Racial disparities in the federal sentencing of drug offenders

Jorge Adrian Castrejon
University of Nevada, Las Vegas

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RACIAL DISPARITIES IN THE FEDERAL SENTENCING OF DRUG OFFENDERS

by

Jorge Adrian Castrejon

Bachelor of Arts
University of Nevada, Las Vegas
2004

A thesis submitted in partial fulfillment of the requirements for the

Master of Arts Degree in Criminal Justice
Department of Criminal Justice
Greenspun College of Urban Affairs

Graduate College
University of Nevada, Las Vegas
May 2006

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Thesis Approval
The Graduate College
University of Nevada, Las Vegas

April 14, 2006

The Thesis prepared by

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Entitled

Racial Disparities in Federal Sentencing of Drug Offenders

is approved in partial fulfillment of the requirements for the degree of

Master of Arts in Criminal Justice

Examination Committee Chair

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Examination Committee Member

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Graduate College Faculty Representative
ABSTRACT

Racial Disparities in the Federal Sentencing of Drug Offenders

by

Jorge Adrian Castrejon

Dr. Randy Shelden, Examination Committee Chair
Professor of Criminal Justice
University of Nevada, Las Vegas

Drawing upon a national sample of offenders from the U.S. Sentencing Commission through the ICPSR, the current study examines the extent of racial disparities in federal sentencing of drug offenders. After controlling for demographic characteristics of the defendants results from the analysis indicate that blacks and Hispanics convicted of drug offenses receive more prison sentences than white defendants. Black defendants receive longer prison sentences than whites and Hispanics for the same type of drug offenses. Although Hispanics receive more prison sentences than whites their prisons sentences are significantly shorter than prison sentences for black and white defendants. It is determined that the interaction between race of the defendant and the type of crime affects federal sentencing outcomes for drug offenses.
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ACKNOWLEDGEMENTS

First and foremost, I would like to thank my examination committee chair, Dr. Randy Shelden for all his help, for sharing his knowledge, and for his time. Dr. Shelden is someone who I look up to and admire very much. I would also like to thank the rest of my examination committee, Dr. Terry Miethe, Dr. Dick McCorkle, and Dr. Margaret Oakes for their time and their commitment to their students and profession. You have contributed enormously to my education and to the person that I have become since I began my education at UNLV. Your devotion to education motivated me to continue on to graduate school. I cannot express in words my gratitude. Finally, I would like to thank someone who is a very important part of my life. You are my inspiration. Having you in my life has made me a better person. Words cannot define what you mean to me.
CHAPTER 1

INTRODUCTION

The prevalence of racial disparity is one of the most disconcerting issues within the American criminal justice system. At all stages of the justice system, starting with the arrest and proceeding through the release of supervision or incarceration, racial disparities are found in nearly all jurisdictions in the United States. The causes and consequences of racial inequalities in the justice system are complex and have been matter of substantial academic and public interest (The Sentencing Project 2003). Research has considered rates of crime, criminal justice processes, social and economic disadvantages of minority groups, and social policies as contributing factors to racial disparities in the justice system. Although racial inequalities have continued for many years, they have been aggravated recently in spite of significant social and economic progress in other areas of American society (The Sentencing Project, 2003). This is especially the case when considering sentencing in the criminal justice system (The Sentencing Project 2005).

Extensive research reveals that there are no racial differences in drug use among racial population groups. According to a national household survey on drug abuse conducted by the Substance Abuse and Mental Health Services Administration in 1998, there were an estimated 9.9 million whites who used illicit drugs, constituting 72 percent of all users. The same survey concluded there were 2 million blacks and 1.4 million
Hispanics who were drug users, representing 15 percent of the total black population and 10 percent of the total Hispanic population. These percentages closely match the total population percentages for these two minority groups (see table 1.1). The percentages depict no racial differences in drug use among different racial population groups.

Although drug use is consistent across racial lines, racial disparities exist in arrest rates, sentencing, and convictions of minority groups, primarily blacks. The "war on drugs" has created racial inequalities by primarily targeting this segment of the population (Tony 1995; Mauer 1998; Cole 1999). This war has precipitated arrests of drug offenders and has increased racial inequalities among those who are arrested. It is important to acknowledge that more people are incarcerated for drug offenses than for any other crime. The Sentencing Project (2005) reported that more than fifty-five percent of federal prisoners are serving time for a drug offense while only thirteen percent of federal prisoners are serving time for violent offenses. According to a Human Rights Watch report (2000), blacks constitute 62 percent of drug offenders in state prisons. Forty percent of blacks who are sent to prison are convicted on drug charges while only twenty percent of whites in state prisons are convicted on drug charges.

Of the persons who are convicted of drug felonies in state courts, African-Americans are more likely than whites to be sent to prison. In 1998, fifty-one percent of African-Americans convicted of drug felonies received a prison sentence, while only thirty-three percent of convicted white defendants received a prison sentence. The Human Rights Watch also noted that Hispanic convicted felons are included in both racial groups; therefore, no separate statistic is available. The Sentencing Project (2005) reports that nearly one in three persons being held in federal prisons is Hispanic.

2
Hispanic population is also the fastest growing population in prison. In some states, Hispanic arrestee males are less likely to have their cases dismissed than any other racial group. The number of Hispanics incarcerated is higher than what is reported because they are frequently measured as racially black or white and not as a distinct group (The Sentencing Project 2005).

Table 1 demonstrates that in the census for the year 2000, Hispanics became the largest minority group in the U.S. population. Whites are accounted for more than sixty percent of the population, while blacks constitute the second largest minority in the United States.

Table 1. Racial Demographics in the U.S., 2000

<table>
<thead>
<tr>
<th>Race</th>
<th>Percent (2000)</th>
</tr>
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<tbody>
<tr>
<td>White</td>
<td>62.6%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>12.5</td>
</tr>
<tr>
<td>Black</td>
<td>12.3</td>
</tr>
<tr>
<td>Other</td>
<td>12.6</td>
</tr>
</tbody>
</table>

Source: U.S. Census Bureau, Summary File 1 (SF 1) and Summary File 3 (SF 3). http://factfinder.census.gov/servlet/SAFFacts?_event=&geo_id=01000US&_geoContext=01000US&_street=&_county=&_cityTown=&_state=&_zip=&_lang=en&_sse=on&ActiveGeoDiv=&_useEV=&pctxt=fph&pgsl=010

Figure 1 illustrates the racial differences in mandatory minimum sentencing among the three main racial groups (white, black, Hispanic). It is evident that racial disparities exist against Hispanics in mandatory minimum sentences for sentences of five years. For mandatory minimum sentences of twenty years to life blacks receive the most sentences. It is noted that for all mandatory minimum sentences whites receive the least amount of sentences among all three racial groups.
Figure 1. Racial Disparities in Mandatory Minimum Sentencing by Race in 1998

Source: U.S. Sentencing Commission
Note: The table values do not total 100% due to lack of additional available data and estimates made by the U.S. Sentencing Commission.
The Sentencing Project (2005) also indicates that although the public perceives that Hispanic immigrant communities are infested with crime, research findings suggest that Hispanic immigrants' involvement in criminal activities is actually less than American citizens' involvement in crime. Nationally, Hispanics are incarcerated in local jails and state prisons at almost twice the rate of whites; in some states the rate is much higher. It is also pointed out that Hispanic males are four times more likely to be incarcerated in their lifetime than white non-Hispanic males. However, they are less likely than African-American males to be incarcerated. Hispanics are equally as likely as blacks and twice as likely as whites to be incarcerated in state prisons for drug violations, regardless of proportionate drug use rates equal to their populations (The Sentencing Project 2005).

