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# Race and Punishment: Demographic Disparities and Patterns in the Blue Earth County Court System

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**Race and Punishment: Demographic Disparities and Patterns in the Blue Earth County  
Court System**

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## **Introduction**

America is thought to be the land of opportunity, equality, prosperity, hope and promise, and, above all, freedom. Indeed, it is a nation that promises democratic proceedings, justice, and fair treatment, especially under the highly rationalized and precise operations of the judicial system. However, in an age where racism is institutionalized and woven into the fabric of society, even the judicial system may be corrupted by the effects of racism and discrimination. For many young people of minority status- including women, and racial and ethnic minorities- “innocent until proven guilty” is far less convincing and comforting than for the privileged population of, primarily, white, older men (Doerner and Demuth 2010; Howell and Hutto 2012; Love, Kelly, and Doron 2013; Koons-Witt, Sevigny, Burrow, and Hester 2014; Kutateladze, Andiloro, Johnson, and Spohn 2014; Steffensmeier and Demuth 2000; Ulmer and Johnson 2004; and Wang, Mears, Spohn, and Dario 2013).

Within the last three to four decades, sentencing guidelines have been established and enacted within certain states to protect against unconsciously biased sentencing in U.S. federal and district courts (Doerner and Demuth 2010). Sentencing guidelines are “a set of rules and principles established by the United States Sentencing Commission that trial judges use to determine the sentence for a convicted defendant” (Weblaws.org 2013). In Minnesota, the state of focuses in the current study, judges follow presumptive, or strict, sentencing guidelines (Minnesota Sentencing Guidelines Commission 2014; Wang, Mears, Spohn, and Dario 2013). However, judges still possess the power to depart from the sentencing guidelines by adjusting sentencing requirements and conditions if they deem the situation appropriate. Such leeway opens the door for possible discrepancies in sentencing. This research study identifies

and speaks to many variables at play that may and appear to threaten fair and equal treatment under the law.

Statistics compiled by The Sentencing Project (2014) show that, not only is the United States the world leader in incarceration rates, but that the prison population has been steadily increasing, adding approximately 50,000 individuals to the prison population per year since 1980, rarely decreasing in population since 1925. Additionally, the incarceration rate for women has steadily increased at twice the rate of men since 1980. The most concerning factor is that of race. Of incarcerated persons, 60% are people of color despite populating the U.S. at a lesser rate than white people and committing crimes at a same or similar rate. Compared to white men, black men are six times more likely to be imprisoned and 2.5 times more likely than Hispanic men. According to this rate, every one in three black men will be sentenced to life in prison (The Sentencing Project 2014). Given these shocking statistics, the importance of observing the treatment and sentencing and incarceration decisions within local and federal courts becomes highly apparent.

The American Civil Liberties Union of Minnesota (ACLU-MN) is a national nonprofit organization dedicated to protecting individual rights and liberties under the U.S. Constitution. Of particular interest is racial profiling, including investigating such within the court system (ACLU 2014). The current study, partnered with the ACLU- Mankato, Minnesota location- uses a form of grounded theory, a type of qualitative research, as well as quantitative methods to assesses the nature of court proceedings, context, and treatment within the courtroom, as well as sentencing and incarceration decisions and the relationship to defendant race and/or sex. The purpose of this research study is to describe current patterns, observations, and descriptions that serve to direct the next individual or team of researchers as they expand upon

this longitudinal study of assessing treatment and punishment within the Blue Earth County Court System.

This article begins by examining current literature on the independent variables and joint effects that influence sentencing decisions. A section on research methods serves to explain the process by which the research tools were refined, how data was gathered within the courtroom, the ways in which variables emerged as of interest to the study, and the quantitative methods used. Results show little discrepancy in gender and charges and sentencing rates. However, interesting patterns emerge when race is examined, especially when the overall rates of white versus minority defendants are observed, the distribution of race within domestic assault charges, and the distribution of race within assault and theft charges. Given these observations and others, extensive recommendations are made, as well as a thorough discussion on this study's limitations and how future research might address these issues.

### **Existing Research**

A wide breadth of research exists on the various disparities in sentencing and incarceration rates within multiple levels and contexts of the court system. Though the legal system should be unbiased, impartial, and discrimination-free, differences exist in sentencing guidelines, sentencing outcomes, and incarceration rates. Sex (Doerner and Demuth 2010; Koons-Witt, Sevigny, Burrow, and Hester 2014; and Ulmer and Johnson 2004), age (Doerner and Demuth 2009; Howell and Hutto 2012; and Love, Kelly, and Doron 2013), court context (Ulmer and Johnson 2004), demographic characteristics of legal professionals (King, Johnson, and McGeever 2010), defendant criminal status and history (Doerner and Demuth 2010; Steffensmeier and Demuth 2000; and Ulmer and Johnson 2004), and race (Doerner and Demuth 2009; Howell and Hutto 2012; Koons-Witt, Sevigny, Burrow, and Hester 2014; Kutateladze,

Andiloro, Johnson, and Spohn 2014; Steffensmeier and Demuth 2000; Ulmer and Johnson 2004; and Wang, Mears, Spohn, and Dario 2013) have been repeatedly found to affect judge's decisions.

### Sentencing Guidelines

Minnesota's sentencing guidelines require judges to have two components when sentencing, the duration and the disposition. Duration simply refers to the amount of time an individual will spend in prison. Disposition is used to determine probation or prison time using a grid as a reference, thus increasing consistency. While certain states in the U.S. have adopted sentencing guidelines to reduce judicial discretion in sentencing regarding race, ethnicity, and sex, some states do not follow the same guidelines (Wang, Mears, Spohn, and Dario 2013). It is up to the states whether to strictly follow such guidelines, reference the guidelines, or allow the judge to be the sole decision maker. Though Minnesota, the state in which we focus our study, utilizes presumptive sentencing guidelines, strict guidelines intended to eliminate unwarranted disparity, judges still maintain the option to grant downward departures in sentencing, thereby lessening the penalties (Doerner and Demuth 2010, Steffensmeier and Demuth 2000; Wang, Mears, Spohn, and Dario 2013). This creates an opportunity for bias and sentencing and/or incarceration inconsistency.

### Sentencing and Gender

Doerner and Demuth (2010); Koons-Witt, Sevigny, Burrow, and Hester (2014); and Ulmer and Johnson (2004) find that the gender of the defendant has an effect on sentencing and incarceration decisions. Doerner and Demuth (2010), in their analysis of 33,505 federal cases taken from the 2001 Monitoring of Federal Criminal Sentences compiled by the United States Sentencing Commission (USSC), find that females are sentenced less harshly than males.

Ulmer and Johnson (2004) also find similar results in their study examining county courts of varying sizes in Pennsylvania. Using individual data from the Pennsylvania Commission on Sentencing (PCS)- supplemented by data from the U.S. Census, Uniform Crime Reports, and the 1999 County and City Extra- they too find that males receive harsher punishments and are incarcerated at greater rates than females.

Finally, in a more recent study, Koons-Witt, Sevigny, Burrow, and Hester (2014) analyzed data from 22,828 cases compiled from the South Carolina Sentencing Guidelines Commission and find that women have a slightly lower probability of being incarcerated than men. Thus, strong evidence exists suggesting that females are treated less harshly than males in sentencing and incarceration decisions (Doerner and Demuth 2010; Koons-Witt, Sevigny, Burrow, and Hester 2014; and Ulmer and Johnson 2004).

### Sentencing and Age

Strong evidence also exists suggesting that the defendant's age influences sentencing and incarceration decisions (Doerner and Demuth 2010; Love, Kelly, and Doron 2013). Specifically, Doerner and Demuth (2010) find that the relationship between age and sentencing creates an inverted U-shape. That is, in their study, sentencing was slightly more lenient toward younger defendants, peaked in severity around age 30, then sharply dipped as age increased.

Similar results are found in Love, Kelly, and Doron's (2013) study on ageism and sentencing. From their analysis of 212 cases of individuals 60 and older, they find that people 60 and older are sentenced much more leniently than individuals younger than 60. This becomes important as the majority United States population approaches the 60 and older age range (Love, Kelly, and Doron 2013). Furthermore, evidence from Howell and Hutto's (2012) study suggests that more juvenile offenders are being tried as adults compared to earlier generations. The



number has risen from 7,200 to 13,100, an increase of 81% from 1985 to 1994. Results show that all juvenile defendants convicted by a judge or jury are more apt to be sentenced to jail than those who plead guilty and did not go to trial. Juvenile felony offenders who are transferred to adult court via legislation or prosecution are more likely to be sentenced to probation and restitution than youth who are waived to the adult court by a judge (Howell and Hutto 2012).

### Sentencing and Court Context

Court context (Ulmer and Johnson 2004) and the characteristics of legal professionals (King, Johnson and McGeever 2010) also affects judges sentencing and incarceration decisions. King, Johnson, and McGeever (2010) find that the characteristics of local legal profession has both direct and indirect effects on sentencing. These effects include special interaction between attorneys and judges, a direct mechanism, while these same attorneys indirectly affect the legal culture pertaining to their area. Additionally, Ulmer and Johnson (2004) find that the larger the court, the less likely the judge is to incarcerate the defendant, and shorter sentences are given when judges do decide to incarcerate. Further, county caseload size effects incarceration rates, with a negative relationship existing between the decision to incarcerate and a greater caseload. However, it was also found that the greater the jail capacity of the court, the greater the rates of incarceration (Ulmer and Johnson 2004).

