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Examining The Moderating Effects Of Defendant Characteristics On The Relationship Between Crime Type And Prosecutorial Decision Making

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EXAMINING THE MODERATING EFFECTS OF DEFENDANT CHARACTERISTICS ON

THE RELATIONSHIP BETWEEN CRIME TYPE AND PROSECUTORIAL DECISION

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ABSTRACT

The concept of plea bargaining was not common practice until the nineteenth century (Langbein, 1978; Alschuler, 1979). Before that time, criminal defendants lacked representation in the court, leaving the judge to determine sentencing and punishment. Plea bargaining has become the prominent practice, with around 90% of cases, state and federal, resulting in a plea (Rabin, 1972; Lagoy, Senna, & Siegel, 1976; Alschuler, 1979; Alschuler, 1983; Scott & Stuntz, 1992; Schulhofer, 1992; Starkweather, 1992; Ross, 2006; Silveira, 2017). The concept of plea bargaining is inevitably accompanied by discretion, specifically prosecutorial discretion. Prosecutorial discretion grants prosecutors power in deciding what charges they would seek against suspects and penalties associated with the crime(s) (Welling, 1987). Sentencing guidelines and mandatory minimums have affected how prosecutors are able to use their discretion.

Previous literature concerning plea bargaining and prosecutorial discretion fails to discuss the difference in usage of plea bargaining between crime types (violent and nonviolent), specifically in cases dealing with multiple charges as well as the moderating effect of defendant characteristics on the relationship between plea bargaining and crime type.. The purpose of this paper is to close the previously mentioned gaps in the literature by determining if plea bargaining is utilized more often in cases against defendants who have committed violent crime or nonviolent crime and to uncover the moderating effect of defendant characteristics on the relationship between plea bargaining and crime type.

DEDICATION

This thesis is dedicated to my parents, Patrick and Reginia Howley. Thank you both for supporting me always.

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I express my deepest gratitude to my thesis chair, Dr. Kimberly Kaiser, and my committee members, Dr. Francis Boateng, Dr. D'Andre Walker, and Dr. Laura Beckman for their support and guidance concerning this project.

TABLE OF CONTENTS

LIST OF TABLES

Chapter 1: Introduction

Prosecutorial Discretion as it Relates to Plea Bargaining

Throughout the literature, there is one rather shocking statistic that is continuously mentioned regarding plea bargaining in state and federal courts; about 90 percent of criminal defendants choose to waive their right to a trial before a jury or court and, instead, choose to plead guilty (Starkweather, 1992; Ross, 2006; Silveira, 2017). Plea bargaining occurs when a defendant chooses to plead guilty to his or her offense in exchange for certain concessions proposed by the prosecutor and ultimately approved by the judge (Helm & Reyna, 2017). Welling (1987) explains that "the concessions granted to the defendant commonly involve either the charges filed against him or the sentence he will receive" (p. 312).

Since the development of federal sentencing guidelines, discretionary power afforded to judges was, in some ways, transferred to the prosecution (Davis, 2016). Prosecutorial discretion begins before charges are filed against a defendant and can excel throughout the remaining stages in the court process (Frase, 1980). Prosecutors are able to manipulate federal sentencing guidelines by offering defendants pleas, specifically through substantial assistance departures in which a defendant may receive a reduced charge if he or she provides assistance to the prosecution (Ulmer, Kurlychek, & Kramer, 2007; Johnson, Ulmer, & Kramer, 2008). The current American criminal justice system is convinced that plea bargaining, along with prosecutorial discretion, is absolutely necessary for efficiency purposes.

Statement of Problem

Many scholars have examined the history of plea bargaining (Langbein, 1978; Alschuler, 1979; Schulhofer, 1992); how the plea bargaining process is affected by prosecutorial discretion (Welling, 1987; Worden, 1990); how the implementation of sentencing guidelines has increased prosecutorial discretionary powers (Frase, 1980; Aderson, Kling, & Stith, 1999; Ulmer, Kurlychek, & Kramer, 2007; Hartley, Maddan, & Spohn, 2007; Johnson, Ulmer, & Kramer, 2008); the use of substantial assistance; how victims and the innocent are personally affected by the use of plea bargaining (Lagoy, Senna, & Siegel, 1976; Welling, 1987; Schmidt & Steure, 1989; Starkweather, 1991; Ross, 2006; O'Hear, 2007; Risinger, 2007; Dervan & Edkins, 2013); and how a system that limits or removes plea bargaining entirely is affected and functions (Langbein, 1979; Rubinstein, 1980). When exploring the relationship between defendant characteristics and plea bargaining, the literature reveals mixed results regarding the direction of significance (Romain & Freiburger, 2013; Quickel &Zimmerman, 2019). Some research suggests there are racial differences regarding plea bargaining decisions (Romain & Freiburger, 2013), while other research suggests the opposite to be true (Quickel & Zimmerman, 2019).

However, the literature does not attempt to examine which types of charges, violent or nonviolent, plea bargaining is mostly utilized to reduce or remove. Furthermore, there is limited research exploring the relationship between defendant characteristics and plea bargaining (e.g., Romain & Freiburger, 2013; Quickel & Zimmerman, 2019). The little research that does explore defendant characteristics suggests mixed results. Without research focused in this area, there is an undoubtable gap in understanding regarding the use and magnitude of prosecutorial discretion as it relates to plea bargaining and the moderating effects of defendant characteristics on that relationship.

Current Focus

The current study will attempt to close the previously mentioned gaps in the literature by first, determining if plea bargaining, specifically a substantial assistance departure, is utilized more frequently for cases involving violent or nonviolent crimes, and second, uncovering the moderating effects of defendant characteristics on the relationship between crime type and substantial assistance departures. Exposing these gaps is important for the further understanding of plea bargaining implications on the criminal justice system as well as revealing reformation suggestions.

Chapter 2: Literature Review

Introduction

Plea bargaining and prosecutorial discretion are fairly new topics of interest and research. This chapter will examine many components of prosecutorial discretion and plea bargaining. First, the focal concerns perspective will be examined through a prosecutorial lens. Second, a history of plea bargaining will be examined to show the evolution of plea bargaining in American criminal justice, including the concept of trial penalties. Third, the concept of prosecutorial discretion will be analyzed, specifically how discretionary power was reorganized after the implementation of sentencing guidelines. Prosecutors use their discretion to offer many types of bargains, namely count bargains, charge bargains, and sentencing bargains. Each specific type of bargain will be discussed in detail, specifically how they relate to prosecutorial discretion. Fourth, this chapter will analyze the relationship between prosecutorial discretion and defendant characteristics. Fifth, this chapter will discuss implications of prosecutorial discretion and plea bargaining to the innocent and victims. Finally, this chapter will discuss alternatives to the current plea bargaining system.

Theoretical Framework

The theoretical framework that will be used to guide the current study is the focal concerns perspective. The focal concerns perspective, formulated by Steffensmeier and colleagues (1993), originally attempted to explain judges sentencing decisions. However, more recently, the focal concerns perspective has been used to attempt to explain various aspects of

prosecutorial decision making (Romain & Freiburger, 2013; Johnson, King, & Spohn, 2016; Kutateladze & Lawson, 2018). The focal concerns perspective suggests that there are three focal concerns that are related to decision making in the criminal justice system: blameworthiness of a defendant, the risk or danger of recidivism of a defendant to the community, and practical ramifications of the decision (Steffensmeier et al., 1993).

Blameworthiness or culpability of a defendant is often operationalized as the defendant's prior criminal record as well as the seriousness of the current offense being considered (Romain & Freiburger, 2013; Kutateladze & Lawson, 2018). It has been suggested that the more serious the offense, the more likely there will be a trial instead of a plea deal (Abrams, 2011). Dangerousness of the defendant can be determined by analyzing the possibility of recidivism as well as examining factors such as community ties and prior criminal history (Romain & Freiburger, 2013). The main objective of this consideration is to protect the public by deterring future offenders and incapacitating the current offender (Steffensme, Ulmer, & Kramer, 1998). Practical ramification of the legal actors' decisions can be expressed through elements such as overcrowding of courts and jails and prolonged case processing (Kutateladze & Lawson, 2018). Steffensmeier et al. (1993) suggested that the three previously mentioned focal concerns significantly influence judicial decision-making processes, and more recent research suggests that these focal concerns also significantly influence prosecutorial decision making processes (Romain & Freiburger, 2013; Johnson, King, & Spohn, 2016; Kutateladze & Lawson, 2018).

The focal concerns perspective also suggests that although legally relevant characteristics are used to guide prosecutorial decision making, extralegal characteristics are also sometimes used in the decision-making process. Romain and Freiburger (2013) suggest that prosecutors do not have full knowledge of the necessary information to make completely

informed decisions; therefore, they use a sort of short hand to help with decisions (Albonetti, 1986; Hawkins, 1981; Romain & Freiburger, 2013). This short hand inevitably contains some stereotypes and prejudices that prosecutors obtain through personal and work-related experiences. For example, the focal concerns perspective suggests that female defendants are viewed as less blameworthy as compared to their male counterparts because "court officials view male offenders as more dangerous and culpable than female offenders" (Romain & Freiburger, 2013, p. 301). Similarly, Kutateladze and Lawson (2018) suggest that Black and Hispanic males are often sentenced more harshly than similarly categorized White males because they are viewed as more blameworthy and dangerous. Focal concerns perspective also suggests that younger defendants are often sentenced more harshly because they are viewed to be more culpable and dangerous (Romain & Freiburger, 2013).

The History of Plea Bargaining

Plea bargaining was hardly a topic of interest until the nineteenth century (Langbein, 1978; Alschuler, 1979). According to Langbein (1978) and Alschuler (1979), plea bargaining was considered unnecessary or unknown for most of common law because representation for criminal defendants was rarely utilized and the judge was solely responsible for most court proceedings. Because there was no representation of defendants, court proceedings were typically extremely efficient, whereas today, that efficiency has only been found in non-trial actions such as plea bargaining. The quickly developing laws and rapid changing of the times pushed the criminal justice system to change in order to ensure efficiency and justice.

However, the efficiency that accompanies plea bargaining does not always result in justice. Stephen Schulhofer (1992) expresses this idea by saying, "…plea bargaining seriously impairs the public interest in effective punishment of crime and in accurate separation of the

guilty from the innocent" (p.1979). Redlich (2016) also suggests that although there is efficiency in the plea bargaining system, the implementation of plea bargaining is unlikely to translate into a more just system. The criminal justice system is burdened with handling extreme amounts of cases per day, and although plea bargaining is helpful with the closing of cases, sometimes the defendants, whether they are guilty or innocent, do not receive just sentences. Kutateladze and Lawson (2018) suggest that plea bargaining is not necessarily in defendants' best interest.

Accepting a Guilty Plea vs. Standing Trial

Kutateladze and Lawson (2018) suggest that there is an assumption suggesting that it is better for defendants to plead guilty rather than risking the uncertainty of standing trial. The practice of plea bargaining does not require the prosecution to prove that any crime was committed beyond a reasonable doubt, and the defendant waives many rights guaranteed by the constitution (e.g., presumption of innocence and present evidence for his or her defense) (Redlich, 2016). Without the responsibility of proving a defendant's guilt beyond a reasonable doubt, the prosecutor is able to move through cases more efficiently. However, lack of information and knowledge accompanies this efficiency, making it difficult to determine the true legal guilt or innocence of a defendant (Lynch, 2003; Bibas, 2011; Redlinch, 2016).

Scholars have examined the "shadow of trial" model when analyzing the guilty plea (e.g., Nagel & Neef, 1979; Redlich 2016; Yan & Bushway, 2018). In this model, a prosecutor's decision to offer, reject, or accept a plea is dependent on the likelihood of a specific trial outcome (Kalven & Zeisel, 1966; Landes, 1971; Smith 1986; Redlich, 2016). Therefore, prosecutors are able to use their discretion to determine which cases they want to prosecute, whether they are going to offer a plea deal, and/or whether they will accept or reject a counter suggestion for a plea deal based on the perceived likelihood that they will be victorious at trial.

Many scholars have acknowledged the disparity between sentences of defendants who accept a plea deal and defendants who are found guilty at trial (Breeton & Casper, 1981; Ulmer, 1997; Ulmer & Bradley, 2006; Yan & Bushway, 2018). This disparity is often defined as a "trial penalty" (e.g., Spohn, 1992; McCoy, 2005, Ulmer & Bradley, 2006; Yan & Bushway, 2018). Yan and Bushway (2018) state, "In the simplest form, one can characterize the difference between the average sentence at plea and that at trial as either "the plea discount" or "the trial penalty". Therefore, going to trial often becomes a penalty such that the defendant receives a harsher sentence at trial than he or she would have received if he or she would have accepted a plea deal and plead guilty. In a study conducted by Walsh (1990), 42.9% of the cases that were settled in a plea bargain resulted in imprisonment compared to 66.1% of trial cases. This suggests that defendants who choose to take their case to trial are 2.6 times more likely to be imprisoned than those who choose to take a plea deal (Walsh, 1990). Ulmer, Eisenstein, and Johnson (2010) also suggests that there is a significant trial penalty in federal sentencing, specifically a 15% difference in sentence length between those who plead guilty and those who are convicted as a result of going to trial.

