0.283 (2.702)
Hispanic	-12.113*** (2.294)	-12.001*** (2.200)	-11.919*** (2.098)	-11.905*** (1.982)
Asian American	-19.109** (7.344)	-18.944** (7.015)	-18.692** (6.718)	-18.158** (6.449)
American Indian	30.847 (36.696)	31.476 (36.670)	32.368 (36.629)	33.545 (36.606)
Two or More Races/Ethnicities	-4.027 (23.957)	-3.262 (23.816)	-2.343 (23.634)	-1.108 (23.428)
Judge Commission Year	0.384 (0.498)	0.393 (0.476)	0.382 (0.453)	0.345 (0.426)
Num.Obs.	37 404	37 404	37 404	37 404
R2	0.126	0.131	0.137	0.145
Log.Lik.	-231 003.225	-229 490.441	-227 752.150	-225 568.677
FE: District	X	X	X	X
FE: President	X	X	X	X
FE: Month	X	X	X	X
FE: Year	X	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

## 5.5 Community Service and Probation

Next, we investigate other important sentencing outcomes that are of special concern. (All of these are conditional on a guilty disposition.) First, a pattern evidenced in the left-side panel of Figure 2 is that public defenders appear to be less likely to sentence individuals in the 0-20 month range – on the lower end of possible sentences. A possible explanation is that they instead steer punishment to incarceration alternatives like community service or probation. Of the various alternatives (community service, probations, or fines), fines are probably the most lenient, followed by community service and then probation. Because fines are present in nearly all charges in our sentencing data, we limit our inquiry into community service and probation.

Thus, Table 14 Column 1 looks at charges where the defendant was not sentenced to incarceration but instead was sentenced to community service only, an alternative to incarceration and one that perhaps would be more amenable to judges with public defender experience. In Table 14 Column 2 we look at any community service *or* probation (but again no incarceration) as the outcome, while in Column 3 we look at any community service *and* probation (but no incarceration) as the outcome. In this way, the three columns represent more lenient (but increasingly punitive) sentences compared to incarceration. For all specifications, we use a linear probability model with the usual suite of controls and fixed effects, subsetting the data minimally by looking to all guilty dispositions.

For all three columns, the assignment of cases to a former public defender results in small but significant effects. For community service and community service and probation (Columns 1 and 3) the coefficients are indeed very small, close to 0. But the coefficient for community service or probation ( $\sim 2.3$  percentage points) is significant and meaningful. Taken with our previous findings, this lends some support to the idea that public defenders are more likely to consider alternatives to incarceration. Note that we also see corresponding mirroring effects for former prosecutors in Column 2, suggesting that prosecutors are less likely to sentence defendants in this direction.

Table 14: Outcome is no incarceration, but community service only (Column 1), community service or probation only (Column 2), and community service and probation only (Column 3). All models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. Standard errors clustered at the case and defendant level.

	Comm. Service Only	Comm. Service or Probation	Comm. Service and Probation
Pub Defender	0.001*** (0.000)	0.023*** (0.003)	0.001* (0.001)
Prosecutor	0.000 (0.000)	-0.030*** (0.001)	-0.001* (0.000)
Female	0.000 (0.000)	-0.017*** (0.001)	0.000 (0.000)
Black	0.000* (0.000)	-0.009*** (0.002)	-0.001 (0.001)
Hispanic	0.000* (0.000)	0.015*** (0.002)	-0.001+ (0.000)
Asian American	0.000 (0.001)	-0.037*** (0.004)	-0.001 (0.001)
American Indian	-0.001** (0.000)	0.077*** (0.014)	-0.004*** (0.000)
Two or More Races/Ethnicities	0.000 (0.001)	-0.046*** (0.008)	-0.004** (0.001)
Judge Commission Year	0.000** (0.000)	0.004*** (0.000)	0.000 (0.000)
Charge is a Felony	-0.001* (0.000)	-0.109*** (0.004)	-0.004*** (0.001)
Num.Obs.	740 785	740 785	740 785
R2	0.007	0.062	0.017
Log.Lik.	1 318 192.720	-348 508.405	770 926.887
Std.Errors	by: Case & Participant	by: Case & Participant	by: Case & Participant
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

Table 15: For Column 1, outcome is whether sentence (if any) included any incarceration (LMP). For Column 2, outcome is truncated sentence length (OLS). For Column 3, outcome is whether incarceration is longer than 30 years (LPM). For all models, standard errors clustered at the case and defendant level. Models include fixed effects for district, month, year, and identity of appointing president.