These results, along with other independent variables to be discussed (including offense type, offense severity, and defendant's record) support "focal concerns perspective" utilized by Steffensmeier and Demuth (2000), Doerner and Demuth (2010), and Ulmer and Johnson (2004). According to focal concerns perspective, when met with limited information, judges make decisions based on a defendant's perceived blameworthiness, degree of perceived dangerousness and potential for recidivism, and based on the context and current status of the

court system. This perspective may help inform as to why contextual specifics such as caseload, jail capacity, and the size of the court affect sentencing decisions (Doerner and Demuth 2010; Steffensmeier and Demuth 2000; Ulmer and Johnson 2004).

### Sentencing and Criminal Status and History

Other characteristics such as a defendant's offense severity, offense type, and prior record independently affect sentencing and incarceration decisions. In Doerner and Demuth's (2010) study of federal courts, prior criminal record was the strongest predictor of harsher sentences. Likewise, Ulmer and Johnson's (2004) results find that a strong positive relationship exists between increased offense severity, prior record, offense type (violent crimes especially) and increased likelihood of incarceration and/or harsher sentencing. Finally, Steffensmeier and Demuth (2000) find in their study of federal court sentencing between 1993 and 1996, comparing drug and nondrug imprisonment rates along numerous independent variables, that the presence of a prior record and offense severity both increase incarceration decisions, regardless of race. Focal concerns perspective can again be applied to explain why these variables are found to be significant (Doerner and Demuth 2010; Steffensmeier and Demuth 2000; Ulmer and Johnson 2004).

### Sentencing and Race

A striking consensus among studies examining disparities in sentencing and/or incarceration decisions emerges when race/ethnicity is examined. Though Ulmer and Johnson (2010) did not find a difference between the incarceration decision and race, Koons-Witt, Borrow, Sevigny, and Hester (2014) did. Specifically, they find that black males have a 45% chance of being sent to prison compared to a 38% chance for white males. Comparably, black females had a 38% chance of receiving a prison sentence as compared to a 33% chance of

incarceration for white females. Doerner and Demuth (2010) likewise find that black females are more likely to receive prison time than white females. However, conversely, their data also supports the same or more lenient sentencing for black women compared to white women. That is while more black females are being sentenced to prison more than their white counterparts, they are, at the same time, receiving more lenient sentences when not being sentenced to prison.

For non-guideline states, or states that do not follow sentencing guidelines, the difference in incarceration rates between black and white defendants grows in disparity, with more black defendants being incarcerated than white defendants (Wang, Mears, Spohn, and Dario 2013). Doerner and Demuth (2010) find that Hispanic defendants are most likely to be incarcerated, followed by black defendants, with white defendants being the least likely to be incarcerated. Both Hispanic and black defendants receive 5% longer sentences than white defendants. Steffensmeier and Demuth (2000) also find a bias favoring white defendants in both incarceration and sentencing decisions. Their study divides Hispanics into black-Hispanics, or those with a darker complexion (i.e. Puerto Ricans), and white-Hispanics, or those with a light complexion (i.e. Mexicans). They find that black-Hispanics are punished most severely, followed by white-Hispanics, blacks, and whites. This pattern is present across all departure cases, sentencing decisions, and incarceration decisions (Steffensmeier and Demuth 2000). Even when examining multiple discretionary points of prosecution and sentencing, the pattern of harsher treatment for blacks and Latinos compared to whites remains, and whites are more likely to have their cases dismissed (Kutateladze, Andiloro, Johnson, and Spohn's 2014). Examining the entire legal process- from the filing of charges, case acceptance, pretrial detention decisions, case dismissal decisions, plea offers, and incarceration sentence- the evidence suggests that

maltreatment exists before the rendering of the final sentence (Kutateladze, Andiloro, Johnson, and Spohn 2014).

These findings can be understood through the application of “racial threat theory” (Steffensmeier and Demuth 2000; Ulmer and Johnson 2004). According to racial threat theory, when a minority population increases in a relatively short period of time, the majority population perceives them as a threat and consciously or unconsciously works to maintain the status quo. Ulmer and Johnson (2004) find that, in Pennsylvania, a proximate population increase of black or Hispanic peoples correlates with harsher sentences for black or Hispanic defendants, thus supporting the hypothesis. Likewise, Steffensmeier and Demuth (2000) also find in their study of federal courts that an increase in the Hispanic population correlates with their findings of increased incarceration rates, harsher sentences, and less sentencing guideline departures compared to white defendants. Both studies thus conclude their data supports racial threat theory (Steffensmeier and Demuth 2000; Ulmer and Johnson 2004).

#### Sentencing and the Demography of the Legal Profession

The racial distribution within a local legal system also affects sentencing decisions and the decision to incarcerate. King, Johnson, and Mcgeever (2010), in their study using data from the State Court Processing Statistics Survey of Felony Defendants in Large Urban Counties between the years 1990-2000 as well as census information and the Interuniversity Consortium for Political and Social Research, examine the special interaction between attorneys and judges in negotiation pleas, as well as indirect mechanisms such as the attorney’s role in influencing the local legal culture. Their results, compiled from a sample of more than 50,000 cases, display an indirect relationship between increased racial diversity within a county legal area and decreased rates of racial disparity in sentencing decisions. That is, results suggest that the more diverse a

court system is, the less racial disparity there is in sentencing and incarceration decisions. The authors suggest that members of a given race are unlikely to discriminate against members of the same race. This finding suggests that it is important to note, not only the race of the defendant, but also the race of the attorney as well (King, Johnson, and Mcgeever 2010).

### Joint Characteristics and the Effects on Sentencing

When the joint effects of race, age, and sex are combined and analyzed together, the disparities in sentencing and incarceration appear to strengthen and differentiate. Doerner and Demuth (2010) find that, when paired with race, being young, Hispanic, and male predicts the greatest probability of incarceration while being young, black, and male predicts the longest and most harsh sentences. Being white, female, and 50 plus years predicts the most lenient treatment. Additionally, Howell and Hutto (2012) find that white, juvenile felons convicted in adult court are more likely than black and Hispanic juvenile felons to be sentenced to probation and restitution. However, black and Hispanic, juvenile offenders are more likely to receive jail compared to white, juvenile offenders (Howell and Hutto 2012). Thus, taken together, being young, Hispanic or black man makes one more likely to be sentenced more harshly, including incarceration. Being young and white predicts, when sentenced, more lenient sentences including probation and restitution.

### **Examining Sentencing in the Blue Earth County Court System**

The purpose of this study is to determine if discrepancies exist in sentencing decisions and/or incarceration decisions in the Blue Earth County Court System in Mankato, Minnesota. While all of the examined studies have utilized quantitative data gathered from various public records, none include qualitative data gathered within the courtroom as cases proceed through the legal system. The current study utilizes both qualitative and quantitative

research to explore how court context; atmosphere and environment; court officials' demeanor and demographic characteristics; and defendant race, age, gender, charges, representation, and record relate to sentencing and/or incarceration decisions. Sentencing decisions include decisions about time type, time amount, probation, bail, plea, fees, and payment timeline. Additionally, the research will serve to document the various events of the case, conversations had, and any other observations.

According to the 2013 U.S. census, Blue Earth County is comprised of 65,523 residential, U.S. citizens. White-identifying citizens comprise 89.9% of the population, 3.2% of the population identify as Black or African American, 0.4% identify as American Indian or Alaska Native, 2.4% as Asian alone, and 1.5% identify as two or more races (U.S. Census Bureau 2014). Results are expected to mirror previous findings. It is expected that younger defendants will be sentenced most harshly and incarcerated the most. Additionally, it is expected that females will be punished with less severity and will display the lowest rates of incarceration. Due to the lack of racial diversity in Blue Earth County, it is expected that little racial disparity will be found in sentencing, penalty, and/or incarceration decisions. However, due to the low levels of racial diversity in the Mankato area and the predominance of white attorneys and judges, greater levels of racial disparity in sentencing may result. It is in this area, as well as concluding what the most influential variable is when it comes to sentencing and incarceration decisions, that the literature disagrees (Doerner and Demuth 2010; Howell and Hutto 2012; King, Johnson and McGeever 2010; Kutateladze, Andiloro, Johnson and Spohn 2014; Steffensmeier and Demuth 2000; Ulmer and Johnson 2004).

Given the findings that county courts can deviate substantially from each other in decisions (Ulmer and Johnson 2004), it is in the researchers' best interest to evaluate the courts

based on interactions between attorneys and judges, plaintiffs and prosecutors, as well as the demeanor of all those involved to allow the data to speak for itself. Furthermore this research will create a relationship with and understanding of the court system, rather than simply viewing figures from a distance. As such we can directly affect our own court system positively by means of simple, unbiased observation.

## **Methods**

Using a grounded theory method, a team of three student researchers in the Minnesota State University, Mankato Applied Sociology course, in conjunction with the ACLU Mankato, Minnesota location, collected data on criminal court proceedings in the Blue Earth County Court System for a period of seven weeks. After seven weeks, the student researchers had compiled a sample of 95 observed court sessions, 50 of them being closed court cases. Researchers recorded trial observations and demographic characteristics of, primarily, defendants, as well as attorneys, witnesses, bailiffs, judges, and anyone else present in the courtroom during the trial. Observations were discussed and analyzed in weekly research meetings attended by all three researchers and an ACLU representative to talk about processes, data, patterns, troubleshoot issues, and just for general updating. Throughout the process, a total of three different tools were utilized including: a previously used Court Monitoring worksheet for data recording, field notes, and descriptive qualitative data analysis.