Prosecutorial Discretion

The greatest discretionary power afforded to individuals in our entire criminal justice system arguably belong to prosecutors and police (Davis, 1969; Krauss, 2009). Prosecutorial discretion is fairly unregulated, meaning that because of separation of powers, prosecutorial practices are rarely subject to review (Davis, 1968; LaFave, 1970; O'Neill, 2003; Krauss, 2009; Romain & Freiburger, 2013 Lynch 2018). Prosecutorial discretion begins when the prosecutor decides whether or not to file charges against a defendant. According to Albonetti (1987) prosecutors typically file charges when they are more certain of conviction as opposed to cases

where conviction may not be as likely. Aspects of a case such as the seriousness of offense and the evidence accumulated for a specific case are two primary factors that prosecutors look for when determining which cases to file charges (Hartley, Maddan, & Spohn, 2007). However, other factors such as gender, race, or ethnicity can also affect a prosecutor's decision to file charges (Mustard, 2001; Hartley, Maddan, & Spohn, 2007; Johnson, Ulmer, &Kramer, 2008; Spohn & Fornango, 2009). In addition to deciding which cases to prosecute, prosecutors also use their discretion to decide how to prosecute each case. Prosecutors are able to decide which crime to charge when faced with a crime that encompasses numerous criminal acts (Krauss, 2009). It is also the sole job of the prosecutor to decide "when to grant immunity, accept a plea bargain, and dismiss charges" (Krauss, 2009, p. 6).

Prosecutorial discretion comes in various forms, two of which are seen through charge bargains and sentencing bargains (Welling, 1987). Welling (1987) goes on to describe each of these forms of prosecutorial discretion; charge bargains are when "the prosecutor moves to reduce the charges so they are either less serious, less numerous, or both", and sentencing bargains are when "the prosecutor agrees to recommend a particular sentence to the court, or the court itself agrees to impose a particular sentence" (p. 312-313). Worden (1990) explains that prosecutors can determine the severity of the charge through plea bargaining, and they can suggest specific sentences for offenders. Each type of prosecutorial discretion is utilized frequently in the American criminal justice system. There are few limitations of prosecutorial discretion. Prosecutors are not able to participate in vindictive or selective prosecution. Vindictive prosecution occurs when a prosecutor charges a defendant more harshly for exercising a statutory or constitutional right (Krauss, 2009). Selective prosecution occurs when a

prosecutor chooses to prosecute an individual based on extralegal factors (Krauss, 2009). Outside of these abuses of discretion, prosecutorial discretion rarely encompasses other limitations.

Changes in Prosecutorial Power since Sentencing Guidelines

There have been drastic changes in the power and responsibilities of prosecutors since sentencing guidelines were put into place. Anderson, Kling, and Stith (1999) state, "One of the chief objectives of the Sentencing Reform Act of 1984 was to reduce sentencing disparity among similar offenders" (p.1). Anderson, Kling, and Stith (1999) go on to explain that judges were given less opportunity for discretion concerning certain criminal offenses, and other agents of the criminal justice system, namely prosecutors, were more impactful on actual sentences.

It is important to understand that a fair amount of prosecutorial discretion occurs before formal charges are filed, which allows prosecutors to work under limited legal parameters (Frase, 1980). Frase (1980) goes on to say "…prosecutors can evade even the strictest plea bargaining and sentencing controls by simply not…charging certain offenders, or not charging certain offenses" (p. 247). There are ways for prosecutors to work around the sentencing guidelines in ways that are unjust to both the offender(s) and the victim(s) of the crime.

The Sentencing Reform Act of 1984 was successful in reducing the amount of disparity and judicial discretion; however, more discretionary power was granted to practitioners responsible at earlier stages of legal proceedings, namely prosecutors (Anderson, Kling, & Stith, 1999). Ulmer, Kurlychek, and Kramer (2007) conducted a study regarding mandatory minimum sentencing and prosecutorial discretionand concluded that "mandatory minimums are not mandatory at all but simply substitute prosecutorial discretion for judicial discretion" (p.451).

Johnson, Ulmer, and Kramer (2008) suggest that prosecutors have ways to get around sentencing guidelines, specifically substantial assistance. The concept of substantial assistance refers to when a defendant gives law enforcement considerable assistance that is helpful in convicting another offender which allows the original defendant to receive a reduction in entencing, even as deemed by the guidelines (Johnson, Ulmer, & Kramer, 2008). These substantial assistance departures must start out as a formal motion of the prosecutor, giving the prosecutor a level of discretion in working around sentencing guidelines (Hartley, Maddan, & Spohn, 2007).

Count Bargains

Prosecutors employing count bargains as a form of plea bargaining attempt to get a defendant to plead guilty in return for a reduction of the number of charges against that particular defendant. Ball (2006) studied a sample of defendants convicted of a felony in 1993 in an attempt to uncover correlates of count bargaining decisions. Ball (2006) discovered that legally relevant case characteristics were more likely than legally irrelevant characteristics to suggest the possibility of count bargains being offered by the prosecutor.

Sentencing Bargains

Sentencing bargains occur when a prosecutor, after gaining approval from the court, agrees to seek a particular sentence for a defendant outside the specified guideline range (Welling 1987; Gleeson, 2007). Gleeson (2007) suggests that there are many reasons that a prosecutor might attempt to settle a case via sentencing bargain including appeasing the public, seeking a lower sentence as opposed to facing possible case acquittal, and the victim avoiding the traumatizing experience of trial. In sentencing bargains, the specific charge and/or counts of

charges are not reduced or affected; instead, the prosecutor utilizes their discretion to manipulate the sentence as a form of plea bargaining.

Charge Bargaining in the Federal System: Substantial Assistance Departures

Charge bargains in the form of substantial assistance departures give prosecutors the power to continue to allow sentencing disparity that federal sentencing guidelines aimed to eliminate (Nagel &Schulhofer, 1992; Kramer & Ulmer, 1996, Mustard 2001; Spohn, 2009). Substantial assistance departures occur when a defendant provides substantial assistance to the prosecution or investigation of another defendant and in doing so receives a lesser sentence than listed by federal sentencing guidelines for their own offense (Galin, 1999). Therefore, substantial assistance departures are a type of plea bargaining in which a lesser charge or sentence will be enforced as long as that defendant provides substantial assistance to the prosecution.

Nagel and Schulhofer's (1992) qualitative analysis suggested that the prosecution tends to offer substantial assistance to individuals that they believe can be rescued from the system. It is also important to note that throughout the research it has been found that both legally relevant characteristics, such as seriousness of the offense and evidence, and legally irrelevant case characteristics, such as the defendants gender, race, and ethnicity are deciding factors when prosecutors are deciding which defendants receive substantial assistance (Mustard, 2001; Hartley, Maddan, & Spohn, 2007). Spohn and Brennan (2011) discovered that White defendants are more likely to receive a substantial assistance departure than Black or Hispanic defendants, and those substantial assistance departures that White defendants receive are likely to be more generous than those given to Black or Hispanic defendants.

Individual prosecutors are given extreme amounts of discretionary power in all aspects of court proceedings; they determine which charges to file, which defendants are offered

substantial assistance, and offer their suggestion of sentencing the defendant should receive. Using data collected from three U.S. district courts, Spohn and Fornango (2009) suggest that discretionary powers differ significantly among individual prosecutors, allowing even more variation in the discretionary process.

Other Types of Departures: Judicial Departures

While prosecutors are able to manipulate federal sentencing guidelines by the use of substantial assistance departures, judges are also able to manipulate the guidelines through the use of departures, specifically upward and downward departures from sentencing guidelines (Kramer & Ulmer, 1996). Judges may use their discretion in the form of a departure from sentencing guidelines to, depending on the totality of circumstances, reduce or increase a defendant's sentence (e.g., Nagel & Schulhofer, 1992). Kaiser and Spohn (2018) conducted a study examining why judges depart from federal sentencing guidelines and found that the majority of downward judicial departures resulted from a disagreement with sentencing policy.

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Plea Bargaining and Defendant Characteristics

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Prosecutors are responsible for determining which types of suspects, cases, victims, etc. are more likely to have further exposure to the criminal justice system, a responsibility that could potentially lead to discriminatory practices against certain types of suspects, victims, cases, etc. (Romain & Freiburger, 2013). Previous literature suggests that extralegal factors are significant predictors of how cases are managed (Mather, 1973; Neubauer, 1974; Albonetti, 1987; Kertstetter, 1990; Spears & Spohn, 1997; Romain & Freiburger, 2013).

Romain and Freiburger (2013) conducted a study examining how gender, race/ethnicity, and age influenced prosecutorial decision making in domestic violence cases, specifically the

decision to prosecute or dismiss a case. The results of their study suggest that both gender and race/ethnicity are significant predictors of case dismissal (Romain & Freiburger, 2013). Their study revealed that male defendants were more likely to have their cases dismissed than female defendants, and white defendants were more likely than Black and Hispanic defendants to have their cases prosecuted (Romain & Freiburger, 2013). Romain and Freiburger (2013) found that age is not a significant predictor of the decision to dismiss or prosecute. Quickel and Zimmerman (2019) conducted a study examining race and plea bargaining and found that race was not a significant predictor of various plea decisions. Following previous research, the current study will examine race, gender, and age of defendants in its analysis.

According to Spohn (2013) research has been fairly mixed concerning the effects of race/ethnicity on the decision to prosecute. Spohn (2013) suggests that more recent studies (e.g., Shermer & Johnson, 2010) have revealed that race/ethnicity is not a significant factor when examining the decisions to prosecute, the decisions to charge, or plea bargaining decisions. As studying the effects of race/ethnicity on prosecutorial decision making is fairly new, more research is necessary to determine the true relationship between race/ethnicity and prosecutorial decision making.

Research has suggested that defendant characteristics may have an interaction or moderating effect on sentencing outcomes (Steffensmeier, Ulmer, & Kramer, 1998; Spohn & Holleran, 2000; Steffensmeier & Demuth, 2006). Steffensmeier, Ulmer, and Kramer (1998) found that race, gender, and age all have an interaction effect on sentencing. The results of their study suggest that the relationship between sentence severity and age is moderated by a defendant's gender and race; the relationship between sentencing and race is moderated by age in males only; and considering all race, age, and gender combinations, young Black males receive

14

the harshest sentences (Steffensmeier, Ulmer, & Kramer, 1998). Consistent with the findings of Steffensmeier, Ulmer and Kramer (1998), Spohn and Holleran (2000) and Steffensmeier and Dumuth (2006) found that gender has a moderating effect on the relationship between age and sentencing severity and age has a moderating effect on the relationship between sentencing severity and race in males only. Because of these findings, the current study will examine the moderating effects of defendant characteristics concerning prosecutorial decision making under the focal concerns perspective.

Impacts of Prosecutorial Discretion and Plea Bargaining

Prosecutorial discretion and the use of plea bargaining can have negative effects on victims of crime and the innocent. Victims of crimes that result in plea bargaining can feel cheated by the system because their offender(s) does not receive the sentence that matches their crime; rather, they receive a lessened sentence or charge. Even with recent efforts to involve victims more in the legal processes, victims understand that "the actual sentence imposed is often effectively preordained, or at least substantially shaped, by the terms of a plea agreement" (O'Hear, 2007, p. 323.). Welling (1987) suggests that prosecutors may have other motives besides accomplishing justice for both society and the victim; victim participation in plea bargains could hinder "…the quick summary disposition of a large volume of cases" (p. 310).

The innocent can also be negatively affected by plea bargaining. Prosecutors can persuade innocent people to take a guilty plea instead of standing trial before a jury (Redlich, 2016). Prosecutors may highlight the possibility of a guilty conviction for a the crime committed, scaring innocent people into accepting a lesser charge even if they did not participate in any criminal activity.

Victims

Starkweather (1991) retells a story originally printed in Daniel Van Ness's book *Crime and Its Victims* (1986) about a woman named Karen who was raped in an office building restroom at knifepoint. As part of the plea bargain, the offender plead guilty to a burglary charge and the rape charge was dropped. Starkweather (1991) goes on to say "Karen was horrified to discover that her case had been dismissed. In her mind, the criminal justice system had failed. *She* was raped. *She* was the one who was going to have to live with the memory of that night. The offender never received what he deserved" (p. 853). Although settling this case with a plea bargain increased efficiency for the courts and prosecutor, it did not provide justice for the victim or the offender. Justice for the victim and offender is accomplished by charging the offender with the exact crime that he or she committed, assuming there are no surrounding circumstances that would suggest otherwise. It can be challenging to determine how much of a role victims should have in the legal processes of their respective case(s). According to O'Hear (2007) and Welling (1987) various ideas have been proposed on how to involve victims and make sure they are receiving just treatment by the criminal justice system. The most practical proposal, one that has been translated into laws in about 22 states, suggests that prosecutors should have to consult with the victim(s) regarding plea bargains before agreeing to a plea agreement (O'Hear, 2007). This is not to suggest that victims have full authority to allow or refuse a particular plea agreement; however, it does give them more of a voice in the process.

Prosecutors, however, are not always open to the idea of victim participation in the plea bargaining process because it could slow down the extensive legal processes required for each case the prosecutor has to conclude (Welling, 1987). Welling (1987) goes on to suggest that "prosecutors would reason that victim participation might render plea bargains more risky for and therefore less attractive to defendants" (p. 310). With fewer defendants pleading guilty

through the option of plea bargaining, the criminal justice might not be as efficient. The important question is, however, is it more important for the criminal justice system to be efficient, or is it more important for the criminal justice system to be just?

