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Nicole Nagin   April 12, 2012

A Study of the Recorder's Court:

Does Sentencing Disparity Exist and if so, Why?

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An abstract of
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Abstract

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The judiciary, unlike the legislature, is not designed to be responsive to the desires of the people; rather its role is to decide disputes consistent with the Constitution and laws. In criminal cases, courts determine the validity of charges brought against a defendant. Some individuals are found innocent and can walk away from the court unscathed, while other defendants are judged guilty of a crime and sentenced. In all situations, sentences affect how citizens view the judiciary. This perception is significant because the judiciary's authority depends upon the public's belief in the legitimacy of the courts. Although designed to make decisions on the basis of law, history demonstrates that other characteristics can influence sentencing outcomes made by the judiciary. Since the early 1920s, social scientists have tried to explain sentencing disparity where similarly situated defendants receive unequal penalties There are three theories that describe how sentencing outcomes can be reached. The first theory explains that a defendant's race and gender determines how the court imposes sentences due to continued racial discrimination and gender bias in the judicial system. The second theory, judicial background characteristics, states that that the background of the judge, including race and gender, influences sentencing outcomes. The final theory, judicial socialization, runs counter to the background characteristic theory. This theory states that because all judges go through the same socialization process (i.e. legal education, judicial norms in court), their decisions are made in the same way and are not influenced by their backgrounds . The purpose of this study is to test the applicability of these three different approaches in understanding sentencing outcomes in the context of the Recorder's Court.

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Table of Contents

Table of Graphs and Tables

Chapter 1: Theories of Sentencing Disparity

Representation is a significant concept in the American government. The judiciary, one of the three branches of government, is slightly different than the other two branches. The judiciary, unlike the legislature, is not designed to be responsive to the desires of the people; rather its role is to decide disputes consistent with the Constitution and laws. In criminal cases, courts determine the validity of charges brought against a defendant. Some individuals are found innocent and can walk away from the court unscathed, while other defendants are judged guilty of a crime and sentenced. In some contexts, convictions result in a jail sentence, and in some states, depending on the crime, individuals can be sentenced to death. For minor offenses, the sentence imposed by a judge can be a monetary fine. In all situations, sentences affect how citizens view the judiciary. This perception is significant because the judiciary's authority depends upon the public's belief in the legitimacy of the courts.

Although designed to make decisions on the basis of law, history demonstrates that other characteristics can influence sentencing outcomes made by the judiciary. Since the early 1920s, social scientists have tried to explain sentencing disparity where similarly situated defendants receive unequal penalties (Spohn, Gruhl & Welch 1982, 71). For example, during the Civil Rights movement, people voiced concern about racial discrimination in the courts. Research on sentencing disparity continues to grow and individuals question sentencing outcomes when they seem to be motivated by discrimination and other non-legally relevant factors.

There are three theories that describe how sentencing outcomes can be reached. The first theory explains that a defendant's race and gender determines how the court

imposes sentences due to continued racial discrimination and gender bias in the judicial

system (Daly & Tonry, 1997). The second theory, judicial background characteristics,

states that that the background of the judge, including race and gender, influences

sentencing outcomes (Welch, Combs & Gruhl, 1988). The final theory, judicial

socialization, runs counter to the background characteristic theory. This theory states that

because all judges go through the same socialization process (i.e. legal education, judicial

norms in court), their decisions are made in the same way and are not influenced by their

backgrounds (Jaros & Mendelsohn 1967, Steffensmeier & Herbert 1999). **The purpose**

of this study is to test the applicability of these three different approaches in

understanding sentencing outcomes in the context of the Recorder's Court.

  Theory on Defendant's Characteristics

  One theory that could explain sentencing outcomes focuses on the backgrounds of

the defendants, specifically racial discrimination and gender bias in the court. The theory

on racial discrimination points to the continued repression of African Americans in

American society. Stereotypes of African Americans consistently demonstrate that,

"Black offenders are members of a group that is culturally and racially dissimilar to

whites; has historically been disenfranchised economically; and is typically associated

with criminal stereotypes and serious crime problems" (Swigert & Farrell 1977, Myers

and Talarico 1986, 238). Although there was sentencing reform during the Civil Rights

movement based on the implications of racial sentencing disparity, there is still reason to

suspect that sentencing disparity exists (Daly & Tonry 1997, 204). Likewise, new trends

of nativism and fear of illegal immigrants could influence sentencing disparity in a new

way, and other groups, such as Hispanics, could also be affected by unfair sentencing procedures.

Some social scientists argue that legal characteristics, such as the defendant's criminal history and wealth, are the most significant factors in determining sentencing outcomes (Spohn, Gruhl & Welch 1982, 71). Although wealth and legal factors can influence sentencing outcomes, racial discrimination can encompass these two variables and further explain sentencing disparity (Spohn, Gruhl & Welch 1982, 71). Wealth discrimination explains that blacks receive harsher sentences than whites because they tend to be poorer. However, blacks tend to be poorer due to historical discrimination in the American education system and the labor force. Due to the fact that blacks tend to be in a disadvantaged economic position, they generally cannot afford the legal tools (i.e. a lawyer) necessary to defend themselves while going through the legal system (Spohn, Gruhl & Welch 1982). In terms of criminal records, blacks are more likely to have past criminal records than whites, and therefore more likely to receive harsher punishments as repeat offenders (Spohn, Gruhl & Welch 1982). Again, the fact that blacks are more likely to have criminal histories in part can be attributed to racial sentencing patterns in the past, which placed blacks at a disadvantage. It appears that racial discrimination incorporates many elements that might influence sentencing outcomes, and scholars like Uhlman (1978), who analyze data from criminal cases at the state level, conclude that, "The continued disparity in sentencing is due to racial discrimination" (Spohn, Gruhl & Welch 1982, 72). Therefore, the literature supports the following hypothesis:

Hypothesis 1: Black defendants will be punished more severely than white defendants.

The hypothesis presented above is supported by several studies. Uhlman's study demonstrates that sentencing disparity is related to the race of the defendants, specifically that black males are punished more harshly than white males. Expanding on Uhlman's study and utilizing the same data, felony cases tried in a state court in "Metro City," Spohn, Gruhl and Welch (1982) follow procedures similar to Uhlman's but add additional controls for past criminal record as well as extra legal factors, such as presence of a lawyer. These controls minimize the effects of other variables that were present in earlier racial sentencing studies. Even with the added control variables, the results of the study continue to demonstrate that, "Black males receive harsher sentences than white males; more specifically, they are more likely than whites to receive prison terms" (Spohn, Gruhl & Welch 1982, 78).

Despite the studies mentioned above, counter arguments to racial disparity hold that race and sentencing severity are not directly related. Even though Spohn, Gruhl and Welch demonstrate a relationship between race and sentencing, the controls they use in their study do decrease the significance of the relationship (Spohn, Gruhl & Welch 1982, 80). Using path analysis, Spohn, Gruhl and Welch conclude that, "After removing the effects of the [other] independent variables, no direct path remains between race and the defendants sentence"(Spohn, Gruhl & Welch 1982, 81). Spohn, Gruhl and Welch argue that,"race has no direct effect on sentencing," but that other indirect factors related to race tend to create a system where blacks are punished more harshly than whites (Spohn, Gruhl & Welch 1982, 82). Some of the reasons they examine are listed below:

Black males are less likely than white males to be released prior to trial and thus receive harsher sentences than whites. Black males are less likely than white

males to be represented by private attorneys, who are more likely than public

defenders to get their clients released prior to trial. Because they are less likely

than whites to be released, blacks receive harsher sentences (Spohn, Gruhl &

Welch 1982, 82)

Myers and Talarico (1986) analyze data from felony cases in counties in Georgia,

and they also emphasize that in controlling for other legally relevant factors (e.g. criminal

history), blacks are not always punished more harshly than whites. Both the study by

Spohn, Gruhl and Welch and the other by Myers and Talarico acknowledge, however,

that a disparity exists between black and white defendants, although often not reaching

statistically significant levels. Specifically, disparity exists when black defendants'

victims are white, when blacks commit rape, and when blacks are robbers (Myers &

Talarico 1986, 237). In these situations, blacks are punished significantly more severely

than whites. In terms of incarceration rates, it appears that there is an overall trend in the

judicial system where blacks receive harsher punishments than whites. Spohn, Gruhl and

Welch determine that, "Black males are incarcerated about five percent more often than

white males" (Spohn, Gruhl & Welch 1982, 83). Steffensmeier, Ulmer and Kraner (1998)

attempt to clarify the racial sentencing argument by adding gender and age into statistical

tests (Steffensmeier, Ulmer & Kraner 1998, 766). Their study, based on data from the

Pennsylvania Commission on Sentencing for both felony and misdemeanor cases,

demonstrate that race does influence sentencing, specifically that young black males

receive the harshest penalties (Steffensmeier, Ulmer & Kraner 1998, 277). The debate on

racial discrimination continues and the findings are somewhat controversial (Spohn,

Gruhl & Welch 1982, 75). Nonetheless, data exist that support the argument that, in certain contexts, blacks are treated differently (more harshly) than whites in the judicial system.

In addition to the race of the defendant, the Steffensmeier, et al. research (1998) introduces the defendant's age as a possible factor that influences sentences. Based on the findings of the research, a second defendant characteristics hypothesis is plausible.

Hypothesis 2: Younger defendants will receive more severe sentences than older defendants.

The argument on gender sentencing disparity is not nearly as controversial as the racial or age argument. Steffensmeier and Demuth (2006), using data from the Bureau of Justice Statistics from the period of 1990-1996, note that gender has a significant impact on sentencing. Unlike the racial argument, which suggests that blacks are punished more harshly, the literature on gender sentencing find that women tend to receive less severe sentences than males. For example, "In 1995 the male incarceration rate for state and federal prisons, 789 per 100,000, was sixteen times the female rate of 47 per 100,000" (Daly & Tonry 1997, 202).

In discussing the lenient treatment of women in sentencing, many point to the "subordinate gender group" of women in society (Daly & Tonry 1997, 203). Likewise, patterns of chivalry and paternalism tend to favor women in sentencing because male (judges) typically look upon women differently than men (less threatening) (Kritzer & Uhlman 1977, 78). The lenient treatment of women may also be due to fact that they tend to commit less serious (violent) crimes than males and that they tend to play supportive roles in crimes rather than being the main instigator of the crime. Therefore:

Hypothesis 3: Females will receive less severe sentences than males.

In addition to gender inequality and racial discrimination of black defendants, an American surge of nativism towards immigrants, specifically Hispanic immigrants, suggests that trends of sentencing disparity could exist towards Hispanic defendants. Research on attitudes towards immigration suggests that the desire to maintain economic discrepancies between immigrants and native populations undermines support for empowering immigrants (Jackson and Esses 2000). Economic insecurity among groups is found to increase prejudicial stereotypes and foster more negative views on immigration (Burns and Gimpel 2000). The fear that a defendant is a "threat to society" can greatly affect judicial sentencing decisions. Swigert and Farrell (1977) describe how blacks (a minority group) tend to be seen as more threatening than whites (Stephan, Renfro & Davis 2002, 59) In the past, blacks were the most prominent minority group; therefore, if they were sentenced more harshly than whites, even by black judges, it could have been because they were seen as the most threatening minority group (Spohn 1990, 1213). Today, however, the significant increase in the Hispanic population has resulted in it being perceived as a potential threat. Issues of illegal immigration, demands for social services and competition for jobs have cast Hispanics in an unfavorable light, and they have became the target of repressive government polices and discrimination. Therefore: **Hypothesis 4: Hispanic defendants will be punished more severely than other groups within the court.**

Several states, such as Arizona, Alabama, Mississippi and Georgia, have enacted legislation to curb the settlement of illegal immigrants. Arizona originally had some of the harshest laws against illegal immigrants, but recently, Georgia Governor Nathan Deal signed legislation that would allow officers to question individuals under criminal investigation about their immigration status (Valdes 2011). Not only does the legislation seek to punish illegal immigrants, but it also imposes fines and possible jail time on people who knowingly hire illegal immigrants. Such intolerant laws demonstrate that these groups of immigrants might well fall under the same discrimination within the judiciary felt by blacks some years ago.