The court monitoring worksheets, provided by the ACLU for initial data collection, allowed students to uniformly record the date, time, court session, location, defendant name, judge name, defendant race, age, gender, crime types(s) (charges and level), offender status (repeat or first time), plea, conditions, time type, time amount, probation, fees, and payment (when due). Researchers utilized the website for the Minnesota Judicial Branch,

([www.mncourts.gov](http://www.mncourts.gov)) to fill in as much data as possible prior to the trial in order to facilitate more efficient and thorough data collection. Such information included date, time, location, defendant name, presiding judge, defendant age, crime types(s), and/or plea and/or fees. Remaining information along with observations and notes about trial occurrences were completed during observation.

After each court session, researchers immediately recorded field notes regarding their court session and entered them into a separate document. Researchers were free to discuss anything they felt was noteworthy including personal feelings or reactions; judge disposition during the trial(s); reactions from others in the courtroom; conversations with bailiffs, attorneys, or others; and other observations and thoughts regarding the session.

Also following each court session, researchers entered all data and observations from the trial into an Excel document containing the court monitoring worksheets. Any missed information lost in the fast paced proceedings of the court session were recovered through referencing the Minnesota Judicial Branch website with updated records. Unfinished cases continued to be updated and followed up on through the 7 week observation period.

During weekly research meetings, researchers and the ACLU representative studied that data, allowing it to lead them in identifying patterns and possible areas of disparity in accordance with grounded theory. Researchers continued to collect all data on the court monitoring worksheets while attending court in the interest of longitudinal data collection, but narrowed the teams individual focus areas to defendant age, sex, race, crime types(s), offender status, plea, and conditions. A database to track these factors was compiled for all completely closed cases. Cases were divided according to crime type, with a database created for each crime type. Cases within each crime type were compared and examined for systematic trends or



disparities, especially focusing on defendant's race, age, and gender, and sentencing outcomes (plea and conditions). Any crime for which there were not multiple cases among our sample of closed cases was excluded from analysis due to the inability for comparison.

At the completion of seven weeks, researchers constructed a master data base that included information on every observed case including defendant's race and sex, as well as if the defendant was charged with any of the frequently occurring crimes, including drug-related charges, DWI charges, assault charges, domestic assault charges, theft charges, or other charges grouped into the "other" category. Finally, it was also recorded whether the case proceeded through sentencing or not.

Statistical software was then utilized to determine rates of occurrence of each of the examined variables and if any significant relationship(s) existed between race and/or sex and the types of charges and/or rates of sentencing. In this way, limited legal knowledge was needed outside of familiarity with the general terms and processions of court, but rather analysis occurred via comparison of who was being treated more leniently or harshly, and what characteristics or circumstances appeared to affect such.

Researchers examined the total distribution of sex and observed race within the sample of 95 observed court cases, as well as the total rates of major crime charges including: drug-related charges, DWI and related charges, assault, domestic assault, and theft charges. Rates of charges not deemed major charges and charges that are not as prevalent in the study are also determined; these are categorized as "other charges." Additionally, the total number of cases that proceeded to sentencing during the study are determined and the frequency calculated.

Prior to calculation, each case was coded for sex and observed race. For defendants who failed to appear in court, but continued to be tried, race was recorded as unknown. Due to the

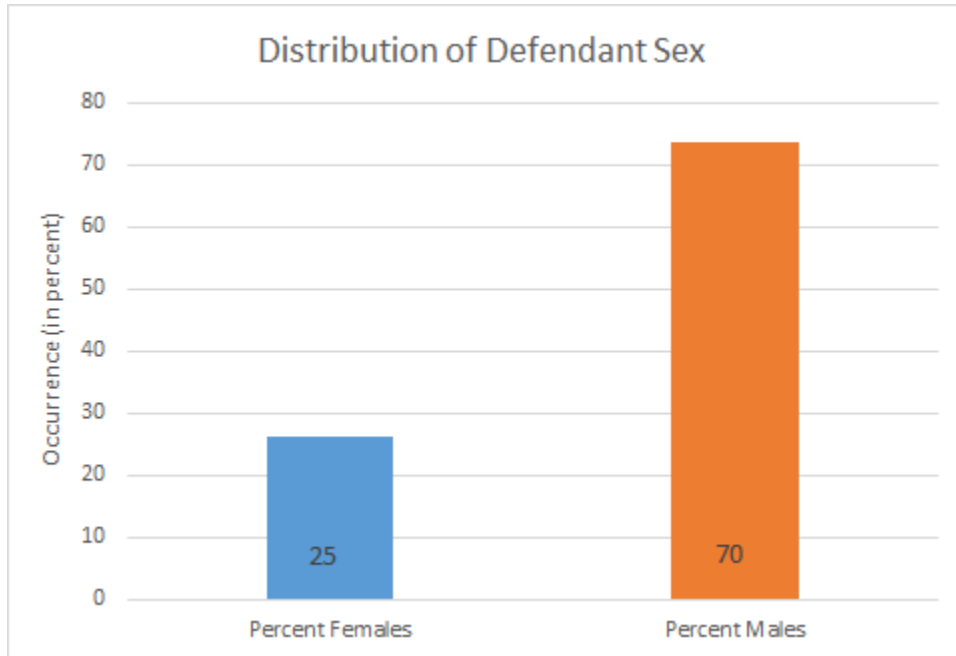
limited number of African American, Asian, and Latino/Hispanic populations in Blue Earth County, Minnesota and for ease of data analysis, these populations were combined into one category (“minorities”). The rates of occurrence for each of the major charges (drug-related, DWI, assault, domestic assault, and theft), as well as charges that fall into the category of “other charges” was recorded; some defendants were charged with more than one offense. Finally, researchers recorded whether defendants were sentenced during observation.

Cross tabs and chi-square tests of correlation were then calculated comparing the distribution of sex along each of the major crimes defined above, other charges, and sentencing rates, as well as the distribution of race across each of the major crimes, other crimes, and sentencing rates.

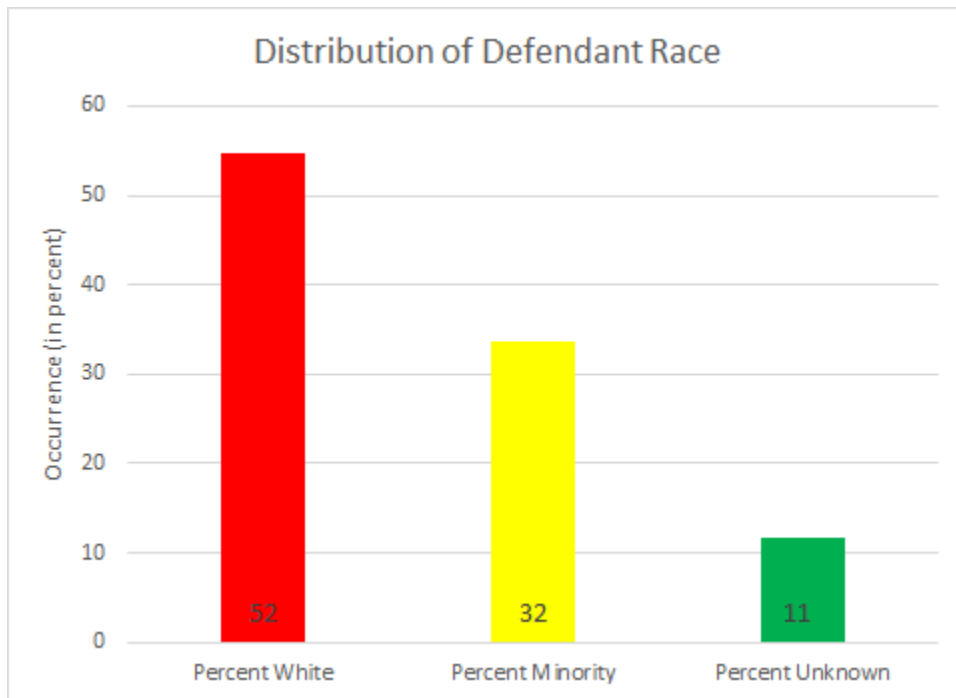
## **Results**

Within the sample of 95 observed court cases, 26.3% of the defendants were female while 73.7% were identified as male (see Graph 1). Regarding race a total of 54.7% of defendants were identified to be white and 33.7% were identified to belong to the minority category. A total of 11.6% of defendants were defined as an unknown race (see Graph 2). Census data shows 89.9% of Blue Earth County is white with only 10.1% belonging to a minority category (U.S. Census Bureau 2014). This finding is statistically significant and identifies that minority populations are significantly higher among the population being tried in Blue Earth County Courts than there are in Blue Earth County. This shows that minorities are being arrested and tried for crimes at a higher rate than the white population.