Schmidt and Steure (1989) used data collected from different sources, such as official files and police records, to determine the connection between prosecutorial discretion and domestic abuse cases. The study found that the primary reason for prosecutors not filing charges against the abuser is because it was against the victim's wishes. More than 50% of cases where victims filed charges against their abuser ended in a plea or dismissal of the charges (Schmidt & Steure, 1989). Victim's wishes, when reflecting the punishment the offender should receive according to the law, should be taken extremely seriously with such personal and invasive crimes. In these instances, it seems as if prosecutors are more interested in concluding a case rather than providing justice for those who were abused.

Another study was conducted by Lagoy, Senna, and Siegel (1976) examining prosecutorial discretion and plea bargaining. The study revealed that prosecutors take police complaints more seriously than victim complaints (Lagoy, Senna, & Siegel, 1976). Prosecutors do not give victims the attention they deserve when implementing their discretionary practices concerning plea bargaining. This study also explains that plea bargaining is used more in places with a low population, debunking the idea that the plea bargaining practice is solely due to overcrowding and extensive caseloads.

Innocent

Innocent people who are accused of crimes they did not commit can also be negatively affected by the plea bargaining process and the use of prosecutorial discretion. Dervan and Edkins (2013) conducted a study examining the connection between plea bargaining and

innocence. According to Dervan and Edkins (2013) the study suggested that more than half of the participants who were innocent were willing to admit to guilt in exchange for various benefits. This is shocking when considering how many innocent people could be convicted of a crime that they never actually committed. Dervan and Edkins (2013) summarize this idea by explaining "…when study participants are placed in real, rather than hypothetical plea bargaining situations and are presented with accurate information regarding their statistical probability of success, just as they might be so informed by their attorneys or the government during criminal plea negotiations, innocent individuals are actually highly risk averse" (p. 37). Similarly, Quickel and Zimmerman (2019) found that over 30% of innocent people were willing to take a plea negotiation to be given a lesser punishment and not risk having to serve the full punishment if found guilty at trial. Even for serious crimes such as murder, there are about 3.3% of wrongful convictions of the innocent (Risinger, 2007). Ross (2006) goes even further to contend that innocent defendants would be better off if plea bargaining were abolished completely. Further research is necessary to understand the motives behind these results.

Alternatives to Plea Bargaining

A current problem with plea bargaining, arguably the main problem, is efficiency seems to supersede justice. Alschuler (1983) quotes the Supreme Court expressing "congestion in the courts cannot justify a legal rule that produces unjust results" and "administrative convenience alone is insufficient to make valid what otherwise is a violation of due process law" (p. 938). If this is the view of the court then why is plea bargaining accepted in the current criminal justice system? It is in the criminal justice systems best interest to investigate alternative options to the plea bargaining process.

Removing Plea Bargaining Completely

Germany, for example, does not include plea bargaining procedures in their court processes. Instead, there are different protocols for various crimes based on seriousness of the offense, and a panel of legal professionals, judges, combined with laymen specifically identified for the position decide sentencing and punishment (Langbein, 1979). The German court is able to keep the efficiency of American court proceedings without compromising justice to offenders, victims, and the innocent. Langbein (1979) expresses that American criminal proceedings are not going to improve if it is unable to admit the aspects that are failing, namely plea bargaining, even if those practices are practically universal. It is imperative that the American criminal justice system acknowledges that plea bargaining, in its current condition, has failed and revisions to the process are necessary.

Rubinstein (1980) discusses the implications of Alaska's ban on plea bargaining in 1975. According to Rubinstein (1980) the results of the ban were hardly as expected. For example, the study's conclusion suggested that court proceedings moved more swiftly, the rate at which defendants utilized their right to plead guilty did not change dramatically, trials increased in rate but stayed consistent in quantity, and the severity of sentencing increased only for less serious crimes, among others (Rubinstein 1980). As Rubinstein (1980) suggests, the American criminal justice system would not crumble with the removal of plea bargaining.

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Summary

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Prosecutorial discretion has become increasingly prominent since the implementation of sentencing guidelines. For example, substantial assistance departures are a frequently used form of discretion among prosecutors. There has been limited research regarding the relationship between crime type and substantial assistance departures as well as the moderating effects of

defendant characteristics on that relationship. Current research suggests mixed results regarding the effects of defendant characteristics on sentencing and likelihood of substantial assistance departures (Spohn, 2013). The current study will attempt to further research in these limited areas of study.

Chapter 3: Methodology

Introduction

This chapter outlines the current study which has been approved by the University of Mississippi IRB board. First, the research questions and hypotheses will be discussed. Second, the data and data collection method will be examined. Third, the research design will be analyzed including the unit of analysis, the dependent, independent, moderating, and control variables. Finally, the chapter will end with an analytic strategy section discussing the way in which the data of the current study will be analyzed.

Research Questions/Hypotheses

This study aims to answer the questions 1) Are substantial assistance departures used more often for violent crimes or nonviolent crimes? 2) Do the effects of crime type on substantial assistance departures vary by defendant characteristics?

Hypothesis 1: It is hypothesized that crime type will be a significant predictor of receiving a substantial assistance departure.

Hypothesis 2: It is hypothesized that defendant characteristics will have moderating effects on the relationship between crime type and substantial assistance departures.

Data

The study used data from the Federal Justice Statistics Program in 2014 conducted by the United States Department of Justice Office of Justice Programs Bureau of Statistics (Defendants Sentenced under the Sentencing Reform Act, 2014). The data from 2014 were used

because it is the most recent data collected that will be relevant to this research. The sample and population are the same because data have been collected on the entire population of defendants that were processed through the federal criminal court system in 2014. For the current study, the population is 29,748 individuals who have committed violent or nonviolent crimes that have been involved in the federal criminal justice system in the year 2014.

Sentencing Data

Sentencing data is comprised of records of criminal defendants reported to the United States Sentencing Commission (USSC) in 2014 and sentenced under provisions of the Sentencing Reform Act (SRA) (United States Department of Justice, Office of Justice Programs, 2014). These data were collected from the USSC's Office of Policy and Analysis' (OPA) Standardized Research Data File. The data include information consisting of criminal history, demographic information, reasons for departures, status of departures, sentence adjustment levels, and level of offenses.

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Research Design

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Unit of Analysis

The unit of analysis is each individual person who experienced the sentencing stage of the United States criminal justice system in the fiscal year of 2014. To best understand prosecutorial discretion as it relates to the plea bargaining process, 29,748 individuals and their specific case details must be examined to determine if generalizable results can be made regarding the system of plea bargaining as a whole.

Dependent Variable

The dependent variable is *substantial assistance departure*. *Substantial assistance departure* is a categorical variable in which 1 = substantial assistance departures, 2 = government

sponsored below range departures, and 0 = all other forms of departures including early disposition/5k3.1departures. To determine the difference between substantial assistance departures and government sponsored departures, Christine Kitchens, Senior Research Associate of the USSC, was contacted. According to Kitchens, cases that fall under substantial assistance departures are cited whenever the prosecutor files a motion suggesting the defendant provided substantial assistance to authorities. Additionally, government sponsored below range departures consist of cases sponsored by the government as indicated on the Statement of Reasons (SOR) for below range sentences.

Independent Variables

Crime type is a categorical variable in which the primary offense type of a defendant is listed. For the purposes of this research, *crime type* included three categories in which 0 = violent crime, 1 = property crime, and 3 = drug crime. All other crime types were excluded from the analyses. Each individual crime type was recoded into a dummy variable for the purposes of the multivariate analyses. Therefore, *violent crime* is a dichotomous variable in which 0 = violent crime and 1 = other crime types. *Property crime* is a dichotomous variable in which 0 = property crime and 1 = other crime types. Finally, *drug crime* is a dichotomous variable in which 0 = drug crime and 1 = other crime types.

Moderating Variable

Defendant characteristics were used as moderating variables on the relationship between crime type and substantial assistance departures. Defendant characteristics included in the analysis were *race*, *gender*, and *education*. *Race* is a categorical variable in which 1 = white, 2 = black, 3 = Hispanic, and 4 = other race. Each race was recoded into dichotomous variables for the purposes of the multivariate analyses. *White race* is a dichotomous variable in which 0 =

white and 1 = other races; *black race* is a dichotomous variable in which 0 = black race and 1 = other races; *Hispanic race* is a dichotomous variable in which 0 = Hispanic race and 1 = other race; *Other race* is a dichotomous variable in which 0 = all other race and 1 = white/black/Hispanic races. *Education* is a categorical variable in which 1 = did not graduate high school, 2 = high school graduate, 3 = some college, and 4 = college graduate. Each of these were also recoded into dichotomous variables. *Not high school graduate* is a dichotomous variable in which 0 = did not graduate from high school and 1 = other education levels. *High school graduate* is a dichotomous variable in which 0 = graduated from high school and 1 = other education levels. *Some college* is a dichotomous variable in which 0 = some college and 1 = all other education levels. Finally, *college graduate* is a dichotomous variable in which 0 = college graduate and 1 = other education levels. *Gender* is a dichotomous variable in which 0 = male and 1 = female.

Control Variables

Prior criminal history, age, number of counts, number of dependents, presentence detention status, citizenship, and presumptive sentence will be used as control variables. Prior *criminal history* was operationalized as criminal history score. Criminal history score ranges from 1 to 6 in which 1 indicates minimal criminal history and 6 indicates extended criminal history. Criminal history score is computed based on aspects of past convictions such as length of imprisonment, prior sentences, whether or not the defendant was under supervision, etc. *Age* is a continuous variable measured in years. *Number of counts* is a continuous variable that measures the number of counts in which an individual is charged. *Number of dependents* is a continuous variable that measures the number of dependents a defendant has. *Presentence detention status* is a dichotomous variable in which 0 = in custody and 1 = released. *Citizenship*

is a dichotomous variable in which 0 = U.S. citizen and 1 = non-U.S. citizen. Finally, *presumptive sentence* is a continuous variable measured in months. These variables were included as controls to account for their effects on the dependent variable.

Analytic Strategy

This analysis will begin with descriptive statistics for all variables included. Next, a bivariate correlation will be performed to determine the relationship among the variables as well as strength of the relationship (Yan & Bushway, 2018). After the bivariate correlation is completed, an initial multinomial logistic regression will be conducted to compare the likelihood of receiving substantial assistance and government sponsored departures for defendants with varying characteristics. Next, subgroup analyses will be conducted to determine the moderating effects of the relationships between the dependent variable and independent variables. The benefits of using subgroup analysis as a strategy to test for moderation include (1) the moderating variable can have multiple categories and (2) ease of interpretation of the models (Rubio-Aparicio et al., 2017). The data was partitioned 9 times (white race, black race, Hispanic race, male, female, not a high school graduate, high school graduate, some college, and college graduate) to determine statistically significant effects.

Chapter 4: Results

Descriptive Statistics of Study Variables

According to Table 1: Descriptive Statistics, 12.8% received a substantial assistance departure whereas 8.2% received a governmental departure and 79% received a departure described as other. 6.1% of the sample were charged with a violent crime, 30.5% were charged with a property crime, and 63.3% were charged with a drug crime. The average criminal history score was 2.38 with a standard deviation of 1.65 indicating that the average defendant had a prior criminal history/served prison time for previous offenses. The range criminal history score was 5 with a minimum of 1 and a maximum of 6. The average age of the sample was 36.45 years old with a standard deviation of 11.18 years. The range age of the sample was 76 years old with a minimum age of 16 years old and a maximum of 92 years old. The majority of the sample was male (86%) while only 14% were female defendants. In terms of education level, 46.6% of the sample did not graduate high school, 30.4% graduated high school, 16.7% received some college education, and 6.4% were college graduates. In terms of race, 23.6% of the sample described themselves as White, 20.3% as Black, 52% as Hispanic, and 4.2% as other. The average number of counts for the sample was 1.38 with a standard deviation of 2.20. The range number of counts for the sample was 239 with a minimum of 1 and a maximum of 240. The average number of dependents of the sample was 1.64 with a standard deviation of 1.79. The range number of dependents was 58 with a minimum of 0 and a maximum of 58 dependents. In terms of pre-sentence detention status, 74.5% of the sample were in custody whereas 25.5% were released.

The sample consisted of 58% United States citizens and 42% non-United States citizens. Finally, the average presumptive sentence was 3.18 months with a standard deviation of 1.38 months. The range presumptive sentence was 8.24 months with a minimum of 0 months and a maximum of 8.24 months.

