

UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

IS BIAS IN CRIMINAL JUSTICE DECISION-MAKING REPLICATED AT POST-
SENTENCING? AN EXAMINATION OF INFRACTIONS AND SANCTIONS IN A
SOUTHERN STATE PRISON SYSTEM

A DISSERTATION

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

Degree of

DOCTOR OF PHILOSOPHY

By

RENÉE MARIE PHILIPP

Norman, Oklahoma

2018

IS BIAS IN CRIMINAL JUSTICE DECISION-MAKING REPLICATED AT POST-
SENTENCING? AN EXAMINATION OF INFRACTIONS AND SANCTIONS IN A
SOUTHERN STATE PRISON SYSTEM

A DISSERTATION APPROVED FOR THE
DEPARTMENT OF SOCIOLOGY

BY

Dr. B. Mitchell Peck, Chair

Dr. David A. McLeod

Dr. Trina L. Hope

Dr. Cyrus Schleifer

Dr. Susan F. Sharp

© Copyright by RENÉE MARIE PHILIPP 2018
All Rights Reserved.

Acknowledgements

I express my sincerest gratitude to Dr. Susan F. Sharp for her unwavering support and encouragement in my educational and professional career. She not only helped to develop my academic interests in race and gender equity, particularly in the treatment of criminal offenders, but she also served as an advocate for my pursuing a career in criminal justice research. I would not be where I am today without her. Additionally, I am grateful to Dr. B. Mitchell Peck who I credit with cultivating my passion for statistics. He has truly been a mentor to me, and his dedication to this process (and to his students) was evident in his sacrificing “beach time” in Hawaii to talk through the complexities of generalized linear mixed models. I also extend my appreciation to Dr. Trina L. Hope for her candid approach to teaching; to Dr. Cyrus Schleifer for lending his statistical prowess and constructive feedback on this research; and to Dr. David A. McLeod for sharing important insights throughout the process. Lastly, I would also like to thank my family and friends for their constant reassurance that I *can* do this and for their understanding along the way.

Table of Contents

Acknowledgements	iv
List of Tables	viii
List of Figures.....	ix
Abstract.....	x
Chapter 1: Introduction.....	1
Chapter 2: Theoretical Framework.....	7
Focal Concerns Perspective.....	8
Chapter 3: Literature Review	17
Race Relations in the United States.....	17
Race and Ethnicity.....	18
Historical Racism	19
New Racism and Protection of the Social Order	20
Consequences of Racism.....	22
Gender as a Social Construct.....	24
Gender and Sex.....	25
Individual-Level Conceptualizations of Gender	26
Interactional-Level Conceptualizations of Gender.....	27
Structural-Level Conceptualizations of Gender	28
Violation of Gender Norms	30
Group Bias in the U.S. Criminal Justice System.....	31
Arrest	34
Prosecution	38

Conviction and Sentencing.....	40
Post-sentencing: Infractions	46
Post-sentencing: Sanctions	48
Chapter 4: Statement of Problem and Research Questions	54
Chapter 5: Methods	58
Data	58
Samples.....	59
Data Structure.....	63
Dependent Variables	63
Independent Variables	65
Control Variables.....	65
Level 1: Infraction	66
Level 2: Inmate.....	68
Level 3: Facility.....	71
Analytical Approach.....	71
Missing Data.....	76
Chapter 6: Infractions	77
Research Question 1: Examining Who Receives an Infraction.....	77
Sample Characteristics	78
Findings	79
Chapter 7: Sanctions.....	81
Research Question 2: Examining Use of Earned Credit Sanctions	81
Sample Characteristics	82

Findings	84
Research Question 3: Examining Amount of Earned Credits Deducted.....	91
Sample Characteristics	92
Findings	95
Research Question 4: Examining Use of Maximum Earned Credit Penalty	101
Sample Characteristics	102
Findings	105
Summary of Sanction Findings	110
Chapter 8: Discussion and Conclusion.....	114
References	124
Appendix A: Infractions	135
Appendix B: Infraction Sanctions	140
Appendix C: Crime Designations.....	141

List of Tables

Table 1. Race/Ethnicity Disparity Matrix	35
Table 2. Gender Disparity Matrix	35
Table 3. Descriptive Statistics for RQ.1	78
Table 4. Logistic Regression Estimates of Receiving an Infraction	80
Table 5. Descriptive Statistics for RQ.2.....	83
Table 6. RQ.2 GLMM Estimates for Receiving an Earned Credit Sanction	86
Table 7. Descriptive Statistics for RQ.3	93
Table 8. RQ.3 GLMM Estimates for Quantity of Earned Credits Deducted	96
Table 9. Descriptive Statistics for RQ.4.....	103
Table 10. RQ.4 GLMM Estimates for Receiving the Maximum Credit Penalty	106

List of Figures

Figure 1. Cross-classified Relationship between Infractions, Inmates, and Facilities ... 73

Abstract

An abundance of research suggests that demographic differences in criminal outcomes are prevalent at many stages of the criminal justice system (e.g., arrest, prosecution, conviction, and sentencing). For instance, males are 1.7 times more likely than females to be arrested, and they are also 2.5 times more likely than females to receive a prison sentence. Disparities are also evident by race. Blacks make up 13 percent of the U.S. population, but account for 42 percent of those imprisoned. Blacks also tend to receive longer prison sentences than white offenders. Research has suggested that legal factors (e.g., crime type) cannot always account for these group disparities and that extralegal factors such as race and gender impact the legal decision-making process as well. Although much is known about how race and gender assert an influence on various justice outcomes, there remains a gap in the literature regarding the replication of biased decision-making at a later stage of the criminal justice process: post-sentencing.

Using a sample of 2012 and 2013 prisoners released from a Southern state prison, this study examines the influence of an inmate's race and gender on prison officials' decision to issue an infraction as well as the influence of these extralegal factors on the type of sanction prison officials impose for the infraction. Findings from a series of logistic regression and generalized linear mixed models demonstrate that there are race and gender disparities in who receives a formal prison infraction. Sanction outcomes for these formal infractions, however, suggest that race and gender do not assert an influence. Rather, factors that account for variation in sanction outcomes are related to the characteristics of the infraction, characteristics that describe why the inmate is serving time in prison, and the security level of the sanctioning facility.

Chapter 1: Introduction

Unequal treatment in the criminal justice system is a topic of discussion that has ebbed and flowed over the years. However, recently it has reclaimed mainstream interest, particularly with regard to race and gender differences in outcomes at all stages of the criminal justice process (e.g., arrest, prosecution, conviction, and sentencing). In particular, high-profile, racially charged events have inundated the storyline, and a recent case in 2016 illustrates this point. As many may recall, a Minnesota officer pulled over a 32-year-old black male driver because of his vehicle having a broken tail light. In the car sat Philandro Castile, the driver, as well as Castile's girlfriend and her 4-year-old daughter. After a brief altercation between the officer and Castile, the officer discharged seven gunshots into Castile, fatally wounding him. The reasoning for this violent action was the officer falsely perceived Castile as reaching for a hand gun. While this altercation was taking place, Castile's girlfriend live streamed the entire incident on the Internet, demonstrating that the officer shot her boyfriend for what seemed like no apparent reason. The officer told investigators that he thought Castile had a gun in his hand and that there was no other option but to shoot him. The outcome of this case resulted in a jury acquittal of the officer for the crime of manslaughter. Given this turn of events, we are left with the questions: Did Castile's race play any role in the officer's decision to react in a way that ultimately took the life of an innocent man? Additionally, did the officer's extralegal characteristics play a role in his acquittal?

Unfortunately, viral images displaying authorities using excessive and oftentimes deadly force on black Americans, like that of Philandro Castile, is a theme that has emerged in the 21st century. Cases like Michael Brown, Trayvon Martin, and Eric Garner,

to name a few, reaffirm that race has taken a new position in the mainstream dialogue surrounding crime and injustice in America and illustrate that bias in decision-making occurs at all stages of the process, even at points of first contact. However, this disparate handling is not isolated to just race; it is also evident by gender. In 2009, a young Native American female in Oklahoma named Patricia Spottedcrow sold a small amount of marijuana worth less than \$20 to a police informant, a drug transaction that occurred while her children were present. She was arrested and charged with distribution of a controlled dangerous substance. After accepting a plea deal, Spottedcrow was sentenced to 10 years in prison. Under Oklahoma state law, a crime of this level was punishable by a term of imprisonment of two years to life, but could have been subject to the provision of a suspended sentence if the conviction was for a first offense.¹ Given that Spottedcrow had no prior convictions, her 10-year sentence took to the front pages of news outlets and left some questioning what led to this decision and the justness of this treatment.

I use the specific cases of Philandro Castile and Patricia Spottedcrow to serve as a point, but not a narrow one. Whether it is race, gender, age, sexuality, religion, or national origin, all groups of individuals are susceptible to unequal treatment. In the case of Castile, his race elicited a source of fear in the Minnesota officer that arguably contributed to his reaction to discharge the seven fatal gun shots. In the case of Spottedcrow, one can only speculate on the reason as to why the judge imposed such a harsh sentence for her first offense. Was it her violation of gender norms, her minority racial status, or something still yet unknown? When images of individuals like the two stories presented herein stream through national and local media outlets, this can

¹ Penalties for distribution of a controlled dangerous substance are listed in Oklahoma law under 63 O.S. § 2-401.

contribute to a cultural reproduction of race and gender discrimination (Barlow 1998; Entman 1992; Entman 2006). This discrimination may serve to reinforce the stereotypes we have of others who are different than us, thereby enhancing an in-group/out-group mentality. However, group discrimination is not a new concept; rather, it has been around for centuries (Omi and Winant 2005; Smedley 2007).

Unjust criminal detainment and criminal sentencing are not the beginning nor the end of the conversation. Similar stories of disparate treatment happen at *all* levels of the criminal justice system – from arrest, to prosecution, to conviction, to sentencing, to post-sentencing. Although events like those which unfolded for Castile and Spottedhorse have been distributed by the media, there are many more hidden injustices that occur on a daily basis. Many of these injustices remain unseen by the general public, especially those which do not elicit such a moral outrage. Whether the event is high-profile or masked by the everyday happenings of the seemingly normal American life, unfair treatment for certain groups is ever-present.

In this research, I focus my attention on a related problem, but one that is embedded much deeper in the criminal justice process. It is not as powerful of an image as the cases to which I referred; rather, it is one of the many daily injustices to which the general public are blinded. And, although it may not necessarily appear in the mainstream dialogue on crime and punishment in the United States, its absence is not suggestive of its level of importance. The related problem to which I refer is the possible disparate group treatment at post-sentencing. Post-sentencing in this study refers to the sentencing for prison rule violations after an inmate is under custodial punishment. Prior studies have shown that there is disparate treatment of blacks at every stage of the criminal justice

system, including: stops and searches, arrests, prosecutions and plea negotiations, trials, and sentencing (Mauer 2011; Rovner 2014). Regarding gender, females are typically treated in a lenient manner when compared to males, and their lower representation at every stage of the justice system serves as support for this notion (Goulette et al. 2015). However, even in the face of extensive information on the disproportionate group representation throughout the justice system, there remains a substantial gap in the literature with regard to disparate rates at one specific stage of the criminal justice process: post-sentencing. In particular, this research evaluates whether or not extralegal factors such as race or gender assert an influence on the frequency at which post-sentencing rule violations (i.e., prison infractions) are issued and on the type of sanctioning an inmate receives for these rule violations (i.e., removal of earned credits). Thus, the overarching research questions this study aims to answer are: Does race or gender influence prison officials' decision to issue a prison infraction? Do these same characteristics influence the type of sanction a prison official issues for the prison infraction? Although there are many types of sanctions for post-sentencing rule violations, the removal of earned credits may have more severe implications for the offender, the operations of the institution, and the public, and is why it is the sanction of focus in this study.

This research is grounded in the Focal Concerns Perspective of sentencing (Steffensmeier et al. 1998) and is informed by the Selective Chivalry Thesis (Reckless and Kay 1967; Moulds 1978). The Focal Concerns Perspective explains disparities in criminal sentencing on the basis that authorities of the criminal justice system are able to exercise discretion in their decision-making, and it is this discretion that contributes to

disparate group outcomes. The Selective Chivalry Thesis supplements this perspective as it speaks to the conditioning effect of one's adherence to stereotypical gender roles and its influence on the decision-making of authorities. These schools of thought guide this study's examination of prison infractions and subsequent sanctions to understand whether or not there is a replication of disparate outcomes for specific race and gender groups, outcomes which could have (unanticipated) consequences for the length of time an offender spends in prison.

This research adds to the study of crime, criminal justice, and corrections in two primary ways. First, it more fully explains (disparate) group outcomes visible throughout one's journey through the criminal justice system. Scholars and activists alike must work to uncover the cumulative race and gender disparity in criminal processes, one that I hypothesize to be larger than previous estimates indicate. Second, the replication of disparate group treatment at post-sentencing could carry both fiscal and social impacts that have been previously unrealized. These impacts may be significant considerations, as America's use of prisons exceeds any other country in the world (Walmsley 2016), and existing policies that affect an inmate's time to serve behind bars may have an undue contribution to this problem. Additionally, prison overcrowding is of high concern, particularly in the Southern state corrections system that is of focus in this study. Even more concerning is that certain groups of prisoners could have a disproportionate share of total earned credits deducted. Not only would this have an impact on the number of days an inmate served behind bars, which points to the immediate financial implications,²

² The Vera Institute of Justice's report "The Price of Prisons: Examining State Spending Trends 2010-2015" finds that the annual cost per inmate is \$33,274. This annual cost, based on data from 45 states, equates to an average cost of \$91.16 per day, per inmate.

but, more deeply, it could impact the inmate's social future via its increased institutionalization of an individual.³ Although disparate race or gender treatment at post-sentencing may not carry with it the same immediate visceral reaction that onlookers experienced with the injustice that occurred for Philandro Castile or Patricia Spottedhorse, it does not diminish the effect this action has on the criminal offender. It also does not downplay the implications that race and gender bias have when extended beyond sentencing into post-sentencing situations.

In the subsequent chapters, I provide background support for this research as well as detail the trajectory of this study. To begin, Chapter 2 presents the theoretical framework used in this research to explain why there exist race and gender disparities in society and, more specifically, in the criminal justice system. Chapter 3 reviews extant literature on the construction and consequences of race and gender, paying close attention to the role each plays individually in the social dynamic of our society. I also connect how the perception of race and gender shapes group disparities in the criminal justice system at all stages of the process, from arrest to post-sentencing. Chapter 4 explicitly states the research questions this study aims to answer, and Chapter 5 outlines the methodological approach I use to accomplish this task. Chapter 6 and Chapter 7 describe the findings from the analyses. Chapter 8 discusses those results, providing commentary on how this research adds to and can influence future criminal justice policies related to treatment of demographic groups to which individuals belong.

³ Institutionalization is the experience of prison "encouraging criminal orientation among inmates" (Innes 1997: 159). It refers to "the assimilation of inmates into an inmate society within which a premium is placed on antisocial attitudes and behavior that tend to undermine any efforts of correctional practitioners to encourage prosocial change." (Thomas and Peterson, 1975:17).

Chapter 2: Theoretical Framework

Many criminological theories examine disparate outcomes in the criminal justice system from an offender-centric perspective, meaning individual-level factors are the focal reason for one's criminal behavior. For instance, some theorists have argued that the gender gap in crime is the result of females being more strongly bonded to conventional society, which makes them less prone to engage in deviance (Hirschi 1969). Other individual-level perspectives argue that females oftentimes internalize emotional responses to stressors, which mediate the relationship between strain and criminal coping (Agnew 1992; Agnew 2006). Community-level factors such as neighborhood disorganization, on the other hand, have also been named as predictors of criminal activity (Shaw and McKay 1942). This neighborhood disorganization accounts for some of the overrepresentation of racial minorities in the criminal justice system, as these disorganized neighborhoods oftentimes concentrate poverty and socially isolate racial minorities from the larger society (Massey and Denton 1993), factors which have been shown to be highly correlated with black violent crime (Shihadeh and Flynn 1996). Lastly, some criminological theories take a structural approach, focusing on the design of the criminal justice system as a contributing factor to disparate rates of incarceration. For instance, the system portrays a biased view against the poor at every stage due its concentration on (or prosecution of) predatory acts of the poor and its de-emphasis on predatory acts of the well-off (Reiman and Leighton 2012). Policies like the War on Drugs have also been a large contributor to recent changes in the gender representation in the system (Chesney-Lind 2006; Merolla 2008; Sharp 2014). Congruent with this thinking are arguments that it is not the just the offender's actions that explain this pattern,

but rather society's response to the offender's actions that hold the answer. In this regard, the drivers of disparate group representation in the criminal justice system are viewed to be policies and practices, implicit bias in decision-making, and structural disadvantages in communities with a high density of racial minorities, which are associated with higher rates of offending and arrest (Nellis 2016).

With this perspective in mind, this research focuses on reactions to, rather than the etiology of, criminal behavior. Not only does this study examine race differences in who received a prison infraction and the resulting sanctions for this infraction, but it also evaluates these same outcomes for males and females. The primary theory used to frame this study is the Focal Concerns Perspective, but I also supplement this theory with the Selective Chivalry Thesis. As I describe in the below section, the Focal Concerns Perspective places an emphasis on criminal justice authorities' decision-making as contributors to group disparities in a variety of outcomes. This perspective fits well with the current study, as post-sentencing is merely an additional stage in the criminal processing of individuals. I first place an emphasis on its application to race then proceed into a discussion of its application to gender. It is here, the application to gender, where I begin to weave in the tenets of the Selective Chivalry Thesis.

Focal Concerns Perspective

As mentioned by Sampson and Lauritsen (1997), Hagan (1987:426) asks an important question, "Why has race so preoccupied us in the study of the criminal justice system?" In some instances, research has approached this topic through the lens of Conflict Theory. A major tenet of Conflict Theory is that groups which pose a threat to

middle- and upper-class hegemony are likely to be subjected to social control because they are viewed as a threat to the ruling classes (Sampson and Lauritsen 1997). This proposition, then, suggests that criminal law serves as an instrument to protect the interests of the powerful and the elite, where punishment is based on extralegal variables (e.g., race and gender) rather than on the legal facts of the case. A reliance on extralegal factors over legal factors may point to discrimination. A review of extant research on the role of discrimination in disparate outcomes in the criminal justice system, however, has in more recent years shown only minimal support for this simplistic notion (Hagan 1974; Hagan 1987; Petersilia 1985; Sealock et al. 1998; Steffensmeier et al. 1993; Tillyer and Engel 2013). The most compelling evidence in support of discrimination as a cause of (race) disparities is the finding that discriminatory attitudes are the result of the social construction of a “moral panic” (Tittle and Curran 1988). These moral panics are the manifestation of a perceived group threat. Sampson and Lauritsen (1997:362) conclude that, although “racial discrimination emerges some of the times at some stages of the system in some locations...there is little evidence that racial disparities reflect systematic, overt bias on the part of criminal justice decision makers.” This limited, time-bound support for overt racial discrimination in criminal justice decision-making leads me to examine other theoretical frameworks that would better guide our thinking on why there remain, to this day, race and gender disparities throughout all stages of the criminal justice system.

The Focal Concerns Perspective explains disparities in criminal sentencing on the basis that authorities of the criminal justice system are able to exercise discretion in their decision-making. Drawing from prior work by Miller (1958), Steffensmeier et al. (1998)

assert that there are “focal concerns” that judges use in decision-making in criminal matters. These focal concerns pay attention to attribution (or qualities they associate with the offender) rather than overt racial discrimination. Although the original framework pointed to disparities in sentencing among female defendants, others have expanded its framework to include explanations of race disparities as well (Hartley et al. 2007; Sharp et al. 2000).

The focal concerns framework suggests that judicial decision makers rely on three key factors in determining appropriate sentencing for an offender’s crime: the offender’s *blameworthiness*; the *protection of the community*; and *practical constraints and consequences* of the punishment. Oftentimes judges are asked to make rational sentencing decisions even though they have incomplete information on the case and on the offender. Judges experience “bounded rationality” and, thus, tend to develop patterned responses on an offender’s disposition toward future criminal behavior based on attributions that can be linked to extralegal factors (Albonetti 1991). As a result, these patterned responses in decision-making become a perceptual shorthand, or a supposition, to assist decision-makers in settling on the best verdict for all parties involved. They come from past experiences, stereotypes, and prejudices. Steffensmeier et al. (1998) indicated that the shorthand can be linked to race, gender, and age. Over time, these attributions may become routine guides that minimize the level of uncertainty a judge has in his or her decision-making (Farrell and Holmes 1991). Below I provide detail on each of the three focal concerns.

Blameworthiness refers to the offender’s culpability, which takes a retributive approach to punishment. The punishment increases as the degree of injury to the victim

and the offender's culpability for that injury to the victim increases. This is primarily measured by the seriousness of the offense, but it can extend to the offender's criminal history and his or her role in the offense (e.g., he or she was the primary/only perpetrator). If decision-making regarding an offender's blameworthiness is tied to race, then this could provide a powerful explanation for the black-white gap in sentencing outcomes.

Historically, blacks have been handled differentially. This is not only illustrated in pre-antebellum times when behaviors of blacks were condemned, but if displayed by a white man were viewed as less problematic (Muhammad 2010). It is also illustrated in the 21st century. At one point, discriminatory federal sentencing policies for *crack* vs. *powder* cocaine resulted in a 100-to-1 ratio (Sklansky 1985).⁴ This disparate sentencing is particularly harmful to blacks, as crack cocaine use is high in inner-city black communities (Elliott 1993). If this blameworthiness is tied to gender, then it also may serve as an explanation for the gender gap in outcomes. Females, compared to males, tend to be treated in a more lenient manner due to the paternalistic protectiveness of the justice system actors. These actors assume females need to be sheltered from experiences like jail and criminal court proceedings that are typically unfriendly to them and, alternatively, are more suitable to the male experience (Nagel et al. 1971). However, it is noteworthy that this chivalrous treatment tends to be applied to *white* females, as *black* females oftentimes experience harsher treatment from the point of arrest to the point of sentencing (Bush-Baskette 2004).

Protection of the community, or the dangerousness of the defendant, focuses on the need to incapacitate him or her to prevent any further harm through recidivism.

⁴ This disparity is now reduced to 18:1 as a result of the Fair Sentencing Act of 2010.

Decision-making authorities may rely on attributions based on case information, criminal history, facts of the crime (e.g., involvement of a weapon), and offender characteristics (e.g., drug dependency, family support). For instance, Ulmer and Johnson (2004) found that blacks and Hispanics compared to whites were more likely to be sentenced to serve time in prison and for longer periods of time, outcomes that were conditional on the sentencing county's black and Hispanic population. The researchers suggested these findings were consistent with certain offenders being perceived as more threatening when coming from areas of high minority concentration.

Practical constraints and consequences can refer to organizational-level facets such as the decision-maker's concern for prison overcrowding and resources or concern for maintaining working relationships with other courtroom officials. They can also refer to individual-level facets such as concern for the offender's ability to serve his or her time (e.g., having a poor health status) and concern for the disruption of ties between the offender and the offender's children. Koons-Witt (2002) found that women with dependent children were significantly less likely to be imprisoned, a finding that held true pre- and post-implementation of sentencing guidelines that aimed to achieve equality in sentencing (discussed in more detail below).

Steffensmeier et al.'s (1998) research supported the Focal Concerns Perspective in criminal justice decision-making. They found that the main predictors of a judge's decision were the seriousness of the crime as well as the offender's prior record, race, gender, and age. Even more telling, however, was the feedback collected during qualitative interviews with the decision-makers. To paraphrase, some judges indicated that they were reluctant to send a white offender to prison out of fear that he or she would

be victimized by a black offender. Additionally, judges viewed women and older offenders as less dangerous and less of a risk to community safety. Overall, crime has been conceptualized as a minority problem (Reiman and Leighton 2012), and some leaders openly admitted to using race to signify one's criminality. Decision-makers' perceptions of minority problems being concentrated in a specific space seem to reinforce the use of race as a screen for criminal attribution (Bridges et al. 1987:359).

With this in mind, I use the Focal Concerns Perspective as a guide to suggest that extralegal factors lead to biased decisions on behalf of criminal justice authority figures in post-sentencing. I emphasize that it is a guide, because one of the three "concerns" is protection of the community. Although, in prison, officials may seek to protect those in the prison environment, it does not carry the same weight as the duty to protect the community. The community can be argued to be full of innocent individuals who all are potential victims. In prison, protection is most likely translated into a maintenance of order.

Although this study is framed with the Focal Concerns Perspective in criminal justice decision-making, I supplement this framework with the Selective Chivalry Thesis to further explain disparities by gender. Females typically receive lighter sentences or informal handling when it comes to criminal processing; however, some research suggests that when gender norms are violated, then the punishment for females may be harsher (Chesney-Lind and Sheldon, 1998; Nagel and Weitzman 1971). The Focal Concerns Perspective, to some extent, addresses this trend, but it is my position that the Selective Chivalry Thesis explains this particular point in a more robust manner.

To provide some background, as originally introduced, the Chivalry Thesis helped to explain a social pattern of paternalistic treatment of females (Reckless and Kay 1967; Moulds 1978). Females, traditionally, have received gentler handling due to the perception that they need protection, simply because they are different than males. The agents of the criminal justice system treat females more paternalistically because (male) judges tend to associate female defendants with their own close relationships: as their mothers, their sisters, their spouses, and their daughters (Visher 1983). Females are oftentimes seen as weak, childlike, and defenseless and, therefore, are not held fully responsible for their behavior. In turn, females may benefit from shorter punishments or, in some cases, their criminal behavior may not be prosecuted in exchange for an informal handling of their case (e.g., charges dropped if she completes a rehabilitative program). In some ways this may be to safeguard her from the stigma a criminal record carries, one that may have serious negative social consequences for her where society reacts in a way that isolates and punishes her (Schur 1984). Research has suggested, however, that the effect of gender on sentencing outcomes is not consistent across all crime types (Rodriguez et al. 2006). If it is not consistent across all crime types, then the thesis loses some of its explanatory power. It is because of these contrary findings that I supplement the Focal Concerns Perspective with the *Selective Chivalry Thesis*, as its central tenets better explain the trends I hypothesize to exist.

The *Selective Chivalry Thesis*, although in part similar to the Chivalry Thesis, is more encompassing in its explanation. It is a modified version of the original Chivalry Thesis, which argues that chivalry is conditioned upon one's adherence to traditional gender roles. As females are viewed as weak and childlike, they can be subject to

paternalistic treatment – treatment from which females tend to benefit due to lighter criminal sentences (Daly 1987; Daly 1989; Farr 2000). However, these benefits are afforded to females who fulfill stereotypical roles defined for their gender. When females transgress from stereotypical roles, they are given harsher sanctions than one would normally expect. Their transgression is viewed as a double deviance; they not only engage in crime, but also depart from gender appropriate behavior. In other words, they are seen as evil women.

The Selective Chivalry Thesis receives mixed support. One study found that juvenile females who committed status offenses, such as prostitution or running away from home, were often treated more harshly by the justice system than males who had committed similar offenses (Chesney-Lind and Sheldon, 1998). Nagel and Weitzman (1971) analyzed the impact of gender on sentencing on a nationwide survey of indigent defendants, concluding that more lenient treatment was given to females in grand larceny cases, but that females convicted of more “masculine” crimes (i.e. assaults) were more likely to receive sentences equal to those of similarly situated male defendants. However, Spohn and Spears (1997) tested the hypothesis that gender played a lesser role in violent crimes, because these women had broken the stereotypes of appropriate female behavior. Their findings indicated that, even in violent felonies, females were more likely to receive shorter sentences. The joint effects of gender and race, however, have suggested that women of color have not benefited from judicial chivalry to the same degree as white women (Feinman 1986; Rafter 1990). Lastly, Steffensmeier et al. (1998) found in their research that the main effects of defendant characteristics, like race and gender, were relatively modest compared to their interaction effects. Thus, this Selective Chivalry

Thesis may only hold for specific race and gender combinations. It is possible that a more nuanced explanation is needed to understand how the justice system treats females.

I approach the gender component of this research primarily from the Focal Concerns Perspective, but utilize the Selective Chivalry Thesis framework to refine my thinking on the subject. I hypothesize that the likelihood of receiving a prison infraction mirrors the gender gap seen at all prior stages of the criminal justice proceedings. However, in terms of the sanction imposed for this infraction, I hypothesize that the selective chivalry thesis accounts for a nuanced outcome. For infractions that are categorized as lower severity, sanction outcomes for females are more lenient than those imposed for males. But, when prison infractions are among those categorized as the greatest severity, sanction outcomes for females are nearly the same or even exceed those imposed for males.