**Graph 1**

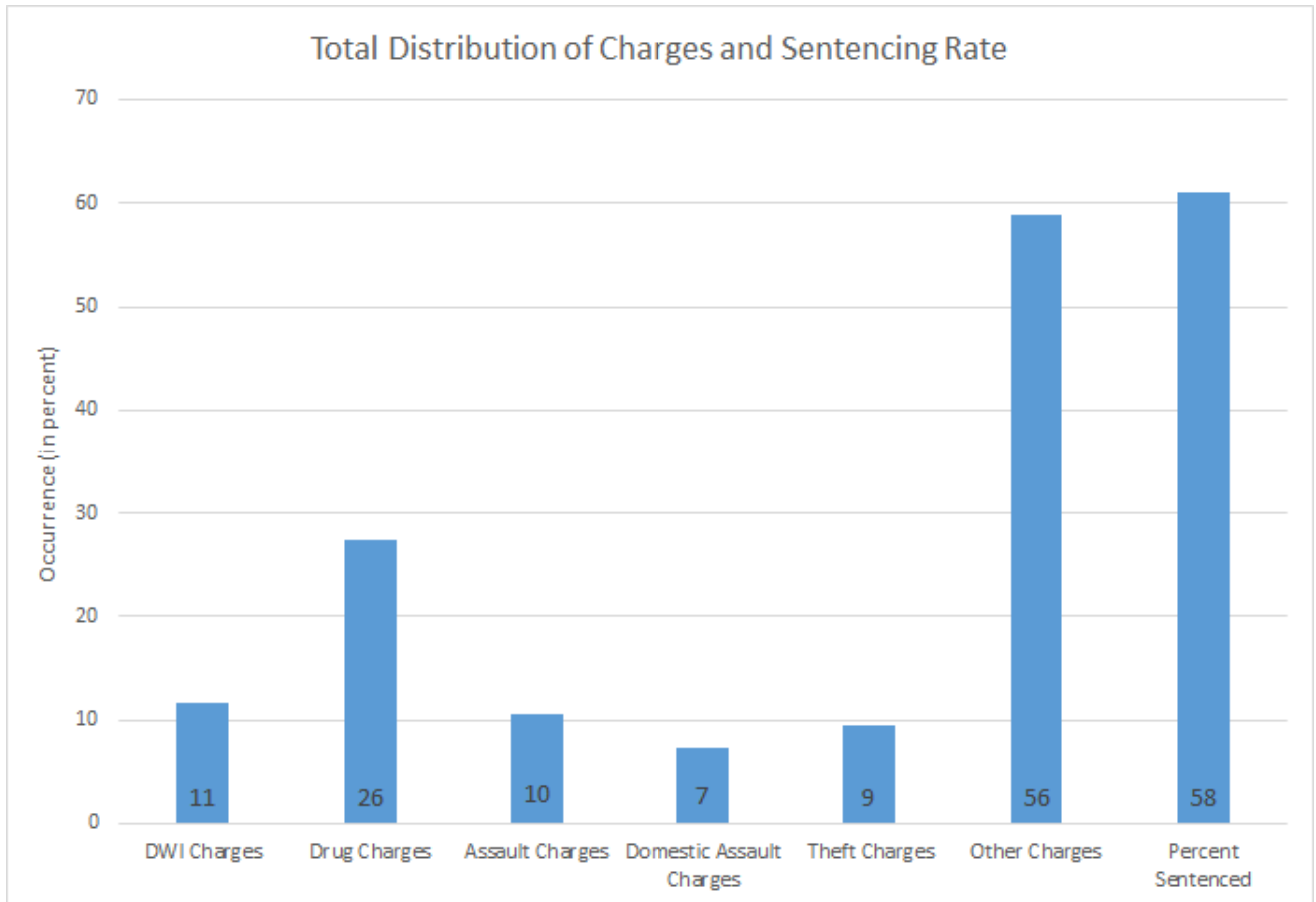


**Graph 2**



When examining major crimes, 11.6% of defendants had at least one charge for DWI. Defendants charged with at least one drug-related crime were over double that of defendants charged with a DWI charge, or 27.4%. Defendants with at least one assault charge comprised 10.5%, while domestic assault was calculated to be charged in 7.4% of the sample of defendants. At least one theft charge was present in 9.5% of the total observed sample. A total of 61.1% of defendants were sentenced, while 38.9% are still awaiting final sentencing. Considering other charges, 58.9% of defendants were charged for other crimes aside from or in addition to the major crimes while 41.1% were not charged with other crimes (see Graph 3).

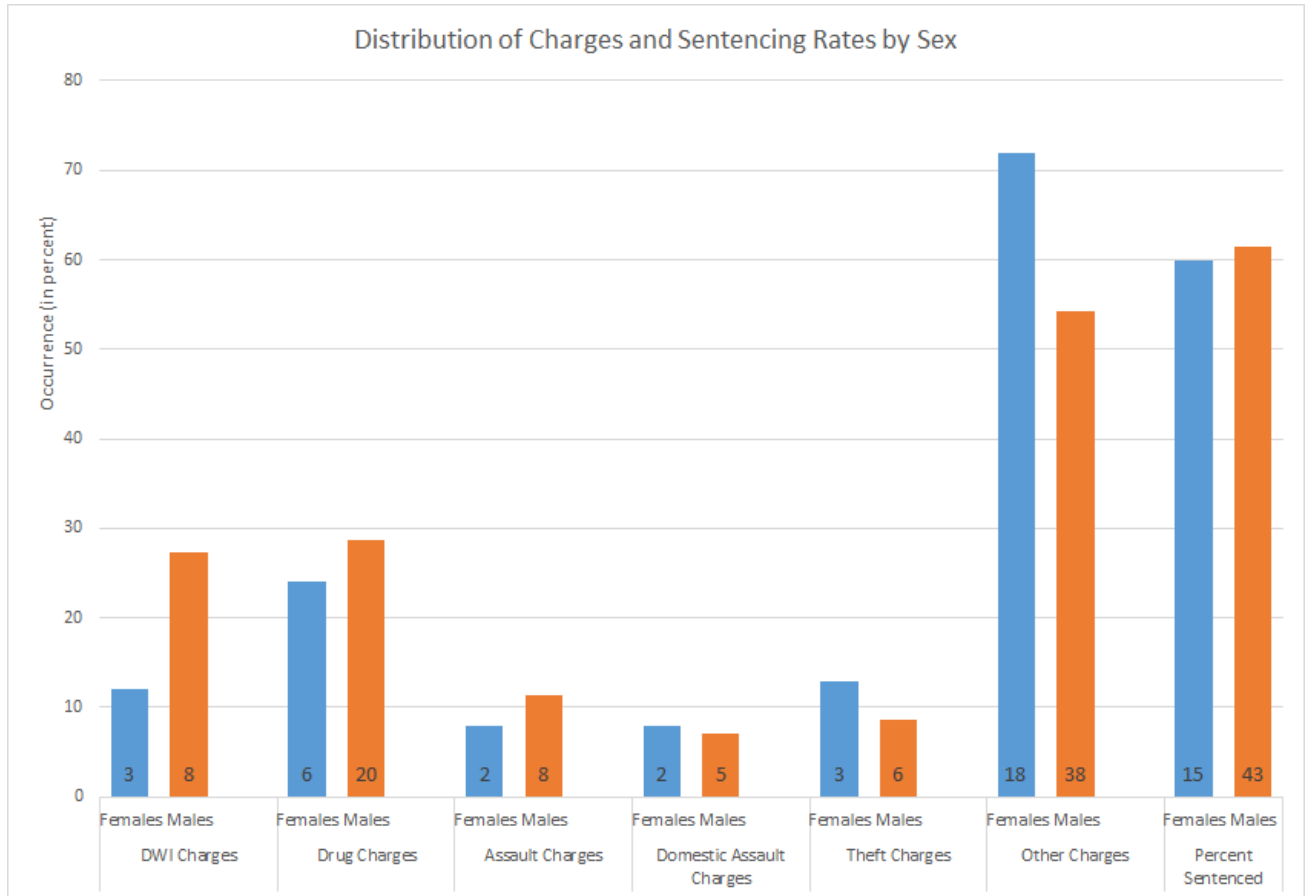
**Graph 3**



### The Distribution of Sex Within Major Crimes

Examining the distribution of sex across each of the major crimes, other crimes, and sentencing rates, 24.0% of females and 28.6% of males were charged with at least one drug-related crime. Within DWI charges, 12.0% of females had at least one DWI charge and 27.3% of males had at least one DWI charge. For assault charges, 8.0% of the sample of female defendants displayed at least one assault charge while 11.4% of the sample of males displayed at least one assault charge. Of females, 8.0% of the sample was charged with at least one domestic assault charge compared to 7.1% of males. More females in the sample were charged with at least one theft charge, 12.9%, with an 8.6% rate of occurrence for males. Within the sample of females, 72.0% were charged with other crimes aside from or in addition to the major crimes while 54.3% of males were charged with other crimes. Finally, examining the subsample of those who were sentenced, sentencing rates within sex, 60.0% of females and 61.4% of males were sentenced during the study (See Graph 4). Given our sample only contained a total of 25 females, comparing the percent occurrences for each crime by gender is not conclusive and no statistically significant relationship(s) were identified. However, the data appears to suggest little to no gender discrepancy in the type of crime charged for females versus males nor the rate of sentencing. That is, at this time, defendant sex does not appear to affect charge nor sentencing decisions. However, discrepancy does appear to exist regarding the proportion of male defendants versus females defendants, with more males being observed within the court system. This suggests men are more likely to be arrested and at higher rates than the general Mankato population would suggest.

