

Chapter 8

**Dimension Effects on Sentencing:
Drug Package Tampering, Larceny, Bribery,
Drug Marketing and Weapons Violations**

In this chapter, additional “white collar” crimes will be considered, including tampering with packages of over-the-counter drugs, larceny, bribery, violations of pharmaceutical drug marketing regulations, and violations of weapons sales and possession laws.

Package Tampering

The package tampering crime involved either a conscious effort to damage the reputation and profitability of a pharmaceutical firm or an attempt to poison one or more specific victims. Although it might be considered as a street crime, it is being treated here as a white collar crime.

In the vignettes, the offender convicted of package tampering was described as “...convicted of adding poison to 17 packages of over-the-counter drugs.” Three levels of personal injury were designated: 1) “No one was injured;” 2) “About a dozen people were hospitalized as a consequence;” and 3) “At least one death resulted.” Finally, there were two levels of effects on the pharmaceutical firm that marketed the over-the-counter drug: 1) “The drug firm involved spent \$100,000 in withdrawing its product from the market;” and 2) “The drug firm involved spent \$10,000,000 in withdrawing its product from the market.”

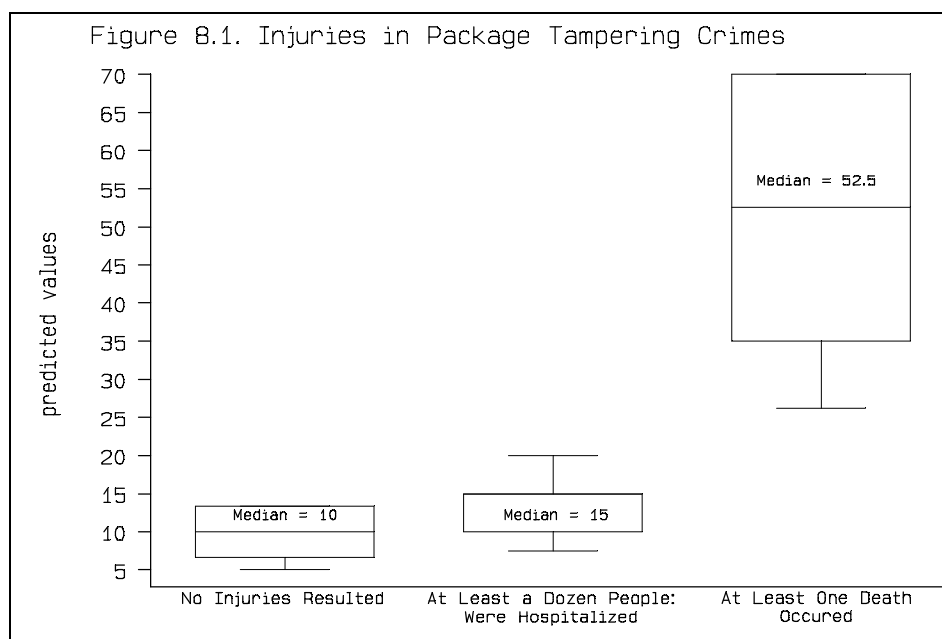
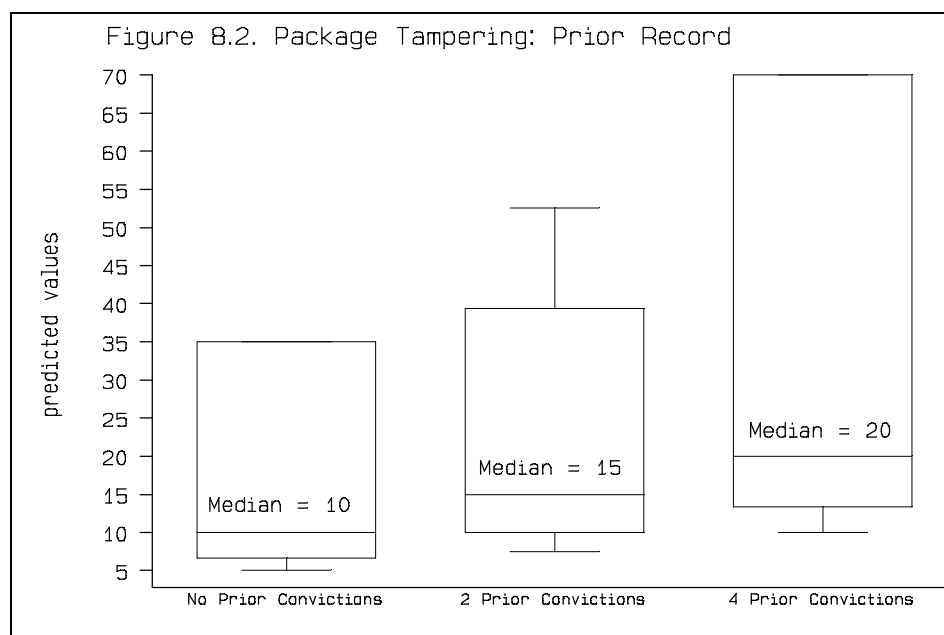