Bivariate Correlation

According to Table 2: Bivariate Correlation, a significant positive relationship was found between receiving a substantial assistance departure and property crime, r = 0.14 (p = .01). The R^2 indicates that 1.96% of the variance in receiving a substantial assistance departure can be explained by a defendant committing a property crime. An r of 0.14 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and drug crime, r = -0.14 (p = .01). The R^2 indicates that 1.96% of the variance in receiving a substantial assistance departure can be explained by a defendant committing a drug crime. An r of -0.14 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and black race, r = -0.05 (p = .01). The R^2 indicates that 0.25% of the variance in receiving a substantial assistance departure can be explained by if the defendant was of black race. An r of -0.05 indicates a very weak relationship. A significant positive relationship was found between receiving a substantial assistance departure and Hispanic race, r = 0.16 (p = .01). The R^2 indicates that 2.56% of the variance in receiving a substantial assistance departure can be explained by if the defendant was of Hispanic race. An r of .16 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and other race, r = -0.04 (p = .01). The R^2 indicates that 0.16% of the variance in receiving a substantial assistance departure can be explained by if the defendant was of other race. An r of -0.04 indicates a very

27

weak relationship. A significant positive relationship was found between substantial assistance departure and female, r = 0.05 (p = .01). The R^2 indicates 0.25% of the variance in receiving a substantial assistance departure can be explained by if the defendant was female. An r of 0.05 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and the defendant being a high school graduate, r = -0.07 (p = .01). The R^2 indicates that 0.49% of the variance in receiving a substantial assistance departure can be explained by the defendant being a high school graduate. An r of -0.07 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and the defendant having some college education, r = -0.06 (p = .01). The R^2 indicates that 0.36% of the variance in receiving a substantial assistance departure can be explained by the defendant being a high school graduate. An r of -0.06 indicates a very weak relationship. A significant negative relationship was found between receiving a substantial assistance departure and the defendant being a college graduate, r = -0.04 (p = .01). The R^2 indicates that 0.16% of the variance in receiving a substantial assistance departure can be explained by the defendant being a high school graduate. An r of -0.04 indicates a very weak relationship.

The relationships between the key independent variables and moderating variables were found to be statistically significant at the bivariate level indicating that further multivariate analyses can be reasonably conducted. Multicollinearity tests were conducted which revealed no multicollinearity issues within the data. All VIF scores were 4 and below, and each conditional index was below 30.

Multinomial Logistic Regression

The model displayed in Table 3: Multinomial Logistic Regression was found to be statistically significant (χ^2 = 1982.01, p < .001). According to the Relative Risk Ratio (RRR), individuals who committed property crimes were 1.37 times more likely to receive a substantial assistance departure compared to those who committed violent crimes (b = .32, S.E. = .09, p < .001). Individuals who committed drug crimes were 4.39 times more likely to receive a substantial assistance departure compared to those who committed violent crimes (b = 1.48, S.E. = .09, p < .001). Black defendants were 30% less likely to receive a substantial assistance departure than white defendants (b = -.36, S.E. = .04, p < .001). Hispanic defendants were 34% less likely to receive a substantial assistance departure compared to white defendants (b = -.42, S.E. = .04, p < .001). Defendants categorized in "other race" were 22% less likely to receive a substantial assistance departure than white defendants (b = -.24, S.E. = .08, p < .001). Male defendants were 26% less likely to receive substantial assistance departures compared to female defendants (b = -.30, S.E. = .04, p < .001). Defendants who graduated from high school were 1.17 times more likely to receive a substantial assistance departure than defendants who did not graduate from high school (b = .15, S.E. = .04, p < .001). Defendants who earned some college credit were 1.24 times more likely than defendants who did not graduate high school to receive a substantial assistance departure (b = .21, S.E. = .04, p < .01). Defendants who graduated college were 1.40 times more likely to receive a substantial assistance departure compared to defendants who did not graduate from high school (b = .34, S.E. = .07, p < .001). Defendants whose presentence detention status was in custody were 35% less likely to receive a substantial assistance departure compared to those who were released (b = -.43, S.E. = .04, p < .001).

According to the RRR, individuals who committed property crimes were 58% less likely to receive a government sponsored below range departure compared to those who committed violent crimes (b = -.86, S.E. = .09, p < .001). Individuals who committed drug crimes were 1.36 times more likely to receive a government sponsored below range departure than those who committed violent crimes (b = .31, S.E. = .07, p < .001). Black defendants were 26% less likely to receive a government sponsored below range departure compared to white defendants (b = -.30, S.E. = .05, p < .001). No significant differences were found when comparing Hispanic defendants and other race defendants to white defendants in terms of receiving a government sponsored below range departure. Likewise, there were no gender differences when determining the likelihood of receiving a government sponsored below range departure. Defendants who graduated from college were 1.27 times more likely than defendants who did not graduate from high school to receive a government sponsored below range departure (b = .24, S.E. = .09, p < .01). Defendants whose presentence detention status was in custody were 25% less likely to receive a government sponsored below range departure compared to those who were released (b = -.29, S.E. = .05, p < .001).

Multinomial Logistic Regression (White Race)

The model displayed in Table 4: Multinomial Logistic Regression (White Race) was found to be statistically significant (χ^2 = 850.27, p < .001). According to the RRR, white defendants who committed property crimes were 1.57 times more likely than white defendants who committed violent crimes to receive a substantial assistance departure (b = .45, S.E. = .17, p < .01). White defendants who committed drug crimes were 6.43 times more likely than white defendants who committed violent crimes to receive a substantial assistance departure (b = 1.86, S.E. = .16, p < .001). White male defendants were 21% less likely than white female defendants

to receive a substantial assistance departure (b = -.24, S.E. = .06, p < .001). White defendants who earned some college credit were 1.19 times more likely than white defendants who did not graduate high school to receive a substantial assistance departure (b = .17, S.E. = .08, p < .05). White defendants who graduated college were 1.33 times more likely than white defendants who did not graduate from college to receive a substantial assistance departure (b = .28, S.E. = .11, p < .01). White defendants who had a longer presumptive sentence were 17% less likely to receive a substantial assistance departure compared to white defendants with a shorter presumptive sentence (b = -.18, S.E. = .03, p < .001). White defendants with a presentence detention status of in custody were 23% less likely than white defendants with a presentence detention status of released to receive a substantial assistance departure (b = -.26, S.E. = .07, p < .001).

According to the RRR, white defendants who committed property crimes were 47% less likely than white defendants who committed a violent crime to receive a government sponsored below range departure (b = -.64, S.E. = .14, p < .001). White defendants who committed drug crimes were 1.36 times more likely than white defendants who committed violent crimes to receive a government sponsored below range departure (b = .31, S.E. = .12, p < .01). No gender differences were found to be statistically significant when attempting to determine the likelihood of receiving a government sponsored below range departure. White defendants who graduated college were 1.48 times more likely than white defendants who did not graduate high school to receive a government sponsored below range departure (b = .39, S.E. = .14, p < .01).

Multinomial Logistic Regression (Black Race)

The model displayed in Table 5: Multinomial Logistic Regression (Black Race) was found to be statistically significant ($\chi^2 = 525.69$, p < .001). According to the RRR, black defendants who committed property crimes were 39% less likely than black defendants who

committed violent crimes to receive a substantial assistance departure (b = -.49, S.E. = .15, p < .001). Black defendants who committed drug crimes were 1.70 times more likely than black defendants who committed violent crimes to receive a substantial assistance departure (b = .53, S.E. = .13, p < .001). Black male defendants were 33% less likely than black female defendants to receive a substantial assistance departure (b = -.40, S.E. = .09, p < .001). Black defendants who graduated from college were 1.85 times more likely than black defendants who did not graduate from high school to receive a substantial assistance departure (b = .61, S.E. = .14, p < .001). Black defendants who had a longer presumptive sentence were 19% less likely than black defendants who had a shorter presumptive sentence to receive a substantial assistance departure (b = -.21, S.E. = .03, p < .001). Black defendants with a presentence detention status of in custody were 40% less likely than black defendants with a presentence detention status of released to receive a substantial assistance departure (b = -.51, S.E. = .07, p < .001).

According to the RRR, black defendants who committed property crimes were 53% less likely than black defendants who committed violent crimes to receive a government sponsored below range departure (b = -.25, S.E. = .19, p < .001). Black defendants who committed drug crimes were 1.60 times more likely than black defendants who committed violent crimes to receive a government sponsored below range departure (b = .47, S.E. = .15, p < .01). There were no significant gender or educational differences between black defendants in terms of receiving government sponsored below range departures. Black defendants with a presentence detention status of in custody were 22% less likely than black defendants with a presentence detention status of released to receive a government sponsored below range departure (b = -.25, S.E. = .10, p < .05).

Multinomial Logistic Regression (Hispanic Race)

The model displayed in Table 6: Multinomial Logistic Regression (Hispanic Race) was found to be statistically significant ($\chi^2 = 599.13$, $p < .001$). According to the RRR, Hispanic defendants who committed drug crimes were 3.53 times more likely than Hispanic defendants who committed violent crimes to receive a substantial assistance departure (b = 1.26, S.E. = .22, $p < .001$). There were no significant difference found between Hispanic defendants who committed property crimes and Hispanic defendants who committed violent crimes in terms of likelihood of receiving a substantial assistance departure. Hispanic male defendants were 14% less likely than Hispanic female defendants to receive a substantial assistance departure (b = -.16, S.E. = .07, $p < .05$). Hispanic defendants who graduated from high school were 1.25 times more likely than Hispanic defendants who did not graduate from high school to receive a substantial assistance departure (b = .22, S.E. = .06, $p < .001$). Hispanic defendants who earned some college credit were 1.28 times more likely than Hispanic defendants who did not graduate from high school to receive a substantial assistance departure (b = .25, S.E. = .08, $p < .001$). Hispanic defendants with a presentence detention status of in custody were 39% less likely to receive a substantial assistance departure compared to Hispanic defendants with a presentence detention status of released (b = -.50, S.E. = .07, $p < .001$).

According to the RRR, Hispanic defendants who committed property crimes were 71% less likely than Hispanic defendants who committed violent crimes to receive a government sponsored below range departure (b = -1.25, S.E. = .22, $p < .001$). Hispanic defendants who committed drug crimes were 1.52 times more likely to receive a government sponsored below range departure than Hispanic defendants who committed violent crimes (b = .42, S.E. = .18, $p < .05$). There were no statistical differences in gender or education level concerning a Hispanic

defendant's likelihood of receiving a government sponsored below range departure. Hispanic defendants with a presentence detention status of in custody were 38% less likely than Hispanic defendants with a presentence detention status of released to receive a government sponsored below range departure (b = -.48, S.E. = .09, p < .001). Hispanic defendants who are U.S. citizens were 23% less likely than Hispanic defendants who were not U.S. citizens to receive a government sponsored below range departure (b = -.27, S.E. = .07, p < .001).

Multinomial Logistic Regression (Male)

The model displayed in Table 7: Multinomial Logistic Regression (Male) was found to be statistically significant (χ^2 = 1571.00, p < .001). According to the RRR, male defendants who committed property crimes were 1.55 times more likely to receive a substantial assistance departure than male defendants who committed violent crimes (b = .44, S.E. = .11, p < .001). Male defendants who committed drug crimes were 4.84 times more likely to receive a substantial assistance departure than male defendants who committed violent crimes (b = 1.58, S.E. = .10, p < .001). Black male defendants were 31% less likely than white male defendants to receive a substantial assistance departure (b = -.37, S.E. = .05, p < .001). Hispanic male defendants were 30% less likely than white male defendants to receive a substantial assistance departure (b = -.35, S.E. = .05, p < .001). Male defendants of other races (excluding black and Hispanic defendants) were 19% less likely than white male defendants to receive a substantial assistance departure (b = -.21, S.E. = .09, p < .05). Male defendants who graduated high school were 1.22 times more likely than male defendants who did not graduate high school to receive a substantial assistance departure (b = .20, S.E. = .04, p < .001). Male defendants who earned some college credit were 1.30 times more likely than male defendants who did not graduate high school to receive a substantial assistance departure (b = .26, S.E. = .05, p < .001). Male defendants who graduated

college were 1.46 times more likely than male defendants who did not graduate high school to receive a substantial assistance departure (b = .38, S.E. = .08, p < .001). Male defendants with a presentence detention status of in custody were 39% less likely to receive a substantial assistance departure compared to male defendants with a presentence detention status of released (b = -.50, S.E. = .05, p < .001).

According to the RRR, male defendants who committed property crimes were 58% less likely to receive a government sponsored below range departure compared to male defendants who committed violent crimes (b = -.86, S.E. = .10, p < .001). Male defendants who committed drug crimes were 1.40 times more likely to receive a government sponsored below range departure compared to male defendants who committed violent crimes (b = .34, S.E. = .08, p < .001). Black male defendants were 29% less likely than white male defendants to receive a government sponsored below range departure (b = -.34, S.E. = .06, p < .001). Hispanic male defendants were 11% less likely than white male defendants to receive a government sponsored below range departure (b = -.12, S.E. = .06, p < .05). Defendants described as other race (excluding black and Hispanic defendants) were 1.25 times more likely to receive a government sponsored below range departure than white male defendants (b = .23, S.E. = .09, p < .001). Male defendants who graduated college were 1.32 times more likely than male defendants who did not graduate high school to receive a government sponsored below range departure (b = .28, S.E. = .10, p < .01). Male defendants with a presentence detention status of in custody were 25% less likely than male defendants with a presentence detention status of released to receive a government sponsored below range departure (b = -.29, S.E. = .06, p < .001). Male defendants who were U.S. citizens were 18% less likely than male citizens who were not citizens to receive a government sponsored below range departure (b = -.20, S.E. = .06, p < .001).

Multinomial Logistic Regression (Female)

The model displayed in Table 8: Multinomial Logistic Regression (Female) was found to be statistically significant ($\chi^2 = 439.36$, p < .001). According to the RRR, female defendants who committed drug crimes were 2.58 times more likely to receive a substantial assistance departure than females who committed violent crimes (b = .95, S.E. = .20, p < .001). There were no statistically significant differences between female defendants who committed property crimes and females who committed violent crimes in terms of receiving a substantial assistance departure. Hispanic female defendants were 45% less likely to receive a substantial assistance departure than white female defendants (b = -.60, S.E. = .10, p < .001). There were no other statistically significant racial differences in terms of receiving a substantial assistance departure. There were no significant educational differences among females in terms of receiving a substantial assistance departure. Female defendants with a presentence detention status of in custody were 19% less likely to receive a substantial assistance departure compared to female defendants with a presentence detention status of released (b = -.21, S.E. = .08, p < .01).