The higher arrest rates for African-Americans and Hispanics do not suggest a higher use rate for these population groups. Instead, they suggest a law enforcement concentration on inner city sections where the use and sale of drugs occur in drug markets and where resources for treatment are inadequate. Racial inequalities in drug arrests and drug convictions have tremendously affected families. According to the Drug Policy Institute (1999), of the one and half million children with an incarcerated parent, African-American minor children were nine times more likely than a white child to have a parent incarcerated. Hispanic children were three times more likely than white children to have a parent in prison. The Drug Policy Institute also suggests that racial disparities in drug crime affect pregnant women from minority groups, and the overwhelming health consequences of the inequalities in the criminal justice system are more striking in communities of color.
The Sentencing Project (2005) research on racial disparities in sentencing suggests that young African-Americans and Hispanics, especially if unemployed, are subject to more severe sentencing compared to other offending racial populations. These two racial groups tend to be punished more severely than their white counterparts because they are alleged to be more dangerous. African-American defendants who are convicted of harming white victims receive harsher penalties than African-Americans who commit crimes against other African-Americans or white offenders who commit crimes against whites (The Sentencing Project 2005). Hispanic and African-American defendants are sentenced more severely than comparable white defendants for less serious crimes, especially drug offenses. Both racial groups were comparable to whites regarding legal-process factors such as sentence reductions, criminal history, the trial penalties, and pretrial detention.

The research found evidence of racial discrimination against minority defendants in sentencing outcomes. African-Americans are more likely to be at a disadvantage in sentence length, and Hispanics are more likely to be at a considerable disadvantage in incarceration decisions at the federal level. Both racial groups are more likely to be at a disadvantage in the decision to incarcerate as opposed to sentence length at the state level. Evidence of discrimination is more prominent at the federal level than at the state level (The Sentencing Project 2005).

Law enforcement resources reserved for the “war on drugs” have been targeted towards predominantly minority, low income urban areas. Consequently, allowing white drug offenders to be less likely to be arrested compared to African-Americans and Hispanics. People from minority groups who are arrested are treated more harshly by the
justice system than whites (Human Rights Watch 2000). Research evidence indicates drug possession and drug selling is the same across racial, geographic, and socio-economic lines. However, racial disparities in drug arrests do not suggest racial differences in the sale of drugs, possession of drugs, and in any other violation of drug laws (Human Rights Watch 2000).

According to the Sentencing Project (2005), the possibility of a racially discriminatory due process violates the principles of equal treatment under the law on which the criminal justice system is founded. It was also suggested that racial discrimination today in the criminal justice system is more menacing than in the past. Treating a racial group as a unitary body can conceal the presence of discrimination. Recent evidence indicates that although racial dynamics have changed, race continuously exerts an unquestionable presence in the criminal justice system. The idea that the law in the United States is not applied objectively dominates research in the criminal justice system (Jendrek 1984).

Studies often hypothesize that specific racial groups are more likely to be arrested, charged, convicted, and sentenced more severely than more dominant groups in society. These hypotheses threaten the basic principle of our justice system, equality before the law. If the hypothesis is true, the legitimacy of the criminal justice system is uncertain. Racial groups that are disproportionately mistreated cannot be expected to respect, support, nor believe in the American criminal justice system (Jendrek 1984).

Sentencing studies provide an example of an area of sociological research in which an inert, unsophisticated understanding of race has impeded theoretical development (Peterson and Hagan 1984). The most prevalent theory on criminal
sentencing is conflict theory, which has generally predicted that non-white offenders receive harsher sentences than whites for all crimes (Peterson and Hagan 1984). Conflict theorists contend that social and demographic characteristics of defendants, such as socio-economic status and race, are crucial in predicting sentencing in the criminal courts (Lizotte 1978). Conflict theory asserts that lower class individuals are more likely to be scrutinized in any violation of the law, more likely to be arrested, more likely to be found guilty, and if found guilty more likely to be severely punished (Lizotte 1978).

Table 2 demonstrates the differences in drug use and drug arrests for white and black defendants. Although blacks reportedly engage in drug use at a lower rate than whites, they are arrested at twice the rate for drug offenses. Whites are arrested for drug offenses at a lower rate than blacks while they engage in drug use more than five times the rate of drug use of blacks.

Table 2. Comparison of Drug Use and Arrests by Race

<table>
<thead>
<tr>
<th>Year</th>
<th>Black</th>
<th>White</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>14.9%</td>
<td>36.8%</td>
</tr>
<tr>
<td>1998</td>
<td>16.9%</td>
<td>37.3%</td>
</tr>
</tbody>
</table>

Source: Compiled from Federal Bureau of Investigation, Uniform Crime Reports, various years, and Substance Abuse and Mental Health Services Administration, Summary of Findings from the 1998 National Household Survey on Drug Abuse (U.S. Department of Health and Human Services, 1999).
The purpose of this study is to explore the extent of racial differences in the sentencing of drug offenders within the federal system. Two major research questions underlie this study. First, are there racial differences in the type and length of prison sentences given to federal drug offenders and do these differences persist after controlling for other variables? Second, how much variation in the likelihood and length of prison sentences is explained by race and other characteristics of the defendant?
CHAPTER 2

THEORETICAL PERSPECTIVE

Conflict Theory

Conflict theory highlights the role that “social threat” plays in the formation of the law and the operation of the criminal justice system. The “social threat” perspective examines the exercise of discretion in applying the law against accused law violators (Akers and Sellers 2004). Conflict theorists contend that criminal justice decisions are biased against the less powerful groups in society. It also contends that the “social threat” presented by the underclass affects the criminal justice officials’ decision making, who use their discretionary power to impose more punitive sanctions on offenders from threatening minority groups and lenient responses to more powerful groups (Akers and Sellers 2004).

Conflict theories share the assumption that conflict is the natural state of human societies. According to the conflict theory perspective, the values of any society are established through conflict. Groups in society consistently compete against each other in an attempt to have their interests embodied in major social values and institutions. These competitions determine who has power in society. Those whose interests are more closely associated with the law are among the most powerful (Williams and McShane 1998).

Quinney’s theory of the social reality of crime represents a good illustration of the
conflict approach. Quinney argued that “Criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy.” He also suggested that “Criminal definitions describe behaviors that conflict with the interests of the segments of society that have the power to shape public policy.” Such definitions “are applied by the segments of society that have the power to shape the enforcement and administration of criminal law” (Quinney, 1970:16-18).

According to the conflict perspective, the greater the number of acts and people threatening the interests of the powerful, the greater the level of deviance and crime control (Liska 1992, cited by Seller and Akers 2004). Members of minority groups, the youth, and the poor pose a symbolic threat to the interests of powerful groups, creating a greater fear of crime and an increase in crime reporting by non-minority individuals, more stringent laws, and increases in law enforcement practices, court procedures, and sentencing (Akers and Sellers 2004). The conflict perspective offers a layout to test for inequality in the criminal justice system. Conflict theory contends that the criminal justice system does not apply the law impartially with regard to occupation, social class, and race. Individuals with occupations of low prestige and blacks are sentenced more severely (Lizotte 1978).