Figure 8.1 shows the effect on sentences received for the seriousness of the injuries received. When there are no injuries the median sentence is ten years. When twelve people are hospitalized, the median sentence increases to 15 years. But when a death results, the median sentence is effectively life in prison. These results underscore very dramatically how seriously our respondents take life threatening crimes.

The findings concerning dollar losses of the pharmaceutical company (not shown) may be surprising to many. Whether a pharmaceutical company loses \$100,000 or \$10,000,000 has no demonstrable impact on the median sentence given! Clearly public concern centers around the potential injury to the users of over-the-counter drugs rather than the costs inflicted on the drug companies, usually involved in expensive recalls of potentially affected products.

The only offender biographical influence is found for prior record. Figure 8.2 shows that median sentences increase from 10 years to 15 years to 20 years as the prior record becomes more serious. Interestingly, the inter-quartile range for vignettes in which the defendant has served four prior prison terms reaches from a sentence of about ten years to a sentence of life imprisonment. In fact, all the inter-quartile ranges are large, no doubt a function of the vignettes in which a death is reported.

There is also a modest impact of gender. Male defendants have a median sentence that is about three years longer than that of female defendants. In relative terms this is certainly consistent with earlier analyses, but one may suspect the potential for truly long sentences for package tampering allows a gender effect to surface rather clearly.



Larceny

Although some larceny crimes are close to being street crimes, the examples used in this study are being treated as white collar ones. The vignettes allowed three examples: 1) "...convicted of stealing property worth...;" 2) "...convicted of stealing mail containing checks worth...;" and 3) "...convicted of buying and selling stolen goods worth..." Two levels of planning are also allowed: 1) "The crime was carefully planned over a long period of time;" and 2) "The crime was done on the spur of the moment." Finally, there were five levels of economic gain for the defendant: 1) \$200; 2) \$900; 3) \$4,000; 4) \$40,000; and 5) \$400,000.

