PROSECUTORIAL DISCRETION IN DRUG OFFENSES BY WOMEN IN OKLAHOMA: AN EXPLORATION OF THE EFFECT OF RACE/ETHNICITY AND CLASS ON CHARGING/SENTENCING OF WOMEN IN THE STATE OF OKLAHOMA.

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CHAPTER I

INTRODUCTION

This study examines the salience of race on the differential charging patterns affecting women who commit drug-related offenses by the Oklahoma Criminal Justice system. Criminal sentencing in the United States has undergone profound changes over the last 20 years. This occurred under a paradigm shift from rehabilitative too punitive that culminated in the enactment of determinate and presumptive sentencing in many states and at the federal level. New guidelines restricted judicial discretion by requiring that sentences be based primarily on the offender's characteristics and prior record. The goal was to increase uniformity in sentencing, eliminate unwarranted disparities, and institutionalize the principles of just deserts and deterrence as the appropriate basis for criminal sentencing. Charging decisions that determined sentencing options, discretion and control over sentencing outcomes simply shifted from the sentencing stage to the charging stage under prosecutors, which remains formally unregulated (Ochie, 1993; Austin & Irwine, 2001).

Nationally, the shifting of sentencing patterns was the advent of the 1970s philosophy reported as "get tough" on crime. By the 1980s, the public's fear of crime heightened by media and political manipulation of illegal drugs, the "minority" users, and the perception of the criminal justice system as too lenient fostered the early 1990s

philosophy of "war on crime/drugs, determinate/mandatory minimum" and other sentencing schemes (Austin & Irwin, 2001). Under this regime the emphases reverted from rehabilitation toward an ideology of punishment in which harsh budgetary politics of the 1990s corresponded to equally harsh punitive politics at the state and federal level. Hence, correctional expenditures increased by billions annually while money to support schools, supplement tuition, provide summer jobs for teens, public health care, welfare, and so forth continue to receive legislative cuts (Dyer, 2000; Paternoster & Bachman, 2001). The impact of these reforms for over 20 years reflects the number of defendants annually charged for drug offenses, which has been astounding for women particularly for women of color.

The demographic characteristics of women involved in the criminal justice system are disproportionately African-American, Hispanic, young, under educated, unskilled, with sporadic employment histories and reside in urban communities prior to arrest. African-American women were easy targets of these drug policies because of their marginalized and powerless position in society. Consider in 1998, women in jails were 44% African-American, 36% Caucasian, and 15% Hispanic. They are approximately 31 years old, married, 48% were high school graduates, 39% served time for a drug related offense, 34% for a property crime, and 62% were unemployed at the time of their arrest. In 1998 women convicted to state prisons had the following demographics: 48% African-American, 43% between the age of 25 to 34, 56% attended some high school, and 56% never married. These women's marginality is indicative of 47% of them being unemployed at time of their arrest and 37% with incomes less than $600 a month prior to

arrest. Their convictions included 60% drug related offenses, 34% violent related crimes, and 28% property offenses (Daly, 1998; Benekos & Merlo, 2001).

Repeatedly, the single largest category of offenses for imprisoned minority women is drug-related. This contradicts findings concluding that the majority of drug users and drug profiteers are Caucasian (Davis, 1997; Biko, 2001). Chesney-Lind (1998) argues the immense influx of women's involvement in the criminal justice system has more to do with justice agent's responses to expectations regarding women's roles and activities rather than with crime. This raises the structural question of whether the justice process functions under a racial, ethnic, and/or, gendered role bias.

Research addressing these issues would have obvious implications for policies attempting to regulate the process of punishment. Such research has the potential to provide critical insight into the roles of organizational decision processes and how social inequality is maintained under formal social control.

Statement of the Problem

The national incarceration rates for women since the late 1970s have increased by 340 %, while men's has increased by 207%. The influx of female incarceration at every age reveals racial and ethnic disparities. Non-Hispanic, African-American women (with an incarceration rate of 212 per 100,000) are more than twice as likely as Hispanic females (87 per 100,000) and nearly eight times more likely than Caucasian non-Hispanic females (27 per 100,000) to be in prison in 1999 (Belknap, 2001; Chesney-Lind & Faith, 2001). During the 1980s, Oklahoma, like many other states, experienced an increase of women involved in the criminal justice system. However, Oklahoma has consistently

incarcerated more women per capita, particularly women of color, within the last 20 years, than any other state (Ditton & Wilson, 1999).

Since 1990, Oklahoma has reflected an incarceration rate for women that are over twice the national rate. The Oklahoma Department of Corrections reports that the actual number of women in Oklahoma prisons has quadrupled since 1980. The principle increase has been in drug related offenses. Women arrested in Oklahoma between 1985 and 1998 on drug related charges increased by 186.7% as opposed to a 96.4% increase for men. Racially, this proliferation is an 828% increase in the number of African-American women, 242% for Caucasian women, and 328% for Hispanic (Dixon, 1995; Belknap, 2001). These figures are particularly disturbing considering that African-American women represent approximately 3.6% of Oklahoma's population. The demographics of women in Oklahoma involved with the justice system reflect that they are poor, minority, with only an eighth-grade education; they unemployed at the time of arrest, and have at least one dependant child (U.S. Census, 2000; Gilbert, 2001).

The state and federal sentencing changes were designed to eliminate disparities reflected in the figures previously noted. However, with alternatives, such as motions for departures, guilty plea options, and increased bargaining power afforded by the district attorney's office, prosecutors can circumscribe the procedures set forth in the statutes or guidelines. This is salient when considering that over 85% of criminal cases never reach the due process of a jury trial (Albonetti, 1997; Austin & Irwine, 2001; Hoffman, 2001).

Purpose of the Study

In view of the problem above, the purpose of this study is two-fold: first, to examine the historical trends of arrest and reception patterns of women in Oklahoma on

drug related charges and second, to explore charging patterns and plea recommendations by prosecutors in Oklahoma who manage women charged with drug-related offenses. By examining the patterns within 1990, 1996 and 2002, the author investigated differential charging patterns and sentencing of females for drug related offenses in the organizational structure of Oklahoma's Criminal Justice System. Reasons for selecting the previously reported dates for analysis coincide with the 1980s national policy and social evolution from rehabilitation to punitive attitudes of "get tough on drugs" and the "war on drugs." The 1996 date was chosen as an intermediate date, and the 2002 date is the latest available data. These arrest data cover all the counties within Oklahoma and were explored for patterns across the state. It is expected that an increase or decrease in the number of arrests would assist in the analysis of trends associated with female receptions in Oklahoma. If, and where differential treatment is occurring, this study may provide insight into the organizational patterns of differential women offender treatment within Oklahoma's Criminal Justice System and why.

Legal variables play an important part in sentencing decisions, particularly, because many states, including Oklahoma, have moved from an indeterminate sentencing scheme, which allowed the use of discretion by the courts at sentencing, to a determinate sentencing system where discretion is highly discouraged. Consequently, legal variables should have a more profound effect on sentencing outcome. Under this scheme, current offense and criminal history would over-ride extra-legal influences (e.g., race, income, gender, education). Therefore, women with generally similar legal patterns would not differ because of the noted extra-legal variable.

Research Objectives

The research questions that formed the basis for this study are:

Research Question 1: How has the percentage of female arrests for drug-related offenses across race/ethnicity changed over the periods of 1990, 1996, and 2002? Research Question 2: How has the percentage of women entering prison for selected drug-related categories by race/ethnicity changed across the years of 1990, 1996, and 2002?

Research Question 3: What is the relationship between charging/sentencing patterns when comparing Caucasian and non-Caucasian female offenders for drug-related offenses?

Research Question 4: How does the relationship between charging/sentencing patterns and race /ethnicity change when legal and extra-legal variables are considered?

Research Question 5: How are prosecutor's charging patterns for drug-related offense categories influenced by their world-view regarding race/ethnicity correlated with gender roles and expectations?

Significance of the Study

The study of the intersection between gender, race, and criminal processing practices is important for a number of reasons. First, sentencing and charging represents one of the decision points in the legal process: arrest, held over for trial, charging, and conviction. At every stage, a criminal justice agent determines whether an individual violated the criminal law and the type of punishment that individuals should receive for doing so. Second, criminal justice agents represent an organizational entity that functions to control social behavior. Within this organizational structure the decisions regarding

who and who not to "control" is influenced by the discretionary use of the justice systems

agent's authority and power. Third, research that explores the presence of disparity in

sentencing can not only examine the possible misuse of discretion, authority and power

but also explain the factors behind how discretion is applied and to whom. Fourth,

Oklahoma's total incarceration rate is 56% higher than the United States average and

Oklahoma's female incarceration rate is 124% higher than the United States average

(Gilbert, 2001; U.S. Dept. of Justice, 2001). Fifth, despite the increased numbers of

women convicted for drug offenses, little research has considered the direct impact of

gender on the sentencing of drug offenders. What research has been completed on gender

and the sentencing of drug offenders indicates mixed results, with some studies indicating

evidence of preferential sentencing and charging of women who are offenders

(Chevalier-Barrow, 1992; Albonetti, 1997; Sphon & Spear, 1997) and other studies

indicative of non-preferential sentencing decisions (Steffensmeier et. al, 1993). Finally,

examining the influence of intersecting variables such as race, class, and gender can shed

light on the ways in which stereotypes and cultural images of women affect legal

decisions about the type and severity of punishment (Koons-Witt, 2002).

Definitions of Terms

Unless otherwise reported the following definitions of terms are furnished from

the Oklahoma Uniform Controlled Dangerous Substance Act to provide, as nearly as

possible, clear and concise meanings of terms as used in this study:

Drug Abuse Violations – Includes all arrests for violations of state and local ordinances

subdivided into the categories of possession and sale/manufacturing of narcotic drugs.

Possession – "Having certain articles prohibited by law constitutes the criminal offense of

possession, such as possession of narcotics by persons not legally entitled to have them"
(Rush, 2003, p. 275).

Manufacturing (Trafficking) – "A person engaged in the manufacturing, production,
preparation, propagation, compounding, conversion, or processing of a device or a drug,
either directly or indirectly by extraction from substances of natural origin or
independently by means of chemical or biological synthesis and includes any packaging
or repackaging of the substances or labeling of its container, and the promotion and
marketing of such drugs or devices" (Rush, 2003, p. 275).

Cocaine – A drug that occurs naturally in the leaves of the coca plant. When cocaine is
synthesized into a hydrochloride powder it converts into a base state (crack) and can be
smoked by the user (Rush, 2003).

Opium- Opium poppy means the plant of the species Papaver somniferum L., except the
seeds thereof.

Marijuana – All parts of the plant Cannabis sativa L., whether growing or not; the seeds
thereof; the resin extracted from any part of such plant; and every compound,
manufacture, salt, derivative, mixture or preparation of such plant.

Synthetic Narcotics – A substance that produces a like or similar physiological or
psychological effect of a controlled dangerous substance on the human central nervous
system that currently has no accepted medical use in treatment in the United States and
has a potential for abuse.

Other Dangerous Narcotics – A drug, substance or immediate precursor in Schedules I
through V of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of
this title.

Legal Variables – For this study, legal variables are number of prior incarcerations, prior probation, and type of drug related offense (possession, trafficking). Hence, these are variables within the scope of the law (Rush, 2003).

Extra-legal Variables – For this study, extra-legal variables are race, age, and education. Hence, these are variables outside the scope of the law (Rush, 2003).

Summary

Chapter one introduced the salience of discretionary charging and sentencing practices within the criminal justice system as they relate to minority women. The discretionary power guided under the paradigm shift that began in the early 1980s from rehabilitation to retribution is reflective of national and state drug laws. The preeminent impact under the regime of "war on drugs" continues to be disproportionately poor, undereducated minority women with children. In relation to this ideology, chapter one also addresses Oklahoma's historical, punitive treatment of women comparative to national trends. In addition, this chapter defines salient definitions and conceptualizes the research objectives. In this context one goal of this study was to identify patterns of arrest and reception (entry into prison) as they relate to women involved in drug related crimes. Another goal of this research was to identify how District Attorney's cultural world-views are manifested within the discretionary power afforded their position as representatives of the people. Chapter two details the historical development of laws that have advanced the involvement of women as offenders. It also summarizes previous literature that has explored the role of sentencing utilizing either or both legal and extra-legal factors.

CHAPTER II

LITERATURE REVIEW

Introduction

The role of gender in sentencing was not a topic of interest in the field of sociology and criminology until the 1970s. There are three main reasons for the inattention to gender in the sentencing literature. First, women were viewed as being treated more lenient in sentencing decisions than their male counterpart. Second, researchers perceived the number of female offenders as too minute for study. Third, scholars and policy makers categorized women's offenses as not severe. However, with the advent of the women's movement, female offenders captured the attention of sociological and criminological theory and research (Crenshaw, 1993; Donzinger, 1996; Stuart Van Wormer & Bartollas, 2000). Educators and policy makers began to acknowledge that female offenders could not be contextualized within the same "voice" as their male counterparts. They recognized that what explained crime causation and punishment for male offenders did not accurately portray the experiences of women involved in illegal acts (Koons-Witt, 2002). However, the diminished attention to the intersection of race, gender and class on punishment decisions of women continues to be minimized. The following section provides an overview of offenders involved in the criminal justice system with an emphasis on female offenders.

Female Drug Offenders in the Criminal Justice System

Nationally, the total number of prisoners under the jurisdiction of Federal or State adult correctional authorities at year-end 2001 was 2,100,146. These figures reflect an incarceration rate of 470 sentenced inmates per 100,000 American residents, which was up from 411 in 1995. These figures mirror that approximately 1 in every 112 men and 1 in every 1,724 women are incarcerated under the jurisdiction of State or Federal authorities. In 2001, the states with the highest incarceration systems were as follows: Louisiana had the highest prison incarceration rate (800 sentenced inmates per 100,000 residents), followed by Mississippi (715), Texas (711), and Oklahoma (658). Violent offenses committed by men accounted for the largest state level increase (55%) between 1990 and 2000. The largest contributing offenses for women were drug related charges accounting for a 33% growth among female inmates (Mauer, 2002). These figures previously noted echo a punitive social and political philosophy that began during the 1970s.

Since the mid 1980s, the United States has undertaken aggressive law enforcement strategies and criminal justice policies aimed at curtailing drug abuse through a problem-oriented philosophy. The end results were the national "war on drugs" policies. The impact of such policies on minority communities has been disastrous. African-Americans only constitute 13% of all drug users, but 35% of those arrested, 55% of those convicted, and 74% of those sent to prison for drug related offenses were African-American (Lynch & Stretesky, 2001). The Washington, D.C. based Sentencing Project report in the five-year period from 1986 to 1991, the number of African-Americans (as a whole) incarcerated in state prisons for drug offenses increased by

465%. By 1994, African-Americans and Latinos constituted 90% of all drug offenders in State prisons (Mauer, 1995). In addition, the Public Health Service revealed that 14% of illicit drug users in the United States were African-American, 8% were Latino, and 76% were Caucasian. Research has shown that drug and alcohol abuse rates are higher for pregnant Caucasian women than pregnant African-American women but that African-American women are approximately ten times more likely to be reported to authorities under mandatory reporting laws. When society begins to contextualize the criminal justice organizations and policies as race-, gender-, and class-based it will begin to acknowledge that effects differ along these three dimensions. The organizational structure of the criminal justice system operates in a manner producing and reproducing particular social constructions of punishment resulting in unequal treatment grounded in the intersection of race, gender, and class (Davis, 1983; Inciardi, 1998). The following section provides an overview of modern drug laws that have contributed to the augment of women, in particular women of color, involved with the criminal justice system.

Historical Overview of Current Drug Laws

Foundation of Drug Laws 1800's – 1930's

African-American and Latino Americans are victimized by disproportionate targeting and unfair treatment by police and other front-line law enforcement officials, by racially skewed charging and plea-bargaining decisions by prosecutors, by discriminatory sentencing practices, and by the failure of judges, elected officials, and other criminal justice policymakers to redress the inequities that have come to permeate the system. Sentencing involving cocaine and crack cocaine is the modern equivalent of Jim Crow laws that reinforced post-slavery discrimination (Small, 2001). It is ironic that prior to

1883 there were no Federal or State laws against the manufacture, sale, use, or possession of drugs. During that time over 80% of the Federal prison population was Caucasian. The primary "drug problem" was alcohol. From the Civil War's end in 1865 until 1890, prison populations in most Southern state penal systems were more than 95% African-American, many of whom were leased out to work in plantations, mines, factories, and railroads. One and a half centuries later, state prison populations are still disproportionately African-American and Mexican American (Small, 2001).

The first anti-narcotics law was the San Francisco opium ordinance of 1875. Under this law the city prohibited establishments where opium was smoked. In response, in 1883, the United States Congress utilized its constitutional power to enact and collect taxes, duties, and imports of opium. The next major step in federal drug enforcement was the 1906 Pure Food and Drug Act. This Act mandated that all patient medicines containing drugs be reported on the prescription label and, with later amendments, the label also had to state the amount of the drug as well. During this time, the typical American addict was a middle-aged southern Caucasian woman addicted to the patent medicine, laudanum (an opium-alcohol mix) (Austin & Irwin, 2001).

The most salient of all federal drug restrictions is reported to be the Harrison Narcotics Act of 1914. The Harrison Act did not prohibit drugs. However, it regulated and taxed the importation and distribution of opium or coca leaves, salts, derivatives or preparations for other purposes. In 1918, the Secretary of the Treasury appointed a committee to look into the drug "problem." The committee concluded that, in the four years since the passage of the Harrison Act, underground drug trafficking continued to

flourish, "dope peddlers" had established a national organization, smuggling was rampant, and the use of illegal substances had increased (Dyer, 2000).

In response to these disturbing findings the government created new and punitive laws. In 1922, Congress created the Federal Narcotics Control Board. In 1924, the board banned the importation and manufacture of heroin in any form, even for medical purposes. In 1930, the Federal Bureau of Narcotics was created within the Treasury Department and in September 1937, the Marijuana Tax Act was enacted and became law. Like the Harrison Narcotics Act before it, the Marijuana Tax Act claimed only to tax marijuana but instead it became another prohibitive measure. The following section addresses the development of modern policies related to the "war on drugs" (Dyer, 2000).

Modern Policy of Drug Laws 1960s – 1990s

The creation of the modern drug war began during President Nixon's term in office. The use of illegal drugs increased enormously in the 1960s. Marijuana and heroin rapidly resurfaced at the same time that new drugs, such as LSD, materialized and gained popularity among the youth. Nixon often correlated drugs and those who used them to hedonistic hippies, campus revolutionaries, and Black militants all of whom frequently associated under countercultures. During this era, Nixon declared the drug problem a "national emergency" with a focus on drug sellers. The passage of the Controlled Substances Act of 1970 shifted the government's role of punishing drug users and providers from taxation to the federal government's obligation to regulate interstate traffic.

After Nixon's landslide re-election, the Drug Enforcement Agency (DEA) was launched in July of 1973 (Austin & Irwin, 2001). The DEA could detain and interrogate

suspects, apply for wiretaps, establish no-knock warrants, and involve the Internal

Revenue Service in their investigations. When Nixon took office, the federal anti-

narcotics force never involved more than a few hundred men. By the time he left, it was a

global law enforcement operation with over four thousand agents. In addition, Nixon's

emphasis on law enforcement generated a larger focus on drug treatment under an

implemented methadone maintenance treatment program designed to move heroin

addicts into rehabilitation using a less harmful and legal alternative. Addicts had to pay

fees, which were intended to assist with the funding of research (Gray, 1998). Nixon also

appointed a presidential commission that subsequently recommended decriminalization

of some drugs in 1972. Nixon buried the recommendation, but President Jimmy Carter

reopened the issue when he was elected.

