

Analysing the impact of the Sentencing Council's burglary guideline

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The Sentencing Council for England and Wales

- Develops and issues guidelines for sentencing
- **Independent body** sponsored by the Ministry of Justice
- Promotes **greater transparency** and **consistency** in sentencing

Council Members

- **14 members** - 8 judicial and 6 non-judicial (CPS, police, victims rep.)

Supported by the Office of the Sentencing Council

- **A multi-disciplinary team** – policy and legal officials, researchers, statisticians and communications specialists

- Assessing harm/culpability
- Starting point
- Category range
- Aggravating and mitigating factors
- Guilty plea

STEP ONE Determining the offence category

The court should determine the offence category using the table below.

Category 1	Greater harm and higher culpability
Category 2	Greater harm and lower culpability or lesser harm and higher culpability
Category 3	Lesser harm and lower culpability

The court should determine culpability and harm caused or intended, by reference **only** to the factors below, which comprise the principal factual elements of the offence. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

NON-DOMESTIC

Factors indicating greater harm

Theft of/damage to property causing a significant degree of loss to the victim (whether economic, commercial or personal value)

Soiling, ransacking or vandalism of property

Victim on the premises (or returns) while offender present

Trauma to the victim, beyond the normal inevitable consequence of intrusion and theft

Violence used or threatened against victim

Context of general public disorder

Factors indicating lesser harm

Nothing stolen or only property of very low value to the victim (whether economic, commercial or personal)

Limited damage or disturbance to property

Factors indicating higher culpability

Premises or victim deliberately targeted (to include pharmacy or doctor's surgery and targeting due to vulnerability of victim or hostility based on disability, race, sexual orientation and so forth)

A significant degree of planning or organisation

Knife or other weapon carried (where not charged separately)

Equipped for burglary (for example, implements carried and/or use of vehicle)

