

Spring 2019

Disparities in Sentencing: The Impact of Race, Gender and Mental Health

Briana Paige
Old Dominion University

Follow this and additional works at: https://digitalcommons.odu.edu/sociology_criminaljustice_etds

 Part of the [Criminology and Criminal Justice Commons](#), [Sociology Commons](#), and the [Statistics and Probability Commons](#)

Recommended Citation

Paige, Briana. "Disparities in Sentencing: The Impact of Race, Gender and Mental Health" (2019). Master of Arts (MA), thesis, Sociology/Criminal Justice, Old Dominion University, DOI: 10.25777/af6x-h963
https://digitalcommons.odu.edu/sociology_criminaljustice_etds/41

This Thesis is brought to you for free and open access by the Sociology & Criminal Justice at ODU Digital Commons. It has been accepted for inclusion in Sociology & Criminal Justice Theses & Dissertations by an authorized administrator of ODU Digital Commons. For more information, please contact digitalcommons@odu.edu.

DISPARITIES IN SENTENCING: THE IMPACT OF RACE, GENDER AND MENTAL HEALTH

by

Briana Paige
B.S. May 2017, Old Dominion University

A Thesis Submitted to the Faculty of
Old Dominion University in Partial Fulfillment of the
Requirements for the Degree of

MASTER OF ARTS

APPLIED SOCIOLOGY

OLD DOMINION UNIVERSITY
May 2019

Approved by:

Tracy Sohoni (Director)

Randy Gainey (Member)

Roderick Graham (Member)

ABSTRACT

DISPARITIES IN SENTENCING: THE IMPACT OF RACE, GENDER AND MENTAL HEALTH

Briana Paige
Old Dominion University, 2019
Director: Dr. Tracy Sohoni

The purpose of this study is to examine the effect that race and mental health play on sentence length in the United States. Mentally ill people are gradually being confined in prisons across the United States and there is an absence of literature that looks at the interaction of race and mental health in regards to sentencing. The focal concerns perspective provides the theoretical framework that guides this study. Multiple linear regressions were used to examine both state and federal prison inmates to examine the effect race, mental health and other extra-legal factors play on sentence length. Results show that the concepts of focal concerns perspective play no role in sentence length in the federal data. However, in the state data, nine out of the ten the variables used to test this theory were statistically significant. Results of the multiple linear regression show that although there are sentencing disparities in regards to race and mental health separately, the interaction of the two are only significant in the federal data.

ACKNOWLEDGMENTS

I would like to take the time to extend many thanks to the people who contributed to the successful completion of this thesis as well as those who have supported me endlessly during this journey.

First, I would like to thank the best thesis committee members in the world, Dr. Tracy Sohoni, Dr. Randy Gainey and Dr. Roderick Graham for uncomplainingly guiding me through this long process and helping me complete this research that I am extremely passionate about. I could not have done this without the constant enthusiasm and encouragement I received from my committee during the completion of this thesis and for that I am sincerely appreciative.

I would also like to thank the people in my cohort who I have been in classes with for the last two years. I am thankful to have met and become close friends with such an amazing, uplifting and supportive group of people and I cannot imagine how I would have managed to get through graduate school without them.

Most importantly I would like to thank my family for always providing me with love, support and encouragement throughout every stage of my education. Thank you for always pushing me to do better, work harder and helping mold me into the person that I am today.

TABLE OF CONTENTS

| | Page |
|---|------|
| LIST OF TABLES..... | v |
| Chapter | |
| I. INTRODUCTION..... | 1 |
| PURPOSE OF THE STUDY..... | 3 |
| SIGNIFICANCE OF THE STUDY..... | 3 |
| II. LITERATURE REVIEW..... | 5 |
| FEDERAL LEVEL RESEARCH..... | 5 |
| STATE LEVEL RESEARCH..... | 7 |
| DRUG OFFENSES..... | 9 |
| MENTAL HEALTH..... | 10 |
| THEORETICAL FRAMEWORK..... | 12 |
| SUMMARY AND CRITIQUE OF LITERATURE..... | 14 |
| III. METHODOLOGY..... | 16 |
| RESEARCH QUESTIONS..... | 16 |
| DATA SOURCE..... | 16 |
| SAMPLE..... | 17 |
| VARIABLES IN STUDY..... | 18 |
| DATA ANALYSIS..... | 23 |
| IV. RESULTS..... | 24 |
| DESCRIPTIVE STATISTICS..... | 24 |
| STATE DATA..... | 24 |
| FEDERAL DATA..... | 25 |
| MULTI-VARIATE ANALYSIS..... | 29 |
| STATE DATA..... | 29 |
| FEDERAL DATA..... | 30 |
| V. DISCUSSION..... | 34 |
| LIMITATIONS AND FUTURE RESEARCH..... | 36 |
| REFERENCES..... | 39 |
| APPENDIX..... | 45 |
| VITA..... | 47 |

LIST OF TABLES

| Table | Page |
|---|------|
| 1. Variables in Study..... | 19 |
| 2. Descriptive Statistics of Study Variables in State Data | 27 |
| 3. Descriptive Statistics of Study Variables in Federal Data | 28 |
| 4. Multiple Linear Regression Predicting Sentence Length in State Data | 32 |
| 5. Multiple Linear Regression Predicting Sentence Length in Federal Data..... | 33 |
| Appendix | |
| 1. Pearson's r Correlation. Sentence Length (State Data) | 45 |
| 2. Pearson's r Correlation. Sentence Length (Federal Data) | 46 |

CHAPTER I

INTRODUCTION

The United States Constitution guarantees that all citizens are equal before the law and all are equally subject to judgment and punishment when they violate the law. However, with black men constituting nearly six percent of the U.S population while simultaneously constituting thirty-five percent of the prison population (Carson & Sabol 2012), there is evidence that some injustices may be happening in our criminal justice system. Like Martin Luther King Jr said, “Injustice anywhere is a threat to justice everywhere”, and this potential problem of racial disparities in sentencing diminishes the principles on which our country and justice system were built.

Evidence indicates African-American males in the federal system receive sentences that are about twenty percent longer than their white counterparts when controlling for crime type and criminal history (Rehavi & Starr 2014). In 2014, the ACLU found that the percentage of individuals serving life sentences without parole who were African-Americans, was over sixty percent in 13 states. In Georgia and Louisiana, the proportion of individuals serving life sentences without the possibility of parole that were African American was almost seventy-four percent, while in the federal system about seventy-one percent of the 1,230 prisoners serving life without the possibility of parole were African-American (American Civil Liberties Union 2014).

Not only is race a strong predictor of sentencing disparities (Barnes & Kingsnorth 1996; Burch 2015; Carson & Sabol 2012; Chen & Nomura 2015; Doerner & Demuth 2010; Kutateladze

et al., 2014; Lyons et al., 2013; Mustard 2010; Primm et al., 2005), having a history of mental health issues has also proven to be a determinate in incarceration decisions (Bureau of Justice Statistics 2006). In 2006, the U.S. Department of Justice reported that more than half of all prison inmates have or have had a mental health problem. When looking at mental health as it relates to sentencing, it is important to not only look at race but also gender. When gender is taken into account, nearly fifty-five percent of male inmates in state prisons had suffered a mental health problem in the past compared to about seventy-three percent of females (Bureau of Justice Statistics 2006). Also, Violent women are more likely to be evaluated for psychiatric conditions while African American men, regardless if they are violent or non-violent, are less likely to receive psychiatric evaluations (Thompson 2010). In regards to race however, research has found that African American defendants are less likely than whites to receive psychiatric evaluations to determine their mental health status at the time of the offense (Thompson 2010). This may be a direct consequence of the negative stereotypes of African Americans that focus on criminality and violence rather than mental illness as a justification for criminal acts.

These statistics are important because there are many states and leaders that dedicate their time and resources to criminal justice reform to ensure that our systems are operating fairly and impartially. However, before meaningful reforms to the criminal justice system can be implemented, there must be acknowledgment of the racial and ethnic disparities that exist at every stage of our justice system. There are more people incarcerated at the state level compared to the federal level, therefore it is also critical to understand the policies and practices that contribute to the racial disparities across different states. Furthermore, social

policies need to address the unmet needs and provide adequate treatment equally to those mentally ill prisoners who require it (Thompson 2010).

PURPOSE OF THE STUDY

The purpose of this study is to examine the effect race and mental health play on sentence length in the United States. The current study is guided by the following three research questions:

1. Does an offender's race/ethnicity have an influence on sentence length?
2. Does an offender's mental health history have an influence on sentence length?
3. Does mental health interact with race when examining sentencing length?

SIGNIFICANCE OF THE STUDY

Mentally ill people are increasingly being confined in prisons across the United States and factors such as race, have generally been ignored in assessments of this rising penal population (Thompson 2010). While previous literature has found that race and gender have a significant influence on sentence length (Burch 2015; Carson & Sabol 2012; Chen & Nomura 2015; Doerner & Demuth 2010), there is an absence of literature that looks at the interaction amongst race and mental health, or gender and mental health, in regards to sentencing.

