

The Crown Court Effect

- In England and Wales, following a charge with an offence by the police, defendants are first seen at a magistrates' court
- At which point there are three possible routes, based on the seriousness of the offence the case will be classified as:
 - Summary case (least serious cases, sentenced at the magistrates' court)
 - Indictable case (most serious cases, sentenced at the Crown Court)
 - Triable-either-way case (discretionary choice as to where to be sent)
- Government is trying to push for more cases defined as 'triable-either-way' (see Figure 1) to be dealt at the magistrates' court to save money (it is cheaper to run a trial at the magistrates' than at the Crown Court)
- Magistrates are not as experienced as Crown Court judges
 - They are known to be less consistent
 - Known to lean towards more right-wing views (which might be related to more punitive views)
- Worth asking how the push to process more cases through the magistrates' court will affect sentencing
 - Holding cases' seriousness constant (i.e. net of the harm caused, the offender culpability and any other relevant aggravating mitigating factor):
 - Does the type of court where the case is processed have an effect on sentence severity?
 - Is sentencing more consistent in the magistrates' or the Crown Court?
- Ideally, to answer these research questions, we would design a series of hypothetical cases, ask magistrates and Crown Court judges to sentence them, and compare their results
 - This approach would need permission from the Judicial Office
 - Which opposes research into sentence severity
- It is practically impossible to answer this question using sentence data
 - Cannot randomised cases to different courts
 - Secondary sentence data is very limited in the description of cases
- EKE with a sample of Crown prosecutors could be an interesting alternative
- Elicit the following probabilities
 - For a case of 'assault occasioning actual bodily harm' (ABH) for a first time offender who did not plea guilty

- Estimate the probability of being sentence to immediate custody in the magistrates court
 - Estimate that probability in the Crown Court
 - Provide bands of uncertainty to reflect the between court variability
 - Repeat the above if the same offender was charged with ‘commercial burglary’
- Consider the following
 - Out of the 9,592 cases of ABH processed in 2012 in England and Wales, 35.4% were sentenced to immediate custody
 - Out of the 22,427 cases of burglary (commercial and domestic) processed in 2012 in England and Wales, 51.7% were sentenced to immediate custody

Figure 1: A description of the main court processes for criminal cases