Chapter 3: Literature Review

To understand group disparities in criminal justice system outcomes, it is beneficial to have an appreciation for historical race and gender relations in the United States. I spend time discussing race and gender separately, highlighting the origins of these social constructs and the consequences they have for human social interactions. Then, I segue into a review of the literature regarding these group disparities in the United States criminal justice system. I first begin with a synthesis of extant research on differences that are evident at various decision points in the criminal justice system, from arrest to sentencing. I conclude with a discussion on the current state of research on post-sentencing disparities, both for infractions and sanctions for these infractions. In this vein, I address in more detail how this study aims to fill a substantial gap in the literature with regard to the prevalence of race and gender disparities at all stages of the criminal justice system.

Race Relations in the United States

Race has organized and divided Americans for centuries, and it has created injustices by denying groups of individuals of rights and resources in the name of cultural hegemony. Race is culturally defined and its utility is to preserve white privilege and American exceptionalism (Omi and Winant 2005). I spend time introducing the concept of race and trace its evolution in America to shed light on how it has impacted current-day minority oppression. I ground the development of prejudicial ideas and racism in the historical antecedents of 17th and 18th century ethnocentrism and slavery, as this is a point of development of the race concept. Following this discussion, I turn my attention

to modern-day colorblind racism, which appeared in the advent of the modern civil rights movement as a method to maintain the current racial structure in the face of opposition. It is my position that this unique history has shaped current-day race relations and has directly and indirectly contributed to the race disparities that are evident today in the American criminal justice system.

Race and Ethnicity

Before delving into the historical account of structural racism in America, I would be remiss to assume a universal understanding of the difference between race and ethnicity. Race and ethnicity are at times used interchangeably in common vernacular, but they are indeed distinct concepts. Race is a social construct that divides groups of individuals based on phenotypic differences such as hair texture, the color of one's skin, and facial features. Ethnicity, on the other hand, is a common culture, lifestyle, value system, and language shared by a group of individuals. Although race and ethnicity are separate in their own right, they overlap in that an ethnic group may be comprised of individuals of the same race (Smedley 2007).

Considering these opposing definitions, one may question how an individual is grouped into a race category, especially if phenotypic features are not pronounced. The answer to this question lies in the level of tolerance of an environment. If an environment is not tolerant of group differences, then individuals are assigned to a race category through the observation of others. If the social environment is accepting, then one is able to self-identify. This notion of assignment versus self-identification is evidenced by historical trends in enumerations conducted by United States Census Bureau, where early

forms of collection were based on direct observation and more recent forms are based on self-identification (Snipp 2003). Even within self-identification, race categorization can be fluid, as individuals may assimilate to the larger culture's values to make life easier in some way (Saperstein and Penner 2012).

Historical Racism

Using our understanding of race and ethnicity, we can better recognize the development of race from a historical perspective. The concept of race started as a folk idea, a belief that was socially defined and not a fixed biological condition (Smedley 2007). By the 16th century, the term occupied the Spanish vernacular as a way by which to differentiate themselves from foreign groups whom they encountered during explorations. By the 17th century, race (racism) began to occupy part of the American landscape beginning with the European colonization of North America. In particular, its origin in North America can be traced to English-Irish tension in the Old World where the English viewed the Irish as savages in order to justify group exploitation and repossession of Irish-owned land. Upon settling in the New World, the English continued this exploitation, but directed it toward Native Americans in order to seize their territory. Similar to the English treatment of the Irish, Native Americans were viewed as hostile savages who were in need of civilization – a view that, coupled with religious dogma, justified the English's colonization of the natives' territory. At this time, race became a social construct that carried a specific meaning, whereas earlier exploitation of the Irish was due to ethnocentrism.

In the advent of the English colonization of the New World, blacks entered the nation from Africa as servants, some of whom came unwillingly. They were not initially

viewed as savages like their Native American or Irish counterparts because they did not own land and, thus, were not a threat to white Europeans. As some blacks occupied a permanent slave status that enabled white plantation owners to grow the economy and meet capitalist demands, however, the justification of their enslaved status solidified. Justification for this treatment ranged from religious beliefs that suggested blacks were subhuman to beliefs that unalterable biology determined blacks' lower position in society (Omi and Winant 2005; Smedley 2007). These views perpetuated racist behaviors and stripped blacks, both those enslaved and those free, of their rights and freedoms. They were disenfranchised and relegated to a lower social status to promote social control and cultural hegemony. By the 18th century, even free blacks were degraded and relegated to the bottom of the social stratum (Smedley 2007). They were stripped of common rights and freedoms due to discriminatory laws that prevented their owning of land and voting. In sum, blacks were not afforded the same equality enjoyed by whites.

New Racism and Protection of the Social Order

In 1863, a step was made to extend racial equality in America through the Emancipation Proclamation, which declared all persons held as slaves shall be free. However, it was not until the passing of the Thirteenth Amendment to the United States Constitution in 1865 that slavery was completely abolished and that blacks were legally declared free and were afforded political rights. The amendment not only intended to end human enslavement, but it also sought to eliminate effects of the slave system (Carter 2004). From this point up to the mid-1960s, poor treatment of blacks and racial segregation continued, but in more subtle, legal ways. For instance, lingering Jim Crow

laws restricted blacks from using the same schools, drinking fountains, public entrances, and restrooms as whites. This was a system that purported a “separate but equal” philosophy.⁵ Blacks, particularly those in the South, experienced a reality that actually rendered them powerless. Their rights were restricted and they were economically dependent on white landholders (Smedley 2007).

Around the 1960s, new social movements developed to combat racism through a transformation of racial meaning (Omi and Winant 2005). Minority groups worked to achieve equality and to reshape the political landscape through a modern civil rights movement. In response to this movement, and to maintain the prevailing racial order and American ideals of individualism, the government administration rearticulated race policies in an effort to redistribute resources along a racial line. Affirmative action policies intended to compensate blacks for past mistreatment, and structural oppression became framed as reverse discrimination against whites. Whites argued that these policies debilitated their social progress and encouraged the selection of non-whites solely based on race, not on individual qualities. As evidenced by the re-articulation of racial policies in the 1980s, the language and style of racism changed from earlier centuries. The use of racism became contradictory and subtle to help build a wall for white Americans, and it engendered colorblind racism (Bonilla-Silva 2010).

Although discrimination against blacks and other racial minorities persists today, it is now framed differently. Whites, and some blacks, interpret and explain racial issues in such a way that minimizes and dispels its existence. For instance, Bonilla-Silva (2010) suggests that whites frame racism in a way that blames the individual and fails to

⁵ Plessy v. Ferguson 1896

acknowledge or completely dismisses the continued impact of past social structural injustices. Whites attribute continued racial inequalities to culture and nature (e.g., black families are disorganized, blacks naturally stick together) and rely on colorblind ideology to articulate their views on racial matters. Although blacks acknowledge the existence of discrimination, they, too, use colorblind frames to explain racial problems. However, these blacks tend to be upwardly mobile. Although this may be a perplexing notion, it has become part of blacks' (double) consciousness (Bonilla-Silva 2010; Du Bois 1995[1899]).

Other viewpoints deviate from this explicit racial bias and point to the persistence of implicit or unconscious racial bias as influencing behavior. Despite an individual's best intentions, one holds prejudiced views toward others that oftentimes defy their own awareness (Smith and Levinson 2012). It is a subtle thought, perhaps, that can negatively influence individuals' judgements of others and can carry repercussions. As we work to move away from explicit racist actions through policy changes (some of which are noted above), there will most likely be a persistence of unconscious or implicit racial biases that affect everyday interactions with others. It is these implicit biases that continue to threaten the future of racial equality.

Consequences of Racism

As discussed, racial conflicts in the United States have deep historical roots, and these conflicts have consequences for racial minorities that are evident in the collective disadvantage of oppressed groups. However, the consciousness of present-day Americans is stifled by the lack of a true understanding of America's racist past. Even

though the American Creed is equality for mankind (Schlesinger 1998), a long history of racist structural oppression and subhuman treatment for certain groups is a blatant contradiction of this motto. Although there are different approaches to understanding prejudices in America, I assert that a focus on historical race relations in the United States is key to understanding the problem.

Although blacks were emancipated from slavery in the late 19th century, group oppression persists. As discussed above, racism and bias is not just a product of individual-level discrimination and prejudicial attitudes. It is, in fact, more than this. Racism and bias is an outcome of patterns of socialization (Omi and Winant 2005). Structural features that exclude and exploit individuals coupled with oppressive ideological beliefs give rise to prejudices and racist acts. Racialized identity and racial consciousness is learned through rules of classification, and we are implanted into a racialized social structure that becomes our way of understanding the world (Omi and Winant 2005). As discussed earlier, colorblind framing of group differences no longer focuses on the group. Instead, the blame for shortcomings is placed on the individual. Instead of recognizing that black neighborhood racial segregation is a result of racist practices (e.g., redlining and block busting), it is viewed as a cultural and natural phenomenon (Bonilla-Silva 2010). Instead of recognizing that the criminal justice system is disproportionately inundated by racial minorities, in part, due to racist policies (e.g., the now 18:1 sentencing disparity for crack cocaine vs. powder cocaine), the social problem is attributed to the higher frequency of drug use among minorities. When this is the perspective of the masses, policies such as fair sentencing, racial mixing, busing, and affirmative action that work to alleviate racial disparities are no longer seen as necessary

because the outcome is motivated by individual desire and will. Perhaps a quote from Michael Tonry (2010) is most fitting. In his work, he mentions that the effects of social stereotypes and unrecognized biases about women and homosexuals were acknowledged and changed, but biases along the race line persist. When questioning why America continues with its disparity-causing policies, he offers this (2010:294):

It is that we white Americans as a class are so accustomed to seeing the world from the perspective of our own self-interest that we unconsciously support policies that ensure our social, political, and economic dominance. Anti-immigrant policies are a vulgar recent example: people hostile to immigrants may talk about the rule of law and illegal immigration, but their real, underlying concerns relate to competition for jobs, fear of social change, and worry that their own well-being will suffer.

Thus, Tonry highlights several thought-provoking themes within this quote, ideas that may help to guide our understanding of why there is a lack of awareness of its existence. Do we subconsciously attribute outcomes to specific minority races and to females to ensure dominance to the maintenance of a system as it currently is?

Just as race has occupied a large role in the human social interactions in America, so, too, has gender. Scholars have made great strides in explaining the embedded nature of gender in the current social structure, providing us with a better understanding of how gender inequality has come into existence and the reflexive process by which it is maintained. This is now where I concentrate my attention.

Gender as a Social Construct

Gender is also a social construct that has organized and divided individuals for many years. Since the early 20th century, researchers have made great progress in the conceptualization of masculinities and femininities, moving away from theories of

biological determinism to more complex interactional and structural-level influences of one's masculinity and femininity. Ultimately, gender is embedded in social processes and its creation has not only produced inequalities along the gender line, but these very social processes have been the source of inquiry for why gender inequality persists.

I aim to define gender and sex, providing a thorough distinction of the two concepts. With a clearer understanding of their differences, I turn to an overview of the conceptual evolution of gender from the early 20th century to the present. Within this tracing of evolving conceptualizations, I examine the gender structure at the individual, interactional, and institutional levels. I conclude with a discussion of the consequences of violating gender norms.

Gender and Sex

As I begin to explore the conceptual evolution of gender over the last 100 years, it befits the conversation to first define gender and clarify its distinct position from sex. Gender and sex are also frequently used interchangeably, similar to race and ethnicity, but they, too, are distinct concepts. West and Zimmerman (1987) recognized the confusion early on and provided a framework that clarified the differences between gender and sex. Within their framework, they identify three concepts: sex, sex category, and gender. According to these scholars, *sex* is the assignment of a person into a male or female category based on biological factors such as genitalia or chromosomal typing. *Sex category* is an externally defined role that is achieved through displays seen as male or female. *Gender* is the way in which one conducts him or herself and is recognized by others for performing attitudinal and activity norms for a sex category. Under this guise,

gender is an achieved status of masculinity or femininity through interactions with others; it is something that people do rather than a biological trait they possess. With an understanding of the difference between gender and sex, I now turn my attention to how the conceptual framework for gender and sex has changed over time.

Individual-Level Conceptualizations of Gender

Prior to the mid-20th century, social scientists paid little attention to theoretical work on gender differences in humans. Differences that did exist were thought to be the result of varying sex hormone levels (Risman and Davis 2013). Some present-day scholars still have a strong bias toward biological factors as an explanation for different expressions of masculinity and femininity (Udry 2000), while others lean on biological differences that, although no longer relevant, perpetuate presumed sex differences (see Jackson n.d.). Nearing the mid-20th century, however, a departure from biological determinism of gender opened the door for research grounded in the social sciences.

In the 1960s and 1970s, research began to measure sex roles through personality traits, but intellectual thought still did not separate gender from sex (Risman and Davis 2013). Sex role attitudes were conceptualized along a continuum that ranged from masculine to feminine. In essence, if an individual was highly masculine, then by default he or she was low in femininity. Bem (1974) later re-conceptualized this construct and identified masculinity and femininity as two different dimensions that a person could possess to different degrees. Soon afterward, sociologists turned their attention to the sex role socialization of children (Risman and Davis 2013) as a basis for developing these personality traits. From this perspective, boys and girls learned to be masculine or

feminine by the behaviors they were encouraged to adopt. Male children were rewarded for displaying masculine behaviors and playing with masculine toys. Female children, on the other hand, were encouraged to take on feminine behaviors and play with toys that were deemed appropriate for little girls.

Although progress had been made during these periods with regard to individual-level conceptualizations of gender, there was still much more to be explained. Up until the 1970s, gender conceptualizations were relatively underdeveloped, which limited a concrete connection to the existence of gender inequality (Acker 1992). As I move into the next phase of gender conceptualizations embedded within social interactions, one can begin to make the linkage between gender and gender inequality.

Interactional-Level Conceptualizations of Gender

In the advent of the feminist movement in the 1970s, scholars began to move away from conceptualizing gender as a sex role or a personality trait. They shifted their attention to a new structuralism approach that emphasized gender in the context of interactions. Within this framework, gender is accomplished in our relations with others.

West and Zimmerman's (1987) foundational theoretical framework facilitated additional thought on the distinction between sex and gender within this interactional-level conceptualization. Their framework de-emphasized childhood socialization and focused on an individual's accountability to "doing gender" in a way that coincided with his or her sex category. This accountability to do gender also extended beyond oneself to others (Kane 2006). Doing gender involves engagement in a dynamic process, one that is embedded in everyday interactions with others within specific contexts. It is a

process of portraying one's gender in a way that aligns with heteronormative conceptions of masculine or feminine attitudes and actions (West and Zimmerman 2009). To successfully do gender means that individuals are conforming to cultural conceptions of conduct to which they are accountable. Again, within this framework, gender is something that we do rather than who we are.

Structural-Level Conceptualizations of Gender

My focus now turns to structural-level conceptualizations of gender, a perspective that identifies how gender inequality is created and maintained. New structuralism emerged near the end of the 20th century, and it redirected the focus away from individual-level factors and toward macro-level influences that create issues of gender inequality. Scholars around this time began to recognize that in order to understand gender we needed to conceptualize it as a social structure embedded in the individual, interactional, and institutional levels (Risman 2004). It is structural conditions that create and reinforce gender differences beyond any particular individual characteristic (Martin 2004; Risman 2004; Risman 2009). This thinking allows us to understand the ways in which our society has developed a hierarchical gender structure.

Ridgeway's (2009) work on how gender shapes social relations and creates gender inequalities provides a theoretical basis for how we have arrived at a stratified gender structure. And, in order to understand how society changes and resists change, we should consider how gender frames our social relations. Individuals tend to define their *self* from the *other* through the recognition of social differences. These contrasting social differences lead to stereotypes about how most people in a category will perform and

serve as a way to make sense of the world around us (Ridgeway 2009). Eventually, these behaviors become institutionalized and reified as rules of behavior through their reinforcement in the media and our everyday lives. As a result, hierarchical behaviors are identified that represent the ideal or hegemonic version of a category and create a gendered structure that differentiates opportunities and constraints along the gender line.

With this particular gender framing in mind, we can better understand how culturally hegemonic beliefs come into existence, as this is an important component to the development and maintenance of gender inequality. Connell and Messerschmidt (2005) provide a theoretical framework that speaks to the hierarchical gender structure which has allowed men to dominate over women. Although there is a plurality of masculinities and femininities, the authors rest on the foundational concept that certain masculinities are more central to power and authority than others, which they term hegemonic masculinities. They also assert that there are no complementary hegemonic femininities, as femininity is entirely subordinate; other scholars disagree (Schippers 2007). To reify this process, men are constantly scrutinized for the way they enact masculinity to prevent a loss of power that may come with behaving in alternative, feminine ways. Men may also overcompensate when their gender identity is threatened (Willer et al. 2013) as well as work to instill appropriate masculine behavior in their children to uphold their accountability to the preservation of the social structure (see Kane 2006). The enactment of and accountability to these hegemonic behaviors is a reflexive process that not only is performed at the individual and interactional-level, but perpetuates the structural embeddedness of gendered expectations.

Violation of Gender Norms

Gender and the roles to which individuals are prescribed to follow are well-integrated into American society, and they are often accepted as the norm. Eagly's (1987) role theory of gender argues that traits of men and women come from a gendered division of labor, where men disproportionately occupy powerful, high-status roles and women disproportionately occupy homemaker roles. These typical roles generate stereotypes in the minds of all individuals. Although the Women's Liberation Movement of the 1970s worked to dispel typical images of what it meant to be a woman and broaden this perspective to something much more inclusive, gender stereotypes still exist, even if subconsciously. These images of femininity and masculinity order social life and institutions in specific ways (Daly and Chesney-Lind 1988; Messerschmidt 1993; Schur 1984), and whether or not these stereotypes manifest themselves in subconscious or overt actions, they still have serious implications for the sex division in this nation. The consequences not only affect the home and family domain, but they affect other areas as well such as the workplace and, relevant to this study, the criminal justice system.

When understanding gender disparities in the criminal justice system, we must underscore how the organization of gender norms shapes male and female involvement in crime (Steffensmeier and Allen 1996), as well as how it shapes decisions regarding punishment for that crime. To elaborate, males may engage in crime/deviance to achieve masculinity, as the use of violence serves as a "masculine-validating resource" that maintains the separation between men and women (Messerschmidt 1993:83). Although most men do not resort to criminal violence, law-abiding men may still commit a violent act when their masculinity is threatened by others. For these men, being violent is a

gender performance (Harris 2000), and it may be one that is expected. However, women who engage in crime are viewed as double deviants. Not only are they deviant for the act of breaking the law, but they are also deviant because criminality is not consistent with the definitions of what it means to be female (Heimer and Decoster 1999). I mention this point as it begins to shape our thinking on how criminal justice decision makers assign punishment. In the criminal justice system, females are oftentimes handled in less harsh ways or even informally. However, other research has indicated that younger females are perceived to fabricate reports of abuse, whine too much, and manipulate the court system (Gaarder et al. 2004), research that may point to no differences in their handling compared to males.

As summarized above, these race and gender discourses provide insight into group disparity in the criminal justice system. I now turn my attention to a deeper discussion of race and gender bias in criminal processing of individuals.

Group Bias in the U.S. Criminal Justice System

Race and gender disparities in criminal processing can, and do, stretch across many different aspects of the criminal justice system. Group differences are evidenced in rates of arrest, prosecution, conviction, sentencing, and post-sentencing. For instance, black and Latino offenders sentenced in state and federal courts face significantly greater odds of incarceration than similarly situated white offenders, and they also receive longer sentences than their white counterparts in some jurisdictions (Spohn 2000). Pettit and Western (2004) suggested that the risk of incarceration was six to eight times higher for black males. Spohn and Beichner (2002) found that males have 2.5 times greater odds of

receiving a prison sentence when compared to females, net of legally relevant factors. Although these demographic differences are ever-present, progress is being made, as group disparities are less than what was observed in the 20th century. While studies evaluating the impact of legal and extralegal factors are mixed in their conclusions on the role extralegal factors really play in disproportionate representations in the system, Crutchfield et al. (2010:931) have a different opinion. No matter whether the effect of race, gender, or age is small, medium, or large, they ask: “Can a nation which recites an official Pledge of Allegiance, which includes the words ‘with liberty and justice for all,’ reasonably conclude that any statistically significant differences in criminal justice outcomes based on anything but legal factors is acceptable?” I continue in the same vein. The effect, no matter how large or small, must be understood and addressed.

With this said, one may ask, what causes these disparate group outcomes in the criminal justice system? As suggested in Chapter 2 as well as earlier in this chapter, I approach this research from a structural-level rather than an individual-level perspective. Merolla (2008) noted that critical criminology places an emphasis on the changing practices and priorities of law enforcement rather than on the individual-level explanations. Instead of focusing on the etiology of individual-level offending, structural changes and how they affect the chances of arrest for certain groups of individuals are of focus. These include the influence of the media as well as criminal justice policy makers in their shaping of the public’s opinion of crime and criminals. For instance, in the advent of the Women’s Liberation Movement of the 1970s, the image of females in the context of crime began to change. Media-driven notions that girls were becoming more like boys perpetuated a masculinization framework (Chesney-Lind 2006). This framework, also

supported by female scholars of the time (Adler 1975; Simon 1975), implied that girls were becoming more violent, more deviant due to the same forces that propelled men into violence now being available to women. In essence, females had more opportunities, more motivation to commit crime. Additionally, women were portrayed as becoming more violent, a myth substantiated by a dramatic increase in arrest rates; however, self-report data did not reflect this trend (Chesney-Lind 2006). Changes to policy resulting in mandatory arrests and increased prosecution of women for domestic violence incidents (Chesney-Lind 2006), or the War on Drugs, were actually identified as playing a key role in the closing of the gender gap in arrests in the past 40 years. Thus, the structural-level perspective is key.

These structural-level policies and images of criminality shape our opinions and create bias, bias that may manifest itself in a variety of ways at different levels of the process. Nellis et al. (2008) suggested that, in policing, it may manifest in poor community interactions; in the courtroom, it may manifest in the way in which a defendant is addressed. Bias in the prisons may, for example, manifest in a disciplinary official deciding to formally cite an inmate with an infraction. And this biased decision-making is oftentimes something that occurs outside of one's own awareness. Ultimately, when authority figures are afforded with discretion in decision-making, then bias is unavoidable. Nellis et al. (2008) noted, however, that overt racial bias in decision-making has declined and that disparities are the result of lingering policies and decisions that unintentionally and indirectly produce these results.

Few studies have been able to examine the cumulative effect of race and gender bias throughout the system, as offenders are not followed for lengthy periods.

Longitudinal studies are costly and require a significant amount of time. Not to mention, they are subject to participant attrition. Instead, the bulk of the research examines criminal case processing at a single decision point. Kutateladze et al. (2014) attempted a longitudinal approach to better understand the impact of group characteristics at successive stages of the system. They found black and Latino defendants to be more likely than white defendants to be detained, to receive a custodial plea offer, and to be incarcerated, but to be more likely to benefit from case dismissals. The findings for Asian defendants were less consistent, but suggested they were the least likely to be detained, to receive custodial offers, or to be incarcerated. Shernock and Russell (2012) found that there was less favorable treatment of males but more impartial treatment toward racial minorities regarding the issuance of protection orders, an arrest, and formal prosecution.

In broad terms, then, blacks are over-represented at many stages of the criminal justice process when compared to whites. However, females are much less likely to be formally involved in the criminal justice system than their male counterparts. A summary of these disparate group representations across various stages of the criminal justice system is presented in Tables 1 and 2. I turn my now turn my attention to four key points in the criminal justice system to highlight the knowledge gained from prior research on group disparities throughout the system.

Arrest

Race/ethnic and gender bias insert their own influence on the criminal justice, an influence that cannot be overlooked. National survey data suggest that the majority (59 percent) of Americans believe that bias in police stops is a social problem (Ludwig 2003).

Table 1. Race/Ethnicity Disparity Matrix⁶

Decision Point	Black	Hispanic	Native American	White
Arrest ⁷	0.27	0.15	0.02	0.56
Detention ⁸	0.35	0.14	0.01	0.48
Sentence Type	-----	-----	-----	-----
Probation ⁹	0.30	0.13	0.01	0.55
Incarceration ¹⁰	0.42	0.22	n/a	0.36
U.S. Population ¹¹	0.13	0.18	0.01	0.61

Note: Figures represent percentages; Other races omitted as sources do not consistently report these categories.

Table 2. Gender Disparity Matrix⁶

Decision Point	Male	Female
Arrest ⁷	0.73	0.27
Detention ⁸	0.86	0.14
Sentence Type	-----	-----
Probation ⁹	0.75	0.25
Incarceration ¹⁰	0.93	0.07
U.S. Population ¹¹	0.49	0.51

Note: Figures represent percentages

When examined by the respondent's race, a higher proportion (85 percent) of blacks agreed it was a problem where only 54 percent of whites were in agreement¹². Thus, public perception is that there is bias at the initial stages of the criminal justice process, but the perception differs by the race of the respondents. Unfortunately, data are not available for public opinions on gender profiling; however, empirical research does

⁶Matrices adapted from Nellis et al. (2008) as a manner in which to determine the extent of disparate group representation at each stage of the criminal justice system.

⁷ United States Department of Justice, Federal Bureau of Investigation. 2015. "Crime in the United States, 2015." Retrieved October 2, 2017, from <https://ucr.fbi.gov/crime-in-the-u.s/2015/crime-in-the-u.s.-2015/persons-arrested/persons-arrested>.

⁸ Minton, Todd D., and Zhen Zeng. 2016. "Jail Inmates in 2015." Washington, D.C.: Bureau of Justice Statistics.

⁹ Kaeble, Danielle, and Thomas P. Bonczar. 2016. "Probation and Parole in the United States, 2015." Washington, D.C.: Bureau of Justice Statistics.

¹⁰ Carson, E. Ann. 2018. "Prisoners in 2016." Washington, D.C.: Bureau of Justice Statistics.

¹¹ U.S. Census Bureau. 2016. "Annual Population Estimates of the Resident Population, July 1, 2016." Retrieved October 2, 2017 from <https://www.census.gov/quickfacts/fact/table/US/PST045216>.

¹² Gallup conducted 1,044 telephone interviews from a randomly selected sample of adults in the continental U.S. The survey was open from December 2002 through February 2003. Roughly an equal numbers of black and white respondents participated. Survey results maintain a 95% confidence level with a margin of sampling error not greater than ±5%. By race, the margin of sampling error is ±6% for white respondents ($n=505$) and ±6% for black respondents ($n=501$).

address disparities in actual arrests by gender (Sealock and Simpson 1998; Smith et al. 2006; Tillyer and Engel 2013)

Although explicit racism by police is now relatively rare, racial disparities in stops made by the police can be explained by discretionary decisions based on racial considerations. The motivation is not necessarily driven by a dislike for minority groups. Rather, decisions are based on beliefs about group criminality, a thought that is in line with the focal concerns perspective. Race (and gender) is a criminal shorthand that leads to more suspicion of racial minorities (Harris 2002). The perceptual shorthand has also led to biased policies that have a disproportionate effect on blacks and females (e.g., disparate sentences for crack cocaine; the War on Drugs). Smith et al. (2006) found support for this perceptual shorthand by way of police developing unconscious, cognitive schemas that make them more likely to be suspicious of criminal subgroups with whom they regularly come in contact. These researchers concluded that police were found to be significantly more suspicious of men than of women in traffic-stop encounters, suspicion that was strongly associated with the decision to arrest. Tillyer and Engel's (2013) study aligns with this research, finding that males were 1.7 times more likely to be arrested compared to female drivers, while females were more likely to receive just a warning. Race effects in this study were less conclusive. Sealock and Simpson (1998) also found that females were less likely to be arrested than their male counterparts, with the gender-typing variable having explained a large portion the decision to arrest. Nevertheless, legal factors (i.e., seriousness of the offense and the number of prior police contacts) mattered as well. Lundman and Kaufman (2003) found that extralegal factors impacted police action, evidence that race is a factor that shapes daily police work.

Findings indicated that black drivers reported more traffic stops than did white drivers, while Hispanic drivers reported fewer stops. However, when considering the reason for this traffic stop, both blacks and Hispanics were less likely than whites to view the reason as legitimate and that the officials acted improperly. Females, compared to males, on the other hand were more likely to view the stop as legitimate and report that the police acted properly.