Although the debate on racial and gender disparities in sentencing hint that certain inequalities exist (ie: blacks are treated more harshly than whites, females are treated less severely than males, Hispanics are at a disadvantage in the court), many of the previous studies fail to take into account a major variable that could explain sentencing outcomes. The characteristics of the defendant (ie race, gender, age, criminal history, economic factors) are all important variables in an analysis on sentencing.

Judicial Characteristics

Prior to the Carter administration, the federal judiciary did not meat the standards of descriptive representation. Judges, like almost all other individuals holding governmental positions, tended to be white males. President Carter issued Executive Order 11972 to create a more representative federal judiciary, specifically appointing more women and African Americans to the bench (Peters & Woolley 1977). Although it was originally a slow process, blacks and females began to appear in the make-up of the

American judiciary. Specifically, "The 1970s marked a distinct move away from the historically white and male federal bench" (Segal 2000, 139). Once Carter set the trend for appointing black judges, Reagan appointed seven, Clinton appointed 37, and Bush appointed thirteen (Segal 2000, 138). Today, the Supreme Court includes three female justices, Ruth Ginsberg, Sonia Sotomayor and Elana Kagan and, "According to the National Center for State Courts, as of January 2009, women currently make up 31% of justices serving on state courts of last resort" (Dolan, Deckman & Swers 2011, 322). Lower levels of state courts have experienced similar patterns of gender and racial representation

The logic for the selection of minority judges is supported by a two-fold concept: fairness and substantive representation. In the context of fairness, individuals argue that it is only fair for blacks and females to be on the bench in numbers equal to their proportions in society. The notion of substantive representation and its implications on sentencing outcomes, however, are not quite as clear. Many argue that a representative judiciary can bring a different perspective to the bench because it is assumed that, "Nontraditional judges [are] more liberal than their…traditional colleagues" (Segal 2000,180). Today, the question of whether these new, supposedly liberal judges, influence the bench in a distinctive way has not yet been proven. In terms of policy implications, people continue to question if diverse representation in the judiciary influences policy outcomes (Segal 2000, 137).

The maximalist theory of gender decision-making explains why background characteristics might influence judicial decision-making. The maximalist camp argues that women are "cognitively, emotionally, behaviorally" and biologically unlike males

(Cook & Wilcox 1978 as cited in Steffensmeier & Herbet 1999, 1165). Additionally, the experience of growing up as a female is a completely different reality than that of a male, and all of these factors create a specific type of person (Cook & Wilcox 1978 as cited in Steffensmeier & Herbert 1999, 1165). Miethe & Meier (1994) contend that women are generally more vulnerable to situations of risk and victimization. This is characterized by a more intense fear of: "crime, concern for neighborhood protection, and sensitivity to risk of recidivism" (Schumaker & Burns 1988, Steffensmeier & Herbert 1999, 1169). Due to these fears, "women tend to reflect a greater trend toward problem solving …[and] feel more threatened by challenges to norms and law than men do," which may affect how they make decisions (Kritzer & Uhlman 1977; Steffensmeier & Herbert 1999, 1169). Despite the argument that minority figures should serve as liberal members of the judiciary, some literature suggests that the female sense of risk and concern related to threats in society could lead them to impose more harsh punishment than men because they want to control crime in the future (Steffensmeier & Herbert 1999, 1169) Therefore:

Hypothesis 5: Female judges will impose harsher sentences on defendants than male judges.

As women have gained a footing in many political arenas, there has been a growing discussion of the implications of female policymakers (Gruhl, Spohn & Welch 1981, 308). Many argue that women should be represented in the government, via the judiciary for two reasons:

The reason most often cited is simple fairness: The opportunities afforded women should equal the opportunities afforded men….The second justification …

is that women bring a new perspective to public office and consequently behave different than male office holders would in certain situations(Kritzer & Uhlman 1977, 1)

Although most of the studies on female policymakers focus on political arenas (i.e. the legislature), not the judiciary, some suggest that the, "Attitudinal differences between men and women might carry over and affect judges' decision making behavior" (Gruhl, Spohn & Welch 1981, 310). However, in a study on female judges, Kritzer and Uhlman (1977) conclude that, "Female judges behave no differently than their male colleagues" (Gruhl, Spohn & Welch 1981, 210). Gruhl, Spohn and Welch (1981) attempt to expand on Kritzer and Uhlman's study by adding more cases that are decided by female judges (Gruhl, Spohn & Welch 1981, 310). When controlling for the type of crime with the increased number of cases decided by women, the data demonstrate that, "Female judges are less likely than male judges to convict defendants, but are more likely than male judges to sentence convicted defendants to prison" (Gruhl, Spohn & Welch 1981, 315). Gruhl, Spohn and Welch conclude that there are no consistencies on judicial behavior of women across a variety of crimes. Also, they find their original hypothesis, that women judges would be more liberal than men and therefore punish less harshly than men, is false (Gruhl, Spohn & Welch 1981, 318). In fact, Kritzer and Uhlman find that, "In 6 of the 21 types of cases female judges are harsher than males" (Kritzer & Uhlman 1977, 83). Female judges are more likely to convict defendants in manslaughter cases,

robbery cases and drug cases. Additionally, female judges impose harsher sentences than

male judges in larceny cases and drug cases (Kritzer & Uhlman 1977, 83). One of the

more significant findings on gender disparity and female judges is that, "Female judges

treat male and female defendants more similarly than do male judges" (Gruhl, Spohn &

Welch 1981, 318). This finding demonstrates that:

> The presence of women judges has a twofold impact on women's equality-the
>
> obvious one of including women in the politically powerful roles of judges and
>
> the less obvious one of reducing the favored treatment which women defendants
>
> received in the past (Gruhl, Spohn & Welch 1981, 320).

Like the maximalist view presented from a feminist perspective, which argues

that female judges decide cases differently than male judges, the person specific model

emphasizes that there are specific qualities of growing up as a black individual

(compared to a white childhood). These experiences force blacks to have different

perspectives when making judicial decisions (Steffensmeier & Britt 2001, 752). Welch,

Combs, and Gruhl (1988) speculate that black judges are more sympathetic to criminal

defendants than white judges, since liberal views are associated with support for the

underdog and the poor (Steffensmeier & Britt 2001, 752). Richey Mann, in *Unequal*

Justice: A Question of Color, states:

> Common sense would suggest that a minority jurist who had experienced
>
> discrimination and racism would empathize with the minority defendant standing
>
> before him/her and accordingly show leniency (Steffensmeier & Britt 2001, 752).

Based on their background of racial discrimination, black judges should have a common understanding with black defendants who appear before them in court. Therefore:

Hypothesis 6: Black Judges will sentence more leniently than white judges and this tendency will be particularly pronounced when sentencing black defendants.

In the context of black judges, there have been several studies that discuss the implications of having these minority figures on the bench. In a purely symbolic form, the existence of black judges on the bench serves as a triumph for African Americans because, "Blacks can look to the courts and see members of their own race in positions of influence and decision-making" (Welch, Combs & Gruhl 1988, 126). Many advocates who supported the appointment of African Americans to the bench, however, focused on the "greater substantive representation" blacks would provide for the judiciary (Welch, Combs & Gruhl 1988, 126).

In order to test whether black judges provide substantive representation, social scientists analyze the sentencing decisions of both black and white judges. Uhlman's study (1978) found that black trial court judges treat white and black defendants alike in general sentencing and black judges are more likely to sentence white defendants to prison (Steffensmeier & Britt 2001, 3). Welch, Combs and Gruhl (1988) looked at criminal history of the defendant as well as the background history of the judge, such as whether or not he had been a prosecutor (Welch, Combs & Gruhl 1988, 129). Their findings demonstrate instances when, "Black judges would tend to be somewhat less severe in their sentencing patterns than white judges" (Welch, Combs & Gruhl 1988, 131) Like Uhlman's study, their data also show that black judges are more likely to

impose a prison sentence on a white defendant (Welch, Combs & Gruhl 1988, 131). This outcome demonstrates that the addition of black judges creates more equal sentencing outcomes (i.e. white incarceration rates might become more similar to black incarceration rates)[1]. As Spohn (1990) points out, at both the federal and state level, there have been mixed results on the impact of black judges and sentencing disparity (Spohn 1990, 1199).

Overall, it appears that the appointment of minority figures to the bench is seen as a symbolic triumph. More importantly however, is the question of whether these judges change the court decision making process through substantive representation. The theory of judicial background characteristics supports the notion of substantive decision-making and contends that minority judges sentence defendants differently than the historic white, male judge.

Judicial Socialization

An alternative to the judicial background approach is the theory on judicial socialization. Some researchers argue that background characteristics do not explain judicial decision-making because, "The judicial recruitment process [produces] a more or less homogeneous judiciary" (Spohn 1990, 1212). Likewise, other research mentions that whites judges, black judges and female judges, although characteristically different, tend to have similar upbringings. Many come from middle to upper class families and attended law school (Spohn 1990, 1212). Furthermore, the dynamics of courtroom work and efficiency, and the established range of 'normal penalties' severely limit differences that can be contributed to judicial background characteristics (Spohn 1990, 1212).

---

[1] Steffensmeier and Britt conclude that, "Black judges are comparatively more punitive toward offenders convicted of more serious crimes and/or drug violations" (Steffensmeier & Britt 2001, 12). This could also suggest that black judges might be more harsh on black defendants if they are accused of more serious crimes.

The minimalist camp of gender decision-making (supporting judicial socialization) argues that personality traits do not create differences in females and males. Rather differences in beliefs and decision-making, "Reflect the influence of external constraints and opportunities that happen to be associated more with one sex than with the other" (Cook 1978 as cited in Steffensmeier & Herbert 1999, 1165). Therefore, in the minimalist organizational model, "Common professional training and identical constraints imposed by organizational customs and rules overcome any biological, psychological, or experienced-based differences between the sexes" (Cook 1978 as cited in Steffensmeier Herbert 1999, 1165).

Similar to the argument presented for female judges, the discussion of black judicial behavior revolves around the organizational model, which focuses on the socialization process in legal education. Regardless of the upbringing of black judges and their background characteristics, law school and the restraints imposed by the courtroom control their decision-making behavior (Steffensmeier & Hebert 1999).

Hypothesis 7: Holding all other things equal, sentencing outcomes between judges will be the same.

Jaros and Mendelsohn (1967) discuss the obligations and rights of a judge and how these factors influence sentencing. In addition to evaluating legal criteria, Jaros and Mendelsohn propose that, "One of the rights of the judicial role is the receipt of respect" (Jaros & Mendelsohn 1967, 476). Therefore, a judge may consider the mannerisms in which the defendant addresses the court, specifically, the way in which the defendant speaks to the judge. Therefore, the respect given to judges by defendants may influence sentencing outcomes.

Hypothesis 8: Judges will sentence disrespectful defendants more severely than respectful defendants

Additionally, judicial socialization operates under the context that a judge should abide by their "judicial roles." The main role of a judge is to, "Sentence in accordance with legally relevant criteria" (Jaros & Mendelsohn 1967, 477). Therefore, the severity of a violation should be one of the main deciding factors in judicial decision-making.

Hypothesis 9: Judges will sentences defendants who commit minor violations less severely than they sentence defendants who commit more serious violations

It could be that only one theory explains sentencing disparity, or perhaps certain parts of the three theories can work in combination with other theories. In order to test the three different theories on sentencing disparity it is necessary to observe cases systematically in a judicial environment.

Chapter 2: The Recorder's Court

Previous studies have generally focused on major state and federal trial courts of general jurisdiction (Segal 2000, Spohn 1999). This study differs from these past efforts by examining sentencing patterns at the lowest trial level—in this case, a county Recorder's Court. Such courts have jurisdiction over traffic violations and other minor criminal and civil offenses. It is at this level that most Americans have their only direct interactions with the judiciary. Traffic court is the most utilized court of all the judiciary and its caseload annually "Exceeds the combined total of all civil and other criminal cases filed in all state and federal courts" (Economos 1953, 13). The Court Statistics Project data from 2009 demonstrate that, at the aggregate national level, traffic violation cases have increased 9 of the last 10 years" (CSP 2012). Based on the maximized usage of the Recorder's Court, one should be able to observe sentencing disparity if it occurs at a significant level. The graph below indicates the large volume of traffic violations nationwide in comparison to other violations for the year 2008.