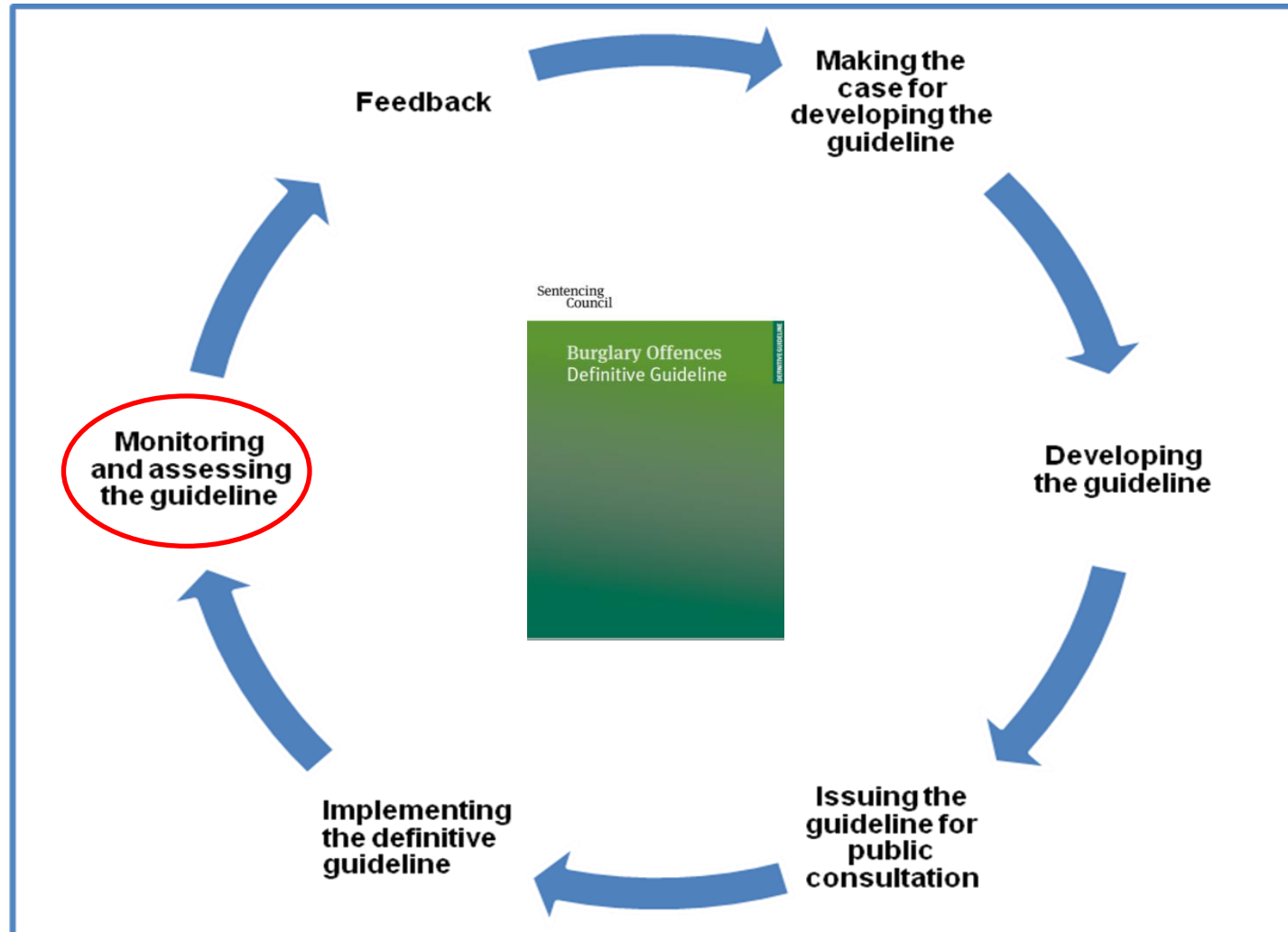
Member of a group or gang

Factors indicating lower culpability

Offence committed on impulse, with limited intrusion into property

Offender exploited by others

Mental disorder or learning disability, where linked to the commission of the offence



- No counterfactual
- Presence of other factors which might explain changes seen
- Plausibility of possible explanations

 Detective work

- Was there a change at point of implementation?
- Did it persist?