There are three ways in which discrimination in sentencing could occur. First, the criminal justice system could define the seriousness of crime in such a way as to discriminate against lower class or minority defendants, as it especially does for drugs. Second, people with low prestige occupations and minorities may experience discrimination in sentencing due to economic inequality and disadvantages (e.g. inability to afford a lawyer, lack of money for bail, etc). Third, low education status and economic
considerations may cause inaccuracy in the offender’s defense (Chambliss 1999; Cole 1999).

In addition to a biased definition of seriousness, economic restrictions, and low prestige occupations of black defendants judges, probation officers, and juries could practice discrimination due to prejudice. In court, poor defendants may not project the image of decency produced by dress, demeanor, and social standing which an individual from the powerful class could. Also, individuals from the lower class are more likely to be scrutinized closely and therefore arrested (Chambliss 1999).

Values and interests of various groups conflict to the degree that what is considered deviant to one group may be considered normal in another. The powerful groups definitions of normality or deviance become enacted as law, are protected by the criminal justice system, and are established in public policy. As less powerful groups clash with the law they are less likely to avoid apprehension, prosecution, conviction, and incarceration (Akers and Sellers 2004). Demographic characteristics such as race, class, sex, and age indicate social position and determine who gets arrested and sentenced.

From the 1960s to the present, researchers have contributed to the analyses of the creation and application of the law. Studies included the definition of crime, discrimination in the criminal justice system, and the ideological content of law. There are two major elements of conflict theories. One follows a radical direction and focuses on society itself as the basis for conflict; the other follows a more conservative track and focuses on power conflicts as part of society. The radical versions are represented by Marxist, anarchist, economic determinist, and postmodern theories. Most commonly
related with Marxist and economic deterministic positions, radical theories concentrate on getting its own way (Williams and McShane 1998).

Radical conflict theories suggest that when the mode of production and the superstructure of society are threatened, individuals are defined as problem populations (Shelden and Brown 2003). Conservative conflict theories assume that there are groups contesting with each other for control over particular issues, situations, and events. The ability of powerful groups to use and control resources indicates the ability to gain and maintain control over its interests and affects the process of decision-making (Williams and McShane, 1998).

Power Threat Hypothesis

Blalock (1967) formulated the "power threat hypothesis" to provide an explanation for the link between race and wrongful convictions. The theory suggests that as the size of the minority group increases, members of the majority group feel a "threat" to their position in society and will take steps in order to reduce that "threat". Blalock argued that the relationship between the growth in minority percentages and the motivation of the majority group to discriminate assumes two forms: competition over economic resources and power threats.

As blacks compete for jobs and economic resources, they become a threat to the economic well-being of the powerful, generally whites. Political threat of minority groups occurs as the relative size of the black population increases. The government may perceive blacks as a threat to white political power and therefore intensify social control to maintain their dominant position. As a result of blacks being perceived as a threat to
white political power and a threat to their economic resources, social control efforts can be manipulated to exclude blacks from participating in the labor market, which reduces the economic competition they pose for whites and more importantly can reduce blacks' economic opportunities which can consequently lead to criminal behavior (Blalock 1967).
CHAPTER 3

LITERATURE REVIEW

Racial Disparities in Sentencing Reforms

Everett and Wojtkiewicz (2002) examined the degree to which disparity in sentencing on the basis of race occurred in federal sentencing since the implementation of sentencing reform. They considered how much of the disparity is explained by offense-related factors as specified in federal sentencing guidelines. They found that the fact that minority defendants receive harsher sentences than white defendants is partly explained by offense related characteristics such as offense type, criminal history, plea status, and region of court.

A vital instrument in federal sentencing is a table developed by the federal sentencing commission that consists of six categories of criminal history and forty-three levels of offense seriousness. Judicial discretion is very restricted under these federal guidelines. The researchers hypothesized that if the guidelines have successfully controlled unjustifiable sentencing disparity, sentencing will not be affected by extralegal factors. If racial bias and other extralegal factors influence the sentencing process, the federal sentencing guidelines failed to eliminate racial disparities in federal sentencing. An evaluation of the federal sentencing guidelines identified prosecutorial discretion as the primary source of sentencing disparity (Everett and Wojtkiewicz 2002).
Data used from the Monitoring Database gathered by the U.S. Sentencing Commission represented case documents supplied to the commission by district courts and US magistrates. The cases covered in the data were sentences covering a two year period from October 1, 1991 to September 30, 1993. The data represented cases that were submitted to the US Sentencing Commission and were sentenced pursuant to the Sentencing Reform Act of 1984. The final sample of the study consisted of 59,250 case documents. The analysis focused on disparities in sentencing due to race. The researchers found clear differences in sentencing on offense-related factors and offense-related characteristics.

The most significant offense-related factor was for those convicted of economic offenses receiving more lenient sentences than those convicted of drug, violent, firearms, or immigration offenses. Those convicted with more extensive criminal histories received more severe sentences than those with less extensive criminal histories. Those convicted of higher-level offenses also received more severe sentences that those convicted of lower-level offenses. Those who accepted responsibility and those who entered a guilty plea received more lenient sentences. Defendants in southern regions of the country received the harshest sentences.

On offense-related characteristics, African-Americans were found to be more likely to be in categories that received harsher sentences than whites, and less likely than whites to be in categories that received more lenient sentences. African-Americans were also found to be more likely to be convicted of drug offenses and less likely to be convicted of economic offenses. Hispanics were more likely to be convicted of drug offenses and immigration offenses and less likely to be convicted of economic offenses.
than whites. These two racial groups were more likely than whites to be convicted of higher-level offenses. They were also less likely than whites to plead guilty or accept responsibility, and were more likely to be sentenced in the south region where sentences are harsher than in other regions.

Hispanics, African-Americans, and American Indians were considerably more likely to receive harsher sentences even when offense-related characteristics were controlled. These three racial groups have offense-related characteristics which may help explain why they are more likely to receive more severe sentences than comparable white defendants. A substantial part of racial disparity in sentencing among different racial groups and differences in extra legal factors cannot be explained by differences in offense-related characteristics.

The researchers found two sources of disparity: disparity that is caused by the influence of extra-legal factors, and disparity created by offenses defined as more serious and commendable of harsher punishment because they were committed by particular racial groups of offenders. The study revealed the continued existence of bias based on race and extra-legal factors. It clearly defines substantial differences between racial groups in offense-related characteristics. The study supports the perspective of conflict theory that crime closely associated with minorities will be more severely sanctioned by the criminal justice system. The observed pattern in this study appears consistent with the conflict theory assumption.

A key component of the study is that racial differences are not entirely explained by offense-related characteristics. Although some of the differences between racial groups are accredited to offense-related characteristics these factors do not account for
the entire difference in sentence severity. Racial bias was common in indeterminate sentencing and the research determined that bias occurs in the federal determinate sentencing system. It is concluded that distinct differences among racial groups on offense characteristics defined by sentencing guidelines are significantly related to the severity of sentencing. The severe punishment of particular types of offense, specifically drug offenses, reflects the structure of the federal sentencing guidelines.

Hebert (1997) conducted a study on sentencing outcomes of African-Americans, Hispanic, and white males convicted under federal sentencing guidelines. The study uses data collected in 1989 distributed by the Sentencing Commission to compare sentencing outcomes for these three racial groups convicted of violating federal drug laws. After controlling for legally relevant factors, socioeconomic factors, and legal contextual factors, blacks and Hispanics convicted of cocaine offenses were sentenced more severely than comparable white offenders.