Graph 1: 2008 Traffic Violation Caseload Nationwide

2008 Traffiv/ Violation Caseload Nationwide

- Traffic/Violations — 55%
- Criminal — 20%
- Civil — 18%
- Domestic Relations — 5%
- Juvenile — 2%

CSP Court Statistics Project, 2008 State Violation Caseload Nationwide
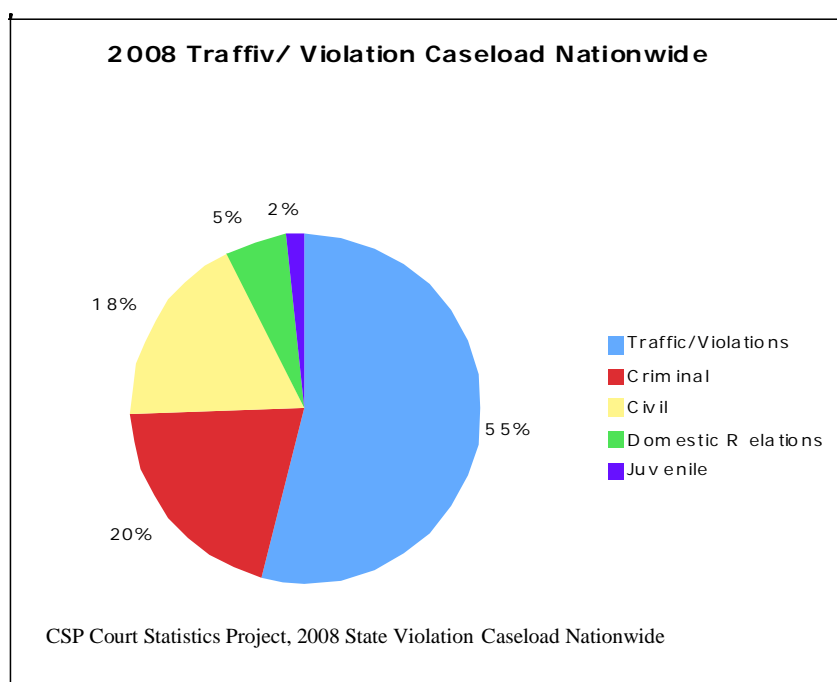
Contrary to most of the sentencing literature, Mendelsohn and Jaros (1967) conduct a sentencing study at a Recorder's Court in Detroit. Although their study only looks at characteristics of the defendant, specifically punishment of black defendants, the methods in their research could be adapted to a study looking at additional factors affecting sentencing (Mendelsohn & Jaros 1967). Specifically, the way in which they observe and code violations, sentence outcomes, and other legal factors, like the presence of a lawyer, dress code, and respect for the court, are important variables in a traffic court study because these factors might influence sentencing outcomes, possibly more than race or gender influence sentencing outcomes. More recent studies, such as the one by Spohn (1990) also utilize the Recorder's Court. Although Spohn's study looks at the differences between black and white judges, the data used in her research are gathered from Colin Loftin's data collection from 1979 (Spohn 1990, 1201). Therefore, the data are considerably dated. These studies demonstrate that the Recorder's Court is a good location to observe sentencing disparity.

A new study conducted at the Recorders Court, in which the three theories explaining sentencing outcomes are tested, is a good way to determine if sentencing disparity is still prevalent. Several flaws have been cited in many of the studies on sentencing disparity, specifically inadequate controls, small number of offenses, and small number of cases (Spohn, Gruhl & Welch 1981, 73). Also, the increased national concern regarding sentencing disparities may have resulted in significant changes since the time these previous studies were conducted. Additionally, the focus of most sentencing studies has been on the racial disparity between black and white defendants and sometimes on gender differences. However, few studies have discussed Hispanic

defendants (Steffensmeier & Demuth 2006). Therefore, a revisiting of the issue is warranted. An updated study of a Recorder's Court might provide further analysis on new trends in sentencing disparity.

The Recorder's Court (traffic court) is a state court that handles traffic violations and county ordinance infractions[2]. All states have such courts, although their official names may vary. Traffic court ordinances generally deal with vehicular conduct; however, there are other cases heard by the Recorder's Court, such as public intoxication, property violations, reckless behavior, etc. Generally, the state enacts traffic laws (i.e. speeding, driving without a license, driving without insurance), but each county has its own practices, including the setting of standard fees for violations. For example, one county might fine an individual $40 for having a faulty taillight, while another county, within the same state, might fine an individual $60 for the same violation. However, certain violations (generally those that are considered more severe) have minimum punishments that are required throughout the entire state.

A Recorder's Court is a strict liability court, which makes it different from other legal institutions. In a Recorder's Court, intent is irrelevant to the infraction. This means that even if a person does not intend to speed, or does not realize he/she improperly changed lanes, he/she is still guilty under the law. Under some mitigating circumstances, a judge may reduce a sentence. For example, if an individual speeds but can demonstrate that the speedometer was broken at the time, a judge may consider a less severe

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[2] The description about the operation of the Recorder's Court has been developed from observing several Recorder's Courts in the state of Georgia over the course of six months. Some descriptions provided might not be accurate of all Recorder's Courts across the country and might only speak to the general organizational patterns of the courts studied in the specific area observed for this study. Nonetheless, the general flow of the process is similar across Recorder's Courts throughout the United States.

punishment. Additionally, some judges may choose to reduce fines for other reasons, such as the decision to resolve a case during arraignment as opposed to a trial.

Certain ordinance violations do not require an individual to appear in court. If this type of citation is issued, a person can simply pay the fine at the Recorder's cashier line in order to close his/her case. There are two types of cases analyzed in this study. If a person feels that he/she was wrongly accused, or he/she is looking for a reduced fine, he/she can appear before a judge during arraignment. Additionally, certain violations require individuals to appear before a judge during arraignment and make a plea.

Chart 1: Process of Arraignment Appearance
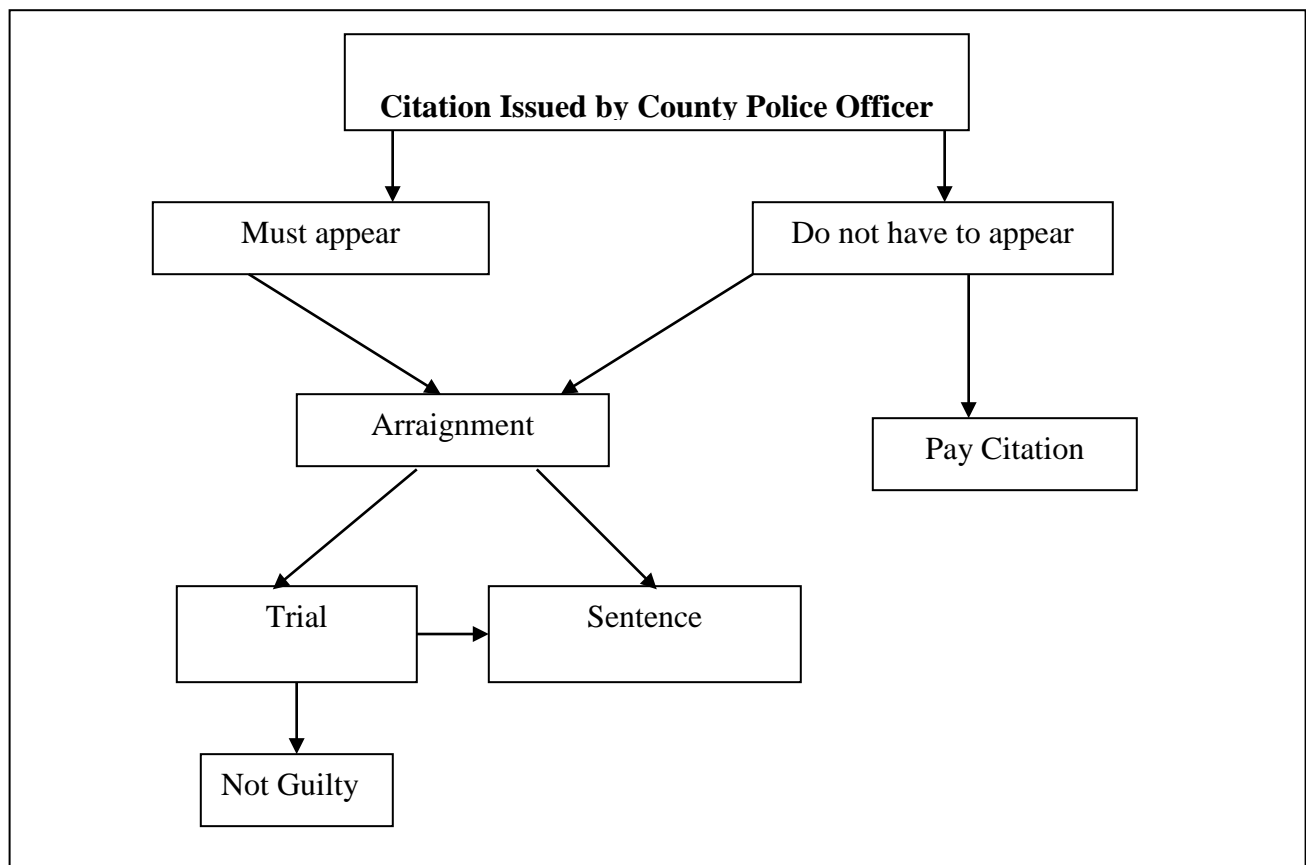
During arraignment, individuals are seated in the courtroom and the judge is positioned at the front of the court. The prosecutor announces individual cases and the defendant proceeds to the podium. When individuals appear before the judge on arraignment day, they have three options for a plea: guilty, not guilty, or nolo contendere (I am neither guilty, nor not guilty, but I want to resolve my case today). If an individual decides to plea guilty or nolo contendere, a waiver of rights form is filled out (this form outlines the rights of the defendant) and submitted to the court.

For those who plead guilty, a sentence is imposed. This can include jail time in serious offenses (ex. driving on a suspended license). Generally, however, most violations result in a fine. For those who plead nolo contendere, the punishment is generally similar to that of a guilty plea. Nolo pleas can only be used by an individual defendant once every five years for a violation. In certain cases, a nolo plea is beneficial because if found guilty, one's license could be revoked, but if an individual decides to plead Nolo, he/she may be allowed to keep his/her license. Such cases include: 1) Driving without Insurance 2) Driving without a License 3)Driving on Suspended License 4) DUI (alcohol and drugs) 5) Hit and Run.

If an individual pleads not guilty, he/she has a chance to speak to the prosecutor in hopes of negotiating some form of deal, perhaps a suspended/reduced fine, an amended charge, etcetera. If a deal cannot be negotiated, a trial date is set.

At both trials and arraignments, a sentence is imposed if the individual is found guilty. A judge can impose the regular sentence (a sentence pre-established by the court outlined in a court fine schedule), an increased sentence, such as a higher than the otherwise recommended fine, additional hours of community service in DUI cases or

marijuana possession cases, or a reduced sentence.

       Representation in the Recorder's Court is an important component to sentencing outcomes. During the arraignment process, many individuals in Recorder's Courts represent themselves. Generally this occurs because the fee for a lawyer tends to be higher than the average fine imposed by the court for minor violations. Some individuals do choose to have representation. This might occur because an individual wants a lawyer to help him/her negotiate with the prosecutor. Specifically, for more serious offenses, where jail time or license revocation is a possibility, a defendant might choose to be represented by an attorney. Sometimes, during the arraignment process, a defendant requests time to speak with an attorney. Any individual who would like the chance to speak with an attorney is required by law to be granted one continuance to do so (extended time to meet with a lawyer and then return to court for re-arraignment). Likewise, if an individual claims he/she is legally indigent, he/she can request a court appointed attorney. The court grants these requests on a case-by-case basis. Representation can prove beneficial in a Recorder's Court because lawyers tend to meet with the prosecutor prior to arraignment and arrange for reduced or dismissed charges. Likewise, if an individual decides to plead not guilty, the assistance of a lawyer can prove beneficial during a trial.

Chapter 3: Research Design

In order to determine which of the three theories best explain sentencing

outcomes, observational data were collected at a Recorder's Court in a large suburban

county outside a major urban center. The Recorder's Court in this study, "Traffic Court

A," is representative of many Recorder's Courts throughout the country.[3] The

proceedings in "Traffic Court A" are open to the public. The court is staffed by three

judges, a black male judge (Judge A), a white male judge (Judge B), and a white female

judge (Judge C). The individuals who use "Traffic Court A" from the county are

relatively diverse. They span all socio-economic levels and represent white, African

American, Hispanic and other racial/ethnic groups. The diversity within "Traffic Court

A" is significant to a study of sentencing outcomes because it allows analysis of variation

both at the judicial and defendant grouping. The unit of analysis for the study is the

individual case. Court proceedings were observed during February and March of 2012.