In August 1977, Carter issued a statement to Congress stating "penalties against

possession of a drug should not be more damaging to an individual than the use of the

drug itself." For the first time in four decades of criminalization, the White House called

for the elimination of penalties for possession of marijuana. Eleven states had already

reduced possession of marijuana to just a small fine. Carter later retracted his statement

fearing that he would be seen as being soft on drugs. The topic of decriminalization and

legalization of drugs was never repurposed and has since been dismissed entirely by the

White House (Austin & Irwin, 2001).

During the early eighties under President Ronald Reagan the federal drug-

treatment program that begun under Nixon was terminated and law enforcement was

given priority, and the role of government moved from rehabilitation to punitive. Under

this regime The Omnibus Crime Bill (1984) was established. This new bill gave

prosecutors the right to confiscate cash, cars, boats, homes, bank accounts, stock portfolios, and anything believed to have been tainted with drugs or drug money based on nothing more than an accusation (Benson & Rasmussen, 1996). The new law also allowed police to take property without notice, and the seized assets would be shared among law enforcement agencies making the seizure. Law enforcement now had a cash incentive to seize property. Unfortunately, 80% of the people from whom assets were seized were never charged with a crime (Baum, 1996).

The Anti-Drug Abuse Act of 1986 and the 1988 Omnibus Anti-Drug Abuse Act established a series of non-parole mandatory minimum sentences for drug offenses that affixed a minimum penalty to the amount of drugs involved. Mandatory minimums effectively rescinded the power to sentence defendants away from judges and extended it to prosecutors. President Clinton's first drug budget duplicated George H. Bush's heavy emphasis on law enforcement. Clinton's focus on "the war on drugs" was rooted in the media coverage of drug issues, which was very selective. The media generally ignored the historical, political, economic aspects of drug production, and presented the problem as one of consumption of illicit substances. In the 1980s, a survey of network news during the first five years of the decade showed that the number of cocaine related stories jumped from 10 a year to 140. Footage of screaming cops and doors being kicked in became very popular but unfortunately the cameras only had access to the streets and not inside the private clubs or hotel suites. As a result, the drug-war footage focused exclusively on the urban street scene and although the vast majority of drug users have always been Caucasian, the people doing drugs on TV were now African-American and Hispanic. In 1986, crack cocaine was making headlines. Within eleven months of the first

mention of crack in a 1986 New York Times, six of the nation's largest and most prestigious news magazines and newspapers had run more than one thousand stories about crack cocaine. Crack cocaine was mentioned five times as often as any other illegal drug in television news stories about drugs (Gomez, 1997).

Crack babies soon became the focus of national attention. News footage of premature infants was shown repeatedly and experts said these children were probably beyond salvation. In a 1989 ABC poll, 82% of Americans agreed with the statement: "A pregnant woman who uses crack cocaine and addicts her unborn child should be put in jail for child abuse." There are many studies on the possible negative effects on the fetus from continued drug use during pregnancy, including low birth weight, congenital defects, early defects, early gestation, and neonatal withdrawal symptoms. But the exact mechanism of these complications is unclear, and it has been argued that other conditions, such as inadequate prenatal and antenatal care, poverty, poor diet, alcohol and cigarette smoking, could all be contributing factors (Austin & Irwin, 2001). The term "crack baby" has never been medically proven. Instead, it was a media discovery that became a metaphor for a range of medical, social, and political difficulties in contemporary society. Women of color suffered the most damage from this media frenzy. A 1990 study of pregnant drug users found that an African-American woman was ten times more likely to be reported to the authorities than a Caucasian woman.

The media paid special attention to Black females who used crack. These women were often portrayed as promiscuous, thereby, exhibiting behavior that contradicted the norms of white mainstream society. They were also depicted as giving indiscriminate birth to "crack babies" who were fated to suffer from neurological and behavioral

problems all of their lives. This depiction of African-American females who used crack made them appear to be people who promoted lifestyles that were threats to both societal norms and the economic well being of taxpayers who would be required to pay the anticipated cost for the care and treatment of the children (Cloud, 1999).

Under Clinton's administration more drug users than ever before were arrested and incarcerated with the exception of the 1994 legislation, "safety valve." This allowed judges to deviate from the mandatory minimums in cases of first-time, non-violent offenders. However, in 1998 added new mandatory minimums of five years for five grams of crystal methadone were implemented (Cloud, 1999). Also, offenses that previously received probation under the new policy required mandatory prison time. New guidelines mandated that sentence length be determined by the quantity of drugs seized rather than by the details of the offense. In 1997 Clinton's new Welfare Reform bills were also passed which denies food stamps and welfare benefits to any persons convicted of a felony drug offense. In 1998, Clinton also signed the Higher Education Bill prohibiting any student convicted of possession or selling illegal drugs from receiving federal guaranteed financial aid (McDonald & Carlson, 1993; Sampson, 1998). During this time, American legislatures also began to examine the disparity in "sentencing" specifically related to drug possession and distribution. Their findings suggested that judges were conducting arbitrary decisions in sentencing, which in many cases led to discrimination against the less educated, poor, and minority offenders (Weitzer & Toch, 2002).

Under the previous system, judges determined criminal sentences by analyzing each case based on the individual record of the defendant and the circumstances of the

offense. The only pre-guideline was that the sentence be within a statutory range, which was extremely broad. The new sentencing guidelines sought to create uniformity and minimize judicial discretion. As a result, newly developed guidelines limited the authority of judges thereby placing control in the hands of prosecutors who ultimately perpetuated disparity but at the charging stage (Inciardi, 1998). These changes circumvented Federal and State guidelines through charging practices, guilty pleas, and motions for departure from the mandatory guideline. Reforms also involved other important changes such as the inclusion of flat sentencing, three strike initiatives, and truth-in sentencing laws. Within this paradox the many options afforded prosecutors charging discretion not only were unregulated, but also defeated the goal of sentencing disparities linked to defendant's characteristics. This is salient when one considers that over 85% of criminal cases never reach a jury trial (Albonetti, 1997; Lauritsen & Sampon, 1998).

The changes previously noted began in 1984 when Congress enacted the most extensive reform of Federal sentencing the U.S history under The Sentencing Reform Act. The central features of this historic legislation included the following: a comprehensive statement of Federal sentencing laws, an appellate review of sentences, abolition of parole and the creation of the United States Sentencing Commission. The mission of the latter was to develop a detailed system that would structure and direct the previously unfettered sentencing discretion of only judges (Kittrie & Zenoff, 2002). When the Commission submitted its proposal to Congress, only three factors were reported as relevant for establishing a sentence. The three factors proposed were (1) a defendant's past history, (2) offender's dependency upon criminal activity for livelihood

and (3) offender's acceptance of responsibility for the crime. In this regard, the commission recommended that Federal guidelines and State policies statements be entirely neutral as to the race, sex, national origin and socioeconomic status of the offender (Kingsnorth, MacIntosh & Sutherland, 2002). Yet under Federal and many state laws, disparities that are racially and economically biased are maintained. For example, crack and powder cocaine carry vastly different penalties, resulting in what has come to be known as the 100:1 ratio. Under the Federal Anti-Drug Abuse Act of 1986, a person possessing with intent to distribute 50 grams or more of crack cocaine must be sentenced to no less than 10 years in prison. For powder cocaine, this same 10 year mandatory minimum comes into play only when a person possesses with intent to distribute at least 5,000 grams of powder cocaine (McDonald & Carlson, 1993; McCoy, 1998). This example describes how drug offenders in the United States face penal sanctions that are uniquely severe among western democracies. Considering that a drug sentence even for those guilty of possessing small drug quantities can compare to or exceed sentences for serious violent crimes such as armed robbery, rape and even murder (Merlo & Pollack, 1995).

Truth in sentencing laws became popular in the 1990s. Although these phrases were occasionally used in the 1980s to describe a sentencing system in which parole release was eliminated (thereby making the judge's sentence more truthful because it would not later be shortened as a result of a parole authority's discretionary decision), it caught on as a political catchphrase in the 1990s. Insofar as it has a narrow meaning, it now typically refers to sentencing systems in which imprisoned offenders serve at least 85% of the sentence. This meaning comes from federal legislation enacted in 1995,

which also authorized transfers of $8 billion to states for prison construction if they would enact sentencing laws that met the 85% test for violent crimes (Tonry, 1999).

The impact of the sentencing schemes previously noted has been described by political economist John Flateau (1996) as a pipeline representative of slave ships, transporting African-American and Hispanic human cargo along triangulation interstate trade routes. The middle passage is representative of the movement between police precincts, holding pens, detention centers, and courtrooms; to downstate jails or upstate prisons; back to communities as unrehabilitated escapees in a vicious recidivist cycle. Flateau and other scholars denote that at every level, Federal, State and local governments are perpetuating racial disparity through the criminal justice system and these disparities continue to be grounded in latitude, discretion and broad statutory range (Caraway, 1991; Berry, 1994; Davis, 1997). The United States drug laws, while superficially neutral, are enforced in a manner that is pervasively biased. Enforcement of these drug laws continues to have staggering consequences for women and minority communities (Agozino, 2001). The following section addresses studies contributing to the understanding of the intersection of race and gender within the criminal justice system.

Research Literature

The last quarter of the 20th century and entering the 21st century was marked by substantial attention to the effects of race on criminal justice processes and sanctions. Debates and disagreements addressing this issue were largely due to differences in theoretical framework, methodological sophistication, regional diversity, and/or jurisdictional variation in data collection strategies. Much of the research has focused on

the impact of determinate sentencing, sentencing guidelines, and mandatory sentencing systems all designed to make sentencing decisions race neutral from the male perspective. These studies indicate various influencing factors affecting which cases are more likely to reach the final stages and how charging decisions are made with the understanding that charging and sentencing is the result of a long series of decisions that impact one another (Kingsnorth, MacIntosh & Sutherland, 2002). However, when considering these factors from a female perspective, Belknap (2001), points out that there are also two competing ideologies regarding charging/sentencing disparity for female offenders; both are dominated by racial images. First, there is the image of the "fallen woman" that is likened to a child. The "fallen woman" female offender is typically characterized as Caucasian women who are socially viewed as fragile and vulnerable. They are traditionally sentenced to reformatories or community based treatment facilities. Within these facilities they are trained to be "better" women and to know their "place" in society. The alternative and conflicting image Belknap discusses involves what is depicted as the "darker side" of women. These female offenders are also frequently described as "evil women" who typically receive harsher charging / sentencing decisions. Their sentence is a reflection of their gender role violations of common stereotypes of what it means in a broader social context to be a woman. Their crimes are characteristically associated with violent crimes and drug offenses, which statistically are synonymous with minority women, particularly African-American female offenders. These women are depicted as masculine, independent, assertive, and potentially violent. Thus, their crime-processing decisions are more severe than their Caucasian counter-parts (Belknap, 2001).

Belknap's argument is grounded in contemporary literature that addresses charging /sentencing disparities between female offenders by race, relative to the meaning and consequences of concepts such as paternalism and chivalry. In the literature, the term paternalism is often used interchangeably with chivalry in order to explain the differential treatment of female offenders. The two are closely tied together; however, it is important to make certain distinctions between the two concepts (Anderson & Collins, 1998). Chivalrous attitudes and behaviors toward women are grounded in the notion that women are in need of protection because they are weak or feeble. This idea originated during the Middle Ages in Europe, a time that emphasized duty of noble service, courage, and obedience of rule as well as the worship of women. While this type of service disappeared over time, remnants continue to be evident in our social world even today. Accordingly, chivalry is revealed in contemporary society by the way appropriate behavior is defined along gender lines and the relationship between men and women. For example, the expectations of a woman's behavior are characteristically feminine, docile, and subordinate in nature. Paternalism on the other hand involves a type of behavior by a superior toward an inferior resembling that of a male parent to his child. Thus, paternalism by criminal justice actors results in lenient treatment towards women fulfilling certain stereotypical female ascribed behaviors and appearance (Polan, 1993; Smart, 1995; Collins, 2000).

Belknap (2001) addresses this matter in her research regarding offenders who are mothers and also offenders. She considers that chivalrous treatment applies to women in general because of a view of them as subordinate to men. Belknap characterizes the charging and sentencing practice that occurs between criminal justice agents and female

offenders as a "bartering system." This system is extended only to certain kinds of

females, according to their race, class, age, sexual orientation, demeanor, and adherence

to "proper" gender roles. As a consequence, Belknap reports the following: women of

color do not receive the chivalry afforded to Caucasian women. Younger women are not

treated as chivalrously as middle-aged women who may be especially polite and

deferential to police and judicial officials. Poor, less educated women do not, in neither

appearance nor in action, behave in ways perceived by men as deserving of protection,

relative to better educated middle-class women who are not considered deserving of

leniency.

A study by Koons-Witt (2002) explored the relationships between gender and

gender-related factors on imprisonment decisions in Minnesota before and after the

introduction of sentencing guidelines. Results from a series of logistic regression models

indicate that gender alone did not have a significant impact on the likelihood of

imprisonment, but women with dependent children were significantly less likely to be

imprisoned before sentencing guidelines and in the years subsequent to their

implementation.

Galligan's (2000) research in Los Angeles, California employed a qualitative

approach to explore common themes associated with the impact of federal drug policy on

female offenders. The researcher's questionnaire explored both legal and extra-legal

variables regarding the respondent's process through the criminal justice system. Her

audio taped interviews suggest emerging themes: social conditions were representative of

the national condition of women involved within the criminal justice system as far as

limited educational background, unemployment, at least one child, and prior convictions

related to drugs. In addition, over 50% of these women were charged with possession of illegal drugs and all respondents were represented by public defenders.

Koons (2000) study highlighted the application of the sentencing guidelines in Minnesota by comparing the impact of sanctions between men and women who fulfilled traditional gender roles before and after the established guidelines. Her data derived from Minnesota Sentencing Guidelines Commission for the counties of both Ramsey and Hennepin. Her sample was from pre-sentence investigative reports for over 4,000 convicted male and female offenders. By considering both legal and extra-legal variables she concluded that women were more likely than men to receive an alternative to incarceration. She also concluded that Caucasian women were more likely to be incarcerated than nonwhite women.

Sharp et al. (2000) research focused on the differences in sentencing of Caucasian and African-American women who were offenders for drug-related offenses. The differences in sentence length varied based on legal and extra-legal variables. For Caucasian women, legal factors such as prior incarcerations and having a jury trial were predictors of sentence length. Education was also an extra-legal indicator influencing their range of sentence. However, for African-American women extra-legal factors such as education and drug of choice (crack cocaine) were the significant factors related to their sentence length. The number of prior convictions were not noted as significant for either Caucasian or African-American females.

Pollack's (2000) research in Canada addressed the stereotyping of women considered to be lawbreakers and thus, the treatment they deserve. Her exploratory research was grounded in life history interviews and focus groups with not only female

inmates but also the correctional officers supervising them. She determined that there were labels that criminal justice agents attached to women. For example, "good" women were viewed as idealizing traditional feminine qualities (e.g., passive, gentle, emotional) and "bad" women were believed to violate this image (e.g., aggressive, deceitful, lacking maternal qualities, masculine, etc.). African-American females typically were portrayed as bad women and the gender role expectations for African-American females were different than those for Caucasian women. Through her ethnography study, Pollack found that the inequalities African-American women experienced prior to incarceration were very similar to the respondent's contact with criminal justice actors.

Spohn and Spears (1997) built on the work of Daly (1987) and Chesney-Lind (1995) by examining data for convicted felony drug offenses from Cook County and Illinois. Their analysis on the influence of gender on the sentencing of drug offenders concluded that legally relevant factors significantly influenced sentence outcomes. Gender was an important predictor of outcome; however, legally relevant variables such as crime seriousness (seriousness of the drug offense), being on probation, and prior criminal record were the most important indicators of sentence outcome.

Kaukinen (1995) utilized qualitative methods to examine reasons behind differential sentencing based on gender with a focus on typologies constructed around motherhood. Her data were drawn from interviews conducted with judges in Ontario, Canada. Kaukinen found that many of the judges she interviewed held expectations of women that were primarily based on traditional stereotypes of womanhood and limited gender roles. Kaukinen also found that judges categorized women into "good" or "bad" mothers. For example, she reported that those mothers who were lesbians, single,

working outside the home or considering deviating in other ways to be "bad" mothers and, thus, warranted harsher sentences than those fulfilling the expected role of woman/motherhood. She also found that the concept of "criminal behavior" for women was often "explained away" depending on the type of crime. For example, property crimes are often explained away as behavior to provide for her children. Other crimes, such as drug offenses, do not fall within the scope of what is expected from women or as mothers. She also found that the defense lawyers used motherhood in order to explain women's criminal actions. Defense lawyers believed that doing so would help their clients receive favorable treatment by the courts. Thus court officials other than judges reinforced this particular view of women by also portraying women using traditional images.

A prior drug offense is a potentially important predictor of sentence outcome for female offenders. Both Steffensmeier's and Daly's work provides some evidence that judges oftentimes view women drug offenders as being as culpable and as likely to recidivate as male drug offenders, which is not the case for most offense categories. Daly's work suggest that while women with children often receive leniency in their sentencing outcomes, this is not true when the case involves a drug offense (Daly 1998; Steffensmeier & Schwartz, 2004).

Steffensmeier, Ulmer, and Kramer (1998) found, when looking at only females, that the race/age interaction was different than the pattern for males. For males, the older the offender, the less racial effect was found, but for females the differences found in race did not decrease with age. According to Stefensmeier, et al. (1998 p. 786), "Among females, in contrast, the race effects persist across all ages – younger as well as older

black female defendants are sentenced more harshly than their younger and older whiter counterparts."

Steffensmeier, Kramer, and Streifel (1993) found a similar outcome using 1985-1987 sentencing guidelines data from Pennsylvania. Regarding sentencing for drug offenses, the authors found that gender had a negative effect for drug violations with women receiving sentences, which were slightly longer than those given to male defendants.

Bickle and Peterson (1991) emphasized a familial-based paternalism distinguishing between female defendants in their study of Federal forgery offenders with and without children. Their findings indicate that leniency may be granted to those women who have children because of the practical expenses to the state (e.g., foster care) resulting from the mother's incarceration. They discovered that race helped explain the effects on family variables. For African-American women having children did not result in the same level of leniency as it did for Caucasian women. They concluded that the significance of the influence of family role variables could not be described or interpreted in terms of either race or sex alone. In this regard, the courts were making decisions not solely based on women's family status but also on prosecutors and judge's assumptions about African-American and Caucasian families and about African-American and Caucasian women's relationships with their children.

Summary

This chapter explored the historical development of laws that have contributed to the influx of women involved in drug related offenses. It also depicts the discrepancies in literature concerning gender and charging/sentencing outcomes. Despite the introduction

of sentencing reforms seeking to eliminate differential or biased sentencing practices, the research offers evidence that gender is still influential in sentencing decisions. This suggests that in some cases the equal treatment position or the legal model is supported. In other cases the differential treatment position or conflict theory, sex role theory, and chivalry as familial paternalism explanation are supported. In this regard women are expected to act in feminine, docile, and subordinate ways. These expectations influence women's criminality and the system's response to women's crimes: just how and when this occurs is in need of further exploration. The lack of research on the role of gender in determinate sentencing systems is one criticism in the literature to date. Given the number of studies conducted in this area, it is premature to draw any firm conclusions. Additional research is needed to explore the displacement of discretion at early decision points in criminal processing (Pollack, 2000; Koons-Witt, 2002).

This study seeks to explore several issues that center on what is referred to as the hydraulic displacement of discretion, which is disparity once characteristic of the sentencing phase re-emerging in charging and plea-bargaining. In this context research is salient that involve clarity on gender and race at multiple decision-making stages in the criminal justice system (Koons-Witt, 2002). Most researchers who study race and ethnicity stop short of considering culture. I suggest the importance of considering more fully the relationship between race, ethnicity, class, and culture relative to gender. Too often, ethnicity and culture become entangled and class discounted. It is important for criminal justice actors to recognize that within the same racial and ethnic group, important cultural differences may exist, and these may lead to not only incorrect

attributions and also disparity within the justice process. Chapter three addresses the

theoretical framework, underlining this exploratory study.