According to the RRR, female defendants who committed property crimes were 62% less likely than female defendants who committed violent crimes to receive a government sponsored below range departure (b = -.97, S.E. = .27, p < .001). There were no statistically significant differences between female defendants who committed drug crimes and females who committed violent crimes in terms of receiving a government sponsored below range departure. There were also no racial or educational differences regarding female defendant receipt of government sponsored below range departures.

Multinomial Logistic Regression (Not High School Graduate)

The model displayed in Table 9: Multinomial Logistic Regression (Not High School Graduate) was found to be statistically significant (χ^2 = 439.36, p < .001). According to the RRR, defendants that did not graduate from high school who committed drug crimes were 3.62 times more likely than defendants that did not graduate from high school who committed violent crimes to receive a substantial assistance departure (b = 1.29, S.E. = .18, p < .001). There were no statistically significant differences discovered between defendants that did not graduate from high school who committed property crimes and defendants that did not graduate from high school who committed violent crimes in terms of receiving a substantial assistance departure. Male defendants who did not graduate from high school were 40% less likely than female defendants who did not graduate from high school to receive a substantial assistance departure (b = -.51, S.E. = .07, p < .001). Black defendants who did not graduate high school were 37% less likely than white defendants who did not graduate high school to receive a substantial assistance departure (b = -.46, S.E. = .08, p < .001). Hispanic defendants who did not graduate from high school were 38% less likely than white defendants who did not graduate high school to receive a substantial assistance departure (b = -.49, S.E. = .08, p < .001). Defendants who did not graduate from high school with a presentence detention status of in custody were 40% less likely than defendants who did not graduate from high school with a presentence detention status of released to receive a substantial assistance departure (b = -.51, S.E. = .08, p < .001).

According to the RRR, defendants who did not graduate high school that committed property crimes were 67% less likely than defendants who did not graduate high school that committed violent crimes to receive a government sponsored below range departure (b = -1.12, S.E. = .18, p < .001). Defendants who did not graduate high school that committed drug crimes

were 1.31 times more likely than defendants who did not graduate high school that committed violent crimes to receive a government sponsored below range departure (b = .27, S.E. = .13, p < .05). There were no statistically significant differences regarding males and females who did not graduate high school in terms of receiving a government sponsored below range departure. Black defendants who did not graduate from high school were 24% less likely than white defendants who did not graduate from high school to receive a government sponsored below range departure (b = -.27. S.E. = .11, p < .01). Defendants described as other race (excluding black and Hispanic defendants) who did not graduate high school were 1.47 times more likely than white defendants who did not graduate from high school to receive a government sponsored below range departure. Defendants who did not graduate high school with a presentence detention status of in custody were 25% less likely to receive a government sponsored below range departure compared to defendants who did not graduate high school with a presentence detention status of released (b = -.29, S.E. = .10, p < .01). Defendants who did not graduate from high school that were U.S. citizens were 15% less likely than defendants who did not graduate from high school that were not U.S. citizens to receive a government sponsored below range departure (b = -.16, S.E. = .08, p < .05).

Multinomial Logistic Regression (High School Graduate)

The model displayed in Table 10: Multinomial Logistic Regression (High School Graduate) was found to be statistically significant (χ^2 = 816.44, p < .001). According to the RRR, defendants who graduated from high school that committed drug crimes were 4.22 times more likely than defendants who graduated from high school that committed violent crimes to receive a substantial assistance departure (b = 1.44, S.E. = .13, p < .001). There were no statistically significant differences discovered between defendants that graduated from high

38

school who committed property crimes and defendants that graduated from high school who committed violent crimes in terms of receiving a substantial assistance departure. Male defendants who graduated from high school were 26% less likely than female defendants who graduated from high school to receive a substantial assistance departure (b = -.30, S.E. = .07, p < .001). Black defendants who graduated from high school were 34% less likely than white defendants who graduated from high school to receive a substantial assistance departure (b = -.42, S.E. = .06, p < .001). Hispanic defendants who graduated from high school were 31% less likely than white defendants who graduated from high school to receive a substantial assistance departure (b = -.38, S.E. = .07, p < .001). Defendants identified as other race (excluding black and Hispanic defendants) who graduated from high school were 40% less likely than white defendants who graduated high school to receive a substantial assistance departure (b = -.51, S.E. = .13, p < .001). Defendants who graduated from high school that had a longer presumptive sentence were 16% less likely defendants who graduated from high school that had a shorter presumptive sentence to receive a substantial assistance (b = -.18, S.E. = .03, p < .001). Defendants who graduated from high school with a presentence detention status of in custody were 32% less likely than defendants who graduated from high school with a presentence detention status of released to receive a substantial assistance departure (b = -.39, S.E. = .06, p < .001).

According to the RRR, defendants who graduated from high school that committed property crimes were 50% less likely than defendants who graduated from high school that committed violent crimes to receive government sponsored below range departures (b = -.70, S.E. = .14, p < .001). Defendants who graduated from high school that committed drug crimes were 1.39 times more likely to receive government sponsored below range departures than

defendants who graduated from high school that committed violent crimes (b = .33, S.E. = .11, p < .01). There were no statistically significant gender difference in terms of defendants who graduated high school and receiving a government sponsored below range departure. Black defendants who graduated from high school were 25% less likely than white defendants who graduated from high school to receive a government sponsored below range departure (b = -.29, S.E. = .08, p < .001). Defendants who graduated from high school that had a presentence detention status of in custody were 20% less likely than defendants who graduated from high school that had a presentence detention status of released to receive a government sponsored below range departure (b = -.22, S.E. = .08, p < .01). Defendants who graduated from high school and were U.S. citizens were 23% less likely than defendants who graduated from high school and were not U.S. citizens to receive a government sponsored below range departure (b = -.26, S.E. = .11, p < .01).

Multinomial Logistic Regression (Some College)

The model displayed in Table 11: Multinomial Logistic Regression (Some College) was found to be statistically significant (χ^2 = 476.34, p < .001). According to the RRR, defendants who earned some college credit that committed property crimes were 1.61 times more likely than defendants who earned some college credit that committed violent crimes to receive a substantial assistance departure (b = .47, S.E. = .20, p < .05). Defendants who earned some college credit that committed drug crimes were 4.96 times more likely than defendants who earned some college credit that committed violent crimes to receive a substantial assistance departure (b = 1.60, S.E. = .19, p < .001). Male defendants who earned some college credit were 16% less likely than female defendants who earned some college credit to receive a substantial assistance departure (b = -.17, S.E. = .08, p < .01). Black defendants who earned some college credit were

40

29% less likely than white defendants who earned some college credit to receive a substantial assistance departure (b = -.34, S.E.=.08, p < .001). Hispanic defendants who earned some college credit were 37% less likely than white defendants who earned some college credit to receive a substantial assistance departure (b = -.47, S.E. = .09, p < .001). Defendants who earned some college credit with a longer presumptive sentence were 14% less likely than defendants who earned some college credit with a shorter presumptive sentence to receive a substantial assistance departure (b = -.15, S.E. = .03, p < .001). Defendants who earned some college credit with a presentence detention status of in custody were 34% less likely to receive a substantial assistance departure compared to defendants who earned some college credit with a presentence detention status of released (b = -.41, S.E. = .08, p < .001).

According to the RRR, defendants who earned some college credit that committed property crimes were 65% less likely to receive government sponsored below range departures than defendants who earned some college credit that committed violent crimes (b = -1.04, S.E. = .19, p < .001). There were no statistically significant differences between defendants who earned some college credit that committed drug crimes and defendants who earned some college credit that committed violent crimes in terms of receiving a government sponsored below range departure. There were no statistically significant gender or racial differences in terms of defendants who earned some college credit and likelihood of receiving a government sponsored below range departure. Defendants who earned some college credit that had a presentence detention status of in custody were 23% less likely than defendants who earned some college

credit who had a presentence detention status of released to receive a government sponsored

below range departure (b = -.27, S.E. = .11, p < .05).

Multinomial Logistic Regression (College Graduate)

The model displayed in Table 12: Multinomial Logistic Regression (College Graduate)

was found to be statistically significant (χ^2 = 213.52, p < .001). According to the RRR,

defendants who graduated college that committed property crimes were 3.42 times more likely

than defendants who graduated college that committed violent crimes to receive a substantial

assistance departure (b = 1.23, S.E. = .53, p < .05). Defendants who graduated college that

committed drug crimes were 9.59 times more likely than defendants who graduated college that

committed violent crimes to receive a substantial assistance departure (b = 2.26, S.E. = .53, p <

.001). There were no statistically significant racial or gender differences observed regarding the

relationship between defendants graduating from college and receiving a substantial assistance

departure. Defendants who graduated from college and were a U.S. citizen were 1.45 times more

likely to receive a substantial assistance departure than defendants who graduated from college

and were not a U.S. citizen (b = .37, S.E. = .19, p < .05). Defendants who graduated from college

and had a longer presumptive sentence were 26% less likely to receive a substantial assistance

departure compared to defendants who graduated from college that had a shorter presumptive

sentence (b = -.31, S.E. = .05, p < .001).

According to the RRR, there were no statistically significant differences observed among defendants who graduated college regarding the relationship between crime types and receiving government sponsored below range departures. There were also no statistically significant differences observed among defendants who graduated college regarding the relationship between genders and receiving a government sponsored below range departure. Black defendants who graduated college were 48% less likely to receive a government sponsored below range departure compared to white defendants who graduated college (b = -.65, S.E. = .25, p < .01). Hispanic defendants who graduated college were 41% less likely than white defendants who graduated college to receive a government sponsored below range departure (b = -.52, S.E. = .25, p < .05). Defendants who graduated college with a presentence detention status of in custody were 44% less likely than defendants who graduated college with a presentence detention status of released to receive a government sponsored below range departure (b = -.58, S.E. = .21, p < .01).

Chapter 5: Discussion/Conclusions

It was hypothesized that crime type would be a significant predictor of receiving a substantial assistance departure, and based on the results of this study, the hypothesis can be accepted. The results suggest that defendants who commit both property crimes and drug crimes are more likely to receive substantial assistance departures than defendants who commit violent crimes when controlling for counts of conviction, number of dependents, criminal history, presumptive sentence length, presentence detention status, age, gender, race, and education level. This relationship can be explained by the focal concerns perspective in the sense that those who commit violent crimes would be likely to be viewed as more dangerous and more culpable (Steffensmeier et al., 1993). Consistent with the focal concerns perspective and previous findings, minority defendants were less likely than white defendants to receive substantial assistance departures (Kutateladze & Lawson, 2018). Similarly, female defendants were more likely than male defendants to receive substantial assistance departures (Romain & Freiburger, 2013). Finally, it was discovered that the higher the education level of the defendant, the more likely the defendant would receive a substantial assistance departure. These results suggest that prosecutors are using their discretion to offer substantial assistance departures to defendants who did not commit violent crimes more often than defendants who committed violent crimes.

Interestingly, it was found that defendants who commit property crimes are significantly less likely, about 58% less likely than defendants who commit violent crimes to receive a government sponsored below range departure. This suggest a difference in the application of

prosecutorial discretion depending on whether the defendant receives a substantial

assistance or government sponsored below range departure. Further research concerning the

differences in government sponsored below range departures and substantial assistance

departures as well as factors that influence the decision to propose each type of departure is

needed to fully understand the meaning and implications of these results.

It was hypothesized that defendant characteristics would have a moderating effect on the

relationship between crime type and substantial assistance departures. The hypothesis can be

accepted for some defendant characteristics but not for others. It is consistently shown that

defendants who commit drug crimes, regardless of individual characteristics, are more likely

than defendants who commit violent crimes to receive substantial assistance departures. These

results are consistent with the focal concerns perspective as individuals who commit drug

offenses are often viewed as less blameworthy and dangerous than those who commit property

and violent offenses (e.g. Fernando, Curry, & Lee, 2006).

However, depending on different defendant characteristics, the differences in terms of

property and violent crimes regarding the likelihood of receiving a substantial assistance

departure fluctuate. When examining only white defendants and only defendants described as

other race, there were no moderating effects of race on the relationship between crime type and

likelihood of receiving a substantial assistance departure. However, when examining only black

defendants, race partially moderated the relationship between crime type and likelihood of

receiving a substantial assistance departure. Black defendants who committed a property crime

were 39% less likely than black defendants who committed a violent crime to receive a

substantial assistance departure. Similarly, when examining only Hispanic defendants, race

partially moderated the relationship between crime type and likelihood of receiving a substantial

assistance departure. When only examining Hispanic defendants, there was no longer a significant difference between defendants who committed property crimes and those who committed violent crimes in terms of receiving a substantial assistance departure.

When examining only male defendants, there was no moderating effect of gender on the relationship between crime type and likelihood of receiving a substantial assistance departure. However, when examining only female defendants, gender partially moderated the relationship between crime type and likelihood of receiving a substantial assistance departure. When examining only female defendants, there was no longer a significant difference between female defendants who committed property crimes and female defendants who committed violent crimes in terms of receiving a substantial assistance departure.