Data were taken from the United States Sentencing Commission available at the Inter-University Consortium of Political and Social Research (ICPSR). The data were created by the sentencing commission to monitor guideline compliance in the federal court system. Single-count drug cases were used, and 5,557 cases were analyzed to conduct this study. The data contains information on demographic, contextual, and legal processing factors that have been found to influence sentencing decisions. The data contained sufficient control variables to develop a significant statistical examination of Hispanic and white, and African-American and white sentencing disparities. The data allow for the structure of federal sentencing guidelines to provide an opportunity to demonstrate shortcomings of traditional methods for controlling offense seriousness. The
procedure in the study to calculate criminal history points results in an underestimation of the criminal history score used in the sentencing decision.

Federal drug offenses were chosen for this study on both practical and theoretical grounds. These data represent one of the few sources available that include sufficient numbers of minority and white offenders to control for offense type and yet contain sufficient variation in offense seriousness within each offense type to allow for statistical and descriptive analysis. The study uses male offenders convicted of federal drug offenses and demonstrates the types of interpretative errors that may derive from over-aggregation of criminal offenses.

Some evidence suggests that the acceptance of responsibility with regards to acceptance of responsibility and remorse varies by race. Hispanic and black defendants are considered to be less likely than white offenders to express acceptance of responsibility for a variety of reasons including cultural standards of appropriate behavior, intercultural miscommunication, and the quality of legal representation. To the extent that this is true, in this study the Hispanic and black defendants' offense seriousness scores are biased in comparison to white offense seriousness scores. In the study white offense seriousness scores are misjudged relative to black and Hispanic defendants because of adjustments for culpability. Black and Hispanic offense scores are misjudged relative to whites with regards to acceptance of responsibility and remorse. Black criminal history scores are misjudged relative to white and white relative to Hispanic because of the procedures used to calculate criminal history scores when a revocation of probation or parole.
The War on Drugs

The findings of Herbert's (1997) study suggest that African-Americans convicted of cocaine offenses and Hispanic defendants convicted of cocaine and marijuana offenses were sentenced more severely than white offenders convicted for the same crimes after controlling for socioeconomic factors, legally relevant and legal contextual factors. The findings also suggest that racial disparity is not a persistent problem in the federal judiciary, but in federal judges. It is apparent that federal judges sentence offenders on stereotypes about race and drug use. The results suggest that racial discrimination is not a persistent problem in the federal judiciary but rather that federal judges operate with incomplete information. It appears that federal judges sentence minority offenders on historically constructed stereotypes (Herbert 1997).

The "war on drugs" may have been based on the perception of minority offenders as active in the illegal drug business and whose drug use is considerably contagious. Anti-drugs campaigns, frequently racist, justified the control and regulation of drugs on the basis of their abuse by minorities. Judges, within the constraints imposed by the determinate sentencing system, appear to have responded to the alleged dangerousness of offenders on the basis of their race by sentencing black cocaine and Hispanic marijuana offenders more severely than comparable white offenders. Hispanic and African-American sentencing outcomes differed from whites and from each other. The findings also suggest that the particular type of offense can generate different racial sentencing outcomes (Hebert, 1997).

Kautt and Spohn (2002) analyzed the relationship among an offender's race, sentencing strategy, and drug type net of other theoretically relevant factors. The
findings suggest that the defendant’s race sets the effects of drug and other factors differently from one sentencing strategy to another. The researchers contend that judges’ decisions on sentencing indicate their evaluation of the culpability of the defendant, their desire to protect their communities, and their apprehension about their social concerns of sentencing decisions. Severe sentences imposed on minority defendants may be attributed to officials’ stereotypes of racial minorities as being more threatening and more likely to recidivate.

The researchers hypothesized that the predictors of the length of a sentence will function differently for white and African-American drug offenders. The effects of aggravating factors such as prior record will be greater for African-Americans defendants than for white defendants; specifically, the aggravating effect of conviction for a crack offense will be greatest for blacks. The effects of mitigating factors such as acceptance of responsibility will be greater for white defendants than for African-American defendants; the mitigating effect of conviction for a marijuana offense will be greatest for whites. To test these hypotheses Sentencing Commission data for defendants who were sentenced in 1997 and 1998 were used.

A two-stage partitioning strategy was used to test these hypotheses. Federal drug offenses were categorized into three groups: offenses that have a mandatory minimum sentence and received the sentence, offenses under a mandatory minimum statute but did not receive the sentence (hybrid offenses), and offenses that are simple guidelines drug cases. The data were subdivided into black and white subsets and analyzed separately to assess the degree of variation in the predictive factors between the two racial groups for
each of the three different sentencing contexts. Extra-legal factors were included as control variables.

The research findings revealed that the effects of several variables differ by both the defendants’ race and sentencing strategy framework. There are racial differences in the frequency of several theoretically pertinent factors. Across racial groups there are a few distribution offenses among guideline and hybrid drug offenses. It was determined that federal determinate sentencing has not been able to restrain the conditioning effects of race, especially for legally pertinent factors. The results also indicated there are more racial differences in the effects of the predictors for mandatory minimum cases than for non-mandatory minimum cases. The defendant’s race has an impact over federal determinate sentencing outcomes. The most important inference of this research is that the predictors of federal determinate sentencing outcomes are not as consistent as the guidelines and the mandatory minimum sentences intended them to be.

As expected, criminal history, probation officers minimum sentence recommendations, number of convictions, and offense-seriousness score all have a positive relationship with the sentence length, and the aggravating effects of these circumstance are greater for blacks than for whites, as well as going to trial. The label of career criminal and the presence of a weapon also increase the sentence length, while acceptance of responsibility, the presence of a substantial assistance departure, and a conviction of a crack offense decreases it. An unexpected finding is that drug possession results in longer sentences than does trafficking drugs, whereas manufacturing drugs results in shorter sentences. In addition, the number of dependants for black defendants...
has a positive effect on their sentence length but has no impact on the severity of length sentences for white defendants.

For guideline specific factors, criminal history scores have an aggravating effect greater for blacks than for whites in mandatory minimum cases. Offense seriousness scores lengthen sentences with greater effect for blacks than for whites. The findings also reveal different racial patterns for each of the three sentencing contexts. Causal attribution affects mandatory minimum sentencing to intensify the influence of aggravating factors for blacks. Clearly, the defendant’s race retains a strong influence over sentencing outcomes for mandatory minimums.

Race and Sentencing

Spohn (2002) reviewed forty studies that investigated the link between race and the severity of sentencing. Spohn claims that previous research has concluded that race wielded only a modest effect on sentence outcomes once controls for criminal record, crime seriousness, and other legal factors are accounted for. Past research used data from the 70s and earlier and this is challenging because in the past twenty years state and federal level sentencing policies have experienced dramatic changes. Spohn examined the effects of race on sentencing with a systematic and comprehensive review of recent research.

Her purpose was to highlight the ways in which researchers have reacted to the need for methodological and theoretical advances in sentencing studies and to verify the extent to which recent studies find evidence of direct and devious racial discrimination in sentence outcomes. Data included all published research from the 1980s and 1990s that
reports a measure of association between sentence outcomes and race. Spohn examined forty studies that included thirty-two studies of sentencing decision in State courts and eight studies in Federal level sentencing decisions. The studies were presented in chronological order from, with the most recently published listed first. All the studies used multivariate statistical methods and were controlled for related legal and extra-legal factors; most of them included a wide variety of offenses.