	Any Incarceration (All)	Incarceration Length (Trials)	Incarceration Length More than 30 Years (Trials)
Pub Defender	-0.021*** (0.003)	-17.302** (6.102)	-0.019** (0.006)
Prosecutor	0.032*** (0.001)	1.922 (3.705)	0.002 (0.004)
Female	0.016*** (0.001)	-5.627 (3.709)	-0.003 (0.004)
Black	0.004+ (0.002)	4.219 (6.380)	0.009 (0.007)
Hispanic	-0.017*** (0.002)	-9.743** (3.603)	0.001 (0.004)
Asian American	0.035*** (0.004)	-30.692* (12.973)	-0.025* (0.013)
American Indian	-0.080*** (0.014)	192.798 (145.372)	0.101 (0.137)
Two or More Races/Ethnicities	0.045*** (0.008)	-29.071 (27.884)	-0.052*** (0.011)
Judge Commission Year	-0.003*** (0.000)	0.329 (0.955)	0.001 (0.001)
Num.Obs.	706 158	35 512	35 512
R2	0.060	0.110	0.056
Log.Lik.	-325 875.561	-238 061.700	4761.689
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

## 5.6 Restricting Sample Only to Felonies

In our original analysis, we excluded cases heard by magistrate judges, over whom we have no biographical (professional experience) data. These cases primarily involved non-felonies, such as misdemeanors or petty offenses. Although we have no reason to think that our choice to exclude magistrate judges affects our results – indeed, district judges are our primary focus – we consider here an alternative, which is to limit our analyses to only cases involving felony charges. These must be assigned to a district court judge. (These are coded in the data, although we have reason to think the coding is irregular.)

These results are presented in Table 15, which subsets the data to only felonies. The substantive conclusions remain across the major findings.

Table 16: For Columns 1-3, outcome is whether sentence (if any) included any incarceration. Models are linear probability models and include fixed effects for district, month, year, and identity of appointing president. For Column 4, outcome is truncated sentence length for sentences with jury or bench trials. For all models, standard errors clustered at the case and defendant level.

	Any Incarceration (Trials)	Any Incarceration (Pleas)	Any Incarceration (All)	Incarceration Length
Prosecutor	0.002 (0.007)	0.018*** (0.003)	0.019*** (0.002)	1.666 (5.007)
Republican	0.009 (0.006)	0.012*** (0.002)	0.019*** (0.002)	7.356* (3.721)
Pub Defender	-0.018* (0.009)	-0.020*** (0.003)	-0.025*** (0.003)	-16.161** (6.026)
Female	-0.009+ (0.005)	0.014*** (0.002)	0.018*** (0.001)	-6.849+ (3.659)
Black	0.005 (0.007)	0.007*** (0.002)	0.010*** (0.002)	1.205 (6.023)
Hispanic	0.054*** (0.007)	-0.015*** (0.002)	-0.014*** (0.002)	-9.880** (3.543)
Asian American	-0.026 (0.024)	0.019** (0.006)	0.040*** (0.004)	-36.831** (12.635)
American Indian	0.052 (0.122)	-0.091*** (0.015)	-0.083*** (0.014)	158.790 (129.986)
Two or More Races/Ethnicities	0.074+ (0.043)	0.024** (0.008)	0.031*** (0.008)	-36.222 (27.095)
Judge Commission Year	-0.001*** (0.000)	0.000+ (0.000)	-0.001*** (0.000)	0.142 (0.172)
Charge is a Felony	0.091*** (0.012)	0.094*** (0.004)	0.110*** (0.004)	7.845 (7.471)
Prosecutor * Republican	-0.017+ (0.009)	0.034*** (0.003)	0.017*** (0.003)	-0.915 (6.422)
Num.Obs.	37 404	623 381	740 785	37 404
R2	0.030	0.068	0.062	0.107
Log.Lik.	-12 334.730	-292 462.007	-348 679.749	-250 799.841
FE: District	X	X	X	X
FE: Month	X	X	X	X
FE: Year	X	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