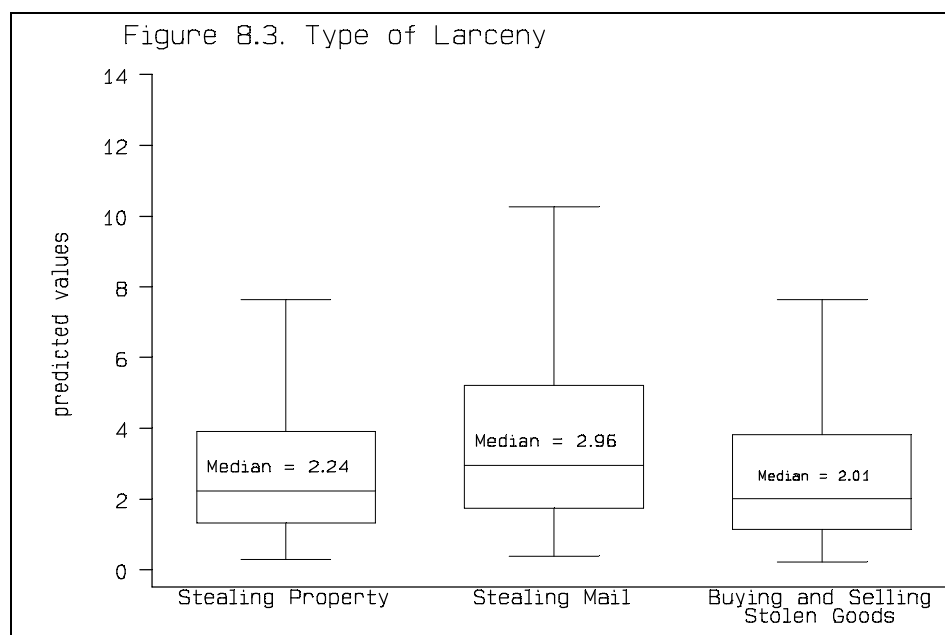
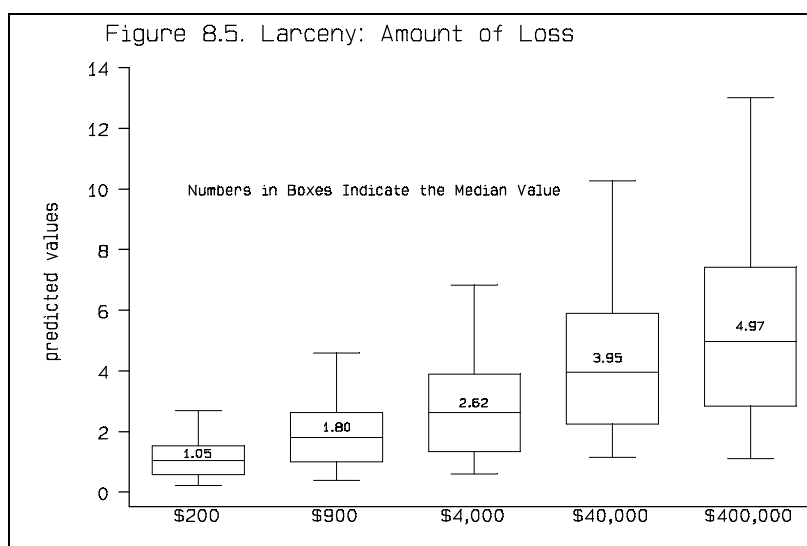
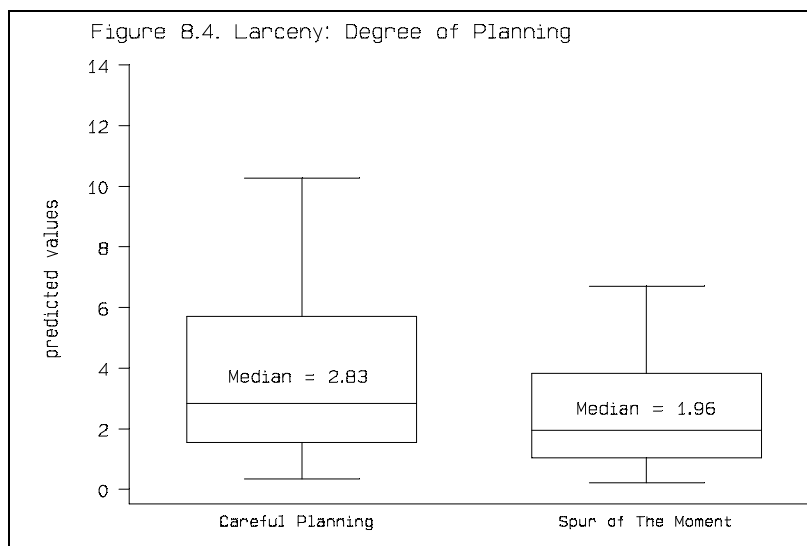


Figure 8.3 demonstrates that the kind of larceny does not make an important difference in median sentences. The median sentence for stealing mail is about three years whereas the median sentence for the other two kinds of larceny is about two years.

Figure 8.4 shows the effect of premeditation. Again the impact is small. The median sentence for when there is careful planning is approximately three years compared to a median sentence of about two years when the crime is impulsive.

Figure 8.5 reveals that the defendant's economic gain makes a modest difference. The median sentence for a gain of \$200 is a little more than a year. The median sentence for a gain of \$400,000 is about five years. And with each increment in dollar value, there is a non-linear increment in median sentence. Indeed, the same pattern was shown earlier with respect to economic gains from other crimes. The respondents apparently increase sentences roughly proportionally to the logarithm of the money stolen. This pattern is also that used by the guidelines in adjusting sentences according to the criminal gain made.



Finally, there are again small gender effects (males receive median sentences that are about six months longer) and modest effects for prior record. Moving from the no prior record to four prior prison terms, median sentences increase from about two years to about three years to about four years.