A limitation of the literature reviewed above is that most studies compared the sentences only given to black and white defendants, particularly in studies that used cases from State courts. In State-level research only ten of the thirty-two studies included Hispanic defendants with five of the studies based on the same or very similar data. A second limitation of the literature is that only a relatively small number of jurisdictions are represented. The thirty-two studies that used State court cases used data from only thirteen states. Again, a number of the studies used the same or very similar data. The rest of the studies used data that excluded minority defendants or compared the sentences given to whites and non-whites, with no racial or ethnic distinction among non-white defendants.

Spohn found clear and convincing evidence of sentencing racial disparity. For instance, in Federal courts 74 percent of white defendants convicted in US district courts received prison sentences. Comparable figures for blacks were 80 percent; for Hispanics the figures were 85 percent. The average prison sentence for blacks was 91 months, significantly higher than the average sentence for whites, which was 49 months. Similar racial differences were also found in State courts. In a nationwide study of sentences imposed in State courts it was determined that 55 percent of blacks were sentenced to
prison, while only 42 percent of whites received the same sentence. Prison sentences for blacks were also found to be longer in State courts than prison sentences for whites. She found evidence of racial discrimination against minorities that resulted in considerable harsher sentences than sentences for whites. Spohn also concluded that sentencing reforms have not succeeded in improving racial discrimination in the criminal justice system.

The findings suggested that Hispanics and African-Americans who are male, young, and unemployed are more likely than whites with same characteristics to be sentenced to prison. Evidence also suggests that minorities who are convicted on drug charges are punished more severely than their similarly situated white counterparts. Minorities with longer criminal histories, those convicted of drug offenses, those who refused to plead guilty or were not able to secure pretrial release, and those who victimized whites were also more likely to receive more punitive treatment.

The findings of the study suggest that the disproportionate amount of minorities imprisoned in our jails and prisons cannot be accredited exclusively to racially impartial efforts to control crime. Race, ethnicity, and other legally extraneous defendant characteristics also play a substantial role. Along with the fact that significant race effects were found in Southern and non-Southern jurisdictions, in both State and Federal court systems, and in jurisdictions with and without sentencing guidelines, these finding indicate that earlier denials of the racial discrimination thesis were erroneous. Although the research suggests that blacks and Hispanics receive harsher sentences than white defendants it does not indicate reasons why this occurs.
Zatz (1987) reviewed four historical waves of research on sentencing disparities. She traced changes in research methodologies and data sources, the various forms that bias can be manifested, and the social contexts within which research has been conducted. The research explores the findings of racial disparities to more restrained institutionalized biases. The studies reviewed are representative of research in different time periods and social contexts, and used different methodologies. The research conducted through the mid 1960s was classified as Wave I and indicated explicit discrimination against minority defendants. Reanalysis of Wave I during the late 1960s and 1970s was classified as Wave II and concluded that findings of racial disparities were the product of poor research designs and analysis. Research from this period indicated that minorities were overrepresented in prison population because of their greater involvement in crime. Wave III of research used data from the late 1960s and 1970s and improved research designs and analytical techniques and found evidence of bias against minority defendants. Wave IV began in the early 1980s using data from states that used determinate sentencing guidelines and indicated slight discrimination against minority defendants.

In Wave I studies conducted from the 1930s through the mid 1960s indicated clear and consisting bias against non-white offenders. Scholars emphasized the social prejudice shared by the American judiciary against blacks. However, the lack of control for legally related factors limited the results. The models used were simplistic and the analytical techniques quite unsophisticated due to limited data and limited techniques. The wake of the civil rights movement created research findings that did not show racial discrimination. In Wave II advances in research techniques, sentencing researchers
began to question some of the racial disparities noted earlier. Researchers contended that minorities were overrepresented in the criminal justice system because of their greater proportional involvement in crime and not due to racial biases in the justice system. Reanalysis of earlier studies typically resulted in no discrimination against minorities and often concluded that race might have an effect by operating indirectly through other variables to the disadvantage of minorities, and race and other extralegal characteristics of the defendant could interact with other factors to influence sentences.

In Wave III advances in data sources and analytical techniques during the late 1970s and early 1980s created new approaches to the study of racial discrimination in sentencing decision making. Research designs used by Wave III researchers reflected major improvements in social science research. Two methodological problems and solutions emerged during this period: selection bias and specification error. Selection bias refers to the selection of the sample to be used. Specification error denotes that the model to be studied was not drawn correctly. Research indicated that beyond effects on sentencing, race operated indirectly through its effect on other factors. Methods of mitigating selection bias were developed and were used starting with Wave III research. The impact of evidence on whether the overrepresentation of minorities in prison was a result of their greater proportional involvement in crime or to racial discrimination in their administrative processing began to shift to direct effects of race on decision making and sentencing.

Wave IV started during the initiation of a policy change to determinate sentencing that distinguishes research during the late 1970s conducted through the 1980s. Research techniques and data sources continued to improve while no major methodological
breakthroughs surfaced. Under the new determinate sentencing guidelines, legislatures retained a portion of judicial discretion. Most of the discretionary power shifted to the prosecutors. The only way to change the sanction was to change the charge because sentences were prescribed for each offense. In this manner plea bargaining became especially important. Whether racial discrimination was a result of bias from the prosecutor or the result of the defendants' characteristics was uncertain, and raised questions about the suitability of the deals being presented to minority and white defendants.

Evidence presented in this study suggests that racial discrimination has become institutionalized in restrained ways and occurs earlier in the system processing, so that it is no longer in determinate sentencing. Research has consistently indicated racial bias in sentencing. Minority and lower class offenders constitute the majority of the prison population. Only the way they are imprisoned has changed, but not the end result. Disparities in the legal processing and treatment of minority defendants are disguised by legitimacies, and have legitimately become rationalized and institutionalized. Stereotypes of minority defendants and resources availability with which to combat the criminal justice system from an adversarial stance have not disappeared. Racial discrimination has not dissipated and has only become more acceptable. Increased formal rationality of the legal process has resulted in a different form of racial discrimination that has been shown in the past.
Federal Sentencing Guidelines

Free (1997) suggests that recent changes in federal sentencing are the result of two interrelated forces: mandatory minimums and the Sentencing Reform Act of 1984. Mandatory minimums have been extended to entire classes of offenses; the Sentencing Reform Act of 1984 has changed the way federal defendants are processed in the criminal justice system. Changes in the processing of drug offenders happened as the result of modern legislation that displayed get tough policies of the “War on Drugs”. Legislation that led to sentencing guidelines established minimum mandatory penalties. In a ten year span, from 1984 through 1994, more than sixty federal offenses were subjected to mandatory minimum penalties.

Legislation in the federal government primarily focused on drug related crimes and violence, while drug offenders were particularly affected by the mandatory minimum penalties. For instance, between 1984 and 1990, ninety-one percent of the federal defendants sentenced to mandatory minimum sentences were convicted of drug crimes. The Bureau of Prisons estimates that 70 percent of the growth in the federal prison population can be attributed to longer sentences for drug offenses. Furthermore, the establishment of harsher sentences for crack cocaine possession had serious effects on black defendants. Blacks were disproportionately more likely to be charged with crack cocaine offenses. The lack of treatment and prevention programs was a contributing factor in racial disparities in sentencing (Free 1997).