Data sources

Trends in sentencing

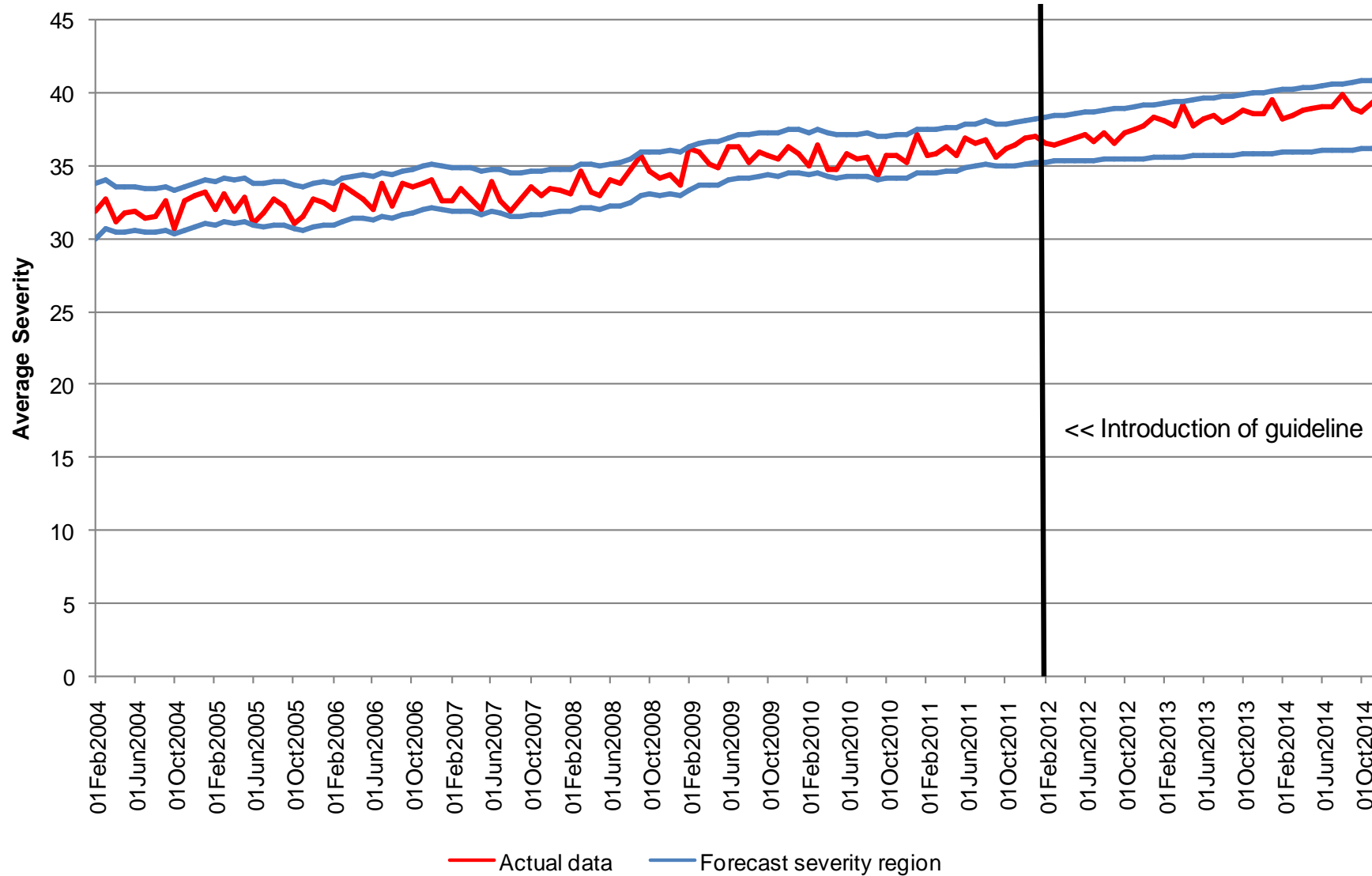
- Ministry of Justice sentencing data

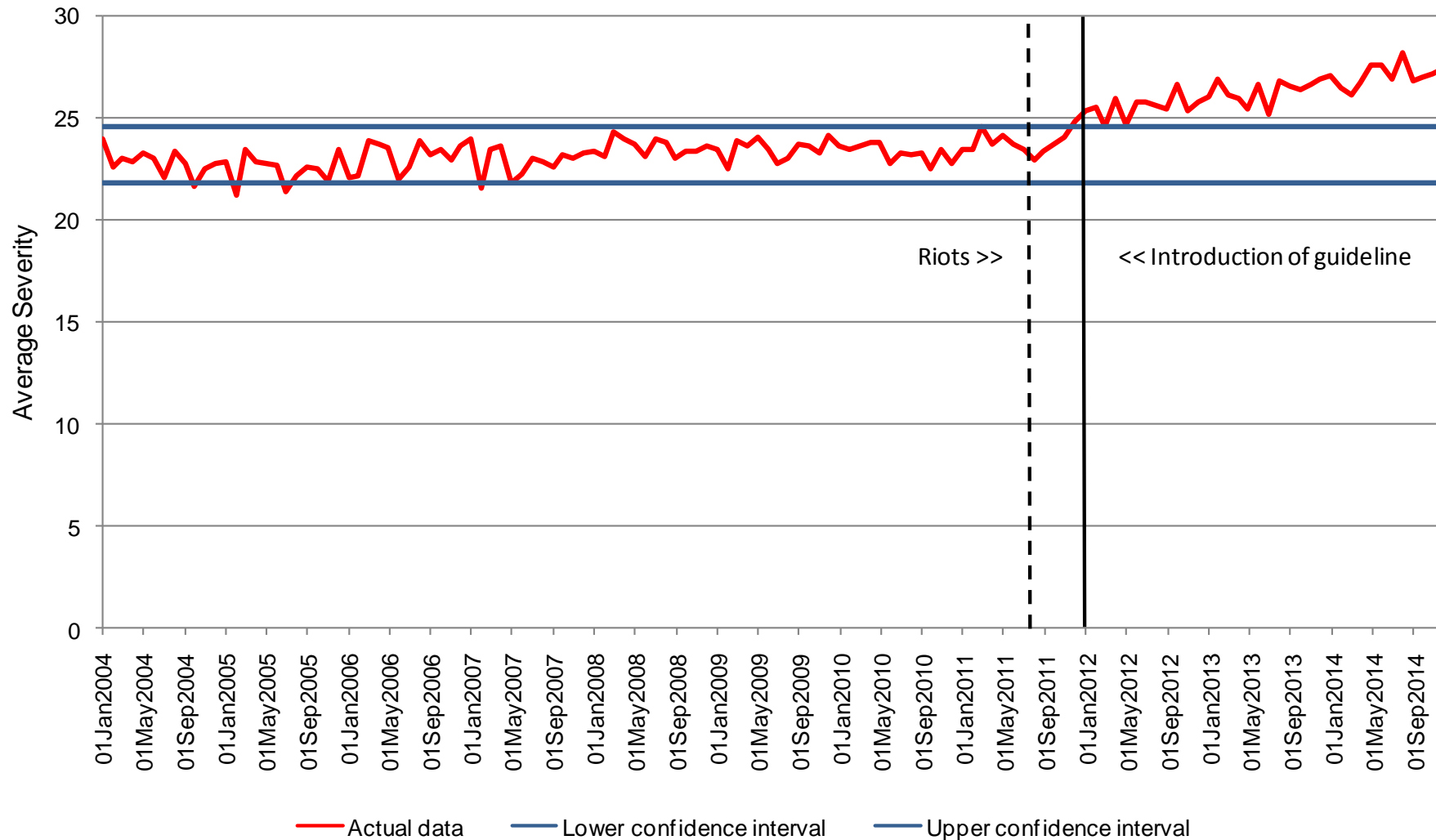
Judicial decision making

- Data from the Crown Court Sentencing Survey
- Content analysis of Crown Court judges' sentencing remarks

Findings

- Increase in sentence severity across all burglary offences
- Non-domestic burglary: increase above what would be expected based on historical trends
- Domestic burglary: increase appeared to be part of a longer term trend





SGC Guideline

Type/nature of activity	Starting point	Range
Where the effect on the victim is particularly severe, the goods are of particularly high value, the cost of damage or consequential losses is significant, or there is evidence of a professional burglary and/or significant planning, a sentence of more than 7 years custody may be appropriate		
Burglary involving goods valued at £20,000 or more	2 years custody	12 months-7 years custody
Burglary involving goods valued at £2,000 or more but less than £20,000	18 weeks custody	Community order (HIGH)-12 months custody
Burglary involving goods valued at less than £2,000	Community order (MEDIUM)	Fine-26 weeks custody