This yielded a total of 288 cases for analysis.

Although it would be beneficial to conduct research in multiple Recorder's Courts

in different areas to test the three theories on sentencing outcomes, limited time and

funding prevent a comparative study. Additionally, "Traffic Court A" employs only three

judges. Although these judges are diverse and represent both female and black minority

figures on the bench, the judges in this study do not serve as a representative block for all

judges. For example, if the one black judge in "Traffic Court A," happens to reduce

sentences on black defendants disproportionately, this provides only weak evidence that

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[3] The court, the state and the county in which this study took place must be kept
anonymous for purposes of privacy. The names of the Judges, defendants, and court are
not reported in this study.

black judges generally reduce sentences on African American defendants. Although it might hint that the theory has legitimacy, this black judge is only a single individual. Although the sentencing decisions in this study may be helpful in studying certain theories of judicial sentencing, the outcomes do not speak to an overarching trend that is applicable for all white male judges, all female judges, etcetera. However, the combination of sentence outcome and the judge's background is still significant in order to establish if certain sentencing patterns can be observed in this court.

There are several reasons why "Traffic Court A" is utilized in this observational study of sentencing outcomes. The most important feature is that all judicial decisions in arraignment are made publicly and can be observed by spectators in the court. This allows the outcomes for all cases to be observed systematically for a study. For some violations, the judge is required to impose a minimum sentence. In these violations, listed previously, the judge does not have discretion in imposing a sentence. However, for other violations, there is a general sentence, a sentence pre-established by the court, that can be issued, but the judge can reduce this sentence. The judge's discretion to impose the pre-established sentence or decrease it, serves as the dependent variable in this study. Measured this way, the sentencing choice is uniform for all violations and does not differ by the specific case.

As mentioned previously, those who plead not guilty at arraignment are scheduled for a trial date. Prior to their trial date, they have the opportunity to negotiate with the prosecutor. If negotiations are successful, the defendant is "re-arraigned," and the prosecutor suggests the negotiated plea to the judge. These cases are excluded from analysis because in these cases, a reduced sentence always occurs, and thus no judicial

discretion is exercised. If negotiations fail, a trial is conducted. At trial, which is also open to the public, the defendant is found guilty or not guilty. The judge imposes a sentence if the defendant is found guilty. Like arraignments, a judge can impose a reduced sentence, the court pre-established sentence or an increased sentence. Generally, if found guilty at trial, judges do not reduce sentences, in fact, they often increase sentences.

Chart 2: Options for Sentences
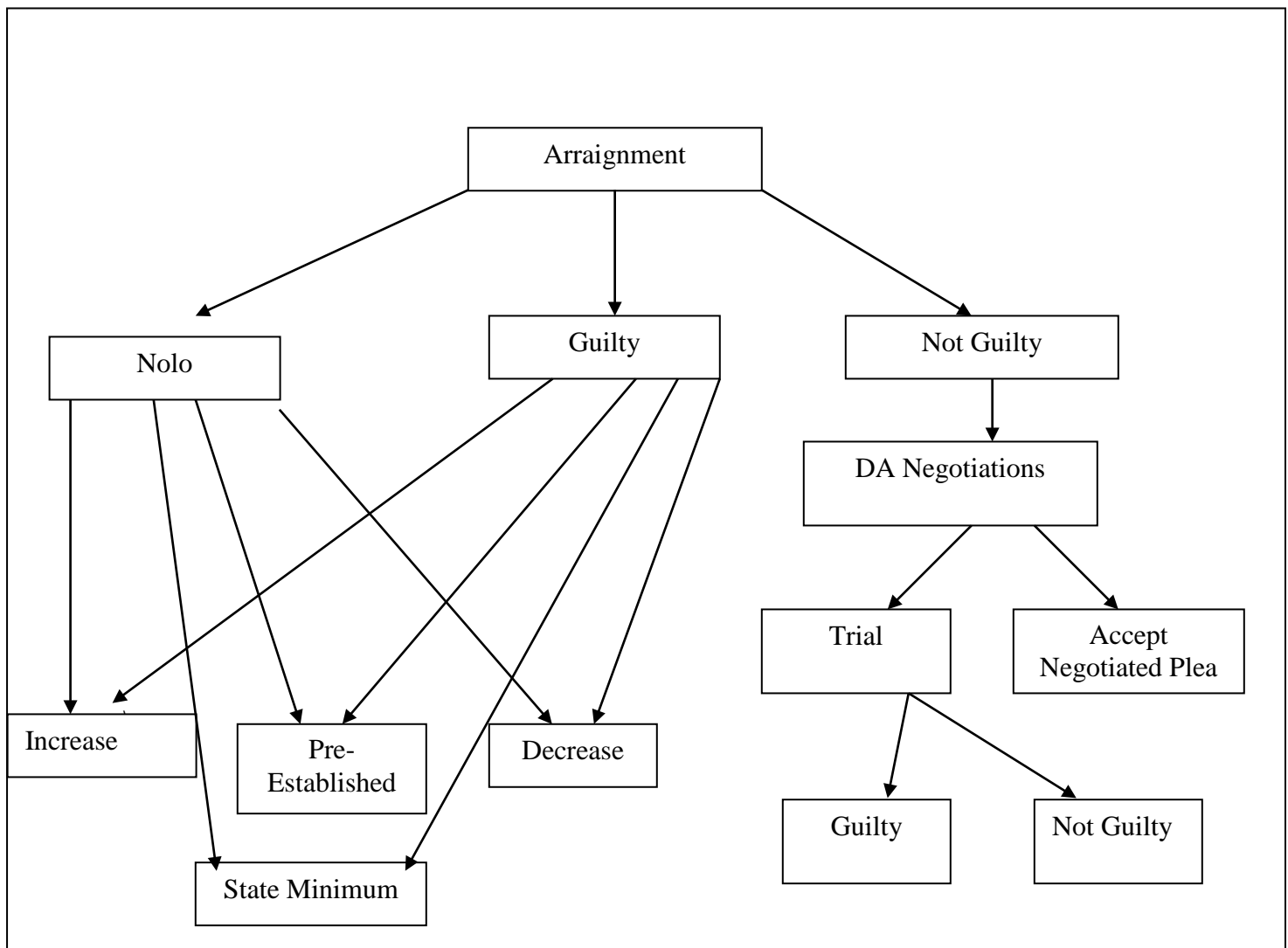
The primary judicial decision being studied in "Traffic Court A" is the sentence outcome during the arraignment process. Relatively few trials occur in "Traffic Court A." Only 6 cases observed were trials, which is approximately 3% of all the cases observed. Therefore, quantitative analysis for trials is not possible in this study.

<u>Study Variables</u>

Each of the three theories of sentencing outcomes is tested with different independent variables and control variables. In order to test the first theory of racial and gender discrimination, the independent variables are the race, gender and age of the defendants. I coded these traits based on observations at the court proceedings. Although race and gender are not necessarily correctly observed, this study seeks to understand sentencing based on perceptions of race and gender. If an individual appears white, but is actually Hispanic or Muslim, this does not affect the data for analysis purposes. Race, gender and age are valid measures for the defendant background theory on racial and gender discrimination because the studies that were previously mentioned all use these characteristics (race, gender, sometime age) to study sentencing disparity (Steffensmeier & Harrell 1998).

In order to test the second theory of judicial background characteristics, the race and gender of the judge serve as independent variables (Uhlman 1978, Welch, Combs & Gruhl 1988, Steffensmeier & Hebert 1999, Steffensmeier & Britt 2001).

Finally, in order to test the third theory of judicial socialization, the legal factors of respect and violation type serve used as independent variables. Violation type is an important variable in evaluating judicial socialization because a judge should sentence based on the seriousness of the offense rather than other non-legally relevant factors.

Additionally, as mentioned earlier, defendant respect is a quality that judges expect to receive due to their official role. In the court, respect is seen in the way defendants address a judge and the way defendants dress when they appear in court. Other studies on judicial socialization use similar variables to determine sentencing outcomes (Jaros & Mendelsohn 1987).

The dependent variable used to test each theory is the sentence outcome. This measure is coded as pre-established or decrease. These are valid measures because if a judge imposes the pre-established sentence on one defendant and a reduced sentence on another defendant, a judicial choice had been made and one sentence is obviously more severe than the other; therefore, a disparity exists.

As other studies on sentencing outcomes have noted, it is important to control for other factors in sentencing outcomes. Each of the independent variables is utilized as a control variable when alternative theories are being tested. For example, when testing the judicial socialization theory, the independent variables are respect and violation type, so the other variables, such as the defendant's race and gender, serve as controls.

All of the variables in this study are observed during the court proceedings (due to the public nature of the court) and used in regression models in order to determine which theory, or combination of theories best explain sentencing outcomes. The variables listed below all serve as independent variables and control variables. [4]

1) *Age:* The relative ages of the defendants are included because young people might be sentenced more severely (Steffensmeier, Ulmer & Kraner 1998).

2) *Violation:* The infraction charged is an important control because some violations are

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[4] The coding of all of these variables is discussed in the results section of this study.

more severe than others and warrant a more severe sentence. Likewise, it could be that

certain accused violators, like those who speed or have DUI's, are considered more

dangerous to a judge than someone who turns left while a light is changing from yellow

to red. The control for violation has been used by several other sentencing studies

(Steffensmeier & Herbert 1999, Steffensmeier & Britt 2001).

3) *Representation:* The presence of an independent lawyer might affect sentencing

because lawyers can present a case to a judge in a way that might be more convincing

than when an average citizen represents himself/herself. Likewise, in traffic court,

lawyers tend to speak with the prosecutor prior to arraignment and pleas are often

negotiated. The control for representation has been used in other sentencing studies

(Spohn, Gruhl & Welch 1981).

4) Dress & Conduct: Spohn (1990) points out that there are certain elements of respect

that a judge expects a defendant to abide by, specifically, in regards to their dress, the

way they address the judge (the use of Sir, Mam, or Your Honor), and their overall

respect for the court. A judge might impose a more severe sentence on a defendant who

does not abide by these general rules of conduct. Other studies of Recorder's Courts

control for conduct in court (Mendelsohn and Jaros 1967).

6) *Translator:* Individuals (i.e. judges) may impose more severe sentences on minority

groups. Although Hispanic individuals might be seen as a threat overall, those who do not

speak English and have not acculturated into society, perhaps are not even here legally,

might pose more of a threat to a judge. Therefore, the presence or absence of a translator

is a significant variable to test the defendant background theory based on racial

discrimination.

The variables used in this study have played significant roles in previous studies of sentencing disparity. However, certain variables found to be important in prior studies are not relevant to this study. An example is the defendant's past offense history. In the vast majority of cases at the arraignment stage, the judge does not have access to the defendant's record of previous violations. Therefore, while past studies discuss the significance of a defendant's criminal history in sentencing outcomes, this is not a significant variable in a study of the Recorder's Court. A second example is the nature of the victim, a significant factor in some previous sentencing studies (Myers & Talarico 1986, 237). Almost all of the infractions charged in Recorder's Courts are crimes without victims, rendering this variable irrelevant to the present study.

Chapter 4: Results

If any of the three theories are true, significant relationships will occur between the dependent variable and the independent variables. If the judicial background characteristics theory is true, the judges will vary in sentencing decisions significantly. If the defendant's background influences sentence outcomes, the race, gender and possibly age of the defendant will significantly affect sentencing. Finally, if judicial socialization occurs, sentencing will be influenced by violation type and respect. If these relationships do not occur, then we will see the null hypothesis of no relationships between the independent variables and the dependent variable.

Description of the Data

It is important to have an understanding of the data set itself before examining the relationships that will test the validity of the hypotheses presented above. The original data-set consisted of 288 cases. All of the data discussed are grouped into tables based on the theory to which they correspond. [5]

To study judicial background characteristics, the race and gender of different judges are analyzed as variables. There are no missing observations. Judge A represents the background characteristics of being black and male (coded as 1), Judge B of being white and male (coded as 2) and Judge C of being white and female (coded as 3). Although Judge B decided the most cases, at 118, there are still enough cases to analyze for Judge A, at 94, and Judge C, at 76.