**Graph 4**



The Distribution of Race Within Major Crimes

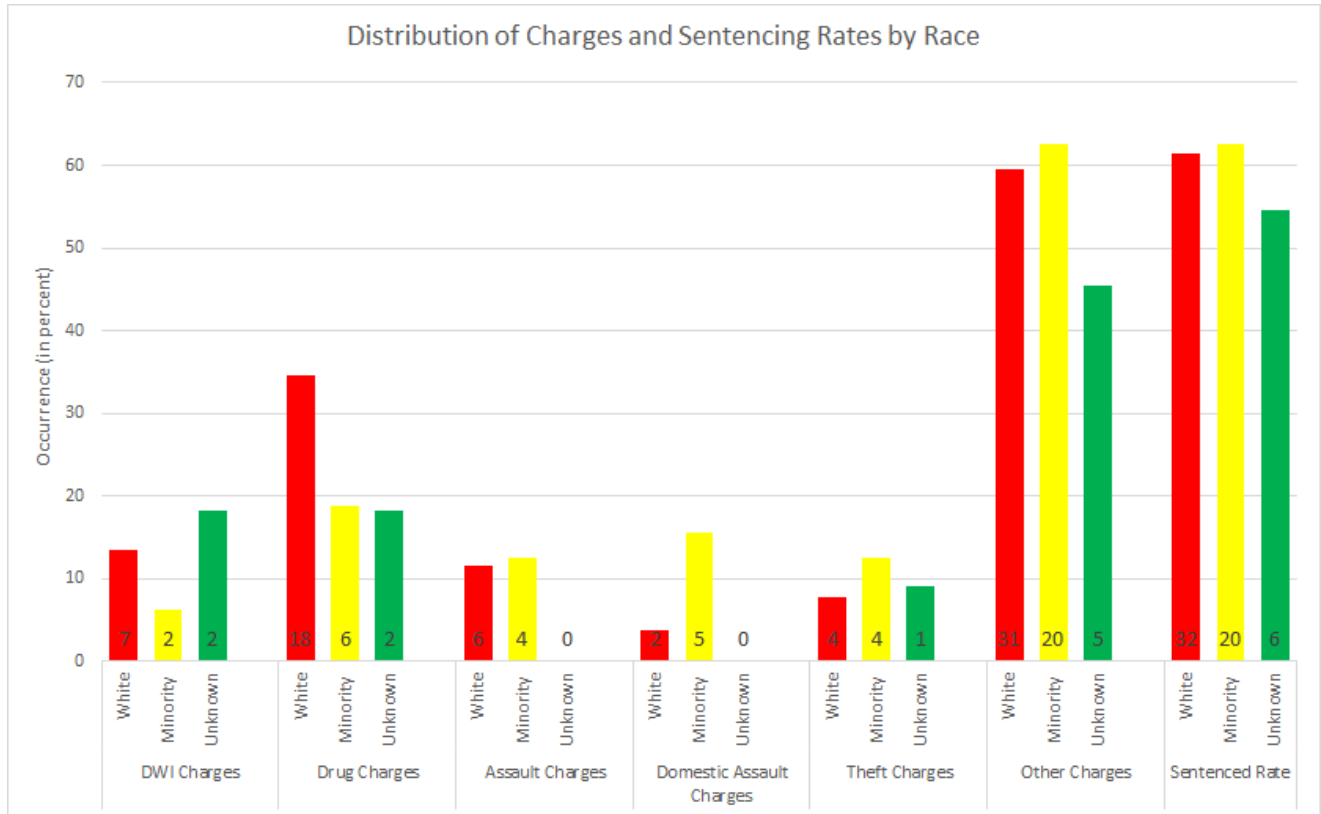
Turning to the distribution of race within major crimes, other crimes, and sentencing rates, of the total observed sample, 34.6% of white defendants, 18.8% of minority defendants, and 18.2% of defendants for whom race was unknown were charged with at least one drug-related crime. At least one DWI charge occurred in 13.5% of white defendants, 6.3% of minority defendants, and 18.2% of defendants with an unknown race. A least one assault charge occurred in 11.5% of the sample population of white defendants and 12.5% of the sample population of minority defendants. No defendants for whom the race was unknown were charged with assault. At least one domestic assault charge occurred in 3.8% of white defendants

and 15.6% of minority defendants. Again, no domestic assault charges were present in the sample of defendants with an unknown race. Theft charges occurred in, 7.7% of the sample population of white defendants, 12.5% of sample population of minority, and 9.1% of defendants of unknown race.

Within the sample population of white defendants, 61.5% were sentenced. Within minority defendants, 62.5% were sentenced. Out of all unknown defendants 61.1% were sentenced. For defendants identified as white, 59.6% were charged with other charges, while 62.5% of minority defendants and 45.5% of defendants with an unknown race possessed other charges (see Graph 5).

These statistics show that minority populations are being arrested and tried for crimes at a much higher rate compared to the white population. Discrepancies in the racial distribution within the court system are shown to be crime specific (See Graph 5). More minority members are sentenced for both domestic assault, as well as assault and theft, than defendants identified as white. Sentencing rates and the distribution of race within the other major charges does not render concern. However, it should be noted that, due to a small sample size, these findings of specific crimes are not shown to be statistically significant. As such, future research will need to address these issues. By creating a substantial sample size, researchers will be able to infer if this trend is salient or simply a result of the sample gathered.

**Graph 5**



**Discussion and Conclusion**

The purpose of this study is to describe current patterns, observations, and descriptions that serve to direct the next individual or team of researchers as they expand this longitudinal study of the effect of demographic characteristics and other variables on sentencing and treatment decisions in the Blue Earth County Court System. This study finds particular interest in the total distribution of sex and observed race within sentencing rates and major crime charges including: drug-related charges, DWI and related charges, assault, domestic assault, and theft charges as well as non-major crimes defined as other charges.

While discrepancies regarding the distribution of sex among each of the major crimes and sentencing rate are not present, discrepancies can be observed between the proportion of



defendant sex and the actual distribution of sex in Blue Earth County. Within the sample, 26.3% of the defendants were identified as female while 73.7% were identified as male (see Graph 1). However, this percent population deviates substantially from the actual population of the U.S., which is comprised of 49.7% females and 50.3% males (U.S. Census Bureau 2014). However, this pattern is consistent with the majority of the nation, where males were arrested nearly three times more often than females (Federal Bureau of Investigation 2014).

Further discrepancies are observed when the racial proportion of the sample is compared to the population of Blue Earth County. White defendants comprise 54.7% of the sample population and 33.7% fall into the minority category (see Graph 2). Those who failed to appear are identified as an unknown race, totaling 11.6%. Census data shows 89.9% of Blue Earth County is white with only 10.1% belong to a minority category. This finding is statistically significant and suggests that minority populations are being arrested and tried for crimes at a much higher rate compared to the white population.

Discrepancies in the racial distribution within the court system are also crime specific. A greater proportion of minority persons are being charged for both domestic assault, as well as assault, compared to white-identified defendant. However, it should be noted that these findings are not shown to be statistically significant.

Considering race and sentencing rates, the data shows that minority members are being sentenced at a similar rate compared to white defendants. In all cases observed, judges of the Blue Earth County Court System appeared non-biased in sentencing. Qualitative findings conclude that the court follows a strict social script to which judges, prosecutors, bailiffs, defendants, attorneys, and all other parties and individuals involved adhere to. Each court session was observed to proceed in a very routine, exact, and consistent manner. Even during

times when researchers' anticipated harsher treatment based on age, race, criminal history, and/or court contact, sentencing was observed to be fair and similar to most other observed cases and outcomes.

For example, on September 30<sup>th</sup>, a black male was on trial for two misdemeanors for careless driving and failure to provide insurance, as well as two petty misdemeanors for duty to drive with due care and speeding. Two witnesses claimed the defendant was drunk and driving erratically as well as possessing a firearm in case he "ran into trouble." The researcher anticipated a harsher sentence. However, as reported within court, once police arrived on the scene they only witnessed the defendant speeding ten miles per hour over the speed limit. The individual was also found to be sober after a field sobriety test was administered. The defendant's car was then searched due to the report by the witnesses claiming the defendant had said he had a gun in his trunk. Upon further investigation by law enforcement officers, no firearm or weapons were found in the vehicle or on the person. While pulled over, the defendant then provided proof of insurance via smartphone. Due to confusion of the law by officers on what constitutes proof of insurance, this charge was dropped. Other charges were also dropped due to futile evidence including careless driving, as well as duty to drive with due care. The defendant was found guilty of speeding and given a fifty dollar fine. This example displays the script judges and the court follow when making clear, non-biased sentencing decisions.

Also contributing to the ability for the Blue Earth County Court System to make unbiased decisions is Minnesota's sentencing guideline commission currently in place. The purpose of this commission and the guidelines put in place is "...to ensure that sentencing decisions are not influenced by race, gender, or the exercise of constitutional rights by the defendant."(Minnesota Sentencing Guidelines Commission 2013). These guidelines in place, though they allow judges

to deviate as appropriate, appear serve their purpose effectively. Further research in other counties may provide evidence that counters this claim, but for all purposes Blue Earth County appears to have an effective court system that is non-biased in its sentencing process.

The implications of these finding provide a clear picture of how the Blue Earth County Court System works. The evidence provided suggests fairness throughout the court processes, and sentencing decisions. A higher amount of minority members are being brought to trial, but the outcomes of their sentencing presents little to no disparity across all levels of charges. As such, this court currently stands as a great example of an ideal system that works well and is both effective and fair.

Numerous limitations exist in this qualitative and quantitative study of race, gender, and sentencing in the Blue Earth County Court System. The largest limitation is the small sample size of 95 defendants. Restrictions on researchers' time and availability, as well as the slow pace at which court cases proceed, contributed largely to this limitation. Due to this small sample, strong conclusions based on the data cannot be made. Rather, patterns are identified that serve to shape future data collection and analysis. Given the small sample size, Middle Eastern, black, Hispanic, and Latino defendants had to be grouped into a single minority category, thereby hindering the depth and detail of the data on race.

Time and schedule constraints also affected when data was collected. A great amount of the data collection occurred in the morning and early afternoon while data from later in the day is lacking. Again, this limitation is largely due to the student researchers' schedules and conflicts with classes and work. Scheduling issues within the court system also limited data collection. Many defendants, 11.6% of our sample size, did not show up for court. Thus, for

11.6% of the sample, races are unknown. This limits the ability to make sound conclusions regarding race and punishment, further decreasing an already small sample size.