According to the U.S. Department of Justice, the incarceration rate has grown by almost 600 percent over the last 40 years, while the rate of people in mental hospitals has significantly decreased (Fuller et al., 2016). Assuming that the amount of people with mental health disorders has not decreased in the last 40 years, it leaves questions as to where these people are going if they are not being treated in mental hospitals (Dvoskin et al., 2008). This research

will add to the scarce literature on race, mental health and sentencing by explaining the disparities of inmates with mental health issues, specifically, the interaction between race and mental health on sentence length.

CHAPTER II

LITERATURE REVIEW

Evidence of racial disparities in sentencing is of great concern to criminal justice scholars as it undermines the societal values of the blindness of justice. Although research indicates racial disparities exist in sentencing (Barnes & Kingsnorth 1996; Burch 2015; Carson & Sabol 2012; Chen & Nomura 2015; Doerner & Demuth 2010; Kutateladze et al., 2014; Lyons et al., 2013; Mustard 2010; Primm et al., 2005), there is a dearth of research on how mental illnesses may also impact sentencings, particularly whether mental illness has a differential impact on sentence length based upon the defendant's race or gender. This chapter reviews evidence of racial disparities in sentencing within state and federal systems, as well as racial disparities in the sentencing of drug offenders in particular, before examining the research on the impact of mental health on sentencing outcomes. The theoretical perspective is then discussed to help understand these findings.

FEDERAL LEVEL RESEARCH

While federal sentencing guidelines were created by Congress in 1987 to reduce racial and ethnic sentencing disparities, they did not eliminate judicial or prosecutorial discretion in sentencing. The sentencing court, once it determines a defendant's final offense level and criminal history, has the discretion to impose a sentence within the applicable range or, in unusual circumstances, to impose a sentence that departs above or below the range (Katzenelson and Conley 1997; Wilkins and Steer 1993). In *United States v. Booker*, however, the court ruled that Federal Sentencing Guidelines' provisions that allow judges to enhance

sentences without facts reviewed by a jury violate the Sixth Amendment's guarantee of trial by jury; and second, the Federal Sentencing Guidelines, heretofore mandatory, would now be advisory (*United States v. Booker* 2005; Chen & Nomura 2015). Literature in this section looks at federal court data to determine if racial and ethnic sentencing disparities, as well as gender and age disparities exist post-Booker since it allows for more discretion.

Using a linear regression to assess disparities in sentence length between African-American and white offenders and Hispanic and non-Hispanic offenders, Chen & Nomura (2015) found significant racial disparities that disadvantage African American offenders in sentence length and odds of receiving a below-range sentence. Ethnic disparities were also found in both sentence length and odds of receiving a below-range sentence that disadvantaged Hispanic offenders.

When looking at a combination of race/ethnicity, gender and age in regards to sentencing disparities, Doerner & Demuth (2010) found that Hispanics and African-Americans, males, and younger defendants receive harsher sentences than whites, females and older defendants when controlling for important legal and contextual factors. When combining these factors which consist of criminal history and offense severity, Doerner and Demuth (2010) also found that young Hispanic male defendants have the highest odds of incarceration and young African-American male defendants receive the longest sentences.

Additionally, Mustard (2010) examined the disparities in the sentencing of federal offenders under the Sentencing Reform Act of 1984 and found that African-Americans, males and offenders with low levels of education and income receive substantially longer sentences compared to their counterparts. Mustard (2010) also found that disparities are primarily

generated by departures from guidelines and that about fifty-five percent of the black-white differences and seventy percent of the male-female differences are produced by these departures.

Using a regression analysis of incarceration and term length decisions to examine racial/ethnic differences in United States Federal Courts, Steffensmeier & Demuth (2000) found that ethnicity has a small to moderate effect on sentencing outcomes that favor white defendants and penalizes Hispanic defendants. However, when looking at Hispanic drug offenders, Steffensmeier & Demuth (2000) found that they are most at risk of receiving the harshest penalties.

STATE LEVEL RESEARCH

Not only do the overall rates of sentencing vary state by state, so do racial and ethnic rates of sentencing. In addition to crime rates, the discretion of policymakers and practitioners in decisions related to arrest, conviction, sentencing, and severity of statutory punishment all play a key role in determining state rates of imprisonment (Mauer & King 2007). Since the majority of people in prison are sentenced at the state level rather than the federal level, it is critical to understand the impact of race and ethnicity in sentencing at the state level (Nellis 2016).

Burch (2015), analyzing sentencing outcomes for African-American and white men in the state of Georgia, found that African-Americans receive sentences that are 4.35 percent higher than those of whites even after controlling for legally-relevant factors such as the type of crime (violent, property and drug). However, using a skin color model to shed light on the intraracial differences in sentence length, Burch (2015) found that while medium and dark-skinned

African-Americans receive substantially higher sentences than whites, lighter-skinned African-Americans receive sentences that are not statistically significantly different from those of whites.

Additionally, using data from a district attorney's office in New York to assess racial and ethnic disparity for multiple discretionary points of prosecution and sentencing, Kutateladze et al., (2014) found that African-American and Hispanic defendants were more likely than white defendants to be detained, receive a custodial plea offer and to be incarcerated. Kutateladze et al., (2014) also found that white and Asian defendants were both more likely than African-American and Hispanic defendants to receive nonincarceration sentences while Asian defendants overall were most likely to experience the least severe punishment combination involving no detention, no custodial plea offer and case dismissal.

Brennan & Spohn (2008) also found that white offenders were more likely than African-American or Hispanic offenders to receive the most lenient sentencing option such as community punishment rather than the most severe option which in this case was incarceration. For example, the probability of receiving a community punishment rather than incarceration was almost five times higher for Whites than for African-Americans whereas it was almost eight times higher for Whites than for Hispanic offenders.

Furthermore, while comparing sentencing outcomes of white, African-American and Hispanic defendants in the state of Pennsylvania, Steffensmeier & Demuth (2001) found that overall white defendants are treated most leniently, Hispanics are treated most harshly and African-American defendants are treated more harshly than whites but more leniently than Hispanics.

Wang et al., (2013) used data of 46,071 felony defendants in 60 large urban counties across 23 states to examine whether the race or ethnicity of offenders exerts differential effects on judges' sentencing decisions in nonguideline states, states with presumptive guidelines, and states with voluntary guidelines. Wang et al., (2013) found that when compared with presumptive and voluntary guideline states, judges in nonguideline states sentenced fewer African-American offenders than whites and a larger percentage of Hispanic offenders. In presumptive guideline states however, racial and ethnic disparities in the likelihood of an incarceration sentence in both jail and prison are absent.

DRUG OFFENSES

Over-policing of Black neighborhoods during the War on Drugs can further stigmatize and disillusion those in contact with police, and lead to punishments beyond their sentences (Rosenberg et al., 2016). In 2011, Blacks were incarcerated at a dramatically higher rate than Whites (5–7 times) and accounted for almost half of all prisoners incarcerated with a sentence of more than one year for a drug-related offense (Carson and Sabol 2012).

The mass incarceration of minorities in the War on Drugs is one of the most pressing social problems in the United States, and to a large extent must be remedied through policy and legislative changes at the state level, where drug laws are made and enforced (Lyons et al., 2013). Lyons et al. (2013) examined the work of the Illinois Disproportionate Justice Impact Study Commission, which focuses on understanding and alleviating the disproportionate incarceration of African Americans and Hispanics in Illinois for drug law violations. Using a multivariate logistic regression to examine data obtained from arrest records statewide and court cases in Cook County in 2005, Lyons et al. (2013) found that African Americans were

approximately 2.2 times more likely than Caucasians, and Hispanics about 1.6 times more likely than Caucasians, to be prosecuted for drug offenses.

Examining a sample of 1,379 cases involving persons arrested and charged with a single drug felony in Sacramento County, California, in 1987, and completed before December 31, 1989, Barnes and Kingsnorth (1996) found that African Americans are more likely than Hispanics who are more likely than Caucasians to receive a prison term. When looking at differences in the severity of drug charges by the racial/ethnic status of the offender, findings showed that Caucasians are significantly more likely than African Americans and Hispanics to be charged at the lowest level of severity- simple possession because of the choice of drug. Most importantly, Barnes and Kingsnorth (1996) found that when sentenced to prison, African Americans and Hispanics receive substantially longer terms than Caucasians when controlling for type of drug involved and type of charge.

Additionally, using a binary logistic regression model, Chen and Nomura (2015) found significant racial disparities that disadvantage African-American offenders and ethnic disparities that disadvantage Hispanic offenders in sentence length such as longer sentences at a national level.

MENTAL HEALTH

Racial and ethnic minorities experiencing inequality in the criminal justice system (Maurer and King 2007), is directly related to the detaining of individuals with serious mental illness (Lamb and Weinberger 2001). Research has not only found a disparity in access to behavioral health services for minorities but also access to all domains of health care (Wielen et al., 2015). Mental illness of individuals may be interpreted differently based on the race of the

individual, which may result in the disparities of sentences. Disparities in access to mental health and other services are further heightened in certain populations during their involvement in the criminal justice system and upon release and re-entry into the community (Primm et al., 2005). Literature in this section will first look at mental health and gender and then will conclude with the interaction of race and mental health in regards to sentencing length.