Sentencing guidelines are somewhat more tolerable than the statutory minimums in that deviations from the guidelines range are allowed under certain circumstances. The sentencing commission was given the directive that its policies were to be neutral as to
race, sex, and socioeconomic status of the defendant. Under the guidelines judges were prohibited from considering personal attributes of the defendant to impose sentences. However, the seriousness of the sentences, such as victim injury, drug quantity, and use of weapon may affect the sentence outcome. Furthermore, the guidelines stipulate that judges must take into consideration these facts. A sentencing table is used for determining the appropriate guidelines sentence.

The US Sentencing Commission used data from 1990 to determine that blacks defendants were more likely than whites to be convicted under mandatory minimum stipulations, although they only comprised a very small percentage of all federal defendants. The findings indicated that blacks were more likely than whites and Hispanics to be sentenced at or over the designated mandatory minimum. Most of the racial disparity was attributed to the focus on drug offenses, particularly crack cocaine. The substantial increase of blacks convicted of drug offenses illustrates the more severe penalties attached to crack cocaine offenses. Crack cocaine offenses are more heavily penalized and are also more likely to be sanctioned at or above the designated mandatory minimum (Free 1997).

Opinions that favor maintaining a legal distinction between crack and powder cocaine normally concentrate on the idea that crack is more dangerous because it is heavily addictive and is associated with violence. However, contrasting evidence emerged in data from the Careers in Crack Project (Free 1997). The data refuted the belief that crack cocaine is more instantly addictive than powder cocaine. Moreover, the use of crack did not appear to significantly modify the involvement of men in non-drug offending. The use of crack was unrelated to violence, whereas the sale of crack was
indeed strongly related to violent acts. The sentencing guidelines are based on mandatory minimum sentences; therefore any argument on the impact of the sentencing guidelines on black defendants is arbitrary. It also appears that the sentencing guidelines have increased the percentage of minority defendants processed in the federal system.

Focus on reducing crack cocaine trafficking, along with the harsher sanctions attached to crack contributed to the increase of the average sentence of black defendants. Blacks are also at a greater disadvantage because they are more likely to have a criminal record than whites. The negative effect of the sentencing guidelines on blacks were not limited to longer sentences, black defendants, on average, are less likely to receive probation dispositions than whites in federal court cases (Free 1997).

The study indicated that blacks were more likely than whites to be convicted under mandatory minimums provisions. Most of the racial disparity appeared to be a result of the differential treatment imposed on crack cocaine offenders. Sentencing guidelines research suggests that racial disparities were enhanced under the new sentencing system. Blacks were more likely than whites to be sentenced to prison and to receive longer prison sentences. The investigative and the prosecution practices of law enforcement can lead to unseen racial disparities in sentencing, especially in the enforcement of drug laws.

Finally, law enforcement generally concentrate on poor areas of the city where minorities are concentrated, thereby adversely affecting blacks. Neither sentencing guidelines nor the mandatory minimum sentences were helpful in curtailing racial disparity in sentencing in federal courts, with most disparity attributed to drug laws. Selective law enforcement at prosecutorial stages of the criminal justice system had an
adverse result on black defendants by producing criminal records that concluded in longer sentences under the new sanctions (Free 1997).

Steffensmeier and Demuth (2000) examined racial differences of white versus black versus Hispanic in sentencing outcomes and criteria under federal sentencing guidelines. Their findings highlight both a classic organizational tension noted by Weber and a fundamental dilemma in policy efforts to structure sentencing processes while allowing for judicial and prosecutorial discretion. The findings also reveal the continuing significance of race in American society. The researchers based their study on the premise of the relationship between racial inequality and criminal punishment, and that one’s position in society has implications for treatment and punishment within the criminal justice system. Guideline sentence ranges are established for each combination of offense severity and criminal history in the form of a sentencing table. The researchers suggest that law enforcement and media attention on black and Hispanic trafficking networks may result in stiffer sentences for these racial groups.

Hispanic defendants are usually classified into white or black defendants’ categories. The classification “Hispanic” has been vague in some jurisdictions, consequently, comparisons between Hispanics and whites and Hispanics and blacks in sentencing outcomes have been ambiguous. The data sample included a substantial number of Hispanic cases which provides sentencing information on prior record, offense severity, and other variables that may have affected sentencing outcomes. The data also provides information on departure sentences that might function as a locus for racial disparities. A guideline system is used in federal courts that require judges to sentence defendants according to the approved ranges but may depart from the sentencing range if
atypical circumstances exist. The sentencing guidelines intend to curtail unjustifiable disparity between comparable defendants and clearly state that race must not be a factor in sentencing decisions (Steffensmeier and Demuth 2000). All of these sentencing "reforms" and "guidelines" are right out of the Classical School where the punishment should fit the crime rather than the offender. This assumes all crimes are alike and ignores the vast contextual differences among both crimes and criminals.

The data used came from a monitoring system created by the US Sentencing Commission. It contained detailed information on federal criminal cases obtained from court orders, presentence investigation reports, and sentence hearings reports. The data included a combination of offense specific variables and offender-specific factors, and case processing variables that may have affected sentencing and that may have been associated with race. Hispanic defendants were subdivided into white-Hispanics and black-Hispanics to test the hypothesis that predicted more severe punishments of Hispanic defendants identified as black. The researchers specifically examined sentencing inequalities among whites, blacks, white-Hispanic, and black-Hispanic defendants.

The sentencing guidelines allow judges to depart downward from the guidelines if the circumstances are adequate. These departure provisions display an essential dilemma of policy efforts to construct sentencing processes and also bear on a sociological issue traceable to Weber. The dilemma for agents of formal social control involves the balance between the principle of uniformity and individualized justice. The more severe treatment of black and Hispanic defendants is consistent with subcultural behaviors and stereotypes of minority defendants. Social and historical notions involving Hispanics
may aggravate the perceptions of their cultural difference and the threat they pose for in ways that can exacerbate their treatment in the justice system. Hispanic defendants are disproportionately represented among those convicted of drug offenses, while they receive smaller sentence reductions in departure cases (Steffensmeier and Demuth 2000).

The study produced important racial disparities in harsher sentencing for Hispanic defendants. Black-Hispanics were punished more severely than the other racial groups. Whites were sentenced more leniently than Hispanics and blacks in the entire sample, in non-departure cases, and in both types of downward departure cases. Departure cases explain higher imprisoning and longer prison sentences of Hispanics. Hispanics are sentenced harsher than whites in both departure and non-departure cases. Racial disparities appear to have developed because apparent neutral procedures were implemented without systematic attempts to expose whether they might affect racial groups differently.
CHAPTER 4

METHODOLOGY

Secondary data analysis is the primary research method used to examine the extent of racial disparities in the federal sentencing of drug offenders. It involves the analysis of data previously collected by the United States Sentencing Commission (USSC). Data for the current study was made available through the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan. A description of the sample and the variables is included in the following sections. The University of Nevada, Las Vegas Social/Behavioral Sciences Institutional Review Board via the Office for the Protection of Research Subjects approved this study.

The purpose of this study is to explore the extent of racial differences in the sentencing of drug offenders within the federal system. Two major research questions underlie this study. First, are there racial differences in the type and length of prison sentences given to federal drug offenders and do these differences persist after controlling for other variables. Second, how much variation in the likelihood and length of prison sentences is explained by race and other characteristics of the defendant. More specifically, this study will compare the three main racial groups (blacks, whites, Hispanics) and compare their sentences for two kinds of drug offenses: drug possession and drug trafficking. Drug trafficking includes distributing, smuggling, manufacturing,
selling, and possession with intent to sell. Drug possession is defined as the possession of a controlled substance.