## 5.7 Interactions Between Party and Former Prosecutorial Status

A separately interesting question might be whether there is an interaction between party and former prosecutorial experience. For example, we might think that Republicans who are former prosecutors might be especially punitive in their sentencing. We investigate this question in Table 16, which shows some support for this proposition, but only when we examine the prevalence or not of any incarceration among all sentences and pleas (for which we see a significant baseline effect, for Democrats). We do not see any interaction between party and prosecutorial status when analyzing the decision to incarcerate for charges that proceed to trial (Column 1), nor is there an interaction between prosecutorial experience and party when it comes to incarceration length (Column 4).

## 5.8 Congressional Session Fixed Effects

The analyses in the main text use fixed effects for the identity of the appointing president. That means that we are comparing average affects across nominees made by Donald Trump, Joe Biden, Barack Obama, etc. However, this has the potential overlook the important role that home-state senators play in the judicial appointments process. (By “home-state,” we mean senators representing the state where the vacancy is located.) Even appointments made by the same president could differ ideologically depending on whether the home-state senators are more liberal or conservative.

Table 17 includes analyses that replace fixed effects for the identity of the appointing president with fixed effects for the the session of Congress, which we operationalize as the congressional session corresponding with the date of the Senate Judiciary Committee vote. Each presidential term corresponds with two congressional sessions. By including fixed effects for congressional session (along with district fixed effects), we therefore take into account changes in the home state senators and in the Senate’s composition. This serves as a more stringent control for politics/ideology than fixed effects for the appointing president.

The Table shows results consistent with those in the main text, namely reduced probability of incarceration (Column 1), likelihood of shorter incarceration (Column 2), and proclivity against very long sentences (Column 3), the latter two among charges ending in a trial verdict.

Table 17: For Columns 1, outcome is whether sentence (if any) included any incarceration (LMP). For Column 2, outcome is truncated sentence length (OLS). For Column 3, outcome is whether incarceration is longer than 30 years (LPM). For all models, standard errors clustered at the case and defendant level. Models include fixed effects for district, month, year, and identity of appointing president.

	Any Incarceration (All)	Incarceration Length (Trials)	Incarceration Length More than 30 Years (Trials)
Pub Defender	-0.019*** (0.003)	-16.620** (6.118)	-0.017** (0.006)
Prosecutor	0.025*** (0.001)	0.929 (3.673)	0.001 (0.004)
Female	0.018*** (0.001)	-5.718 (3.789)	-0.003 (0.004)
Black	0.007** (0.002)	2.823 (6.135)	0.008 (0.006)
Hispanic	-0.015*** (0.002)	-9.075* (3.951)	0.002 (0.004)
Asian American	0.042*** (0.004)	-34.370** (12.775)	-0.028* (0.013)
American Indian	-0.074*** (0.014)	164.073 (130.222)	0.073 (0.121)
Two or More Races/Ethnicities	0.045*** (0.008)	-30.988 (28.214)	-0.058*** (0.013)
Judge Commission Year	0.003* (0.001)	3.331 (3.691)	0.002 (0.004)
Charge is a Felony	0.109*** (0.004)	7.837 (7.483)	0.000 (0.007)
Num.Obs.	740 785	37 404	37 404
R2	0.065	0.108	0.055
Log.Lik.	-347 342.429	-250 770.518	5131.770
FE: District	X	X	X
FE: Committee.Congress	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