While violent women who are white may be considered irrational or mentally ill, evidence suggests that African American women are perceived to be criminal and violent (Thompson 2010). Using a logistic regression to examine the process of referrals for psychiatric evaluation in the criminal justice system in regards to race and gender, Thompson (2010) found that African-Americans are less likely than non-African Americans to receive a psychiatric evaluation to determine mental state at time of the offense. Thompson (2010) also found evidence that violent females appear to be more likely to be treated psychiatrically than nonviolent females and when controlling for family roles, such as having kids or taking care of other family members, women are more likely to be viewed as mad rather than bad compared to men.

Perry et al. (2013) found that African-Americans are less likely than whites to be found responsible for their crimes by mental health evaluators and that they are disproportionately diagnosed with highly stigmatized psychotic spectrum disorders relative to whites. This differs from previous literature in the sense that African-Americans usually more likely to be found responsible for their crimes and less likely to receive psychiatric evaluations before their trials.

THEORETICAL FRAMEWORK

A theoretical framework provides a rationale for predictions about the relationship among variables of a research study and helps guide the entire process (Mehta 2013). The following section provides a brief discussion of the focal concerns perspective in relation to the overwhelming disparities, specifically racial and ethnic disparities, in sentencing processes across the United States.

The focal concerns perspective argues that sentencing decisions are structured by court actor's interpretations of three focal concerns of punishment—defendant blameworthiness, defendant risk and practical constraints (Steffensmeier, Ulmer and Kramer, 1998; Steffensmeier & Demuth 2000). This perspective suggests that when perceptions of a minority group threat are more evident, actors in the courtroom perceive these certain racial and ethnic groups as more dangerous which can attribute to why these groups receive harsher sentences.

The first focal concern, blameworthiness, is associated with an offender's accountability of their crimes and judges' beliefs that the punishment fits the crime. When viewing blameworthiness, judges are influenced by factors such as offense severity, criminal history and by offender's role in the offense. Defendants with long and serious criminal histories will be viewed as more culpable and blameworthy than first-time defendants, and those who play primary roles will be viewed as more culpable than those who are merely accomplices or who play minor roles in the offense (Kutateladze et al., 2014).

Defendant risk or as judges like to refer to it— "protection of the community", focuses on the need to incapacitate the offender and deter future crime. Judges predictions of offenders' dangerousness or likelihood to recidivate are based on the nature of the offense

(violent, property, drug), case information, criminal history and characteristics of the offender such as education, employment or community ties. For example, offenders from high-crime neighborhoods may be viewed as less able to avoid the criminal influences of their surroundings (Kutateladze et al., 2014).

Lastly, practical constraints include concerns about the offender's "ability to do time," the costs to be borne by the correctional system, and the disruption of ties to children or other family members (Steffensmeier & Demuth 2000). For example, childless offenders, are less likely to be seen as being harmed by a prison term than offenders who have children and families. Also, young offenders, especially those who are racial minorities, are less likely to be seen as being harmed by a prison term (Steffensmeier & Demuth 2000). The lack of resources, combined with attributions that associate black offenders with a stable and enduring predisposition to future criminal activity or dangerousness, are thought to increase sentence severity for black defendants (Steffensmeier & Demuth 2000). Additionally, Women are believed to be less dangerous, less blameworthy, less likely to recidivate, and more likely to be deterred than men (Spohn, 2002).

The focal concerns perspective is an important guide for this research study because it provides a possible explanation to the racial disparities in the sentencing stage of the United States criminal justice system. Not only can it help explain the disparities, it can also show how mental health may affect perceptions of blameworthiness, dangerousness and practical constraints when judges are considering sentences for defendants. The concept of blameworthiness may decrease when a history of mental health issues are present, however

dangerousness may increase because of the misunderstanding and fear of people with mental illnesses.

SUMMARY AND CRITIQUE OF THE LITERATURE

A survey of the literature suggests that race/ethnicity, gender and age have significant effects on sentencing outcomes (Barnes & Kingsnorth 1996; Brennan & Spohn 2008; Burch 2015; Carson & Sabol 2012; Chen & Nomura 2015; Doerner & Demuth 2010; Kutateladze et al., 2014; Lyons et al., 2013; Mustard 2010; Primm et al., 2005). Research literature discussed in this review revealed that minorities are often sentenced more frequently and harsher compared to whites even when charged with the same offense. Research suggests that female defendants are treated more leniently than male defendants (Mustard 2010; Doerner & Demuth 2010) and that younger defendants are treated more harshly than older ones. Additionally, research examining sentence disparities in regards to drug offenses found that whites are significantly more likely than African-Americans and Hispanics to be charged with the lowest level of severity such as simple possession (Barnes & Kingsnorth 1996). In regards to mental health, research of the literature suggests that African-American defendants that are suffering from mental health issues are more likely to be found criminally responsible for their crimes whereas whites are more likely to be regarded more sympathetically when they are mentally ill, and thus less culpable for their crime (Perry et al. 2013; Thompson 2010). Research on federal court data found that both African-Americans and Hispanics, specifically males, are treated most harshly at the federal level compared to whites (Chen & Nomura 2015; Doerner & Demuth 2010; Mustard 2010). At the state level, it was found that Whites are generally given lighter sentences than African-Americans and Hispanics (Brennan & Spohn 2008; Kutateladze et

al., 2014). Steffensmeier & Demuth (2001) also found at the state level that Hispanics are found to be treated most harshly when it comes to sentencing length, whites most leniently and African-Americans in the middle of the two.

The current literature on racial disparities in sentencing does have some limitations. Primarily, while there are many studies that look at race and mental health separately from sentencing, few studies have examined racial differences in sentencing outcomes of defendants with mental illness. This study seeks to contribute to the already ongoing research on racial disparities in sentencing by examining the interaction of racial disparities and mental health in sentencing. It is important that this study looks at the interaction of race and mental health when looking at sentencing disparities because mental health can affect offender blameworthiness, perceived dangerousness and practical constraints that judges may consider when determining sentence length.

CHAPTER III

METHODOLOGY

This chapter provides an overview of the research methodology that guided this study. The chapter begins with a discussion of the research design, followed by the research questions guiding this study. Next, the original data source is discussed followed by the variables used in the study with the discussion of the data analysis ending the chapter.

RESEARCH QUESTIONS

This study is designed to examine the influence of race and mental health on sentencing length. To examine this relationship, the following research questions guide the current study:

1. Does an offender's race/ethnicity have an influence on sentence length?
2. Does an offender's mental health history have an influence sentence length?
3. Does mental health interact with race when examining sentencing length?

DATA SOURCE

The data for this research study was taken from a larger study designed to examine inmates in state and federal prisons in the United States. Both the state and federal prison data consisted of a two-stage sampling procedure whereas the prisons were selected based on population size in the first stage and the inmates within these prisons were selected in the second stage.

The state prison data consisted of inmates selected from a list provided by the facility which resulted in 13,098 male inmates and 3,054 female inmates being sampled. Since nondrug offenders made up 44% of males and 34% of females in Federal prisons, the second-stage for federal prison data was a two-step process so that nondrug offenders would be included in the sample in large enough numbers to be analyzed. A list was made of inmates using systematic random sampling and then 1 of every 3 drug offenders were selected to be sampled which results in 3,347 males and 1,009 females. After this, about 1 in every 85 males and one in every 24 females of both drug and non-drug offenders in State facilities were selected to be surveyed in the State prisons and 1 in every 32 males and 1 in every 9 females were selected to be surveyed in the Federal Prisons of both drug and non-drug offenders. The final count was 14,499 respondents for the State survey and 3,686 respondents for the Federal survey. It is important to note that women were oversampled in this research because there was a much smaller amount of them to survey compared to men. Since most sentencing research does not include data with mental health variables, this dataset is beneficial because of the presence of several mental health variables used to help examine the research questions in this present study.

SAMPLE

This research is an exploratory, cross-sectional research design examining the racial disparities in sentencing in both federal and state prisons in the United States from the years 2000-2003. The initial samples were collected for the Bureau of Justice Statistics (BJS) by the Bureau of the Census. The federal prison sample consisted of 3,686 randomly selected respondents, male and female, incarcerated in 148 different federal prisons. Of these 3,686

inmates incarcerated in federal prisons, 2,738 (74%) were male and 958 (26%) were female. Additionally, 41.9% of respondents identified as black and about 24.5% identified as being of Spanish, Latino or Hispanic origin. Only 25% of the respondents were between the ages of 19 and 29 while most of the respondents (51.8%) were between the ages of 30 and 45.

The state sample consisted of 14,499 randomly selected respondents, 79.8% of them being males, from 287 different state prisons. Unlike the federal prison data, there were respondents who were under the age of 19, about 85 (0.5%) of them were between the ages of 16 and 18. Furthermore, 49.6% of the respondents identified as white, 42.6% black and about 17.4% had Spanish, Latino or Hispanic origin.