Bribery

Bribery laws prohibit both the giving and the receiving of bribes. Accordingly, the vignettes describe both as crimes, as follows: 1) “A government purchasing agent has been convicted of accepting bribes to award a supply contract;” 2) “...convicted of bribing a county commissioner to obtain a contract;” 3) “...convicted of bribing a company purchasing agent to obtain a supply contract;” and 4) “...a county commissioner has been convicted of accepting a bribe to award a contract.” In addition we allowed for four bribery amounts: 1) \$500; 2) \$1,900; 3) \$9,000; and 4) \$90,000.

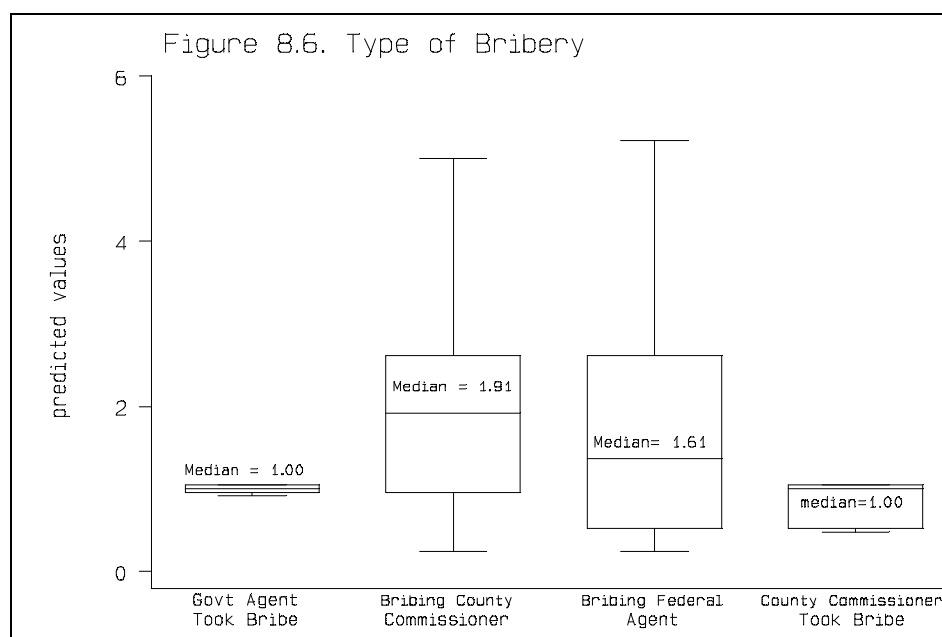
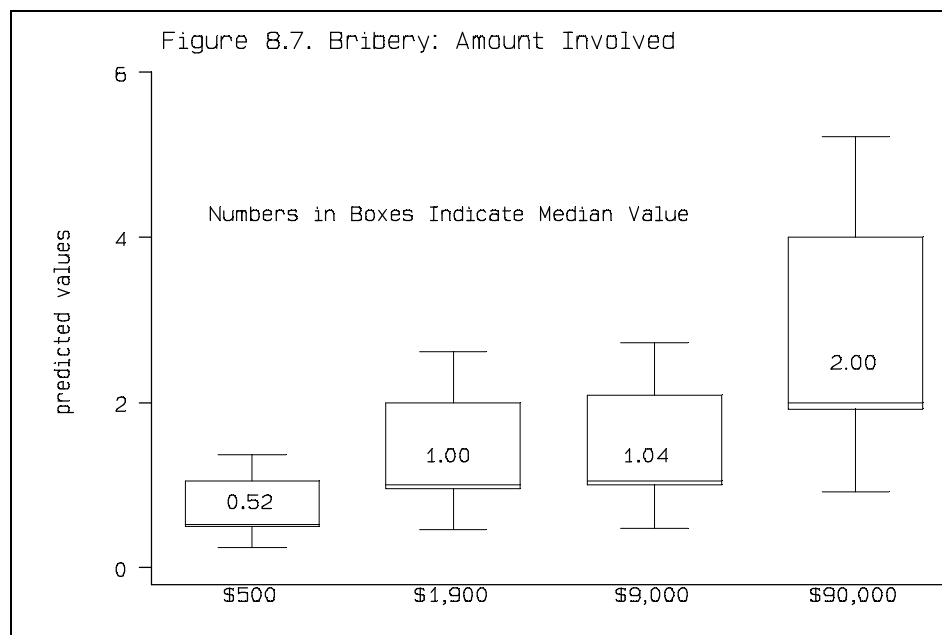


Figure 8.6 shows that overall, the median sentences for bribery are very short and that offering a bribe is treated a bit more harshly than accepting a bribe. The median sentence for accepting a bribe is 1 year whereas the median sentence for offering a bribe is about two years.