The Sample

The data for the current study involves federal criminal drug cases sentenced under the Sentencing Guidelines and the Sentencing Reform Act of 1984. The final data set examined contained a non-probability purposive sample of 2,332 drug cases in federal courts during the years 1997 and 1998. Cases within the data set that did not involve crimes of drug trafficking and drug possession were excluded. The data files include only drug cases assessed as constitutional.

Data for this sample include information on prison sentences, sentences length, race of offender, age, gender, education level, criminal history, and drug trafficking offenses and drug possession offenses. Only cases involving whites, blacks, and Hispanics were analyzed. Other races were excluded from the analysis to strictly focus on differences among the three main racial groups.

Sample Limitations

There are limitations of the data set used. The first limitation is that the data contains only cases of convicted offenders because only sentences imposed on convicted offenders were examined. The second limitation is that the elimination of cases involving more serious offenses may restrict the effect of race in sentencing decisions. The third limitation is that racial disparities in earlier stages of the judicial process may exist but were not examined.
Coding of Variables

The major variables in this study involve measures that examine the type of drug offense committed (trafficking versus possession). The dependent variable will be "prison sentence" (coded as follows: 0=no prison sentence, 1=yes, there is a prison sentence). The primary independent variables is race of defendant (coded as follows: 1=white, 2=black, 3=Hispanic).

Other independent variables include gender (0=female, 1=male) age (coded as follows: 1=<21, 2=21 through 25, 3=26 though 30, 4=31 through 35, 5=36 through 40, 6=41 through 50, 7=>50), education level (1=less than high school graduate, 2=high school graduate, 3=some college, 4=college graduate), type of offense (1=drug trafficking, 2=drug possession), criminal history (0=no criminal history 1=yes there is a criminal history).

Analysis Plan

The data from the sample was compiled into a full data set and is available for analysis through the Inter-University Consortium for Political and Social Research (ICPSR). The data set was then coded for analysis using SPSS 11.0 statistical analysis program. The initial stage of the data analysis involved measuring descriptive statistics to show the extent of racial disparities in prison sentences. A series of bivariate distributions, cross tabulations, and regression linear analyses were conducted to examine the relationship between the sentence and sentence length and race.
CHAPTER 5

DATA ANALYSIS AND RESULTS

The current study examines factors associated with the likelihood of prison sentences and length of prison term. The preliminary analysis involves the examination of descriptive statistics of the major variables and their comparison across the various independent variables. A cross tabulation and mean comparisons (i.e. ANOVA) was used to examine the relationship between the dependent and the independent variables. The statistical significance of the independent variable was assessed at the .05 significance level. To include control variables, a regression analysis was used to examine the effects of the independent variables on the type and length of prison sentences.

Results

Table 3 indicates the frequency distribution and the bivariate association between the variables in this analysis. These results are summarized below as shown in table 3. The race of the defendant has a statistical significant effect on receiving a prison sentence and on the length of the sentence. Blacks and Hispanics are statistically significant more likely to receive a prison sentence than white defendants. Blacks are more likely to receive a longer prison sentence than whites. Although Hispanics are more likely to
receive a prison sentence than white defendants, their average prison sentence is almost nine months shorter in length.

Male defendants are more likely to receive a prison sentence than female defendants and their average prison sentence is almost twice as long as females’ sentences. Offender’s age is also statistically significant. Defendants within the age range 26 through 30 are more likely to receive a prison sentence and more likely to receive longer sentences than any other age group. Having a criminal history also influences receiving a prison sentence. Close to 95% of offenders with a criminal history receive a prison sentence and an average of 40 more months in prison than defendants without a criminal history. Almost 96% of drug trafficking offenders receive a prison sentence, and an average of 65 more months of prison time than non-trafficking drug offenders. Education of the defendant influences the whether the defendant will receive a prison sentence, but has no statistically significance in the length of the prison sentence the defendant will receive.
Table 3. Descriptive Frequencies

<table>
<thead>
<tr>
<th>Variables</th>
<th>% (N)</th>
<th>% Prison</th>
<th>Mean Sentence Length</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dependent Variable</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prison Sentence</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0=no</td>
<td>6.1% (138)</td>
<td>96.2%*</td>
<td>77.7mos*</td>
</tr>
<tr>
<td>1=yes</td>
<td>93.4% (2126)</td>
<td>94.5%*</td>
<td>83.6mos*</td>
</tr>
<tr>
<td><strong>Sentence Length</strong></td>
<td>mean=78.4mos</td>
<td></td>
<td>78.4mos</td>
</tr>
<tr>
<td>(in months)</td>
<td>(N=2260)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Independent Variables</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Race of Offenders</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1=white</td>
<td>24.9% (565)</td>
<td>85.9%*</td>
<td>63.6mos*</td>
</tr>
<tr>
<td>2=black</td>
<td>35.6% (810)</td>
<td>96.4%*</td>
<td>114.4mos*</td>
</tr>
<tr>
<td>3=Hispanic</td>
<td>39.4% (894)</td>
<td>96.6%*</td>
<td>55.1mos*</td>
</tr>
<tr>
<td>Offenders Sex</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0=female</td>
<td>12.9% (292)</td>
<td>79.4%*</td>
<td>43.3mos*</td>
</tr>
<tr>
<td>1=male</td>
<td>87.1% (1977)</td>
<td>96%*</td>
<td>83.6mos*</td>
</tr>
<tr>
<td>Offenders Age</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1=&lt;21</td>
<td>5.4% (122)</td>
<td>88.5%*</td>
<td>39.7mos*</td>
</tr>
<tr>
<td>2=21 through 26</td>
<td>20.7% (470)</td>
<td>94.5%*</td>
<td>77.3mos*</td>
</tr>
<tr>
<td>3=26 through 30</td>
<td>22.8% (518)</td>
<td>96.5%*</td>
<td>88mos*</td>
</tr>
<tr>
<td>4=31 through 35</td>
<td>16.8% (380)</td>
<td>95.3%*</td>
<td>85.6mos*</td>
</tr>
<tr>
<td>5=36 through 40</td>
<td>13.5% (307)</td>
<td>91.5%*</td>
<td>74.6mos*</td>
</tr>
<tr>
<td>6=41 through 5</td>
<td>15.6% (353)</td>
<td>93.4%*</td>
<td>82.6mos*</td>
</tr>
<tr>
<td>7= &gt;50</td>
<td>5.2% (118)</td>
<td>89%*</td>
<td>55.3mos*</td>
</tr>
<tr>
<td>Education of Defendant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1=less than H.S. graduate</td>
<td>49.1% (1092)</td>
<td>96.2%*</td>
<td>77mos</td>
</tr>
<tr>
<td>2=H.S. graduate</td>
<td>33.3% (739)</td>
<td>92.9%*</td>
<td>82.2mos</td>
</tr>
<tr>
<td>3=some college</td>
<td>15.1% (336)</td>
<td>88.7%*</td>
<td>77.4mos</td>
</tr>
<tr>
<td>4=college graduate</td>
<td>2.5% (55)</td>
<td>87.3%*</td>
<td>72.2mos</td>
</tr>
<tr>
<td>Criminal History</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0=no criminal history</td>
<td>27% (604)</td>
<td>91.7%*</td>
<td>49.1mos*</td>
</tr>
<tr>
<td>1=yes criminal history</td>
<td>73% (1632)</td>
<td>94.8%*</td>
<td>90mos*</td>
</tr>
<tr>
<td>Traffic</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>0=not a trafficking offense</td>
<td>4.4% (100)</td>
<td>50%*</td>
<td>15.7mos*</td>
</tr>
<tr>
<td>1=trafficking offense</td>
<td>95.6% (2169)</td>
<td>95.9%*</td>
<td>81.2mos*</td>
</tr>
</tbody>
</table>