VARIABLES IN THE STUDY

Dependent Variable

The dependent variable in this study is sentence length measured in months. As a scale level of measurement, the dependent variable is operationalized using responses to the question "What is the total maximum sentence length to prison for ALL the consecutive sentences you are serving?"

Independent Variables

The independent variables in this study are race, ethnicity, mental health medication, mental health hospital, current offense, criminal history, pretrial release, education, employment, homelessness, children, age and sex. As a nominal level of measurement, the independent variable of race is operationalized using responses to the question "Which of these categories describes your race?", with answers categorized as 0/1=White; 0/1=Black;

0/1= Hispanic. The variable, mental hospital, is measured by responses to the question “Have you been admitted overnight to a mental hospital, unit or treatment program in the last year?” in which respondents were to answer 0=None or 1= one or more. The final independent variable, mental health medication, is operationalized using responses to the question “Because of an emotional or mental problem, have you taken medication prescribed by a psychiatrist or other doctor in the last year?” in which respondents would choose 0=No or 1=Yes.

TABLE 1. Variables in the Study

| DEPENDENT VARIABLE | OPERATIONALIZATION | CODING |
|---------------------------------|---|---|
| <i>Sentence Length</i> | What is the total maximum sentence length to prison for ALL the consecutive sentences you are serving? | Scale |
| INDEPENDENT VARIABLES | | |
| <i>Race</i> | Which of these categories describes your race? | 0/1= White 0/1= Black 0/1= Hispanic |
| <i>Mental Hospital</i> | Have you been admitted overnight to a mental hospital, unit or treatment program in the last year? | 0= No 1= Yes |
| <i>Mental Health Medication</i> | Because of an emotional or mental problem, have you taken medication prescribed by a psychiatrist or other doctor in the last year? | 0= No 1= Yes |
| BLAMEWORTHINESS | | |
| <i>Violent Offense</i> | Is the offense you are currently | 0= No 1=Yes |

| | | |
|------------------------------|---|--|
| | <p>serving time for violent?</p> | |
| <i>Drug Offense</i> | <p>Is the offense you are currently serving time for a drug offense?</p> | 0= No 1=Yes |
| <i>Property Offense</i> | <p>Is the offense you are currently serving time for a property offense?</p> | 0= No 1=Yes |
| <i>Criminal History</i> | <p>How many times have you been incarcerated, before your current offense?</p> | Scale |
| <i>RISK</i> | | |
| <i>Pretrial Release</i> | <p>Were you released between the time of your arrest (notification of charges) and the start of your trial?</p> | 0=No 1=Yes |
| <i>Education</i> | <p>Before your admission, what was the highest grade of school that you had attended?</p> | <p>0= No High School Diploma 1= High School Diploma 1=1-4 Years of College 3= 5+ Years of College</p> |
| <i>Employment</i> | <p>During the month before you arrest, did you have a job or a business?</p> | 0= No 1=Yes |
| <i>Homelessness</i> | <p>In the months before your arrest, had there been a time you were homeless, living on the street or in a shelter?</p> | 0= No 1=Yes |
| <i>PRACTICAL CONSTRAINTS</i> | | |
| <i>Children</i> | <p>Do you have any children, including step- or adopted children?</p> | 0=No 1=Yes |
| <i>Age</i> | <p>How old are you?</p> | |
| <i>Sex</i> | <p>Is the respondent a male or female?</p> | <p>Scale 0=Male 1= Female</p> |

The independent variables used in the study, current offense, criminal history, pretrial release, education, employment, homelessness and age of children, were constructed using the three theoretical concepts of focal concerns perspective. These measure the concept of Focal Concerns Perspective which include, blameworthiness, risk and practical constraints.

Blameworthiness is measured using four variables, violent offense, drug offense, property offense and criminal history. Violent offense measures if the current offense the respondent is serving time for is violent or not. Violent offense was measured using responses to the question "Is the offense you are currently serving time for violent?". Responses were coded as follows 0= No and 1=Yes. Drug offense measures if the current offense the respondent is serving time for is a drug offense or not. Drug offense was measured using responses to the question "Is the offense you are currently serving time for a drug offense?" in which responses were coded as 0=No and 1=Yes. Property offense measures if the current offense the respondent is serving time for is a property offense or not. Property offense was measured using responses to the question "Is the offense you are currently serving time for a property offense?" in which responses were coded 0= No and 1= Yes. Criminal history is a scale level of measurement that measures how many times the respondent has been incarcerated before serving time for their current offense. Criminal history was measured using responses to the question "How many times have you ever been incarcerated, as an adult, before your current offense?".

Risk is measured using the variables pretrial release, education, employment and homelessness. Pretrial release measures if the respondent was released on bail before the start

of their trial. This variable was measured using responses to the question “Were you released between the time of your arrest (notification of charges) and the start of your trial?” in which respondents were to select 0= No and 1=Yes. Education measures the highest grade of school completed by the respondent. Education was measured using responses to the question “Before your admission, what was the highest grade of school that you had attended?”. Responses were coded as follows: 0=No High School Diploma, 1=High school Diploma, 2= 1-4 Years of College, 3= 5+ Years of College. Employment measures if the respondent was employed or ran a business in the month before their arrest. Employment was measured using responses to the question “During the month before you arrest, did you have a job or a business?” in which the respondent answered 0= No and 1=Yes. Homelessness measures if the respondent was homeless in the months before their current arrest. Homelessness was measured using responses to the question “In the months before your arrest, had there been a time you were homeless, living on the street or in a shelter?” in which respondents were to select either 0= No and 1=Yes.

Lastly, practical constraints were measured by if the respondent has any children. Children measures if the respondent has any children in which responses were generated from the question “Do you have any children, including step or adopted children?”. Responses were coded 0= No and 1=Yes.

The final variables in this study are age and sex. Age is a scale variable measured by responses to the question “How old are you?”. Sex was measured observationally by the person administering the survey in which they were to indicate whether or not the respondent was 0=Male or 1=Female.

DATA ANALYSIS

The purpose of this study is to examine the influence of race and mental health on sentence length in federal and state prisons in the United States. Several statistical techniques will be utilized in this study to provide descriptive and multivariate analyses.

Descriptive Statistics

In order to provide a description of the sample, the mean, the measure of dispersion as well as frequencies will be used. These are most appropriate because the dependent variable in this study is a scale level variable.

Multivariate Analysis

Finally, a multiple regression analysis will be used to examine the relationship between the dependent variable and the independent variables. The multiple regression analysis is used to examine the joint relationship between a dependent variable and two or more independent variables (Knoke et al., 2010). A multiple regression analysis is most appropriate because the dependent variable is continuous and there are two or more independent variables being examined in this study.

Significance Level

Based on prior research, the p-value's for this study, which is a numerical measure used to reveal whether the findings in a research study are statistically significant, are set at 0.05 and 0.01 (Forbes 2012).

CHAPTER IV

RESULTS

This chapter presents the findings from this research designed to examine the relationship between sentence length, mental health and race. The chapter begins with a discussion of the descriptive statistics from both the state and federal data set. The chapter will conclude with a discussion of the multivariate analyses.

DESCRIPTIVE STATISTICS

State Data

Table 2 provides an overview of variables from the state data included in the study. When looking at the dependent variable, the results from the descriptive statistics reveal that out of the 13,351 respondents, 5,000 (34.5%) were serving a sentence that was between 5 and 10 years and 3,869 (26.5%) of them were serving a sentence of 4 years or less. The race variable revealed that 40% of the respondents were black, 36.5% were white and 17.4% were Hispanic. Other races were excluded from the analyses because of small sample size. When looking at whether or not the respondent had taken prescription medication for mental health issues in the last year, 10.6% said they had while 3.7% of respondents reported that they had been admitted to a mental hospital for an overnight stay in the last year. The control variables, age and sex, revealed that 33.8% of the respondents were between the ages of 19-29, 32.9% between the ages of 30-39 and 79.8% were male.

For the theoretical concept of blameworthiness, current offense and criminal history was examined. For current offense, 45.1% of the respondents reported that they were serving time for a violent crime, 22.3% for a drug crime and 19.8% for a property crime. Other types of crime such as white-collar, organized and consensual were excluded from this research. For criminal history, the number of times incarcerated before the current offense was examined and revealed that 47.2% had no prior incarcerations and 47.9% had been incarcerated 1-9 times prior. The next theoretical concept, risk, examined pretrial release, education, employment and homelessness. For pretrial release, only 28.4% of respondents were released in the time between their arrest to the start of their trial. For education, 59.7% did not have a high school diploma, and in the month before their arrest, 64.1% had a job and 8.7% were homeless. The final concept, practical constraints, looked at whether or not the respondent had any children in which 68.7% revealed that they did.

Federal Data

Table 3 provides an overview of variables from the federal data included in the study. When looking at the dependent variable, the results from the descriptive statistics reveal that 35.5% were serving a sentence that was between 5 and 10 years and 29.3% of them were serving a sentence of 4 years or less. The race variable revealed that 38.9% of the respondents were black, 29.2% were white and 24.7% were Hispanic. Other races were excluded from the analyses because of small sample size. When looking at whether or not the respondent had taken prescription medication for mental health issues in the last year, 19.1% reported that they had which is almost two times more than the responses from the state data. Also, 1.9% of respondents reported that they had been admitted to a mental hospital for an overnight stay in

the last year which is almost consistent with the state reports. The control variables, age and sex, revealed that 25% of the respondents were between the ages of 19-29, 35.5% between the ages of 30-39 and 74% were male.