Some argue that the disparate group representation in arrests is not driven primarily by bias. Blumstein (1982) recognized that arrests were subject to discriminatory processes, but argued that arrest data mirrored the racial distribution of criminal offending for the crimes which offenders were incarcerated. Although some of the arrest percentage could be attributed to racial discrimination, he concluded that the bulk of the racial disparity in arrests was due to a substantially greater involvement of blacks than whites in crime. Harris et al. (2009) also concluded that the social environment that fosters disproportionate involvement in crime was a more fruitful avenue to pursue, as evidence indicated that the disparate representation of blacks, whites, and Hispanics in prison and in arrest statistics closely corresponded. The close alignment of these statistics suggested that racial discrimination may not be the key driver. However, Mitchel and Caudy (2015) concluded from self-report data that racial disparities in drug arrests could not be explained by differences in drug offending, non-drug offending, or residing in communities that were subject to a high level of policing. Although the authors did not say that the disproportionate arrests were due to racial bias, exactly, they did acknowledge that the findings were consistent with this explanation.

The bias, they argued, stemmed from discriminatory policies such as the War on Drugs that disproportionately held blacks (and females) accountable, as discussed above.

Differences within gender by type of crime for which males and females are arrested also appear in the data. Black males were found to be more frequently arrested on drug charges than black females or whites, and females were found to have a higher likelihood of repeat arrests for prostitution (Horowitz and Pottieger 1991). Although it is recognized that visibility in the latter finding does not directly indicate bias in the system, it does lend itself to a closer examination of prejudices of society. Prostitution is treated as criminal as a result of the paternalistic gender bias against immoral females.

In summary, public opinion as well as official statistics support the notion that there are disparate group outcomes in arrests by race and gender. Overall, some racial minorities are more likely to be arrested than whites, while females, when compared to males, are less likely to be arrested. Biased views that decision makers have toward these groups may play a role. I now turn my attention to group disparities in prosecutorial proceedings.

Prosecution

In this brief section, I focus on prosecutorial decision-making with regard to the decision to detain an individual, the decision to charge an individual with a crime, and the decision to offer a defendant a plea deal. The process of prosecuting an offender is inclusive of many steps, most of which occur “behind closed doors,” thereby potentially contributing to unequal group outcomes (Mauer 2011:92S). Although explicit racism as a motivation for these disparate outcomes may be diminishing, as mentioned above, the

impact of implicit racial bias can still appear at all phases of the prosecutorial process. As Smith and Levinson (2012) suggest, prosecutors oftentimes consider societal conceptions of an individual's culpability, which may be based on the defendant's extralegal attributes. These associations between an individual's race or gender and whether or not he or she is guilty are oftentimes automatic, both on behalf of the prosecutors and the potential jury members if the case proceeds down that path. Thus, one's decision to charge the individual and develop a strategy for doing so are dependent, in some ways, on these implicit and stereotypical viewpoints. From the alternative perspective, an individual may receive ineffectual representation due to bias that seeps into the attorney-client relationship (Lyon 2012).

Empirical research demonstrates that group differences in decision-making at this general state of criminal processing do exist. Since the 1970s, there has been an increase in the prosecution of females for domestic violence incidents (Chesney-Lind 2006). By gender and race, Spohn et al. (1987) found that males, and particularly Hispanic males, were the most likely to be prosecuted to the fullest extent. Additionally, although females were the least likely to be prosecuted, there were differences when considering her race. White females compared to black females experienced lower prosecution rates (19 percent and 30 percent, respectively).

Although studies on prosecution as whole suggest race and gender disparities in who the courts pursue and how the courts handle certain individuals, some scholars have advocated for decomposing the prosecution process to fully expose the breadth of the disparity (Kutateladze et al. 2014). This is to better understand differences which exist by who is charged, who is detained, who receives a case dismissal, and who receives a

plea negotiation. For instance, Starr and Rehavi (2013) found that federal prosecutors were two times as likely to charge black defendants. However, a more detailed look into the initial charging process showed that females were more likely than males to receive a charge reduction, but that there were no differences in this event when comparing racial minorities to whites (Schumer and Johnson 2010). For those who were charged, females and younger defendants were less likely to be detained during the pretrial stages of prosecution (Freiburger and Hilinski 2010), while black and Hispanic defendants compared to white defendants were more likely to be detained after being charged with a crime (Demuth 2003). After being charged, blacks and Hispanic defendants were more likely than whites to be offered a plea negotiation (Kutateladze et al. 2014). For those who reach a jury trial, other concerns arise with regard to how a jury is selected, a selection that has the potential to alter procedural outcomes. Anwar et al. (2012) find that all-white juries convicted black defendants at a higher rate, but that the presence of just one black juror eliminated this disparate effect.

Studies on prosecutorial decision-making suggest that bias in decision-making is evident at this stage of the justice system as well. Although, it is important to examine the many points within prosecution to fully identify the extensiveness of race and gender disparities. Some may argue that prosecutorial outcomes can have a residual effect that is evidenced in conviction and sentencing, a point in the process that I discuss next.

Conviction and Sentencing

There is a lengthy history in the United States with regard to disparate sentencing practices and attempts to standardize punishment. Prior to federal reform in 1984, federal

judges had broad discretion in criminal sentencing, with the only bounds provided to them being maximum penalties (Gertner 2010; Wilkins et al. 1991). Thus, judges were free to enforce a wide range of punishments, providing them with the freedom to impose their individual views of effective sentencing on the offender. As a result, presiding judges enforced a wide range of sentences even among similar offenses.

In 1984, the Sentencing Reform Act provided a dramatic change in sentencing law and practice. Its principal features were to: 1) establish a comprehensive and coordinated authority for sentencing; 2) to address the problem of unwarranted disparity in sentencing and to enhance crime control by creating an independent commission that created mandatory sentencing guidelines; and 3) to create a means for assembling and distributing sentencing data for research and education (USSC 2017). This act was embedded within the broader Comprehensive Crime Control Act in the same year. As a result of the Sentencing Reform Act of 1984, the independent commission that would create and oversee mandatory sentencing guidelines became known as the United States Sentencing Commission (USSC). The USSC soon enacted the Federal Sentencing Guidelines with the end goal of promoting honesty in federal sentencing and reducing unjust disparities. The formation of this authority was an attempt to better manage the lax governance of judicial decision-making and to limit and structure the discretion of these federal judges. The Federal Sentencing Guidelines provided a sentencing matrix that cross-tabulated information for both the offense level and the offender's criminal history. The recommended sentence lay at the point at which these two variables intersected. These guidelines intended to ensure that similar crimes would receive similar sentences, and that decisions were made irrespective of the offender's race, gender,

socioeconomic status, and geographic location. It also found it inappropriate to consider of an offender's education, employment record, family responsibilities, and community ties in the determination of criminal sentence. The guidelines developed by the USSC were finalized in 1987.

In years since the passage of this act, however, flaws in the design were realized. Not only did the sentencing guidelines carry their own discriminatory effects, but they also created frustration on behalf of the presiding judges. Regarding inherent discrimination, and as an example, the guidelines disproportionately affected offenders of color. In particular, and as mentioned earlier, offenders possessing *crack* cocaine were initially subjected to the same mandatory minimum sentence as offenders convicted of possessing one hundred times the amount of *powder* cocaine (Sklansky 1985), with crack cocaine carrying a penalty that was 100 times more severe than powder cocaine.¹³ Regarding frustration on behalf of the presiding federal judges, these authorities felt that the guidelines severely limited their ability to evaluate the context of a case and administer an appropriate sentence. They were instructed to not consider extralegal factors, stated above, and to impose a sentence that was held within the matrix provided to them.

As one of the principal features of the Federal Sentencing Guidelines was to create a means for assembling and distributing sentencing data for research and education, this meant that the effectiveness of the sentencing guidelines could be evaluated. In an analysis to assess judicial adherence to its guidelines, the USSC studied federal sentencing data to understand the consistency of sentencing outcomes as well as uncover

¹³ This is now reduced to a ratio of 18:1 due to the Fair Sentencing Act of 2010.

correlations between sentencing outcomes and demographic characteristics (USSC 2006; USSC 2012). Their 2006 report revealed that nearly 86 percent of sentences conformed to the guidelines, a statistic that remained fairly steady when re-evaluated in 2012. Additionally, approximately 60 percent of sentences falling within the guidelines were imposed at the minimum, or bottom, of the applicable range. However, when assessing the outcomes for demographic differences, results were less encouraging. Demographic characteristics of the offender were found to be strongly correlated with federal sentencing outcomes, and the group disparities in outcomes had increased by 2012. Male offenders were found to be associated with higher sentences than female offenders. Black offenders were associated with sentences that were nearly five percent higher than white offenders, while offenders of “other” races were associated with sentences that were nearly 11 percent higher than white offenders. When comparing sentence outcomes of Hispanics to whites, there was no statistical difference in their outcomes.

A defendant’s race should not influence the sentence imposed after a conviction. Rather, sentencing decisions should rest on legally relevant criteria, if criminal justice outcomes are indeed just. The USSC’s position on these disparate demographic outcomes is that, although some judges weigh factors such as the characteristics of the offense and the offender differently than other judges in similar cases, these outcomes are not suggestive of race or gender discrimination on behalf of the judges. It is my position, that it is impossible to remove individual biases in decision-making. While it may not be the sole contributor, I argue that bias cannot be denied as a contributor to these outcomes; judicial authorities are not immune to having stereotypes influence their decision-making. Although these stereotypes of others may not manifest in overt discriminatory behavior,

it is conceivable to say that they do hold an implicit bias that defy his or her own awareness (Smith and Levinson 2012).

Independent scholars have reached similar conclusions on the role of extralegal factors in the judicial decision making processes even though the mechanism by which they have an influence is debated (e.g., bias). Steffensmeier et al. (1998) analyzed the independent and joint effects of race, gender, and age on sentencing practices in Pennsylvania. They concluded that (young) black males, when compared to whites, received the harshest sentences – both in terms of incarceration and length of sentence. This finding remained significant when controlling for prior criminal history, offense type and severity, and year in which the offender was convicted. Everett and Wojtkiewicz (2002) also found racial disparities in sentence severity after controlling for offense-related characteristics, a finding which they attributed, in part, to racial biases. In contrast, some research suggests that there are few racial differences in sentencing outcomes (*see* Petersilia 1985), but Steffensmeier and Demuth (2000) challenged these findings by suggesting that the reason for inconsistent findings on the relationship between race and sentence outcomes was due to differences in research methodologies. The authors suggested that Hispanics are usually grouped into the white category and, thus, dampen the black-white group difference in sentencing outcomes. Their follow-up research found that Hispanic offenders actually received harsher sentences than whites and blacks. By the same token, blacks received harsher sentences than whites.

With regard to gender, females that do reach the point of conviction typically receive preferential treatment, a finding that is consistent across vast research. When compared to other extralegal factors such as race/ethnicity and age, gender is interpreted

as the most powerful (Steffensmeier et al. 1998). In his work on sentencing disparities among offenders convicted in federal courts, Mustard (2001) found that females tended to receive shorter sentences than males and that this disparity was even greater than the sentencing disparity between whites and blacks. The reason for this gap tended to be related to departures from sentencing guidelines rather than differential sentencing within these guidelines. Within gender, these departures accounted for 67 percent of the male-female differences (Mustard 2001).

Although there is a consistent gender gap in sentencing, there is less clear research regarding whether the gender gap is uniform across all crime types. A large question remains about whether or not females who violate traditional gendered roles receive harsher sentences than do females who commit crimes that are more closely aligned with their gendered role expectations. Research on this topic has suggested that females who violated traditional gender stereotypes (e.g., engaging in crimes that are typically committed by males) were more likely to receive harsher sentences than females who committed crimes that were stereotyped as female, such as shoplifting (Daly 1994). However, Rodriguez et al. (2006) found that the effect of gender by crime type on sentencing was not as straightforward. Although females who committed drug and property crimes were less likely to be sentenced to prison and for shorter periods of time than their male counterparts, they did not experience this same benefit when it came to violent crimes. Even though they received shorter sentences for these violent crimes, they were just as likely as males to be sent to prison.

Despite the fact the federal government implemented sentencing guidelines to address disparities in sentencing based on factors outside of legal facts of the case, the

role of the federal sentencing guidelines has become less pronounced over time, as some Supreme Court cases have relegated the guidelines to an advisory status. Instead, the importance placed on offense and offender characteristics has become more prominent. Additionally, these federal sentencing guidelines have little impact at the state level. States have implemented their own commissions, some of which are still active and others which are not. As of 2008, 21 states had active sentencing guideline systems (Kauder and Ostrom 2008); although, there is no universal agreement on what constitutes active participation in this system. Thus, state-level and even federal-level data, for that matter, may be more subject to group disparities in sentencing than intended.

Having traced the extent of differential group representation from arrest to sentencing, I now turn my attention to a review of current knowledge in terms of the replication of these disparate group trends in post-sentencing.

Post-sentencing: Infractions

It is well documented that there are race and gender disparities that occur in the criminal sentencing process, as outlined above. However, less research is available about how these disparities are replicated in post-sentencing processes. Post-sentencing, in this study, refers to the point at which an offender is under custodial supervision, during which time he or she may violate a prison rule. This rule violation may lead prison officials to file a formal infraction and subsequently sanction the inmate for this behavior. Sanctions may include decisions to revoke a suspended sentence or, for those in prison, decisions to delay prison release through the deduction of his or her earned credits. As this study

focuses on inmates found guilty of violating prison rules as well as sanctions for these violations, the proceeding discussion reviews the literature accordingly.

A prison infraction refers to the violation of a prison rule or regulation that serves to govern an inmate's behavior while he or she is incarcerated. These rules and regulations are typically not considered to be a violation of the federal or state penal code, but they are to be followed by each inmate while under custodial supervision to manage behavior and maintain order in the prisons. Incurring a prison infraction may be thought of by some as the continuation of the inmate's criminal career, while others may view prison as an environment that encourages adaptation into this criminal subculture (Innes 1997; Cihan et al. 2017). In many cases, it can be argued that one's prison misconduct is the result of existing maladaptive social responses. At the same time, the prison environment may be viewed as a mechanism that exacerbates and, at times, teaches new maladaptive responses. This mentioned, it is the intent of this research to look beyond these factors as reasons for incurrence of prison infractions. Instead, my attention is directed toward group disparities in the issuance of infractions and whether or not there is bias how sanctions are imposed. It is important to note that this particular state's prison system has a three-tier infraction severity classification system: Class 1, Class 2, and Class 3 infractions.¹⁴ Class 1 infractions are the least severe and include acts such as gambling, possession of tobacco, and failure to comply with rules of community-based placement. Class 2 infractions are moderately severe and include acts such as inmate-on-inmate assault or destruction of property. Class 3 infractions are the most severe and

¹⁴ A full listing of institutional infractions effective at the time data for this study were collected can be viewed in Appendix A.

typically include conduct that is the most egregious (e.g., killing another person; inmate-on-staff non-consensual acts).

Prior research related to the influence of extralegal factors on the issuance of formal prison infractions tends to predict which inmates are at risk for engaging in prison misconduct. In their meta-analysis of prior studies on the correlates of inmate misconduct, Steiner et al. (2014) found that an inmate's background characteristics (e.g., age, gang membership, mental health problems), institutional experiences (e.g., prior prison misconduct, time served), and prison characteristics (e.g., prison security level) predicted prison misconducts. Cunningham and Sorensen (2007) specifically found that age, sentence length, offense conviction type, gang affiliation, prior prison violence, and prior prison experience were predictive of violent institutional infractions among state-level, male-only prison inmates in Florida. Unfortunately, this research did not shed light on disparate rates by race. Rocheleau (2013) concluded from her research on state prison inmates in Rhode Island that "pains of imprisonment" such as boredom, safety concerns, and conflicts with staff tended to predict one's risk of serious misconduct. Other research has assessed the effect of federal- and state-level prison programming on the reduction of prison misconducts (Langan and Pelisser 2002; Pompoco et al. 2017).

Post-sentencing: Sanctions

Once an offender is found guilty of a prison infraction, a variety of mechanisms are available to sanction or punish the undesirable behavior. This may include a monetary fine, restricted visitation rights or canteen privileges, or placement in disciplinary segregation for a specified amount of time. He or she may also be subject to the deduction

of earned credits which the inmate has previously accrued, the sanction of interest in this study. I expand on this below.

Many state prisons within the United States have policies that award an inmate with early release from prison: clemency, parole, and earned credits. Both clemency and parole require an act of leniency by an authority outside of the corrections department, and these acts may be of higher profile and more visible to the general public. Being granted early release due to the accrual of credits is a process that some may consider less “politically volatile,” as they are regarded as a necessary process to incentivize good conduct among inmates (Larkin 2013:40). Inmates can accrue these credits for participation in productive activities or for following prison rules (NCSL 2016). They are a mechanism by which an offender is able to earn early release from prison based on past conduct, and they have been found to be as a useful tool for “penological, fiscal, and humanitarian purposes.” (Larkin 2013:2). Earned credits may include a variation of the following: jail time, good conduct, and achievement credits. Although each type of credit has its unique criteria for application, in broad terms, these credits are days an offender earns that are applied to her or his sentence as time served, thereby gradually reducing the number of days he or she spends in prison (Edwards 2001).

Although all inmates are admitted into prison and their sentence (translated into days to serve) establishes an anticipated discharge date, this discharge date can be updated based on the number of credits the offender has earned or lost. For instance, in this Southern state’s correctional system, if an offender abides by the rules set forth for him or her, then he or she is able to achieve an earning status of four good conduct credits

(days) for every one day served in prison.¹⁵ This is the equivalent of four days of time served even though only one calendar day expires. For example, inmates examined in this study, who were eligible to earn credits, accrued enough earned days to exit prison after having served, on average, 40 percent of their prison sentence. Other states allow the inmate to earn up to 30 days per month for participation in an education program (NCSL 2016). By having earned 30 days, the inmate would have completed 60 days of his sentence: 30 days for program participation and 30 days for the actual time served.

Inmates can receive these credits for a variety of reasons, such as serving time in county jail prior to being transferred to the state prison, exhibiting good behavior in prison, completing rehabilitative programming, and maintaining employment while in prison. In this Southern state's correctional system, the good conduct credit accrual potential for an inmate varies by his or her classification level; although, some inmates are excluded from earning credits for a period of time (more on this in a moment). Regarding the classification level, this prison system has a 4-level classification system that is based on an inmate's time in prison as well as his or her behavior in all areas of institutional life. As an inmate progresses through the classification system, he or she is subject to earn more credits. For instance, inmates typically enter prison at a level 2, meaning they have a baseline earning potential of 22 credits per month, or roughly per every 30 days; level 3 inmates may earn 33 credits per month, and level 4 inmates may earn 44 credits per month. An inmate increases his or her class standing the longer he or she is in prison. As long as the inmate remains free of disciplinary infractions by conforming to prison rules, then he or she is eligible to accrue these credits. Other

¹⁵ These earning levels are set according to state law.

mechanisms for earning credits (e.g., completing an institutional program) may result in a one-time application of 30 credits.

Once an inmate disrupts this good behavior, however, he or she is subject to having a quantity of earned credits removed. The severity of the deduction is dependent on the severity of the misbehavior/infraction. For the most severe infraction level (Class 3), the deduction of earned credits ranges from one to 365. For the moderate infraction level (Class 2), the deduction of earned credits may be as few as one and as many as 120. Lastly, the least severe infraction level (Class 1) is subject to a loss of one to 60 earned credits.

Post-sentencing sanctions, specifically the deduction of earned credits, could impact the length of time an offender remains behind bars, as I have mentioned. Limited research sheds light on how the denial or deduction of earned credits is distributed across race and gender. A review of the literature identifies three key studies that address this topic. Crouch (1985) examined the significance of minority racial status in discipline severity for prison infractions and concluded that minority status (i.e., systematic discrimination) played no significant role in officials' decisions on punishment severity. Rather, punishment severity was best predicted by inmate deviant behavior (i.e., total offenses while in prison and the number of times the inmate appeared before the disciplinary committee) and anti-social attitudes toward authority. Crouch's findings, if taken alone, suggests that disparate race outcomes realized at all former stages of the criminal justice process do not extend to post-sentencing. Although Crouch provided a great foundation for us to understand the role of one's race on prison officials' post-sentencing decisions, there are some limitations of this research. First, the study's sample

was inclusive of only male offenders who fell between the ages of 17 and 21. It did not allow for a discussion of the effect of being female on incurring a prison infraction. Additionally, the small sample size ($n=124$) limited the conclusions about effects for Hispanics, as they made up only 17% ($n=21$) of the final sample, and Native Americans who were not a part of the study at all. The current study provides an adequate sample to examine these groups.

In a more recent study, Frase (2009) found that, in Minnesota, the effects of delaying prison release by denying time credits modestly increased the black-white disparity in sentences from what was present at the time of initial sentencing. While he arrived at this conclusion, he also noted that Hispanic whites were not separated from non-Hispanic whites, which may have dampened the black-white effect because Hispanics had higher arrest, conviction, and incarceration rates. Although this research suggested that differences in time credit distribution contributed to the disparate population make-up of state prisons, this study could have benefited from a more thorough examination of if and how different race categories predicted whether or not time credits were disproportionately deducted; more so, gender differences should have been addressed.

Lastly, during preparation of the current study, Steiner and Cain (2017) published their work on the same topic using data from a Midwestern state prison. Specifically, similar to the current study, they sought to more fully understand factors that influenced prison officials' decisions to remove good time credits in response to rule violations. The researchers concluded that officials were primarily influenced by the seriousness and type of rule violation as well as the inmate's history of rule violations rather than extralegal

factors such as race or gender. Although their research is very similar in nature to the current study, I suggest that my approach helps to build on Steiner and Cain's (2017) findings for several reasons. The current study aims to estimate in greater detail the effect of removing an inmate's credits by examining all credits earned, not just good time (conduct) credits. I also examine a sample of prisoners who released from prison to quantify the full impact of credits removed on total time in prison. The authors of the prior study only examined current incarcerates who were convicted of a rule violation during their full term of imprisonment, or only the first five years of confinement if they had been in prison longer than this time frame. Where my study contributes the most is in terms of 1) the sheer frequency at which this Southern state prison system of interest sanctions offenders to a loss of earned credits, and 2) the study's research design. Steiner and Cain noted that removing good time credits in their Midwestern state prison system was rare (only 6 percent of all incidents examined). The Southern state prison system in this current study subjected approximately 52 percent of its rule-violating inmates to this sanction. Steiner and Cain also evaluated a two-level hierarchy of effects, examining incident-level and inmate-level factors. This current study employs a three-level design, simultaneously examining not only incident- and inmate-level factors, but facility-level factors as well.

Chapter 4: Statement of Problem and Research Questions

A wealth of evidence suggests there are race and gender disparities at many stages of the criminal justice process, but little research exists regarding the replication of this disparity at post-sentencing. Studies that have been conducted are relatively more recent additions to the field and leave room to a paint of fuller picture of the problem. Thus, a continued examination of outcomes at this phase of the criminal justice process is warranted, as it speaks to the extensiveness of the issue at hand. It also further illuminates the social and financial implications of (disproportionately) housing offenders in prison for additional days as the result of deducting credits earned by the inmate.

Government data characterizing America's reliance on incarceration as a tool to manage criminal behavior further explains the magnitude of this study. Over the last 40 years, United States' state incarceration rates have nearly quadrupled, a response primarily due to changes in drug laws that began in the 1970s and continued for two decades. To clarify the sheer number of individuals affected, in 1980, approximately 300,000 offenders were under the jurisdiction of state correctional authorities nationwide (BJS 1982). By 2016, this number had grown to over 1,300,000 inmates (Carson 2018). Even more startling is the disproportionate incarceration rate of certain groups of individuals. For instance, nationally, blacks make up 13% of the U.S. population (U.S. Census 2016), but they account for an overwhelming 42% of all incarcerated offenders (Carson 2018). However, even in the midst of this mass incarceration trend, females have consistently accounted for a marginal percentage of sentencing and imprisonment statistics. Currently, females make up 51% of the U.S. population (U.S. Census 2016), but they account for only 7% of all U.S. state-level incarcerates (Carson 2018).

Given this disproportionate group representation in the state prisons, the effect of filing a rule violation and sanctioning an inmate to lose earned credits in disproportionate ways could have major consequences. Not only could it contribute to prison overcrowding, but it also could have adverse consequences for those affected. As of 2016, 47 states had policies that awarded inmates with credits (NCSL 2016), suggesting that if disparate outcomes are found to exist among this study's sample data, then other states would be remiss to not examine their own processes and their larger implications. A descriptive analysis of all inmates in this Southern state's prison system suggests that there may be a race and gender disparity for those who received a formal prison infraction. Among those who exited prison between calendar years 2012 through 2013, 52 percent of blacks received an infraction, compared to 45 percent of Native Americans, 41 percent of Hispanics, and 40 percent of whites. By gender, just over 45 percent of male inmates received a formal prison infraction compared to 37 percent of females. Given these statistics, research of this type is important to provide a deeper look into this disparity. Findings may help inform policies and reduce group inequalities in outcomes.

Using the Focal Concerns Perspective informed by the Selective Chivalry Thesis, I investigate the impact of an inmate's race and gender on how prison infractions are issued, with an additional inquiry into the type of sanction one receives for the incident. In light of prior research that also found a relationship between age and criminal justice outcomes, the analyses in this study account for the independent and joint influence of this highly influential variable coupled with race and gender as well. This is an important examination because any disparities realized at post-sentencing would extend the estimated race/gender gap visible today throughout the criminal justice system.

This study focuses on four primary research questions. All aim to examine race and gender disparities in post-sentencing (i.e., prison infractions and sanction outcomes). Due to the differences in sanction severity across the infraction classes Class 1, 2, and 3, I segment the data by this variable for each research question pertaining to punishment outcomes. The research questions are:

1. Are there race or gender differences in who incurred a prison infraction?
2. For inmates who incurred an infraction, are there race or gender differences in the likelihood of receiving an earned credit sanction for this infraction?
3. For inmates who received an earned credit sanction, are there race or gender differences in the quantity of earned credits deducted?
4. For inmates who received an earned credit sanction, are there race or gender differences in who received the maximum earned credit penalty?

For research question 1, I hypothesize that racial minorities are more likely than white offenders to receive a formal prison infraction; females are less likely than males to receive a formal prison infraction. For research question 2, I hypothesize that racial minorities are subjected more often than whites to the loss of earned credits as a penalty for their infraction; females are sanctioned less often than males, but only for less egregious infraction classes (Class 1 and Class 2). For the most egregious infraction class (Class 3), the female-male disparity is reduced. For research question 3, I hypothesize that racial minorities have, on average, more earned credits deducted than white offenders; female offenders have, on average, fewer earned credits deducted than male offenders, but only for less egregious infraction classes. For the most egregious classes, female-male disparity in the number of credits removed is reduced. For research question

4, I hypothesize that racial minorities have increased odds of being sanctioned to the maximum earned credit penalty when compared to whites; females when compared to males have reduced odds of being sanctioned to the maximum earned credit penalty. However, for the most egregious class, the female-male disparity in receiving the maximum earned credit penalty is reduced.

These research questions enable me to assess whether or not there are quantifiable differences by race and gender in who received a prison infraction as well as in the type and severity of sanctions received. The results may point to a replication of disparate punishment in the criminal justice process at the point of post-sentencing, where racial minorities are more likely to incur an infraction and to be sanctioned more harshly than whites, and males are more likely to incur an infraction and to be sanctioned more harshly than females, but up to a point.

Chapter 5: Methods

Data

This study uses official data collected by a state corrections department in the South. State-level data and, furthermore, this particular state prison system are ideal for many reasons. At the time of this study, state-level incarceration was a large contributor to the overwhelming number of imprisoned offenders in the United States (Carson 2014; Carson and Golinelli 2013). Disparate outcomes realized at this level may be more impactful than those experienced in federal prisons due to the sheer volume of inmates under state supervision. Secondly, inmates imprisoned at the state level at the time of this study were subject to earning credits, a key outcome in this study. Lastly, this particular prison system ranked high in terms of its incarceration rate when compared to other state prison systems in the United States (Carson 2014; Carson and Golinelli 2013). An effect realized among these sample data could have large social and financial implications for similarly situated state prison systems.

Data for this study come from a database used by the state corrections department personnel to track administrative information on adult inmates under its supervision. This database contains information on facility characteristics, inmate demographics, prison infractions, sanctions for the infraction, and prison infraction reports. The base sample includes inmates who released from this state prison during calendar years 2012 and 2013 ($n=15,695$). Inmates who released from prison represents a key population, as I am interested in understanding not only if there are disparate outcomes for specific groups, but how these outcomes influence the overall length of time

an inmate serves behind bars. Impacts to the overall time an inmate serves behind bars, as mentioned above, may carry financial and social implications.

Samples

To answer the research questions, I utilize three distinct prison inmate release samples: 1) all prison releases; 2) all prison releases who incurred an infraction *and* were eligible to receive an earned credit sanction; and 3) all prison releases who incurred an infraction, who received an earned credit sanction, *and* were eligible to lose the maximum number of credits allowed by the infraction class. These three distinct inmate samples are required, as this study begins with one group and then dives deeper into its subsets to address subsequent stages of the infraction and sanctioning process.