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[5] In some of the analyses, for reasons to be explained, less than 288 cases are used.

Table 1: Background Characteristics: Judge Race and Gender

	Number of Cases	Percent
Judges:		
Judge A (BM)	94	32.64%
Judge B (WM)	118	40.97%
Judge C(WF)	76	26.39%
Total	288	100%

The difference in caseload speaks to the way in which the judges handle cases as they move through their court. Judge A and B tended to move through cases much faster than Judge C. This is partially due to the speed of the prosecutor in the court. The prosecutor announces the cases, handles forms from the defendants and fills out paper work prior to calling up the next case. The prosecutor in the courtroom for Judge C did move slower than the other prosecutors. Additionally, sometimes Judge C would ask defendants follow up questions during arraignments. Although Judge A and Judge B also conducted questioning, their questions tended to be less extensive than those of Judge C. This questioning process may speak to the different ways female and male judges conduct arraignments and perhaps influence cases. However, for the purpose of this study, there are enough cases per judge for analysis.

In order to study how a defendant's characteristics influence sentencing, the defendant's race, gender and age are analyzed. There are four categories for race, white (coded as 0), black (coded as1), Hispanic (coded as 2), and other (coded as 3). There are no missing observations for this category. Almost half of the defendants were black and almost a third white. Hispanics made up only about 15% of all defendants. Despite there

being more black defendants in the court, there are still enough observations by race for analysis.[6]

In addition to race, the use of a translator is also included in the analysis. Generally, Spanish speakers and sometimes Asian language speakers use this service. If a translator is used in a case, it is coded as 0, if no translator, then 1. Less than 15% of the defendants use a translator.

The defendant's gender is also recorded. All men are coded as 0, women as 1. Although two-thirds of the defendants are male, there is still enough variation to study differences in gender sentencing. There are no missing observations for gender.

Age is the most difficult variable to code (many features that demonstrate age are not as visible as gender or race). If a defendant appears young, the judge generally asks the age of the defendant. The author made age estimates for non-youthful defendants. Age is coded in 5 categories, under 21 (coded as 0), 21-30 (coded as 1), 30-40 (coded as 2), 40-50 (coded as 3) and 50+ (coded as 4). There are four missing observations for age because some cases moved too quickly through the court and an estimate for age could not be made. Roughly one-third of the defendants were 20-30 years of age and 40% of defendants were 30-40 years of age. Less than 3% of defendants were under 20 years of age and only 1.06% of all defendants were above 50 years of age.

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[6] The last name of the defendants helped me determine their ethnicity. Likewise, accents of the defendants were also used to help determine ethnicity.

Table 2: Defendant's Characteristics

	Number of Cases	Percent
Race/ Ethnicity		
White	89	30.90%
Black	137	47.57%
Spanish	43	14.93%
Other	19	6.60%
Total	288	100%
Gender		
Male	183	63.54%
Female	105	34.46%
Total	288	100%
Age		
Under 20	7	2.46%
20-30	93	32.75%
30-40	126	44.37%
40-50	55	19.37%
50+	3	1.06%
Total	284	100%
Translator		
Use Translator	32	11.11%
No Translator	256	88.89%
Total	288	100%

In order to test the judicial socialization model, several variables related to legal factors are observed, specifically, a variable to measure respect, the representation of a defendant and the violation for which the defendant was accused. The respect variable, created by combining two variables, is coded based on the defendant's actions in court. The first variable is whether individuals address the court using "Ma'am," "Sir," or "Your Honor." If one or more of these terms are used, the observation is coded a 0, if they are not used, it is coded as a 1. Additionally, if the defendants wear sloppy clothing,

they are coded as 1 and if they wear casual or business attire they are coded as 0.[7] The

code for language and the code for dress are averaged together to create one variable for

overall respect. Respectful is coded as 0, partially respectful is coded as .5 and

disrespectful is coded as 1. There are no missing variables for respect; however, in some

cases, only one variable for respect is observed (i.e. only language or only dress). During

some arraignments, I was unable to code both the dress and language of the defendant

because the cases moved too quickly through the court. In such cases, the one observation

serves as the only measure for respect.

Defendants who have a lawyer are coded as 0, if not, and they represent

themselves, they are coded as a 1. Less than 10% of all the defendants were represented

by a lawyer.

Violations are classified based on general categories. County ordinance violations

(non-vehicular violations) are placed in category 0. All record keeping violations (non-

moving violations, such as no license on person, no valid insurance etcetera) are in

category 1. Any vehicle equipment violations are in category 2. Moving violations are

coded as regular moving, 3, or super moving, 4. Regular moving cases include violations

like failure to yield, failure to stop at a red light, improper lane change etcetera. The super

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[7] A suit (whether it be a dress suit or slacks) was always coded as proper. Sloppy dress
was considered anything that was risqué or otherwise inappropriate. Such garments
included ripped jeans, too much skin exposure as well as undergarment exposure.
Additionally, sweat pants and t-shirts were also coded as sloppy. This determination was
made by comparing the dress of the defendants to the dress of the court personnel. Based
on my observations in the Recorder's Court, although a certain amount of respect was
required, court personnel were generally seen in sweaters, button downs and sometimes
even khakis. However, court personnel were never seen in sweats or t-shirts. Therefore, if
defendants wore this type of apparel, I considered it sloppy. However, not all of the court
personnel wore full suits or jackets on a regular basis; therefore, defendants who did not
wear suits, but still wore clothing similar to the court personnel were coded as casual.

moving cases include violations like speeding, driving under the influence and hit and run. The categories also demonstrate a trend of severity. The county ordinance violations are generally the least severe violations (accompanied by the least severe sentences). Likewise, equipment violations have a less severe fine than moving violations, which have a less severe fine than super moving violations. Record cases are more difficult to fit into a category of severity. Some record cases are minor, such as tag cases, while other record cases, such as insurance cases, are more severe than other categories of violations, like the equipment violations. Given the wide variability and the severity of offenses in the record category, I consider this category as representing a middle point of severity ranking. Therefore, categories are ordered in only rough approximation of offense severity. As Table 3 illustrates, half the charged violations fall into the record keeping category while only about 5% of cases fall into the county ordinance violation category.

Table 3: Judicial Socialization

	Number of Cases	Percent
Respect		
Respectful	81	28.12%
Partially Respectful	158	54.86%
Disrespectful	49	17.01%
Total	288	100%
Representation		
Lawyer	27	9.38%
Self	261	90.62%
Total	288	100%
Violation Type		
County Ordinance	15	5.21%
Records	144	50%
Equipment	23	7.99%
Moving	36	12.50%
Super Moving	22	7.64%
Total	288	100%

All together 223 individuals received a sentence (a sentence of pre-established or reduced) in arraignment. It appears that 65 cases are missing in the data set because there are only sentences in 223 cases, not 288, but this observation is misleading because for those individuals who plead not guilty, or ask for a continuance, a sentence is not imposed. Therefore, in 56 cases, there was no sentence. Additionally, due to the speed of the cases during arraignment, in 5 cases a plea could not be recorded but the other characteristics of a case, like the sentence, could still observed. Overall, there are sentences in 223 cases and 4 sentence outcomes are missing. If the sentence is set at the

pre-established level, the case is coded as 1. If the judge decreases the sentence or

dismisses the case, it is coded as 0. As Table 4 illustrates, the sentences are split almost

evenly between cases where the judge imposed the pre-established recommended penalty

and those where the judge showed leniency.

Table 4: Sentencing Outcomes

	Number of Cases	Percentage
Sentence		
Reduced	108	48.43%
Court-Established	115	51.57%
Total	223	100%
Plea		
Nolo Contendere	146	51.59%
Guilty	81	28.62%
Not Guilty	33	11.66%
Continuance	23	8.13%
Total	283	100%
Dismiss		
Required	16	5.58%
Not Required	272	94.44%
Total	288	100%
State Minimum		
Required	84	29.17%
Not Required	204	70.83%
Total	288	100%

For certain violations, if a defendant shows documentation, a dismissal is

required. Such cases include a violation of no license or expired license. If a dismissal is

required, the case is coded as 0; if not required, then coded as a 1. In about 5% of cases a

dismissal is required. For some cases, a dismissal might be possible but if the defendant

does not provide all the necessary documents, a dismissal is not required. These cases

were coded as 1. For some cases, the judge has a lower level of influence on the sentence

outcome. These cases, state minimum cases, require a minimum sentence if found guilty.

Such cases include: no insurance, no license, expired insurance, expired license, a DUI

and a hit and run. If a state minimum is required, it is coded as 0, if not, 1.[8]

Before running bivariate analysis, it is important to separate cases that are useful

in studying sentencing outcomes (i.e. cases that have a sentence outcome). As mentioned

previously, Table 3 demonstrates that 27 cases, or 9.38% of all of the cases observed in

this study include the presence of a lawyer. The sentences in these 27 cases are difficult

to study because in every single case with a lawyer, negotiations are made between the

lawyer and the prosecutor prior to arraignment (or prior to trial). In these cases, the

prosecutor presents the case to the judge as a negotiated plea.[9] Therefore, all analysis run

from this point forward do not include the 27 cases where a lawyer was used. Table 5

demonstrates that once the 27 lawyer negotiated cases are removed, only 258 cases are

left for analysis (there are actually 261, but in 3 cases, the plea was not observed but all

other characteristics of the case were collected). In actuality, less than 258 cases are left

to analyze in a sentencing study because only the nolo and guilty pleas result in a

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[8] However, as discussed later in this chapter, judges often have authority to modify the penalties imposed even in these "mandatory sentence" cases.

[9] During every case the judge responds with, "I will accept the plea as negotiated." In such cases, the sentence is recorded as a pre-established sentence, not a decrease. Although the actual sentence might be decreased from the original violation sentence, the judge has no real influence on the sentence outcome. Rather, it seems standard protocol in Recorder's Courts (or at least " Traffic Court A") that negotiated pleas are accepted. Therefore, if these cases are included in the study, there are additional cases included in sentences of pre-established, that are not truly pre-established in the sense of the other observations.

sentence outcome. Defendants who plead not guilty or obtain a continuance are not sentenced at arraignment and their cases, therefore, are not subject to additional analysis. By combining the 138 nolo pleas and 66 guilty pleas, the total sentences should be 204; however, 6 sentence observations are missing, therefore from this point forward, all analysis is based on 198 cases where sentence outcomes were observed.

Table 5: Pleas and Sentence Outcomes without Lawyers

	Number of Cases	Percentage
Plea		
Nolo Contendere	138	53.49%
Guilty	66	25.58%
Not Guilty	33	12.79%
Continuance	21	8.14%
Total	258	100%
Sentence		
Reduced	107	54.04%
Court-Established	91	45.96%
Total	198	100%

Although the removal of lawyer cases decreased the over all case-load significantly, 198 observations is still large enough to conduct bivariate analysis. Another factor that must be considered prior to bivariate analysis, is the effects of cases in which the judge has no judicial discretion, specifically those cases which require a dismissal and those cases which require a state minimum sentence. For 16 cases in the sample, the law required dismissal of charges upon the judge's finding that certain factual requirements were satisfied.[10] Because a judicial decision was required to trigger a dismissal, these

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[10] There were 16 cases in which a dismissal was required in the original 288 case-load, and none of those cases were removed as lawyer negotiated cases. Therefore, there are still 16 cases where a dismissal is required in the 198 cases left for analysis

cases were retained in the caseload for analysis and the dismissal was coded as a reduction from the pre-established court sentence.[11] However, there are 50 cases (out of the 198 cases where a sentence is imposed) in which a state minimum requirement must be imposed by the judge. In order to determine if this type of case will distort sentence outcome results, we need to determine whether the mandatory sentences are disproportionately distributed in the data. Therefore bivariate tests are conducted between the state minimum required and state minimum not required cases, and each independent variable.

In this analysis, there are 198 cases. For 50 cases, a state minimum sentence is required and for 148 cases, a state minimum sentence is not required. In looking at the different judges, Table 6 demonstrates that there is no significant difference as to how the state minimum cases are distributed. Although Judge A has the most percentage of cases where a state minimum sentence is required, there is not a statistically significant difference between the cases.