* = Statistical significant chi-square value at the .05 significant level
Table 4 displays the results of the linear regression analysis. These results reveal that blacks are significantly more likely than white defendants to receive prison sentences. Even after controlling for racial differences in prior arrests, type of drug charge, and other demographic characteristics Hispanic defendants are also more likely than white defendants to receive prison sentences for drug crimes. As the criminal history of the defendant increases, the chance of receiving a prison sentence also increases. Defendants with less education were also significantly more likely to receive a prison sentence. Persons convicted of trafficking offenses were also significantly more likely than non-trafficking offenses to receive a prison sentence and longer periods of prison sentences. Age of the defendant has no statistical significance in the type of sentence (prison or no prison) the defendant will receive.

Based on the regression coefficient in table 4, there are major differences in the length of prison sentence for different groups of offenders. For example, black defendants receive an average of 43 more months in sentence length than white defendants. However, Hispanics receive an average of 9 months less in their prison sentence than whites. Male defendants receive an average of 27 more months in prison than female defendants. Offenders with a criminal history receive an average of 24 more months in prison than defendants with no criminal history. Drug trafficking offenses receive more than 62 months in their prison length than non-trafficking offenses. Education level has no statistical significance in the length of prison sentences for drug offenders.
Table 4. Regression analysis of factors associated with the likelihood of prison sentence and length of prison term.

<table>
<thead>
<tr>
<th>Control Variable</th>
<th>Prison Slope (SE)</th>
<th>Length Slope (SE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black</td>
<td>.064(.012)*</td>
<td>43.807(4.6)*</td>
</tr>
<tr>
<td>Hispanic</td>
<td>.060(.012)*</td>
<td>-9.771(4.6)*</td>
</tr>
<tr>
<td>Male Offender</td>
<td>.111(.014)*</td>
<td>27.519(5.1)*</td>
</tr>
<tr>
<td>Age</td>
<td>.001(.003)</td>
<td>2.386(1.1)*</td>
</tr>
<tr>
<td>Education Level</td>
<td>-.010(.003)*</td>
<td>-.084(1.1)</td>
</tr>
<tr>
<td>Criminal History</td>
<td>.030(.011)*</td>
<td>24.035(4.0)*</td>
</tr>
<tr>
<td>Trafficking Offense</td>
<td>.412(.023)*</td>
<td>62.271(8.6)*</td>
</tr>
<tr>
<td>Y-Intercept</td>
<td>.399(.029)*</td>
<td>-43.239(10.8)*</td>
</tr>
</tbody>
</table>

Prison Sentence R square: .202
(20% likelihood that prison sentence is explained by the combined variables)

Prison Length R square: .154
(15% likelihood that prison length is explained by demographic variables and case characteristics)

*=P<.05

SE=Standard Error

Y-Intercept=probability of going to prison without any of the independent variables

The coefficient of determination (r-square) indicates the proportion of variation in a dependant variable accomplished for by the independent variable. As shown in the bottom of table 4, race and other variables explained 20% of the variation in the likelihood of a prison sentence and 15% of the variation in the length of prison sentences.
CHAPTER 6

DISCUSSION AND CONCLUSIONS

Summary of Results

The current study has examined the existing literature and empirical studies regarding racial disparities in federal sentencing of drug offenders. Previous research provides evidence that racial disparities in federal sentencing of drug offenders exists, primarily for blacks and Hispanics. The analysis conducted in this study provides a certain degree of evidence that supports previous research on federal sentencing of drug offenders. The study revealed that certain characteristics of federal defendants of drug offenses, especially race, are associated with the imposition of prison sentences and sentence length.

It is clearly demonstrated that the race of the defendants influences federal sentencing outcomes. Black and Hispanic defendants are more likely to be given a prison sentence. Blacks receive longer prison sentences than white and Hispanic defendants. This study produced similar results to a study conducted by Free (1997). He observed that blacks are more likely than whites to be sentenced to prison and to receive longer prison sentences under the Sentencing Guidelines and Policy Statements of the Sentencing Reform Act of 1984. Free (1997) suggests that blacks are more likely to be convicted under mandatory minimum provisions. He attributes much of the racial disparity in sentencing to differential treatment of crack cocaine offenses. Research on
Sentencing Guidelines indicates that racial disparities in federal sentencing of drug offenders may have been enhanced by the new sentencing structure.

Kautt and Spohn (2002) reveal that federal determinate sentencing has been unable to curtail the effects of race, even after controlling for legally relevant factors. They suggest that the effects of the defendant characteristics vary for both the sentencing decision and the sentence length. The predictors of federal determinate sentencing outcomes are not as consistent as the creators of both mandatory minimums and guidelines intended them to be. The defendant's race retains an influence over federal determinate sentencing outcomes (Kautt and Spohn 2002).

The primary results of this study provide evidence that blacks and Hispanics receive more prison sentences than whites for the same type of drug offenses, and thus it can be implied that the continuing significance of race and ethnicity in American society is harmful and disadvantageous to minority racial groups. The impact of imprisonment affects minorities in other grounds. These disadvantages can be extended to the progress of minorities in employment, education, political issues, political power, and economic power.

Constraints on convicted drug offenders to gain employment affect not only the offender but their families as well. Convicted felons have limited resources to help their children if any at all, and their economic restrictions may force them into criminal behavior that involves drugs. Drug trafficking is very profitable and very appealing to those who find it difficult to gain employment due to the constraints that their criminal history creates.
Support of Conflict Theory

This study supports conflict theories and produced similar findings from studies that find racial disparities in the criminal justice system. Conflict theory explains that crime that is associated with minority groups are penalized more severely by the criminal justice system. The observed results in this study seem to support this theory, because both blacks and Hispanics are more likely than whites to get prison sentences.

The analysis indicates that race makes a difference in sentencing decisions. Furthermore, it is expected that racial minority groups will receive more severe sentences than whites when criminal histories exist. Race is a major determinant in sentencing decisions for drug offenses. Other demographic characteristics of the defendant, for the most part, are considered marginal.

Implications for Future Research and Study Limitations

It should be noted that the findings presented from this study are not definitive. Existing research has amplified our understanding of sentencing in federal sentencing for drug offenses, yet our knowledge of the sentencing process remains inconsistent (Everett and Wojtkiewicz 2002). Future research should also include an emphasis on the influence of the offender from the perspective of the court. Future research on sentencing may benefit from ethnographic examination and from more field research to elaborate the findings of various statistical methods (Kramer and Ulmer 1996).

The implications to be drawn from this study are restricted by factors and characteristics that are likely to influence sentencing decisions and were not examined. Other available data capable of providing more accurate results on criminal justice
processing of drug offenders may produce more specific and detailed analysis of racial disparities in federal sentencing of drug offenders. Although the sample has limitations that restrict generalizations on racial disparities in criminal justice, especially in sentencing, the findings are indicative of differential treatment and racial discrimination against drug offenders of minority groups.
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