The first sample addresses the first research question (RQ.1): “Are there race or gender differences in who incurred a prison infraction?” Eligible offenders include inmates who exited prison between 2012 and 2013 ($n=15,695$). However, data are oftentimes subject to entry errors and these state prison data are no exception. A validity check of the ratio of the inmate’s sentence to the inmate’s time served in prison suggests that some inmates served over 100 percent of their sentence ($n=1,025$; 7 percent). Others served 0 percent of their sentence ($n=202$; 1 percent). To insure the quality of the data, I exclude these observations from the analysis. Additionally, due to sample size limitations, I continue the data reduction process. Race/ethnicity includes the following categories: African American, Asian, Caucasian, Hispanic, Native American, Pacific Islander, and Other. For the purpose of this analysis, I omit Asian, Pacific Islander, and Other inmates, as they collectively make up less than one percent of the total sample

($n=67$; <1 percent). Although their outcomes are important on a substantive level, their small numbers do not allow for statistical analysis. Next, I omit inmates under a delayed sentencing program for young adults ($n=128$; <1 percent), as their prison experience is markedly different than the general inmate population.¹⁶ The total data reduction process results in 1,422 (9 percent) inmates being removed, leaving a final sample for RQ.1 of 14,273 inmates.

The second sample, a subset of inmates from RQ.1, aims to answer research question 2 (RQ.2): “For inmates who incurred an infraction, are there race or gender differences in the likelihood of receiving an earned credit sanction for this infraction?” Although RQ.1 is the starting sample from which RQ.2 comes, the data structure is different. I shift from a wide data structure to a long data structure. The number of inmates is reduced because I only retain inmates who incurred an infraction. However, the number of observations per inmate increases due to my examination of multiple incidents within an inmate. As such, my sample of 14,273 inmates narrows to just 6,431 inmates, but these 6,431 inmates incurred a total of 29,927 infractions. Not all observations, however, are eligible for inclusion in the analysis due to important policy stipulations that affect the outcome of interest. Specifically, departmental policy provisions requires an inmate to have accumulated at least one earned credit before being eligible for have an earned credit removed.¹⁷ Of the 6,431 inmates, only 6,355 inmates

¹⁶ Per statute in this Southern state, inmates in the Program have no official sentence imposed by the courts. The courts delay sentencing for, at minimum, 180 days to, at maximum, 365 days, pending the completion of the Program. Additionally, this Southern state prison system’s policy requires inmates participating in the Program to be assigned to Level 1, a level that accrues 0 earned credits per month.

¹⁷ Per policy, an inmate must have accrued, at minimum, the number of credits to be deducted (e.g., an inmate cannot be sanctioned to lose 300 credits if he or she only had a net credit balance of 265). Because of this policy, it is unknown with the data available if an inmate did not receive this sanction type due to insufficient credits available or due to some other factor (e.g., the sanctioning authority did not see it fit to deduct earned credits).

(29,295 infractions) had accumulated at least one earned credit at the time of the infraction, which thereby excludes 76 inmates (1 percent) and 632 infractions (2 percent) from the analysis. I also omit inmates who served life sentences ($n=68/512$; 1 percent/ <2 percent). The earning and deduction of earned credits for life sentence inmates potentially carries a different meaning in terms of reward and punishment, and it may not have been a commonly used behavior management tool.¹⁸ Lastly, some inmates received multiple infractions for one incident ($n=2,446$; 8 percent). I adjust for this situation by retaining the most serious offense for which the inmate was punished. The total data reduction process results in a removal of 144 inmates (2 percent) and a total of 3,590 infractions (12 percent), with the bulk of the infraction reduction attributed to inmates having received multiple infractions for one incident. The final sample for RQ.2 includes 6,287 inmates who incurred a total of 26,337 infractions. By infraction class, the following samples are: Class 1=2,125 inmates with a total of 3,479 incidents; Class 2=5,301 inmates with a total of 16,972 incidents; and Class 3=2,473 inmates with a total of 5,886 incidents. Inmate totals exceed the reported 6,287, as some inmates belong to more than one infraction class.

The third sample addresses the third (RQ.3) and fourth (RQ.4) research questions. As a reminder, RQ.3 asks: “For inmates who received an earned credit sanction, are there race or gender differences in the quantity of earned credits deducted?” RQ.4 asks: “For inmates who received an earned credit sanction, are there race or gender differences in who received the maximum earned credit penalty?” I continue the sample reduction

¹⁸ In this state prison system, while under a life sentence, a record of having earned a credit is maintained solely for the purposes of record keeping in the event the inmate’s sentence should be commuted by the state’s Governor. Because life sentences are rarely commuted, the sanctioning personnel may not have viewed an earned credit sanction as an applicable penalty.

process from the point noted above to address research questions 3 and 4 because, even though the inmate received a formal infraction and was eligible to receive an earned credit sanction, he or she may not have actually been sanctioned to this punishment. Additionally, he or she may not have accrued sufficient credits to allow for the maximum number of credits to be deducted. Similar to above, it is unknown with the data available if an inmate in this case did not have the full number of credits removed due to insufficient credits available or due to some other factor. I omit inmates who meet these latest criteria ($n=1,915/15,374$; 30 percent/58 percent). Although this large sample reduction may sound alarming, keep in mind that inmates could have received a variety of sanctions (e.g., segregation, monetary fine, reduction of canteen privileges), and an earned credit sanction is just one of the many sanction types.¹⁹ This concludes the data reduction process, as possible errant records, inmates belonging to race/ethnicity groups containing too few inmates, special sentences (e.g., delayed and life), and multiple infractions for the same incident are already removed through to the earlier data reduction stages. The final sample for RQ.3 and RQ.4 includes 4,372 inmates who incurred a total of 10,963 infractions. By infraction class, the following samples are: Class 1=948 inmates with a total of 1,318 incidents; Class 2=3,375 inmates with a total of 6,763 incidents; and Class 3=1,790 inmates with a total of 2,882 incidents. Once again, the inmate total exceeds the reported 4,372 as some inmates are a part of more than one infraction class.

¹⁹ A full list of sanctions is available in Appendix B.

Data Structure

The next subsections discuss in detail the variables used in all analyses. However, I must mention that the variable description quickly becomes difficult to describe due to this study utilizing two distinct data structures for its analysis. As I noted above, RQ.1 utilizes a wide dataset, whereas RQ.2, RQ.3, and RQ.4 utilizes a long data set. This results in my using distinct language when describing the variables, as the long dataset contains multiple observations that belong to higher-level categories. To identify those higher-level categories, I use language such as level 1, level 2, and level 3, reasoning which I explain in the section on my analytical approach. RQ.1, however, uses a wide data set with no higher levels, and, therefore, language with regard to “levels” does *not* appear. I now proceed into a discussion of the dependent, independent, and control variables.

Dependent Variables

There are four outcome variables that allow me to examine research questions 1-4. To answer RQ.1, which explores the relationship between race/gender and receiving a prison infraction, the outcome variable is whether or not an inmate incurred an infraction (*received an infraction*). Inmates having at least one infraction during the prison term (yes) were coded as 1 and inmates having zero infractions during the prison term (no) were coded as 0.

RQ.2 examines the relationship between race/gender and being sanctioned to lose earned credits (*earned credits removed*). This variable is measured at the infraction level

(level 1). Being sanctioned to lose earned credits (yes) was coded as 1 and not being sanctioned to lose earned credits (no) was coded as 0.

RQ.3 examines the relationship between race/gender and the quantity of earned credits removed (*quantity removed*). To answer this research question, I began by examining a continuous variable measured at the infraction level (level 1) that represented the total number of earned credits removed for the infraction. The range of credits that an inmate could lose varied by infraction class. Class 1 infractions, the lowest infraction class, allowed for the revocation of 1-60 credits; Class 2 infractions, the moderate infraction class, allowed for the revocation of 1-120 credits; and Class 3 infractions, the most severe infraction class, allowed for the revocation of 1-365 credits. Because the total number of earned credits an inmate could lose depended on the infraction class, I created three distinct dependent variables, one for each infraction class. An examination of this continuous variable revealed that oftentimes the number of earned credits removed was concentrated at specific points in the scale. Thus, this forced me to group the values into ordered categories. These ordered categories differed by infraction class, but no noticeable adjustments were required by race or gender. *Quantity removed*, as a result, is defined in three ways. For Class 1 infractions, 1-30 days was coded 0, 31-45 days was coded 1, and 46-60 days was coded 2. For Class 2 infractions, 1-30 days was coded 0, 31-60 days was coded 1, 61-90 days was coded 2, and 91-120 days was coded 3. For Class 3 infractions, 1-100 days was coded 0, 101-200 days was coded 1, 201-300 days was coded 2, and 301-365 days was coded 3. Thus, higher values of *quantity removed* suggest a harsher punishment.

RQ.4 seeks to understand the relationship between race/gender and receiving the maximum earned credit deduction (*maximum penalty*). Being sanctioned to the maximum penalty (yes) was coded as 1 and not being sanctioned to the maximum penalty (no) was coded as 0. This variable is also measured at the infraction level (level 1).

Independent Variables

This study focuses on two focal independent variables that allow me to examine research questions 1-4. These are race/ethnicity and gender. For RQ.2, RQ.3, and RQ.4, these variables are measured at the inmate level (level 2).

Race/Ethnicity: Race/ethnicity is a categorical variable that is based on self-reported information. Although, at times, inmate categorization may have been due to the prison intake official's observation of the inmate's status. The frequency at which direct observation rather than self-report occurred is unknown. I created four dummy variables for race/ethnicity as follows: black, Hispanic, Native American, and white. The reference group is "white."

Male: Male is a dichotomous variable that is also based on self-reported information. As with race, an inmate's categorization may have, at times, been due to the prison intake official's observation of the inmate's status. I created a dummy variable for an inmate's gender (*male*) in which males were coded as 1 and females were coded as 0.

Control Variables

Prior research has suggested that situational factors, inmate characteristics, and prison characteristics predict prison infractions (Gendreau et al. 1997; Steiner et al. 2014).

Thus, the analysis also controls for factors that may impact the likelihood of observing disparate outcomes, and these factors are: violent infractions; prior institutional infractions; months between infractions; multiple violations during the same incident; total sanctions for the infraction; age; education; the inmate's criminogenic risk score according to the Level of Service Inventory-Revised (LSI-R); prior prison incarcerations; total prison sentence length; percent of sentence served up to the point of the infraction; months served in prison; violent crime; whether or not the crime for which the inmate was incarcerated required him or her to serve 85% of the sentence; and facility security level. Although all of these variables appear at some point in the analysis, several are specific to certain research questions. I make mention of this below when describing them individually. As the bulk of this study utilizes the long data structure, I organize the control variables by the data level to which they pertain (level 1, 2, or 3). Again, this is a point discussed further in the section detailing my analytical approach.

Level 1: Infraction

Violent Infraction: Violent infraction is a dichotomous variable that represents whether or not the infraction is violent or non-violent. There is no standard definition of what constitutes a violent or non-violent infraction in departmental policy; rather, infractions are listed by severity (e.g., Class 2) and nature of the incident (e.g., group disruptive behavior). I reviewed the full range of infractions ($n=103$) and categorized them accordingly.²⁰ Criteria for a violent infraction includes acts such as threats, battery, obscenities toward staff, and weapons violations. Non-violent infractions includes acts

²⁰ See Appendix A for a full listing of violent infractions, noted under the column titled "Violent."

such as drug use or manufacturing, escapes, failure to comply with orders, theft, and property violations. After categorizing the full list of infractions into violent or non-violent, I recoded *violent infractions* so that violent was coded as 1 and non-violent was coded as 0.

Prior Infractions: Prior infractions is a proxy measure of an inmate's prior criminality while in prison. This variable measures the number of incidents for which the inmate was found guilty during the prison term leading up to the incident of focus. I dichotomized the values to create a binary indicator. Having at least one prior infraction was coded as 1 and no prior infractions was coded as 0.

Months to Infraction: Months to infraction is a continuous variable that measures the number of months between an inmate's infractions (e.g., [second infraction date – first infraction date]/30.42), or, in the case of the initial infraction, the number of days between prison reception date and the first infraction (i.e., [first infraction date – prison admit date]/30.42).

Multiple Violations: Multiple violations is a binary variable that indicates whether or not the inmate received multiple violations stemming from the same incident. If an inmate received multiple violations on the same date, then I consider these violations to be a part of the same incident. Infractions associated with one inmate that occurred on the same date were coded as 1 with all others coded as 0.

Total Sanctions: Total sanctions is a continuous variable representing the number of sanctions imposed on the inmate for the one infraction. Although sanction types are categorical (e.g., monetary fine), if more than one sanction was applied, then I assigned each sanction a value of 1 and summed these values by incident.

Level 2: Inmate²¹

Age: For RQ.1, age is a continuous variable representing age (in years) at the time of prison exit. Age was computed from two existing variables: date of birth and prison exit date (i.e., [prison exit date – date of birth]/365.25). For RQ.2 through RQ.4, age was also a continuous variable; however, in these research questions it represented the inmate’s age (in years) at the point at which the infraction occurred. Age was computed from two existing variables: date of birth and infraction date (i.e., [infraction date – date of birth]/365.25).

Education: Education is a categorical variable representing the inmate’s highest level of formal schooling attained. I dichotomized the values to create a binary indicator so that having a high school diploma, a GED, or at least some college experience was coded as 1 and having not completed high school or a GED was coded as 0.

Level of Service Inventory-Revised Risk Score: Level of Service Inventory-Revised (LSI-R) risk score is the outcome of an assessment administered at prison reception that determines an inmate’s criminogenic needs in 10 areas. These areas include but are not limited to criminal history, family, drug and alcohol use/abuse, and employment. The assessment score is continuous and ranges from 0-54, with higher values indicating more criminogenic risk. This risk assessment is internally consistent at

²¹ This corrections department utilized a mental health classification system to assist in strategic management planning for medical services. The classification system grouped inmates into one of six categories that, in a broad sense, characterized their need for mental health services. I attempted to control for the effect of an inmate’s mental health level at the time of the incident on the outcome; however, nearly 36% were missing data on this variable. To minimize this missingness, I aggregated to the inmate level the most severe mental health status across all of his or her infractions. This reduced the missingness to 13%. However, in an effort to retain the full sample, I dichotomized mental health status into a dichotomous indicator of whether or not the record had a missing value. I then entered this new variable into the statistical models to understand if the missingness significantly predicted the outcome. Across all models, it was not statistically significant ($p > 0.05$). Thus, I omitted it in full.

the total score level (.84-.87) and has acceptable levels of inter-rater reliability for trained raters (.80-.96) (Andrews and Bonta 1995; Andrews and Bonta 2003).

Prior incarceration: Prior incarceration is a dichotomous variable that represents whether or not an inmate served a prior term of incarceration in the custody of this particular Southern state prison system. A prior prison term is a sentence of incarceration that completed before the initiation of the prison term which resulted in the 2012 or 2013 prison release. A dummy variable was created in which all inmates who spent one or more days in prison prior to this point in time were coded as 1 and all inmates who did not spend time in prison prior to this point in time were coded a 0.

Sentence Length (in years): Total prison sentence length is a continuous variable measured in years that reflects the amount of time an inmate was sentenced to serve in prison. Oftentimes, an inmate is convicted of more than one crime. For these convictions, he or she receives distinct sentences, which may be served concurrently or consecutively. To determine total sentence length, if an inmate was to serve his or her sentences concurrently, then the longest sentence dictated the end of the prison term and, therefore, the total time to serve. If an inmate was to serve his or her sentences consecutively, then these sentences were added to arrive at the total time to serve.

Violent Crime: As mentioned in the “sentence length” variable, an inmate oftentimes serves concurrent sentences for multiple convictions. Other times, he or she serves the sentences consecutively. For the creation of this variable, if the inmate was serving time in prison for at least one crime categorized as violent by this prison’s definition (e.g., assault and battery),²² then he or she was considered to be serving time

²² See Appendix C for a full listing of violent crimes.

for a violent crime. In this case, serving time for at least one violent crime, recognizing that other crimes may have been non-violent, was coded as 1 and all others (i.e., only non-violent crimes) were coded as 0.

85% Crime: A crime categorized as “85%”²³ is typically violent (e.g., Murder I). More so, any person convicted of an 85% crime is required to serve no less than eighty-five percent (85%) of any sentence of imprisonment before becoming eligible to earn credits. This rule is in place to ensure that the inmate serves at least eighty-five percent (85%) of the sentence length in prison as required by law. This sentence/crime type may have affected the number of earned credits an inmate accrued or even lost. Thus, inmates with at least one 85% crime, recognizing that other crimes may be non-85% crimes, were coded as 1 and all others (i.e., only non-85% crimes) were coded as 0.

Percent of Sentence Served: Percent of prison sentence served is a continuous variable that accounts for the amount of time an inmate had already served on his or her sentence at the point he or she incurred the infraction. It was computed from three existing variables: prison admit date, infraction date, and total prison sentence (i.e., [infraction date – prison admit date]/total prison sentence). I control for the effect this variable may have on the outcome, as more time in prison could result in prison officials’ greater awareness of the inmate’s personal misconducts.

Months in Prison: Months served in prison is a continuous variable that accounts for the amount of time an inmate served in prison. It was computed from two existing variables: prison admit date and prison exit date (i.e., [prison exit date – prison admit date]/30.42). This variable is specific to the analysis for RQ.1. I control for the effect

²³ See Appendix C for a full listing of 85% crimes.

this variable may have on the outcome, as more time in prison provides an inmate with a greater opportunity to incur a prison infraction.

Level 3: Facility²⁴

Physical Security Level: In a broad sense, this prison system includes four physical security levels that suggest the level of supervision needed to ensure the safety and security of persons, the institution, and the community. Listed in order of most severe to least severe, these are: maximum, medium, minimum, and community. These four security levels describe the facility's majority rather than describe the security level of the bed to which the inmate was assigned. Due to the female facilities in this study not having maximum security, I collapsed maximum and medium securities into one category, maximum/medium, thereby reducing the number of security groups to only three designations. Next, I created three dummy variables for security level as follows: maximum/medium, minimum, and community. The reference group in all analyses is "community."

Analytical Approach

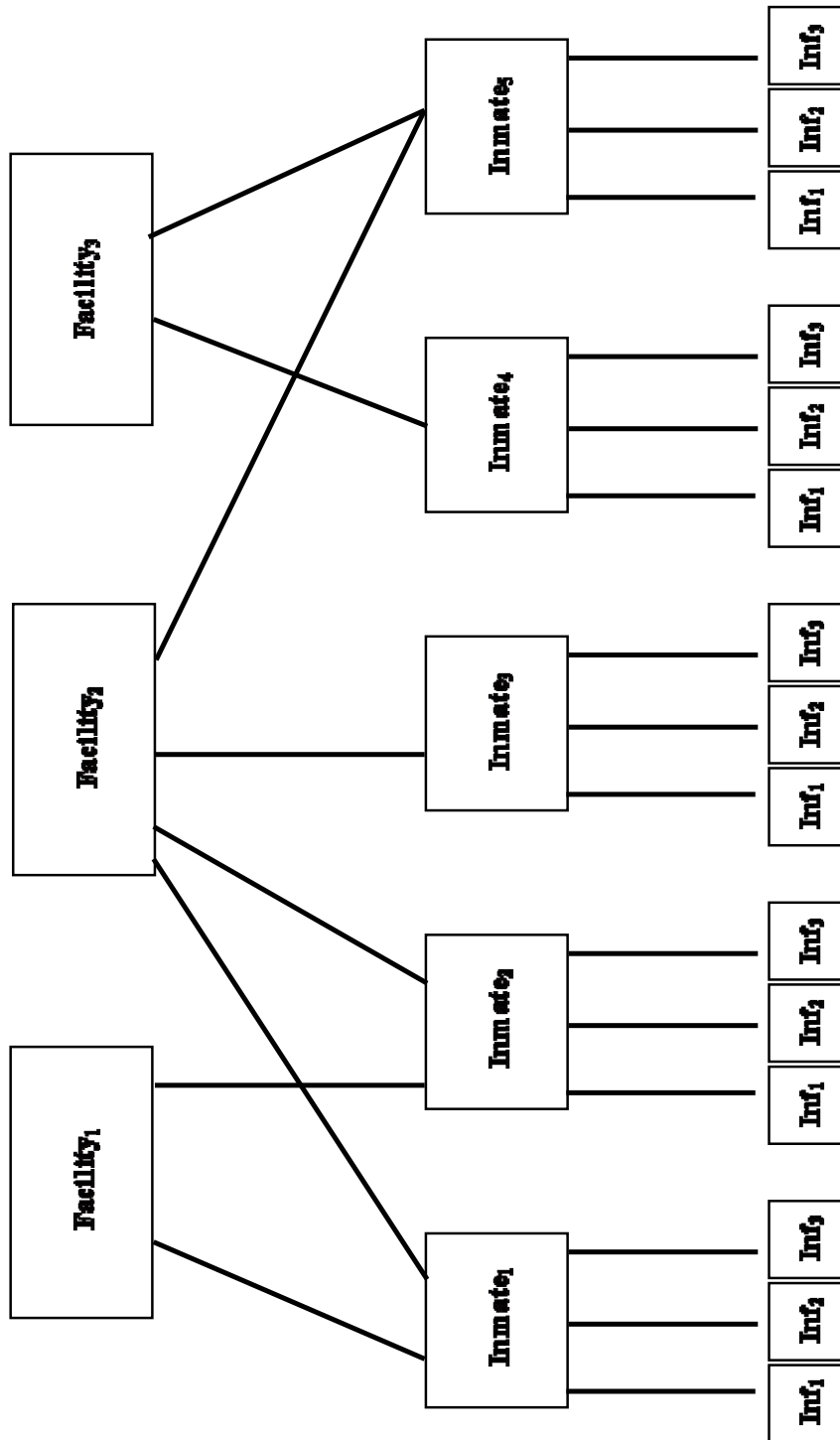
This study seeks to understand the impact of race and gender on post-sentencing, examining potential disparities in who receives an infraction as well as potential disparities in the sanction an inmate receives for the infraction. The various research

²⁴ This research attempted to control for the effect of being in a private compared to a public prison. However, this factor only varied for males, as all females were assigned to public facilities. Although, prior research has suggested that troublesome inmates may be likely to be transferred to private facilities in order for staff to avoid the burden of their greater disciplinary problems (Spivak and Sharp 2008), thereby suggesting qualitative differences between the two classes of inmates, the results of this study suggested that being in public or private prison (for males) did not predict sanction outcomes ($p > 0.05$). Thus, this factor was omitted from analyses for RQ.2 – RQ.4 to minimize the number of estimated models.

questions necessitate the use of two distinct analytical approaches. To assess the effect of an inmate's race and gender on the likelihood of receiving an infraction compared to no infraction (RQ.1), I employed a logistic regression model. Logistic regression is a statistical method used to analyze a non-nested binary outcome variable.

To assess the effect of an inmate's race and gender on sanction outcomes requires a lengthier discussion than that just provided for infraction outcomes. The target data for RQ.2, RQ.3, and RQ.4 are quite different in their design than the data used in RQ.1, as the outcome of interest is sanction outcomes for an infraction. As inmates oftentimes incur more than one infraction during their prison term, this naturally creates a nested data structure. Nested data include clusters of observations that are dependent, and a key assumption of standard statistical techniques is that observations are independent (Raudenbush and Bryk 2002). Ignoring the dependency between observations for these research questions would threaten the validity of statistical inference by biasing the standard errors, thereby increasing the probability of a Type I error (Raudenbush and Bryk 2002). More specifically, in these data the infractions (level 1) are nested within an inmate (level 2). Adding additional complexity to the analysis is that both level 1 and level 2 variables are nested within a facility (level 3), but this facility assignment is time-varying. Therefore, level 3 is considered to be crossed or cross-classified, as an inmate may not have been assigned to just one facility as time passed. Figure 1 provides a hypothetical depiction of this relationship. It is also noteworthy that, although the data are nested within an inmate, I am not interested in modelling intra-individual variation over time. Thus, a longitudinal design is not warranted and I consider these data to be cross-sectional.

Figure 1. Cross-classified Relationship between Infractions, Inmates, and Facilities



Having described the complexity of the data set I use to answer RQ.2, RQ.3, and RQ.4, I continue with a description of the analytical approach. For these three research questions, I employ three-level, cross-classified generalized linear mixed models (GLMM) to examine which variables, if any, predict the outcome. This partially cross-classified GLMM is a flexible regression technique that explains variability in the intercepts and slopes at lower levels of analysis based on group characteristics of the higher levels of analysis (Cafri et al. 2015; Hox 2002; Raudenbush and Bryk 2002). GLMM also enables me to estimate the effects for categorical rather than continuous outcomes using a nonlinear link function (Ene et al. 2014). A link function models the effect of certain variables on the logit of the outcome rather than the raw value of the outcome so that the best regression line can be fit to the data. It is important to note that, although the data in this study are nested, they do not fall within a strict hierarchy across all levels, which would in a traditional sense warrant the use of a hierarchical generalized linear model (HGLM). As there is variation in the quantity of earned credits which could be deducted across the three infraction classes (i.e., 1, 2, and 3), I fit separate models for each class. I now provide more detail regarding the specific analytical approaches for RQ.2-RQ.4.

In this study, RQ.2 explores the probability of an inmate being sanctioned to an earned credit deduction and the influence of several incident-, inmate-, and facility-level characteristics on the chance of this outcome occurring. Being sanctioned to an earned credit deduction is binary; thus, I employ a GLMM using a logit link. Across the models in RQ.2, I estimate the fixed effects for all level 1, level 2, and level 3 variables. However, race, gender, and their combinations (level 2) are allowed to vary or have random effects

at level 3 to examine whether or not the slopes change across facilities. I base this decision on the primary goal of this study: to understand whether or not race or gender predict an official's decision to punish an inmate using an earned credit sanction net of other important variables.

RQ.3 examines the probability of being at or below a specific earned credit penalty level and the influence of incident, inmate, and facility characteristics on the chance of this outcome occurring. This outcome is polytomous; thus, I employ a GLMM using a cumulative logit link. Similar to RQ.2, I estimate the fixed effects for all level 1, level 2, and level 3 variables. I also examine the random effects of race, gender, and the interaction of these two variables (level 2) across level 3 to reveal whether or not the slopes vary between facilities, as this is the primary objective of this study.

RQ.4 explores the probability of an inmate receiving the maximum earned credit penalty and the influence of incident, inmate, and facility characteristics on the chance of this outcome occurring. Once again, this outcome is binary; thus, as with RQ.2, I employ a GLMM using a logit link. Similar to the other research questions, I estimate the fixed effects for all level 1, level 2, and level 3 variables. Race, gender, and the race-gender combinations (level 2) are allowed to vary at level 3 to assess if slopes vary across facilities.

Although this study examines the effect of race and gender on prison officials' decision-making for all inmates who exited prison between calendar years 2012 and 2013 (a population), my analyses utilize inferential statistics to better understand the effect sizes of these variables. I believe this to be an appropriate application in this context, as I consider these particular data to be a sample of all inmates who released from prison.

Prior criminal justice research has also used this approach (Van Nostrand and Keebler 2009).

Missing Data

The earlier data reduction processes address nearly all of the missing data in this data set, as much of the missing data is attributed to inmates being admitted to prison prior to the department's implementation of a new electronic database. Some earlier records did not convert accurately to the new data recording system. This missing data primarily related to a lack of accurate prison admit and prison exit dates, which had a cumulative effect on generating prison term-specific data. Having corrected for these errors, there remains one variable that requires additional cleaning: LSI-R risk score. The LSI-R risk score is missing for approximately 15% of all cases and to retain these cases I impute the sample-specific mean score for the records with missing values.

Chapter 6: Infractions

The data for this study are evaluated in two parts to assess the impact of an inmate's race and gender on post-sentencing outcomes. In this first results chapter, I specifically focus my attention on the relationship between an inmate's race/gender and having received a formal prison infraction. The second results chapter, Chapter 7, digs deeper into the data to examine a subsequent step of the post-sentencing process, examining whether or not there are race and gender differences in how sanctions are applied for these infractions.

Research Question 1: Examining Who Receives an Infraction

Just under half (44 percent) of all prison exits included in this study incurred at least one formal prison infraction during their incarceration. With a large number of inmates receiving a formal infraction, I examine which inmate characteristics explain variance in this outcome. Thus, the objective of RQ.1 is to assess the question, "Are there race or gender differences in who incurred a prison infraction?" Preliminary statistics suggest that there are race and gender differences in the outcome, with more blacks (52 percent), Hispanics (41 percent), and Native Americans (45 percent) incurring an infraction when compared to whites (40 percent) and more males (45 percent) incurring an infraction when compared to females (37 percent). However, to better disentangle whether or not these specific extralegal factors account for variation in the outcome net of other group characteristics, I employ a logistic regression model. The results of this model are described subsequent to a full discussion of the study sample's characteristics.