Figure 8.7 shows that although the median sentence increases with the amount of the bribe, the impact is modest. The median sentence for a bribe of \$500 is about six months while the median sentence for a bribe of \$90,000 is two years.

Finally, of the background variables, only prior record has an impact on the sentence for bribery. Across the three levels of prior record, the median sentence increases from six months to about two years.

In short, the penalties for bribery are very modest indeed and do not vary much in response to the vignette dimensions we included. Bribery is apparently not considered a very serious crime, worthy of harsh punishment.



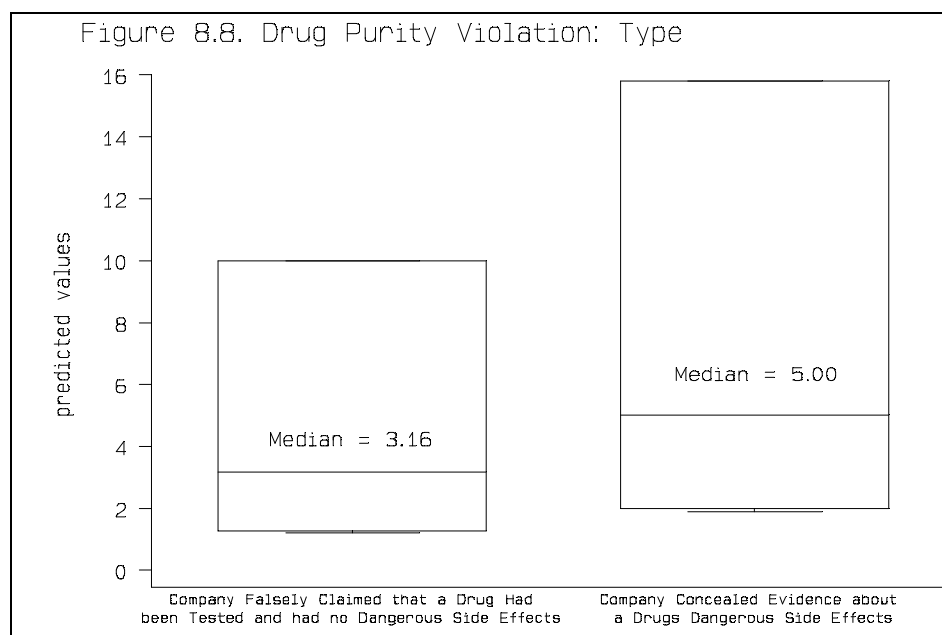
Pharmaceutical Drug Regulations

As the pharmaceutical industry has grown more able to manufacture and market effective therapeutic drugs, the danger to public safety of improper manufacture and marketing of such drugs has also increased. In response to the potential for dangers to the public, the federal government has taken a strong role in monitoring the pharmaceutical industry. The basic rationale is that even careful and intelligent consumers cannot be expected to evaluate the medical properties of pharmaceutical drugs and the dangers of unwanted side-effects. It has become the task of the federal government to protect the consumer by insisting on standards of testing that must be met before drugs can be marketed legally.

Two kinds of drug marketing crimes were included in the design of this study: 1) "...convicted of putting a drug on the market, falsely claiming that the drug was adequately tested and had no dangerous side effects;" and 2) "...convicted of putting a new drug on the market, concealing evidence that the drug had potentially dangerous side effects in users." We allowed for three kinds of outcomes: 1) "No one was injured;" 2) "About a dozen people were hospitalized as a consequence;" 3) "At least one death resulted."