Table 6: State Minimum Requirement by Judge with Sentence Outcome

	Judge A (Black, Male) (N=58)	Judge B (White, Male) (N=96)	Judge C (White, Female) (N=44)
Judge			
State Min. Req.	32.76%	20.83%	25%
State Min. Not Req.	67.24%	79.17%	75%

Pearson chi2(2)= 2.7260   Pr= 0.256   Total N=198[12]

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[11] As a check, analyses were run on the data with the dismissal cases eliminated from the sample. Doing so did not change any of the major conclusions of this research. However, in the following pages any noteworthy differences are acknowledged.

[12] N= Number of Cases

Likewise, Table 7 demonstrates that there is no statistically significant difference as to how state minimum cases are distributed among the different defendant's characteristics. By race, gender and age, the distribution of state minimum cases does not disproportionality favor any one variable.

Table 7: State Minimum Requirement by Defendant's Characteristics with Sentence Outcome

Race	White (N=59)	Black (N= 97)	Hispanic (N=27)	Other (N=15)
State Min. Req.	22.03%	26.80%	33.33%	13.33%
State Min. Not Req.	77.97%	73.20%	66.67%	86.67%

Pearson chi2(3)= 2.5106　　Pr= 0.473　　Total N=198

Gender	Male (N=119)	Female (N=79)
State Min. Req.	25.21%	25.32%
State Min. Not Req.	74.79%	74.68%

Pearson chi2(1)= 0.0003　　Pr= 0.987　　Total N=198

Age	Under 20 (N=4)	20-30 (N=66)	30-40 (N=82)	40-50 (N=40)	50+ (N=2)
State Min. Req.	25%	30.30%	21.95%	22.50%	50%
State Min. Not Req	75%	69.70%	78.05%	77.50	50%

Pearson chi2(4)= 2.1747　　Pr= 0. 704　　Total N=194

Finally, Table 8 shows that state minimum requirements are relatively evenly split among respect cases. In terms of violation cases, the data is more difficult to interpret. In the court, the only cases that require state minimum sentences are registration cases and some super moving cases (i.e. DUI's and hit and run). There is a relationship between state minimum requirements and violation because the categorical groupings of violations reflect the tendency for record cases to receive state minimum requirements. This relationship is significant and although these cases should not be removed for bivariate analysis on sentence outcomes, it is important to reflect on this statistical relationship when doing further analysis.

Table 8: State Minimum Requirement by Judicial Socialization & Sentence Outcome

Respect	Respectful (N=58)	Partially Respectful (N=111)	Disrespectful (N=29)
State Min. Req.	29.31%	24.32%	20.69%
State Min. Not Req	70.69%	75.68%	79.31%

Pearson chi2(2)= 0.8765   Pr= 0.645   Total N=198

Violation	Ord. (N=18)	Rec. (N=107)	Equip. (N=17)	Mov. (N=35)	Sup. Mov. (N=21)
State Min. Req.	0%	46.73%	0%	0%	0%
State Min. Not Req	100%	53.27%	100%	100%	100%

Pearson chi2(4)= 56.8894   *Pr= 0.000[13]   Total N=198

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[13] * Significant at the .05 level

When compared to the requirement of a state minimum sentence, the only variable that results in a significant relationship is the violation type. The results of the above analyses demonstrate that the state minimum requirement, overall, is not disproportionately allocated to the independent variables, and therefore; should not distort the sentence outcomes of certain cases.

Additionally, as Table 9 demonstrates, state minimum cases do not necessarily result in a sentence outcome at the pre-established level (i.e state minimum cases can sometimes be reduced). Specifically, when individuals drive without a license, the state minimum fine is a 2-day jail sentence and a $700 fine. However, when people are stopped by an officer for this crime, they are generally put directly into jail. Sometimes they are in jail for a couple hours, and sometimes they remain incarcerated for up to 2 days (e.g. if it is a weekend or a holiday). Once they are released, they appear before the judge in arraignment. Many judges will count the time served for defendants in these cases and only issue a $700 fine. I coded this sentence outcome as a reduced sentence because the judge is not required to count the time served when rendering the sentence decisions. Also, the judges do not always count time served; therefore, despite this type of case requiring a state minimum fine, there is still some judicial discretion. These type of cases balance out the other state minimum cases where the pre-established sentence is required and demonstrates why some state minimum required cases still result in a reduced sentence.

Table 9: Sentence Outcomes with State Minimum Requirement

State Minimum Required	Number of Cases	Percentage
Reduced	15	30%
Crt. Est.[14]	35	70%
Total	50	100%

Additionally, although a minimum sentence is required in a state minimum violation, the judge can always amend the violation type to a different violation in which a state minimum sentence is not required. Due to the lack of statistical results in the tables above and the fact that not all state minimum cases result in the pre-established sentence, state minimum cases do not need to be removed from the overall case-load before further bivariate analysis is conducted to study sentencing outcomes.

Bivariate Relationships applicable to Sentencing Theories

Using the descriptive data, simple cross-tabulations are designed to determine the relationship between sentence outcomes and the different independent variables. These tables represent what occurs at the Recorder's Court. These tables do not predict any probabilities; however, some of the tabulations do convey that certain independent variables appear to be significantly related to the dependent variable. Each of the cross-tabulations is displayed by the theory to which it applies.

In order to test the theory on judicial background characteristics, a bivariate analysis is conducted for the judge's caseload and sentence outcomes. Table 10 shows that Judge A and Judge B reduce roughly 40% of all their cases, while Judge B reduces almost 65% of his cases. The difference in judicial decision-making is considered

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[14] Crt Est stands for the pre-established sentence

significant and supports the theory that judicial background characteristics could affect

sentencing. It appears that the white female judge and the black male judge are more

severe in sentencing decisions than the white male judge. The data on female judges is

consistent with the literature, however the findings for black judges, is the opposite of

what much of the literature had stated.

Table 10: Judicial Background Characteristics and Sentencing

	Judge A (Black, Male) (N=58)	Judge B (White, Male) (N=96)	Judge C (White, Female) (N=44)
Judge			
Reduced	43.10%	64.58%	45.45%
Crt Est.	56.90%	35.42%	54.55

Pearson chi2(2)= 8.3956   *Pr= 0.015   Total N=198

Table 11 demonstrates that the race/ethnicity of a defendant does not appear to

predict sentencing outcomes at a statistically significant level; however, there appears to

be a relationship between the variables and sentence outcomes. Whites and blacks receive

reduced sentences at about the same rate. Hispanics however, only receive reduced

sentences 37% of the time, a much lower rate than for white and black defendants.

Additionally, Hispanic sentences are imposed at the pre-established sentence

approximately 63% of the time, compared to whites at 33% and blacks at 48%. The

outcomes in the court indicate that Hispanics receive the most severe sentences. Other

defendant characteristics, like age, are not related at the statistically significant level to

sentence outcomes. Yet there is a pattern, in that the youngest category of defendants

tends to receive more severe sentences compared to the older defendants, which supports

the hypothesis on age. However, it is important to note that there are only 4 defendants in the youngest age category.

It does not appear that gender greatly influences sentence outcomes, with women and men receiving roughly the same percentage of decreased and pre-established sentences.

Table 11: Defendant's Characteristics and Sentencing

Race	White (N=59)	Black (N= 97)	Hispanic (N=27)	Other (N=15)
Reduced	66.10%	52.58%	37.04%	46.67%
Crt. Est.	33.90%	47.42%	62.96%	53.55%

Pearson chi2(3)= 7.0107   Pr= 0.072   Total N=198

Gender	Male (N=119)	Female (N=79)	Total N=198
Reduced	53.78%	54.43%	
Crt. Est.	46.22%	45.57%	

Pearson chi2(1)= 0.0080   Pr= 0.929

Age	Under 20 (N=4)	20-30 (N=66)	30-40 (N=82)	40-50 (N=40)	50+ (N=2)
Reduced	25%	51.52%	54.88%	62.50%	0%
Crt. Est.	75%	48.48%	45.12%	37.50%	100%

Pearson chi2(4)= 5.059   Pr= 0. 282   Total N=194

Table 11 demonstrates that Hispanic defendants receive severe sentences the most frequently. However, it is important to determine whether all Hispanic defendants are being treated more severely than other defendants, or if only the Hispanic defendants who use translators are receiving the most severe sentences. There are a total of 27 Hispanics

in the sample. Out of those Hispanics, 10 received a reduced sentence and 17 received the

pre-established sentence. Table 12 demonstrates the differences between Hispanics in the

court who can speak English and those who cannot. It appears that Hispanics who use a

translator receive the pre-established sentence more frequently than those Hispanics who

are able to speak English. This suggests that there is a pattern of Hispanic sentencing

disparity in the court, and those Hispanics who cannot speak English are put at an even

greater disadvantage. However, it is important to note that when running cross-

tabulations for only Hispanics who use translators, the analysis is limited to 13 cases,

which is quite small and this makes it difficult to make inferences based on the data.

Table 12: Hispanic Sentence Outcomes with Translators

Hispanics with Translators	Number of Cases	Percentage
Reduced	3	23.08%
Crt. Est.	10	76.92%
Total	13	100%

Hispanics without Translators		
Reduced	7	50%
Crt. Est.	7	50%
Total	14	100%

In "Traffic Court A," there is a sense that Hispanics who use translators aggravate

the judges. Many times, the Judges ask the defendants such questions as: "How long have

you been here? Don't you think you should have learned English in the last 5 years?

When did you become legal?" Although these questions might appear brash, Judge C

tends to be the most inquisitive in regards to Hispanics who are not native speakers. In

one case, a Hispanic female, approximately 30, started to converse rapidly with the translator during arraignment. She was accused of driving without a valid license and was near tears. The translator told the story to the Judge and began to say how the defendant was concerned that if she was put in jail for her crime, she would not be able to have her immigration proceeding. The Judge immediately interrupted, "So you are not legal?" The conversation went back and forth between the defendant, the translator and the Judge, but the focus of the arraignment was no longer on the vehicular violation. Although in this case, the defendant was required to receive the state minimum (2 days in Jail and $700), the Judge was obviously concerned with the immigration status of this defendant. Such stories only reiterate the racial trends told by the data. Overall, its appears that race (although not at the statistically significant level) and the use of a translator, specifically for Hispanics, appears to influence sentencing outcomes.

In addition to observing the differences between each of the judges imposed sentences (as noted by Table 10), and each of the defendant's characteristics sentences (as noted by Table 11), it is important to see if other characteristics influence the decision-making of the individual judges. The theory on judicial background characteristics discusses not only how certain judges might behave differently, but how they can behave in regards to certain defendants, specifically the defendant's, race, gender and sometimes age.

When analyzing the cases of each judge by the race of the defendant, Table 13 demonstrates that there does appear to be a difference in sentencing outcomes. In the case of Judge A, the black male, the relationship between race and sentence outcome is not significant. However, there appears to be a trend in that whites receive reduced sentences

more frequently than blacks. For Judge B, the white male, the relationship between

sentence outcome and the defendant's race is statistically significant. However, in this

case, blacks receive less severe sentences than whites and Hispanics receive the most

severe sentences. Judge C, the white female judge, imposes the least severe sentences on

whites, while Hispanics and blacks receive roughly the same percentage of reduced

sentence outcomes.[15]

Table 13: Sentence outcome by Judge by Defendant's Race

Judge A (N= 58)

Race		White (N=19)	Black (N=29)	Hispanic (N=4)	Other (N=6)
	Reduced	57.89%	34.48%	50%	33.33%
	Crt. Est.	42.11%	65.52%	50%	66.67%
		Pearson chi2(3)= 2.8849		Pr= 0.410	

Judge B (N= 96)

Race		White (N=25)	Black (N=50)	Hispanic (N=15)	Other (N=6)
	Reduced	68%	70%	33.33%	83.33%
	Crt. Est.	32%	30%	66.67%	16.67%
		Pearson chi2(3)=8.0953		*Pr= 0.044	

Judge C (N= 44)

Race		White (N=15)	Black (N=18)	Hispanic (N=8)	Other (N=3)
	Reduced	73.33%	33.33%	37.50%	0%
	Crt. Est.	26.67%	66.67%	62.50%	100%
		Pearson chi2(3)=8.4731		*Pr= 0.037	

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[15] Analyzing Judge C's decisions with dismissal cases excluded slightly altered statistical significance levels (P=0.06), but did not change the decision-making patterns revealed in the full set of Judge C's cases.