For the theoretical concept of blameworthiness, current offense and criminal history was examined. For current offense, responses showed that respondents were less likely to be serving time for a violent and property crimes but more likely to be serving time for drug crimes. The table shows that 19.4% of the respondents revealed that they were serving time for a violent crime which is a significant difference from the number of respondents in the state system that were serving a sentence for a violent crime. However, unlike the state data, most of the respondents were serving a sentence for a drug crime at 36.1% and 13.3% were serving for a property crime. Other types of crime such as white-collar, organized and consensual were excluded from this research. For criminal history, the number of times incarcerated before the current offense was examined and revealed that 57.9% had no prior incarcerations and 38.4% had been incarcerated 1-9 times prior. The next theoretical concept, risk, examined pretrial release, education, employment and homelessness. For pretrial release, only 35.2% of respondents were released in the time between their arrest to the start of their trial. For education, 46.1% did not have a high school diploma, and in the month before their arrest, 68.6% had a job and 4% were homeless. The final concept, practical constraints, looked at whether or not the respondent had any children in which 75.4% revealed that they did.

TABLE 2. Descriptive Statistics of Study Variables in State Data Set

| DEPENDENT VARIABLE | n | Percentage or Mean | SD |
|--|----------|---------------------------|-----------|
| <i>Sentence Length</i> | 12887 | 137.33 | 183.99 |
| INDEPENDENT VARIABLES | | | |
| <i>Race</i> | | | |
| White | 5287 | 36.5% | .481 |
| Black | 5806 | 40% | .490 |
| Hispanic | 2529 | 17.4% | .379 |
| <i>Mental Health Medication</i> | | | |
| No | 12961 | 89.4% | .308 |
| Yes | 1538 | 10.6% | |
| CONTROL VARIABLES | | | |
| <i>Age</i> | 14499 | 35.33 | 10.45 |
| <i>Sex</i> | | | |
| Male | 11569 | 79.8% | .402 |
| Female | 2930 | 20.2% | |
| <i>Mental Hospital</i> | | | |
| No | 13751 | 94.8% | .190 |
| Yes | 537 | 3.7% | |
| BLAMEWORTHINESS | | | |
| <i>Current Offense</i> | | | |
| Violent | 6535 | 45.1% | .498 |
| Drug | 3238 | 22.3% | .419 |
| Property | 2875 | 19.8% | .401 |
| <i>Criminal History</i> (# of times incarcerated) | | | |
| RISK | 7787 | 5.13 | 15.01 |
| <i>Pretrial Release</i> | | | |
| No | 10210 | 70.4% | .453 |
| Yes | 4118 | 28.4% | |
| <i>Education</i> | | | |
| No High School Diploma | 8660 | 59.7% | .794 |
| High School Diploma | 3598 | 24.8% | |
| 1-4 Years of College | 1879 | 13% | |
| 5+ Years of College | 303 | 2.1% | |
| <i>Employment</i> | | | |
| No | 4883 | 34.4% | .475 |
| Yes | 9297 | 64.1% | |
| <i>Homelessness</i> | | | |
| No | 12532 | 86.4% | .289 |
| Yes | 1266 | 8.7% | |
| PRACTICAL CONSTRAINTS | | | |
| <i>Children</i> | | | |
| No | 4482 | 31.3% | .464 |
| Yes | 9858 | 68.7% | |

TABLE 3. Descriptive Statistics of Study Variables in Federal Data Set

| DEPENDENT VARIABLE | n | Percentage or Mean | SD |
|--|----------|---------------------------|-----------|
| <i>Sentence Length</i> | 3502 | 114.95 | 118.21 |
| INDEPENDENT VARIABLES | | | |
| <i>Race</i> | | | |
| White | 1075 | 29.2% | .455 |
| Black | 1434 | 38.9% | .488 |
| Hispanic | 909 | 24.7% | .431 |
| <i>Mental Health Medication</i> | | | |
| No | 2887 | 78.3% | .397 |
| Yes | 704 | 19.1% | |
| CONTROL VARIABLES | | | |
| <i>Age</i> | 3686 | 37.71 | 10.73 |
| <i>Sex</i> | | | |
| Male | 2728 | 74% | .439 |
| Female | 958 | 26% | |
| <i>Mental Hospital</i> | | | |
| No | 3522 | 98.1% | .135 |
| Yes | 67 | 1.9% | |
| BLAMEWORTHINESS | | | |
| <i>Current Offense</i> | | | |
| Violent | 715 | 19.4% | .398 |
| Drug | 1331 | 36.1% | .482 |
| Property | 490 | 13.3% | .342 |
| <i>Criminal History</i> (# of times incarcerated) | 1513 | 4.85 | 15.37 |
| RISK | | | |
| <i>Pretrial Release</i> | | | |
| No | 2345 | 63.6% | .479 |
| Yes | 1299 | 35.2% | |
| <i>Education</i> | | | |
| No High School Diploma | 1698 | 46.1% | .971 |
| High School Diploma | 912 | 24.7% | |
| 1-4 Years of College | 829 | 22.5% | |
| 5+ Years of College | 247 | 6.7% | |
| <i>Employment</i> | | | |
| No | 1002 | 27.2% | .451 |
| Yes | 2530 | 68.6% | |
| <i>Homelessness</i> | | | |
| No | 3355 | 90.1% | .199 |
| Yes | 146 | 4% | |
| PRACTICAL CONSTRAINTS | | | |
| <i>Children</i> | | | |
| No | 853 | 23.1% | .424 |
| Yes | 2781 | 75.4% | |

MULTIVARIATE ANALYSIS

State Data

The results of the multiple linear regression analysis for the state data predicting sentence length are shown in Table 4. In state courts, Hispanics receive significantly shorter sentences than whites. The main effects model shows that Hispanics receive about 15% shorter sentences on average than whites, when controlling for a host of legally and extra-legal case characteristics. Looking at the theoretical framework, the analysis showed that most of the variables in the concepts of this theory were significant in predicting sentence length. When looking at the first concept of blameworthiness, those who commit violent crimes serve sentences that are about 87% longer than those who commit property crimes and those who commit drug offenses serve sentences that are about 11% longer. For the concept of risk, our analysis showed that three out of the four variables used to test this section of the theory were significant when predicting sentence length. Those who were released before the start of their trial received sentences that were about 16% shorter than those who did not. With each additional year of education, those individuals received sentences that were about 5% shorter and those who were homeless in the month before their release received sentences that were about 10% shorter than those who were not homeless. Lastly, for practical constraints, the analysis showed that those who had children received sentences that were about 9% less than those who did not.

Multiplicative interaction terms for race, ethnicity and mental health were created to test whether those with prior mental health condition are treated differently based on their race. These interactions were then added to the analysis which are presented in models 2 and

3. The F-test for the added interaction terms was not statistically significant nor were any of the coefficients. The results suggest that mental health hospitalization as well as taking prescription medication in the year prior to incarceration did not affect sentence length overall, nor did it differentially affect subgroups (i.e., females and racial/ethnic minorities).

Federal Data

The results of the multiple linear regression analysis for the federal data predicting sentence length are shown in Table 5. In federal courts blacks receive significantly longer sentences than whites. The main effects model shows that blacks receive approximately 21% longer sentences on average than whites, controlling for a host of legally and extra-legal case characteristics. Unlike the state data, the concepts for the theoretical framework only proved significant when looking at blameworthiness and risk. For blameworthiness, those who committed a violent crime were serving sentences that were 68% longer than those who committed a property crime and 54% longer for those who committed a drug crime. For risk however, pretrial release was the only variable that proved significant, with those released before their trial serving 43% shorter sentences. Although, hospitalization for mental health did not moderate this effect, the interactions for Prescription Medication* Black were significant. Black respondents who had taken prescription medication for mental illness in the last year received significantly lower sentences than whites. The second interaction effect model shows that Blacks receive sentences that are about 24% lower than whites. The negative coefficients suggest that prescription drug moderated the black effect significantly and importantly reduced the race effect. Therefore, the analysis shows that blacks who have a history with prescription medication for mental health issues are serving significantly shorter

sentences than whites with the same history. The main effect of Hispanic ethnicity was not significant in the main effects model but was in the negative direction showing that Hispanics receive sentences only 8% shorter than whites. The multiplicative interaction term with Prescription Medication*Hispanic, was statistically significant and negative suggesting a mitigating role for Hispanics as well. That is, Hispanics with a history of taking prescription medications for mental illness received significantly shorter sentences than whites with such histories.

These findings suggest that the focal concerns perspective may play an important role in sentencing decisions in the state data. The concepts of blameworthiness, risk and practical constraints may influence court actor's decisions when sentencing defendants. However, in the federal data, these concepts overall play no role when it comes to the decision on how long to sentence a defendant.