## 5.9 Years of Experience as a Public Defender

The results in the main text identify the causal effect of a charge (the “unit”) being assigned to a judge with public defender experience versus not (the “treatment”), assuming random assignment of charges to district judges, conditional on jurisdiction and month. Importantly, as we make clear in our conclusion, it is impossible using our data to disaggregate the causal effect of public defender experience on a *judge’s own proclivity* to, or to not, assign any kind of punishment. For example, it is possible that people with pro-defendant leanings are more likely to gravitate toward public defender work. (It is also possible that people who do not have that kind of empathy are less likely to pursue a career in public defense work.)

A possible suggestive check on this is to examine the relationship between a charge being assigned to a judge with no public defender experience versus judges with *varying years* of public defender experience. The idea here is that judges with longer periods of public defender experience would be more likely to follow the patterns described in the main text. Such a result would provide suggestive evidence about the possible cumulative importance of this type of experience, which could possibly occur through a learning mechanism.

Thus, the analyses in Table 18 differ from the analyses presented in the main text by including the years of experience for any judge with former public defender experience. We obtain this measure from the Federal Judicial Center, which reports the number of years judges spent in prior professions, including criminal defense (*mean* = 6.67 years, *median* = 5, *sd* = 5.18, *max* = 26). Individuals who are not former defenders are coded as having 0 years of experience for purposes of the analyses in Table 18.

Table 18 shows that the effects seen in the main text do indeed increase with the number of years of public defender experience. A possible interpretation of Table 18 is indeed that increased experience in the profession makes former public defenders more sensitive to defendants’ plights. However, these analyses are simply suggestive. Selection may even play a role in the length of time one chooses to work in criminal defense. In particular,

Table 18: For Columns 1, outcome is whether sentence (if any) included any incarceration (LMP). For Column 2, outcome is truncated sentence length (OLS). For Column 3, outcome is whether incarceration is longer than 30 years (LPM). For all models, standard errors clustered at the case and defendant level. Models include fixed effects for district, month, year, and identity of appointing president.

	Any Incarceration (All)	Incarceration Length (Trials)	Incarceration Length More than 30 Years (Trials)
Years of PD Experience	-0.002*** (0.000)	-1.859* (0.863)	-0.002* (0.001)
Prosecutor	0.030*** (0.001)	1.131 (3.628)	0.001 (0.004)
Female	0.017*** (0.001)	-5.359 (3.668)	-0.003 (0.004)
Black	0.008*** (0.002)	1.328 (5.985)	0.007 (0.006)
Hispanic	-0.016*** (0.002)	-10.014** (3.637)	0.002 (0.004)
Asian American	0.036*** (0.004)	-36.778** (12.606)	-0.030* (0.012)
American Indian	-0.076*** (0.014)	165.268 (130.012)	0.083 (0.121)
Two or More Races/Ethnicities	0.047*** (0.008)	-28.760 (27.435)	-0.051*** (0.011)
Judge Commission Year	-0.004*** (0.000)	0.615 (0.945)	0.001 (0.001)
Charge is a Felony	0.109*** (0.004)	8.126 (7.447)	0.001 (0.007)
Num.Obs.	740 785	37 404	37 404
R2	0.062	0.107	0.055
Log.Lik.	-348 563.862	-250 791.645	5120.338
FE: District	X	X	X
FE: President	X	X	X
FE: Month	X	X	X
FE: Year	X	X	X

+ p < 0.1, \* p < 0.05, \*\* p < 0.01, \*\*\* p < 0.001

those with a stronger affinity for defendants and greater understanding of the challenges they face may choose to spend more years as public defenders.

## **5.10 Statement on Data**

Our agreement with TRAC requires us to “destroy any copies of the TRAC Data (including measures or indicators, cross-linkages to other data sources, etc. which were based in any part on TRAC Data)” and certify that we have done so.

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