The hypothesis predicts that black judges will impose less severe sentences on black defendants, yet the data displayed in the cross-tabulation appear to show the exact opposite (despite not being statistically significant). Some scholars discuss the potential that black judges will, in fact, impose more severe sentences on black defendants (Kanter 1977, Steffensmeier & Britt, 2001). Kanter believes that black judges tend to serve as watchdogs for their communities.

An example of this watchdog tendency can be seen in Judge A's actions in arraignment. A black male, age 20, was accused of possession of marijuana. The defendant stated, "I was just with people who were smoking, I was not smoking." The Judge replied, "So if you took a drug test today, you would be clean?" The defendant stated, "Well I was around people who were smoking so I probably won't be clean." The Judge interrupted and said, "Now wait a minute. Don't be lying to me. I grew up here. I know what goes around. You will not test positive if you were in the room with people smoking three months ago, but you will test positive if you smoked marijuana. I am not a fool. Now who sold you the marijuana?" All of a sudden, the defendant was silent. He stated, "I smoked marijuana." The conversation continued but the Judge's attitude and language indicates that he wanted to show the defendant he was not naïve. Likewise, when speaking to this defendant, the Judge's vernacular changed and he started to use "slang" words to imply that he grew up in an area similar to the defendant. Although this is only one particular case, it indicates why black judges might be more severe on black defendants, specifically black defendants that are involved in drug related crimes.

Additionally, Table 14 demonstrates, when each judge is separated, the defendant's gender does not appear to influence sentencing outcomes. Only Judge A, the

black male, demonstrates a tendency to sentence males and females differently.

Surprisingly, in his court, females receive reduced sentences less frequently than males.

Table 14: Sentence outcome by Judge by Gender of the Defendant

Judge A (N= 58)

Gender	Male	Female
	(N=41)	(N=17)
Reduced	51.22%	23.53%
Crt. Est.%	48.78%	76.47%
Pearson chi2(3)= 3.7571	Pr= 0.053	

Judge B (N= 96)

Gender	Male	Female
	(N=50)	(N=46)
Reduced	62%%	67.39%
Crt. Est.%	38%	32.61%
Pearson chi2(3)= 0.3050	Pr= 0.581	

Judge C (N= 44)

Gender	Male	Female
	(N=28)	(N=16)
Reduced	42.86%	50%
Crt. Est.%	57.14%	50%
Pearson chi2(3)= 0.2095	Pr= 0.647	

Additionally, although none of my hypotheses speak to different sentencing

patterns by judicial background and age, a bivariate analysis was conducted for each

judge by age of the defendant. The sentencing patterns were not significant and the

patterns were roughly the same for all of the judges. Again, it was difficult to analyze the

data due to the limited number of cases. [16]

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[16] See Appendix A for bivariate analysis by Judge by Age of the defendant

In looking at legal factors related to sentence outcomes, Table 15 shows that the demeanor of the defendant has little effect on sentence outcomes. Violation type does not appear to be statistically significant in influencing sentencing outcomes; however, defendants who committed "super moving violations" have the least amount of reduced sentences, while defendants who committed minor moving violations or have equipment violations (that can be fixed) seemed to get reduced sentences the most frequently.[17]

As mentioned previously, there is a disproportionate amount of state minimum cases in the records violation category. Although there appears to be a roughly even proportion of cases that receive the pre-established sentence and a reduced sentence in this category, many state minimum cases receive the pre-established sentence, which could impact the overall statistical significance of this relationship.

Table 15: Judicial Socialization & Sentencing

Respect	Respectful (N=58)	Partially Respectful (N=111)	Disrespectful (N=129)	Total N=198
Reduced	53.45%	53.15%	58.62%	
Crt. Est.%	46.55%	46.85%	41.38%	

Pearson chi2(2)= 0.2883   Pr= 0.866   N=198

Violation	Ord. (N=18)	Rec. (N=107)	Equip. (N=17)	Mov. (N=35)	Sup. Mov. (N=21)
Reduced	61.11%	47.66%	64.71%	71.43%	42.86%
Crt. Est.%	38.89%	52.34%	35.29%	28.57%	57.14%

Pearson chi2(4)= 8.2100   Pr= 0.084   N=198

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[17] If the analysis for violation type is rerun with dismissal cases removed the results change slightly. The changes occur only in the record's category where the percentage of cases reduced drops to 39% and the court-established sentences increase to 60%. No change occurs in any other category.

Additionally, during court observations, I noticed that Judge C always handled cases that dealt with animal abuse violations. All animal abuse cases are considered county ordinance violations. In order to ensure that this disproportionate allocation of violations did not affect the sentence outcomes, it is important to study how violation cases are divided between the judges. There are 261 observations in this analysis because we are not looking at sentence outcomes; we are simply looking at the distribution of violations by judge. Therefore all types of plea cases are included in this analysis (i.e. all nolo, guilty, not guilty and continuance cases).

Table 16 shows a significant relationship between each judge and the violation type within their caseload. The percentages demonstrate that Judge C receives 66% of the ordinance violations, while Judge A only receives roughly 30% and Judge B receives less than 5%. However, when separating each judge by violation type, it is difficult to interpret much from the data because each category has very few cases.

Table 16: Judge By Violation Type

Violation	Ord. (N=24)	Rec. (N=130)	Equip. (N=23)	Mov. (N=49)	Sup. Mov. (N=35)
Judge A	29.17%	31.54%	30.43%	20.41%	31.43%
Judge B	4.17%	43.08%	43.48%	57.14%	40%
Judge C	66.67%	25.38%	26.09%	22.45%	28.57%
Total	100%	100%	100%	100%	100%

Pearson chi2(2)= 25.6777   *Pr= 0.001   N=261

In order to determine if this disproportionate allocation of ordinance violations affects sentencing outcomes, it is necessary to study Judge C's caseload by violation type. Table 17 shows the sentence outcomes by ordinance violation versus non-ordinance violation for Judge C. The table demonstrates that although Judge C has more ordinance cases, she does not distribute sentence outcomes to these cases any differently to how she imposes sentences in other cases. In fact, she handles equipment violation cases more severely than ordinance violations. Therefore, although she has more county ordinance cases than other Judges, her sentencing patterns remain the same. It appears that the un-even distribution of cases does not change the sentence outcomes of cases and does not affect earlier sentencing relationships.

Table 17: Sentence outcomes of Ordinance Violations

& Non-Ordinance Violations for Judge C

Judge C (N=44)

Violation	Ordinance (N=11)	Rec. (N=21)	Equip (N=4)	Mov (N=3)	Sup Mov (N=5)
Reduced	45.45%	57.14%	75%	0%	0%
Crt. Est.%	54.55%	42.86%	25%	100%	100%

Pearson chi2(4)= 9.2321   Pr= 0.056

Overall, when controlling for state minimum required cases as well as disproportionate violation allocations, there still appears to be differences in how sentencing outcomes are reached. The background characteristics of the judge, the defendant's backgrounds, as well as the combination of both of these variables, appear to influence sentencing outcomes.

Chapter 4:Conclusion & Further Research

My results suggest that there is some support for the judicial background and defendant background theories. There seems to be an interaction between how judges of different backgrounds impose sentences on different defendants. I also find that judicial socialization has little influence on sentencing outcomes.

Table 18: Results of the Study

Data Support Hypothesis at the Statistically Significant Level
Hypothesis 5: Female judges will impose harsher sentences on defendants than male judges.
Data does not Support the Hypothesis at the Statistically Significant Level
Hypothesis 1: Black defendants will be punished more severely than white defendants.
Hypothesis 2: Younger defendants will receive more severe sentences than older defendants.
Hypothesis 3: Females will receive less severe sentences than males.
Hypothesis 4: Hispanic defendants will be punished more severely than other groups within the court.
Hypothesis 6: Black Judges will sentence more leniently than white judges and this tendency will be particularly pronounced when sentencing black defendants.
Hypothesis 7: Holding all other things equal, sentencing outcomes between judges will be the same, regardless of their race of gender.
Hypothesis 8: Judges will sentence disrespectful defendants more severely than respectful defendants
Hypothesis 9: Judges will sentences defendants who commit minor violations less severely than they sentence defendants who commit more serious violations

It appears that the defendant's race, when controlling for state minimum requirements, does not statistically affect sentence outcomes at the significant level. However, the data for both Hispanic and Black defendants demonstrate patterns of racial sentencing. Therefore, hypothesis 1, that blacks will be punished more severely than whites, and hypothesis 4, that Hispanics will be punished more severely than other groups, cannot be completely ruled out. White defendants received a reduced sentence

66.10% of the time, while blacks receive a reduced sentence 52.58% and Hispanics only receive the reduced sentence 37.04% of the time. Additionally, Hispanics who use a translator receive a reduced sentence less frequently than Hispanics overall at 23.08%. These results demonstrate that the theory on the defendant's background and racial discrimination influences sentencing outcome, even if not at the statistically significant level. In addition to blacks being punished more severely than whites, the emergence of Hispanics as a large minority group and the threat of illegal immigration seems to be a trend that affects sentencing outcomes in the traffic court.

Some of the other defendant's characteristics, although not statistically significant, still point to patterns in sentencing that should be studied further in the future. Although hypothesis 2 is not supported at the statistically significant level, the cross-tabulations demonstrate that the youngest age group in the court tends to receive more severe sentences than older people. The relationship between gender and sentencing, however, seems to be very weak. Therefore hypothesis 3, that women will receive less severe sentences than males, is not supported by my data. Although in the past gender allowed women to receive more lenient sentences, this trend no longer seems applicable in the traffic court.

In the bivariate analysis for judges overall, there was a significant difference in how each of the judges sentenced, lending support for the theory on judicial backgrounds. In the overall tabulation for judge's decisions, Judge C imposed the most severe sentences the most frequently, supporting hypothesis 5, that female judges will impose harsher penalties than male judge. Additionally, in the cross tabulations by judge and defendant's race, there was also a relationship at the statistically significant level for

Judge B and Judge C. Judge B imposes the most severe sentences on blacks, while Judge C imposes the most severe sentences on Hispanics and blacks and the least severe sentences on whites. This trend is also true of judge A, but not at a statistically significant level. Additionally, Judge A, the black male Judge, imposes more severe sentences on black defendants more frequently than on white defendants. Although not statistically significant, this is the opposite of what hypothesis 6 predicts. Some of the literature on background characteristics for black judges, however, discuss alternative possibilities for why black judges impose harsher sentences on black defendants (Kanter 1977, Steffensmeier & Britt, 2001).

The sentencing patterns seen in "Traffic Court A," support the notion that the theory on judicial backgrounds and the theory on racial discrimination based on the defendant's backgrounds, can work in tandem with each other. Overall, racial factors affect court outcomes. Additionally, certain judges seem to be influenced by the race of the defendants more than others.

The theory that appears least supported in this study is that of judicial socialization. Judges do not act the same way and they are not influenced by characteristics of respect in the court; therefore, hypothesis 7 and hypothesis 8 are not supported. Although respect does not seem to influence how judges impose sentences, violation type is still an important variable in determining sentence outcomes. Although violation type is not statistically significant and hypothesis 9 is not supported by the cross-tabulation or the regression, the cross-tabulation demonstrates that some types of violations are more likely to be reduced than others.

Although this study was able to test the applicability of multiple theories to

determine sentencing outcome, there are several flaws with this study that could possibly have effected the results. Although the study includes 288 observations, when cases are separated by judge for analysis purposes, the number of cases diminishes. For instance, when analyzing Judge C, only 44 cases can be included in statistical models. Likewise, when separating by the defendant's race and then looking to see how the use of a translator and race affect sentencing, the data only consists of 13 cases where Hispanic defendants used a translator. Although these cases demonstrate a trend in racial sentencing patterns by judge, it is difficult to say whether the same results will occur if more cases are collected.

Besides the lack of observations, some of the coding for this study could be improved; perhaps this could be done with the addition of more cases. Violations are separated into four categories; however, these categories do not necessarily relate to the pre-established sentence by the court and do not perfectly account for violation severity. Previous studies coded violation by fine amount, which tended to reflect violation severity. In the context of the Recorder's Court, this was difficult to do because there are too many violation types. Therefore, in order to control for violation type but not over control, I created categories for violation type. This does not account for cases that are more likely to be dismissed in comparison to others. For instance, county ordinance violations, depending on the type, follow different procedures (i.e. Fence cases are treated differently than animal abuse cases). Likewise, all registration cases are put into one category, which includes registration violations and license violations. However, in the court, tag cases (registration cases) are treated very differently than expired license cases. Tag cases are also considered less severe than license cases. Likewise, the record

category is the most likely to receive the state minimum sentence, which complicated analysis for sentence outcomes. Perhaps more observations would allow a study to analyze violation type with more violation classifications that could account for these differences.