When examining only defendants with some college education and only defendants who graduated from college, there were no moderating effects of education level on the relationship between crime time and likelihood of receiving a substantial assistance departure. However, when examining only defendants who did not graduate from high school, educational level partially moderated the relationship between crime type and likelihood of receiving a substantial assistance departure. When examining only defendants who did not graduate from high school, there was no longer a significant difference between defendants who committed property crimes and violent crimes in terms of receiving a substantial assistance departure. Similarly, when examining only defendants who graduated high school, education level partially moderated the relationship between crime type and likelihood of receiving a substantial assistance departure. When examining only defendants who graduated high school, there was no longer a significant difference between defendants who committed property crimes and violent crimes in terms of receiving a substantial assistance departure.

Limitations

The data for this research is from 2014, and although it is the most recent data available, it does not necessarily represent the current state of the American criminal justice system as it is being analyzed in this research. Another limitation of this research is the examination of only two types of offenses. Analyzing other offense types, or breaking offense type down into more specific categories might offer more insight into the true nature of the relationship between crime type and substantial assistance departures. Finally, substantial assistance departure is a proxy measure for prosecutorial decision making and therefore may not yield the intended results of the researcher.

Implications/Future Research

These results suggest that crime type influences prosecutorial decision making and the application of prosecutorial discretion in terms of substantial assistance departures. These results also suggest that certain defendant characteristics can moderate the relationship between crime type and receiving a substantial assistance departure which indicates a misuse/abuse of prosecutorial discretion for certain defendants. As prosecutorial discretion and prosecutorial decision making are under-researched areas of broader criminal justice research, additional attention should be applied to this area of study. Future directions should attempt to break down crime types into more specific categories to understand the full scope of the relationship between crime type and likelihood of receiving a substantial assistance departure. Further research should also be conducted to determine in cases with multiple charges what specific kinds of charges were dropped or reduced to gain a better understanding of prosecutorial discretion in terms of substantial assistance departures. Finally, future research should further investigate the differences in prosecutorial decision making concerning substantial assistance and government

sponsored below range departures to understand why crime type, specifically property crime and

violent crime, influence the specific prosecutorial decision points.

List of References

References

Abrams, D. S. (2011). Is pleading really a bargain?. *Journal of Empirical Legal Studies*, *8*, 200-221.

Albonetti, C. A. (1986). Criminality, prosecutorial screening, and uncertainty: Toward a theory of discretionary decision making in felony case processings. *Criminology*, *24*(4), 623-644.

Albonetti, C. A. (1987). Prosecutorial discretion: The effects of uncertainty. *Law and society review*, 291-313.

Alschuler, A. W. (1979). Plea bargaining and its history. *Columbia Law Review*, *79*(1), 1-43.

Alschuler, A. W. (1983). Implementing the criminal defendant's right to trial: Alternatives to the plea bargaining system. *The University of Chicago Law Review*, *50*(3), 931-1050.

Anderson, J. M., Kling, J. R., & Stith, K. (1999). Measuring interjudge sentencing disparity: Before and after the federal sentencing guidelines. *The Journal of Law and Economics*, *42*(S1), 271-308.

Ball, J. D. (2006). Is it a prosecutor's world? Determinants of count bargaining decisions. *Journal of Contemporary Criminal Justice*, *22*(3), 241-260.

Beckman, L. O. (2018). *Assessing Disparity in the Federal Court Processing of Immigration Cases* (Doctoral dissertation, Arizona State University).

Bibas, S. (2011). The myth of the fully informed rational actor. . *Louis U. Pub. L. Rev.*, *31*, 79.

Brereton, D., & Casper, J. D. (1981). Does It Pay to Plead Guilty-Differential Sentencing and the

      Functioning of Criminal Courts. *Law & Soc'y Rev.*, *16*, 45.

Davis, K. C. (1968). New Approach to Delegation, A. *U. Chi. L. Rev.*, *36*, 713.

Davis, K. C. (1969). *Discretionary justice: A preliminary inquiry*. LSU Press.

Davis, A. J. (2016). The Prosecutor's Ethical Duty to End Mass Incarceration. *Hofstra L.

      Rev.*, *45*, 387.

Fazel, S., Långström, N., Hjern, A., Grann, M., & Lichtenstein, P. (2009). Schizophrenia,

      substance abuse, and violent crime. *Jama*, *301*(19), 2016-2023.

Fernando Rodriguez, S., Curry, T. R., & Lee, G. (2006). Gender differences in criminal

      sentencing: Do effects vary across violent, property, and drug offenses?. *Social Science

      Quarterly*, *87*(2), 318-339.

Frase, R. S. (1980). The decision to file federal criminal charges: A quantitative study of

      prosecutorial discretion. *The University of Chicago Law Review*, *47*(2), 246-330.

Galin, R. (1999). Above the law: The prosecutor's duty to seek justice and the performance of

      substantial assistance agreements. *Fordham L. Rev.*, *68*, 1245.

Gleeson, J. (2007). The sentencing commission and prosecutorial discretion: The role of the

      courts in policing sentence bargains. *Hofstra L. Rev.*, *36*, 639.

Hartley, R. D., Maddan, S., & Spohn, C. C. (2007). Prosecutorial discretion: An examination of

      substantial assistance departures in federal crack-cocaine and powder-cocaine

      cases. *Justice Quarterly*, *24*(3), 382-407.

Hartley, R. D., Maddan, S., & Spohn, C. C. (2007). Concerning conceptualization and

      operationalization: Sentencing data and the focal concerns perspective--a

      research note. *Southwest Journal of Criminal Justice*, *4*(1).

Hawkins, D. F. (1981). Causal attribution and punishment for crime. *Deviant Behavior*, *2*(3), 207-230.

Helm, R. K., & Reyna, V. F. (2017). Logical but incompetent plea decisions: A new approach to plea bargaining grounded in cognitive theory. *Psychology, Public Policy, and Law*, *23*(3), 367.

Houser, K. D. (1992). Downward departures: The lower envelope of the federal sentencing guidelines. *Duq. L. Rev.*, *31*, 361.

Howell, K. B. (2014). Prosecutorial discretion and the duty to seek justice in an overburdened criminal justice system. *Geo. J. Legal Ethics*, *27*, 285.

Johnson, B. D., King, R. D., & Spohn, C. (2016). Sociolegal approaches to the study of guilty pleas and prosecution. *Annual Review of Law and Social Science*, *12*, 479-495.

Johnson, B. D., Ulmer, J. T., & Kramer, J. H. (2008). The social context of guidelines circumvention: The case of federal district courts. *Criminology*, *46*(3), 737-783.

Kaiser, K. A., & Rhodes, K. (2019). A drug court by any other name? An analysis of problem-solving court programs. *Law and human behavior*, *43*(3), 278.

Kaiser, K., & Spohn, C. (2018). Why do judges depart: A review of reasons for judicial departures in federal sentencing. *Criminology, Crim. Just. L & Soc'y*, *19*, 43.

Kaiser, K. A., & Spohn, C. (2014). "Fundamentally flawed?" Exploring the use of policy disagreements in judicial downward departures for child pornography sentences. *Criminology & Public Policy*, *13*(2), 241-270.

Kalven, H., Zeisel, H., Callahan, T., & Ennis, P. (1966). *The american jury* (p. 498). Boston: Little, Brown.

Kelly, J.A. (2012). Federal justice statistics program data linking system. Washington D.C.:

  Urban Institute, Justice Policy Center.

Kerstetter, W. A. (1990). Gateway to justice: Police and prosecutorial response to sexual assaults

  against women. *J. Crim. L. & Criminology*, *81*, 267.

Kim, B., Cano, M.V., Kim, K., & Spohn, C. (2016). The impact of United States v. Booker and

  Gall/Kimbrough v. United States on sentence severity: Assessing social context and

  judicial discretion. *Crime & Delinquency*, *62*, 1072-1094.

Kramer, J. H., & Ulmer, J. T. (1996). Sentencing disparity and departures from

  guidelines. *Justice Quarterly*, *13*(1), 81-106.

Kramer, J. H., & Ulmer, J. T. (2002). Downward departures for serious violent offenders: Local

  court "corrections" to Pennsylvania's sentencing guidelines. *Criminology*, *40*(4),

  897-932.

Krauss, R. (2009). The theory of prosecutorial discretion in federal law: Origins and

  developments. *Seton Hall Cir. Rev.*, *6*, 1.

Kutateladze, B. L., & Lawson, V. Z. (2018). Is a plea really a bargain? An analysis of plea and

  trial dispositions in New York City. *Crime & Delinquency*, *64*(7), 856-887.

LaFave, W. R. (1970). The prosecutor's discretion in the United States. *Am. J. Comp. L.*, *18*, 532.

Lagoy, S. P., Senna, J. J., & Siegel, L. J. (1975). An empirical study on information usage for

  prosecutorial decision making in plea negotiations. *Am. Crim. L. Rev.*, *13*, 435.

Landes, W. M. (1971). An economic analysis of the courts. *The Journal of Law and*

  Economics, *14*(1), 61-107.

Langbein, J. H. (1978). Understanding the short history of plea bargaining. *Law & Soc'y*

  Rev., *13*, 261.

Langbein, J. H. (1979). Land without plea bargaining: How the Germans do it. *Michigan Law Review*, *78*(2), 204-225.

Lynch, T. (2003). The case against plea bargaining. *Regulation*, *26*, 24.

Lynch, M. (2018). Prosecutorial discretion, drug case selection, and inequality in federal court. *Justice Quarterly*, *35*(7), 1309-1336.

Mather, L. M. (1973). Some determinants of the method of case disposition: Decision-making by public defenders in Los Angeles. *Law & Soc'y Rev.*, *8*, 187.

McCoy, C. (2005). Plea bargaining as coercion: The trial penalty and plea bargaining reform. *Crim. LQ*, *50*, 67.

Mustard, D. B. (2001). Racial, ethnic, and gender disparities in sentencing: Evidence from the US federal courts. *The Journal of Law and Economics*, *44*(1), 285-314.

Nagel, S. S., & Neef, M. (1979). *Decision theory and the legal process*. Lexington, MA: Lexington Books.

Nagel, I. H., & Schulhofer, S. J. (1992). A tale of three cities: An empirical study of charging and bargaining practices under the federal sentencing guidelines. *S. Cal. L. Rev.*, *66*, 501.

Neubauer, D. W. (1974). Criminal justice in middle America. General Learning Press.

O'Hear, M. M. (2007). Plea bargaining and victims: From consultation to guidelines. *Marq. L. Rev.*, *91*, 323.

O'Neill, M. E. (2003). When prosecutors don't: Trends in federal prosecutorial declinations. *Notre Dame L. Rev.*, *79*, 221.

Quickel, E. J., & Zimmerman, D. M. (2019). Race, Culpability, and Defendant Plea-Bargaining Decisions: An Experimental Simulation. *Journal of Forensic Psychology Research and Practice*, *19*(2), 93-111.

Rabin, R. L. (1971). Agency criminal referrals in the federal system: An empirical study of
prosecutorial discretion. *Stan. L. Rev.*, *24*, 1036.

Redlich, A. D. (2016). The validity of pleading guilty. In *Advances in psychology and law* (pp.
1-26). Springer, Cham.

Reinganum, J. F. (1988). Plea bargaining and prosecutorial discretion. *The American Economic
Review*, 713-728.

Risinger, D. M. (2006). Innocents convicted: An empirical justified factual wrongful conviction
rate. *J. Crim. l. & Criminology*, *97*, 761.

Romain, D. M., & Freiburger, T. L. (2013). Prosecutorial discretion for domestic violence cases:
An examination of the effects of offender race, ethnicity, gender, and age. *Criminal
Justice Studies*, *26*(3), 289-307.

Ross, J. E. (2006). The entrenched position of plea bargaining in United States legal
practice. *Am. J. Comp. L.*, *54*, 717.

Rubinstein, M. L. (1980). *Alaska bans plea bargaining.* United States.

Rubio‐ Aparicio, M., Sánchez‐ Meca, J., López‐ López, J. A., Botella, J., & Marín‐ Martínez,
F. (2017). Analysis of categorical moderators in mixed effects meta-analysis: Consequences of
using pooled versus separate estimates of the residual between studies variances. *British
Journal of Mathematical and Statistical Psychology*, *70*(3), 439-456.

Schmidt, J., & Steury, E. H. (1989). Prosecutorial discretion in filing charges in domestic
violence cases. *Criminology*, *27*(3), 487-510.

Schulhofer, S. J. (1992). Plea bargaining as disaster. *The Yale Law Journal*, *101*(8), 1979-2009.

Scott, R. E., & Stuntz, W. J. (1992). Plea bargaining as contract. *Yale Law Journal*, 1909-1968.

Sharkey, P., Torrats-Espinosa, G., & Takyar, D. (2017). Community and the crime decline: The causal effect of local nonprofits on violent crime. *American Sociological Review*, *82*(6), 1214-1240.

Shermer, L. O. N., & Johnson, B. D. (2010). Criminal prosecutions: Examining prosecutorial discretion and charge reductions in US federal district courts. *Justice Quarterly*, *27*(3), 394-430.

Silveira, B. S. (2017). Bargaining with asymmetric information: An empirical study of plea negotiations. *Econometrica*, *85*(2), 419-452.

Smith, D. A. (1986). Plea Bargaining Controversy, The. *J. Crim. L. & Criminology*, *77*, 949.