CHAPTER III

THEORY

Introduction

Scholars theorizing gender and crime or gender and court processing continue to treat gender as a fixed attribute, individualistic or as a patterned role. When race is applied in sentencing theory it is often framed as a conflict perspective, which rests on the belief that justice is administered disparately in order to protect the power and interests of some dominant group. Other theoretical perspectives influential in examining race and sentencing include labeling and structural functional theories on typescripts or stereotypes of groups of people to support power relationships within society. In addition, social constructions of feminism and sex role theories support an approach acknowledging overlapping layers of power and oppression based on gender, race, and class (Bickle & Peterson, 1991; Bush-Baskett, 2001).

Feminist theory posits that it is the struggle against sexist ideologies and discriminatory social practices that has resulted in male supremacy and female oppression. Today, most feminist research examining criminal law analyzes how organizational structure reinforces gender inequality and contributes to women's economic and social deprivation through the support of patriarchal interests. When feminist theory attempts to describe women's experiences by analyzing patriarchy,

sexuality or separate spheres of ideology, it has historically minimized such critical

components as culture and race (Davis, 1997; Daly, 1998).

Major traditional Western feminist critical thought (liberal, radical, cultural,

postmodernism) has negated the salience of race within the context of the systematic

denial of a group's access to the resources of society over a long period. When theories

ignore how race functions to mitigate aspects of sexism, power, and privilege, they too

contribute to the domination and isolation of minority women. The tendency to treat race

and gender as mutually exclusive categories of experience distorts the diversity of

experiences. It is suggested that this single-axis framework erases African-American and

other minority women in the conceptualization, identification and remediation of race and

sex discrimination by limiting inquiry to the experiences of Caucasian middle-class

women (Polan, 1993; Smart 1995).

In view of the basic framework of this study, Black feminist critical perspective

represents the most appropriate theoretical understanding in explaining how/why women

particularly women of color are viewed and thus charged/sentenced within the criminal

justice system. The following paragraphs review the basic assumptions within the

historical feminist exploration for disparity and the basic views grounded in the Black

feminist critical theory.

Traditional Feminist Perspectives

<u>Liberal Feminism</u>

One of the early modern feminist theories explaining women involved in criminal

activity was liberal feminism. This argument was articulated in the 1970s grounded in

concepts such as individual choice, rationality, and equal rights/opportunities for men and

women. Here the focus was on the social and economic position of women in society in

relation to female criminal activity. They maintained that the second-class position of

women explained their rapid increase during the 1960s and 1970s in what had

traditionally been male-oriented crimes (such as burglary and larceny). As women's

social roles changed and their lifestyles became more like those of males, it was believed

that their crime rates would converge. Criminologists responded by referring to the

female offender as the "new female criminal." Today, liberal feminism is often associated

with Betty Friedan and other founders of the National Organization of Women. Liberal

feminists have been criticized by more radical feminists for being concerned only with

equal pay in the public sphere (Rifkin, 1993; Siegel, 2004).

Radical Feminism

Radical feminism is not easily defined because it takes many forms. However,

comparative to liberal feminist, radical feminist thought depicts women as a class that is

typically dominated by another class identified as men. Radical feminists tend to

construct arguments that center on the differences between men and women that

contribute to gender inequality. Radical feminists are criticized for failing to take into

account the diversity among women as a group. Thus, defining all women in the context

of a unitary category (Paternoster & Bachman, 2001).

Radical feminists in the legal academy include but are not exclusive to Catherine

MacKinnon and Christine Littleton (1993). They argue for reconstructing concepts of

sexual equality, which would recognize differences between men and women in a model

she refers to as "equality as acceptance." In addition, they maintain that differences

between men and women are grounded in the social construction of the distribution of

power. In their view, historical control of power by men has, through social and institutional means ignored the reality of women's lives and issues. Using the rhetoric of domination and sexual subordination instead of equality these radical feminists argue for changes in laws that will end inequality of both genders and thus the unequal distribution of power.

Cultural Feminism

Cultural feminists, like radical feminists, focus on women's differences from men. However, unlike the radical view, cultural feminists tend to embrace women's differences. Carol Gilligan, for example, argues that women, because of their different life experiences, speak in "different voices" from their male counterparts. She purports that the category "woman" has not been so much misdefined by men, as it has been ignored and undervalued. Thus, this form of feminism acknowledges that the values of a woman's view of herself and the world around must be expressed from a personal worldview (Chesney-Lind & Faith, 2001).

Postmodern Feminism

Postmodern feminist espouses the social construction of gender and inequality that is derived from a patriarchal system and thus requires a feminist restructuring. Postmodern feminists question earlier feminist attempts to redefine the category "woman" through the search for new truth as an effort to replace old truths. They maintain that there is no such conceptualization as the "woman's" point of view and thus, no single theory of equality that can function to include the best interests of all women. They maintain that any definition grounded in a discussion on women and inequality,

even one articulated by feminists, will be limited and only serve to identify the female to her identity as a woman (Mullings, 1997; Paternoster & Bachman, 2001).

The following section discusses the theoretical underpinings regarding the socially marginalized position of African-Americans. This theory also provides some exploratory analysis for the increased frequency of women of colors involvement in the criminal justice system.

Black Feminist Thought

Black feminist thought is often discussed in the context of the third-wave feminists. It is commonly pontificated in the realm of women of color feminists, critical race feminists, and womanist. Within the scope of these discussions there are two common themes; an objection to Caucasian western feminists who early in the development of feminists thinking defined women's social issues from their own linear standpoint. This scope excluded women of color and their world-view. Second, there is an objection to antiracist theory that presumes that racial and ethnic minority women's experiences are the same as their male counterparts (Price & Sokoloff, 2004). Black feminist critical theory encompasses bodies of knowledge and explores institutional practices that actively grapple with central questions of power relationships socially and economically facing African-American women as a collective group and other similarly oppressed groups. To be specific, this theoretical framework aims to empower African-American women within the context of social injustice sustained by intersecting oppressions of race, class and gender (bell-hooks, 1997). In application, Black feminist thought responds to a fundamental contradiction within the American dream. This is reflected in the democratic promise of individual freedom, equity under the law, and

social justice declared for all American citizens (Takaki, 1993). While on the other hand, acknowledging the reality of differential group treatment based on race, class and gender as an inherent problem. The convergence of oppression overwhelmingly depicts African-American women's experience in the United States. Considering these women's initial forced entry into the United States through slavery has historically (structurally and socially) shaped and continues to impact their descendants. In light of previously reported assumptions this does not infer that all African-American women within the "group" are oppressed in the same manner or that some African-American women do not suppress others; particularly women of color (Hill-Collins, 2000).

This theoretical framework addresses two factors. First, social analysis prior to World War II, in which racial segregation in urban housing became so entrenched that the majority of African-Americans lived in self-contained Black neighborhoods. Black feminist thought argues that the ghettoization through isolation and lack of equal government funding/social services within these communities fostered political control and economic exploitation of these residents who were socially and legally trapped (Davis, 1991). On the other hand it is articulated that Black neighborhoods simultaneously provided a separate space where African-American women and men could use African-derived ideas (worldview) to craft distinctive oppositional perspectives designed to resist racial oppression. This fostered the solidification of a distinctive ethos in Black civil society regarding language, conduct, religion, family structure, and community politics etc. African-American women in rural and urban communities participated in the construction of oppositional views of self-worth through their lived experiences gained within their extended families and communities (Davis, 1997;

Lauritsen & Sampron, 1998). When these ideas found collective expression, African-American women's self-definitions enabled them to reconstruct influenced negative labels (Agozino, 2001).

An additional factor that stimulated Black feminist social theory is reported as the common experiences filtered within available work for African-American women. Prior to World War II, African-American women were employed in two primary occupations agriculture and domestic work. Domestic work fostered African-American women's economic exploitation, while simultaneously creating the conditions for distinctive African-American and female forms of resistance. Domestic work allowed African-American women to see White elites, both actual and aspiring, from perspectives largely obscured from African-American men and from these groups themselves (Collins, 2000). In White families, African-American women not only performed domestic duties, they frequently formed strong ties with the family members. In this context these women were aware that they could never belong to these White families. However, because of their position in society they were economically exploited workers and thus viewed as "outsiders." The result of this dichotomous reality placed African-American women in an outsider's marginal position (bell-hooks, 1997).

Within this overarching contradiction, African-American women encountered distinctive sets of social practices that accompanied their particular historical matrix of domination characterized by intersecting oppressions. Black feminist thought acknowledges that race is not the only significant marker of group difference. Yet for African-American women, the effects of institutionalized racism remain visible and palpable. Moreover, the institutionalized racism that African-American women encounter

relies heavily on racial segregation and accompanying discriminatory practices. They are designed to deny these women equitable treatment based on not just one's gender but also one's race (Anderson & Collins, 1998).

Black feminists maintain that current theoretical references minimize African-American women's unique compoundness of race and gender. This centralizes their experiences to the larger classes of women. Black feminists argue that they become absorbed into the collective experiences that are defined either as Black or female (Berry 1994). They argue that there are three interdependent dimensions that frame the oppression of African-American women. First, the exploitation of Black women's labor symbolized by the "iron pots and kettles" categorizing her long-standing ghettoization by service occupations which represents the economic dimension of oppression (Davis, 2000). Second, the political dimension of oppression by denying African-American women the rights and privileges routinely extended to Caucasian male citizens. This is grounded in the historical denial of African-American women's right to vote, the exclusion from public office, and their continued inequitable treatment in the criminal justice system (Crenshaw, 1993; Berry, 1994). Third, Black feminist cite the educational institutions for fostering patterns of disenfranchisement. For example, practices such as denying literacy to slaves and relegating African-American women to under-funded, segregated schools in which busing worked to ensure that a quality of education for African-American women remain the exception rather than the rule. The large numbers of young African-American women in inner cities and impoverished rural areas who continue to leave school before attaining full literacy is cited as another example of the political dimension contributing to African-American women's oppression (Mullings, 1997; Jewell, 1993).

Black feminists argue, within the American culture, that racist and sexist ideologies permeate every social structure to such a degree that they become hegemonic and viewed as natural, normal, and inevitable. These controlling images of African-American women originated during the slave era attest to the identical ideological dimension of African-American women's oppression even today (Carby, 1987; Bickly & Peterson, 1991).

These negative stereotypes of African-American women are historically based and continued to serve as tools for their social oppression. Images such as the mammies, jezebels, and breeder women associated with slavery to the smiling Aunt Jemimas, ubiquitous Black prostitutes and ever-present welfare and drug mothers relegated in today's popular culture. Taken together, Black feminists maintain that economy, polity, and stereotypical ideologies continue to function as a highly effective system of social control designed to keep African-American women in an assigned, subordinate position (Giddings, 1984; Davis, 1997; Agozino, 2001).

Summary

Black feminists have long expressed a distinctive sensibility of how race/ethnicity and class intersect in structuring gender and thus inequality. They question the relationship between these dynamics in relation to social structures and the social values that become attached within every organizational structure. Hence, social values become attached to individuals who belong to racial/ethnic groups, resulting in the development of a group identity associated with stereotypical identity followed by differential practices (Giddings, 1998; bell-hooks, 1981; Davis, 2001). This indicates that perceived compliance with traditional gender roles would result in more lenient charging/sentencing

decisions for women offenders. The following section addresses the methodology utilized

to explore the role of race/ethnicity in this research

CHAPTER IV

METHODOLOGY

Introduction

Criminologists largely ignored gender until the late 1970s and 1980s, and even then, attention spotlighted gender differences in crime commission and sanctioning rather than questioning the gendered nature of crimes and of the criminal justice system's responses. As the researcher uses these terms, sex refers to the classification of people as male or female on the basis of biological criteria; gender refers to socially learned aspects of human identity. For this study, gender is not simply a category, attribution, or role; it is a dynamic process of constructing particular ways of being viewed as either masculine or feminine. This research examines whether racial differences exist and how gender and issues in the context of class conditions leniency (Martin & Jurik, 1996; Gilbert, 2001).

This chapter is organized into three primary sections: (1) reasons for selecting women in Oklahoma for this study, (2) research design: qualitative and quantitative, and (3) method of data analysis. This study considers the nature of differential treatment of female offenders for drug related offenses in the criminal justice system in Oklahoma. This research specifically focuses on examining the number and percentage of female arrests, criminal charging patterns, prosecutorial decision-making, and receptions. The goal is to explore attitudes associated with the increasing percent of females involved with the Oklahoma justice system.

Research Objectives

The research questions that formed the basis for this study are:

Research Question 1: What is the relationship between the percentages of female arrests for drug related offenses over the periods 1990, 1996, and 2002 for selected drug offense categories by race/ethnicity? Arrest data (public record) from the Oklahoma State Bureau of Investigations (OSBI) published in public records were examined.

Research Question 2: What is the relationship between the percentages of female prison receptions during 1990, 1996, and 2002 for selected drug related categories by race/ethnicity are factored in? Reception data from the Oklahoma Department of Corrections were analyzed. A dramatic increase in female arrests may reflect disparity in the increased rates of incarcerations by race.

Research Question 3: What is the relationship between sentencing patterns comparative to Caucasian and non-Caucasian female offenders for drug related offenses. Sentencing data from the Oklahoma Department of Corrections were analyzed and cumulative/percentages of Caucasian and non-Caucasian female offenders were computed and compared.

Research Question 4: How does the relationship between sentencing patterns and race /ethnicity change when legal and extra-legal variables are considered? Offender profile data from the Oklahoma Department of Corrections were analyzed within a regression coefficient table.

Research Question 5: How are prosecutor's charging patterns for drug related offense categories influenced by their world-view regarding racial-gendered roles and expectations. The researcher developed a semi- structured interview and administered it

to prosecutors serving as assistant district attorneys in Oklahoma City and Tulsa County who manage drug related offense categories.

The Study Site

Oklahoma was selected for the study site for several reasons. First, Oklahoma has led the nation in incarceration rate of women for at least fifteen years. Second, this study offers an opportunity to examine a state with a model that is not listed as a sentencing guideline system yet operates under mandatory minimum sentencing, truth in sentencing, and determinate sentencing. The idea of philosophical discrepancies and/or discretion within sentencing and charging practices can be observed through this model. Third, the highest offenses for women in Oklahoma are and have historically been drug related. Fourth, the researcher has access to data sources.

Research Design

Qualitative Data

The collection and analysis of the qualitative data was considered the primary source of data exploration in the context of ethnographic in-depth interviews. The literature established the contribution of feminist theory for the application of such design (Minnich, 1990; Kushner, 2000). The incorporation of semi-structured interviews of district attorneys and assistant district attorneys in Tulsa and Oklahoma City allowed the exploration of themes/patterns. Doing so deepens the understanding of intricate and implicate relationships between language, voice, and consciousness in the context of *praxis* – "acting in the world with an appreciation for and recognition of how those actions inherently express social, political and moral values" (Patton 2002, p. 64). The

qualitative component also explores organizational biases rooted in the

charging/sentencing disparity found in race/ethnicity, class, and/or gender perceptions.

Sources of the Data

Interviews

      The data were derived from a convenient, purposive sample. The researcher

interviewed a combined total of 13 Tulsa and Oklahoma City district attorneys and

assistant district attorneys. The demographics of this sample consist of African-

American, Caucasian, and Hispanics, six women and seven men. Of those, eleven had

been or were currently married, and one respondent had never been married. Nine

respondents reported having children and three stated not having children. The average

length of employment was seven years. Data were gathered from Tulsa and Oklahoma

City for two specific reasons: both are located in counties with the highest female

offender crime rates in Oklahoma and have the majority of the state's population.

Interview Notes

      The researcher included, but was not limited to, observations and personal

perceptions during each interview. These notes supplemented the collected data, assisted

in its analysis, and permitted the identification of eight themes present across

participant's expressions and opinions

Personal Reflection Journal

      After each interview, the researcher recorded personal reflections in a journal

allowing the researcher to track personal emotions and to identify possible biases. These

reflections, taken together with notes recorded during each interview, assisted the researcher in preparation for subsequent interviews.

<u>Participant Selection Criteria</u>

1. District attorneys and assistant district attorneys

2. Located in Tulsa and Oklahoma City

3. Caseload predominately drug-related offenses

4. Willing to participate

5. Willing to donate at least 30 minutes

<u>Recruitment of Participants</u>

To explore the cultural world-view of prosecutors who maintain drug-related cases on their dockets of women defendants the researcher sought the participation of all district attorneys and assistant district attorneys who were willing to participate in in-depth interviews. There were approximately 16 prosecutors who could have qualified as a participant. Of these, 13 were willing to participate.

The researcher telephoned the district attorneys offices several times in both Tulsa and Oklahoma City. During each call, the researcher explained the purpose of the study and assured anonymity. The support staff generally referred the researcher to district attorneys who would meet the researcher's qualification. In the context of snow-balling when a potential subject contacted the researcher by phone, the researcher gave a brief explanation of the study, addressed issues related to anonymity, and answered any questions raised by the prospective respondent. In addition, a date and time convenient to the respondent's schedule was arranged.

Interview Procedure

Interviews were semi-structured and interactive. This process permitted interviewees to report individual experiences framed within the research context and to formulate and express their thoughts and attitudes toward women who commit drug-related offenses in their own words. This technique allowed each respondent to be involved in the research by becoming a part of the data collection and by being informed of the importance of their contribution to the project, thus equalizing the power imbalance among the interviewees and the researcher (Patton, 2002). The semi-structured nature of the interviews also permitted the researcher to address specific items within a specific time frame within a specific contextual framework.

The researcher was aware of the researcher effect predicated by being both African-American and a woman. The researcher attempted various methods as to adjust physical appearances and physical gestures. The researcher tied her dread locks towards the back of her head and wore reading glasses and business attire during each interview. The researcher's body language adapted to the respondent's body position as to mirror the interviewee's comfort level for communication positioning. All interviews were conducted at either the Tulsa or Oklahoma City District Attorney's office. Each potential subject was given a consent form (see Appendix B) to read and sign. Each respondent's name appeared on a consent form only and was not transcribed to any other document. The researcher changed the participants' names while transcribing their interviews and chose to identify respondents as for example, OK-1 or T-3. The informed consent letter described the purpose of the study, assured confidentiality, and reported the respondents were free not to comment on any question that they felt too sensitive or intrusive in

nature. Information on how to contact the researcher and his/her research supervisor chair was also provided to interested participants. In addition the researcher addressed any concerns regarding the tape recording of the interviews. Following the initial introductions and explanations, the researcher activated the tape recorder and proceeded from the questionnaire. Each interview engaged the participants between 30 – 70 minutes.

<u>Data Collection</u>

With the exception of one participant (who refused to be audio-taped), all interviews were audiotaped with each informant's knowledge and consent. The taping was used only for documentation, translation, and interpretation of outcomes. Because the researcher was allowed to audiotape all but one interview, the researcher was allowed to hear, within the dialogue any inter-play between the interviewer and the interviewee as it transpired. Tape-recording also allowed the researcher to hear vocal inflections and verbatim statements by the interviewee enhancing the reliability of this form of data. Audio recording also permitted a transcription to be generated (Babbie, 2004).

Interview notes were taken during each interview to capture not only the researcher's reactions and impressions during each interview, but also those from the study participants. The researcher also recorded notes during and after each interview to document additional reactions and impressions. According to Champion (2000), transcriptions provide an excellent method to authenticate at a later time what was actually reported.

After each interview, the researcher recorded personal reflections in a journal, one of three mechanisms employed to reduce the likelihood of contaminating the outcomes of

this research by the researcher's personal biases. The documentation of introspections and reflections permitted the researcher to monitor her emotions, identify possible biases, and reflect on how to alleviate the impact of the "self" upon later interviews (Neuman, 2004).