Sample Characteristics

Table 3 provides a descriptive view of the sample used in RQ.1. Most importantly, 44 percent of inmates who exited prison during 2012 through 2013 incurred at least one prison infraction. Of these inmates, the majority were male (86 percent). With regard to race, most were white (56 percent), with blacks being the largest minority racial category represented (26 percent). A much smaller proportion were Native American (11 percent) or Hispanic (7 percent). At the time of exiting prison, these inmates were, on average, approximately 38 years of age. Half (50 percent) had less than a high school education. With regard to criminogenic risk scores, inmates bordered a moderate-high risk level (28). Nearly half (46 percent) served at least one prior term of incarceration in this Southern state's prison system. Inmates served, on average, moderate length prison terms of seven years. Lastly, the majority were non-violent inmates (70 percent) who did not serve time on an 85% crime (93 percent).

Table 3. Descriptive Statistics for RQ.1 (n=14,273)

Measures	<i>M</i>	<i>SD</i>	Range
Male	0.86	0.35	0-1
<i>Race/ethnicity</i>			
Black	0.26	0.44	0-1
Hispanic	0.07	0.25	0-1
Native Am.	0.11	0.31	0-1
White ¹	0.56	0.50	0-1
Age (yrs.)	37.63	10.69	17-83
>=HSD/GED	0.50	0.50	0-1
LSI-R Risk Score	27.83	6.21	2-49
Prior Incarcerations	0.46	0.50	0-1
Sentence (yrs.)	6.67	6.15	0-45
Violent Crime	0.30	0.46	0-1
85% Crime	0.07	0.26	0-1
Months in Prison (log)	2.99	0.97	-3-6
<i>Outcome Variable</i>			
Received an Infraction (Y)	0.44	0.50	0-1

¹Reference category

Findings

To test the hypothesis that race and gender influence the likelihood of receiving a prison infraction, I employed a logistic regression. Tests for multicollinearity indicated that a very low degree of correlation was present between the predictor variables, with the variance inflation factors (VIF) ranging from 1.04 to 2.53. The model fit statistics suggested that the full model presented in Table 4 fit the data better than the null model ($\chi^2=5335.72$, $df=22$, $p \leq 0.05$).

Results of the analysis provide partial support for the hypothesis that racial minorities are more likely to receive an infraction than whites. In particular, when compared to white inmates, black inmates had 3.9 times greater odds of receiving an infraction. There was no difference for Hispanic or Native Americans inmates. With regard to gender, males had 1.2 times greater odds of receiving an infraction when compared to females. Age at the time of prison exit also explained variation in the odds of receiving an infraction, where each year increase in age was associated with a five percent decrease in the odds of the event occurring. Although these main effects were statistically significant predictors of receiving a prison infraction, I proceeded to test the joint effects of several of these variables. A test of the combination of race and gender revealed no differences in slopes for these distinct combinations. I also tested for the interaction between race, gender, and age, but these results also suggested there were no differences in slopes. Therefore, although race, gender, and age mattered independently, the strength of the relationship between these variables and the odds of receiving a prison infraction did not change when modified by another characteristic of the inmate.

Other variables were statistically significant predictors of an inmate receiving an infraction. Having a longer prison sentence and serving time on an 85% crime predicted lower odds of receiving an infraction. However, a higher criminogenic risk score, having served a prior prison term in this state corrections system, and having served more time in prison predicted greater odds of receiving an infraction.

Table 4. Logistic Regression Estimates of Receiving an Infraction

Measures	<i>b</i>	<i>se</i>	<i>OR</i>
Intercept	-5.35	0.32	0.00*
Male	0.46*	0.12	1.58*
<i>Race/ethnicity</i>			
Black	1.37*	0.56	3.92*
Hispanic	1.60	1.52	4.93
Native Am.	-0.14	0.68	0.87
Age (yrs.)	-0.05*	0.01	0.95*
Male*Black	-1.09	0.59	0.34
Male*Hispanic	-2.04	1.56	0.13
Male*Native American	0.46	0.73	1.58
Male*Age	-0.01	0.01	0.99
Black*Age	-0.02	0.01	0.98
Hispanic*Age	-0.07	0.04	0.94
Native American*Age	0.00	0.02	1.00
Male*Black*Age	0.02	0.02	1.02
Male*Hispanic*Age	0.07	0.04	1.07
Male*Native American*Age	-0.01	0.02	0.99
>=HS/GED	-0.08	0.04	0.92
LSI-R Score	0.04*	0.00	1.04*
Prior Incarceration	0.20*	0.05	1.22*
Sentence (yrs.)	-0.09*	0.01	0.92*
Violent Crime	-0.06	0.05	0.95
85% Crime	-0.57*	0.10	0.57*
Months in Prison (log)	2.08*	0.05	8.04*
 <u>Fit Statistics</u>			
-2 LL			14230.55**

Note: **p* <= 0.05; **=likelihood ratio test significant; estimates presented as log odds (*b*) and odds ratios (*OR*)

Chapter 7: Sanctions

With a better understanding of the impact of an inmate's race and gender on his or her likelihood of receiving a formal prison infraction in this particular Southern state's prison system, I move to an analysis of the type of sanction imposed for this infraction. In this chapter, I address in detail an analysis of how a variety of factors account for variation in the type and severity of sanctions imposed for the infraction. Again, my primary research questions seek to understand whether or not inmate-level (level 2) variables such as being a racial minority or being male account for both the variance in receiving an earned credit sanction as well as the quantity of earned credits deducted. I describe the results of this analysis in three parts to give equal attention to RQ.2, RQ.3, and RQ.4. I conclude this chapter with a summary of findings on sanction outcomes from the three analyses.

Research Question 2: Examining Use of Earned Credit Sanctions

Although nearly half (44 percent) of all prison exits included in this study incurred at least one infraction during their prison term, the majority of this subset of inmates (52 percent) was punished by receiving an earned credit sanction for at least one of these violations. Therefore, the objective of RQ.2 is to better understand "For inmates who incurred an infraction, are there race or gender differences in the likelihood of receiving an earned credit sanction for this infraction?" Although a preliminary view of the data suggests minimal differences in the use of an earned credit sanction across race (blacks: 52 percent; Hispanics: 50 percent; Native Americans: 52 percent; whites: 52 percent) and gender (males: 52 percent; females: 49 percent), I investigate this further to understand if

controlling for group compositional differences reveal any additional insights. In the sections that follow, I first report the full qualitative differences of inmates in this sample and follow with the results of the generalized linear mixed models. Results in these following sections are separated by infraction class (Class 1, Class 2, and Class 3) due to the varying severity of earned credit penalties associated with each.

Sample Characteristics

Table 5 provides the sample characteristics for inmates included in the subsequent regression analysis, with statistics separated by the three infraction classes. For inmates in this study, facility personnel tended to frequently punish rule violators by imposing an earned credit sanction. On average, this event occurred between 38 percent and 61 percent of the time, depending on the infraction class. When characterizing the incident (level 1 variables), I found that a higher proportion of violent infractions were distributed within the most severe infraction class (Class 3). This was not surprising, as one may expect there to be an association between class severity and violent actions. The data also showed that most incidents for which an inmate received an earned credit sanction (69-80 percent) were preceded by at least one prior infraction during the same prison term. On average, inmates were formally cited for a rule violation every eight to 11 months. Relatively few incidents resulted in multiple rule violations being filed (<1 to 15 percent), but as the infraction severity increased, so did the number of sanctions one received for that incident. Class 1 infractions, on average, received just under two sanctions, while Class 2 received nearly 2.5 sanctions and Class 3 received three sanctions.

Table 5. Descriptive Statistics for RQ.2

Measures	Class 1			Class 2			Class 3		
	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range
<u>Level 1: Infractions</u>									
Violent Infraction	0.00	0.04	0-1	0.15	0.36	0-1	0.39	0.49	0-1
Prior Infractions	0.69	0.46	0-1	0.74	0.44	0-1	0.80	0.40	0-1
Months to Infraction	7.58	11.34	0-152	7.26	10.80	0-176	7.45	10.61	0-145
Multiple Violations	0.03	0.18	0-1	0.07	0.26	0-1	0.15	0.36	0-1
Total Sanctions	1.85	0.69	0-6	2.44	0.81	0-6	3.00	0.50	0-8
	N=3,479			N=16,972			N=5,886		
<u>Level 2: Inmate</u>									
Male	0.85	0.36	0-1	0.87	0.33	0-1	0.94	0.23	0-1
<i>Race/ethnicity</i>									
Black	0.32	0.47	0-1	0.33	0.47	0-1	0.37	0.48	0-1
Hispanic	0.06	0.25	0-1	0.06	0.24	0-1	0.08	0.27	0-1
Native Am.	0.11	0.32	0-1	0.12	0.33	0-1	0.14	0.34	0-1
White ¹	0.50	0.50	0-1	0.49	0.50	0-1	0.42	0.49	0-1
Age (yrs.)	32.04	9.15	18-72	31.35	8.74	17-71	30.82	8.17	17-77
>=HSD/GED	0.41	0.49	0-1	0.39	0.49	0-1	0.37	0.48	0-1
LSI-R Risk Score	28.95	5.79	6-49	29.44	5.97	7-49	29.50	5.64	9-49
Prior Incarcerations	0.47	0.50	0-1	0.48	0.50	0-1	0.50	0.50	0-1
Sentence (yrs.)	11.07	8.39	0.8-40	10.01	7.44	0.3-43	10.69	7.60	0.9-43
Violent Crime	0.41	0.49	0-1	0.43	0.50	0-1	0.48	0.50	0-1
85% Crime	0.12	0.32	0-1	0.14	0.35	0-1	0.15	0.36	0-1
Pct. Served	0.23	0.18	0-0.88	0.27	0.19	0-0.95	0.30	0.20	0-0.92
	N=2,125			N=5,301			N=2,473		
<u>Level 3: Facility</u>									
<i>Security Level</i>									
Max./Med. ²	0.44	0.50	0-1	0.51	0.50	0-1	0.65	0.48	0-1
Minimum	0.43	0.49	0-1	0.28	0.45	0-1	0.22	0.41	0-1
Community ¹	0.14	0.34	0-1	0.21	0.41	0-1	0.13	0.33	0-1
	N=66			N=82			N=76		
<u>Dependent Variable</u>									
Credit Sanction (Y)	0.38	0.49	0-1	0.41	0.49	0-1	0.61	0.49	0-1

¹Reference category²There are no maximum security facilities for females.

At the inmate level, males incurred most of the formally filed infractions, although they represented a smaller proportion of the total incidents within the lowest severity infraction class (85 percent) compared to the highest severity infraction class (94 percent). In other words, females committed a greater proportion of the least serious infractions.

Regarding race, the three sample subsets were predominately white (42-50 percent) followed by black (32-37 percent). There was also a noticeable trend in that as infraction severity increased, the percentage of blacks within that category also increased; as infraction severity increased, the percentage of whites within the category decreased. Additionally, inmates who received an earned credit sanction were, on average, in their early 30s, had less than a high school education (59-63 percent), and had higher criminogenic risk scores. Nearly half (47-50 percent) of these inmates served a prior term of incarceration in this state prison system. Regarding factors associated with their crime and sentence for which they were in prison, on average, the inmates were serving a prison term of 10-11 years. Nearly half had been in prison for violent crimes (41-48 percent), while few (12-15 percent) had been in prison for crimes that mandated they served eighty-five percent of their sentence (85% crimes) before being eligible 1) to apply earned credits, or 2) for parole.

At the facility level, the security level of the prison in which the inmates were housed showed a trend in terms of frequency of least severe to most severe infractions. Higher security prisons, those categorized as maximum and medium security, had a greater proportion of Class 3 infractions (65 percent), while minimum security prison tended to have a greater proportion of Class 1 infractions (43 percent). At community security prisons, there was a greater proportion of Class 2 infractions (21 percent).

Findings

Although I have identified qualitative differences in the sample compositions, I now turn my attention to the analysis of the effects of race and gender, among other

factors, on prison officials' decision to sanction an inmate to lose earned credits as punishment for his or her behavior for each infraction class. Tests for multicollinearity indicated a low degree of correlation between the predictor variables (VIF=1.01-3.38). Table 6 provides the statistical output for the full model by the specific infraction classes, and I discuss these results in their respective sections below.

Class 1

Class 1 infractions were the lowest severity level among the three infraction types. They also accounted for the fewest number of incidences across all inmates when compared to higher severity infraction classes. As this analysis contained multiple levels, I was able to compare the amount of variation in sanction outcomes that occurred between versus within inmates or facilities by examining the intra-class correlation coefficients.²⁵ Results showed that approximately nine percent of the total unexplained variance in the decision to punish an inmate by imposing an earned credit sanction was accounted for by between-inmate differences rather than within-inmate differences in their characteristics. A higher percentage (20 percent) of the unexplained variation in the decision to punish inmates by removing their earned credits was accounted for by between-facility variability in their characteristics. These statistically significant intra-class correlation coefficients provided evidence to proceed with the multi-level analysis, as they suggested that there was, to some extent, a correlation between any two randomly chosen

²⁵ An intra-class correlation coefficient represents the proportion of variance in the outcome that is between the level-specific units, and it ranges from 0-1 or 0%-100% if converted to a percentage. For example, it represents the proportion of variation in sanction outcomes that is attributed to differences between inmates or differences between facilities rather than differences within inmates or differences within facilities.

Table 6. RQ.2 GLMM Estimates for Receiving an Earned Credit Sanction

Measures	Class 1		Class 2		Class 3	
	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>
<u>Intercept</u>	-1.94*	0.94	-1.36*	0.58	0.33	1.37
<u>Level 1: Infractions</u>						
Violent Infraction	-----	-----	0.24*	0.06	-0.22*	0.08
Prior Infractions	-0.10	0.10	-0.37*	0.05	-1.32*	0.12
Months to Infraction	0.00	0.00	0.01*	0.00	0.05*	0.01
Multiple Violations	0.65*	0.24	0.11*	0.08	-0.97*	0.10
Total Sanctions	0.77*	0.07	0.70*	0.03	0.25*	0.07
<u>Level 2: Inmate</u>						
Male	0.90	0.72	0.56	0.49	0.42	1.24
<i>Race/ethnicity</i>	0.00	0.00	0.00	0.00	0.00	0.00
Black	2.35	1.90	0.47	0.65	-1.36	1.80
Hispanic	11.77	7.15	-0.51	1.75	1.66	3.56
Native American	0.97	1.22	1.98	1.95	2.13	1.78
Age (yrs.)	0.04	0.04	0.09*	0.02	0.11*	0.05
Age (sq.)	0.00	0.00	-0.00*	0.00	-0.00*	0.00
Male*Black	-2.83	2.09	-0.66	0.68	1.12	1.83
Male*Hispanic	-10.62	7.19	0.25	1.79	-1.61	3.62
Male*Native American	-1.16	1.37	-2.04	1.85	-1.94	1.85
Male*Age	-0.02	0.02	0.00	0.01	-0.02	0.04
Black*Age	-0.09	0.03	-0.02	0.02	0.06	0.06
Hispanic*Age	-0.42	0.24	0.02	0.06	-0.11	0.13
Native American*Age	-0.02	0.04	-0.07	0.05	-0.09	0.06
Male*Black*Age	0.10	0.10	0.02	0.02	-0.05	0.06
Male*Hispanic*Age	0.39	0.25	-0.01	0.06	0.11	0.13
Male*Native American*Age	0.03	0.04	0.07	0.06	0.08	0.06
>=HS/GED	0.10	0.09	-0.01	0.05	0.11	0.08
LSI-R Score	0.00	0.01	0.00	0.00	-0.01	0.01
Prior Incarceration	0.15	0.10	0.09	0.05	0.27*	0.08
Sentence (yrs.)	0.03*	0.01	0.05*	0.00	0.02*	0.01
Violent Crime	-0.01	0.10	0.18*	0.05	0.01	0.09
85% Crime	-1.76*	0.23	-1.68*	0.09	-2.18*	0.13
Pct. Served	-0.06*	0.10	0.01	0.05	-0.04	0.07
<u>Level 3: Facility</u>						
<i>Security Level</i>						
Max./Med.	-1.85*	0.31	-2.31*	0.29	-1.38*	0.19
Minimum	-1.22*	0.33	-1.78*	0.32	-0.77*	0.20
<u>Random Effects</u>						
Level 2 intercept	0.46*	0.11	0.68*	0.05	0.72*	0.09
Level 3 intercept	0.56*	0.20	0.93*	0.20	0.07*	0.04
<u>Fit Statistics</u>						
-2 LL		15950.76**		79338.15**		28243.13**

Note: **p* < 0.05; **=likelihood ratio test significant; estimation method=RSPL

Class 1: ICC_{L2}=9%; ICC_{L3}=20%; Class 2: ICC_{L2}=13%; ICC_{L3}=34%; Class 3: ICC_{L2}=19%; ICC_{L3}=18%

observations within the same inmate or within the same facility. Thus, observations were not independent – a violation of traditional generalized linear model techniques.

Given this information, I proceeded with the analysis to understand whether or not an inmate's race or gender or the combination thereof explained the variability in how prison officials sanctioned the inmate. As these extralegal factors were the main focus of the study, I treated their effects as both fixed and random at the facility level. Results indicated, however, that race and gender did not vary across facilities, leading to the conclusion that there were no differences in slopes within facilities on the odds of receiving an earned credit sanction ($\chi^2=13.59$, $df=14$, $p > 0.05$). Thus, I continued the model building process, treating all factors as having fixed effects. The full model which contained all infraction-, inmate-, and facility-level variables was the best fitting model ($\chi^2=630.40$, $df=29$, $p \leq 0.05$).

The focal variables in this study did not yield statistically significant effects, leading me to conclude that an inmate's race and gender did not explain variation in prison officials' decisions to impose an earned credit sanction on the inmate. This finding pertained to both the main and joint effects of these inmate characteristics. The results of the full model, however, did explain some variability in how prison officials imposed earned credit sanctions with regard to other characteristics at all three levels of analysis. Specifically, having multiple violations for one incident and receiving multiple sanctions for the infraction increased the log odds of receiving an earned credit sanction. Sanctioning officials were also more likely to sentence an inmate to lose earned credits as an inmate's total prison sentence length increased. Some variables, however, predicted lower odds of receiving an earned credit sanction. In particular, inmates who were

serving time for an 85% crime, those who were closer to their prison release date, and those who were in a maximum/medium or minimum security prison (compared to a community security prison) were less likely to have this sanction type imposed.

Class 2

Class 2 infractions, which are moderate severity prison violations, accounted for an overwhelming majority of all inmate infractions, especially those for which an inmate received an earned credit sanction. Again, due to the nested nature of the data used in this study, I tested for correlations among observations. The intra-class correlation coefficient for the unconditional model indicated that approximately 13 percent of the variance in prison officials' decision to sanction an infraction by removing earned credits was accounted for by inmate-level factors; a higher percentage, 34 percent was accounted for by facility-level factors. Both were statistically significant ($p \leq 0.05$), which provided evidence that some of the variance in the outcomes was accounted for by the clustering of the data. However, results failed to suggest that the intercepts and slopes for race, gender, or the combination of these variables varied across facilities ($\chi^2=16.31$, $df=14$, $p > 0.05$). Therefore, I proceeded to the full model treating all factors as having fixed, rather than both fixed and random effects.

The full model suggested that many variables accounted for variation in the log odds of receiving an earned credit sanction, more so than the results of the previous model for Class 1 infractions. However, of utmost importance for this study was the impact of extralegal factors such as an inmate's race and gender. As with Class 1 infractions, neither race nor gender or the combination of these variables were statistically significant

predictors of receiving an earned credit sanction. However, all of the infraction-level variables explained variability in receiving an earned credit sanction. Specifically, infractions deemed violent, infractions that occurred less frequently, incidents in which more than one rule violation was cited, and infractions for which the inmate received multiple punishments all predicted an increase in the log odds of receiving an earned credit sanction. Having prior infractions during the prison term, however, predicted lower odds of receiving an earned credit sanction. With regard to inmate-level characteristics, age mattered, but its relationship to the outcome was non-linear. Specifically, inmates were more likely to receive an earned credit sanction up to age 45, then this effect reversed thereafter. I tested the interaction of age with race and gender and the results still suggested that these joint effects were not statistically significant. The total time an inmate was sentenced to prison as well as serving time for a violent crime also predicted an increase in the log odds of receiving this sanction type, but serving time on an 85% crime yielded a reduced effect. Lastly, the security level of the facility was a statistically significant predictor of an inmate receiving an earned credit sanction, where inmates at higher levels of security (maximum/medium and minimum) were less likely than inmates at a community security to receive this type of punishment.

Class 3

Class 3 infractions, the greatest severity among the three types of infraction classes, were the second most common infraction type for which inmates received a formal write-up. Again, an analysis of the intra-class correlation coefficients revealed that approximately 19 percent of the variance in the decision to punish by imposing an

earned credit sanction for this class type was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$); 18 percent, of the variation in the decision to punish in this way was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). This supports my proceeding with the multi-level analysis. I again estimated both the fixed and random effects of race, gender, and their combinations to understand if their intercepts and slopes varied across facilities. Results were not statistically significant ($\chi^2=11.34$, $df=14$, $p > 0.05$) and, therefore, I omitted the random effects for these factors from the final model.

As with the model for Class 2 infractions, all infraction-level variables were statistically significant. However, their effects varied in some ways. Infractions deemed violent, infractions which were preceded by other incidents, and infractions with multiple rule violations at one time all predicted lower odds of receiving an earned credit sanction. This may be explained by facility personnel deciding to issue another type of sanction in cases of violent, habitual offending. Segregation or the immediate revocation of canteen privileges, to serve as examples, could be considered harsher, more immediate punishments that may have a greater impact on the inmate when compared to the removal of earned credits. The removal of earned credits, instead, asserts its influence toward the end of the prison sentence and may not be in the realm of what an inmate considers if he or she is focused on the here and now. Consistent with the Class 2 model was that both larger amounts of time between infractions and a greater number of sanctions received for the incident predicted an increase in the log odds of receiving an earned credit sanction.

I now turn my attention to the effects of inmate-level factors. Contrary to the hypothesis for this research question, racial minorities compared to whites, males compared to females, and these race-gender (as well as race-gender-age) interactions revealed that no particular groups were more or less likely to receive an earned credit sanction over all other sanctions. With regard to the other inmate-level characteristics, both age at the time of the infraction predicted greater odds of being sanctioned to lose earned credits, but only up to the age of 45; it declined after this point. Additionally, having at least one prior prison incarceration in this corrections system compared to none as well as having longer prison sentences predicted increases in the log odds of receiving an earned credit sanction. Serving time on an 85% crime predicted a decrease in the log odds of receiving an earned credit sanction as punishment for the behavior. Lastly, as security level of the facility increased, the odds of receiving an earned credit sanction decreased.

Research Question 3: Examining Amount of Earned Credits Deducted

As mentioned earlier, 44 percent of all prison releases included in this study incurred at least one infraction during their prison term. Of these inmates, a large percentage (52 percent) was formally punished by losing earned credits for at least one of their infractions. Although regression analyses reveal that there are no race or gender disparities in the decision to sanction an inmate to lose earned credits, I dive deeper into the data to further my understanding of whether or not there are race or gender disparities in the severity of the sanction. The objective of RQ.3 is to examine, “For inmates who received an earned credit sanction, are there race or gender differences in the quantity of

earned credits deducted?” A preliminary analysis of the data suggests that inmates who were sanctioned to lose earned credits lost, on average, 134 credits. When broken down by race, these statistics slightly deviated from the mean credits removed (blacks: 146 credits; Hispanics: 140 credits; Native Americans: 126 credits; whites: 128 credits). The data also suggest that the statistics vary by gender, where females lost, on average, 105 credits and males lost, on average, 137 credits. However, this preliminary review of the data does not account for differences in the range of days eligible to be removed by infraction class nor does it account for group compositional differences that may explain these disparities. The following sections seek to address these areas, and the outcomes are presented in a similar manner as RQ.2. Specifically, I first begin by describing the entirety of qualitative differences among inmates in the distinct infraction class samples and then follow with the results of the generalized linear mixed models.

Sample Characteristics

Inmates included in the sample for RQ.3 are a subset of inmates from RQ.2. As a reminder, the sample for RQ.3 contains all inmates who received an infraction, who were sanctioned to lose earned credits, and who had accrued sufficient earned credits to allow for the full range of credits to be deducted. Their group characteristics are provided in Table 7 and are separated by infraction class. For these inmates, facility personnel tended to remove, in many cases, increments of earned credits. For example, they removed 30, 60, or 120 days rather than removed a more precise number of days that fell within the range of days (e.g., 23 days). For all three infraction classes, officials, on average, removed a quantity that was over the range midpoint, particularly among higher

Table 7. Descriptive Statistics for RQ.3

Measures	Class 1			Class 2			Class 3		
	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range
<u>Level 1: Infractions</u>									
Violent Infraction	0.00	0.06	0-1	0.14	0.34	0-1	0.31	0.46	0-1
Prior Infractions	0.66	0.47	0-1	0.67	0.47	0-1	0.72	0.45	0-1
Months to Infraction	7.78	11.78	0-152	8.94	11.51	0-176	10.78	12.55	0-145
Multiple Violations	0.03	0.17	0-1	0.08	0.27	0-1	0.12	0.32	0-1
Total Sanctions	2.00	0.65	1-4	2.63	0.71	1-6	3.00	0.44	1-8
	N=1,137			N=6,763			N=2,723		
<u>Level 2: Inmate</u>									
Male ¹	-----	-----	-----	0.89	0.31	0-1	-----	-----	-----
<i>Race/ethnicity</i>									
Black	0.31	0.46	0-1	0.30	0.46	0-1	0.39	0.49	0-1
Hispanic	0.07	0.25	0-1	0.05	0.22	0-1	0.07	0.26	0-1
Native American	0.10	0.31	0-1	0.12	0.33	0-1	0.11	0.31	0-1
White ²	0.51	0.50	0-1	0.53	0.50	0-1	0.43	0.50	0-1
Age (yrs.)	32.36	8.91	19-66	32.77	8.74	18-68	32.33	8.23	19-69
>=HSD/GED	0.43	0.50	0-1	0.42	0.49	0-1	0.41	0.49	0-1
LSI-R Risk Score	29.10	5.18	12-48	29.36	5.53	8-49	29.29	5.57	9-49
Prior Incarcerations	0.54	0.50	0-1	0.53	0.50	0-1	0.58	0.49	0-1
Sentence (yrs.)	12.18	9.11	1-40	10.70	7.82	0.8-43	12.11	8.26	1.5-43
Violent Crime	0.34	0.47	0-1	0.33	0.47	0-1	0.42	0.49	0-1
85% Crime	0.02	0.14	0-1	0.03	0.18	0-1	0.05	0.21	0-1
Pct. Served	0.20	0.16	0-0.83	0.24	0.15	0-0.91	0.28	0.18	0-0.9
	N=817			N=3,375			N=1,653		
<u>Level 3: Facility</u>									
<i>Security Level</i>									
Max./Med. ³	0.32	0.47	0-1	0.30	0.46	0-1	0.53	0.50	0-1
Minimum	0.52	0.50	0-1	0.29	0.46	0-1	0.28	0.45	0-1
Community ²	0.15	0.36	0-1	0.40	0.49	0-1	0.20	0.40	0-1
	N=52			N=79			N=66		
<u>Dependent Variable</u>									
Quantity Removed	1.27	0.89	0-2	2.17	1.04	0-3	2.14	1.15	0-3

¹Earned credits removed for females followed a bimodal distribution; thus, females were omitted from this analysis.

²Reference category

³There are no maximum security facilities for females.

severity infraction classes. Both Class 2 and Class 3 sanctions tended to be skewed toward having a greater number of days deducted that were allowed within the total range.

With regard to the infraction-level (level 1) variables, I found that, similar to the sample used in RQ.2, a higher proportion of violent infractions were distributed within

the most severe infraction class (Class 3). Once again, this is not surprising, as one would expect there to be a relationship between class severity and violent actions. The data also showed that most incidents (66-72 percent) for which an inmate received an earned credit sanction were preceded by at least one prior infraction during the same prison term. This statistic is lower than the proportions realized among inmates who simply received an infraction, regardless of the sanction type. Also, on average, inmates were formally cited for a rule violation every eight to 11 months. Few incidents resulted in multiple rule violations being filed (<1 to 12 percent) for the one incident. Lastly, as the infraction severity increased, so did the number of sanctions received for that incident.