TABLE 4. Multiple Linear Regression Predicting Sentence Length (State Data)

| | Main Effects B (Std. Error) | Interaction Effects (I) B (Std. Error) | Interaction Effects (II) B (Std. Error) |
|---|--------------------------------|---|--|
| <i>Black</i> | .022 (.021) | .025 (.021) | -.187 (.132) |
| <i>Hispanic</i> | -.148 (.026)** | -.149 (.027) ** | -.053 (.180) |
| <i>Mental Hospital</i> | .032 (.052) | .026 (.074) | .035 (.052) |
| <i>Prescription Medication</i> | .109 (.032) ** | .110 (.032) ** | .100 (.094) |
| CONTROL VARIABLES | | | |
| <i>Age</i> | .016 (.001) ** | .016 (.001) ** | .016 (.001) ** |
| <i>Female</i> | -.337 (.023)** | -.341 (.024) ** | -.318(.114)** |
| BLAMEWORTHINESS | | | |
| <i>Violent Offense</i> | .870 (.021) ** | .870 (.021) ** | .870 (.021)** |
| <i>Drug Offense</i> | .107 (.025) ** | .107 (.025) ** | .106(.025)** |
| <i>Incarcerations</i> | -.016 (.013) | -.016 (.013) | -.016(.013) |
| RISK | | | |
| <i>Pretrial Release</i> | -.155 (.020) ** | -.155 (.020) ** | -.155 (.020) ** |
| <i>Employment</i> | .038 (.020) * | .038 (.020) * | .038 (.020) * |
| <i>Education</i> | -.054 (.012) * | -.054 (.012) * | -.054 (.012) * |
| <i>Homelessness</i> | -.096 (.032) * | -.096 (.032) * | -.096 (.032) * |
| PRACTICAL CONSTRAINTS | | | |
| <i>Children</i> | -.092 (.021) ** | -.092 (.021) ** | -.092 (.021) ** |
| INTERACTIONS(I) | | | |
| <i>Mental Hospital * Black</i> | | -.111 (.107) | |
| <i>Mental Hospital * Hispanic</i> | | .089 (.178) | |
| <i>Mental Hospital * Gender</i> | | .088 (.100) | |
| INTERACTIONS (II) | | | |
| <i>Prescription Medication * Black</i> | | | .109 (.068) |
| <i>Prescription Medication * Hispanic</i> | | | -.048 (.093) |
| <i>Prescription Medication * Gender</i> | | | -.010 (.061) |
| R² | .210 | .210 | .210 |

Note: *p<0.05; **p<0.01

TABLE 5. Multiple Linear Regression Predicting Sentence Length (Federal Data)

| | Main Effects | Interaction Effects (I) | Interaction Effects (II) |
|---|-----------------|-------------------------|--------------------------|
| | B (Std. Error) | B (Std. Error) | B (Std. Error) |
| <i>Black</i> | .213 (.036) ** | .220 (.036) ** | .263 (.040)** |
| <i>Hispanic</i> | -.081 (.041) * | -.077 (.042) | -.026 (.045) |
| <i>Mental Hospital</i> | .228 (.121) | .287 (.388) | .255 (.121)* |
| <i>Prescription Medication</i> | -.051 (.041) | -.050 (.041) | .086 (.124) |
| CONTROL VARIABLES | | | |
| <i>Age</i> | .016 (.002) ** | .016 (.002)** | .016 (.002)** |
| <i>Female</i> | -.398 (.035)** | -.399 (.036)** | -.386 (.041)** |
| BLAMEWORTHINESS | | | |
| <i>Violent Offense</i> | .679 (.043) ** | .680 (.043)** | .684 (.043)** |
| <i>Drug Offense</i> | .539 (.033) ** | .539 (.033)** | .541 (.003)** |
| <i>Incarcerations</i> | .017 (.022) | .016 (.022) | .018 (.022) |
| RISK | | | |
| <i>Pretrial Release</i> | -.427 (.033) ** | -.429 (.033)** | -.427 (.033)** |
| <i>Employment</i> | -.029 (.033) | -.028 (.033) | -.028 (.033) |
| <i>Education</i> | -.027 (.017) | -.026 (.017) | -.028 (.017) |
| <i>Homelessness</i> | -.083 (.075) | -.080 (.076) | -.088 (.075) |
| PRACTICAL CONSTRAINTS | | | |
| <i>Children</i> | -.013 (.037) | -.015 (.037) | -.015 (.037) |
| INTERACTIONS (I) | | | |
| <i>Mental Hospital * Black</i> | | -0.374 (.256) | |
| <i>Mental Hospital * Hispanic</i> | | .146 (.347) | |
| <i>Mental Hospital* Gender</i> | | .081 (.240) | |
| INTERACTIONS (II) | | | |
| <i>Prescription Medication * Black</i> | | | -.241 (.091)** |
| <i>Prescription Medication * Hispanic</i> | | | -.235 (.102)** |
| <i>Prescription Medication * Gender</i> | | | -.018 (.079) |
| R² | .258 | .259 | .261 |

Note: *p<0.05; **p<0.01

Chapter V

DISCUSSION

Previous literature generally looks at only race and extralegal factors as a determinate in sentence length. This study differs because there is not a lot of research that focuses not only on race, but mental health and the interaction between race and mental health as it relates to sentence length. This is important because mental illnesses are stigmatized and treated differently by different races and ethnic groups (Mcguire & Miranda 2018; Schnittker et al., 2000; Wong et al., 2017). These stigmatizations and possible stereotypes may influence judge's decisions on punishment for offenders which can provide an impetus for sentencing disparities as well as other racial, ethnic and gender disparities in all parts of the criminal justice system. At the federal level when looking at disparities in sentencing, it is important to consider how these disparities can result from theoretically "race neutral" sentencing policies that have significant disparate racial effects, specifically in the cases of habitual offender laws and many drug policies, including mandatory minimums, school zone drug enhancements, and federal policies adopted by Congress in 1986 and 1996 (American Civil Liberties Union 2014; Rehavi & Starr 2014).

Three research questions initially guided this study. Those questions were: 1) Does an offender's race/ethnicity have an influence on sentence length? 2) Does an offender's mental health history have an influence on sentence length? 3) Does mental health interact with race when examining sentencing length?

Overall, the analyses ran for this study showed that in regards to the first research question, an offender's race/ethnicity does in fact have an influence on sentence length in both the state and federal data which is consistent with previous literature (Barnes & Kingsnorth 1996; Burch 2015; Carson & Sabol 2012; Chen & Nomura 2015; Doerner & Demuth 2010; Kutateladze et al., 2014; Lyons et al., 2013; Mustard 2010; Primm et al., 2005). In the state data, black offenders are significantly more likely to get longer sentences than White and Hispanic offenders, while Hispanic offenders are significantly more likely to get shorter sentences than white and black offenders. The federal data showed that black offenders are significantly more likely than both whites and Hispanic offenders to receive longer sentences. Hispanic offenders are significantly more likely to receive shorter sentences than black offenders, however unlike the state data, white offenders receive significantly shorter sentences than both black and Hispanic offenders.

When examining whether an offender's mental health history has an influence on their length of sentence, there was significance in both the state and federal data when taking into account whether an offender had taken prescription medication for a mental illness in the last year. While prescription medication for mental illness proved significant for both datasets, the length of sentence was very different. For the state data, those who had taken prescription medication received sentences that were significantly longer than those who had not, while those who had taken prescription medication in federal prisons received sentence that were significantly shorter. This could be because those who are in state prisons are often considered more violent and dangerous with offenses generally being more serious such as homicide, assault, domestic violence and weapon offenses (O'connor 2014), which could explain the

desire to want to detain these individuals for longer periods of time. When examining the interaction between mental health and race on predicting sentence length, the analyses showed that both black and Hispanic offenders in federal prisons who had taken prescription medication in the last year for mental illness received sentences that were significantly shorter than those who had not.

The focal concerns perspective is the theory that guided this study. Blameworthiness, risk and practical constraints are the three concepts this perspective theorizes judges take into account when determining an offender's sentence. However, the results of this study showed that this theory is only supported in the state court settings which may be due to the overwhelmingly small federal sample used to run the analyses. In the state data, almost every single variable in all three concepts were significant when predicting sentence length. Yet, blameworthiness and one of the four variables in the risk concept were significant.

LIMITATIONS AND FUTURE RESEARCH

In the current research, limitations were present. First, this research looks only at people who have already been sentenced and are already in prison. This is a problem because those individuals who are not sentenced to prison and perhaps are sentenced to probation are not being examined. Addressing this limitation in future research could potentially reveal more significant findings amongst race, ethnicity and those with a history of mental illness.

The next limitation is that the information such as race, age and gender of the judges and prosecutors who are sentencing these individuals are not being examined. The discretion and ability to depart from sentencing guidelines give judges the ability to make decisions about

defendants based upon their personal biases, beliefs, assumptions and values. Future research can address this limitation by including judges and other court actors' demographics and possibly sentencing history.