Survey

The research instrument was a semi-structured interview protocol (Appendix A). Some questions were developed from information noted in the literature regarding drug laws and criminal justice agents' perceptions of women involved in criminal activity. Other questions were developed by the researcher to explore additional attitudes and influences related to drug-related female offenders. These questions permitted the researcher to extract individual opinions, perceptions, beliefs, and attitudes into eight patterns/themes separated into two categories: extra-legal and legal variables. The extra-legal variables emerged as motherhood/parenting, victims/paternalism, education, age, and discretion. The legal variables identified were type of drug, type of crime (possession, trafficking), and prior criminal history.

The questionnaire consists of two sections: The first section involved demographic information: race/ethnicity, gender, marital status, number of children, and the length of employment within the district attorney's office. The second section consisted of eight guiding items designed to explore prosecutorial attitudes towards women who commit drug-related offenses in the context of legal and extra-legal variable predictors influencing charging practices. This semi-structured interview entails both open and close-ended questions. Because of the in-depth nature of interviews this tool allowed the researcher to extend beyond the limited boundaries of a standard

questionnaire to probe respondents for additional, insightful information about themselves, their work, and those with whom they work, thus allowing for clarification and enhancing validity (Babbie, 2004).

<u>Data Analyses</u>

Data from audiotaped interviews, interview notes, and a personal reflection journal were triangulated for narrative-interpretivist analysis. The first step in this process was to transcribe all taped interviews. Once the researcher transcribed all the interviews the data were re-examined to identify key concepts noted as themes and patterns collated within each interview. The researcher re-read all collated answers to the same questions concurrently in order to begin to understand the extent of their similarities. This permits a "constant comparison analysis" that in turn facilitates the extrapolation and labeling of overwhelming themes disconfirming observations within and between categories (Morrow & Smith 2000, p. 204). The second step was to compare the hand written notes with the transcribed audiotaped interviews. The third process compared the two previously noted methods with the information recorded in the researcher's reflection journal.

Generalizability

The non-random purposive sample approach using only two counties of district attorneys may prevent this study from being viewed as indicative of district attorney's decision-making process and more reflective of individual personality traits. The patterns and themes gathered from these respondents may enhance generalizability if the findings are consistent. However, generalizability was not the focus of this researcher but rather to gain insight into the historical trends of the plethora of women who are charged and thus

sentenced for drug-related crimes within the state of Oklahoma. Thus, this study has the potential of providing a broader comprehension and dialogue regarding the influence of individual cultural views on the charging/sentencing process of women as a whole.

Validity and Reliability

The issue of reliability and validity are important components in any type of research. In discussing validity for qualitative research Maxfield and Babbie (2005) argue for prolonged engagement in the field as a necessity to establish the trustworthiness of the research. They also caution researchers about their own distortions or personal biases impacting the data. To address these concerns, all interviews were conducted at the district attorney's office. Only this researcher conducted the interviews to control for interviewer variability. But interviewer respondent interactive effects could be a factor, which would decrease standardization. However, a standardized set of instructions and questions were asked and the researcher was assisted by an audiotape player. Social desirability bias may also be a factor in this study. The sensitivity of the questions in relation to the district attorney's office as an elected entity may have fostered fear or apprehension on the part of the respondents. Hence, some respondents may not have been completely honest in their answers (Neuman, 2004; Maxfield & Babbie, 2005).

In addition to validity, there is also concern with the reliability of the measurement. Reliability means dependability or consistency. It suggests that the same thing is repeated or recurs under the identical or very similar conditions. One manner to increase reliability is the use of multiple indicators, which allows the researcher to take measurements from a wider range of the content being conceptualized. To increase

reliability it is prudent that researchers are also aware of their own biases and points of view given the subject matter of the exploratory process (Neuman, 2004).

Quantitative Data

The quantitative descriptive data is considered secondary to the primary qualitative data. These sources include: arrest data from the Oklahoma State Bureau of Investigation Annual Crime Report and sentencing data from the Oklahoma Department of Corrections. Both sources address specific drug related crimes for the entire state of Oklahoma. These dates (1990, 1996, and 2002) were selected to explore the trends that center around the historical over-representation of women who are arrested, charged or convicted of crimes associated with illegal drugs. The purpose for selecting the previously reported dates for analysis coincide with the 1980s national policy and social evolution from rehabilitation to punitive attitudes of "get tough on drugs" and the "war on drugs." The 1996 date was chosen as the intermediate date, and 2002 was the latest available data.

Sources of Data

Oklahoma State Bureau of Investigation /Arrests Data

The data gathered from the Oklahoma Uniform Crime Report (UCR) Program is part of a nationwide cooperative by the Federal Bureau of Investigation. The Uniform Crime Report was developed in 1930. This program receives monthly crime and arrest reports from more than 17,000 city, county, and state law enforcement agencies that voluntarily report crime data. However, it was not until the latter part of the 1960s that funds became available for states to consider the development of their own individual

reporting system. The Oklahoma State Bureau of Investigation (OSBI) assumed the statewide administration of the UCR Program on September 1, 1973.

Under the Oklahoma UCR statute, all state, county, city, and town law enforcement agencies are required to submit crime reports. Offenses data consist of information extracted from reports based on a two part system. Part I offenses are murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, auto theft, and arson. Part II consists of non-aggravated assaults, forgery and counterfeiting, fraud, embezzlement, stolen property, vandalism, weapons, prostitution, sex offenses, drug abuse violations, gambling, offenses against family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, and vagrancy. A record of total arrest activity for criminal activity involving both Part I and Part II classifications is collected and analyzed according to age, sex, and race. Under this reporting scheme, an individual is counted on the monthly arrest report each time she is arrested. If a person is charged with several different crimes at the same time, the arrest is shown only for the highest offense the person committed at that time. In March of 2002, the OSBI began the initial planning stages for SIBRS that will eventually take the place of OSBI. The new system will be designed on an incident-based reporting platform.

In regards to the Research Question One, the OSBI data depict the descriptive aggregate data of women involved in drug related alleged offenses for the state of Oklahoma. This report was obtained from the Government Document Section of Edmond Low Library at Oklahoma State University. The Oklahoma State Bureau of Investigation (OSBI) Crime Report Book is an annual report prepared by OSBI, which documents all arrests made in the state of Oklahoma within one-year increments. In collaboration with

OSBI's definition, drug abuse violations include all arrests for violations of state and local ordinances subdivided into two categories: (1) possession; and (2) manufacturing/trafficking. The type of drugs includes marijuana, cocaine powder, crack cocaine, methamphetamine, heroin, opiates, opium, and drug paraphernalia. However, in the organization of reporting the arrest patterns for these drugs OSBI utilizes only four types cocaine and opium, marijuana, synthetic narcotics, and other dangerous narcotics.

These arrest data are expected to represent all the counties within Oklahoma and are explored for patterns across the state. For this analysis, Asian women were excluded because of a less than one percent representation in the arrest patterns.

Data Profile

The initial data were derived from OSBI. The targeted group was arrest data of Caucasian, African-American, Hispanic, and Native-American women arrested on drug related charges. During 2002, law enforcement agencies, active in the UCR Program, represented 93.4% of the total population, as established by the Bureau of Census. In Oklahoma, there were 279 law enforcement agencies contributing to the Uniform Crime Reporting Program in 1990. In 1996, there were 293; and in 2002, there were 301 contributing law-enforcement agencies. The total aggregate data derived from the OSBI regarding drug-related offenses for women in 1990 were, 1,681, 2,825 in 1996, and 4,904 in 2002 (see Table I).

Data Analyses

In order to explore the increasing numbers of women arrested in Oklahoma, the arrest data from the Oklahoma State Bureau of Investigation were examined and analyzed. The categorical analysis of the year by offense and race focused on the number

and percentage of females arrested over reported years. Comparisons focused on arrests of Caucasian, African-American, Hispanic, and Native American women for either one of two types of drug related offense (possession or trafficking/manufacturing). Since one of the primary reasons for analyzing these data are to explore the rates of women involved in drug related offenses, the analysis of the two category offenses is carried out in two parts. The first analysis involves comparing the total number and percentages of women arrested for drug abuse violations involving trafficking/manufacturing by race/ethnicity and year (see Table II). The second analysis explores the number and percent of overall women arrested for possession by race/ethnicity and year (see Tables III). The third and fourth analyses consist of the arrest patterns of women related to trafficking/manufacturing and possession by the year, race/ethnicity, and type of drug (see Tables IV and V). The following section describes the second source of aggregate date, which was derived from the Oklahoma Department of Correction reception (entry) prison rates.

Oklahoma Department of Corrections/Receptions

In order to address research questions two, three, and four determine whether or not extra-legal variables are influencing factors for minority female offenders who commit drug related offenses as compared to Caucasians, the researcher employed the dataset from the Oklahoma State Department of Corrections. This data set included the entire state female inmate prison population convicted of drug related offenses in 1990, 1996, and 2002.

Data Profile

  The data from the Oklahoma Department of Corrections (DOC) include African-American, Caucasian, Hispanic, and Native American. The total aggregate reception data derived from DOC regarding drug-related offenses for women in 1990 was 249. The racial composition for 1990 was as follows; African-American 113, Caucasian 124, Hispanic 4, and Native American 9. The total for 1996 was 431. The racial composition for this category in 1996 was as follows: African-American 148, Caucasian 236, Hispanic 19, and American Indian 26. The total reception data for 2002 was 594. The racial composition for 2002 was as follows: African-American 117, Caucasian 409, Hispanic 33, and Native American 45 (see Table VI).

  Legal variables considered for analysis included the category of drug related crime (0= possession, 1= trafficking/manufacturing), number of prior incarcerations (exact number), prior probation (0= no, 1= yes), and sentence (exact amount of time). The extra-legal variables considered were age (0= unknown, otherwise the exact date/age reported by defendant), education (0= unknown, 1= up to 5th, 2= 6 – 9, 3= 10 –12, 4= some college to degree, 5= post doctoral), and race (1= African-American, 2= Caucasian, 3= Hispanic, 4= Native American, 5= Other).

Data Analyses

  The data analysis of DOC reception information addresses the research question: "How has the percent of women entering prison changed by race/ethnicity for drug related categories, and is there a significant relationship between sentencing of legal-variables and extra-legal factors by race/ethnicity for drug related categories?" Sentencing data from the Oklahoma Department of Corrections were analyzed and the

percent of women were reported who had entered prison for drug related offenses. A bivariate correlation matrix was conducted to depict the role of sentence length on the previously state legal and extra-legal factors. This will be compared with the information obtained from OSBI in addition to information gathered from district attorneys. A regression analysis was run with sentence as the dependent variable. Regression models assist in describing the impact of extra-legal comparative to legal variables. This is essential for examining the direct and indirect contributors to possible disparity between charging / sentencing patterns.

<div align="center">**Validity and Reliability**</div>

The validity suggests that a measure accurately reflects the concept it is intending to measure. Considering that the data from OSBI rely on all counties submitting their information and acknowledging that this is voluntary and that many crimes are not reported to law enforcement. There is also a realization that some of the arrests for drug related offenses may have gone unreported. In addition, the DOC data may not truly encompass all the reception women considering that crimes occurring on American Indian land would be mandated to the federal level. All of which would question the validity of these two secondary sources of data (Maxfield & Babbie, 2005).

In addition to validity, there is also concern with the reliability of the measurement. Reliability means dependability or consistency. It suggests that the same data would have been collected each time in repeated observations of the same phenomenon. With the incorporation of OSBI and DOC data sets reliability issues can arise from the use of official definitions, categories, or methods of collecting information changes over time. Likewise, when police departments computerize their records, there is

an apparent increase in crimes reported, not because crime increases but due to improved

record keeping. With regards to reliability, another concern that plagues researchers who

use existing statistics is that of missing data. More frequently, some of the data were

never collected. This was indicative of the DOC data set particular for questions of

number of children, marriage, or employment. In this incident the data were collected

sporadically such that the information was not consistent or detailed enough for this

research project. In addition, terms to describe drug-related offenses had been renamed

by the DOC (Neuman, 2004).

Triangulation

Triangulation is a means of improving the probability of findings and

interpretations through the use of multiple sources and research methods. The researcher

is aware that studies that use only one method are more vulnerable to errors linked to that

particular method. This study utilizes a mixed method approach within the context of the

individual interviews and applies secondary raw data as a means for additional analysis in

the context of the qualitative data (Babbie, 2004).

Limitations of the Study

The non-random purposive sample of the two counties chosen for interviewing

may prevent this study from being representative of district attorney charging practices at

a broader level. Because the subjects in one of the counties responded to a call for

participation by the District Attorney for their participation, these individuals could have

felt compelled to respond in scripted responses skewing the sample response. Social

desirability bias was also a factor in this study. Due to the sensitivity of the questions and

the political position of the district attorney's office within an organizational context

possible fear of answers being identifiable individually may have also been a factor

(Babbie, 2004).

The researcher as an African-American woman may have contributed to a

researcher and respondent interactive effect. This issue was raised when one respondent

asked, *"if you were not a woman and African-American do you believe I would be giving*

you different responses." When the researcher responded with a question asking, what do

you think? His response was, *"sure."* The researcher frequently heard phrases such as,

"this is off the record" or *"don't repeat this."* When these phrases where verbalized the

respondents were sharing incidents that addressed the heart of organizational biases of

race and gender but if repeated could also identify the individual(s) and threaten their

professional employment. In this context the researcher felt as reported in the writings of

Patton (2002) that she had colluded in a "code of silence" by making verbal agreements

not to write or discuss stories or incidents raised that reflected biases.

The limitations while organizing and analyzing the quantitative secondary data

were as follows: Both, OSBI and DOC data sets were originally collected for purposes

other than the goal of the current research subject matter. Thus, the researcher was unable

to obtain all the necessary variables originally desired for analysis. Because the

researcher chose three different years for analysis the researcher was required to devise

codes in order to classify the contents of data that had been renamed from one year to the

next. The OSBI secondary statistics are based on offenses reported or known to the

police. However, citizens do not report crimes in many instances for various reasons

(Babbie, 2004). Consequently, some offenses are never entered into the present statistical

reporting system. A single crime may involve several offenses, multiple offenders and/or

victims, which may not and often are not reported. In addition, the types of drug categories (synthetic narcotics and other dangerous narcotics) do not allow the reader a comprehensive conceptualization of these terms (Champion, 2000). In addition the data from DOC provided the challenge of recoding data that had been given different names or identifiers at another time frame. The DOC data were inconsistent in providing extra-legal variables on inmates for example marital status. In addition, the DOC data on American Indian women did not reflect accurate numeric figures. If the drug related offense occurred on Indian land these women would be mandated to federal court as opposed to the state level.

Summary

Chapter four explained the study site, both research designs, how the subjects were selected, a discussion regarding the interviews, validity and reliability, generalizability, and triangulation. The following chapter will examine the research findings.

CHAPTER V

FINDINGS

Introduction

As discussed in the literature review, there continues to be ambiguity regarding the historical increase in the percentage of women involved in the criminal justice process. Oklahoma has led the nation in these figures for over ten years. This study not only examines the criminal justice process concerning women's arrest and reception, but it also questions the most salient component of the criminal justice processing system: factors influencing the prosecutorial charging/sentencing patterns. Because over 80% of pending cases are resolved at the charging level extra-legal factors such as attitudes and opinions toward women and in particular women of color in relation to drug related offenses will enhance academic and applied sociological understanding and dialogue in approaching this complex subject topic. This study examines the following aspects of the criminal justice process: arrest sentence length and potential factors influencing the prosecutor decision-making process such as attitudes and opinions toward women charged with a drug related offense. In order to achieve this goal, both research questions and research objectives guided the direction of this study.

The purpose of this chapter is two-fold: first, to describe from the quantitative data descriptive patterns, percentages, and correlations of arrest and incarceration of women involved in the criminal justice system in Oklahoma and second, to discuss the

primary data derived from the qualitative interviews. The researcher compartmentalized themes and patterns relevant to each of the research objectives and questions to facilitate the process. The researcher also points out that based on the 1990 and 2000 Oklahoma census data for women over the age of 17 respectively Caucasian women represented approximately 1,051,691 (83.8%) & 1,028,364 (82.0%) African-American women represented 86,590 (6.9%) & 89,509 (7.1%), American Indian represented 89,883 (7.1%) & 87,970 (7.0%), Hispanics women 26,470 (2.1%) & 47,970 (3.8%) respectively. Consider the census figures as one considers the data from both OSBI and DOC.

OSBI Arrest Data

In order to explore the increasing numbers of women arrested in Oklahoma, arrest data from the Oklahoma State Bureau of Investigation are examined. As indicated earlier, these data cover the years 1990, 1996, and 2002. The analysis of these years by offense and race/ethnicity focused on the number and percentage of females arrested over the reported years. One of the specific research objectives of this study is to describe the percentage of women arrests between the reported dates for selected drug related offenses by race/ethnicity. This objective was accomplished by analyzing the following: overall percentages of women arrested on a drug related charge, overall women arrested for trafficking/ manufacturing of drugs by race/ethnicity, and overall women arrested for possession of drugs by race. The previous reported sections were also subdivided by type of drug (cocaine and opium, marijuana, synthetic narcotics, and other dangerous narcotics) and race.

The total aggregate data derived from the OSBI regarding drug-related offenses for women in 1990 was 1,681 (see Table I). In this category 67.9% were Caucasian,

25.3% were African-American, 1.4% were Hispanic, and 5.2% were Native American.

For 1996 the total aggregate data was 2,825. These figures represented 75.6% Caucasian,

17.4% African-American, 2.2% Hispanic, and 4.6% Native American. For the year

2002, the aggregate data totaled 4,904. The group racial/ethnic composition was 73.3%

Caucasian, 18.4% African-American, 4.2% Hispanic, and 3.6% Native American (see

Table I for these arrest figures). The percentages described in Table I detail the continued

increase in overall female arrest for drug related incidents regardless of race. In addition,

it also depicts racial disparity between Caucasian and African-American women arrested

in particular during 2002. Overtime, Caucasian and Hispanic percentages increased while

African-American, and American Indian decreased.

Trafficking & Manufacturing

The overall arrests of women for trafficking and manufacturing drugs by

race/ethnicity were as follows: in 1990 there were 614 women arrested for trafficking

drugs; of those, 68.5% were Caucasian, 25.7% were African-American, 1.9% were

Hispanic, 4.7% were Native American, and .1% were listed as Other. In 1996 total was

614 and the racial/ethnic composition included 77.2 % Caucasian, 12.7% African-

American, 2.8% Hispanic, 7% Native American, and .3% Other. In 2002 there were

1,077 women arrested for trafficking and manufacturing; of those 82.7% were Caucasian,

10.6% were African-American, 3.7% were Hispanic, and 2.5% were Native American

(see Table II). The figures reported describe the two highest categories of females arrest

for trafficking/manufacturing illegal drugs as Caucasian and African-American.

However, the figures suggest that Caucasian women are at least three times as likely to be

arrested for trafficking/manufacturing and in 2002 seven times more likely than the next

highest group. Overtime, the identical pattern was observed with Caucasian and Hispanic percentages increasing while African-American and Native American decreased.

Possession

The total number of women arrested for possession of drugs in 1990 was 1068. The racial/ethnic composition was 67.5% Caucasian, 24.6% African-American, 1% Hispanic, and 6% Native American. In 1996 the number of women arrested for possession was 2211. The racial/ethnic composition was 75.1% Caucasian, 18.7% African-American, 2% Hispanic, and 3.9% Native American. The total arrests of women for possession in 2002 were 3916. The racial/ethnic composition was 78.5% Caucasian, 14.9% African-American, 4.3% Hispanic, and 1.9% Native American (see Table III). The figures within Table III detail a continued pattern reported in the previous two tables. Over time, Caucasian women are more likely to be arrested. The significance of these figures is indicative of the percentage difference between Caucasian and African-American females. Comparative to Table II the figures reported within Table III indicates a substantial degree of women are arrested for possession as opposed to trafficking/manufacturing.