The process by which court cases proceed also presents a limitation in data collection. Researchers were not able to track and follow one defendant as they progressed from initial appearance to sentencing. Researchers typically could witness just one of the defendant's court cases, so much of the information regarding the case remains unknown. Often times, the charge was known, but not the specific details of the crimes that were committed. Unless it was said in court, the researcher could not determine whether defendants were repeat or first time offenders, nor were researchers able to access information on the defendant's record, income, and other information the judge may take into consideration while giving a sentence.

Additionally, utilizing grounded theory as a method for data collection presents limitations in and of itself. Initially, researchers, possessing little legal knowledge, were unsure of what data was important to collect. Over time, better understanding of what information needed to be collected emerged as researchers compared notes and discussed leads for patterns or potential areas of discrepancy/unequal treatment. Initial data collection, thus, was limited and incomplete. As the tools and methods were refined, data collection became a more unified, consistent, and thorough process within the team. Given these limitations, numerous recommendations can be made for the next team or individual researcher(s).

### **Suggestions for Future Research**

First, it is recommended that the next researcher or team of researchers review the data compiled in this study and determine the direction and focus of the research either before initially attending court or very early on in data collection. A clear research direction will make the data collection more consistent. Future researchers should also look more into the

relationships inside the courtroom. Relationships between court judges and attorneys, prosecutors and public defenders, bailiffs and attorneys, public defenders and defendants, and all involved in the court processes may all play a part in the sentence given. Finding out more information about the defendant, if possible, would also help to understand why some individuals receive more harsh or less harsh punishments compared to other defendants charged with the similar crime. Following a defendant through more than just one of their court cases is also suggested to help supply more information about the case and provide a better understanding of the sentence given. Finally, efforts should be made for future researchers to have more of a basic knowledge about the court system. This would help in identifying what is important to document, and provide a better understanding of the terms and processes of the court and legal system.

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# Appendix A: Court Monitoring Data Sheet Sample

## Court Monitoring

Date: _____ Time: _____ Session: _____						
County Court: _____						
Name: _____			Courtroom: _____			
Judge: _____						
Gender	Race/Age	Representation	Crime Type	Bail	Offend. Status	Plea
Time Type	Time Amount	Probation	Fines	Payment		
Conditions						
Notes						



## Appendix B: Annotated Bibliographies

Doerner, Jill K. and Stephen Demuth. 2010. "The Independent and Joint Effects of Race/Ethnicity, Gender, and Age on Sentencing Outcomes in U.S. Federal Courts." *Justice Quarterly* 27(1): 1-27.

Jill Doerner is an Assistant Professor of sociology at the University of Rhode Island and focuses on sentencing processes, the effects of extralegal factors on sentencing, and prisoner safety and retention of outside relationships among the aging prison population. Stephen Demuth is an Associate Professor of Sociology at Bowling Green State University. His research also focuses on extralegal effects on sentencing, citizenship, delinquency, and decision-making.

In this study, the extralegal factors of race/ethnicity, gender, and age were examined at the independent and interactional levels to determine their effects on sentencing decisions by U.S. federal courts. Numerous studies have found that race/ethnicity disparities exist in the prison population. However, fewer studies have examined the effects of gender and age on sentencing decisions. Using focal concerns perspective, which suggests that in the face of lacking information and uncertainty that judges make decisions based on defendant degree of blame, degree of dangerousness, and degree of system constraints, it was expected that the examined extralegal factors will independently effect sentencing, with even larger effects observed through their joint interactions. Results were expected to yield the same results as previous studies including:

H1: Defendants who are young, male, black, or Hispanic will receive harsher sentences than those defendants who are older, female, or white.

H2: Defendants who are young, black or Hispanic, and male will receive sentencing outcomes that are disproportionately severe vis-à-vis other racial/ethnic-gender-age subgroups.

Data compiled by the United States Sentencing Commission (USSC) from the 2001 Monitoring of Federal Criminal Sentences report was utilized to determine the effects of

race/ethnicity, age, and gender on sentencing. This data included the most detailed information on federal sentencing specifics between October 1, 2000 and September 30, 2001. Several groups were excluded from this study due to its focus including noncitizens, juvenile defendants, and those who listed their race/ethnicity as 'other.' Similarly to the prior discussed study, dependent variables were coded for and included the decision to incarcerate or not, as well as sentence length, coded as the number of sentenced months. For independent factors, race/ethnicity (white, black, or Hispanic), age, and gender were considered. Additionally, legal factors were examined and coded for. These included a measure of criminal history, given a score between 1 and 6, as well as the departure status, or the sentencing in relation to the federal guidelines. Three codes were used to track guideline departure, including downward departure, or sentencing below the federal guideline; substantial assistance (SA) departures, or sentencing below the federal guideline with added service to the government; or no departure. The final study sample consisted of 33,505 cases.

Descriptive statistics were used to compare each extralegal variable and the joint effects of variables to the reference group(s)- white, males, and 18-20 year-olds, and no departure from the federal sentencing guidelines. Results show striking differences and affirm the findings of past studies, focal concerns perspective, as well as the proposed expected findings. The strongest predictor of harsher sentencing decisions was the presence of a history of criminality. However, outside of legal variables, results also show that all three examined extralegal factors have significant independent and joint effects on sentencing decisions. Specifically, results show that Hispanic and black defendants were sentenced more harshly than whites, and younger defendants receive harsher sentences than older defendants. Differences were found to be greater in males than female defendants, where

differentiation in sentencing was little with the exception of being a young, Hispanic woman, with significantly lower rates of incarceration and shorter sentences for females. Young, Hispanic male defendants were found to be most likely to be incarcerated, and being male, black, and young predicted the longest sentences.

The authors conclude that extralegal factors are influential on sentencing decisions and the current guidelines appear to disadvantage certain populations, especially young, Hispanic males. They suggest the following recommendations for future studies: examining pretrial releases and parole/violation decisions; including measures for socioeconomic status, educational level, and citizenship status; comparing citizen and noncitizen sentencing decisions; and involving qualitative methods.

Howell, Rebecca J., Tonya Spicer Hutto. 2012. "Sentencing Convicted Juvenile Felony Offenders in the Adult Court: The Direct Effects of Race." *Behavioral Sciences and the Law* 30(1): 782-799.

Dr. Rebecca Howell is nationally recognized for her research in juvenile justice. She is also an assistant professor at Charleston Southern University. Her degrees include a BS in criminal justice with a MA in applied sociology in criminal justice. She received her PHD in criminology from Indiana University in Pennsylvania. Tonya Spicer Hutto is a community corrections officer in the Mobile, Alabama area.

This article examines the effects of race on juvenile offenders being tried as adults. Juveniles are seen as less culpable for their actions, as well as impressionable, as such the juvenile system was designed for rehabilitation as opposed to punishment. Between the late 1980's into the 1990's cases of juveniles tried as adults has increased by as much as 80%. Howell and Hutto (2012) observed evidence from research suggesting that Black and Hispanic juveniles tried as adults were given harsher punishments compared to White offenders. Even after accounting for extralegal factors, such as prior criminal history, failure to appear, guilty plea and physical evidence. Black youths were almost twice as likely to be tried as adults compared to their White counterparts (Bishop & Frazier 1988). With only three studies prior investigating this phenomenon, the authors attempt to replicate these results.

In a cross-sectional study Howell et al. (2012) tested for three different phenomenon in sentencing. The first being probation versus restitution or jail, restitution versus probation or jail, and jail versus probation or restitution. This process allows the authors to examine "race differences, both within, and between sentencing outcomes" (Howell et al. 2012:786). The second phenomenon listed was to combat case overlap. As such the authors, when examining race, only tested for similar sentencing. If an individual was charged with multiple crimes that

individual was not compared to another individual who was charged with only one crime. The third was trial type, something previous studies did not examine. As the evidence suggests individuals who plead guilty and avoid trial receive far less severe sentencing.

The author's question that guided their research was as follows, "What relative impact does race have on the likelihood that juvenile felony offenders convicted in the adult system are sentenced to probation, restitution, or jail?"(Howell et al. 2012:786). These authors then added their three hypotheses, the first being minority (Black and Hispanic) juvenile offenders convicted in the adult court are less apt to be sentenced to probation and restitution and are more likely to be sentenced to jail than their White counterparts. Next juvenile defendants convicted by a judge or jury are more apt to be sentenced to jail than those who plead guilty and do not go to trial. And finally juvenile felony offenders who are transferred to the adult court via legislation or a prosecutor are more likely to be sentenced to probation and restitution than youth who are waived to the adult court by a judge.

These hypotheses were tested with data retrieved from the Juvenile Defendants in Criminal Courts (JDCC) from 1998. The JDCC is a national, publicly available data-set. The number of juveniles used as a sample of 1,858 cases, once all filters were applied. That is White, Black and Hispanic felony juvenile offenders who were sentenced to only one of the following: jail, restitution, or probation. Nine legal variables were also used in their research. These nine variables are as follows: offense type, prior record, pretrial release, attorney type, waiver method and trial type. Two variables were also considered during their research with respect to the offense type; that is drug felony and nonviolent felony. Age as well as gender were also controlled as extra-legal variables.

Looking at cross sectional data Howell et al. (2012) found that, White juvenile felony offenders convicted in the adult court are more apt than Blacks and Hispanics to be sentenced to probation and restitution, while Black and Hispanic offenders are more likely to receive jail compared to White offenders. Juvenile felony defendants convicted by a jury or judge were no more likely to be sentenced to jail than those juveniles pleading guilty and avoiding trial. Juvenile felony offenders transferred to the adult court via legislation or a prosecutor are more likely to be sentenced to probation and restitution than youth who are waived to the adult court by a judge.