Another limitation is that this research only looks at mental hospital stays and history of prescription medication for mental illnesses. Since there are no other mental health variables being examined, it is hard to say which mental illnesses are receiving longer or shorter sentences. It is possible that we would see more punitive reactions for some mental illnesses, and more empathy for others. It is also not known if judges are aware of the mental illnesses these individuals have or have been treated for in the past. Future research can address this by looking at certain types of mental illnesses and examining whether or not certain illnesses are receiving significantly longer or harsher sentences.

Lastly, this study uses data from self-reported surveys. Not only is honesty an issue in self-reported data, introspective ability, understanding and response bias pose a threat to the validity of the answers being given (Hoskin 2012). Future research should consider gathering data from official court reports and presentencing reports to address the reliability of the research.

CONCLUSION

This research provides promising evidence in favor of mentally ill offenders. Previous literature has found that those with mental health issues, specifically minorities, are being disproportionately incarcerated for long periods of time at an alarming rate (Bureau of Justice Statistics 2006; Thompson 2010). However, the current analysis shows that judges may be treating minorities with mental illnesses more leniently than minorities without. Judges may be

viewing minorities with mental illnesses as less culpable of their crimes which could explain why they are receiving shorter sentences. More specifically, Blacks and Hispanics who have taken prescription medication for mental illness in the last month before their arrests were seeing shorter sentences which could be because judges are not seeing them as a risk to the community since they seem to be managing their illness. This reiterates the necessity for social policies to continue to provide adequate treatment for mentally ill defendants.

While the results of this study may bring hope to those who are concerned with the way our justice system is treating mental ill offenders, evidence shows there are still racial disparities when it comes to sentencing. By adding to the overwhelming literature on racial disparities in sentencing, bringing awareness that these disparities continue to exist may help to bring reforms to the criminal justice system. These reforms must address the biases, stereotypes and racism at every single stage of the criminal justice system in order to see a significant change where our system operates impartially and fairly.

REFERENCES

- American Civil Liberties Union. (2014). Hearing on Reports of Racism in the Justice System of the United States. Retrieved from https://www.aclu.org/sites/default/files/assets/141027_iachr_racial_disparities_aclu_submission_0.pdf
- Barnes, & Kingsnorth. (1996). Race, drug, and criminal sentencing: Hidden effects of the criminal law. *Journal of Criminal Justice*, 24(1), 39-55.
- Blow, F. C., Zeber, J. E., McCarthy, J. F., Valenstein, M., Gillon, L., & Bingham, C. R. (2004). Ethnicity and diagnostic patterns in veterans with psychoses. *Social Psychiatry and Psychiatric Epidemiology*, 39, 841–851.
- Brennan, P., & Spohn, C. (2008). Race/Ethnicity and Sentencing Outcomes Among Drug G. S. Bridges, R. D. Crutchfield, and E. Simpson, "Crime, social structure and criminal punishment: white and non-white rates of imprisonment," *Social Problems*, vol. 34, no. 4, pp. 345–361, 1987.
- Bresnahan, M., Begg, M. D., Brown, A., Schaefer, C., Sohler, N., Insel, B., et al. (2007). Race and risk of schizophrenia in a US birth cohort: Another example of health disparity? *International Journal of Epidemiology*, 36, 751–758.
- Bridges, R., Crutchfield, D., & Simpson, E. (1987). "Crime, social structure and criminal punishment: white and non-white rates of imprisonment," *Social Problems*, vol. 34, no. 4, pp. 345–361.

- Burch, T. (2015). Skin Color and the Criminal Justice System: Beyond Black-White Disparities in Sentencing. *Journal of Empirical Legal Studies*, 12(3), 395-420. doi:10.1111/jels.12077
- Carson E & Sabol, WJ. (2012) "Prisoners in 2011." U.S. Department of Justice: Bureau of Justice Statistics <http://www.bjs.gov/content/pub/pdf/p11.pdf>.
- Chen, E., & Nomura, K. (2015). And Justice for All? Racial and Ethnic Disparities in Federal Drug Courts in California and the US. California, *Journal of Politics and Policy*, 7(2). doi:10.5070/p2cjpp7227275
- Chiricos, T., Welch, K., & Gertz, M. (2004) "Racial typification of crime and support for punitive measures," *Criminology*, vol. 42, no. 2, pp. 358–390.
- Crawford, C. (2000). "Gender, race, and habitual offender sentencing in Florida," *Criminology*, vol. 38, no. 1, pp. 263–280.
- Creech, S. (2012). About Statistically Significant Consulting, LLC. Retrieved from <https://www.statisticallysignificantconsulting.com/contact.htm>
- Doerner, J., & Demuth, S. (2010). The Independent and Joint Effects of Race/Ethnicity, Gender, and Age on Sentencing Outcomes in US Federal Courts. *Justice Quarterly*, 27(1), 1-27.
- Dvoskin, J., Huss, M., & Elbogen, E. (2008). Treating serious mental illnesses in jails and prisons. *PsycEXTRA Dataset*. doi:10.1037/e456112008-005
- Forbes, D. (2012) What is a P-Value and What Does it Mean? *Evidence-Based Nursing*. Retrieved from <https://ebn.bmj.com/content/15/2/34.info>
- Fuller, D. A., Sinclair, E., Geller, J., Quanbeck, C., & Snook, J. (2016). Going, Going, Gone; Trends and Consequences of Eliminating State Psychiatric Beds. *Treatment Advocacy Center*.

Retrieved from <https://www.treatmentadvocacycenter.org/storage/documents/going-going-gone.pdf>.

Hoskin, R. (n.d.). The dangers of self-report. Retrieved from

<http://www.sciencebrainwaves.com/the-dangers-of-self-report/>

Knoke, D., Bohrnstedt, G. W., & Mee, A. P. (2010). *Statistics for social data analysis*. Belmont, CA: Wadsworth Cengage Learning.

Kutateladze, B. L., Andiloro, N. R., Johnson, B. D. And Spohn, C. C. (2014), Cumulative Disadvantage: Examining Racial and Ethnic Disparity In Prosecution And Sentencing. *Criminology*, 52: 514-551. Doi:10.1111/1745-9125.12047

Kutchins, Herb and Stuart A. Kirk. (1997). *Making Us Crazy. DSM: The Psychiatric Bible and the Creation of Mental Disorders*. New York: The Free Press.

Lamb, H. R., & Weinberger, L. E. (2001). Persons with severe mental illness in jails and prisons: A review. *New Directions for Mental Health Services*, 90, 29–49.

Lani, J. (2018). What is Multiple Linear Regression? Retrieved from

<https://www.statisticssolutions.com/what-is-multiple-linear-regression/>

Liska, A. E., Lawrence, J. J., & Sanchirico, A. (1982). Fear of crime as a social fact. *Social Forces*, 60, 760-761.

Lyons, T., Lurigio, A., Roque, L., & Rodriguez, P. (2013). Racial Disproportionality in the Criminal Justice System for Drug Offenses. *Race and Justices*, 3(1), 83-101

Maurer, M., & King, R. S. (2007). Uneven justice: State rates of incarceration by race and ethnicity. Report from the sentencing project. Available online at

- http://www.sentencingproject.org/doc/publications/rd_stateratesofincbyraceandethnicity.pdf. Accessed 15 Dec 2011.
- Mcguire, T. G., & Miranda, J. (2008). New Evidence Regarding Racial And Ethnic Disparities In Mental Health: Policy Implications. *Health Affairs*, 27(2), 393-403.
doi:10.1377/hlthaff.27.2.393
- Mehta, R. S. (2013). Conceptual and theoretical framework. Retrieved from <https://www.slideshare.net/rsmehta/conceptual-and-theoretical-framework>
- Mustard, D. (2001). Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts *. *The Journal of Law & Economics*, 44(1), 285-314.
- National Institute of Mental Health. (2016). *Mental Illness*. Retrieved from <https://www.nimh.nih.gov/health/statistics/mental-illness.shtml>
- O'connor, Rachel (2014). The United States Prison System: A Comparative Analysis. *Graduate Theses and Dissertations*. <https://scholarcommons.usf.edu/etd/5086>
- Perry, B., Neltner, M., & Allen, T. (2013). A Paradox of Bias: Racial Differences in Forensic Psychiatric Diagnosis and Determinations of Criminal Responsibility. *Race and Social Problems*, 5(4), 239-249.
- Poussaint, A. F., & Alexander, A. (2000). Lay my burden down: Suicide and the mental health crisis among African Americans. Boston, MA: Beacon Press.
- Primm, A., Osher, B., & Gomez, F. (2005). Race and Ethnicity, Mental Health Services and Cultural Competence in the Criminal Justice System: Are we Ready to Change? *Community Mental Health Journal*, 41(5), 557-569.
- Quillian, Lincoln and Devah Pager. (2001). "Black Neighbors, Higher Crime? The Role of

- Racial Stereotypes in Evaluations of Neighborhood Crime." *American Journal of Sociology* 107(3):717–67.
- Rehavi, M. M., & Starr, S. B. (2014). Racial Disparity in Federal Criminal Sentences. *Journal of Political Economy*, 122(6), 1320-1354. doi:10.1086/677255
- Rosenberg, A., Groves, A. K., & Blankenship, K. M. (2016). Comparing Black and White Drug Offenders: Implications for Racial Disparities in Criminal Justice and Reentry Policy and Programming. *Journal of drug issues*, 47(1), 132-142.
- Schnittker, J., Freese, J., & Powell, B. (2000). Nature, Nurture, Neither, Nor: Black-White Differences in Beliefs about the Causes and Appropriate Treatment of Mental Illness. *Social Forces*, 78(3), 1101-1132. doi:10.1093/sf/78.3.1101
- Sniderman, Paul M. and Thomas Piazza. (1993). *The Scar of Race*. Cambridge, MA: Harvard University Press.
- Steffensmeier, D., & Demuth, S. (2000). "Ethnicity and Sentencing Outcomes in U.S. Federal Courts: Who is Punished More Harshly?" *American Sociological Review* 65:705-29.
- Steffensmeier, D., & Demuth, S. (2001). Ethnicity and Judges' Sentencing Decisions: Hispanic-Black-White Comparisons. *Criminology*, 39(1), 145-178.
- Thomas, W. John, Dorothy E. Stubbe, and Geraldine Pearson. 1999. "Race, Juvenile Justice, and Mental Health: New Dimensions in Measuring Pervasive Bias." *The Journal of Criminal Law & Criminology* 89(2):615–70.