Trafficking/Manufacturing * Race/Ethnicity * Drug Category * Year

In Table IV the figures and percentages are described not only in terms of race, year, and drug offense (trafficking / manufacturing) but also describes four sections divided by drug category. The following paragraph describes aggregate data for women arrested during 1990. In 1990, 38.8% of women were arrested for trafficking/manufacturing cocaine and opium. The racial/ethnic composition includes 47% Caucasian, 48.6% African-American, 1.9% Hispanic, and 2.6% self identified as

Native American. In 1990, 40.5% of women were arrested for trafficking/manufacturing of marijuana. Their racial/ethnic compositions were 82.7% Caucasian, 10.3% African-American, 2.2% Hispanic, and 4.5% Native American. Additionally in 1990, 10.1% of women arrested for trafficking/manufacturing were also involved in synthetic narcotics. The racial/ethnic composition of these women was 89.2% Caucasian, 3.1% African-American, 1.5% Hispanic, and 6.2% Native American. During the same year 10.5% of women were arrested for trafficking/manufacturing of other dangerous narcotic. The racial/ethnic composition of this group was 70.6% Caucasian, 14.7% African-American, 2.9% Hispanic, and 11.8% Native American (see Table IV). In 1990 the single drug category were Caucasian women were less likely to be arrested than African-American women was Cocaine and Opium. Under cocaine and opium African-American women were one percent more likely than Caucasian women to be arrested. However, the most frequent drug violation category was marijuana at 82.7% arrest of Caucasian women.

In 1996, 25% of women arrested were for trafficking/manufacturing cocaine and opium. Their racial/ethnic composition were 62.3% Caucasian, 31.1% African-American, 1.2% Hispanic, and 4.5% Native American. During the same year 38.7% of women arrested were for trafficking/manufacturing of marijuana. Their racial/ethnic composition included 78.9% Caucasian, 5.4% African-American, 4.2% Hispanic, and 10.9% Native American. In 1996 21.8% of women arrested were for the trafficking/manufacturing of synthetic narcotics. Their racial composition included 91.7% Caucasian, 3% African-American, 1.5% Hispanic, and 3.7% Native American. During the same year 14.3% of women arrested were for trafficking/manufacturing other dangerous narcotics. Within this category their racial/ethnic composition were 76.1% Caucasian, 14.7% African-

American, 3.4% Hispanic, and 5.6% Native American (see Table IV). The most common racial/ethnic arrest during 1996 was Caucasian women by approximately two times the amount for cocaine and opium, 70% higher for marijuana, 80% higher for synthetic narcotics, and approximately 60% greater for other dangerous narcotics comparative to the closes racial/ethnic group arrest patters. Again, the most frequently type of drug violation was marijuana.

In 2002, 14.1% of women arrested were for trafficking/manufacturing cocaine and opium. The racial/ethnic composition of this category was 61.6% Caucasian, 28.5% African-American, 3.2% Hispanic, and 5.8% Native American. During the same year 20.7% of women were arrested for the trafficking/manufacturing of marijuana. Of those, 82.2% were Caucasian, 11.1% were African-American, 2.2% were Hispanic, and 4% were Native American. In addition, 46.2% of women were arrested for trafficking/manufacturing of synthetic narcotics. Their racial composition was 90.2% Caucasian, 2.7% African-American, 1.7% Hispanic, and 4.9% Native American. During the same year 18.5% of women arrested for charges related to trafficking/manufacturing some other dangerous narcotic. The racial/ethnic composition of this category was 81% Caucasian, 16% African-American, 2.5% Hispanic, and 0.5% Native American. In 2002 the figures continue to describe an overwhelming representation of Caucasian women arrested comparative to non-Caucasian women. However, unlike 1990 and 1996 the most frequent drug violation was synthetic narcotics (see Table IV). The following sections describe the racial and drug category of women arrested for possession during 1990, 1996, and 2002.

Possession * Race/Ethnicity * Drug Category * Year

Table V depicts the arrest of women by race, year, and type of drug under the offense of drug possession. During 1990 36.1% of women arrested for possession of an illegal substance were arrested for possession of cocaine and opium. Within this category 44.3% were Caucasian, 52.4% African-American, 1.3% Hispanic, and 1.8% Native American. During that same year 49% of women arrested were for possessing marijuana. Their racial composition included 82.4% Caucasian, 8.6% African-American, 0.7% Hispanic, and 8.1% Native American. During the same year 6.8% of women were arrested for possessing a synthetic narcotic. Their racial/ethnic composition represented 81% Caucasian, 8.1% African-American, no Hispanics, and 10.8% Native American (no Hispanics arrests appeared in the data for this year). In addition 7.9% of women arrested were for possessing some other illegal dangerous narcotic. Within this category 76.7% were Caucasian, 11.6% African-American, 2.3% Hispanic, and 9.3% Native American. The two racial/ethnic groups arrested for possession in 1990 was overwhelmingly Caucasian and African-American women. With the exception of cocaine and opium by 8.0% Caucasian women in 1990 lead the percentages for all other categories of drug arrest for possession (see Table V).

The pattern reported in 1990 does not persist in 1996. During 1996, 35% of women arrested were for possessing cocaine and opium. The racial/ethnic composition within these groups included 55.5% Caucasian, 37.1% African-American, 3.9% Hispanic, and 3.3% Native American. During the same year 48.8% of women were arrested for possessing marijuana. This group's racial/ethnic composition included 84.2% Caucasian, 9.8% African-American, 1.2% Hispanic, and 4.7% Native American. In

addition, 7.8% of women were arrested for possessing a synthetic narcotic. Within this group their racial/ethnic composition included 91.3% were Caucasian, 7.1% African-American, 1% Hispanic, and 1.6% Native American. During 1996 Caucasian women were more frequently arrested within all four types of drug categories. The exceeding drug category was marijuana (see Table V).

During 2002 women arrested for possessing illegal drugs continued to increase. The data show increases among Caucasian women in every drug related category particularly in the marijuana offense. The following percentages describe this trend in detail. In 2002 the total female arrests for possession of an illegal narcotic represented 23.3% for cocaine and opium. Their racial composition included 62.2% Caucasian, 32.3% African-American, 0.2% Hispanic, and 2.8% Native American. During the same year 45% of women were arrested for possession of marijuana. In this context 79.3% were Caucasian, 12.6% African-American, 2.4% Hispanic, and 5.4% Native American. In addition, 20.5% of women arrested during this same year were for possessing an illegal synthetic narcotic. Their racial composition included 91.4% Caucasian, 3.4% African-American, 1.2% Hispanic, and 3.5% Native American. During this year 10.1% of women were arrested for possessing some other illegal dangerous narcotic. In this context, 86.8% were Caucasian, 8.2% African-American, .4% Hispanic, and .2% Native American (see Table V). The following sections describe descriptive data of legal and extra-legal variables from the reception data from the Oklahoma Department of Corrections.

Department of Corrections Reception Data

The second data resource was derived from the Oklahoma Department of Corrections. These data were salient for addressing the second research question: how has the percentage of female prison reception changed during 1990, 1996, and 2002 for selected drug related categories by race/ethnicity. Table VII provides a descriptive analysis on the frequency of women by race/ethnicity that entered prison in Oklahoma for either possession or trafficking of an illegal substance. In 1990 there were a total of 249 women incarcerated on a drug related charge; of those, 69% were incarcerated for drug trafficking and 30.9% for drug possession. Of the 113, 45.4% African-American women 48% were incarcerated for possession and 44.1% for trafficking. The 124, 49.7% Caucasian women represented 45.4% of incarcerations for possession and 51.7% for trafficking. Hispanic women 3, .01% reflected 1% of incarcerations for both possession and trafficking, and Native American 9, 0.03% represented 5% of those incarcerated on possession and 2% of incarcerations for drug trafficking (see Table VII).

The numbers and frequencies in the 1990's prison reception data for drug related categories indicate that Caucasian women entered prison at higher rates than any other racial/ethnic group by 4.4%. African-American women lead the prison reception for possession by 2.6% while Caucasian women lead by 7.6% for trafficking.

During 1996 there were 430 women incarcerated on a drug related charge. Of those, 53% (N=229) were incarcerated for possession and 46.7% (N=201) for drug trafficking. In regards to their racial/ethnic composition African-American women N=148, 34.4% represented 36.6% of those incarcerated for possession and 31.8% for trafficking. Caucasian inmates N=236, 54.8% entailed 54.5% for possession and 55.2%

for trafficking. Hispanic women N=19, 0.04% incarcerated for a drug related crime represented 3% for possession and 5.4% for trafficking. During this same year Native American women N=26, 0.06% incarcerated for possession represented 0.5% and 6.9% for trafficking. In addition, those who fell into the category of Other N=1, .002% were representative of .4% for trafficking. In 1996 the figures reflect that Caucasian women were 20.4% more likely to be incarcerated than the nearest racial/ethnic category; African-American. In addition, there were more Caucasian women entering prison for both possession and trafficking. The margin was 17.8% and 23.4% respectively from the nearest racial/ethnic group (see Table VII).

The pattern reported in 1996 was consistent for 2002. There were 595 women incarcerated on a drug related charge. Of those, 67% (N=399) were incarcerated on a possession charge and 32.9% (N=196) for trafficking. In regards to their racial composition African-American women (N=117) represented 19.7% of those incarcerated for possession and 19.3% for trafficking. Caucasian women (N=409) represented 70.6% of those incarcerated for possession and 64.7% for trafficking. In addition, Hispanics women (N=22) represented 1.7% of those arrested for possession and 7.6% of those incarcerated for trafficking. Native American (N=45) women incarcerated during 2002 included 7.2% for possession and 3% for drug trafficking. In addition, those categorized as other (N=2) included 0.5% incarcerated for possession (see Table VII). This information reports the largest category of offense in 2002 as possession. In addition, Caucasian women and African-American women are, respectfully, the two racial/ethnic groups entering prison and possession.

To address research question number four: the relationship between sentencing patterns when legal and extra-legal variables are considered for women convicted of drug related offenses initially a bivariate correlation matrix was conducted (see Table VIII) followed by a regression analysis (see Table VIIII). The following sections will address the findings reported within these two tables.

Bivariate Correlation Matrix

The findings within the bivariate correlation matrix located in Table VIII conceptualize the relationship of sentence length and the legal and extra-legal variables. The following figures report a statistical significance (<.05) of these correlations. For the variable sentence length, the statistical significant correlations are prior probation (.067), number of times served (.134), year data collected (-.066), age (.164), type of drug offense (.217), being African-American (.079), and Caucasian at (-.060). Hence, a woman who is African-American, older in age, sentenced in 1990, served prior probation, experienced multiple prison terms, charged with trafficking are more likely to be sentenced to extended prison time.

The relevance of these bivariate correlation comparisons is first, to allow the reader a dichotomous view of the legal and extra-legal variables effect on each other. Second, to provide a comparative analysis utilizing the identical legal and extra-legal variables within the correlation coefficient matrix presented in the following section as additive within a regression analysis.

Regression Analysis

The coefficients presented within Table VIIII are indicative of seven additive variables in which race is held constant (as five dummy variables). This allowed the

reader to view the influence of race/ethnicity related to sentencing while other legal and non-legal variables are additive under a regression model (significance set at .05) .

The first model addressed the strength of association of race/ethnicity on sentencing. The standardized coefficients identified as Beta were as follows with their significance levels read within the parentheses: African-Americans .078 (.007), Hispanics .169 (.826), American Indian -.354 (.543), and Other at 3.00 (.295). In this model the only race/ethnic group in which race has a strong predictor for a longer sentence are African-American women. In this respect African-American women are sentenced longer than their non African-American counterparts.

The second model introduces the second independent variable, number of times served in prison in conjunction with race to determine the association on sentence. For African-American women Beta was .058 (.043). For Hispanic women the Beta was .011 (.691). For American Indian women the Beta was -.019 (.507), and for Other race the Beta was 1.056 (.291). Beta for the number of times served in prison by sentence was .125 (<.0001). This indicates that there is a 73% increase in sentence predicated on the number of times women have served in prison. The strength of association (with the introduction of the second variable) under race for African-American women, though considered moderate, remains significant at .043. Thus, factoring in the number of times served African-American women received longer sentences than non African-American women.

The third model adds the third independent variable, prior probation. The Beta for this variable was .046 and is not significant at .100. Collapsing this third variable with race and number of times served in prison in order to predict association with sentence

length the following Betas and significance values (in parentheses) will be noted. For African-Americans the Beta was .054 (.064), Hispanic women .014 (.628), American Indian women -.020 (.469), and Other race .921 (.357). The Beta for the number of times served in prison was .121 (.000). In the context of this model there was only one variable that remained significant, number of times served in which indicates that one can predict the more times an individual is convicted and mandated to prison the longer the sentence length one will receive regardless of race/ethnicity.

The fourth variable introduced to the correlation was type of offense (trafficking or possession). The Beta for this variable was .254 with a significance level of .000. By race the influence of this variable combined with the previous two variables, number of times served in prison, and prior probation was reflected by the following Betas for race (sig. values noted in parentheses): African-American .033 (.243), Hispanic -.003 (.926), American Indian -.024 (.386), and Other race .025 (.352). The influence of sentence on the number of times served in prison, combined with prior probation, and type of offense reflected a of Beta .159 (.000). The influence of drug offense on prior probation revealed a Beta of .082 (.003). In the context of this model there were three significant variables with regards to their strength of association with sentencing: number of times served in prison, prior probation, and type of offense. However, the strongest in this model were both number of times in prison and type of charge.

The fifth model introduced the variable education (mean). When education is considered independent the Beta was -.011 and was not significant in relation to sentence. When this variable is correlated with race the following were the reported Betas and significance values within parentheses. For African-American women the Beta was .034

(.220), Hispanic women Beta -.003 (.905), American Indian women Beta -.025 (.371),

Other race Beta .025 (.356). When education is introduced to the following legal

variables the association of sentence was as follows: The Beta for number of times served

in prison .159 (.000), for prior probation the Beta was .081 (.003), and type of offense the

Beta was 2.54 (.000). In the context of strength of association and the predictability of a

longer sentence, the three variables that reported significance were the number of times

served in prison, prior probation, and type pf offense. Similarly, the strongest of these

variables were both number of times in prison and types of offense.

The sixth variable introduced was age. With age combined with the previous five

variables the final attempt to comprehend the relationship of sentencing on both legal and

extra-legal variables was made. For African-American the Beta was .046 (.104), Hispanic

Beta was .003 (.924), American Indian -.018 (.502), and Other Beta .022 (.401).

The number of times in prison Beta .132 (.000), prior probation Beta .067 (.015), type of

offense Beta 2.48 (.000), education Beta -.238 (.399), and age Beta .134 (.000). In the

context of strength of association and the predictability of a longer sentence there were

four variables that reported significance: the number of times served in prison, prior

probation, and type pf offense, and age. The strongest of the four were number of times

in prison, types of offense, and age. In this context, one could predict a longer sentence

based on the number of priors, whether she is arrested for trafficking as opposed to

possession, and whether the woman is younger as opposed to an older female.

The final variable within this model was year (1990, 1996, and 2002). The

association of year (Beta and significance) on the previous reported variables was as

follows: African-American Beta .036 (.214), Hispanic Beta .005 (.862), American Indian

Beta -.017 (.537), Other race Beta .023 (.387). The number of times sentenced to prison

Beta .138 (.000), prior probation Beta .066 (.016), drug offense Beta 2.37 (.000),

education Beta -.022 (.413), age Beta .149 (.000), and year B -.044 (.130). In the context

of strength of association and the predictability of a longer sentence there were four

variables that reported significance: the number of times served in prison, prior probation,

and type of offense, and age. The strongest of the four was consistent with the previous

model: number of times in prison, types of offense, and age. In this context, one could

predict a longer sentence based on the number of priors, whether she is arrested for

trafficking as opposed to possession, and whether the woman is younger as opposed to an

older woman. It is also relevant to note how race/ethnicity independently may also

demonstrate a strong predictor for a woman sentenced for a drug related crime but as

additional variables are considered race/ethnicity in appearance becomes abstract.

The following section describes the primary component of this exploratory

research; interviews with district attorneys and assistant district attorneys out of Tulsa

and Oklahoma City.

Interviews

The collection and analysis of the qualitative data is the primary source of data for

this study. Through the incorporation of semi-structured interviews of district attorneys

and assistant district attorneys the researcher explored the research questions of three,

four, and five which questions the role of extra-legal and three legal factors by race on

sentencing of women for drug related offenses. The researcher explored themes/patterns

from the voices of one of the most pertinent charging/sentencing agents of the criminal

justice system: prosecutors. The intricate use of language and thoughts both of which are

precursors to one's behavior allowed the researcher to explore these attitudes and beliefs at the individual level that embody the organization of the district attorney's office. In addition, the researcher's observations and perceptions provided assistance in supplementing the collected interviews. Under this guide, the researcher was able to address research questions: How are prosecutor's charging patterns for drug-related offenses influenced by their world-view regarding racial and gendered roles and expectations, and How are prosecutors charging/sentencing practices influenced by legal-variable and extra-legal factors?

To address these previously reported research questions the research categorized eight theme/patterns. The following sections address the poignant themes utilizing direct quotes from the 13 district attorney and assistant district attorneys. The reader should review Appendix A for the semi-structured interview questions.

<u>Extra-Legal Variables</u>

The first theme noted from the researcher's interview with district attorneys and assistant district attorneys was formulated on issues of *motherhood* and the responsibilities of being a *parent*. The following are direct quotes affording the opportunity for insight as to "how" prosecutors gain personal/family knowledge of a female defendant. The narratives also speak to what is referred to as the "double edge sword." In this context the district attorneys morals and values regarding single parenting, isolation, child endangerment, and separating the family unit are all issues that are explored within their thinking process of charging. The following are direct quotes from the voices of those interviewed.

Motherhood

"You normally don't find out if they're mothers unless the defense attorney comes to you and in their desire to have a good recommendation in the result of the case tells you she's a mother of any children and she's the only one that's been taking care of her children".

"If children are in the home where drugs are I consider it to be more aggravating on the part of the defendants charge because it's not a good thing. But most of the time unless the children are mentioned in the police report or the defense attorney makes mention I really don't have that information."

"There are factors that could aggravate their charge like little kids in methamphetamine labs that are in danger or a little kid that get burned in the methamphetamine lab. If they cause a fire because of a methamphetamine lab, those are aggravators."

"I hear more please for leniency or request for consideration of special circumstances regarding women than I ever do for men even when the situations are kind of similar. I'll hear she's a mother, a single mother. I have to think, now what's the impact on the child? Or I will hear, she was sexually abused as a child and so I have to think about those mental health aspects. These women are stuck taking care of the kids and they're not going to have a guy standing by their side taking care of their children in these environments. There is a lot of empathy in these environments for women because they are raising kids."

"Most of the children listed in these reports are under twelve, infants, toddlers walking around being exposed to things but not intentionally using. When I see kids listed in the report it aggravates my frustration because they are innocent victims. They don't have the choice about who their parents are or what circumstance they're raised in. They are the number one thing you should be concerned about, not your own needs or happiness but what is in the best interest of those kids. Sure I think when kids are involved and there is a range for the crime the offender should get the higher end of the range. For me, if you don't drop the hammer on some of these people they will just even when we take the children away if we don't take them out of society first for a decent amount of time and don't help them understand what they've done is wrong. They will produce more children and in the long run we will be seeing those kids and they will be a burden on society."

"We have mothers that expose children to chemicals in which children's lungs are not developed so we are harsh on women or parents who expose their children to harsh chemicals. And we appear to have many of them at this time."

"That's a double edged sword. Do you want to separate someone from their family unit or is the addiction such that they should be away from their children. I'm told you need six months just to dry out. First and for most we must consider; is there danger to the children."

"I agree with my district judge. He has the opinion, that's a double edge sword. We see too often women that have children at methamphetamine labs. They are using methamphetamine often in the presence of their children. We get pressure from rather its DHS or other groups to give them another chance and reunite mother and child but my position is it depends. But again, it's a double edged sword.