Additional findings concerning race were also uncovered. The first being that, even after controlling legal and extra-legal factors, Black offenders were far less likely to receive probation compared to Whites. When comparing Whites and Latinos, in the same vein, the authors found no differences. Next the authors found no link between race and being sentenced to restitution. Restitution was found to be the most rendered sentence in both juvenile and criminal court. Finally the authors found that race significantly impacted the sentence in regards to jail time.

Concluding this study of juvenile offenders tried as adults, individuals who are a minority are more likely to face jail time compared to their non-minority counterparts. Furthermore individuals convicted by a judge or jury were not likely to be sentenced to jail compared to individuals who plead guilty. Lastly the courts were more likely to sentence less harshly when transferred to adult court by legislation or a prosecutor as compared to those who are waived by a judge.

King, Ryan D., Kecia R. Johnson, Kelly McGeever. 2010. "Demography of the Legal Profession and Racial Disparities in Sentencing." *Law and Society Review* 44(1): 1-32.

The authors of this article studied the demography of the legal profession as it pertains to the sentencing of convicted defendants. Due to the inconsistencies in the studies of sentencing in racial disparities King, Johnson, and McGeever (2010) investigated how the racial composition of the local legal profession affects sentencing.

King et al. (2010) used data from the State Court Processing Statistics Survey of Felony Defendants in large urban counties between the years 1990-2002. This biannual survey includes data pertaining to sentencing as well as defendant information including sex, age, and race. For data pertaining to demography of the legal profession the authors looked at census information as well as the data from the Interuniversity Consortium for Political and Social Research from 1990-2000.

The authors explain their rationale for looking at the local legal profession as follows. First, because of the special interaction between attorneys and judges in negotiating pleas, we see that attorneys play a significant role in the court process. The second rationale being that, due to indirect mechanisms, attorneys are likely to play the biggest role in influencing the legal culture pertaining to their area.

The research question guiding this study asks, "How does the demography of the legal profession influence an important practice within a powerful legal institution?" (King et al. 2010:26). Dependent variables studied were the decision to incarcerate as well as sentence length. For the independent variable King et al. (2010) examined two focal predictor variables. That is the race of the defendant as well as the racial composition of the local legal profession.

The results of this study provided little support to the hypothesis that non-whites defendants are punished more harshly than whites in counties where whites are the majority in both the legal profession as well as the general public. The authors did find some evidence of racial sentencing disparity, pending on the counties variation of demographics in the legal area. The authors found that the more racial disparity in the legal area of that county the less racial disparity in sentencing occurred. That is the greater the minority population, in the legal profession, the less minority members will experience maltreatment in court processes. As such the authors concluded that the more diverse a court system is, the less racial disparity there is in sentencing and incarceration decisions. This findings suggests that members of a given race are unlikely to discriminate against member of the same race.

With Mankato having large racial disparity, and possibly even more so in the legal profession, it is important to note this study while examining court cases. With evidence concluding that high disparity equals high amounts of harsher sentencing for minority members it is important to monitor this phenomenon while attending court sessions. Furthermore it may be important to note not only the race of the defendant, but also the race of the attorney as well. The authors find credibility in the claim that more persons of color making decisions in the justice system can minimize racial disparities in criminal courts (King et al. 2010:26).



Kutateladze, Besiki L., Nancy R. Andiloro, Brian D. Johnson, Cassia C. Spohn. 2014. "Cumulative Disadvantage: Examining Racial and Ethnic Disparity in Prosecution and Sentencing." *Criminology* 52(3): 514-551.

Kutateladze, Andiloro, Johnson and Spohn (2014) studied the racial and ethnic disparity from multiple discretionary points of prosecution and sentencing. This study lends itself to review the whole legal process, rather than just sentencing. By reviewing 185,275 diverse cases from the New York County District Attorney's Office (DANY) system Kutateladze et al. (2014) found that Blacks and Latinos, a minority in New York County, were more likely to be detained, to receive a custodial plea offer, and be incarcerated. Examining Asian ethnicities the authors found them the least likely to be detained, to receive custodial offers and to be incarcerated. As such Kutateladze et al. (2014) studied the whole legal process, rather than just a snapshot of this long dynamic process.

The authors had two hypothesis. The first being that Black and Latino defendants will be more likely than similarly situated White defendants to experience outcome-specific disadvantages at individual stages of criminal case processing. The second hypothesis examined if Black and Latino defendants will be more likely than similarly situated White defendants to experience cumulative disadvantages across combinations of more punitive criminal case-processing outcomes (Kutateladze et al. 2014:520).

By collecting data over a 20 month period from the New York County District Attorney office (DANY) the authors were able to review more than 150,000 cases of both felony and misdemeanor offenders between 2010 and 2011. Looking at the whole legal process the authors began with the court's decision to file charges and ended with sentencing. The first of the dependent variables is case acceptance, the second being pretrial detention (whether released on bail/own recognizance or detaining offenders), the third is case dismissal, while the fourth is plea

offer and finally incarceration sentence. By using these five dependent variable Kutateladze et al. (2014) were able to focus their attention on a continuous dynamic process. Independent variable of interest were race or ethnicity. Specifically White, Black, Latino, Asian as well as 'other'.

Findings of this data showed that Blacks and Latinos are more harshly treated compared to whites. However, it should be noted that Black and Latinos are more likely to have their case dismissed. The authors found 'conditional support' for their first hypothesis and found some evidence for cumulative disadvantages in their second hypothesis.

The strength of this study lies in the fact that the authors decided to look at the whole legal process, rather than just sentencing. This study revealed that minority members are more harshly treated, but those same minority members are also more likely to have case dismissals. This finding is important because previous studies failed to recognize this phenomenon. As such this application should be noted while observing court cases. Rather than having a primary focus on race and sentencing, it may be important to note case dismissals as well as other legal processes occurring before the final sentence is reached.

Steffensmeier, Darrell and Stephen Demuth. 2000. "Ethnicity and Sentencing outcomes in U.S. Federal Courts: Who is Punished More Harshly?" *American Sociological Review* 65(5): 705-729.

Darrell Steffensmeier is Professor of Sociology and Crime/Law/Justice at The Pennsylvania State University and past president of the Internal Association for the Study of Organized Crime. He focuses on courts and sentencing, individual and structural characteristics of crime, both qualitatively and quantitatively. He is also the co-author of "Ethnicity and Judges' Sentencing Decisions" with Stephen Demuth. Demuth is Assistant Professor of Sociology at Bowling Green State University and researches the effects of race, ethnicity, gender, and age on crime and sentencing. He is also interested in the relations of family structure and delinquency.

This final research study's purpose is to determine if and how white, black, white-Hispanic, and black-Hispanic defendants are differentially sentenced in U.S. federal courts. This study is unique for two reasons. First, the Hispanic population is divided between white-Hispanics, or Hispanics often grouped into the racial category of white based on physical appearance (e.g. Mexicans), and black-Hispanics, or those with darker skin tones (e.g. Puerto Ricans). Second, this research makes a point to examine drug from non-drug offenses, as stereotypes surrounding the Hispanic and/or black populations can play a significant but unconscious role in sentencing decisions.

Similarly to the previous studies examined, focal concerns perspective is applied to explain how the decisions judges make when time and information is lacking could result in unequal sentencing between different races/ethnicities. Additionally, Blalock's (1967) threat hypothesis is used to inform the study. It suggests that when a minority population substantially increases in a relatively short period of time, the dominant group perceives a threat and increases

efforts to retain the status quo. Based on these theories and previous research studies findings, it is expected that Hispanic Americans will experience harsher sentences due to their recent increase in population compared to both white and black defendants, including both in/out incarceration decisions and sentencing length decisions; that due to the recent emergence of the war on drugs and the stereotypes of the populations involved in the illegal drug industry, black and especially Hispanic's will experience harsher sentences; that drug sentences will be more harsh overall, regardless of race/ethnicity; and that in situations of departure, Hispanic's will be granted the least leniency in sentencing. Further, in examining white-Hispanics versus black-Hispanics, it is expected that black-Hispanics will be sentenced to the harshest sentences compared to all other ethnic groups in the study.

Data compiled by the U.S. Sentencing Commission on all 94 federal district courts between the years of 1993 and 1996, after the full implementation of new sentencing guidelines, was used. Analysis was limited to males and U.S. citizens due to the few cases of female offenders appearing in federal court and the lacking information for most noncitizens. Each variable was coded for, and probit regression, ordinary least squares (OLS), and tobit analysis was used. Dependent variables included the decision to incarcerate and the sentence length (in months). Independent variable included offender age, education (in years), prior record score, offense severity score, percentage with multiple convictions, percentage that went to trial, percentage with gun conviction, the four different types of guideline departures in percentages (e.g. none, upward, downward, and substantial assistance. Each of these independent variables were separated into drug and nondrug offenses.

Although findings displayed considerable consistency between sentencing of similar offenses and offense severity regardless of race/ethnicity, four disparities are noteworthy. First,

race/ethnicity did appear to play a role in incarceration and sentencing length decisions, favoring white defendants and convicting black-Hispanic's harsher. Second, the favoring of white defendants was consistent across all variables and whites fare better in departure cases. Third, it was found that departure cases explain the observed increase in Hispanic prison population, as it was found Hispanics are sentenced more harshly across all types of departure cases, compared to both black and white defendants. Finally, when Hispanic drug defendants receive guideline departure, they receive the smallest degree of departure and are thus penalized the harshest compared to white and black drug offenders. Thus, the results of this study support the proposed hypotheses and theories utilized, and mirror the findings of previous studies examining the effect of race/ethnicity on sentencing.