- Thompson, M. (2010). *Mad or bad?: Race, class, gender, and mental disorder in the criminal justice system*. El Paso: LFB Scholarly Pub. LLC.
- Thompson, M. (2010). Race, Gender, and the Social Construction of Mental Illness in the Criminal Justice System. *Sociological Perspectives*, 53(1), 99-126.
- U.S. Department of Justice, Bureau of Justice Statistics. (1995). SURVEY OF ADULTS ON PROBATION, 1995: [UNITED STATES] [Computer file]. Conducted by U.S. Dept. of Commerce, Bureau of the Census. ICPSR ed. Ann Arbor, MI: Inter-university Consortium for Political and Social Research [producer and distributor], 1999.
doi:10.3886/ICPSR02039.
- Wang, X., Mears, D., Spohn, C., & Dario, L. (2013). Assessing the Differential Effects of Race and Ethnicity on Sentence Outcomes Under Different Sentencing Systems. *Crime & Delinquency*, 59(1), 87-114.
- Wong, E. C., Collins, R. L., Cerully, J., Seelam, R., & Roth, B. (2017). Racial and Ethnic Differences in Mental Illness Stigma and Discrimination Among Californians Experiencing Mental Health Challenges. *Rand health quarterly*, 6(2), 6.

APPENDIX

APPENDIX 1. Pearson's r Correlation. Sentence Length (State Data)

| | X1 | X2 | X3 | X4 | X5 | X6 | X7 | X8 | X9 | X10 | X11 | X12 | X13 | X14 | X15 | X16 |
|-----------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|--------|-------|
| | 1 | | | | | | | | | | | | | | | |
| <i>1 White</i> | -.008 | 1 | | | | | | | | | | | | | | |
| <i>2 Black</i> | .047** | -.619** | 1 | | | | | | | | | | | | | |
| <i>3 Hispanic</i> | -.054** | -.354** | -.375** | 1 | | | | | | | | | | | | |
| <i>4 Mental Hospital</i> | -.010 | .070** | -.034** | -.048** | 1 | | | | | | | | | | | |
| <i>5 Mental Health Medication</i> | .060** | -.142** | .103** | .058** | -.362** | 1 | | | | | | | | | | |
| <i>6 Violent Offense</i> | .403** | -.030** | .024** | -.008 | .012 | .032** | 1 | | | | | | | | | |
| <i>7 Drug Offense</i> | -.171** | -.089** | .083** | .025** | -.028** | .022* | -.484** | 1 | | | | | | | | |
| <i>8 Property Offense</i> | -.150** | .097** | -.061** | -.036** | .017 | -.049** | -.447** | -.297** | 1 | | | | | | | |
| <i>9 Incarcerations</i> | -.026** | .013 | -.009 | -.015 | .004 | -.010 | -.107** | .004 | .069** | 1 | | | | | | |
| <i>10 Pretrial Release</i> | -.110** | .093** | -.040** | -.061** | -.006 | -.016 | -.108** | .138** | -.015 | -.112** | 1 | | | | | |
| <i>11 Employment</i> | .055** | .071** | -.076** | .012 | -.038** | .063** | .050** | -.081** | -.004 | -.016 | .058** | 1 | | | | |
| <i>12 Education</i> | -.023* | .111** | -.055** | -.086** | .004 | -.036** | -.006 | -.028** | .024** | -.071** | .078** | .096** | 1 | | | |
| <i>13 Homelessness</i> | -.042** | .030** | -.026** | -.017 | .102** | .083** | -.028** | -.021* | .063** | .075** | -.079** | -.111** | -.040** | 1 | | |
| <i>14 Children</i> | -.048** | -.035** | .020* | .016 | -.004 | -.018* | -.065** | .053** | -.019* | .026* | .061** | .039** | .035** | -.031** | 1 | |
| <i>15 Age</i> | .143** | .103** | -.044** | -.076** | .022* | -.061** | .030** | -.023* | -.027** | .066** | -.010 | .084** | .168** | -.011 | .232** | 1 |
| <i>16 Gender</i> | -.194** | .076** | -.050** | -.039** | .084** | -.191** | -.155** | .093** | .102** | -.073** | .077** | -.134** | .050** | .066** | .131** | .023* |

Note: *p<0.05; **p<0.01

APPENDIX 2. Pearson's r Correlation. Sentence Length (Federal Data)

| | X1 | X2 | X3 | X4 | X5 | X6 | X7 | X8 | X9 | X10 | X11 | X12 | X13 | X14 | X15 | X16 |
|-----------------------------------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|--------|-------|--------|--------|
| | 1 | | | | | | | | | | | | | | | |
| <i>1 White</i> | -.083** | 1 | | | | | | | | | | | | | | |
| <i>2 Black</i> | .162** | -.519** | 1 | | | | | | | | | | | | | |
| <i>3 Hispanic</i> | -.075** | -.373** | -.444** | 1 | | | | | | | | | | | | |
| <i>4 Mental Hospital</i> | .006 | .033 | .006 | -.026 | 1 | | | | | | | | | | | |
| <i>5 Mental Health Medication</i> | -.097** | .208** | -.149** | -.072** | .231** | 1 | | | | | | | | | | |
| <i>6 Violent Offense</i> | .228** | -.024 | .078** | -.137** | .018 | .029 | 1 | | | | | | | | | |
| <i>7 Drug Offense</i> | .172** | -.089** | .035* | .101** | -.048** | -.083** | -.358** | 1 | | | | | | | | |
| <i>8 Property Offense</i> | -.347** | .135** | -.052** | -.112** | .064 | .085** | -.188** | -.314** | 1 | | | | | | | |
| <i>9 Incarcerations</i> | .072** | -.026 | .082** | -.075** | .006 | .005 | .027 | -.060** | -.102** | 1 | | | | | | |
| <i>10 Pretrial Release</i> | -.292** | .187** | -.058** | -.148** | .023 | .085** | -.154** | -.026 | .242** | -.168** | 1 | | | | | |
| <i>11 Employment</i> | -.057** | .005 | -.079** | .086** | -.049** | -.093** | -.044** | -.054** | .075** | -.054** | .113** | 1 | | | | |
| <i>12 Education</i> | -.089** | .208** | -.090** | -.125** | -.019 | .070** | -.032 | -.100** | .227** | -.189** | .208** | .159** | 1 | | | |
| <i>13 Homelessness</i> | .007 | .051* | -.011 | -.043* | .036* | .106** | .068** | -.020 | -.012 | .036* | -.075** | -.049** | -.031 | 1 | | |
| <i>14 Children</i> | .008 | -.081* | .043* | .033 | .005 | -.021 | -.098** | .062** | -.007 | .019 | .043* | .022 | .005 | -.030 | 1 | |
| <i>15 Age</i> | .104** | .238** | -.163** | -.058** | -.004 | .055** | -.048** | -.023 | .074** | -.052** | .062** | .070** | .246** | -.019 | .233** | 1 |
| <i>16 Gender</i> | -.249** | .030 | -.098** | .038* | .039* | .245** | -.104** | .030 | .198** | -.136** | .177** | .060** | .078** | .016 | .066** | .054** |

Note: *p<0.05; **p<0.0

VITA

Briana Paige
Department of Sociology and Criminal Justice
Old Dominion University
Norfolk, Virginia 23529

Education

M.A. Applied Sociology, May 2019; Old Dominion University, Norfolk, Virginia

B.S. Criminal Justice, May 2017; Old Dominion University, Norfolk Virginia

B.S. Psychology, May 2017; Old Dominion University, Norfolk, Virginia

Relevant Experience

Deputy Clerk, Norfolk Circuit Court, Norfolk, Virginia, March 2018- Present

Research Assistant, ODU Research Foundation, Norfolk, Virginia, December 2017-August 2018

Intern, Roanoke City Police Department, Roanoke, Virginia, June 2016-August 2016