The last thing I want, as a prosecutor is a woman who is on the street selling crack, using crack and has a child. The biggest concern is what we call the drug endangered children program. Literally, children that are at methamphetamine labs, testing positive for methamphetamine and having permanent physical conditions whether its lung problems or psychological problems due to exposure to chemicals associated with methamphetamines. In this we would typically try to separate women from their children. That drug has such a hold on people our position in our office is diametrically opposed to DHS office."

"Sometimes we are aware that they have children especially if the child was at the location where the arrest was made. Sometimes we are made aware of that by defense council in their negotiations as they present mitigating factors to us. I guess in a since there are mitigating situations because I'm looking at incarcerating and separating them from their children. But also I have to consider parents that are deeply involved in the drug community. Having to separate them from their kids could be a good thing. I know a lot of time when their parents are involved in drug use you can see a rapid decline in the child. So I guess you could consider that a mitigating factor."

The following section addressing the second emerging theme which views women as victims and thus needing protection. The majority of these quotes verbalize how women who are involved in drug related offenses are being exploited by men who are selling drugs because of either their financial hardships or the "disease" of addiction.

Women as Victims

"These women are usually not the one's who are actually benefiting. Who are actually getting the drugs out in the streets. Therefore, I always consider that when making a recommendation and it's usually a lesser recommendation then the other partner gets."

"A lot of times it seems like the boyfriend is the ring leader, she knows its going on, she's doing it some but she's there at the wrong time."

"I'm seeing more and more heavily addictive women who are associating themselves not necessarily with the distribution aspect of drugs where I feel like we need

to be putting people in jail. I see them more as dependant addicts as frequently affiliated with people who are not only distributors but also addicts themselves."

"I've been greatly influenced by a judge who was a staunched women's advocate. She was on the forefront of identifying issues with women and frequently pointed out to me that Oklahoma incarcerates more women then any other state in the country and so that was something that I listened to. With that as my foundation, I still try to be true to myself. I think it's the only way you can properly deal with the public."

"In trafficking for a female I consider, why is she doing this? Is she trying to feed her kids? Was she greedy and wanted some more money so she could go to Sax instead of buying her shoes at Payless? Are you too lazy to get a legitimate job and you want to live large real quick? I try to explore what their motives are?
I think in a lot of cases whether I agree with it or not women in joint spousal arrest are receiving more leniencies because in many cases she's not going to corporate unless she's getting a sweeter deal than the person she's testifying against. I'm not saying that should always be that way because there are some ruthless women out there too. In a lot of cases, yes they are victims. Men do take advantage of women and children to sell their drugs and keep the heat off of them."

"We see women who are profiting from the drug trade as much as men but their numbers are fewer. Primarily what we see are women who hang on to the relationship to get drugs or abuse some just because of that relationship type think. In relation to crack or cocaine and those individuals who are users their role is to go get the product, break it down, sell or transport it across the country and that's about 25% of the cases."
"She's an enabler, or goes out and purchases the item. White women may let their boyfriend use their apartment to sell out of the home to get the drugs. The welfare mother would use her house to sell crack. I've heard the term crank whores. An attorney may come in and say, my girl needs help."

"We see a lot of women helping typically a male dominant figure produce methamphetamine by buying the precursor chemicals. Buying the glassware and helping them. We don't see a lot of women that are major crack dealers or marijuana dealers: we just don't see it. We typically see them with a male chauvinist in almost a sub-servant role."

"For women it's a double edged sword in our society. There is such an attitude about looking right. A lot of them have problems with physical attributes. Their hair is falling out; they have problems with their bones. They have problems with their internal organs because they've done so much damage to themselves. But I still don't think that it's fair when I hear and I hear it in my office and I hear it all across the Court house, women are getting better treatment in Court because a lot of judges feel like the woman was not the master mind behind the methamphetamine lab. Men were doing all the cooking and the woman was just dragged into it. Poor woman. I don't believe that, I think women are presidents of countries for a reason. Not here but other countries. Women are not as much of the drag behind as a lot of people think in this system. These

women get breaks here where I really don't think they should be. It's an old stereotype, they believe that the woman is being subservient to the man or is being some how forced into methamphetamine. I don't think necessarily it's always true and without knowing either way women are being given the benefit of the doubt and I don't think it's fair just because they are female."

The third theme identified is the role of education within the charging process. As indicative of the following quotes three out of five statements describe the importance of the female defendant's education on the likelihood of her receiving leniency within the charging realm. In addition, two district attorneys report, that an increase in education should warrant a more severe charge/sentence.

Education

"The women that we see are typically not well educated. The majority of them are from lower socio-economics class background but there are exceptions. Sometimes the issue of licensing or schooling comes up and possible repercussions of charges. If we have someone whose involved in a profession that requires licensing we look at what the repercussions are for the different things we are going to recommend, they're potential to continue in their profession and how that's going to play out on their future."

"If I were given documentation supporting their educational information and it's only their second felony they still qualify for probation and it's truly case-by-case because there is so much information. And, so much of your decision is based upon their criminal history. But yes, education would influence me in considering probation for the person. I think it's fair to say that if you have a woman who is trying to take control over her life and they have a job they've been working at and working hard at. If they have taken steps to do education whether its High School to get that completed or to move on to college. Those are important factors to consider in whether you think she is a likely candidate for probation. It doesn't always work out but those are things to consider as far as incarceration."

"When considering the appropriate recommendation we're talking about work, school things of that nature. What is this person doing with their life right now? Are you dealing with a person who's motivated? Does this person sit home all day, smoke crack or use methamphetamine, marijuana, isn't working, going to school and isn't motivated to do anything. Or are you looking at someone who obviously made a mistake, is remorseful, wants help or maybe they're enrolled in school, maybe they have a lot of potential and future. Certainly, you have to look at that too."

"For women with more education I would probably be less sympathetic to her. She's getting a college education you obviously have something on the ball if you're in college. One of my first thoughts would be she knows better. She knows this is illegal."

"Education want be considered, socio-economics will be considered marital status etc. I've gotten into really large debates with attorney's who come in who say well my girl has a really good job or she has a polished career and I'm like yea, that means she should know better. If I want to cut a break for some one should I not cut a break for that inner city youth who has watched their moms use drugs all their life and their dads in the penitentiary, raised by grand mom who is doing the best job that she can but she's out there working, trying to make sure she can put food on the table and clothing on them. I say, should I not cut that person a break versus the person who's had mom and dad at home, on her 16th birthday received a new car, sent to college. I said, you know if I want to then it cuts both ways and that's why it does not become a factor."

The fourth extra-legal theme noted from the interviews are statements regarding the defendant's age. The following statements are consistent with the following: the younger the defendant the more likelihood the defendant "is deserving of a second chance."

Age

"Those that are trafficking I consider to be a greater menace. They are dispersing to the greater society and profiting from it. First time trafficking is not eligible for probation unless you agree to reduce their charges and depending on the age of the person and the amount of drugs that their trafficking that's not unheard of. And, I don't have a problem with that. If they're young, a first time offense, and it's just over the trafficking amount then I don't have a problem reducing it and giving them another chance with probation."

"I think you also have to consider the persons age, what their involvement. I think we all know that even though a person are considered an adult at 18 years of age, God knows I wasn't the smartest person at 18 as opposed to 28. I think when you have a person at 18 years of age making a mistake you know we're not interested in ruining that persons life for one mistake that they made as opposed to someone who is in their mid to late twenties or even early twenties."

"If we're talking about an older female, I know if I would consider the amount of support she would receive. Again my first thought would be she's old enough to know better and if she's living in middle to upper income she should know what is going to happen if she gets caught with drugs. She should know better."

"I look at how old the defendant is. I think that people when they're younger

make mistakes so, I wouldn't say I'm more lenient but in honesty I do take that into consideration when I make my recommendations."

"What is probably more influencing for me is probably the age of the defendant. When I compare a 60 year old who has been arrested for using drugs on a probably one-time incident to some one younger who under the same circumstances has probably been using all their life I would probably be less tolerant of the younger person. The older person who is using has probably had something serious happen in their life and what they need is help."

The following quotes address issues of favoritism within the context of discretion

under the consideration of social history and friendship. These quotes communicate

abstract psychological assessments in the realm of charging/sentencing possibilities for

example, "is the defendant is crying or giving the appearance that she is remorseful."

Discretionary Power
"In the State system there is a big discretion for example, I might consider two years or probation on a case but give that same case to another D.A. and they might recommend 3 or 4 or even more: it's purely discretion."

"I will tell you I have very strong feelings about being influenced by anything other than the facts. I don't think anything else should play any role in our charging decisions. I think our standard should be has a crime been committed and are we able to prove that beyond a reasonable doubt. That's the bottom line for me personally."

"I say, it's a best guess because I have had lawyers who have known the family or defendant forever and ever. They may convince you on this occasion probation may be the best thing for them and then 3 months later the same defendant violated probation and you're like o.k. you convinced me once. All thinks equal how do you determine? You don't. It's all a guess it really is a matter of over in the courtroom sometimes just looking at some and seeing if there is anything there that gives you a hint they want the opportunity for another chance. I think when you look at that first time offender you've got to do something that is truly punishment that makes them believe they are not getting off."

"I really don't consider gender, race, or the creed you are. I try to look at the facts as objectively as I can: prior contacts, arrest, whether violence was involved, simple possession crimes, or intent to distribute drugs. So, I don't think that has any significance to me. I try to get a feeling for what their attitude is. I mean you can see it when you're in Court with them and talking. If it's a situation where there's a fine line between prison and probation I usually try to meet with their attorney and again see just how serious they are. As a prosecutor I try to see what they are willing to do. It all comes back to

what is their likelihood to re-offend, what's their previous history, have they been on probation before? If they were on probation what level of probation was it. How did they perform? My personal position is everybody deserves a chance and in a lot of those cases a second and third."

"You put a recommendation in the file based on these cold pieces of paper until you go to court and you actually see someone and maybe they're crying with real tears. You think they really are hurting. And you might not know if that's even our defendant or not. You find out that's your defendant and you say, wow, they really feel sorry about what they did. But it really doesn't affect what you do on your case. We have come a long way from a slavery society to a non-voting both women and minorities and a non-land owning position. I know for me race doesn't matter and know one in this office would even admit that to me if it did. But I don't feel like that's happening. Maybe there are cultural differences where minority women are in a position to be arrested. Where as a non –minority person doing the same crime is not in that position. Maybe we've come a long way but this is as far as we've gotten at this time. I don't know. That's the long version to getting around to saying, I don't know."

"When I make any recommendation one of the thriving considerations I use is what do I think 12 people would do with this person if it were a jury trial? The public has entrusted the district attorney with the handling of all these cases so they have a right to know what we're doing with the cases."

"If I'm prosecuting someone whose black or female it kind of puts me in an uncomfortable position because they will say, why you want to do a sister like this? I'm just trying to stay on the path of doing my job. Race is often used only as it applies when the offender or victim is reported as black. I have never discussed my cases in terms of the race of the defendant or victim but race is discussed around this office. I have also heard prosecutors refer to black offenders as tar babies. But for me, I make my decisions color blind because I don't want to be like what I witness in this office and maybe I'm more aware of it because I experience racism."

"When the attorneys bring up social history truthfully it does influence me in one-way or another. I mean it influences me about my recommendation and decision I make about a recommendation. This would not be true of every prosecutor in this office."

The following section describes three themes/patterns noted in the realm of legal factors influencing the samples charging practices.

Legal Themes

Within the literature (Sharp et al., 2000; Spohn and Spears, 1997; Kaukinen, 1995) exploration of the influence of legal factors on sentencing practices has consistently

validated the salience of issues related to type of crime, prior probation and criminal

history. The following three legal variables described through the quotes of the research

sample are consistent with the literature review. However, the reader will also identify

elements of discretion within the context of legal variables particularly when one

compares the following quotes with those noted in the extra-legal section.

In the context of type of crime the district attorneys articulate the first legal, type of drug.

The following section addresses repeated statements that conceptualizes the "type of

drug" as predicated within the race or ethnicity of the defendant. There are also

indications that elements such as fear, victim's perspective, and community ideologies

are influencers regarding a legal variable for charging consideration.

Type of Drug

"The drug of choice varies by race with White people choosing prescription drugs or methamphetamine. The Black people choosing cocaine, with the Native Americans, they predominantly abuse alcohol. The Hispanics that I have seen have been for DUI's of alcohol."

"Methamphetamine seems to be almost always more of a white drug. Hispanics seem to be more into cocaine. The crack cocaine usually seems to be more African-American but the powder Cocaine is also more of a white usage. For Hispanics we see alcohol abuse but not exclusive. For Native Americans, I hate to sound stereotypical on that but usually their drug of choice is alcohol but marijuana also.
I really don't see drugs targeting a race or gender but rather a particular racial class."

"In the 80s there was a program called Push and we were dealing with crack cocaine and cocaine babies. There was a real push for making sure that we were riding those elements that were introducing crack cocaine on the streets. So, there was a focus on women to that extent because women were apparently putting children in harms way. As a young prosecutor I felt as though I was making a difference. We were putting people in prison."

"There are many reasons for this and it's not because minorities commit more crime than those who are not of a minority group. There are times just in the sure way of how law-enforcement does their job has an affect on who gets arrested."

"In the 80s we saw crack cocaine in the black community, whites were the exception not the rule; with methamphetamine we have not seen one person from our Black community. They are usually white blue-collar workers. I had maybe one or two African-Americans that I've ever been aware of that was arrested on a methamphetamine charge. For marijuana we see both white and African-Americans. For cocaine we see both but overwhelmingly African-Americans ranging from 18 to mid 20's. Even with crack cocaine we do see some 30's and 40's."

"Obviously we see different social and racial backgrounds involved in different types of drugs. Crack cocaine we usually see with African-American individuals. Methamphetamine which is probably one of the more up and coming more dangerous drug almost always associated with Caucasians. Typically with this drug they are less educated but not always."

"The community does influence very much. Right now there is a lot of disgust for drug dealers so we don't take drug dealers in the rehabilitative court. Also, if I have a case were I have what I call an active victim where the victim either pursued or caught the defendant committing the crime. I call the victim. All the D.A's in this office calls the victim to find out what the victim wants to do with the case."

In the context of the following data it is evident that there are very specific views indicative of the "type" of individual who would traffic (predators) as oppose to possess (illness) illegal drugs. What are also apparent from the statements are the thoughts behind the legal application of the two types of drug categories. For example, the following argument described to the researcher, "trafficking charge legally could not be deferred or suspended. However from an alternative respondent, "putting yourself in their shoes" speaks to the discretionary application of law even within the context of legal variables.

Type of Drug Offense

"I have been and continue to be an advocate towards the incarceration of anybody who is distributing or dealing drugs. I put those people in the category of being predators. They prey upon the addictions of people who are addictive and have what I consider to be; not that I would agree with the description; as a disease. But definitely has such an addiction that they need help. So, I pushed and continue to push for the incarceration of people who deal drugs."

"Is she distributing the drug? Is she possessing with the intent to distribute the drug? Those are right out of the box questions that I consider because that fits my

philosophy that drug dealers need to be in the penitentiary because they are preying on addicts."

"Trafficking, possession with intent to distribute in my opinion those recommendations bar none involves some type of incarceration. Simple possession in terms of someone holding an amount of drug for their own personal use in my opinion is completely different from someone who is making their livelihood off of some body else's problem. I think you'll find in this office a vast majority prosecutors fall under that same *mood, if you're selling drugs then your gonna go to prison or jail for some amount of time and of course it differs."*

"A lot of these women have not finished high school and if they do, very seldom is it much past high school. Most of them are poor and this is going to sound maybe strange but depending on the drug you can guess which race is going to use which drug. I had to eat Vienna sausage when I was in college and I wanted to go shopping but I didn't sell drugs. I didn't run drugs and I knew better and they do. Yes, you do put yourself in their shoes. I probably look at things differently then a lot of prosecutors do because I don't think just because I'm in the D.A.'s office that I'm here to put people in jail. I'm here to impart justice. Justice doesn't always mean putting somebody in jail, which is why I think it's real important to look at the big picture on any case. So no, I don't think just because it's a trafficking charge that I need to close the door on everything other than prison."

"Trafficking is one of the offenses that you cannot have your sentence deferred nor suspended. If you are convicted you must serve time in the penitentiary. When you talk about drug offenses that is the only time even as a first time offender you must serve time."

"I look at the drug cases in two different categories. I look at the drug user cases and put those people on probation whenever possible. The other I put them in prison."

In the context of prior history the following narrative data are indicative of the district attorney's knowledge that discretional latitude is evident within the context of legal variables. In this, legal factors such as prior history, probation/parole violation, and the type of drug offense are considerations within this variable. However, with the acknowledgement that five years ago two prior convictions warranted the defendant ineligible for probation and the statement reiterated from another district attorney "it's a guess" leads one to question to what extent are legal variables the primary consideration for charging practices.

Prior Criminal History

"I look at the person's history, whether they've been involved with the law before. I don't know if I can really say that a person's family background has been a significant factor in what I've typically done with cases. That's not to say that that's never a factor but I don't think it's typically a significant factor."

"Every once in a while there are facts in a case that might be extenuating, but 90% of my decision is based on their prior history and if they don't have two prior felony convictions then they almost always get probation."

"If they have numerous priors, if the priors are pretty serious or they seem to be escalating that's one thing that I look at. That kind of indicates to you if they really want to get help. Then I start looking back at their old cases, did they get probation and if they did could they are do it successfully. If you have a person who has had probation and all they did was violate, violate then your wasting everybody's time because all that's going to happen is they're going to keep coming in until they are put in prison. So, if they've got a bad prior history, if they've not done well on probation previously, or if they're on probation right now and pick up a new offense then those are the ones I tend to send to prison."

"Five years ago if you had two priors you were ineligible for probation. Now, that opportunity has opened up to prosecutors, defense lawyers, and judges that if the prosecutor waives the prohibition against probation, he can grant probation even for a multiple prior felon. So, yes, prior felony history is very important especially if it's consistently drug and drug related."

"I look at what the charge carries and factored into that is their prior convictions; both ones we can prove or alleged on the second page."

"I consider whether or not they have a past criminal history. The seriousness of the offense was anybody hurt, just all the surrounding factors of the present incident. What types of witnesses do I have? You don't want witnesses that are biased for them or biased for us. You really want to get at the truth. Do I want to argue this? Why is this person in this predicament? Is there someone forcing them to sell these drugs? Is there a pimp in the picture making her use these drugs so she can get out there on the streets? I really do, I look at all sorts of things."

"There's going to be a difference between someone who is not a habitual defendant than someone who is. We have a criminal background history on defendants and I take that into evaluation. I also take into consideration is this their first time being involved with the law? Previous convictions will enhance the term of years or punishment range they could be looking at. So, it's like a guide and every prosecutor does it differently. We use our own life experiences and how we view things that kind of determine what kind of recommendation a defendant will get."

"I look at contact, has this person been arrested before for drugs and been diverted for some reason either law enforcement decided not to bring charges over here. Have we dismissed a case on them? We also look at their juvenile history and the rehabilitative services offered this person."

"I consider their prior convictions, how many times they have been incarcerated, if violence was apart of their history. I don't really know any extra-legal factors on the defendants. If I considered any extra-legal factors that would defeat the purpose of the judicial system wouldn't it?"

Summary

The purpose of this chapter was to report descriptive analysis addressing the research questions exploring the role of legal and extra-legal factors that may contribute to the charging and sentencing of women involved in drug related crimes. The secondary data were obtained from Oklahoma Bureau of Investigations and Oklahoma Department of Corrections. The chapter also provides qualitative analysis through the eight identified patterns and themes from the "voices" of district and assistant district attorneys from both Tulsa and Oklahoma City. The following chapter interprets the findings within this chapter, discusses the findings in relation to the broader literature within the field of race, gender, and charging/sentencing, analyzes the Black feminist theoretical perspective within the context of these findings, and offers recommendations for future research.