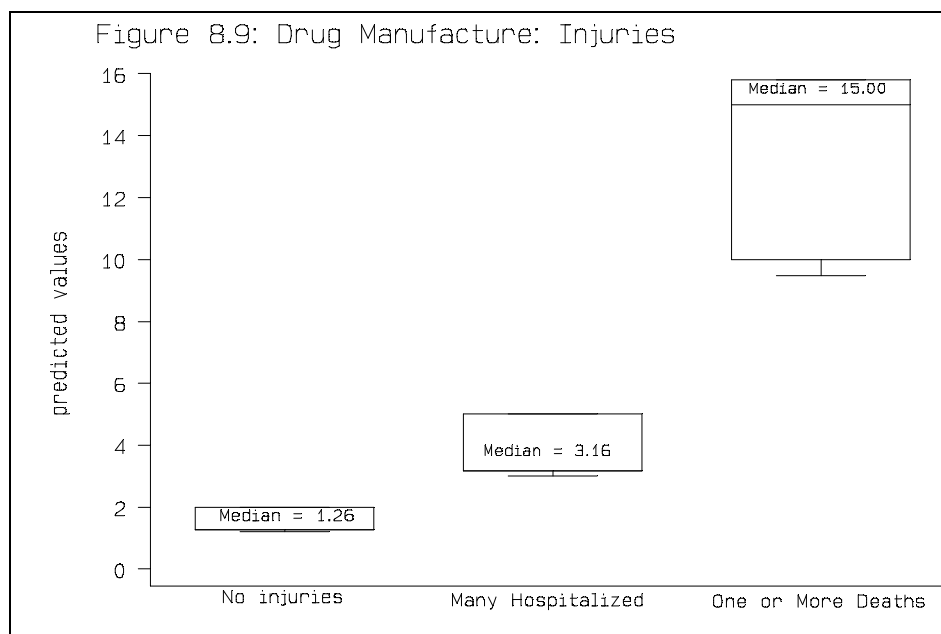
Figure 8.8 shows that respondents took the described crimes quite seriously. The median sentence for falsely claiming that testing had been done was about three years. The median sentence for covering up bad test results was about five years.

Figure 8.9 underscores a point made repeatedly: sentences increase dramatically when people are put at risk. If no one is injured the median sentence is about a year. If people are hospitalized, the median sentence increases to three years. If a death results, the median sentence is 15 years.



The story on the background variables is simple. Prior record was not included in the corporate drug vignettes because it would have been implausible for a person with four prior prison terms to be a corporate official. The other background variables had no important effects.

The drug manufacturing cases indicate that the way to elicit a lengthy sentence from our respondents is to put the safety of people in jeopardy. And when one or more deaths result, median sentences can increase dramatically, in this case by a factor of about five.



Illegal Sale of Firearms

For some period of time, federal laws have regulated the sales of firearms by dealers, restricted gun ownership to non-felons, and banned the possession of certain types of weapons. Accordingly, the right to bear arms is conditional and not completely unfettered.

The vignettes included two kinds of firearm sales violations: 1) "...convicted of selling firearms to a known felon;" and 2) "...a licensed dealer...convicted of selling firearms without maintaining required sales records." Three levels indicated the number of weapon involved: 1) two; 2) ten; and 3) more than 50. Finally, the vignettes varied how much information the defendant had about how the weapons would be used: 1) "The defendant knew the weapons would be used in illegal drug trafficking;" 2) "The defendant knew that the weapons were to be used in robberies;" and 3) "The defendant did not believe that the weapons were going to be used in committing any crimes."