Regarding the inmate-level characteristics, this sample is male-only for Class 1 and Class 3 infractions. Although I sought to understand the how gender, among other factors, influenced the quantity of earned credits removed, both these infraction classes exhibited a bimodal distribution for female inmates. Thus, as the model for RQ.3 required more than two outcome categories, females were omitted. The results for females are supplemented by the analysis for RQ.4, which is discussed in the next section. As reported with the earlier samples, as infraction severity increased, so did the black to white inmate ratio. Inmates in this sample were also, on average, about 32 years of age, held less than a high school education (57-59 percent), and had, on average, a high criminogenic risks score (29). The majority had served prison time in this state corrections department at least once before (53-58 percent). They were also, on average, serving between a 10- to 12-year prison sentences for predominately non-violent crimes (58-67 percent). They were also less frequently serving time on an 85% crime (2-5 percent).

Lastly, on average, the inmates had served approximately 20-25 percent of their sentence at the time of receiving the infraction.

With regard to the security level under which the inmate was housed, most Class 3 infractions occurred at maximum/medium security facilities (53 percent), whereas most Class 1 infractions occurred at minimum security prisons (52 percent). The bulk of Class 2 infractions (40 percent) occurred at community-level facilities.

Findings

I now turn my attention to the effects of race and gender, among other factors, on prison officials' decision to sanction an inmate to lose a specified quantity of earned credits as punishment for his or her behavior. Table 8 provides the statistical output for the full model by the three infraction classes, and I discuss these results in their respective sections. It is important to note that I tested for the assumption of proportional odds and the results were not statistically significant ($p > 0.05$). Thus, parameter estimates were constant across all categories of the outcome variable. Additionally, I tested for multicollinearity between the predictor variables and results indicated that a low level of collinearity was present (VIF=1.01-3.11). The range of earned credits, as viewed in the sample characteristics above, vary by infraction class, meaning the outcome scale varies for each class-specific analysis.

Class 1

The likelihood of being at or below each earned credit reduction increment varied across both inmates and facilities. Results suggested that approximately 13 percent of

Table 8. RQ.3 GLMM Estimates for Quantity of Earned Credits Deducted

Measures	Class 1		Class 2		Class 3	
	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>
Intercept 1	0.30	1.23	-0.07	0.67	2.57	0.90
Intercept 2	1.07	1.24	1.71	0.67	3.66*	0.90
Intercept 3	-----	-----	2.44	0.67	4.33*	0.90
<u>Level 1: Infractions</u>						
Violent Infraction	-----	-----	0.08	0.08	0.04	0.10
Prior Infractions	0.38*	0.19	0.02	0.06	0.15	0.13
Months to Infraction	-0.01	0.01	-0.01*	0.00	-0.06*	0.01
Multiple Violations	0.43	0.44	-0.09	0.10	-0.19	0.15
Total Sanctions	-0.66*	0.13	-0.66*	0.04	-0.76*	0.11
<u>Level 2: Inmate</u>						
Male	-----	-----	0.34	0.53	-----	-----
<i>Race/ethnicity</i>						
Black	-0.80	0.60	0.58	0.78	-0.47	0.44
Hispanic	0.75	1.43	0.31	2.02	0.32	0.92
Native American	-0.45	1.02	0.99	0.90	-0.43	0.65
Age (yrs.)	-0.06	0.06	-0.06*	0.03	-0.13*	0.05
Age (sq.)	0.00	0.00	0.00*	0.00	0.00*	0.00
Male*Black	-----	-----	-0.75	0.82	-----	-----
Male*Hispanic	-----	-----	-0.23	2.10	-----	-----
Male*Native American	-----	-----	-1.36	0.98	-----	-----
Male*Age	-----	-----	-0.02	0.01	-----	-----
Black*Age	0.03	0.02	-0.02	0.02	0.01	0.01
Hispanic*Age	-0.03	0.05	0.00	0.06	-0.02	0.03
Native American*Age	0.01	0.03	-0.04	0.03	0.01	0.02
Male*Black*Age	-----	-----	0.03	0.02	-----	-----
Male*Hispanic*Age	-----	-----	0.00	0.07	-----	-----
Male*Native American*Age	-----	-----	0.05	0.03	-----	-----
>=HS/GED	-0.23	0.16	0.02	0.06	0.13	0.10
LSI-R Score	0.01	0.01	0.01	0.01	0.00	0.01
Prior Incarceration	-0.05	0.16	-0.08	0.06	-0.06	0.10
Sentence (yrs.)	0.01	0.01	-0.02*	0.00	-0.03*	0.01
Violent Crime	-0.09	0.17	-0.06	0.07	-0.24	0.11
85% Crime	-0.01	0.52	0.05	0.16	0.39	0.22
Pct. Served	-0.98	0.58	-0.13*	0.07	0.14	0.31
<u>Level 3: Facility</u>						
<i>Security Level</i>						
Max./Med.	1.17*	0.42	0.54*	0.27	1.92*	0.19
Minimum	0.59	0.42	0.50	0.29	1.13*	0.20
<u>Random Effects</u>						
Level 2 intercept	0.64*	0.19	0.52*	0.06	0.59*	0.12
Level 3 intercept	0.64*	0.28	0.68*	0.16	0.05	0.04
<u>Fit Statistics</u>						
-2 LL	6841.62**		67539.59**		24721.09**	

Note: * $p < 0.05$; **=likelihood ratio test significant; estimation method=RSPL

Class 1: ICC_{1,2}=13%; ICC_{1,3}=17%; Class 2: ICC_{1,2}=11%; ICC_{1,3}=15%; Class 3: ICC_{1,2}=15%; ICC_{1,3}=16%

the variance in the quantity of earned credits deducted was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$). A higher percentage, 17 percent, of the variation in the quantity of earned credits deducted was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). Similar to prior analyses in this study, these statistically significant intra-class correlation coefficients provided evidence to proceed with the multi-level analysis.

As a reminder, the Class 2 model was male-specific. I proceed with the analysis to understand whether or not an inmate's race explained variability in how prison officials sanctioned the inmate. Similar to prior models, this extralegal factor was the main focus and, thus, I treated its effects as both fixed and random at the facility level. Results indicated, however, that it did not vary across facilities, leading to the conclusion that there were no differences in slopes within facilities in the odds of receiving this sanction type ($\chi^2=3.49$, $df=6$, $p > 0.05$). Thus, I continued the model building process, treating all factors as having fixed effects. The full model, which contained all infraction-, inmate-, and facility-level variables was the best fitting model ($\chi^2=250.04$, $df=21$, $p \leq 0.05$).

For Class 1 infractions, I did not find support for my hypothesis. The results suggested that race, gender, or the joint effects of these variables were not statistically significant predictors of the quantity of earned credits removed. Age was also not statistically significant. With regard to statistically significant predictors of prison officials' decision to remove a specific quantity of earned credits, both infraction-level variables such as having prior violations of prison rules as well as the total number of sanctions applied for the incident explained variance in the outcome. Specifically, having at least one prior violation increased the log odds of having more earned credits removed.

Alternatively, an inmate receiving more sanctions for the infraction predicted a decrease in the log odds of the inmates having more earned credits removed. Lastly, being at a maximum/medium security prison compared to a community-level prison predicted an increase in the log odds of having more earned credits removed. Thus, it appears that higher-level security prisons are more likely to sentence more harshly with regard to the quantity of earned credits removed when this type of sanction is imposed. Although many of the variables in the final model were not statistically significant predictors of the event, the full explanatory model did yield a better model fit than the null model, as noted above.

Class 2

For Class 2 infractions, the likelihood of being at or below each earned credit reduction increment varied across both inmates and facilities. Results suggested that approximately 11 percent of the variance in the quantity of earned credits deducted was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$). A higher percentage, 15 percent, of the variation in the quantity of earned credits deducted was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). These statistically significant intra-class correlation coefficients provided evidence to proceed with the multi-level analysis.

Once again, I sought to understand whether or not an inmate's race or gender or the combination thereof explained the variability in how prison officials sanctioned the inmate. I treated the effects of these extralegal factors in this model as both fixed and random at the facility level, but results indicated that they did not vary across facilities. Thus, there were no differences in slopes within facilities on the odds of being at or below

each earned credit reduction increment ($\chi^2=8.31$, $df=14$, $p > 0.05$). Thus, I continued the model building process, treating all factors as having fixed effects. The full model which contained all infraction-, inmate-, and facility-level variables was the best fitting model ($\chi^2=1767.67$, $df=30$ $p \leq 0.05$).

With regard to predictors of prison officials' decision to remove a specific quantity of earned credits, both infraction-, inmate-, and facility-level variables were statistically significant. However, inmate-level factors such as race or gender or the race-gender (as well as race-gender-age) interactions did not explain variation in the decision to remove a specific quantity of earned credits. With regard to the variables that did explain the outcomes, specifically, more time having passed between infractions resulted in a decreased log odds of having more earned credits removed. In other words, inmates who incurred infractions more frequently were less likely to have more earned credits removed. Having more sanctions for the same infraction also reduced the log odds of having more earned credits removed. Age also mattered, but in a direction that is opposite of former analyses in this study. The length of one's sentence as well as his or her time served up to the infraction was also correlated with fewer earned credits being removed. Lastly, being at a maximum/medium security prison compared to a community-level prison predicted an increase in the log odds of having more earned credits removed.

Class 3

For Class 3 infractions, the likelihood of being at or below each earned credit reduction increment varied across both inmates and facilities in this model as well. Decomposed intra-class correlation coefficients identified the amount of variance

explained at each level of the analysis to determine if the regression assumption of independence of observations was violated. Results suggested that approximately 15 percent of the variance in the quantity of earned credits deducted was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$). A slightly higher percentage, 16 percent, of the variation in the quantity of earned credits deducted was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). Both of these supported my use of the multi-level model, suggesting that observations were not independent of the inmate or the facility. In fact, there was a correlation between infractions within the same inmate and infractions within the same facility.

Once again, this model pertained to male inmates only. Although the impact of race was central to this study, it was still not a statistically significant predictor of prison officials' decision-making with regard to the quantity of earned credits deducted. I also tested both its fixed and random effects at the facility level, but findings indicated that it did not vary across facilities ($\chi^2=11.01$, $df=6$, $p > 0.05$). Given this result, I continued the model building process, treating all factors as having fixed effects. As with prior results, the full model was the best fitting model ($\chi^2=3298.65$, $df=22$, $p \leq 0.05$).

At the infraction level, both months to the infraction and total sanctions received for the infraction were negatively related to the log odds of being sanctioned to lose a greater quantity of earned credits. In particular, as time between infractions increased, and as the total number of sanctions increased, there was a reduced likelihood of having more earned credits removed. Age also mattered, but, once again, it was negatively related to the odds of having a greater number of earned credits removed. Prison officials also removed fewer earned credits for inmates serving longer prison sentences. However,

those serving time in higher security prisons were more likely to lose more earned credits than those serving time at a community-level facility.

Research Question 4: Examining Use of Maximum Earned Credit Penalty

Due to the grouped nature of how earned credits were removed, I proceed further into the analysis to answer questions that were unaddressed by RQ.3. In particular, the distribution of the earned credits removed for females who were issued Class 1 and Class 3 infractions followed a bimodal distribution. Therefore, their penalties were characterized by either receiving or not receiving the maximum penalty. RQ.3 by its design did not allow for this type of analysis and, therefore, I address it within this particular research question. Additionally, this section allows me to further examine the penalties for males to understand if dichotomizing the outcome yields race and gender differences in the severity of this punishment type. As a reminder, the objective of RQ.4 is to examine, “For inmates who received an earned credit sanction, are there race or gender differences in who receives the maximum penalty?” Preliminary data suggest that there is relatively little deviation by race in who received the maximum penalty (blacks: 51 percent; Hispanics: 49 percent; Native Americans: 47 percent; whites: 51 percent), but a more substantial deviation by gender (males: 51 percent; females: 42 percent). As with previous analyses, I investigate these differences to understand if these variances are meaningful and whether or not they persist once controlling for both the infraction class and group compositional differences. I organize what follows in a similar manner to prior sections, with, first, a description of the qualitative differences among inmates in this sample and, second, the results of the generalized linear mixed models.

Sample Characteristics

Table 9 provides detail on the sample characteristics for this fourth research question. Once again, the information is reported separately for Class 1, Class 2, and Class 3 infractions. As reported, facility personnel tended to punish rule violators in this study by removing the maximum number of earned credits within the range allowed for each infraction class. The largest percentage of incidents with the maximum penalty imposed were Class 1 infractions (61 percent). Although Class 1 was the least severe infraction type, it was also the infraction type that carried the smallest range of credits that were eligible for removal (1-60 credits), potentially serving as a reason for its most frequent use of the maximum penalty. Class 3 fell second to this statistic, with over half of the incidents (53 percent) being sanctioned to lose the maximum number of credits (1-365). Class 2 infraction only had the maximum penalty imposed for 47 percent of the incidents.

When characterizing the incident-level (level 1) variables, I found that a higher proportion of violent infractions were distributed within the most severe infraction class (Class 3), similar to prior samples in this study. The data also showed that most incidents (65-72 percent) were preceded by at least one prior infraction during the same prison term. On average, lesser severity infractions occurred more frequently than the highest severity. Class 3 infractions tended to more often involve multiple rule violations (12 percent of the time) than Class 1 infractions (five percent of the time). Additionally, the higher severity infractions tended to be sanctioned with more than one sanction type (e.g., earned credit sanction *and* loss of privileges).

Table 9. Descriptive Statistics for RQ.4

Measures	Class 1			Class 2			Class 3		
	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range	<i>M</i>	<i>SD</i>	Range
<u>Level 1: Infractions</u>									
Violent Infraction	0.00	0.06	0-1	0.14	0.34	0-1	0.30	0.46	0-1
Prior Infractions	0.65	0.48	0-1	0.67	0.47	0-1	0.72	0.45	0-1
Months to Infraction	7.47	11.41	0-152	8.94	11.51	0-176	10.65	12.49	0-145
Multiple Violations	0.05	0.21	0-1	0.08	0.27	0-1	0.12	0.32	0-1
Total Sanctions	2.03	0.65	1-4	2.63	0.71	1-6	3.00	0.44	1-8
	N=1,318			N=6,763			N=2,882		
<u>Level 2: Inmate</u>									
Male	0.86	0.35	0-1	0.89	0.31	0-1	0.94	0.24	0-1
<i>Race/ethnicity</i>									
Black	0.29	0.46	0-1	0.30	0.46	0-1	0.38	0.49	0-1
Hispanic	0.06	0.24	0-1	0.05	0.22	0-1	0.07	0.26	0-1
Native American	0.13	0.33	0-1	0.12	0.33	0-1	0.11	0.32	0-1
White ¹	0.52	0.50	0-1	0.53	0.50	0-1	0.44	0.50	0-1
Age (yrs.)	32.42	8.85	18-66	32.77	8.74	18-68	32.36	8.22	19-69
>=HSD/GED	0.43	0.50	0-1	0.42	0.49	0-1	0.42	0.49	0-1
LSI-R Risk Score	29.08	5.32	12-49	29.36	5.53	8-49	29.31	5.63	9-49
Prior Incarcerations	0.52	0.50	0-1	0.53	0.50	0-1	0.58	0.49	0-1
Sentence (yrs.)	11.55	8.82	1-40	10.70	7.82	0.8-43	11.93	8.19	1.5-43
Violent Crime	0.32	0.46	0-1	0.33	0.47	0-1	0.41	0.49	0-1
85% Crime	0.02	0.15	0-1	0.03	0.18	0-1	0.05	0.21	0-1
Pct. Served	0.20	0.15	0-0.83	0.24	0.15	0-0.91	0.28	0.17	0-0.9
	N=948			N=3,375			N=1,790		
<u>Level 3: Facility</u>									
<i>Security Level</i>									
Max./Med. ²	0.31	0.46	0-1	0.30	0.46	0-1	0.51	0.50	0-1
Minimum	0.47	0.50	0-1	0.29	0.46	0-1	0.27	0.44	0-1
Community ¹	0.23	0.42	0-1	0.40	0.49	0-1	0.22	0.41	0-1
	N=60			N=79			N=73		
<u>Dependent Variable</u>									
Maximum Penalty (Y)	0.61	0.49	0-1	0.47	0.50	0-1	0.53	0.50	0-1

¹Reference category²There are no maximum security facilities for females.

At the inmate level, males received the bulk of all formal infractions, although males did represent a smaller proportion of the total incidents within the lower infraction classes (86 percent compared to 89-94 percent). There was little variation by race in most cases. However, there was a noticeable trend in that as infraction severity increased, the

percent of blacks within that category also increased; as infraction severity increased, the percent of whites within the category decreased. Additionally, these inmates tended to be, on average, in their early 30s, tended to have less than high school education (57-58 percent), and tended to score high on assessments of their criminogenic risk (29). Just over half (52-58 percent) had served a prior term of incarceration in this state prison system. Regarding factors associated with their crime and sentence, on average, the inmates were serving time in prison for a term of 10-12 years, some for violent crimes (32-41 percent), and some for crimes that mandated they served eighty-five percent of their time (85% crimes) before being eligible to apply earned credits to their sentence or to be paroled (2-5 percent).

At the facility level, the security of the prison in which the inmates were housed showed a trend in terms of frequency of least severe to most severe infractions. Higher security prisons, those categorized as maximum and medium security, had a higher proportion of Class 3 infractions (51 percent), while minimum security prisons tended to have a higher proportion of Class 1 infractions (47 percent). At community security, there was a higher proportion of Class 2 infractions (40 percent).

It was a noticeable trend that inmates across the distinct samples (RQ.2, RQ.3, and RQ.4) shared similar characteristics. However, those who had the most sanction days removed (RQ.4 sample) tended to be less violent, have fewer violent infractions, have fewer prior incidents, and be at lower security level facilities when compared to all inmates who received an infraction (RQ.2). I discuss this in more detail below.

Findings

Although there are qualitative differences in the sample composition, I once again turn my attention to my analysis of the effects of race and gender, among other factors, on prison officials' decision to sanction an inmate to lose the maximum number of earned credits as punishment for his or her behavior. Table 10 provides the statistical output for the full model by infraction class, and I discuss these results in their respective sections. As with prior analyses, I tested for multicollinearity between the predictor variables and results indicated that a low level of collinearity was present (VIF=1.01-2.76).

Class 1

As mentioned previously, Class 1 infractions were the lowest severity among the three types. However, when speaking in terms of frequency at which the maximum penalty was imposed, Class 1 infractions showed the highest occurrence. Again, due to these data containing multiple levels of analysis, I tested for a correlation between observations. Results suggested that approximately 10 percent of the variance in the decision to punish by imposing the maximum earned credit sanction was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$). A higher percentage, 16 percent, of the variation in the decision to punish in this way was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). As with all other analyses, these intra-class correlation coefficients supported my employing a statistical model that accounted for the clustering of the data.

I proceeded with the analysis to understand whether or not an inmate's race or gender, or the combination thereof explained variability in how prison officials

Table 10. RQ.4 GLMM Estimates for Receiving the Maximum Credit Penalty

Measures	Class 1		Class 2		Class 3	
	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>	<i>b</i>	<i>se</i>
<u>Intercept</u>	-3.43	2.05	-3.60*	0.77	-2.49	1.45
<u>Level 1: Infractions</u>						
Violent Infraction	-----	-----	-0.03	0.08	-0.03	0.11
Prior Infractions	-0.09	0.22	0.12	0.07	0.20	0.12
Months to Infraction	0.02	0.01	0.01*	0.00	0.05*	0.01
Multiple Violations	-0.86	0.51	0.15	0.11	0.04	0.14
Total Sanctions	0.57*	0.15	0.66*	0.05	0.71*	0.11
<u>Level 2: Inmate</u>						
Male	1.67	1.46	-0.31	0.61	-2.14	1.20
<i>Race/ethnicity</i>						
Black	-2.39	3.06	-0.63	0.89	-4.23	2.33
Hispanic	18.50	22.55	0.25	2.54	-8.25	10.46
Native American	2.76	2.61	-1.85	1.08	-6.01	3.43
Age	0.12	0.08	0.08*	0.03	0.11*	0.05
Age (sq.)	0.00	0.00	-0.00*	0.00	-0.00*	0.00
Male*Black	2.98	3.16	1.12	0.93	4.80	2.59
Male*Hispanic	-19.97	22.61	-0.50	2.61	8.42	10.49
Male*Native American	-2.07	2.91	2.28	1.49	6.29	3.50
Male*Age	-0.03	0.04	0.02	0.02	0.05	0.03
Black*Age	0.09	0.10	0.03	0.03	0.14	0.07
Hispanic*Age	-0.58	0.76	-0.02	0.08	0.34	0.40
Native American*Age	-0.08	0.08	0.06	0.03	0.19	0.11
Male*Black*Age	-0.11	0.11	-0.04	0.03	-0.15	0.08
Male*Hispanic*Age	0.64	0.76	0.03	0.09	-0.34	0.40
Male*Native American*Age	0.06	0.09	-0.08	0.06	-0.19	0.11
>=HS/GED	-0.06	0.21	0.04	0.06	-0.05	0.10
LSI-R Score	-0.01	0.02	0.00	0.01	0.01	0.01
Prior Incarceration	0.15	0.22	0.06	0.07	0.15	0.10
Sentence (yrs.)	0.00	0.02	0.01*	0.01	0.05*	0.01
Violent Crime	0.07	0.24	0.08	0.07	0.09	0.11
85% Crime	0.12	0.67	-0.09	0.17	-0.26	0.25
Pct. Served	0.01*	0.23	0.18*	0.08	0.17	0.10
<u>Level 3: Facility</u>						
<i>Security Level</i>						
Max./Med.	-0.44	0.40	-0.43	0.33	-1.97*	0.18
Minimum	0.03	0.38	-0.36	0.36	-1.12*	0.18
<u>Random Effects</u>						
Level 2 intercept	0.46*	0.18	0.31*	0.06	0.49	0.11
Level 3 intercept	0.81*	0.30	1.09	0.24	0.06*	0.04
<u>Fit Statistics</u>						
-2 LL	5939.46**		30234.81**		13635.22**	

Note: **p* < 0.05; **=likelihood ratio test significant; estimation method=RSPL

Class 1: ICC_{L2}=10%; ICC_{L3}=16%; Class 2: ICC_{L2}=8%; ICC_{L3}=23%; Class 3: ICC_{L2}=9%; ICC_{L3}=13%

sanctioned inmates to the maximum earned credit penalty. Once again, I treated the effects of these extra-legal factors as both fixed and random at the facility level. Results indicated, however, that they did not vary across facilities, leading to the conclusion that there were no differences in slopes within facilities on the odds of receiving the maximum earned credit penalty ($\chi^2=2.37$, $df=14$, $p > 0.05$). Therefore, I continued the model building process, treating all factors as having fixed effects. The full model provided a better fit to the data than the unconditional model ($\chi^2=165.81$, $df=29$, $p \leq 0.05$).

Overall, many factors failed to explain the variability in prison officials' decision to impose the maximum earned credit penalty for Class 1 infractions, particularly one's race, gender, and age, or the combination of these variables. Those that helped to explain variance in the outcome were the number of sanctions an inmate received and an inmate's proximity to his or her prison release date. Specifically, as the total number of sanctions for the infraction increased, so did the log odds of receiving the maximum penalty. Sanctioning officials were also more likely to sentence an inmate to the maximum penalty the closer the inmate was to his or her prison release date.

Class 2

Even though Class 2 infractions were generally more severe than Class 1 infractions, the use of the maximum earned credit penalty was less frequent. In examining whether or not a multi-level model was warranted, the statistically significant intra-class correlation coefficients indicated that approximately eight percent of the variability in the maximum penalty rate was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$). Twenty-three percent was accounted for by between-facility

variability in their characteristics ($p \leq 0.05$). This again supported the use of a multi-level model, as there were correlations between observations within the same inmate or within the same facility.

Although the impact of race and gender were central to this study, again race or gender or the combination of the two were not statistically significant predictors of prison officials' decision to punish an inmate by imposing the maximum earned credit penalty. I tested both the fixed and random effects at the facility level, but findings indicated that they did not vary across facilities ($\chi^2=6.92$, $df=14$, $p > 0.05$). Thus, I continued the model building process, treating all factors as having fixed effects. As with prior results, the full model was the best fitting model ($\chi^2=548.22$, $df=30$, $p \leq 0.05$).

Some variables did predict the log odds of receiving the maximum earned credit penalty, and they were: time to the infraction, the total sanctions an inmate received for the infraction, the inmate's age, his or her total sentence length, and the proximity to his or her prison release date. All variables mentioned were positively related to the odds of having the maximum earned credits removed, with the exception of age. Age exhibited a curvilinear relationship, where the odds of receiving the maximum earned credit sanction increased up to age 39 and then began to decline after that point. Again, I tested the joint effect of age with race and gender, but results suggested there were no differences by specific groups. Similar to Class 1, the data suggested that the full model was an improvement over the null model (results of the deviance test are provided above); however, few variables explained the variation in prison official's decision-making regarding sanction severity for Class 2 infractions.

Class 3

Although Class 3 infractions were the greatest severity among the three types of infractions, this class of infractions still did not receive the maximum earned credit penalty as often as Class 1 infractions. An analysis of the intra-class correlation coefficients suggested that approximately nine percent of the variance in officials' decision to punish by imposing the maximum earned credit sanction was accounted for by between-inmate variability in their characteristics ($p \leq 0.05$); 13 percent of the variation in the decision was accounted for by between-facility variability in their characteristics ($p \leq 0.05$). These statistically significant intra-class correlation coefficients provided evidence to proceed with the multi-level analysis. Through the model building process, I again estimated both the fixed and random effects of race, gender, and their combinations to understand if their intercepts and slopes varied across facilities. Results were not statistically significant ($\chi^2=9.75$, $df=14$, $p > 0.05$) and, therefore, I proceeded to the full model these factors as having fixed effects.

As with the model for Class 2 infractions, some incident-level variables predicted the log odds of receiving the maximum earned credit penalty, and they were: time to the infraction as well as the total sanctions an inmate received for the infraction. Both had positive effects on the outcome, where an increase in the time between infractions as well as receiving more sanctions for the infraction predicted an increase in the log odds of having the maximum earned credits removed. With regard to inmate-level factors, an inmate's age mattered, yielding an increase in the odds of the outcome occurring up to the age of 45. After this point, the odds of receiving the maximum earned credit penalty decreased. The effect of age did not vary when testing for its interaction with various

race and gender combinations. Lengthier prison sentences also predicted greater odds of receiving the maximum earned credit sanction. However, as revealed in earlier analysis and continuing to appear in these later analyses was the finding that an inmate's race, gender, or combination of these variables did not predict prison officials' decision to sanction an inmate to the maximum earned credit penalty. Furthermore, being in a maximum/medium or minimum-security prison compared to a community facility predicted a decrease in the log odds of the infraction receiving the maximum earned credit penalty.

Summary of Sanction Findings

A second focal point of this study was the replication of race and gender disparities in post-sentencing sanction outcomes. In particular, I evaluated the impact of these extralegal factors on the likelihood of a prison official to sanction an inmate to lose earned credits as well as the on the likelihood of having more earned credits removed. Due to the multiple levels of target data for this part of the study (i.e., infraction, inmate, and facility), I evaluated whether or not there were correlations between the multiple observations that belonged to an inmate or to a facility. Results indicated that the data were clustered and that a proportion of the variation in the outcome was, in fact, due to this clustering. Regarding the inmate-level clustering, intra-class correlation coefficients ranged between 0.09 and 0.19; they ranged between 0.13 and 0.34 for the facility-level clustering.

With this evidence, I proceeded to analyze the data using generalized linear mixed models. For all three research questions, the data did not support my hypotheses.

Findings indicated that, whether an inmate was male, female, black, Hispanic, Native American, white, or some specific combination of the former, race and gender were not predictive of post-sentencing sanction outcomes. When combining the effect of age with these variables, I still did not find statistically significant joint effects; although age did have a statistically significant main effect in some models. Other variables for which I controlled, however, suggested that they did explain some of the variation in the type and in the severity of the sanction an inmate received. Although the results varied by model, characteristics of the incident, characteristics of the inmate's prison term, and the type of facility to which the inmate was assigned were predictive of the outcome.