Spears, J. W., & Spohn, C. C. (1997). The effect of evidence factors and victim characteristics on prosecutors' charging decisions in sexual assault cases. *Justice Quarterly*, *14*(3), 501-524.

Spohn, C. (1992). An analysis of the "jury trial penalty" and its effect on black and white offenders. *Justice professional*, *7*(1), 93-112.

Spohn, C. (2013). Racial disparities in prosecution, sentencing, and punishment. *The Oxford handbook of ethnicity, crime, and immigration*, 166-193.

Spohn, C., & Brennan, P. K. (2011). The joint effects of offender race/ethnicity and gender on substantial assistance departures in federal courts. *Race and Justice*, *1*(1), 49-78.

Spohn, C., & Fornango, R. (2009). US attorneys and substantial assistance departures: Testing for interprosecutor disparity. *Criminology*, *47*(3), 813-846.

Starkweather, D. A. (1991). The Retributive Theory of Just Deserts and Victim Participation in Plea Bargaining. *Ind. LJ*, *67*, 853.

Starr, S.B., & Rehavi, M. (2013). Mandatory sentencing and racial disparity: Assessing the role
    of prosecutors and the effects of Booker. *The Yale Law Journal*, *123*, 2- 80.

Steffensmeier, D., Kramer, J., & Streifel, C. (1993). Gender and imprisonment
    decisions. *Criminology*, *31*(3), 411-446.

Ulmer, J. T. (1997). Social worlds of sentencing: Court communities under sentencing
    guidelines. SUNY Press.

Ulmer, J. T., & Bradley, M. S. (2006). Variation in trial penalties among serious violent
    offenses. *Criminology*, *44*(3), 631-670.

Ulmer, J. T., Eisenstein, J., & Johnson, B. D. (2010). Trial penalties in federal sentencing: extra-
    guidelines factors and district variation. *Justice Quarterly*, *27*(4), 560-592.

Ulmer, J. T., Kurlychek, Megan C., & John H. Kramer. (2007). Prosecutorial discretion and
    the imposition of mandatory minimum sentences. *Journal of Research in Crime and
    Delinquency* 44:427-458.

United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics.
    Federal Justice Statistics Program: Defendants in Federal Criminal Cases Filed in
    District Court, 2014. Ann Arbor, MI: Inter-university Consortium for Political and
    Social Research [distributor], 2017-03-22. https://doi.org/10.3886/ICPSR36713.v1

United States Department of Justice. Office of Justice Programs. Bureau of Justice Statistics.
    Federal Justice Statistics Program: Defendants Sentenced Under the Sentencing Reform
    Act, 2014. Ann Arbor, MI: Inter-university Consortium for Political and Social Research
    [distributor], 2017-03-22. https://doi.org/10.3886/ICPSR36700.v

United States Sentencing Commission. (2003). *Report to the Congress: Downward Departures from the Federal Sentencing Guidelines (in Response to Section 401 (m) of Public Law 108-21)*. United States Sentencing Commission.

Valadez, M., & Wang, X. (2017). Citizenship, legal status, and federal sentencing outcomes: examining the moderating effects of age, gender, and race/ethnicity. *The Sociological Quarterly, 58*(4), 670-700.

Van Ness, D. W. (1986). *Crime and its victims*. Intervarsity Press.

Walsh, A. (1990). Standing trial versus copping a plea: Is there a penalty?. *Journal of contemporary criminal justice*, *6*(4), 226-236.

Weigel, S. A. (1988). The Sentencing Reform Act of 1984: A Practical Appraisal. *UCLA L. Rev.*, *36*, 83.

Welling, S. N. (1987). Victim participation in plea bargains. *Wash. ULQ*, *65*, 301.

Worden, A. P. (1989). Policymaking by prosecutors: The uses of discretion in regulating plea bargaining. *Judicature*, *73*, 335.

Yan, S., & Bushway, S. D. (2018). Plea discounts or trial penalties? Making sense of the trial-plea sentence disparities. *Justice Quarterly*, *35*(7), 1226-1249.

Appendix

Table 1.

Descriptive Statistics (n=29,748)

Variable	Percent (%)	Range	Mean (SD)
Substantial assistance			
Substantial assistance	12.80		
Government sponsored	8.20		
Other (reference)	79.0		
Crime type			
Violent crime (reference)	6.10		
Property crime	30.50		
Drug crime	63.30		
Criminal history		1-6	2.38(1.65)
Age		16-92	36.45(11.18)
Gender			
Male	86.00		
Female	14.00		
Education			
Not HS graduate (reference)	46.60		
HS graduate	30.40		
Some college	16.70		
College graduate	6.40		
Race			
White (reference)	23.60		
Black	20.30		
Hispanic	52.00		
Other	4.20		
Number of counts		1-240	1.38(2.20)
Dependents		0-58	1.64(1.79)
Pre-sentence detention			
In custody	74.50		
Released	25.50		
Citizenship			
Not US citizen	42.00		
US citizen	58.00		
Presumptive sentence		0-8.24	3.18(1.38)

Table 2.

Bivariate Correlations (n=29,748)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1. Substantial assistance	--															
2. Property crime	.14**	--														
3. Drug crime	-.14**	-.87**	--													
4. Black race	-.05**	.05**	-.05**	--												
5. Hispanic race	.16**	-.21**	.26**	-.53**	--											
6. Other race	-.04**	.04**	-.15**	-.11**	-.22**	--										
7. Female	.05**	-.20**	.16**	-.01**	.11**	-.05**	--									
8. Citizen	-.20**	.07**	-.13**	.37**	-.69**	.10**	-.17**	--								
9. Counts of conviction	.02**	-.08**	.80**	-.06**	.10**	-.01**	.01	-.10**	--							
10. Number of dependents	-.02**	.05**	-.07**	-.01**	-.16**	.02**	-.06**	.17**	-.02**	--						
11. Criminal history	.02**	.18**	-.13**	-.22*	.11**	.06**	-.18**	-.10**	-.01**	.03**	--					
12. In custody	.11**	-.41**	.33**	-.07**	.33**	-.10**	.25**	-.39**	.05**	-.08**	-.32**	--				
13. Presumptive sentence	.16**	.32**	-.21**	-.24**	.31**	-.01*	-.10**	-.41**	.13**	-.06**	.34**	-.11**	--			
14. High school graduate	-.07**	-.06**	.04**	.12**	-.23**	.02**	-.02**	.27**	-.01**	.08**	-.12**	-.05**	-.17**	--		
15. Some college	-.06**	.13**	-.13**	.08**	-.22**	.04**	-.13**	.23**	-.03**	.08**	.11**	-.20**	-.06**	-.30**	--	
16. College graduate	-.04**	.26**	-.23**	-.03**	-.17**	.08**	-.04**	.12**	-.09**	.06**	.18**	-.25**	.01	-.17**	-.12**	--
17. Age	.04**	-.25**	.23**	.05**	.17**	-.04**	.03**	-.10**	.07**	-.01**	-.02**	.21**	.08**	.01**	-.07**	-.23**

Note: *p < .05, **p < .01; additional multicollinearity tests were conducted and revealed no issues of multicollinearity. All VIF scores were 4 or below and all condition index scores were less than 30.

Table 3.

Multinomial Logistic Regression (n=29,748)

Variables	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	1.37***	.09	1.14	1.65	.42***	.09	.36	.50
Drug crime	4.39***	.09	3.70	5.21	1.36***	.07	1.18	1.56
Counts of conviction	1.00	.01	.99	1.01	1.0	.01	.98	1.01
Number of dependents	1.08***	.01	1.06	1.10	1.01	.01	.99	1.03
Criminal history	1.07***	.01	1.05	1.10	1.12***	.01	1.09	1.15
Presumptive sentence	.91***	.02	.88	.93	1.01	.02	.97	1.05
In custody	.65***	.04	.60	.70	.75***	.05	.68	.83
Age	1.00**	.00	1.00	1.01	1.00	.00	1.00	1.01
Male	.74***	.04	.69	.80	1.01	.06	.90	1.13
Citizen	1.08	.05	.99	1.18	.84***	.06	.75	.93
Black	.70***	.04	.65	.76	.74***	.05	.67	.83
Hispanic	.66***	.04	.60	.71	.92	.06	.82	1.02
Other Race	.78***	.08	.68	.91	1.17	.09	.99	1.39
High school graduate	1.17***	.04	1.08	1.25	1.06	.05	.97	1.16
Some college	1.24***	.04	1.14	1.35	1.04	.06	.93	1.15
College graduate	1.40***	.07	1.23	1.61	1.27**	.09	1.06	1.51
Constant	.17***	.13	--	--	.17***	.15	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.08

Table 4.

Multinomial Logistic Regression (White Race, n=8,454)

Variables	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	1.57**	.17	1.13	2.18	.53***	.14	.40	.70
Drug crime	6.43***	.16	4.74	8.72	1.36**	.12	1.08	1.72
Counts of conviction	1.00	.01	.98	1.01	1.00	.01	.99	1.02
Number of dependents	1.10***	.02	1.06	1.14	1.01	.03	.96	1.06
Criminal history	1.05**	.02	1.01	1.08	1.09***	.02	1.04	1.14
Presumptive sentence	.83***	.03	.79	.88	.98	.04	.91	1.05
In custody	.77***	.07	.68	.88	.85	.09	.71	1.02
Age	.99**	.00	.99	1.00	1.00	.00	.99	1.01
Male	.79***	.06	.70	.89	1.11	.09	.93	1.33
Citizen	1.04	.14	.79	1.38	1.01	.19	.70	1.47
High school graduate	1.10	.07	.95	1.27	1.18	.10	.97	1.43
Some college	1.19*	.08	1.01	1.39	1.08	.11	.87	1.35
College graduate	1.33**	.11	1.07	1.65	1.48**	.14	1.12	1.96
Constant	.27***	.26	--	--	.15***	.30	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.12

Table 5.

Multinomial Logistic Regression (Black Race, n=8,104)

Variables	Substantial Assistance				Government Sponsored Assistance			
	RRR	S.E.	95% CI Lower	Upper	RRR	S.E.	95% CI Lower	Upper
Property crime	.61***	.15	.46	.81	.47***	.19	.32	.68
Drug crime	1.70***	.13	1.32	2.18	1.60**	.15	1.18	2.16
Counts of conviction	1.00	.01	.98	1.02	.92**	.03	.87	.98
Number of dependents	1.07***	.01	1.04	1.10	.99	.02	.95	1.03
Criminal history	1.11***	.02	1.07	1.15	1.15***	.02	1.10	1.21
Presumptive sentence	.81***	.03	.76	.86	.98	.04	.90	1.06
In custody	.60***	.07	.52	.70	.78*	.10	.64	.95
Age	1.01***	.00	1.01	1.02	1.00	.00	1.0	1.01
Male	.67***	.09	.57	.80	.83	.13	.64	1.08
Citizen	1.09	.15	.82	1.45	.88	.20	.60	1.30
High school graduate	1.14	.07	.99	1.30	1.11	.09	.94	1.32
Some college	1.16	.08	.99	1.36	1.15	.11	.93	1.42
College graduate	1.85***	.14	1.40	2.44	1.13	.25	.70	1.85
Constant	.34***	.26	--	--	.13***	.35	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.08

Table 6.

Multinomial Logistic Regression (Hispanic Race, n=11,551)

Variables	Substantial Assistance				Government Sponsored Assistance			
	RRR	S.E.	95% CI Lower	95% CI Upper	RRR	S.E.	95% CI Lower	95% CI Upper
Property crime	1.25	.23	.79	1.97	.29***	.22	.19	.44
Drug crime	3.53***	.22	2.31	5.41	1.52*	.18	1.08	2.15
Counts of conviction	1.06***	.02	1.03	1.09	1.03	.02	.99	1.08
Number of dependents	1.09***	.01	1.06	1.11	1.03	.02	1.00	1.06
Criminal history	1.07***	.02	1.03	1.11	1.14***	.02	1.10	1.19
Presumptive sentence	1.05	.03	1.00	1.10	1.08*	.03	1.02	1.14
In custody	.61***	.07	.53	.70	.62***	.09	.52	.74
Age	1.01***	.00	1.00	1.01	1.00	.00	1.0	1.01
Male	.86*	.07	.74	.99	.87	.09	.73	1.04
Citizen	1.09	.06	.97	1.21	.77***	.07	.67	.87
High school graduate	1.25***	.06	1.11	1.40	1.02	.07	.89	1.17
Some college	1.28***	.08	1.11	1.49	1.03	.09	.86	1.23
College graduate	1.28	.15	.96	1.70	.96	.19	.66	1.41
Constant	.06	.27	--	--	.14	.25	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.06

Table 7.