The results of this study are important for all involved in the criminal justice system and interested in equal legal treatment. Suggestions for further research mirror those from other studies and include: examining treatment prior to the trial and upon release, greater control over contextual factors, as well as an investigation into ethnic disparities in SA departures, specifically. In general, it is suggested that future research continue to focus on Hispanics and sentencing.

Ulmer, Jeffrey T. and Brian Johnson. 2004. "Sentencing in Context: A Multilevel Analysis." *Criminology* 42(1): 137-177.

The purpose of this study is to test 12 hypotheses regarding the individual, contextual, and interactional effects on sentencing outcomes. The study conducted by Jeffery T. Ulmer of Penn State University and Brian Johnson of the University of Maryland sought to explore sentencing differentiation between counties, differences in incarceration rates between local and state jails, the effect of organizational efficiency on sentencing and incarceration rates, and determine if differences exist in sentencing outcomes for, specifically, black and Hispanic populations. Conflict theory, which asserts that social institutions are more punitive on marginalized populations; focal concerns theory, which suggests that in the face of lacking information, judges will make sentencing decisions based on defendant's degree of blame, degree of dangerousness, and based on organizational constraints and effects of possible sentences; and racial group threat theory, which suggests a positive correlation between black and/or Hispanic populations and severity of sentencing were used to inform the hypotheses. The hypotheses are as follows:

H1: Sentencing severity will vary significantly between counties.

H2: The effects of key predictors will vary significantly between counties.

H3: County size is negatively related to sentencing severity.

H4: Counties with more conservative political electorates will exhibit more severe sentencing.

H5: Local jail capacity will be a practical constraint that is positively related to incarceration odds.

H6: Offense severity and violent offenses will have a greater effect on incarceration odds in counties with more constrained (lower) local jail capacity.

H7: Prior record will have a greater effect on incarceration odds in counties with more constrained (lower) local jail capacity.

H8: County caseload pressure will be negatively related to sentence severity.

H9: The positive effect of trial conviction on sentence severity will be greater in counties that have heavier caseload pressure.

H10: The positive effect of trial conviction on sentence severity will be greater in counties with lower trial rates.

H11: The county-level concentration of blacks and Hispanics will be positively related to sentencing severity.

H12: Minority concentration and defendant race/ethnicity will interact such that blacks and Hispanics will be sentenced more harshly in contexts with greater concentrations of blacks or Hispanics, respectively.

Sentencing data was gathered at the individual and county level from county criminal trial courts in Pennsylvania. Information between the years of 1997-1999 was gathered via the Pennsylvania Commission on Sentencing (PCS), as well as the U.S. Census, Uniform Crime Reports, and the 1999 County and City Extra. Independent variables were coded for and included offense severity, measured via the Offense Gravity Score (OGS); offense type; prior offender criminal record; the presence of sentencing recommendation guideline; and the presence or absence of required minimum charges. Additionally, race/ethnicity and gender was coded for. Black and Hispanic defendants were coded as 1, as well as females, with all other races/ethnicities and males coded as 0. Dependent variables were also coded for and included the decision to incarcerate and, if incarcerated, the length of charged time in months. Hierarchical linear modeling was utilized to analyze the data.

Results were generally not significant enough to render conclusion. However, some major findings did emerge. First, Ulmer and Johnson found statistically significant variation in sentencing between counties, thus supporting hypothesis 1. Variation was found in all individual level predictors, thus supporting hypothesis 2. Hypothesis 3 was also supported, as it was found

that large courts are less likely to incarcerate and sentenced lesser time than small or medium-sized courts. Supporting hypothesis 4, jail capacity was positively related to incarceration sentencing. Statistical significance was found between the relationship of greater caseloads and decreased rates of incarceration, thus supporting hypothesis 8. Supporting hypothesis 9, heavier caseloads did positively relate to higher penalties. As for race, the higher the local area population of blacks and Hispanics, the longer and more harsh the sentences. This finding supports hypothesis 12.

Conclusions included that court organization, caseload, and area racial and ethnic proportion effect sentencing decisions on an individual level. All other findings are inconclusive. These findings then become important for policy makers, civil rights advocates, sociologists, and the legal community as a whole. They raise questions regarding the right to due process, equal justice in the court system as a whole, and a fair trial. Further research should refine the measures and extend the examined factors, especially regarding political context, as only a political binary was coded for. Further studies should also replicate the findings and extend the measures of the effect of race/ethnicity on sentencing, specifically examining if a “tipping point” exists. Additionally, a measure for social status should be included, as well as measures for judge characteristics. Ethnographic and qualitative research are also necessary for complete understanding of judicial decision processes.



Love, Helene, Fiona Kelly and Israel Doron. 2013. "Age and Ageism in Sentencing Practices: Outcomes from a Case Law Review." *Canadian Criminal Law Review* 17(2): 253-279.

Researchers conducted a study to find out what impacts age has on sentencing. They wanted to find out if older individuals were given less harsh of a punishment because of their age. The authors Love, the director of Graduate Certificate and Professional Programs at the University of British Columbia Faculty of Law, Fiona, an assistant professor at the University of British Columbia Faculty of Law, and Isael, a senior lecturer and Head of the department of Gerontology, Faculty of Welfare and Health Sciences at the University of Haifa, Israel discuss how advanced age has an impact on sentencing. As the population ages the criminal justice system is dealing with the challenge of how to sentence these older individuals. Judges often feel that it would be no point to giving someone a prison sentence when they might not even be alive a lot longer. To study the influence age has on sentencing outcomes researchers analyzed 212 cases of individuals 60 and older to see if ageism was a factor in their case. They did this by conducting a Boolean full text search of the Quicklaw database. They recorded the age of these older individuals and what crimes they were charged with. They also kept track of the cases where the health of the defendant was specifically mentioned by the judge. The analysis found that age was a factor in sentencing decisions and most commonly people over 60 were found to be let off easier. Researchers believe that further research should be done on age and comparing cases that were the same to a younger individual.

Wang, Xia, Daniel P. Mears, Cassia Spohn and Lisa Dario. 2013. "Assessing the Differential Effects of Race and Ethnicity on Sentence Outcomes Under Different Sentencing Systems." *Crime and Delinquency* 59(1): 87.

This study was done to find out if greater disparity existed in states that have voluntary guidelines or no guidelines as compared to states that hold strict guidelines. The authors Mears, a professor at Florida State University in Criminology and Criminal Justice and Wang, Spohn, and Dario whom were all from Arizona State University in the school of Criminology and Criminal Justice conducted a study to find out the impact guidelines can have on sentencing. They were also looking to find out if race and ethnicity had an effect on convicted felons. They looked into whether someone received prison time or jail time and what length of time was given. Although there are guidelines states are required to follow when sentencing, there are few assessments of the impact it can have on sentencing and disparity.

The study used State Court Processing Statistics (SCPS) 1998, 2000, and 2002 data. They used data over a course of three years including 46,071 felony defendants across 23 states. Their main focus was on felons because most state sentencing guidelines only regulate felony crimes. The SCPS provided sentencing cases across a large number of states which included states that followed different guidelines. States either followed voluntary guidelines, presumptive guidelines, or no guidelines. More than 18 states have now adopted sentencing guidelines. In voluntary guideline states the guidelines are voluntary; the judge is not required to comply with them. Presumptive guideline states carry the weight of the law. They give more weight to the objective of eliminating unwarranted disparity. In these states judges are required to follow guidelines and use less of their own discretion. Nonguideline states do not follow any guidelines. Defendants are given sentences based on what the judge sees fit. Researchers found that presumptive guideline states showed no evidence of racial disparity. They also found there

was no racial disparity in voluntary guideline states. There was however racial disparity in nonguideline states, meaning blacks were more likely than whites to receive a prison sentence. One limitation they found was they were unable to use preguidelines and postguidelines so they could not determine in the guidelines reduced disparity. They could only compare states with different guidelines but not the same state before and after the guidelines.

Koons-Witt, Barbara, Eric L. Sevigny, John D. Burrow and Rhys Hester. 2014. "Gender and Sentencing Outcomes in South Carolina: Examining the Interactions with Race, Age, and Offense Type." *Criminal Justice Policy Review* 25(3): 299-324.

A study was conducted on to examine gender, race, and age in South Carolina, a state without sentencing guidelines. Both Koons-Witt and Burrow are Associate Professors in the Department of Criminology and Criminal Justice at the University of South Carolina. Sevigny is an Assistant Professor in the Department of Criminology and Criminal Justice at the University of South Carolina and Hester is an Assistant Professor in the Department of Government and Justice Studies at Appalachian State University. Many states over the years have introduced guidelines but some including South Carolina have failed to introduce these guidelines. This study examined women and if they are treated more leniently than men in court. They also examine if race is a factor in the leniency of punishment. They received their data from the South Carolina Sentencing Guidelines Commission. The data was from adult misdemeanor and felony offenders convicted and sentenced in the South Carolina Court of General Sessions. They analyzed data from a sample size of 22,828 cases. They found that females were less likely to be sentenced than males but the difference was very small. They found females have a .06% lower probability of being sentenced to prison than males. They also found that black males and females were very slightly more likely to receive prison time than white females. Specifically they found that black females had a .38 probability of receiving a prison sentence as compared to white females that had a .33 probability. Black males had a .45 chance of being sent to prison as compared to white males with a .38. They did not find a correlation between age and being sentenced to prison time however. They believe that further research is necessary in states with unstructured sentencing systems. These are the court systems that have the most flexibility when giving a sentence since these are the states where disparities may be found.