CHAPTER VI

CONCLUSION

Introduction

This study was designed as an exploratory comparison and analysis of existing descriptive secondary data collected from the Oklahoma State Bureau of Investigation and Oklahoma Department of Corrections. However, the primary data for exploring decision analysis was gathered from semi-structured interviews with district attorneys and assistant district attorneys in Tulsa and Oklahoma City. The general purpose of this study was to explore how race/ethnicity, gender related attributes, and legal variables influenced the arrest, charge/sentence of women involved in drug related offenses in Oklahoma. The significance of this study was grounded in the understanding that Oklahoma has held the highest national rate for incarcerating women since 1991. This researcher sought to illicit understanding into exploring charging/sentencing patterns through the secondary data but primarily to allow the qualitative data a contextualized avenue in collaboration with the aggregate statistics from the courtroom agent with the least amount of regulation, monitoring, and increasing discretionary power: district attorneys. In this context each of the research questions are reviewed as results are interpreted and explained in the context of previous literature and the theoretical framework of Black feminist thought.

Summary of Findings

Research Question 1 & 2

      The first objective of this research was to explore how the percentages of female arrests for drug related offenses changed between 1990, 1996, and 2002 for selected drug offense categories by race/ethnicity. The rationale was increases occurring in the numbers and percentages of female arrest by race/ethnicity may correlate with the rates of women entering prison in Oklahoma. Findings from this study illustrate a continued appreciation over the years of arrest for each racial/ethnic group. The two racial/ethnic categories with the highest fluctuations of arrest are African–American and Caucasian. In application it appears that Caucasian women were approximately three times more likely to be arrested on a drug related violation in 1990, over four times more likely in 1996, and almost four times more likely in 2002 then African-American women (see Table I). However, the following section challenges the validity of such figures by reiterating the demographic figures proportionally of women residing in Oklahoma who are over the age of 17 from the 1990 and 2000 census data.

      The second objective was to explore the percent of women entering prison particularly in comparison to those who had been arrested for related crimes. The figures reflect a steady increase of incarceration of all women by race: repeatedly the two dominating groups were Caucasian and African-American. However, the racial differences illustrated within the percentages of these two groups are not as apparent as those indicated within the arrest patterns. In 1990 and 1996 Caucasian women entering prison were one percent greater and in 2002 three percent more likely to enter prison on a drug related charge comparative to African-American women (see Table VI).

Consider the previous noted figures with those reported for arrest patterns in addition to the demographics of women in Oklahoma who are seventeen and older by race. The findings of arrest and incarceration are disproportionately over representative of African-American women; that is, comparatively, African-American women have a disproportionate percent of those not only arrested but incarcerated when one considers their demographic portrait figures previously noted for 1990 and 2000 respectively: Caucasian 83.8%: 82%, African-American 6.9%: 7.1%, American Indian 7.1%: 7%, and Hispanics 2.1%: 3.8%. Clearly, the glaring indicator is that although Caucasian women figuratively are more represented for arrest than non-Caucasian this begins to almost vanish when once considers the pattern by race noted for prison entry. In view of these factors one could assume that in Oklahoma African-American women over time have been more likely, once arrested, to serve prison time and to serve for a longer term.

Research Questions 3 & 4

In order to explore the research questions regarding charging/sentencing patterns when legal and extra-legal variables are considered an initial Pearson bivariate correlation matrix was conducted followed by a multiple step-wise regression analysis (see Tables VIII & Tables VIIII A & B). The bivariate correlation matrix allowed the researcher to explore the role of charging/sentencing and race on legal and non-legal factors. In relation to this matrix there are three major considerations. First, for those who were charged/sentenced in the 1990s for trafficking, they were more likely to serve longer sentences than those women in 2002. Second, African-American women were consistently charged/sentenced to longer lengths of incarceration then their counterparts. In addition, during the 1990s African-American women were sentenced to longer terms

comparative to the figures of 2002. Third, the bivariate correlation matrix reflects that younger women charged for drug related offenses are more likely to receive a reduction in sentence as opposed to the older female defendants.

In order to continue exploring the effect of bivariate correlations from an additive perspective a regression analyses was employed (see Tables VIIII A & B). A summary of this finding purport when race is considered independent of additional legal and non-legal factors being an African-American woman increases the likelihood that one would receive a lengthier charge/sentence comparative to non African-American females. However, as additional variables are examined with race, race as a variable appears to lose its statistical significance, and legal variables such as number of times served in prison, prior probation, and whether she was charged with trafficking as opposed to possession are more explanatory for sentence length. Interestingly, the non-legal variable that was also statistically significant was the age of the defendant; that is, the younger the woman is the more likely she is to be extended a second chance. All of these patterns are consistent with the bivariate reporting for correlation with sentence. The difference is that the bivariate coefficient analyses allowed the reader to view the role of race as a bivariate correlation. However, the regression model appears to wash out the significance of race as other variables are considered. The researcher must consider that being an African-American woman charged for a drug related offense is more of an indirect effect on one's sentence. However, these figures may also reflect that race alone undermines a defendant's position within every legal variable previously noted grounded in what Davis (1997) would describe as the historical social position of minorities within this country. The following section offers insight into patterns of sentencing by considering

information from the voices of the district attorneys and assistant district attorneys interviewed.

<u>Research question 4 & 5</u>

In order to provide additional clarification of the secondary data employed to explore the relationship between sentencing patterns within legal and extra-legal variables, the semi-structured interview findings will be summarized. These interviews allowed the researcher to explore the contributing role of both legal and non-legal variables from the criminal justice agent who contributes to 80% of the charging/sentencing cases within the criminal justice system: the district attorney's office.

With regard to both legal and extra-legal variables the consistencies were as follows: not only did the quotes depict enormous discretion but also in the context of what is considered both statutory and/or in-office policy regarding drug related offenses was not consistent with all parties from either Tulsa or Oklahoma district attorney's offices. For example, one respondent reported that women who traffic drugs are not the actual benefactors of the money gained from distributing drugs. In contrast, her male, live-in partner was identified as the source forcing her to sell illegal drugs on his behalf. This respondent considered this a mitigating factor in determining leniency for women charged with trafficking an illegal substance. However, another district attorney housed in the same office verbalized her belief that female defendants within the district attorney's office are only "perceived" as victims. She described women who traffic as "ring leaders" and "manipulative" thus warranting no preferential consideration.

The statements also reflect discrepancies regarding the role of legal variables such as the number of times served and whether the charge is trafficking as opposed to possession being the sole source for the charging sanction. Consider the previously reported quote that described those who distribute drugs as a "menace" to society. This person reported that even a first time trafficking charge would not be eligible for probation "unless you agree to reduce their charges and depending on the age of the person and the amount of drugs that their trafficking; that's not unheard of." In contrast, another respondent reported, "trafficking, possession with intent to distribute in my opinion, those recommendations bar none involves some type of incarceration" both of which are examples of not only discretion but how the application of justice particularly at the charging stage has no clear regulation or "big brother."

In addition, language which questioned if the female defendant appeared to be a "victim," "young" "sincere," "sorry," or "wanted help" was used for additional consideration as to whether she should be sentenced to prison or treatment as well as to the possible length of their charge/sentence. For example, the difference between possible treatment or incarceration as he rationalized, "are you looking at a persons who's motivated? Does this person sit home all day, smoke crack or use methamphetamine, marijuana, isn't working, going to school, and isn't motivated to do anything? Certainly you have to look at that, too." In addition, the statement noted from another respondent who verbalized the difference between legal adult status and actual maturity. This participant considered youth as a synonym for "mistakes" within the decision-making process. He verbalized that he would not want to "ruin" this person's life as opposed to what he described as someone in their mid- to late-twenties and thirties. However,

another respondent discussed how their first response in relation to an older woman involved in drugs would be, "she's old enough to know better, and if she's living in middle to upper income she should know what is going to happen if she gets caught with drugs." These summarized examples are indicative of the broader application of justice noted within the findings chapter.

The researcher also noted that frequently the defendants charge was considered in association with a personal experience or the social background of the respondent. For example, one respondent discussed the lack of education and impoverished background that are indicative of most women on their docket. However, they also noted that poverty does not excuse illegal activity. In this context they recalled that during college not only was there a lack of food but a support system as well. Recalling, "I had to eat Vienna sausage, I wanted to go shopping, but I didn't sell drugs, I didn't run drugs, I knew better and they do. Yes, you do put yourself in their shoes." The researcher also noted statements by another respondent who associated his charging of women to his long-term relationship with a judge who he described as a "staunched women's advocate." He described this as his "foundation" for decision making.

These and other previously stated findings both from the narratives and the secondary data posed several questions regarding the social psychological influences occurring at this critical stage of justice. In reviewing these considerations the researcher explored how these statements are correlated with the aggregate data presented from the arrest data (OSBI) and prison entry (DOC) findings and suggests the following. Because of the inconsistency between those at the charging stage, perhaps that explains the disparity between those women arrested as opposed to those sentenced to prison which

would impact/skew the DOC data. In addition, consider the prevalence of arrest patterns for every racial/ethnic group, particularly the amount of Caucasian women arrested on a drug-related charge. The frequencies previously noted in the findings section are almost null as the percentages of women by race who are entering prison are reported. This raises a salient question, what occurs after the arrest that would afford these two strikingly different figures to relatively equalize between Caucasian and African-American women. The following sections will explore this phenomenon from the perspective of existing literature.

Existing Literature

The ideas expressed within the interviews and most of the secondary findings are paramount within the literature review and theoretical framework addressing concepts such a chivalry and paternalism (Coll 2000; Belknap, 2001). In this context there is a masculine/male dominant view of women in stereotypical positions. Women whose behavior are perceived as functioning within these stereotypical roles are viewed as deserving of leniency which is reiterated within the context of the narratives from at least the male sample interviewed. These ideas could explain how organizational values of protecting women who are conceptualized as victims in the nature of dominated relationships could be perpetuated.

Smart's (1995) study also addresses this idea of women who appear weak or feeble by those in power or decision-making positions. These views are reflected in some of the quotes reported by the respondents, for example, with regards to type of offense possession or trafficking. With the exception of one female district attorney, consistently described women who were charged for trafficking as victims of "male dominated"

relationships, "subservient," or involved because of a "disease" reported as an "addiction" contributing to their "dependency" on relationships with men who supply them with drugs. Consistently, the defendant's illegal behavior was considered manipulated by a male dominated figure. Ironically, with few exceptions, race/ethnicity in this context was only characterized in correlation to drug type. The discussion of race/ethnicity in relation to drug type was consistent with every participant: Caucasians use methamphetamine and African-American's use crack cocaine. The irony articulated within some of the quotes was that the rise of crack and cocaine in the 80s was viewed in very negative derogatory terms. The organizational policy from both of the district attorney's offices regarding crack was incarceration. This view may explain why the bivariate correlation matrix reported statistical significance for African-American women charged/sentenced during the 1990s. However, the respondents reported the use of methamphetamine as more lethal than crack but considered the individuals using this type of drug as needing treatment as opposed to the incarceration previously imparted on the cocaine and crack users.

A revealing comment by a Caucasian male as he discussed women in relation to race is that he specified "white woman are enablers involved in the drug to get her personal supply." On the other hand the "other group" as he stated was identified as the "welfare mother" who not only used drugs but was also involved in trafficking solely to support her addiction. In addition, he also recalled hearing terms such as "crank whore" to describe woman who used crack. These factors he reported as mitigating factors in determining the defendant's charge(s).

Pollack's (2000) research explored language such as "good" and "bad" in the context of race by the length of sentence a woman charged would more likely receive. She determined that terms previously noted were consistently racialized. In this context African-American women were described as masculine, aggressive, and deceitful, thus incapable of meeting the societal expectations of female. Because of these factors she would not be deserving of the same charge/sentencing leniency as her Caucasian counterpart. In contrast, Pollack (2000) noted Caucasian defendants who were women described as passive, gentle, and emotional thus needing protecting not only from a male partner but the "system" itself. This view is also supported in the writings of Sharp (2000) who found that extra-legal factors such as type of drug (crack) was more of a predictor of a longer sentence for African-American women than for Caucasian women

Belknap (2001) also reported age and educational level as influencing leniency. However, in this study although education and age were noted as predicators for either leniency or harsher sentencing, age was the only variable in both the quantitative and qualitative narratives that all participants agreed would warrant a charging down consideration. In this context, the younger the defendant the more likely she would be granted an alternative to either charging at all or incarceration. In addition, the one theme that all the participants agreed on which was not available through the secondary data was charging/sentencing patterns for women involved in drugs who were also mothers. The following section addresses this phenomenon.

Kaukinen's (1995) research on judges and their stereotypes of women concluded that judges assign labels for women as they enter the criminal justice system. These labels were consistent with Belnap's reporting of "good" and "bad" mother/woman. The category

assigned to the female defendant was dependent on whether or not she physically, her demeanor, or her lifestyle met their narrow and "traditional" conceptualization of both motherhood and femininity. Kaukinen (1995) concluded that women, for example lesbians who did not fall within the judges' paradigm of female and mother, were not only given the label of "bad" but were also sentenced to longer terms comparative to other women conceptualized as more feminine or motherly. In the context of this study all the participants articulated very strong views on the role of mothers in relation to their responsibility to protect their children. Consistently, women who had a drug charge and also had the "possibility" of exposing their children living within the home to harmful chemicals were viewed by the participants as "deserving the hammer" to protect the community from women "reproducing" a "debt to society" in the context of giving birth to children who could potentially "perpetuate the cycle." Thus, these mothers were viewed as not only needing to be taught a lesson, but also that their children and the community required protection from them. The approach to accomplish this stint was with charging up so as to mandate a longer sentence. The following section discusses the research findings in relation to the Black feminist theoretical understanding.

<div align="center">**Theoretical Implications**</div>

The theoretical basis of this exploratory research was derived from the Black feminist critical perspective. The basis of this critical paradigm is to provide a reference as to how and why women and in particular women of color are viewed and thus positioned within American Society. Black feminists argue that historically alternative feminist theories have reflected a more single dimensional approach to disparity, which is contextualized solely on gender. However, Black feminists maintain that race and gender

cannot be prioritized or treated as mutually exclusive. In fact, Black feminists espouse that the dichotomy between race and gender exposes women of color to alternative types of disparity that is not shared in the social experience of their Caucasian sisters. The concepts derived from this theoretical framework are the basis for this exploratory study.

The rationale for utilizing Black feminist thought is based on six elements. First, there is a plethora of literature questioning the significance of race at every stage of the criminal justice system. Second, the literature review depicts a disparity in proportion occurring in a justice system that is founded in theory on justice as blind and thus impartial. Third, legislative policy regarding sentencing reforms in the early 1990s focused on crack and cocaine. Fourth, the language used by respondents in this study compartmentalized women by indirect issues grounded in race. Fifth, the glaring disparity found between women who were arrested compared to those sentenced to prison in the context of the census proportion of women residing in the state of Oklahoma. Sixth, Black feminist theory also considers societal expectations regarding roles of gender and race and the power of the media in constructing these images.

To contextualize women's life course, Black feminists argue that women's "grouped pass" within society predisposes them, and in particular women of color, to a position of limited power and victimization within society. With respect to this study, Black feminists would suggest if the researcher is to understand the disproportionate representation of minority women who are charged/sentenced to prison it is salient for the researcher to explore their historical, social, political, and economic challenges within society. Hence, Black feminist's writings contribute to a broader understanding of justice, not simply at the organization or individual level, but in a much broader social context that

is ingrained and filtered over into organizations and individuals usually occurring at the unconscious level.

These assumptions were supported directly and indirectly by the results found in this research study. African-American women involved in drug-related crimes were not only arrested, but entered prison, and served longer sentences than their Caucasian counterparts. And, although the narratives were not indicative of direct racial/ethnic bias, when statements regarding the type of drug and the "office" or "community" approach associated with, for example crack, one could argue that race/ethnicity was considered but perhaps at the unconscious level. In addition, Black feminists would also maintain that the legal variables that were found to be statistically significant were indirectly a result of the defendants' race; for example, how many times served and prior probation is race related. This argument is supported by this research finding when one considers the bivariate correlation matrix in which the legal variables were statistically significant for African-American women.

In view of these findings, it can be concluded that Black feminist critical theory does provide a theoretical support for the study of race and gender in relation to charging/sentencing patterns. However, the researcher also acknowledges that additional theories collaborated would compensate for issues related to age discrimination or a more social-psychological framework for understanding the decision process of those at the charging stage. Perhaps these are issues for future research.

Suggestions for Future Research

This research was considered an exploratory design to question how gender related role expectation and how race/ethnicity affect charging patterns of district

attorneys. The secondary data from the Oklahoma State Bureau of Investigations and the Oklahoma Department of Corrections have statistically illustrated the salience of researching the disparity between those who are arrested as opposed to the actual composition of women entering prison. In addition, the qualitative primary component has corroborated the necessity to explore the overriding influencers such as values, norms, cultural beliefs on criminal justice actors particularly those with enormous discretionary powers awarded to law enforcement officials and district attorneys

In addition, interviews with women who have been charged and convicted by the district attorney's office could contribute to the understanding of the influence of both legal and extra-legal factors in relation to plea-bargaining. In addition, interviews researching the role of other criminal justice agents such as private attorneys, public defenders, or court appointed attorneys and their influence on the charging/sentencing process of women in relation to drug-related crimes may contribute salient feedback. It would also be pertinent to explore the role of gender differences by district attorneys and how their gender affects charging patterns.

With a society as diverse as the United States mandatory cultural and gender sensitivity and awareness for persons representing blind justice would seen imperative.

Summary Statement

The primary purpose of this exploratory research has been to examine the salience of race on the differential charging patterns of women who are arrested for drug-related offenses in Oklahoma. In order to accomplish this objective, three tasks were administered: (1) the patterns of female arrest were examined, (2) entry patterns into prison were also examined, and (3) interviews were conducted with district attorneys and

assistant district attorneys from Tulsa and Oklahoma City in order to explore the

relationships between legal and extra-legal variables on the charging/sentencing patterns

of women for drug-related offenses.

Results illustrate that total female arrests increased over the three time periods

examined. The reception data also described a continued increased for women entering

prison with the exception of African-American women who in 2002 slightly decreased.

However, when all the figures are examined in relation to the census population African-

American women reflect a disproportionate involvement with criminal justice agents.

Although, figures within the OSBI and DOC reports describe aggregate data that would

cause one to believe that Caucasian women were the largest group to be both arrested and

incarcerated in Oklahoma on drug-related offenses. The results also illustrate that when

legal and extra-legal variables are considered in correlation the significance of race in

relation to longer sentencing is paramount for African-American women. However, as

noted previously when additional variables, either legal or extra-legal, are added to the

model race statistically begins to fade as a predictor of sentence; and other factors such as

age, prior prison terms, and type of offense are more salient predictors for sentence

length.

The primary data, semi-structured interviews, were most intriguing to the research

process. As reported previously there were eight common themes, but in the context of

understanding the role of race, gender, attitudes regarding these factors, and the

disproportionate figures described in previous chapters between percentage of arrest and

incarceration by race, it is astonishing to find the lack of consistency, personal discretion,

and motivating factors applied to charging/sentencing patterns.

Thus, the researcher desires that the present study contribute to the growing body of literature on charging/sentencing patterns of women who are offenders. In addition, the researcher is encouraging questions, suggestions, research, and honest dialogue regarding the significance of both race and gender and their dichotomous effect from a historical context on every individual's social, political, economic, and yes, the constitutional guarantee of blind and impartial reception of justice.

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Oklahoma State University
Institutional Review Board

Protocol Expires: 4/23/2004

Date: Thursday, April 24, 2003   IRB Application No   AS0374

Proposal Title: PROSECUTORIAL DISCRETION IN FEMALE DRUG OFFENSES IN OKLAHOMA: AN
EXPLORATION OF RACE AND CLASS

Principal
Investigator(s):

Jackquice Smith-Mahdi   Richard Dodder
                                          012 CLB
Stillwater, OK 74078   Stillwater, OK 74078

Reviewed and
Processed as: Expedited

Approval Status Recommended by Reviewer(s): Approved

Dear PI :

Your IRB application referenced above has been approved for one calendar year. Please make note of
the expiration date indicated above. It is the judgment of the reviewers that the rights and welfare of
individuals who may be asked to participate in this study will be respected, and that the research will be
conducted in a manner consistent with the IRB requirements as outlined in section 45 CFR 46.