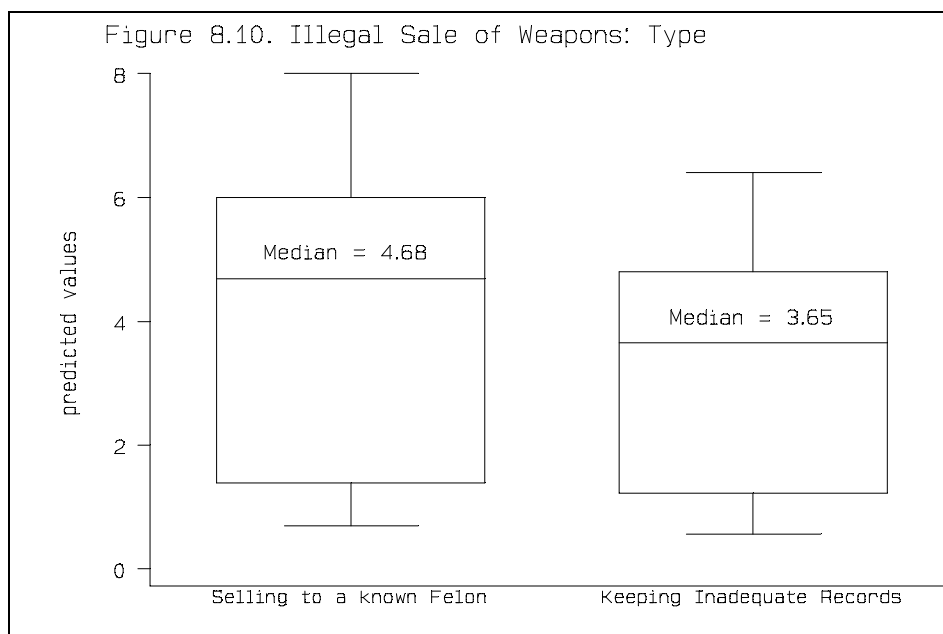


Figure 8.10 shows that selling guns to a known felon (which is illegal) is treated more harshly by respondents than failing to keep proper records. The median sentence for improper record keeping is about 3.5 years, and the median sentence for selling firearms to a felon is about a year longer.

Figure 8.11 shows that what the defendant knew about how the guns would be used matters substantially. The median sentence when the defendant did not believe the guns sold would be used in illegal activities was only one year whereas the median sentence increased to about five years when the seller knew the guns would be used in robberies or drug trafficking.

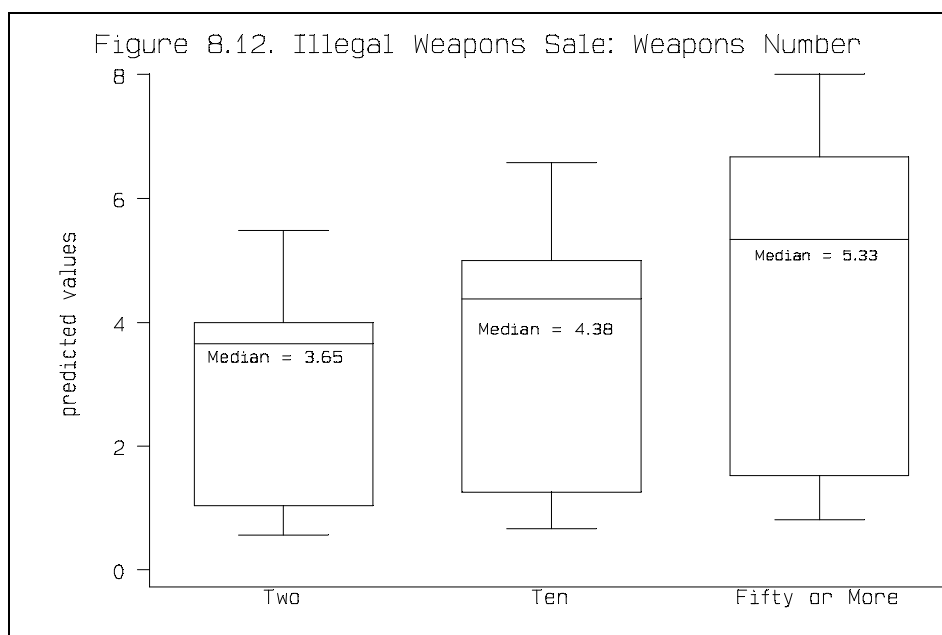
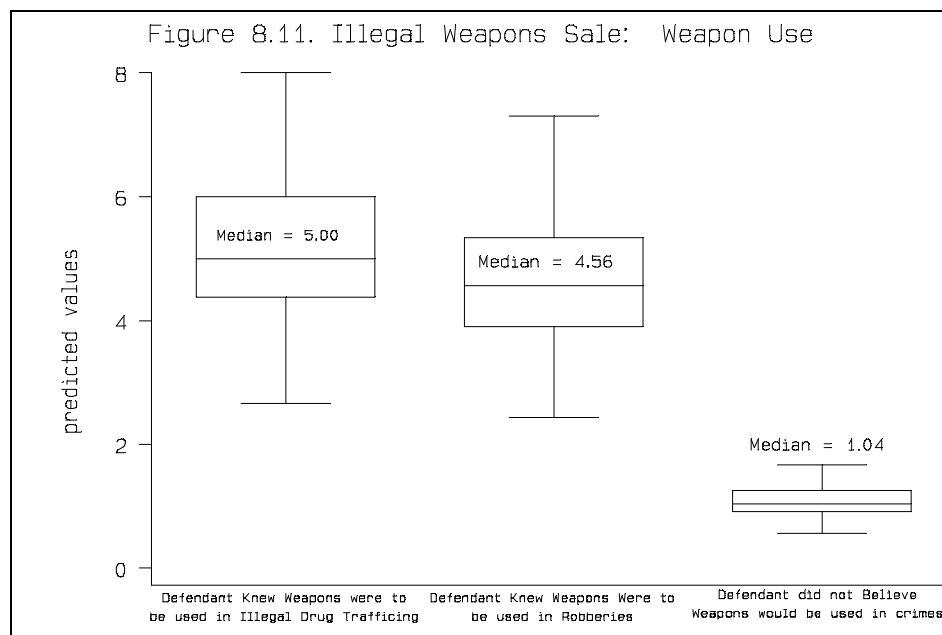