Multinomial Logistic Regression (Male, n=24,835)

Variables	Substantial Assistance				Government Sponsored Assistance			
	RRR	S.E.	95% CI Lower	95% CI Upper	RRR	S.E.	95% CI Lower	95% CI Upper
Property crime	1.55***	.11	1.26	1.92	.42***	.10	.35	.51
Drug crime	4.84***	.10	3.99	5.86	1.40***	.08	1.21	1.62
Counts of conviction	1.01	.01	1.00	1.02	1.00	.01	.99	1.02
Number of dependents	1.08***	.01	1.06	1.10	1.02	.01	.99	1.04
Criminal history	1.08***	.01	1.05	1.10	1.12***	.01	1.10	1.15
Presumptive sentence	.90***	.02	.87	.93	1.01	.02	.97	1.05
In custody	.61***	.05	.56	.66	.75***	.06	.67	.84
Age	1.01***	.00	1.00	1.01	1.00	.00	1.00	1.01
Citizen	1.03	.05	.94	1.14	.82***	.06	.73	.92
Black	.69***	.05	.64	.76	.71***	.06	.63	.80
Hispanic	.70***	.05	.64	.77	.89*	.06	.79	1.00
Other race	.81*	.09	.68	.96	1.25**	.09	1.05	1.50
High school graduate	1.22***	.04	1.13	1.33	1.07	.05	.97	1.18
Some college	1.30***	.05	1.18	1.43	1.04	.06	.93	1.18
College graduate	1.46***	.08	1.25	1.69	1.32**	.10	1.08	1.60
Constant	.11***	.15	--	--	.17***	.15	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.08

Table 8.

Multinomial Logistic Regression (Female, n=4,913)

Variables	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	.75	.21	.50	1.13	.38***	.27	.23	.64
Drug crime	2.58***	.20	1.74	3.83	1.19	.25	.73	1.93
Counts of conviction	.99	.01	.97	1.01	.97	.03	.91	1.03
Number of dependents	1.06**	.02	1.01	1.11	.99	.04	.92	1.06
Criminal history	1.12***	.03	1.06	1.18	1.08*	.04	1.00	1.17
Presumptive sentence	.93**	.03	.87	.99	.98	.05	.90	1.07
In custody	.81**	.08	.69	.96	.79*	.12	.62	1.00
Age	.99	.00	.99	1.00	1.01*	.01	1.00	1.02
Citizen	1.48**	.13	1.14	1.92	.95	.16	.69	1.31
Black	.91	.09	.76	1.10	.93	.15	.69	1.23
Hispanic	.55***	.10	.46	.67	1.04	.13	.80	1.35
Other race	.76	.15	.57	1.01	.83	.22	.54	1.28
High school graduate	.95	.09	.80	1.13	1.00	.13	.78	1.29
Some college	1.01	.10	.84	1.21	.99	.14	.76	1.30
College graduate	1.14	.15	.84	1.55	1.06	.22	.69	1.65
Constant	.31***	.30	--	--	.16***	.39	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.10

Table 9.

Multinomial Logistic Regression (Not High School Graduate, n=10,989)

	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
Variables	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	1.33	.18	.94	1.89	.33***	.18	.23	.47
Drug crime	3.62***	.16	2.66	4.92	1.31*	.13	1.01	1.69
Counts of conviction	1.03*	.01	1.01	1.06	.99	.02	.95	1.04
Number of dependents	1.07***	.01	1.04	1.10	1.03	.02	1.00	1.06
Criminal history	1.04*	.02	1.01	1.08	1.13***	.02	1.08	1.17
Presumptive sentence	1.08**	.03	1.02	1.14	1.04	.03	.98	1.11
In custody	.60***	.08	.52	.70	.75**	.10	.62	.91
Age	1.01***	.00	1.00	1.01	1.00	.00	1.00	1.01
Citizen	1.08	.07	.95	1.24	.85*	.08	.73	.99
Male	.60***	.07	.52	.69	.91	.10	.75	1.11
Black	.63***	.08	.54	.75	.76**	.11	.62	.95
Hispanic	.62***	.08	.53	.72	1.03	.10	.84	1.27
Other race	.82	.15	.60	1.11	1.47*	.17	1.06	2.04
Constant	.13***	.23	--	--	.15***	.25	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.07

Table 10.

Multinomial Logistic Regression (High School Graduate, n=10,702)

Variables	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	1.10	.15	.82	1.47	.50***	.14	.38	.66
Drug crime	4.22***	.13	3.26	5.46	1.39**	.11	1.13	1.73
Counts of conviction	1.03**	.01	1.01	1.06	.99	.02	.95	1.03
Number of dependents	1.10***	.01	1.07	1.13	.99	.02	.96	1.03
Criminal history	1.11***	.02	1.07	1.14	1.14***	.02	1.09	1.18
Presumptive sentence	.84***	.03	.80	.89	.98	.03	.91	1.04
In custody	.68***	.06	.60	.77	.80**	.08	.68	.94
Age	1.01**	.00	1.00	1.01	1.00	.00	1.00	1.01
Citizen	1.01	.09	.85	1.20	.77**	.11	.63	.95
Male	.74***	.07	.65	.85	1.05	.09	.88	1.26
Black	.66***	.06	.58	.74	.75***	.08	.64	.88
Hispanic	.69***	.07	.60	.79	.89	.09	.76	1.06
Other race	.60***	.13	.46	.78	1.10	.13	.85	1.43
Constant	.24***	.21	--	--	.19	.24	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.09

Table 11.

Multinomial Logistic Regression (Some College, n=6,038)

Variables	Substantial Assistance				Government Sponsored Assistance			
			95% CI				95% CI	
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
Property crime	1.61*	.20	1.09	2.37	.35***	.19	.25	.51
Drug crime	4.96***	.19	3.43	7.16	1.28	.15	.95	1.73
Counts of conviction	.99	.02	.96	1.02	.98	.02	.94	1.03
Number of dependents	1.04*	.02	1.01	1.09	1.01	.03	.96	1.07
Criminal history	1.06**	.02	1.01	1.11	1.10***	.03	1.04	1.16
Presumptive sentence	.86***	.03	.81	.92	1.01	.04	.92	1.10
In custody	.66***	.08	.57	.77	.77*	.11	.62	.95
Age	1.00	.00	1.00	1.01	1.00	.00	1.00	1.01
Citizen	.93	.11	.75	1.16	.95	.15	.71	1.26
Male	.84**	.08	.73	.98	.98	.11	.79	1.22
Black	.71***	.08	.61	.83	.83	.11	.67	1.03
Hispanic	.63***	.09	.52	.75	.96	.12	.75	1.22
Other race	.81	.15	.60	1.08	1.05	.19	.73	1.51
Constant	.29***	.28	--	--	.17***	.32	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.09

Table 12.

Multinomial Logistic Regression (College Graduate, n=2,019)

Variables	Substantial Assistance				Government Sponsored Assistance			
	RRR	S.E.	Lower	Upper	RRR	S.E.	Lower	Upper
			95% CI				95% CI	
Property crime	3.42*	.53	1.21	9.68	.56	.36	.28	1.14
Drug crime	9.59***	.53	3.39	27.16	1.67	.36	.83	3.36
Counts of conviction	1.00	.01	.98	1.01	1.00	.01	.99	1.02
Number of dependents	1.12**	.04	1.04	1.20	.96	.06	.86	1.07
Criminal history	1.16*	.06	1.03	1.32	.93	.10	.77	1.14
Presumptive sentence	.74***	.05	.67	.81	1.01	.07	.88	1.15
In custody	.79	.15	.59	1.06	.56**	.21	.37	.84
Age	.98**	.01	.97	1.00	.99	.01	.98	1.00
Citizen	1.45*	.19	1.01	2.08	.80	.24	.50	1.27
Male	1.21	.15	.90	1.62	1.24	.22	.81	1.89
Black	1.24	.15	.93	1.67	.52**	.25	.32	.86
Hispanic	.78	.18	.55	1.10	.59*	.25	.37	.96
Other race	1.19	.20	.81	1.76	1.06	.26	.63	1.77
Constant	.17**	.64	--	--	.45	.61	--	--

Note: *p < .05, **p < .01, ***p < .001; Nagelkerke=.13

Caitlin M. Howley

EDUCATION

University of Mississippi   2018
      B.S. Criminal Justice (*Summa Cum Laude)*
      Emphasis: Homeland Security
      Minor: Psychology

RESEARCH POSITIONS HELD

Keywords/Research Interests: Prosecutorial discretion; Procedural Justice; Correctional programing; Sentencing

Graduate Research Assistant, University of Mississippi   2018-present
      Department of Legal Studies
      Advisor/Mentor: Dr. Kimberly Kaiser
        → Compiled literature on correctional officer turnover, undergraduate research and self-efficacy, community-based participatory research, problem-solving courts, community resilience, procedural justice, long-term segregation effects on re-entry programs, and how fuzzy cognitive mapping can be used to explain judicial and prosecutorial decision making.
        → Assembled and administered surveys for correctional programming research.
        → Completed data entry and data analysis of correctional programming data.

Graduate Research Assistant, University of Mississippi   2018-present
      Department of Legal Studies
      Advisor/Mentor: Dr. Francis Boateng
        → Compiled literature on social media and the police, citizen demeanor and police decision-making, and police K-9 treatment after service.
        → Collaborated on an article publication. My responsibilities included the introduction, literature review, and methodology sections.

Graduate Research Assistant, University of Mississippi
      Department of Legal Studies   Fall 2018-Spring 2019
      Advisor/Mentor: Dr. Linda Keena

        → Compiled literature on how neurobiology relates to criminal behavior, correctional programing, and correctional officer turnover.
        → Assembled and administered surveys for correctional programming research.

→ Completed data entry and data analysis of correctional programming data.

Undergraduate Research Assistant, Lindenwood University
      Department of Psychology   Spring 2016
      Advisor/Mentor: Dr. Nohara-LeClair
          → Gathered and recorded data pertaining to upper classman's music and memory research.
          → Assisted with the preliminary stages of data analysis.

PUBLICATIONS

PEER-REVIEWED JOURNAL ARTICLES

1. Boateng, F. D., & Howley, C. M. (2019). The verdict is in: How did they decide? Using drivers' self-reported data to understand officers' decision making during traffic stop encounters. *Psychology, Crime, and Law,* 1-16.

PEER-REVIEWED MANUSCRIPTS (IN PREPARATION/PROGRESS)

1. Boateng, F., Howley, C., Taylor, C., Life is not fair; I was a hero while in office but now I am a nobody: An examination of how retirees K-9 dogs are treated.

OTHER PUBLICATIONS

1. Supplementary teaching materials for: Kattelman, K., Chouraeshkenazi, M. M., & Boateng, F. (2018). *Terrorism: Strategic and methodological approaches.* San Diego, CA: Cognella Academic Publishing.

PRESENTATIONS

1. Boateng, F. D., & Howley, C. M. (2019, November). *The verdict is in: How did they decide? Using drivers' self-reported data to understand officers' decision making during traffic stop encounters.* The American Society of Criminology Conference, California, USA.

TEACHING EXPERIENCE

Keywords/Teaching Interests: Criminal Justice Communications and Introduction to Criminal Justice

Adjunct Instructor, University of Mississippi   Spring 2020
      Department of Legal Studies
      Courses: Criminal Justice Writing (online) and Introduction to Homeland Security (online)

Designed and created online courses to teach undergraduate students in the criminal justice program at the University of Mississippi

Graduate Teaching Assistant, University of Mississippi
Department of Legal Studies   2018-present
Courses: Foundations of Terrorism (Fall 2018); Homeland Security Law (Fall 2018); Criminal Law (Fall 2018); Criminal Justice Communications (Spring 2019, Fall 2019); Introduction to Criminal Justice (Fall 2019)
Attended lectures, held office hours, assisted with creating powerpoint lectures and exam questions, proctored and graded exams, graded assignments, helped organize course layouts, and became certified to teach online classes at the University of Missisippi.

OTHER RELEVANT WORK EXPERIENCE

St. Charles County Alternative Courts
Intern   Spring 2016
→Provided administrative assistance to the judge and clerk
→Gained experience preparing daily dockets
→Learned how to collaborate and work effectively in a group setting
→Utilized AVERSYS database software and Case.net (Missouri state courts automated case management system)

PROFESSIONAL SERVICE

Graduate Student Representative for Faculty Search Committee   Fall, 2019
3 Minute Thesis Competitor   Fall, 2019

AWARDS

Robert T. Warren Outstanding Criminal Justice Student Award   Spring 2016
Taylor Medal   Spring 2018

PROFESSIONAL AFFILIATIONS/MEMBERSHIPS

Alpha Phi Sigma (Vice President 2018-present)
Psi Chi (Vice President 2017-2018)
Phi Kappa Phi
Golden Key International Honors Society
Gamma Beta Phi
Order of the Sword and Shield
National Society of Collegiate Scholars
Phi Eta Sigma
Alpha Lambda Delta

SPECIAL SKILLS/PROFICIENCES

SPSS
Microsoft Office
Proficient in conversational Chinese
MAC OSX
AVERSYS
Case.net

CERTIFICATIONS

CITI
→Basic Course
→International Research
→Research with Children
→Research with Prisoners
→Responsible Conduct of Research
FEMA
→IS-00042: Social Media in Emergency Management
→IS-00100: Introduction to Incident Command System
→IS-00200c: Basic Incident Command System for Initial Response
→IS-00230.d: Fundamentals of Emergency Management
→IS-00235: Emergency Planning
→IS-00317: Introduction to CERT
→IS-02200: Basic Emergency Operations Center Functions
Future FBI Agents in Training Program
→Completion
OPI: CHINESE PROFICIENCY
→Intermediate-Mid level

VOLUNTEER

Volunteer Instructor
    Marshall County Correctional Facility   Fall 2018-present
     →Assisted in teaching restorative justice and entrepreneurship courses to members of
the prison population
     →Taught a Chinese language course to members of the prison population

Volunteer Note-taker
    University of Mississippi   Fall 2016-present
     →Took detailed course notes for students with disabilities.