As indicated by the analysis for RQ.2, models for Class 1, Class 2, and Class 3 infractions suggested that an inmate had increased odds of receiving an earned credit sanction if he or she received multiple violations during or multiple sanctions for the same incident. The data also supported this finding for inmates who served a longer prison sentences. The strength of these effects, however, was weaker as the infraction class became more severe. If the inmate was in prison for an 85% crime or if the inmate was assigned to a facility with a higher level of security, then these attributes predicted a decrease in the odds of receiving an earned credit sanction. This was true for all infraction classes. The strength of these effects, however, did not show a consistent trend by infraction class. From this point, the results of infraction-specific models began to deviate. Although no other factors were statistically significant for Class 1 infractions with the exception of percent of time served, a few other variables continued to explain variation in the odds of receiving an earned credit sanction for Class 2 and Class 3 infractions. Specifically, age exhibited a curvilinear relationship. The remainder of the

statistically significant variables described the incident: if it was violent, if there were prior violations, and if multiple months had passed up to the incident. For both models, if the inmate had prior violations, then this predicted lower odds of receiving an earned credit sanction. If more time passed with no incident, then this predicted greater odds of receiving an earned credit sanction. Infraction class-specific models were not consistent, however, in the directionality of the effects for violent infractions.

The models for RQ.3 provided a poorer fit with regard to explaining variation in the quantity of earned credits removed. For Class 1 infractions (males only), if prior violations preceded the incident or if the inmate was assigned to a maximum/medium security facility compared to a community-level facility, then this predicted greater odds of having more earned credits removed. If the inmate received multiple sanctions for the incident, then this predicted a few number of earned credits being removed. Examining the results for Class 2 and Class 3 (males only) infractions suggested a better model fit as well as more consistency between the models. The more time that passed incident-free, the more sanctions imposed for the incident, and the longer the inmate's prison sentence all predicted a decrease in the odds of having more earned credits removed. These effects were stronger for Class 3 infractions. For both models, age exhibited a curvilinear effect, and those at higher levels of security were more likely to have more earned credits removed.

RQ.4 examined if there were race or gender disparities in being sanctioned to the maximum earned credit penalty. This research question served in part to supplement the findings of RQ.3 due to females being excluded from the analysis of Class 1 and Class 3 infractions. The results from the two research questions, however, indicated directionally

similar outcomes. Again, race, gender, and the race-gender (as well as the race-gender-age) combinations were not statistically significant. The results also indicated that the model for Class 1 infractions had the poorest fit. Only the inmate having more sanctions imposed for the incident and the inmate having served a greater proportion of his or her prison sentence predicted an increase in the odds of having the maximum earned credit penalty imposed. Regarding Class 2 and Class 3 infractions, the inmate having more sanctions imposed for the incident also predicted an increase in the odds of receiving the maximum earned credit penalty. And the effects of this variable in these models were stronger as well. Lastly, if more time passed up to each infraction, if the inmate was younger, and if the inmate had a longer prison sentence to serve, then this predicted an increase in his or her odds of receiving the maximum earned credit penalty. Only for Class 3 infractions, however, did the facility's security level matter, where being at higher levels of security predicted lower odds of receiving the maximum earned credit penalty.

It should be noted that the statistical models employed for RQ.2, RQ.3, and RQ.4 (as well as RQ.1) included many interaction terms, a decision driven by the theoretical approach and findings among extant literature regarding the joint effect of race and gender as well as race, gender, and age on criminal justice outcomes. Including these series of interaction terms in the models may have resulted in no effects due to my overanalyzing the data. To ensure the validity of the findings, I specified more parsimonious models, but arrived at similar conclusions. Thus, I presented the larger models to remain consistent with the theoretical approach.

Chapter 8: Discussion and Conclusion

A wealth of research has provided evidence that disparate group outcomes exist at all stages of criminal justice processing, beginning at points of first contact and extending to criminal sentencing. These disparate group outcomes are due, in part, to biased decision-making, resulting in racial minorities and males being overrepresented in rates of arrest, prosecution, conviction, and sentencing. The purpose of the current study is to extend our knowledge of the breadth of biased decision-making in the criminal justice system by examining outcomes at an additional stage of the criminal justice process: post-sentencing. Using a large sample of offenders who exited a Southern state correctional system between 2012 and 2013, I employed a series of models to understand whether or not there was a replication of disparate race and gender outcomes in the handling of prison rule violations and their subsequent sanctions. Specifically, I sought answers to two broad research questions: Does race or gender influence prison officials' decision to issue an infraction? Do these same characteristics influence the type of sanction a prison official issues for the infraction? I hypothesized that racial minorities were more likely to incur a prison infraction than whites and that the severity of their sanctions was greater. I also hypothesized that males were cited for an infraction more often than females and that their punishments were also more severe, but only for less egregious rule violations. For more egregious infractions, the gender gap in punishments was reduced if not fully eliminated.

The findings of the analyses provided partial support for my hypotheses. Inmates of a specific race or gender did experience different prison infraction outcomes, net of other variables. In particular, black inmates were more likely to have received a formal

prison infraction when compared to whites. However, the analyses indicated no differences for Hispanics or Native Americans when compared to whites. The finding for Hispanics is not consistent with prior research on racial sentencing disparities (Steffensmeier and Demuth 2001; Franklin 2013) and may be explained, in part, by this study's measure of being Hispanic. Scholars have noted that the inability to separate one's ethnicity from one's race tends to dampen (Frase 2009) or even alter findings, an issue that may occur when research relies on official state data that makes no distinction between the two constructs (Steffensmeier and Demuth 2001). A discrepancy between the prison intake personnel's categorization of the inmate's race and the sanctioning official's perception of one's race could also be a source of discrepancy in the data. The non-finding for Native Americans is neither consistent nor inconsistent with prior studies. Extant research on sentencing outcomes for this racial group when compared to whites reveals that punishments vary depending on crime and sentence type, where at times Native Americans are treated more harshly and other times they are treated more leniently (Alvarez and Bachman 1996; Franklin 2013). Thus, continued research on this subgroup is warranted to more definitely speak to the trend. With regard to gender, the data suggested that males were more likely than females to receive a formal infraction. This result is consistent with prior research that finds females are generally treated more leniently by all actors of the criminal justice system. When considering the joint effects of race and gender on the likelihood of having a formal infraction filed, there were no differences for these distinct race-gender combinations. The null effects regarding race-gender combinations are contrary to studies that find moderated effects among groups of offenders in formal sentencing outcomes, where (young) black males are sentenced more

harshly than other groups (Steffensmeier et al. 1998). They also are contrary to research suggesting that, while females commonly receive leniency in punishment, leniency in punishment is not always afforded equally to black and white females. The discussions below may help to reconcile these unexpected outcomes.

Although this study showed partial support for the replication of race and gender disparities in who received a formal prison infraction, results revealed no differences by race or gender in terms of how prison officials sanctioned the inmates for their cited infraction. Being black, Hispanic, Native American, white, male, female, or any combination of these characteristics did not predict whether or not an inmate was sanctioned to lose earned credits for the misbehavior nor did it predict the quantity of earned credits one lost. Instead, prison officials' decision-making with regard to how to punish the misbehavior was generally predicted by characteristics of the infraction, characteristics of the inmate's prison sentence, and a characteristic of the facility which housed the inmate. These results are congruent with prior research that has found minimal to no race and or gender effects in this particular form of post-sentencing (Crouch 1985; Steiner and Cain 2017). Additionally, this study originally intended to review infraction-level incident reports to understand how the context of the incident leading to the infraction helped to explain disparate sanction outcomes by race or gender. Due to the results indicating that there were no race or gender differences in the application of an earned credit sanction, this subsequent inquiry was not necessary.

Overall, these data show a replication of race and gender disparities in how prison infractions are issued, but they do not show race and gender disparities in the application of earned credit sanctions. As over half of all infractions were sanctioned to lose earned

credits, the findings in this study are encouraging. Although race and gender disparities exist from arrest to sentencing, the disparities stop, at least in some ways, at post-sentencing. An even larger implication is that the financial and institutionalization impacts of removing earned credits in disparate ways for specific groups of inmates are not exacerbated by actions at this stage of the justice system. This said, I must restate that this particular state prison system did sanction over half of all rule-violating inmates to lose earned credits. Although we can be encouraged that the specific groups of individuals of focus in this study were not treated in disparate manners, the overwhelming reliance of this particular correctional system on removing earned credits as a sanction tactic does warrant attention. As stated previously, the average financial impact to house an inmate per day in the United States is approximately \$91.00 (Mai and Subramanian 2017). Additionally, greater amounts of time behind bars raises concerns of increased institutionalization of the inmate, or an effect in which inmates may adopt a (greater) criminal orientation. Thus, additional work is needed to assess more broadly the infraction and sanction behaviors in other state prison systems, especially those in other regions of the United States, to more definitively conclude that race and gender disparities in post-sentencing are less apparent.

Although this research did not find support for the hypotheses regarding disparate sanction outcomes, several additional explanations that contextualize this conclusion are important for discussion. First and foremost, a potential selection bias is at play. One objective of this study was to fully estimate the impact of removing earned credits on an inmate's total time behind bars, an objective that required the use of inmates who exited prison. Inmates who exited prison, however, may be characteristically very different than

inmates who remain in prison. It may be more fruitful for future studies to utilize non-released inmates when examining potential disparities at post-sentencing. With that said, Steiner and Cain (2017) employed their analysis on a sample of non-released inmates and found minimal gender and no race differences in who received a good time sanction. With regard to the severity of the good time sanction (i.e., quantity of good time removed) they found no gender or race differences in the outcomes. It is noteworthy, however, that it was rare in their Midwestern state prison system for prison officials to sanction inmates to lose good time credits (only 6 percent of all infractions) due to concerns over prison overcrowding. An additional selection bias is worth mentioning. I attempted to emphasize that this study evaluated *formal* prison infractions. There may be qualitative differences between inmates who proceeded through the formal infraction and sanction process and inmates who were handled informally. Prison officials may exhibit fewer inconsistencies in how they treat inmates who were exposed to the formal infraction and sanction process. Inmates subject to preferential treatment may have never made it to the point of having a formal infraction filed or to the point of receiving a formal sanction.

The particular sanction evaluated in this study, loss of earned credits, also requires a separate discussion. Although these analyses failed to show that earned credit sanctions were inconsistently imposed across groups of inmates, more research is needed to understand whether or not other sanctions types such as segregation or removal of privileges exhibit similar findings. It is also unknown whether or not imposing an earned credit sanction is considered punitive on behalf of the sanctioning personnel. If this type of sanction is considered to be a lesser punishment, then disparate outcomes in post-sentencing could be visible for other, harsher sanction types. Before concluding that there

are no racial disparities in post-sentencing sanctions, additional analyses are warranted to more rigorously evaluate the distinct forms of punishment.

A final line of explanation for these non-findings pertain to the theoretical framework on which this study is based. I used the Focal Concerns Perspective supplemented by the Selective Chivalry Thesis to guide my thinking on how and why race and gender differences would be replicated at post-sentencing. A central tenet of the Focal Concerns Perspective is that decision-makers in the criminal justice system oftentimes have incomplete information on a case or on an offender. As a result, they tend to develop a perceptual shorthand to assist them in their decision-making, which may include racial and gender stereotypes that influence their thinking on an offender's propensity to commit criminal acts in the future. These stereotypes tend to indicate an offender's blameworthiness and the need of facility personnel to protect others from the dangerousness of the inmate. However, with regard to punishment in prison, this study may have placed an overemphasis on the role of race- and gender-based stereotypes and a de-emphasis on the role of general inmate-based stereotypes. Particularly, "inmate" may be a master status that is a greater stigma for an individual rather than the individual's race or gender (Goffman 1963). The greater an individual is woven in the depths of the criminal justice system, the more others may label him as criminal and as an outcast. Under this frame of thinking, then, inmates are viewed by prison officials as a homogenous group rather than heterogeneous classes within the larger grouping of "inmate."

Similarly related, this study hypothesized that sanction outcomes would be similar to preceding stages of the criminal justice system due to prison official's decision-making

being based on some perceptual shorthand regarding the offender's culpability and dangerousness. The prison environment is oftentimes very different than a typical courtroom or traffic stop encounter, however, where greater race and gender disparities in decision-making outcomes are realized. Inmates serve time behind bars for long periods of time, much longer than the short amount of time a police official is engaged with a citizen at a traffic stop or that a judge is faced with hearing the facts of a criminal case. The inmate may serve years in a prison and spend years surrounded by the same prison personnel, and a level of rapport may develop between inmate and officers that does not typically exist at other stages of the criminal justice process. This extended contact could help to dispel stereotypes that could otherwise be the basis for one's decision given the absence of other legal information. If this is true, then the contact hypothesis may be a more fruitful avenue to pursue in this line of research. The contact hypothesis suggests that exposure to and interaction with individuals different than oneself can lead to a positive impression of the other, thereby dispelling stereotypes (Allport 1954). But, oftentimes, this greater acceptance of differences is attained when those in contact are of equal status. This said, research on this hypothesis yields that interracial contact reduces an individual's stereotypes of others, especially with regard to whites' perceptions of black criminality (Mancini et al. 2015). Although this present study did find race and gender differences in who received a prison infraction, the null effects for sanction outcomes may be in some ways explained, in part, by a different theoretical framework. These frameworks may point to either the role of "inmate" being a master status or the role of exposure in dispelling out-group stereotypes that influence individuals' perceptions of others.

I have spent time recapitulating the outcomes of this study and offering possible explanations for why my hypotheses were only partially supported. With these explanations in mind, I would be remiss to not dedicate attention to limitations of this study, limitations from which future research on post-sentencing could benefit if able to be considered. Most importantly, this study was not able to control for behavioral characteristics of the supervising personnel that may have impacted their decision. This particular prison system's policy provided an exhaustive list of available sanctions, but prison officials enjoyed considerable flexibility in determining which sanction to impose. Given this flexibility, this study was not able to consider why an official decided to issue a specific sanction type. For instance, does a sanctioning official's decision depend on his own perception of what is punitive or what he thinks the inmate perceives to be punitive? This behavioral component is very difficult to capture when it is not explicitly controlled in the study's design, but future work may consider the impact of this perspective at an earlier stage in the process in an attempt to account for its influence. Future work may also benefit from evaluating the impact of sanctioning personnel's demographic features relative to the inmate. For instance, do male officers who sanction male inmates result in distinct outcomes compared to female officers who sanction female inmates? Do white officials sanctioning Native American inmates yield distinct outcomes compared to black officials sanctioning white inmates? The combinations are many, but this is a perspective that would provide a robust alternative to the continued examination of group differences in post-sentencing. I also give attention to the impact of an inmate and his participation in prison programming during his time in prison. In this prison system, participation in a treatment or educational program required the inmate

to be infraction-free and incurring of an infraction may have resulted in the inmate's removal from the program. Thus, to prevent an interruption in services, personnel may have been less likely to file a certain type of infraction because it might impact an inmate's prison standing. Future studies should control for the potential influence of this variable on the outcome.

I also mention a final limitation of this study that would impact future analyses of this particular state prison as well as other studies which evaluate post-sentencing in other regions of the United States. Under strict budgetary constraints shortly after these data were collected, this particular prison system began to restore lost earned credits in an attempt to manage the overwhelming overpopulation issue experienced in recent years. Although this policy originated in the 1970s, the large-scale implementation in more recent years was unique. I view this department-wide restoration of lost earned credits as an action outside of normal processes; therefore, to be able to generalize these findings to other prison release cohorts, I must make mention of this occurrence.

Although indicated above, it is worthy of being restated. We can be encouraged by the finding that race and gender disparities throughout the criminal justice system appear to lessen at the point of post-sentencing earned credit sanctioning, a sanction type that has a direct impact on an inmate's time behind bars. However, this encouraging outcome should not overshadow the finding that there *are* race and gender differences by whom is cited with a formal prison infraction. As Crutchfield et al. (2010:931) ask, "Can...any statistically significant differences in criminal justice outcomes based on anything but legal factors be acceptable?" I assert that even this finding is unacceptable and work is needed to correct the injustice so that race and gender ceases to matter in

these situations. This Southern state's prison system should be encouraged to develop more explicit guidelines to safeguard against any type of disparate outcome. Although studies suggest that guidelines alone will not be enough to eliminate biased sentencing (Everett and Wojtkiewicz 2002), research does indicate that there are fewer (gender) disparities in sentencing when sentence guidelines are available (Mitchell 2005). Thus, this prison system may benefit from a centralized body to handle how prison infractions are issued. At the time of this study, sanction outcomes were decided at each facility. This centralized body is important, as injustices in who is punished and who is not is hidden from the public eye. Any potential safeguard to reduce the possibility of disparate outcomes will enhance the public's confidence in criminal justice processes.

References

- Acker, Joan. 1992. "From Sex Roles to Gendered Institutions." *Contemporary Sociology: A Journal of Reviews* 21(5):565-569.
- Adler, Freda. 1975. *Sisters in Crime*. New York, NY: McGraw-Hill.
- Agnew, Robert. 1992. "Foundation for a General Strain Theory of Crime and Delinquency." *Criminology* 30(1):47-87.
- 2006. *Pressured into Crime: An Overview of General Strain Theory*. Los Angeles, CA: Roxbury Publishing Company.
- Albonetti, C.A. 1991. "An integration of theories to explain judicial discretion." *Social Problems* 38:247-266.
- Alvarez, Alexander, and Ronet D. Bachman. 1996. "American Indians and Sentencing Disparity: An Arizona Test." *Journal of Criminal Justice* 24(6):549-561.
- Andrews, Don A., and James L. Bonta. 1995. *The Level Of Service Inventory-Revised: User's Manual*. Toronto, Canada: Multi-Health Systems.
- Andrews, Don A., and James L. Bonta. 2003. *The Level of Service Inventory-Revised: U.S. Norms Manual Supplement*. Toronto, Canada: Multi-Health Systems.
- Anwar, Shamena, Patrick Bayer, and Randi Hjalmarsson. 2012. "The Impact of Jury Race in Criminal Trials." *The Quarterly Journal of Economics* 127(2):1017-1055.
- Allport, Gordon. W. 1954. *The Nature of Prejudice*. 25th ed. Cambridge, MA: Perseus Books.
- Barlow, Melissa. H. 1998. "Race and the Problem of Crime in 'Time' and 'Newsweek' Cover Stories, 1946 to 1995." *Social Justice* 25:149-183.
- Bem, Sandra L. 1974. "The Measurement of Psychological Androgyny." *Journal of Consulting and Clinical Psychology* 42(2):155-162.
- Blumstein, Alfred. 1982. "On the Racial Disproportionality of the U.S. States' Prison Population." *Journal of Criminal Law and Criminology* 73:1259-1281.
- Bonilla-Silva, Eduardo. 2010. *Racism without Racists: Color-Blind Racism and the Persistence of Racial Inequality in the United States*. 3rd ed. Lanham, MD: Rowman & Littlefield Publishers, Inc.

- Bridges, George S., Robert D. Crutchfield, and Edith E. Simpson. 1987. "Crime, Social Structure and Criminal Punishment: White and Nonwhite Rates of Imprisonment." *Social Problems* 34(4):345-361.
- Bryman, Alan. 2006. "Integrating Quantitative and Qualitative Research: How is it Done?" *Qualitative Research* 6:97-113.
- Bureau of Justice Statistics Bulletin (BJS). 1982. "Prisoners in 1981." Washington, D.C.: U.S. Department of Justice, Office of Justice Programs.
- Bush-Baskette, Stephanie R. 2004. "The War on Drugs as a War against Black Women." Pp. 185-196 in *Girls, Women, and Crime: Selected Readings*, edited by Meda Chesney-Lind and Lisa Pasko. Thousand Oaks, CA: Sage.
- Cafri, Guy, Donald Hedeker, and Gregory A. Aarons. 2015. "An Introduction and Integration of Cross-Classified, Multiple Membership, and Dynamic Group Random-Effects Models." *Psychological Methods* 20(4):407-421.
- Carson, E. Ann. 2014. "Prisoners in 2013." Washington, D.C.; Bureau of Justice Statistics.
- Carson, E. Ann. 2018. "Prisoners in 2016." Washington, D.C.; Bureau of Justice Statistics.
- Carson, E. Ann, and Daniela Golinelli. 2013. "Prisoners in 2012." Washington, D.C.; Bureau of Justice Statistics.
- Carter, William M. 2004. "A Thirteenth Amendment Framework for Combating Racial Profiling." *Harvard Civil Rights-Civil Liberties Law Review* 39(1):19-93.
- Chesney-Lind, Meda. 2006. "Patriarchy, Crime, and Justice: Feminist Criminology in an Era of Backlash." *Feminist Criminology* 1(1):6-26.
- Cihan, Abdullah, Megan Davidson, and Johnathan Sorensen. 2017. "Analyzing the Heterogeneous Nature of Inmate Behavior: Trajectories of Prison Misconduct." *The Prison Journal* 97(4):431-450.
- Connell, R. W., and James W. Messerschmidt. 2005. "Hegemonic Masculinity: Rethinking the Concept." *Gender & Society* 19:829-859.
- Creswell, John. W., and Vicki Clark. 2011. *Designing and Conducting Mixed Methods Research*. 2nd ed. Thousand Oaks, CA: Sage.
- Crouch, Ben M. 1985. "The Significance of Minority Status to Discipline Severity in Prison." *Sociological Focus* 18(3):221-233.

- Crutchfield, Robert D., April Fernandes, and Jorge Martinez. 2010. "Racial and Ethnic Disparity and Criminal Justice: How Much is Too Much?" *The Journal of Criminal Law & Criminology* 100(3):903-932.
- Cunningham, Mark D., and Jon R. Sorensen. 2007. "Violent Misconduct in Close Custody." *The Prison Journal* 87(2):241-253.
- Daly, Kathleen. 1987. "Discrimination in the Criminal Courts: Family, Gender, and Problems of Equal Treatment." *Social Forces* 66:152-175.
- Daly, Kathleen. 1989. "Neither Conflict nor Labeling nor Paternalism Will Suffice: Intersections of Race, Ethnicity, Gender, and Family in Criminal Court Decisions." *Crime & Delinquency* 35:136-68.
- Daly, Kathleen. 1994. *Gender, Crime, and Punishment*. New Haven, CT: Yale University Press.
- Daly, Kathleen and Meda Chesney-Lind. 1988. "Feminism and Criminology." *Justice Quarterly* 5:497-535.
- Du Bois, W. E. B. 1995 [1899]. *The Philadelphia Negro*. 25th ed. Philadelphia, PA: University of Pennsylvania Press.
- Eagly Alice. H. 1987. *Sex Differences in Social Behavior: A Social-Role Interpretation*. Hillsdale, NJ: Earlbaum.
- Edwards, Todd. 2001. "Correctional Good-Time Credits in Southern States." Retrieved Dec. 13, 2015 (<https://www.slcatlanta.org/Publications/HSPS/GoodTime.pdf>)
- Ene, Mihaela, Elizabeth A. Leighton, Genine L. Blue, and Bethany A. Bell. 2015. *Multilevel Models for Categorical Data Using SAS*PROC GLIMMIX: The Basics*. Dallas, TX: SAS Global Forum.
- Entman, Robert M. 1992. "Blacks in the News: Television, Modern Racism and Cultural Change." *Journalism & Mass Communication Quarterly* 69(2):341-361.
- Entman, Robert M. 2006. *Young Men of Color in the Media: Images and Impacts*. Washington, D.C.: Joint Center for Political and Economic Studies.
- Everett, Ronald S., and Roger A. Wojtkiewicz. 2002. "Difference, Disparity, and Race/Ethnic Bias in Federal Sentencing." *Journal of Quantitative Criminology* 18(2):189-211.
- Farr, Kathryn Ann. 2000. "Defeminizing and Dehumanizing Female Murderers: Depictions of Lesbians on Death Row," *Women and Criminal Justice* 11:49-66.

- Farrell, Ronald, and Malcolm Holmes. 1991. "The Social and Cognitive Structure of Legal Decision Making." *The Sociological Quarterly* 32(4):529-542.
- Franklin, Travis W. 2013. "Sentencing Native Americans in US Federal Courts: An Examination of Disparity." *Justice Quarterly* 30(2):310-339.
- Frase, Richard. 2009. "What Explains Persistent Racial Disproportionality in Minnesota's Prison and Jail Populations?" *Crime and Justice* 38(1):201-280.
- Freiburger, Tina L., and Carly M. Hilinski. 2010. "The Impact of Race, Gender, and Age on the Pretrial Decision." *Criminal Justice Review* 35(3):318-334.
- Gaarder, Emily, Nancy Rodriguez, and Marjorie S. Zatz. 2004. "Criers, Liars, and Manipulators: Probation Officers' Views of Girls." *Justice Quarterly* 21(3):547-578.
- Gendreau, Paul, Claire E. Goggin, and Moira A. Law. 1997. "Predicting Prison Misconducts." *Criminal Justice and Behavior* 24(4):414-431.
- Gertner, Judge Nancy. 2010. "A Short History of American Sentencing: Too Little Law, Too Much Law, or Just Right." *The Journal of Criminal Law & Criminology* 100(3):691-708.
- Goffman, Erving. 1963. *Stigma: Notes on the Management of Spoiled Identity*. New York, NY; Prentice Hall Inc.
- Goulette, Natalie, John Wooldredge, James Frank, and Lawrence Travis III. 2015. "From Initial Appearance to Sentencing: Do Female Defendants Experience Disparate Treatment?" *Journal of Criminal Justice* 43(5): 406-417.
- Hagan, John. 1974. "Extralegal Attributes and Criminal Sentencing: An Assessment of a Sociological Viewpoint." *Law & Society Review* 8:357-384.
- . 1987. "Review Essay: A Great Truth in the Study of Crime." *Criminology* 25:421-428.
- Harris, Casey T., Darrell Steffensmeier, Jeffrey T. Ulmer, and Noah Painer-Davis. 2009. "Are Blacks and Hispanics Disproportionately Incarcerated Relative to Their Arrests? Racial and Ethnic Disproportionality between Arrest and Incarceration." *Race and Social Problems* 1:187-199.
- Harris, Angela P. 2000. "Gender, Violence, Race, and Criminal Justice." *Stanford Law Review* 52(4):777-807.
- Hartley, Richard D., Sean Maddan, Cassia C. Spohn. 2007. "Concerning Conceptualization and Operationalization: Sentencing Data and the Focal

- Concerns Perspective-A Research Note.” *The Southwest Journal of Criminal Justice* 4(1):58-78.
- Hirschi, Travis. 1969. *Causes of Delinquency*. Berkeley, CA: University of California Press.
- Horowitz, Ruth, and Anne E. Pottieger. 1991. “Gender Bias in Juvenile Justice Handling of Seriously Crime-Involved Youths.” *Journal of Research in Crime and Delinquency* 28(1):75-100.
- Hox, Joop J. 2002. *Multilevel Analysis: Techniques and Applications*. Mahwah, NJ: Lawrence Erlbaum.
- Innes, Christopher. 1997. “Patterns of Misconduct in the Federal Prison System.” *Criminal Justice Review* 22(2):157-174.
- Jackson, Robert Max. n.d. “Analyzing the Persistence of Gender Inequality: How to Think about the Origins.” Chapter 2 in *Down So Long: The Puzzling Persistence of Gender Inequality*. (Unpublished Manuscript).
- Kauder, Neal B., and Brian J. Ostrom. 2008. “State Sentencing Guidelines: Profiles and Continuum.” Williamsburg, VA: National Center for State Courts.
- Kane, Emily W. 2006. “‘No Way My Boys Are Going to be like That!’ Parents’ Responses to Children’s Gender Nonconformity.” *Gender and Society* 20(2):149-176.
- Koons-Witt, Barbara A. 2002. “The Effect of Gender on the Decision to Incarcerate Before and After the Introduction of Sentencing Guidelines.” *Criminology* 40(2):297-328.
- Kutateladze, Besiki L., Nancy R. Andiloro, Brian D. Johnson, and Cassia C. Spohn. 2014. “Cumulative Disadvantage: Examining Racial and Ethnic Disparity in Prosecution and Sentencing.” *Criminology* 52(3):514-551.
- Langan, Neal, and Bernadette M. M. Pelissier. 2002. “The Effect of Drug Treatment on Inmate Misconduct in Federal Prisons.” Washington, D.C.: Federal Bureau of Prisons.
- Larkin, Paul J. 2013. “Clemency, Parole, Good-Time Credits, and Crowded Prisons: Reconsidering Early Release.” *Georgetown Journal of Law & Public Policy* 11(1):1-44.
- Ludwig, Jack. 2003. “Americans See Racial Profiling as Widespread.” Gallup Poll.