Another flaw of this study is the limited amount of judges in the court. The theory on judicial background characteristics speaks to how different judges, based on their gender and race, will impose sentences. However, in this study, only three judges are observed (due to lack of time and lack of judges within the court studied). Although the data are analyzed by judge and provide some evidence for the theory, it only speaks to these three judges. If more judges are analyzed, perhaps other patterns could be noticed to support or not support the theory. With only three judges analyzed, it is hard to generalize the results from my data.

Furthermore, the inability to study lawyer-negotiated cases is a problem within this study. In all the cases where lawyers are used, negotiations are made with the prosecutor and the judge accepts the results. Therefore, it is impossible to determine whether these negotiations involve reduced fines, reduced jail time, or an amended charge with the regular pre-established sentence. These different options for lawyer-negotiated cases could be studied in the future and perhaps there is a relationship between sentences and the race of the defendant, the race of the lawyer and the race of a judge. Additionally, the use of a lawyer could also indicate another important variable that was not analyzed in this study, wealth. Perhaps, wealthy defendants, those who can afford lawyers, receive the most lenient sentences. This is another variable that should be analyzed in the future.

Additionally, this study solely analyzes data from arraignments in the Recorder's Court. Trials also take place at the Recorder's Court, but, in the context of this court, it appears that less than 15% of all cases heard are trials.[18] For the few trials that were seen, other variables seem to dictate the outcomes of these trials, and these variables appear to be very different than the ones in arraignment. In the future, a study could analyze both arraignments and trials and such a study would need to account for witness testimony, expert testimony, presentation of evidence, accident involvement and several other variables within the trials.

Also, this study tests three theories of sentencing outcomes at the Recorder's Court. It is possible that other courts function differently and the results in this study may very well not be applicable to other state or federal courts.

Overall, a comparative study of several Recorder's Courts could provide more evidence to support the theories discussed in this study. Although some of the tested relationships are significant in this study, such as the defendant's race and its predicated probability on sentence outcome, these variables might not be significant in other courts, perhaps in a court that serves a community where blacks are in the majority and whites are in the minority. Likewise, studies in different Recorder's Courts might demonstrate that variables in this study that are not considered statistically significant, such as age and gender, might be significant. A comparison study could speak to other variables that might affect sentencing outcomes, perhaps the political leanings of a county/state.

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[18] It appears that there were a maximum of 24 trials per week in the court. For the four-week period in which data were collected for this study, approximately 92 trials could have occurred. However, that is probably a rather high estimate. Comparatively, there were about 600 arraignments over the course of the study. Therefore, this leads to an estimate that trials account for only 15% of the procedures in this court. However only 6 trials were able to be observed due to time restrictions.

The results in this study indicate that further research should be conducted on sentencing disparity within the judiciary. Since the Civil Rights movement, concern has been expressed over racial sentencing disparity. Despite guidelines at the federal level, perceptions of minority groups appear to dictate sentencing patterns, specifically at the Recorder's Court. Even with minority representation on the bench, blacks tend to receive more severe sentences. Additionally, an important pattern of Hispanic discrimination is present in the court. It could be that this pattern of disparity only exists at the court in this study, or in state courts where issues of illegal immigration and nativism are more prominent. Further study on this subject is necessary. Despite the fact that traffic violations might not be the most pressing issue in our country, the traffic court receives the most volume of cases. It is in this court that the average citizen experiences the American Judiciary and if sentencing disparity is affecting sentence outcomes based on perceptions of race, solutions should be designed to resolve these inequalities.

Appendix A: Judge by Age of the Defendant

Judge A(N=58)

Age	Under 20 (N=3)	20-30 (N=22)	30-40 (N=25)	40-50 (N=8)	50+ (N=0)
Reduced	33.33%	45.45%	36%	62.50%	0%
Crt. Est.	66.67%	54.55%	64%	37.50%	0%

Pearson chi2(4)= 1.9080   Pr= 0. 592

Judge B (N=95)

Age	Under 20 (N=1)	20-30 (N=32)	30-40 (N=41)	40-50 (N=20)	50+ (N=1)
Reduced	0%	62.50%	63.41%	80%	0%
Crt. Est.	100%	37.50%	36.59%	20%	100%

Pearson chi2(4)= 5.8431   Pr= 0. 211

Judge C (N=41)

Age	Under 20 (N=0)	20-30 (N=12)	30-40 (N=16)	40-50 (N=12)	50+ (N=1)
Reduced	0%	33.33%	62.50%	33.33%	0%
Crt. Est.	0%	66.67%	37.50%	66.67%	100%

Pearson chi2(4)= 4.1182   Pr= 0. 249

Bibliography:

Burns, P., and J.G. Gimpel. 2000. "Economic insecurity, prejudicial stereotypes, and public opinion on immigration policy." *Political Science Quarterly* 115(2): 201–225.

Coleman, Ronald. 1976. "Court Control and Grievance Accounts: Dynamics of Traffic Court Interactions." *Journal of Contemporary Ethnography* 5: 165–188.

Cook, Elizabeth Adell, and Clyde Wilcox. 1991. "Feminism and the Gender Gap--A Second Look." *The Journal of Politics* 53(4): 1111–1122.

"CSP Court Statistics Project." 2012. http://www.courtstatistics.org/Traffic/TrafficVolume.aspx.

Daly, Kathleen, and Michael Tonry. 1997. "Gender, Race, and Sentencing." *Crime and Justice* 22: 201–252.

Dolan, Julie, Melissa M Deckman, and Michele L Swers. 2011. *Women and politics : paths to power and political influence*. Boston: Longman.

Economos, James P. 1953. "The Traffic Problem, Traffic Laws, and Traffic Courts." *Annals of the American Academy of Political and Social Science* 287: 13–20.

Gruhl, John, Cassia Spohn, and Susan Welch. 1981. "Women as Policymakers: The Case of Trial Judges." *American Journal of Political Science* 25(2): 308–322.

Hofer, Paul J., Kevin R. Blackwell, and R. Barry Ruback. 1999. "The Effect of the Federal Sentencing Guidelines on Inter-Judge Sentencing Disparity." *The Journal of Criminal Law and Criminology (1973-)* 90(1): 239–322.

Jackson, L. M., and V. M. Esses. 2000. "Effects of Perceived Economic Competition on People's Willingness to Help Empower Immigrants." *Group Processes & Intergroup Relations* 3(4): 419–435.

Jaros, Dean, and Robert I. Mendelsohn. 1967. "The Judicial Role and Sentencing Behavior." *Midwest Journal of Political Science* 11(4): 471–488.

Kanter, Rosabeth Moss. 1977. *Men and women of the corporation*. New York: Basic Books.

King, R.D., and D. Wheelock. 2007. "Group threat and social control: Race, perceptions of minorities and the desire to punish." *Social Forces* 85(3): 1255–1280.

Kritzer, Herbert, and Thomas Uhlman. 1977. "Sisterhood in the Courtroom: Sex of a Judge and Defendant in Criminal Case Disposition." *Social Science Journal* 14: 77–88.

Macelwane, Geraldine. 1957. "Traffic Court: The Most Important in Our System, The." *ABAJ* 43: 322.

Mann, Coramae Richey. 1993. *Unequal justice : a question of color*. Bloomington: Indiana University Press.

Mansbridge, Jane. 1999. "Should Blacks Represent Blacks and Women Represent Women? A contingent 'Yes'." *The Journal of Politics* 61(3): 628–657.

Miethe, Terance D, and Robert F Meier. 1994. *Crime and its social context : toward an integrated theory of offenders, victims, and situations*. Albany, NY: State Univ. of New York Press.

Mustard, David B. 2001. "Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts." *Journal of Law and Economics* 44(1): 285–314.

Myers, Martha A., and Susette M. Talarico. 1986. "The Social Contexts of Racial Discrimination in Sentencing." *Social Problems* 33(3): 236–251.

Perea, Juan F. 1997. *Immigrants out! : the new nativism and the anti-immigrant impulse in the United States*. New York: New York University Press.

Peters, Gerard, and John Woolley. 1977. "Jimmy Carter: Executive Order 11972." http://www.presidency.ucsb.edu/ws/?pid=6588.

Reingold, Beth. 2000. *Representing women : sex, gender, and legislative behavior in Arizona and California*. Chapel Hill NC: University of North Carolina Press.

Reingold, Beth, and Jessica Harrell. 2009. "The Impact of Descriptive Representation on Women's Political Engagement: Does Party Matter?" *Political Research Quarterly* 63: 280–294.

Rocque, Michael. 2011. "Racial Disparities of the Criminal Justice System and Perceptions of Legitimacy: A Theoretical Linkage." *Official Journal of the American Society of Criminology*: 293–315.

Rottman, David, and National Center for State Courts. 2003. *Perceptions of the courts in your community: The influence of experience, race, and ethnicity*. National Center for State Courts.

Schumaker, Paul, and Nancy Elizabeth Burns. 1988a. "Gender Cleavages and the Resolution of Local Policy Issues." *American Journal of Political Science* 32(4): 1070–1095.

———. 1988b. "Gender Cleavages and the Resolution of Local Policy Issues." *American Journal of Political Science* 32(4): 1070–1095.

Segal, Jennifer A. 2000. "Representative Decision Making on the Federal Bench: Clinton's District Court Appointees." *Political Research Quarterly* 53(1): 137–150.

Spohn, Cassia. 1990. "The sentencing decisions of black and white judges: Expected and unexpected similarities." *Law and Society Review*: 1197–1216.

Spohn, Cassia, John Gruhl, and Susan Welch. 1981-1982. "The Effect of Race on Sentencing: A Re-Examination of an Unsettled Question." *Law & Society Review* 16(1): 71–88.

Steffensmeier, D., and C.L. Britt. 2001. "Judges' race and judicial decision making: Do black judges sentence differently?" *Social Science Quarterly* 82(4): 749–764.

Steffensmeier, Darrell, and Stephen Demuth. 2006. "Does Gender Modify the Effects of Race–ethnicity on Criminal Sanctioning? Sentences for Male and Female White, Black, and Hispanic Defendants." *Journal of Quantitative Criminology* 22(3): 241–261.

Steffensmeier, Darrell, and Chris Hebert. 1999. "Women and Men Policymakers: Does the Judge's Gender Affect the Sentencing of Criminal Defendants?" *Social Forces* 77(3): 1163–1196.

Steffensmeier, Darrell, Jeffery Ulmer, and John Kraner. 1998. "The Interaction of Race, Gender, and Age in Criminal Sentencing: The Punishment Cost of Being Young, Black, and Male." *Criminology* 36(4): 763–796.

Stephan, W.G., C. Renfro, and M.D. Davis. 2002. "The role of threat in intergroup relations." *Improving Intergroup Relations*: 55–72.

Swigert, Victoria Lynn, and Ronald A. Farrell. 1977. "Normal Homicides and the Law." *American Sociological Review* 42(1): 16–32.

Thomson, Randall J., and Matthew T. Zingraff. 1981. "Detecting Sentencing Disparity: Some Problems and Evidence." *American Journal of Sociology* 86(4): 869–880.

Traffic, S.I.C.O.N. 1960. "California Traffic Law Administration." *Standford Law Review*. http://www.jstor.org/stable/1226807 .

Uhlman, Thomas M. 1978. "Black Elite Decision Making: The Case of Trial Judges." *American Journal of Political Science* 22(4): 884–895.

Valdes, Gustavo. 2011. "Georgia governor signs controversial anti-illegal immigration law." *CNN*. http://articles.cnn.com/2011-05-13/us/georgia.immigration.law_1_illegal-immigration-immigration-status-law-enforcement-officers?_s=PM:US.

Welch, Susan, Michael Combs, and John Gruhl. 1988. "Do Black Judges Make a Difference?" *American Journal of Political Science* 32(1): 126–136.

Winders, Jamie. 2007. "Bringing Back the (B)order: Post-9/11 Politics of Immigration, Borders, and Belonging in the Contemporary US South." *Antipode* 39(5): 920–942.

Winkle III, John, and Justin Wedeking. 2003. "Perceptions and experiences of gender fairness in Mississippi courts." *Judicature* 87: 126.