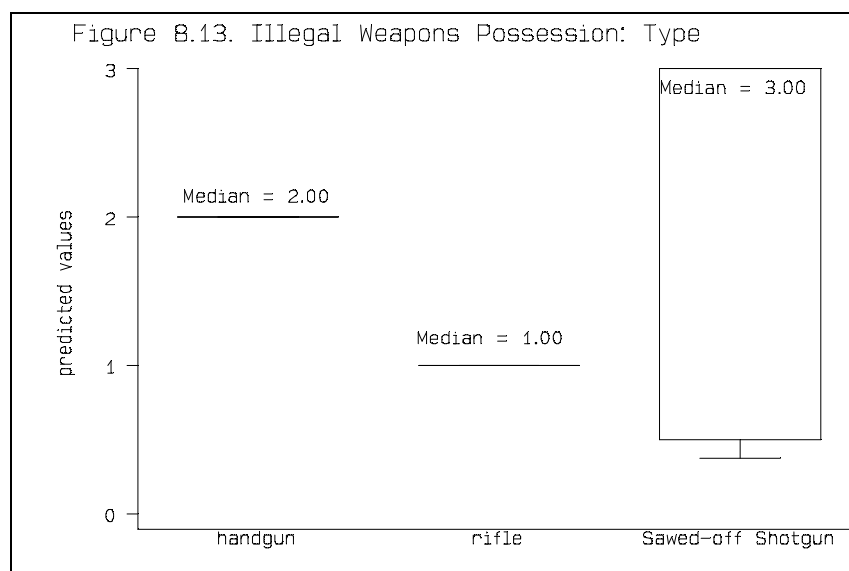
Figure 8.12 indicates that the number of weapons affects the median sentence in sensible ways, but rather modestly. Median sentences increase from a little less than four years to a little more than five years as the number of weapons increases from 2 to 10 to 50 or more.

Prior record was not included in illegal firearms sales vignettes. It would have appeared implausible for a licensed firearm dealer to have had served a number of prior prison terms. As for the other background characteristics, none made an important difference.

Illegal Firearm Possession

Provisions in the federal laws govern the possession of firearms, making it a felony for a felon to own firearms and outlawing the ownership of certain types of weapons. We allowed for three kinds of illegal firearm possession: 1) “...convicted of illegally owning a handgun because of prior felony convictions;” 2) “...convicted of possessing sawed-off shotguns, prohibited weapons;” and 3) “....convicted of illegally owning a hunting rifle because of prior felony convictions.”

Figure 8.13 shows that the type of illegal possession affects median sentences. Illegal ownership of a rifle by a felon is given a median sentence of one year. Illegal ownership of a handgun by a felon has a median sentence of two years. Illegal ownership of sawed-off shotguns (a banned weapon) produces a median sentence of three years. These are short sentences to be sure, but they follow a sensible pattern.



Note that there are no boxes or whiskers shown for felon possession of a handgun or rifle. This means that all the predicted sentences for each of these two crimes are identical, reflecting the fact that the other dimensions in these vignettes did not affect predicted sentences.

Of defendant background variables, only the number of prior prison terms makes a difference. Median sentences increase from about six months to about two years as the number of prior prison terms increase. However, most of the increment is between no prior prison terms and two prior prison terms. In short, our illegal firearm possession offenses are not treated nearly as harshly as our illegal firearm sales offenses.