- Lundman, Richard. J., and Robert L. Kaufman. 2003. "Driving While Black: Effects of Race, Ethnicity, and Gender on Citizen Self-Reports of Traffic Stops and Police Actions." *Criminology* 41(1):195-220.
- Lyon, Andrea D. 2012. "Racial Bias and the Importance of Consciousness for Criminal Defense Attorneys." *Seattle University Law Review* 35:755-768.
- Mai, Chris, and Ram Subramanian. 2015. "The Price of Prisons: Examining State Spending Trends 2010-2015." Washington, D.C.: The Vera Institute of Justice.
- Mancini, Christina, Daniel P. Mears, Eric A. Stewart, Kevin M. Beaver, and Justin T. Pickett. 2015. "Whites' Perceptions about Black Criminality: A Closer Look at the Contact Hypothesis." *Crime & Delinquency* 61(7):996-1002.
- Martin, Patricia Yancy. 2004. "Gender as Social Institution." *Social Forces* 82(4):1249-1274.
- Massey, Douglas S., and Denton, Nancy. A. 1993. *American Apartheid: Segregation and the Making of the Underclass*. Cambridge, MA: Harvard University Press.
- Mauer, Marc. 2011. "Addressing Racial Disparities in Incarceration." *Prison Journal* 91(3):88S-101S.
- Merolla, David. 2008. "The War on Drugs and the Gender Gap in Arrests: A Critical Perspective." *Critical Sociology* 34(2):255-270.
- Messerschmidt, James W. 1993. *Masculinities and Crime: Critique and Reconceptualization of Theory*. Lanham, MD: Rowman & Littlefield.
- Miller, Walter. 1958. "Lower Class Culture as a Generating Milieu for Gang Delinquency." *Journal of Social Issues* 14(3):5-19.
- Mitchell, Ojmarrh. 2005. "Meta-Analysis of Race/ethnic and Sentencing Research: Explaining the Inconsistencies." *Journal of Quantitative Criminology* 21(4):439-466.
- Moulds, Elizabeth F. 1978. "Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System." *The Western Political Quarterly* 31(3):416-430.
- Muhammad, Khalil Gibran. 2010. *The Condemnation of Blackness: Race, Crime and the Marking of Modern Urban America*. Cambridge, MA: Harvard University Press.
- Mustard, David B. 2001. "Racial, Ethnic, and Gender Disparities in Sentencing: Evidence from the U.S. Federal Courts." *Journal of Law and Economics* 44:285-314.

- Nagel, Stuart S., and Lenore J. Witzman. 1971. "Women as Litigants." *The Hastings Law Journal* 23:171-198.
- National Conference of State Legislatures (NCSL). 2016. *Good Time and Earned Time Policies for State Prison Inmates*. Washington, D.C.: National Conference of State Legislatures.
- Nellis, Ashley, Judy Greene, and Marc Mauer. 2008. *Reducing Disparity in the Criminal Justice System: A Manual for Practitioners and Policy Makers*. Washington, D.C: The Sentencing Project.
- Nellis, Ashley. 2016. *The Color of Justice: Racial and Ethnic Disparity in State Prisons*. Washington, D.C: The Sentencing Project.
- Omi, Michael and Howard Winant. 2005. *Racial Formation in the United States: From the 1960s to the 1990s*. 3rd ed. New York, NY: Routledge.
- Petersilia, Joan. 1985. "Racial Disparities in the Criminal Justice System: A Summary." *Crime and Delinquency* 31:15-34.
- Pettit, Becky and Bruce Western. 2004. "Mass Imprisonment and the Life Course: Race/ethnic and Class Inequality in U.S. Incarceration." *American Sociological Review* 69:151-169.
- Pompoco, Amanda, John Woodredge, Melissa Lugo, Carrie Sullivan, and Edward J. Latessa. 2017. "Reducing Inmate Misconduct and Prison Returns with Facility Education Programs." *Criminology & Public Policy* 16(2):415-547.
- Raudenbush, Stephen. W., and Anthony S. Bryk. 2002. *Hierarchical Linear Models: Applications and Data Analysis Methods, Second Edition*. Newbury Park, CA: Sage.
- Reckless, Walter, and Barbara Kay. 1967. *The Female Offender: Report to the U.S. President's Commission on Law Enforcement and the Administration of Justice*. Washington, D.C.: U.S. Government Printing Office.
- Reiman, Jeffrey and Paul Leighton. 2012. *The Rich Get Richer and the Poor Get Prison, 10th Edition*. Boston, MA: Pearson.
- Ridgeway, Cecilia. 2009. "Framed Before We Know It: How Gender Shapes Social Relations." *Gender & Society* 23(2):145-160.
- Risman, Barbara J. 2004. "Gender as a Social Structure: Theory Wrestling with Activism." *Gender & Society* 18(4):429-450.

- Risman, Barbara J. 2009. "From Doing to Undoing: Gender as We Know It." *Gender & Society* 21(3):81-84.
- Risman, Barbara J., and Georgiann Davis. 2013. "From Sex Roles to Gender Structure." *Current Sociology* 61(5-6):733-755.
- Rocheleau, Ann Marie. 2013. "An Empirical Exploration of the 'Pains of Imprisonment' and the Level of Prison Misconduct and Violence." *Criminal Justice Review* 38(3):354-374.
- Rodriguez, S. F., Theodore R. Curry, and Gang Lee. 2006. "Gender Differences in Criminal Sentencing: Do Effects Vary Across Violent, Property, and Drug Offenses?" *Social Science Quarterly* 82(2):318-339.
- Rovner, Joshua. 2014. *Disproportionate Minority Contact in the Juvenile Justice System*. Washington, D.C.: The Sentencing Project.
- Sampson, Robert J., and Janet L. Lauritsen. 1997. "Racial and Ethnic Disparities in Crime and Criminal Justice in the United States." *Crime and Justice* 21:311-374.
- Saperstein, Aliya, and Andrew M. Penner. 2012. "Racial Fluidity and Inequality in the United States." *American Journal of Sociology* 118(3):676-727.
- Schermer, Lauren O'Neill, and Brian D. Johnson. 2010. "Criminal Prosecutions: Examining Prosecutorial Discretion and Charge Reductions in U.S. Federal District Courts." *Justice Quarterly* 27(3):394-430.
- Schippers, Mimi. 2007. "Recovering the Feminine Other: Masculinity, Femininity, and Gender Hegemony." *Theory and Society* 36(1):85-102.
- Schur, Edwin. 1984. *Labeling Women Deviant: Gender, Stigma, and Social Control*. New York, NY: McGraw Hill.
- Sealock, Miriam D., and Sally S. Simpson. 1998. "Unraveling Bias in Arrest Decisions: The Role of Juvenile Offender Type-Scripts." *Justice Quarterly* 15(3):2427-457.
- Sharp, Susan F. 2014. *Mean Lives, Mean Laws: Oklahoma's Women Prisoners*. New Brunswick, NJ: Rutgers University Press.
- Sharp, Susan F, Adrienne Braley, and Susan Marcus-Mendoza. 2000. "Focal Concerns, Race & Sentencing of Female Drug Offenders." *Free Inquiry in Creative Sociology* 28(2):3-16.
- Shaw, Clifford R. and Henry D. McKay. 1972. *Juvenile Delinquency and Urban Areas*. Chicago, IL: University of Chicago Press.

- Shernock, Stan, and Brenda Russell. 2012. "Gender and Racial/Ethnic Differences in Criminal Justice Decision Making in Intimate Partner Violence Cases." *Partner Abuse* 3(4):501-530.
- Shihadeh, Edward S., and Nicole Flynn. 1996. "Segregation and Crime: The Effect of Black Social Isolation on the Rates of Black Urban Violence." *Social Forces* 74(4):1325-1352.
- Simon, Rita J. 1975. *Women and Crime*. Lexington, MA: Lexington Books.
- Sklansky, David A. 1995. "Cocaine, Race, and Equal Protection." *Stanford Law Review* 47(6):1283-1322.
- Smedley, Audrey. 2003. *Race/ethnic in North America: Origin and Evolution of a Worldview*. 3rd ed. Boulder, CO: Westview Press.
- Smith, Michael R., Matthew Makarios, and Geoffrey P. Alpert. 2006. "Differential Suspicion: Theory Specification and Gender Effects in the Traffic Stop Context." *Justice Quarterly* 23(2):271-295.
- Smith, Robert J., and Justin D. Levinson. 2012. "The Impact of Racial Bias on the Exercise of Prosecutorial Discretion." *Seattle University Law Review* 35:795-826.
- Snipp, C. Matthew. 2003. "Racial Measurement in the American Census: Past Practices and Implications for the Future." *Annual Review of Sociology* 29:563-88.
- Spivak, Andrew L, and Susan F. Sharp. 2008. "Inmate Recidivism as a Measure of Private Prison Performance." *Crime Delinquency* 54:482-508.
- Spohn, Cassia C. 2000. "Thirty Years of Sentencing Reform: The Quest for a Racially Neutral Sentencing Process." *Criminal Justice* 3:427-501.
- Spohn, Cassia C., and Dawn Beichner. 2000. "Is Preferential Treatment of Female Offenders a Thing of the Past? A Multisite Study of Gender, Race, and Imprisonment." *Criminal Justice Policy Review* 11(2):149-184.
- Spohn, Cassia C., John Gruhl, and Susan Welch. 1987. "The Impact of the Ethnicity and Gender of Defendants on the Decision to Reject or Dismiss Felony Charges." *Criminology* 25(1):175-192.
- Spohn, Cassia, and Jeffrey W. Spears. 1997. "Gender and Case Processing Decisions: A Comparison of Case Outcomes for Male and Female Defendants Charged with Violent Felonies." *Women and Criminal Justice* 8(3):29-59.
- Starr, Sonja B., and M. Marit Rehavi. 2013. "Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of." *The Yale Law Journal* 123(2):2-80.

- Steffensmeier, Darrell, and Stephen Demuth. 2000. "Ethnicity and Sentencing Outcomes in U.S. Federal Courts: Who is Punished More Harshly?" *American Sociological Review* 65(5):705-729.
- Steffensmeier, Darrell, and Stephen Demuth. 2001. "Ethnicity and Judges' Sentencing Decisions: Hispanic-Black-White Comparisons" *Criminology* 39(1):145-178.
- Steffensmeier, Darrell, and Emilie Allen. 1996. "Gender and Crime: Toward a Gendered Theory of Female Offending." *Annual Review of Sociology* 22:459-87.
- Steffensmeier, Darrell, John Kramer, and Cathy Streifel. 1993. "Gender and Imprisonment Decisions." *Criminology* 31(3):411-446.
- Steffensmeier, Darrell, Jeffery Ulmer, and John Kramer. 1998. "The Interaction of Race, Gender, and Age in Criminal Sentencing: The Punishment Cost of Being Young, Black, and Male." *Criminology* 36(4):763-798.
- Steiner, Benjamin, H. Daniel Butler, and Jared M. Ellison. 2014. "Causes and Correlates of Prison Inmate Misconduct: A Systematic Review of the Evidence." *Journal of Criminal Justice* 42(6):462-470.
- Steiner, Benjamin, and Calli M. Cain. 2017. "Punishment within Prison: An Examination of the Influences of Prison Officials' Decisions to Remove Sentencing Credits." *Law & Society Review* 51(1):70-98.
- Thomas, Charles W., and D. M. Peterson. 1975. *Prison Organization and Inmate Subcultures*. Indianapolis, IN: Bobbs-Merrill.
- Tillyer, Rob, and Robin S. Engel. 2013. "The Impact of Drivers' Race, Gender, and Age during Traffic Stops: Assessing Interaction Terms and the Social Conditioning Model." *Crime & Delinquency* 59(3):369-395.
- Tittle, Charles R., and Debra A. Curran. 1988. "Contingencies for Dispositional Disparities in Juvenile Justice." *Social Forces* 67:23-58.
- Tonry, Michael. 2010. "The Social, Psychological, and Political Causes of Racial Disparities in the American Criminal Justice System." *Crime and Justice* 39(1):273-312.
- Udry, J. Richard. 2000. "Biological Limitations of Gender Construction." *American Sociological Review* 65(3):443-457.
- Ulmer, Jeffery T. and Brian Johnson. 2004. "Sentencing in Context: A Multilevel Analysis." *Criminology* 42(1):137-177.

- U.S. Sentencing Commission (USSC). 2006. *Final Report on the Impact of United States v. Booker on Federal Sentencing*. Washington, D.C.: Government Printing Office.
- U.S. Sentencing Commission (USSC). 2012. *Report on the Continued Impact of United States v. Booker on Federal Sentencing*. Washington, D.C.: Government Printing Office.
- U.S. Sentencing Commission (USSC). 2017. *The Sentencing Reform Act of 1984: Principal Features*. Washington, D.C.: Government Printing Office.
- VanNostrand, Marie, and Gena Keebler. 2009. "Pretrial Risk Assessment in the Federal Court." *Federal Probation* 73(2):3-29.
- Visher, C. A. 1983. "Gender, Police Arrest Decisions, and Notions of Chivalry." *Criminology* 21(1):5-28.
- Walmsley, R. 2016. "World Prison Brief." Washington, D.C.: Institute for Criminal Policy Research.
- West, Candace, and Don H. Zimmerman. 1987. "Doing Gender." *Gender & Society* 1(2):125-151.
- West, Candace, and Don H. Zimmerman. 2009. "Accounting for Doing Gender." *Gender & Society* 23(1):112-122.
- Wilkins Jr., William W., Phyllis J. Newton, and John R. Steer. 1991. "The Sentencing Reform Act of 1984: A Bold Approach to the Unwarranted Sentencing Disparity Problem." *Criminal Law Forum* 2(2):355-380.
- Willer, Robb, Christabel L. Rogalin, Bridget Conlon, and Michael T. Wojnowicz. 2013. "Overdoing Gender: A Test of the Masculine Overcompensation Thesis." *American Journal of Sociology* 118(4):980-1022.

Appendix A: Infractions*

<u>Class 1</u>	<u>Violent</u>
▪ Making sexual threats to another person.	Y
▪ Correspondence/conduct with visitor in violation of posted regulations, excluding sexual activity.	N
▪ Aiding or abetting in the commission of any rule violation.	N
▪ Monetary misconduct-Entering into contractual agreements requiring time payments; receiving salary/ wage advances; entering into other contractual agreements; failure to turn in all pay checks or money received. House arrest/pre-parole conditional supervision/electronic monitoring/specialized supervision program offenders will receive prior written authorization to enter into contractual agreements that require time payments. Also, they will turn in monies in a timely manner for program support fees, restitution, court costs, or other required financial obligations.	N
▪ Employment misconduct-Quitting job without prior approval; getting fired for misconduct on job, tardiness, or shirking of duties; failure to notify staff/employer when too ill to work.	N
▪ Unauthorized use of mail or telephone, to include passing unauthorized messages or conducting unauthorized activities.	N
▪ Unauthorized contacts with public.	N
▪ Interfering with taking of count.	N
▪ Bucking an offender line.	N
▪ Not having proper ID or displaying ID improperly.	N
▪ Possession/use/introduction of tobacco for an amount of less than 20 cigarettes and/or less than one ounce of tobacco-like products; lighter and/or one book/box of matches.	N
▪ Charging another offender for services rendered.	N
▪ Use of tobacco or tobacco like products in an unauthorized outside area.	N
▪ Failure to follow sign-in/sign-out procedures.	N
▪ Unexcused absence from work/school assignment or other program activity.	N
▪ Unauthorized presence in another's cell/living quarters.	N
▪ Unauthorized use of state/private/public property/supplies.	N
▪ Forgery of any type to obtain goods/materials (Attach document where possible).	N
▪ Taking of property.	N
▪ Possession of money or currency, unless specifically authorized.	N
▪ Possession of property belonging to another person or offender; unauthorized state/private/public property, or official documents/materials, or legal material of another offender.	N
▪ Possession of clothing or property not authorized by the facility, to include possession of excess personal property.	N
▪ Possession of gambling paraphernalia that is not specifically authorized property as specified by OP-030120.	N

- Insolence to staff member or citizens. N
- Failure to comply with rules and conditions of supervision, contents of any community based supervision program, accountability plan, itinerary, or other contracted agreement. N
- Lying to staff member. N
- Malingering; feigning an illness. N
- Participating in games of chance for gain/profit. N
- The receiving, trading, selling, giving, or loaning of property. N
- Attempting to give, giving, or receiving money or anything of value as a bribe or inducement. N

Class 2

Violent

- Bestiality. Y
- Battery of another person. Y
- Assault; any willful attempt or threat to inflict injury upon the person of another. Y
- Making sexual proposals, innuendos, inferences, or threats to another offender. Y
- Using abusive/obscene language. Y
- Making profane/obscene gestures to a staff member or citizen. Y
- Interfering with the canine or handler in the performance of their duties. N
- Any attempt to receive or receipt of money or property in any form, from another offender or another offender's family member, as well as sending money or property to another offender or offender's family member; this includes attempting to conceal the transfer of money or property through another person who is not a family member. N
- Under the influence of and/or any use of illegal drugs, alcohol, intoxicating chemicals or any medication in an unauthorized manner, including "cheeking" or "palming" the medication. "Cheeking or palming" medication is defined as any attempt to fail to promptly take medication as ordered by staff by hiding the medication while representing to the staff in any manner that the medication was taken as ordered. N
- Use of mail, telephone or computer to conduct illegal business. N
- Tattooing or possession of tattoo paraphernalia/self-mutilation, including body piercing except earrings authorized for females/any attempts to inflict self-injury or ingestion of any harmful or poisonous substance. N
- Carrying out any action designed to coerce administration, and/or fraternizing with any staff member, with the exception of sexual activity. N
- Tampering with or blocking any lock, locking device, or other security equipment. N
- Refusal to submit to substance abuse testing for determination of violation of rule 02-2. Testing is not mandatory when it is evident that the offender has used a chemical substance. If the offender alleges N

- inability to produce a specimen, a two hour delay period under observation will be allowed.
- Attempt to contaminate, pollute, alter, substitute, or destroy any urine sample or report. N
 - Failure to cooperate in any investigation. Does not include disciplinary procedures investigations. N
 - To alter or mutilate any official document, offender ID, or evidence or to destroy or attempt to destroy any evidence, including but not limited to, eating it or flushing it down a toilet. N
 - Violation of operating procedure entitled “Correspondence, Publication, and Audio/Video Media Guidelines.” N
 - Program Misconduct-Refusing to participate in an agency sanctioned program, quitting prior to successful completion, or being removed from the program for any reason. Education misconduct to include cheating on tests, or possession/passing of stolen tests or answer keys. N
 - Refusal of medical care/appointment after transportation to an outside medical facility. N
 - Possession/use/introduction of tobacco for an amount of twenty or more cigarettes and/or one ounce or more of tobacco-like products; more than one lighter and/or more than one book/box of matches. N
 - Possession/utilization of a cell phone or cell phone paraphernalia in community corrections. N
 - Use of tobacco or tobacco like products in a state owned building. N
 - Outside defined boundaries within facility as defined by facility or present in a restricted area. N
 - Demanding/receiving money or favors or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing. N
 - Breaking into another person’s room/locker. N
 - Destruction/mutilation/malicious alteration of state/private/public property to include the intentional blocking of any drain in any manner which causes flooding. N
 - Destruction of property of another person. N
 - Manufacture of intoxicants. N
 - Counterfeiting, forging, or unauthorized reproductions of any document, article of identification, money, security, or official paper. N
 - Possession of unauthorized identification. N
 - Possession/introduction of unauthorized tool. N
 - Possession of any other item not authorized by the facility. N
 - Engaging in sexual activity with another consenting person excluding time on passes. N
 - Indecent exposure, to include urinating or defecating in any location other than a toilet, or masturbating in view of staff, visitor, or vendor. N
 - Failure to obey verbal and/or written order of staff member in a prompt manner. N
 - Failure to obey a group order (e.g., “move”, “lockdown”). N

- Making a false allegation against any person, with the exception of other offenders. N
- Preparing or conducting a gambling operation. N
- Failure to comply with the limits placed on extended limits of confinement. N
- Failure to return from any approved activity or pass at the designated time. N
- Failure to successfully complete telephone contact while participating in an off-center activity or pass. N
- Outside defined boundaries of facility without permission (Community Correctional Centers, Community Work Centers, and Halfway Houses only). N

Class 3

Violent

- Seizing another person as a hostage. Y
- Riot. May be used only when the director declares an emergency status in writing. Y
- Communicating a threat to staff either in person or in writing. Y
- Killing another person(s) to include any attempt to cause grave injury to another person rendering that person brain dead or left with the loss of a limb or organ. Y
- Participating in activity that directly results in the intentional death of another person. Y
- Participating in an activity that directly results in the intentional injury of another person(s). Y
- Rape or forced sexual act. Y
- Kidnapping another person. Y
- Battery of staff member with physical contact which results in bodily harm. Y
- Battery of a staff member with physical contact which does not result in bodily harm. Y
- Making sexual threats, innuendo, or inferences to, or stalking a staff member or citizen. Y
- Threats of bodily harm or death to a staff member or citizen. Y
- Possession/introduction of any gun, firearm, weapon, ammunition, knife, sharpened instrument, or Class 2 tool, to include keys and security equipment. Y
- Adulteration of any foods or drinks. N
- Possession/introduction of any explosive, combustible substance, fireworks, and/or unauthorized matches/lighters being used in conjunction with any item listed in this rule violation as an incendiary device. N
- Banding together for purposes of demonstration, work stoppage, hunger strike, etc. N
- Taking over a part of the physical plant. N

- Participation with others or an attempt to incite others in a course of disorderly conduct: (a) with purpose to commit or facilitate commission of a felony or misdemeanor; or (b) with purpose to prevent or coerce official action; or (c) when the actor or any other participant to the knowledge of the actor uses or plans to use a firearm or other deadly weapon. N
- Involvement in writing, circulating, or signing a petition that poses a threat to the security of the facility. N
- Running from or resisting apprehension or refusal to submit to restraints within facility, to include hiding within the facility to avoid detection or with the intent to escape. N
- Selling, trading, bartering, or giving prescribed medication/drugs to another person. N
- Possessing, preparing or writing in any manner, a document in any form, which poses a threat to the security of the facility to include: possessing or preparing maps or any documentation indicating an attempt to introduce contraband into the facility. N
- Possession/utilization of a cell phone or cell phone paraphernalia or posting to a computer site in minimum, medium and maximum security facilities and county jails. N
- Setting a fire. N
- Possession/introduction of any drug, synthetic drug, narcotic, intoxicant, chemical, to include paperwork or documentation containing information for the manufacture of intoxicants/drugs/illegal substances, drug paraphernalia, not prescribed by medical staff, or failure to take medication as prescribed. N
- Possession of staff uniforms. N
- Escape for any period of time from the custody of the Department of Corrections. N
- Participating in any activity that aids or abets an escape. N
- Any attempt to escape from the custody of the Department of Corrections. N
- Violation of City, State or Federal law. (Does not require conviction in a city, state, or federal court) N

*Regarding the disciplinary process, staff member refers to any employee, student intern, volunteer, employee associated with any contract facility, canine, and anyone else who works with offenders in an official capacity.

Appendix B: Infraction Sanctions

Class 1

- *Discretionary Revocation of earned credits/achievement credits 0-60 days*²⁶
- Restitution²⁷
- Fine of \$5.00
- Extra duty not to exceed 40 hours
- Visitation Restriction not to exceed 90 days²⁸
- Telephone Restriction not to exceed 90 days
- Canteen restrictions for up to 90 days

Class 2

- Discretionary disciplinary segregation for 1-20 days
- *Discretionary revocation of earned credits/achievement credits 1-120 days*²⁶
- Reserved
- Restitution²⁷
- Fine of \$10.00
- Extra duty not to exceed 60 hours
- Visitation Restriction not to exceed 180 days²⁸
- Telephone Restriction not to exceed 180 days
- Canteen restrictions for up to 180 days

Class 3

- Disciplinary segregation for 20-30 days
- *Revocation of earned credits/achievement credits 120-365 days*²⁶
- Reserved
- Restitution²⁷
- Visitation Restriction²⁸
- For Riot (when declared by the director) and Escape, minimum/medium/maximum security offenders will lose all earned credits; minimum security with community placement, will lose 365 to all earned credits
- Canteen restrictions for up to 180 days

²⁶ Not to exceed amount already accrued by the offender.

²⁷ Restitution may be imposed when monetary loss was incurred as a result of the infraction, but will not exceed the actual amount of the replacement value of the item/s destroyed, damaged, or missing. Restitution may also be imposed for the cost of providing a service such as ambulance or doctor's fees.

²⁸ For Class 3 infractions, visitation may be restricted for one hour or less, non-contact for up to 180 days. For Class 2 and 1 infractions, condition and duration of visitation may be restricted for up to 180 days and 90 days respectively. For 02-6 offense only, loss of telephone privileges (other than client/attorney) may be for 180 days to remainder of sentence. For Class 3, 2, 1 only allowed hygiene items to be purchased during canteen restriction.

Appendix C: Crime Designations

Violent

- Assault and battery with a deadly weapon
- Assault and battery on corrections employee
- Assault and battery on office of juvenile affairs employee
- Accessory
- Act of terrorism
- Act violence/bodily harm-threats
- Aggravated assault and battery on police officer
- Aggravated assault and battery
- Arson - first degree
- Arson - fourth degree
- Arson - second degree
- Assault and/or battery on emergency medical technician
- Assault and/or battery with dangerous weapon
- Assault and/or battery with deadly weapon
- Assault and battery
- Assault and battery on a police officer
- Assault with intent to kill
- Assault with intent to commit a felony
- Assault while masked or disguised
- Assault with intent to kill
- Attempt to commit crime
- Bail jumping
- Beating or injury of children
- Burglary - first degree
- Burglary - first degree
- Burglary - second degree
- Caretaker abuse
- Caretaker abuse/financial exploitation
- Carrying weapon/drugs/alcohol into jail
- Carrying weapons
- Child abuse
- Child pornography
- Child prostitution
- Child stealing
- Conjoint robbery
- Convicted felon prohibited carry firearms
- Conjoint robbery
- Conspire/attempt/endeavor to commit drug crime
- Conspiracy
- Cruelty to animals
- Discharging firearm into dwelling
- Distribution of CDS/possession with intent
- Distribution of CDS within 2000 feet of park/school

- Domestic abuse
- DUI - liquor or drugs APCV
- Eluding police officer
- Endanger human life during arson
- Escape after lawful arrest
- Escape from confinement
- Escape from county jail
- Extortion
- Failure to register as sex offender
- False declaration of ownership in pawn shop
- False personation
- False pretenses or bogus check over \$50
- False pretenses or bogus check under \$50
- False pretenses; trick or deception
- Forcible sodomy
- Forgery - second degree
- Grand and petit larceny
- Grand larceny
- Grand larceny from person at night
- Harboring fugitive
- Incitement to riot
- Indecent exposure
- Inducing minor to engage in prostitution
- Injuring or burning public building
- Kidnapping
- Killing police dog or horse
- Larceny
- Larceny - auto aircraft or other motor vehicle
- Larceny from the house
- Larceny of merchandise from retailer
- Larceny/burglary of CDS
- Leaving scene of accident involving death
- Leaving scene of accident involving injury
- Lewd or indecent proposals/acts to child
- Maiming
- Manslaughter first degree
- Manslaughter first degree - intoxicated driver
- Manslaughter second degree
- Manufacture of CDS
- Mistreating police dog
- Misuse of forged/counterfeit/suspended driver's license
- Murder first degree
- Murder second degree
- Omitting to provide for a child
- Perjury by subornation
- Personal injury accident while DUI

- Pointing firearm
- Pointing weapon at another
- Possession of CDS (marijuana) AFCF
- Possession of controlled substance
- Possession of credit card belonging to another
- Possession precursor with intent to manufacture
- Possession CDS within 1000 feet school/park/child
- Preventing witness from attending court
- Prisoner placing body fluid on government employee
- Procure/produce/distribute/possess juvenile pornography
- Protective order violation
- Rape
- Rape - first degree
- Rape - second degree
- Rape by instrumentation
- Receiving/possessing/concealing stolen property
- Receiving/possessing/concealing stolen vehicle
- Riot
- Robbery first degree
- Robbery or attempted robbery with dang weapon
- Robbery second degree
- Sexual battery of person over 16
- Shooting with intent to kill
- Stalking
- Throw or drop object on motor vehicle
- Trafficking in illegal drugs
- Unauthorized use of a vehicle
- Use of vehicle in discharge of weapon
- Use of vehicle in discharge of weapon
- Using offensive weapon in felony
- Uttering forged instruments
- Violation of SOR residency restriction

85%

- First degree murder
- Second degree murder
- Manslaughter in the first degree
- Poisoning with intent to kill
- Shooting with intent to kill, use of a vehicle to facilitate use of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm
- Assault with intent to kill
- Conjoint robbery
- Robbery with a dangerous weapon
- First degree robbery
- First degree rape

- First degree arson
- First degree burglary
- Bombing
- Any crime against a child provided for
- Forcible sodomy
- Child pornography or aggravated child pornography
- Child prostitution
- Lewd molestation of a child
- Abuse of a vulnerable adult who is a resident of a nursing facility
- Aggravated trafficking
- Aggravated assault and battery upon any person defending another person from assault and battery
- Human trafficking