Sentencing Council Guideline

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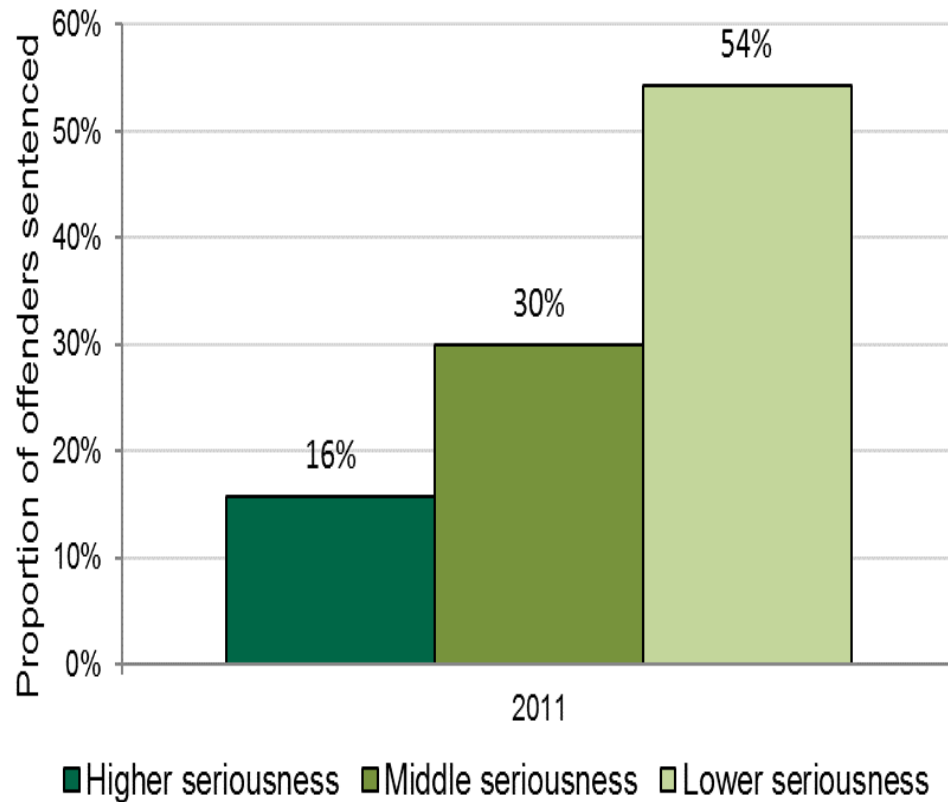
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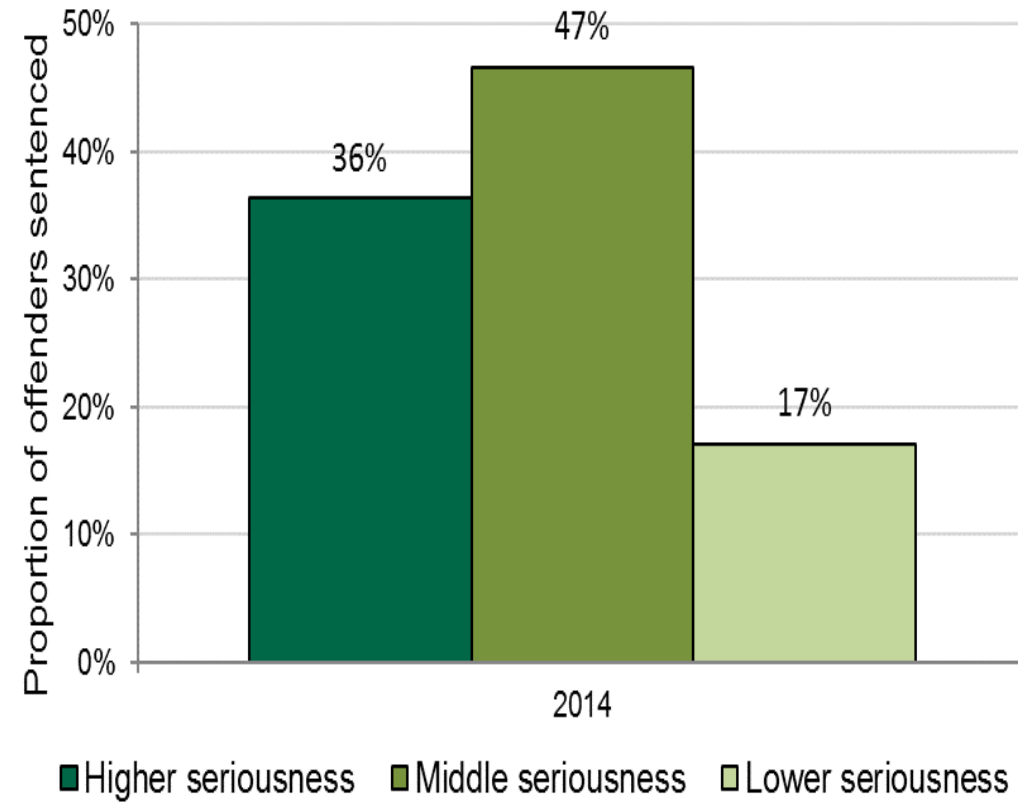
SGC Guideline

Crown Court Sentencing Survey 2011



Sentencing Council Guideline

Crown Court Sentencing Survey 2014



60% of cases had at least one
higher culpability factor
11% had at least one lower
culpability factor

46% of cases had at least one
greater harm factor
33% had at least one lesser harm
factor

Regression analysis showed that “Theft of/damage to
property causing a significant degree of loss to the
victim” had the greatest influence on sentence severity

SGC Guideline

Why?

Analysis of Judges' sentencing remarks:

Top level of seriousness → cases where stolen goods valued at £20k or more

→ Cited in 2/30 transcripts

Sentencing Council Guideline

Why?

Analysis of Judges' sentencing remarks:

Greater harm factor → “significant degree of loss to the victim (whether economic, commercial or personal value)”

→ Cited in 9/30 transcripts

Our approach

- Teamwork between statisticians and researchers
- Analysis of sentencing trends → taking account of normal fluctuations and pre-existing trends in sentencing, does it look like there was a change in sentencing behaviour at the point of policy implementation?
- If yes (as per non-domestic burglary) → why?

Our approach

- Descriptive statistics based on survey data → shift in how offences were categorised post-guideline
- Further statistical analysis (regression) → strong influence of ‘significant degree of loss’ in pulling sentences up
- Qualitative analysis of judges’ sentencing remarks → supports the hypothesis that a key driver for the increase was moving from an *objective* measure of loss (>£20k) to a *subjective* measure (‘significant degree of loss to victim’)

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