As Principal Investigator, it is your responsibility to do the following:

1. Conduct this study exactly as it has been approved. Any modifications to the research protocol
   must be submitted with the appropriate signatures for IRB approval.
2. Submit a request for continuation if the study extends beyond the approval period of one calendar
   year. This continuation must receive IRB review and approval before the research can continue.
3. Report any adverse events to the IRB Chair promptly. Adverse events are those which are
   unanticipated and impact the subjects during the course of this research; and
4. Notify the IRB office in writing when your research project is complete.

Please note that approved projects are subject to monitoring by the IRB. If you have questions about the
IRB procedures or need any assistance from the Board, please contact Sharon Bacher, the Executive
Secretary to the IRB, in 415 Whitehurst (phone: 405-744-5700, sbacher@okstate.edu).

Sincerely,

Carol Olson, Chair
Institutional Review Board

APPENDIX A

QUESTIONNAIRE

Section 1:
Gender:
Race:
Marital Status:
Parent:
How long employed with the District Attorney's office?

Section 2:

1. The 80s saw a political and social change regarding intolerance for drug-related crimes. In this regard, how would you describe the climate of this district attorney's office regarding the view of females who commit drug-related crimes as oppose to women who commit other types of crimes?

2. As a prosecutor, how are your decisions regarding the application of the law in relation to women who commit drug offenses influenced by the views of the committee that you represent?

3. Describe the women who commit drug-related offenses that are "usually" on your docket.

4. In the realm of negotiating charges or plea recommendations what are the legal factors that you consider for women involved in drug-related charges? What factors do you consider other than legal ones?

5. All things equal, how do you determine which cases would be most successful for drug court? Which cases for probation? Which cases for incarceration?

6. How have you utilized cooperation agreements for women involved with drug related offenses?

7. Statistically, Oklahoma has had more women involved in the criminal justice system than any other state in the country for at least the last 15 years. How do you explain this historical trend?

8. According to Criminologist and the United States Census, approximately 13% of Oklahoma's general population are minority women, while over 55% of the women involved in Oklahoma's criminal justice system are minority. How do you explain these phenomena?

APPENDIX B

INFORMED CONSENT LETTER

Dear Participant,

I am a candidate for a Doctorate degree in Sociology at Oklahoma State University. I invite you to participate in my study of the charging practices related to women involved with drug related offenses.

If you choose to participate in this study, you will be asked to take part in an interview. This should take approximately 45 minutes of your time. The questions to be asked concern the circumstances surrounding charging decisions/dispositions for women who are involved in drug related offenses. In addition, some demographic questions are asked.

Your decision to participate is entirely voluntary. If you feel that any particular question is not one that you chose to answer, you are free to refrain from answering.

To ensure the accuracy in reporting your responses, I am asking for your written permission to audio take the interview. If you prefer not to be taped, I will take written notes instead. Your responses will remain completely confidential. Only my dissertation advisor, Richard Dodder Ph.D. and I will have access to the forms obtained from this study. All the data will be maintained by me in a locked cabinet and will be destroyed 3 years after the study is completed. When the study results are reported, your name will not be revealed.

Please feel free to call me, Jackquice Smith-Mahdi, at (405) 744-7115 or my dissertation advisor, Dr. Dodder at (405) 744-6105, if you have any questions about this study. For any legal concerns you may contact Sharon Bacher at (405) 744-5700. Ms. Bacher is the executive secretary to the Institutional Review Board for Oklahoma State University.

Thank you for considering participation in this study. If you agree to do so, please sign, print your name, and fill in the date below.

Signature: _____

Printed Name: _____

Date: _____

Sincerely,

Jackquice Smith-Mahdi

APPENDIX C

TABLES

Table I

Overall females arrested for drug abuse violations

by race/ethnicity and year

	1990		1996		2002	
Race:	N=1681	(%)	N=2825	(%)	N=4,904	(%)_
Caucasian	1141	(67.9)	2136	(75.6)	15571	(73.3)
African-American	426	(25.3)	492	(17.4)	3911	(18.4)
Hispanic	23	(1.4)	63	(2.2)	898	(4.2)
American Indian	88	(5.2)	130	(4.6)	778	(3.6)

Table II

Overall females arrested for trafficking/manufacturing (T/M) of

drugs by race/ethnicity and year

	1990		1996		2002	
(T / M)	N=613	(%)	N=612	(%)	N=1,077	(%)
Race:						
Caucasian	421	(68.5)	474	(77.2)	894	(82.7)
African-American	158	(25.7)	78	(12.7)	115	(10.6)
Hispanic	12	(1.9)	17	(2.8)	40	(3.7)
American Indian	22	(4.7)	43	(7.0)	28	(2.5)

Table III

Overall females arrested for possession of drugs

by race/ethnicity and year

	1990		1996		2002	
(Possession)	N=1068	(%)	N=2211	(%)	N=3,916	(%)
Race:						
Caucasian	721	(67.5)	1662	(75.1)	3,086	(78.5)
African-American	268	(24.6)	414	(18.7)	586	(14.9)
Hispanic	11	(1.0)	46	(2.0)	169	(4.3)
American Indian	66	(6.0)	87	(3.9)	75	(1.9)

Table IV

Females arrested for trafficking/manufacturing

by race/ethnicity, drug category, and year

	1990		1996		2002	
Cocaine / Opium	N=251	(38.8)	N=154	(25.0)	N=153	(14.1)
Caucasian	118	(47.0)	96	(62.3)	95	(61.6)
African-American	122	(48.6)	48	(31.1)	44	(28.5)
Hispanic	5	(1.9)	2	(1.2)	5	(3.2)
American Indian	6	(2.6)	7	(4.5)	9	(5.8)
Marijuana	N=262	(40.5)	N=238	(38.7)	N=224	(20.7)
Caucasian	216	(82.7)	188	(78.9)	185	(82.2)
African-American	27	(10.3)	13	(5.4)	25	(11.1)
Hispanic	6	(2.2)	10	(4.2)	5	(2.2)
American Indian	12	(4.5)	26	(10.9)	9	(4.0)
Synthetic Narcotics	N=65	(10.1)	N=134	(21.8)	N=500	(46.2)
Caucasian	58	(89.2)	123	(91.7)	452	(90.2)
African-American	2	(3.1)	4	(3.0)	14	(2.7)
Hispanic	1	(1.5)	2	(1.5)	9	(1.7)
American Indian	4	(6.2)	5	(3.7)	25	(4.9)
Other Dangerous Nar.	N=36	(10.5)	N=88	(14.3)	N=200	(18.5)
Caucasian	48	(70.6)	67	(76.1)	162	(81.0)
African-American	10	(14.7)	13	(14.7)	32	(16.0)
Hispanic	2	(2.9)	3	(3.4)	5	(2.5)
American Indian	8	(11.8)	5	(5.6)	1	(0.5)

Table V

Females arrested for possession

by race/ethnicity, drug category, and year

	1990		1996		2002	
Cocaine & Opium	N=393	(36.1)	N=776	(35.0)	N=923	(23.3)
Caucasian	174	(44.3)	431	(55.5)	577	(62.2)
African-American	206	(52.4)	288	(37.1)	300	(32.3)
Hispanic	5	(1.3)	30	(3.9)	20	(0.2)
American Indian	7	(1.8)	26	(3.3)	26	(2.8)
Marijuana	N=533	(49.0)	N=1080	(48.8)	N=1775	(45.0)
Caucasian	439	(82.4)	909	(84.2)	1410	(79.3)
African-American	46	(8.6)	106	(9.8)	225	(12.6)
Hispanic	4	(.7)	13	(1.2)	43	(2.4)
American Indian	43	(8.1)	51	(4.7)	97	(5.4)
Synthetic Narcotics	N=74	(6.8)	N=173	(7.8)	N=817(20.5)	
Caucasian	60	(81.0)	158	(91.3)	750	(91.4)
African-American	6	(8.1)	7	(4.0)	28	(3.4)
Hispanic	0	------	1	(.6)	10	(1.2)
American Indian	8	(10.8)	7	(4.0)	29	(3.5)
Other Dangerous Nar.	N=86	(7.9)	N=182	(8.2)	N=401	(10.1)
Caucasian	66	(76.7)	164	(90.1)	349	(86.8)
African-American	10	(11.6)	13	(7.1)	33	(8.2)
Hispanic	2	(2.3)	2	(1.0)	2	(.4)
American Indian	8	(9.3)	3	(1.6)	17	(.2)

Table VI

Number & percent of

female receptions by race and year

Race	1990 N= 249	(%)	1996 N= 430	(%)	2002 N= 594	(%)	Total
Caucasian	124	(49.8)	236	(54.9)	409	(63.6)	769
African Amer.	113	(45.4)	148	(34.4)	117	(18.2)	378
Hispanic	3	(1.2)	19	(4.4)	22	(3.4)	44
Native Amer.	9	(3.6)	26	(6.0)	45	(7.0)	80
Other	----	-------	1	(.02)	2	(.3)	3
Total	249		430		595		1274

Table VII

Crosstabulation

Number & percent of female receptions

*by female race * drug description* year*

Data Collection Year	Race	Drug Description		
		Possession	Trafficking	Total
1990				
	African-American	37 (48.0)	76 (44.1)	113 (45.3)
	Caucasian	35 (45.4)	89 (51.7)	124 (49.7)
	Hispanic	1 (.01)	2 (.01)	3 (.01)
	Native American	4 (.05)	5 (.02)	9 (.03)
Total		77 (30.9)	172 (69.0)	249
1996				
	African-American	84 (36.6)	64 (31.8)	148 (34.4)
	Caucasian	125 (54.5)	111 (55.2)	236 (54.8)
	Hispanic	8 (3.0)	11 (5.4)	19 (.04)
	Native American	12 (5.0)	14 (6.9)	26 (.06)
	Other	-----------	1 (0.4)	1 (.002)
Total		229 (53.2)	201 (46.7)	430
	2002			
	African-American	79 (19.7)	38 (19.3)	117 (19.6)
	Caucasian	282 (70.6)	127 (64.7)	409 (68.7)
	Hispanic	7 (01.7)	15 (7.6)	22 (3.6)
	Native American	29 (07.2)	6 (3.0)	45 (7.5)
	Other	2 (0.5)	----------	2 (0.3)
Total		399 (67.0)	196 (32.9)	595

Table VIII

Bivariate Correlation Matrix

Department of Corrections Reception Data

		SMEAN(SENT)	On probation prior to this sentence	Number of times served in prison	data collection year	Age Correct	Trafficking one Posession zerro	SMEAN(EDUC)	Black	White	Hisp	AmerI	Other Race
SMEAN(SENT)	Pearson Correlation	1	.067*	.134**	-.066*	.164**	.217**	.003	.079**	-.060*	-.003	-.031	.027
	Sig. (2-tailed)	.	.017	.000	.019	.000	.000	.905	.005	.032	.921	.268	.335
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
On Probation Prior to this Sentence	Pearson Correlation	.067*	1	.115**	.025	.112**	-.152**	-.040	.117**	-.099**	-.074**	.019	.076**
	Sig. (2-tailed)	.017	.	.000	.367	.000	.000	.150	.000	.000	.008	.492	.007
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Number of times served in prison	Pearson Correlation	.134**	.115**	1	.176**	.201**	-.156**	.034	.159**	-.119**	-.059*	-.013	-.005
	Sig. (2-tailed)	.000	.000	.	.000	.000	.000	.226	.000	.000	.035	.656	.863
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Data Collection Year	Pearson Correlation	-.066*	.025	.176**	1	.174**	-.269**	-.008	-.221**	.159**	.039	.060*	.025
	Sig. (2-tailed)	.019	.367	.000	.	.000	.000	.785	.000	.000	.159	.032	.372
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Age Correct	Pearson Correlation	.164**	.112**	.201**	.174**	1	-.010	.090**	-.017	.053	-.055	-.039	.027
	Sig. (2-tailed)	.000	.000	.000	.000	.	.710	.001	.553	.060	.051	.164	.344
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Trafficking one Posession zerro	Pearson Correlation	.217**	-.152**	-.156**	-.269**	-.010	1	.022	.032	-.053	.072**	-.005	-.011
	Sig. (2-tailed)	.000	.000	.000	.000	.710	.	.441	.258	.058	.010	.865	.693
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
SMEAN(EDUC)	Pearson Correlation	.003	-.040	.034	-.008	.090**	.022	1	.131**	-.047	-.076**	-.092**	-.022
	Sig. (2-tailed)	.905	.150	.226	.785	.001	.441	.	.000	.096	.006	.001	.437
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
African American	Pearson Correlation	.079**	.117**	.159**	-.221**	-.017	.032	.131**	1	-.802**	-.123**	-.168**	-.032
	Sig. (2-tailed)	.005	.000	.000	.000	.553	.258	.000	.	.000	.000	.000	.260
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Caucasian	Pearson Correlation	-.060*	-.099**	-.119**	.159**	.053	-.053	-.047	-.802**	1	-.233**	-.319**	-.060*
	Sig. (2-tailed)	.032	.000	.000	.000	.060	.058	.096	.000	.	.000	.000	.032
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Hispanic	Pearson Correlation	-.003	-.074**	-.059*	.039	-.055	.072**	-.076**	-.123**	-.233**	1	-.049	-.009
	Sig. (2-tailed)	.921	.008	.035	.159	.051	.010	.006	.000	.000	.	.081	.743
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
American Indian	Pearson Correlation	-.031	.019	-.013	.060*	-.039	-.005	-.092**	-.168**	-.319**	-.049	1	-.013
	Sig. (2-tailed)	.268	.492	.656	.032	.164	.865	.001	.000	.000	.081	.	.654
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274
Other Race	Pearson Correlation	.027	.076**	-.005	.025	.027	-.011	-.022	-.032	-.060*	-.009	-.013	1
	Sig. (2-tailed)	.335	.007	.863	.372	.344	.693	.437	.260	.032	.743	.654	.
	N	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274	1274

*. Correlation is significant at the 0.05 level (2-tailed).

**. Correlation is significant at the 0.01 level (2-tailed).

Table IX-A

Regression Model

Department of Corrections Reception Data

Model	Unstandardized Coefficients		Standardized Coefficients		
	B	Std.Err.	Beta	t	Sig.
1. Caucasian	5.332	.179		29.859	.000
African-Amer.	.846	.311	.078	2.721	.007
Hispanic	.169	.768	.006	.220	.826
Amer. Indian	-.354	.582	-.017	-.608	.543
Other Race	3.001	2.865	.029	1.048	.295
2. Caucasian	4.314	.289		14.923	.000
African-Amer.	.634	.312	.058	2.030	.043
Hispanic	.304	.763	.011	.398	.691
Amer. Indian	-.384	.578	-.019	-.664	.507
Other Race	3.003	2.844	.029	1.056	.291
Number of Times Served in Prison	.762	.171	.125	4.458	.000
3. Caucasian	4.221	.294		14.339	.000
African-Amer.	.582	.314	.054	1.854	.064
Hispanic	.370	.763	.014	.485	.628
Amer. Indian	-.418	.577	-.020	-.724	.469
Other Race	2.625	2.851	.026	.921	.357
Number of Times Served in Prison	.735	.172	.121	4.283	.000
Prior Probation	.507	.308	.046	1.644	.100
4. Caucasian	2.739	.328		8.362	.000
African-Amer.	.357	.305	.033	1.169	.243
Hispanic	-6.86E-02	.741	-.003	-.093	.926
Amer. Indian	-.485	.559	-.024	-.868	.386
Other Race	2.570	2.761	.025	.930	.352
Number of Times Served in Prison	.965	.168	.159	5.740	.000
Prior Probation	.894	.301	.082	2.966	.003
Trafficking Possession	2.530	.275	.254	9.189	.000
5. Caucasian	2.834	.408		6.952	.000
African-Amer.	.370	.307	.034	1.204	.229
Hispanic	-8.91E-02	.743	-.003	-.120	.905
Amer. Indian	-.502	.561	-.025	-.894	.371
Other Race	2.553	2.763	.025	.924	.356
Number of Times Served in Prison	966	.168	.159	5.744	.000
Prior Probation	.888	.302	.081	2.939	.003
Trafficking Possession	2.532	.275	.254	9.191	.000
Mean Educ.	-.111	.284	-.011	-.392	.695

Dependent Variable: SMEAN (Sentence)

Table VIII B

Regression Model

Department Of Corrections Reception Data

Model	Unstandardized Coefficients		Standardized Coefficients		
	B	Std.Err	Beta	t	Sig.
6. Caucasian	.435	.638		.682	.495
African-Amer.	.496	.305	.046	1.625	.104
Hispanic	7.029E-02	.737	.003	.095	.924
Amer. Indian	-.374	.557	-.018	-.672	.502
Other Race	2.303	2.739	.022	.841	.401
Number of Times Served in Prison	.801	.170	.132	4.707	.000
Prior Probation	.734	.301	.067	2.438	.015
Trafficking Possession	2.477	.273	.248	9.063	.000
Mean Educ.	-.238	.282	-.023	-.843	.399
Age	8.300E-2	.017	.134	4.858	.000
7. Caucasian	.971	.729		1.332	.183
African-Amer.	.389	.313	.036	1.242	.214
Hispanic	.128	.738	.005	.174	.862
Amer. Indian	-.344	.557	-.017	-.618	.537
Other Race	2.369	2.738	.023	.865	.387
Number of Times Served in Prison	.841	.172	.138	4.887	.000
Prior Probation	.726	.301	.066	2.413	.016
Trafficking Possession	2.370	.282	.237	8.398	.000
Mean Educ.	-.231	.282	-.022	-.818	.413
Age	8.689E-02	.017	.140	5.032	.000
	-.286	.189	-.044	-1.517	.130

VITA

Jackquice Smith-Mahdi
Candidate for the Degree of

Doctor of Philosophy

Dissertation: "Prosecutorial discretion in drug offenses by women in Oklahoma: An exploration of the effect of race/ethnicity and class on charging/sentencing of women in the state of Oklahoma."

Major Field: Sociology

Education: Graduated from Everman High School, received Bachelor of Science Degree in Criminal Justice from North Texas State University, Denton, Texas, received Master's of Science in Sociology from North Texas State University, Denton, Texas. Completed the requirements for the Doctor of Philosophy Degree from Oklahoma State University, Stillwater, Oklahoma July, 2004.

Academic Experience: Washburn University Topeka, Kansas Instructor (Current position), Oklahoma State University, Teaching Fellow, University of North Texas, Research Assistant.

Professional Membership: American Criminology Association, American Sociological Association Mid-South Sociological Association, Southwestern Sociological Association (Student Member of the Executive Council 2002-2003), Alpha Kappa Delta Honor Society (Historian 2001-2002), National Association for the Advancement of Colored People.

Awards/Honors: Minority Incentive Scholarship, Recognized by the Criminal Justice Training Academy Ft. Worth, Texas, Volunteer of the Year, Who's Who Among College Students.

Name: Jackquice Smith-Mahdi   Date of Degree: July, 2004

Institution: Oklahoma State University   Location: Stillwater, Oklahoma

Title of Study: PROSECUTORIAL DISCRETION IN DRUG OFFENSES BY WOMEN
        IN OKLAHOMA: AN EXPLORATION OF THE EFFECT OF
        RACE/ETHNICITY AND CLASS ON CHARGING/SENTENCING OF
        WOMEN IN THE STATE OF OKLAHOMA.

Pages in Study: 121   Candidate for the Degree of Doctor of Philosophy

Major Field: Sociology

Scope and Method of Study: This study was designed as an exploratory comparison and
        analysis of existing descriptive secondary data collected from the Oklahoma State
        Bureau of Investigation and Oklahoma Department of Corrections. However, the
        primary data for exploring decision analysis was gathered from semi-structured
        interviews with district attorneys and assistant district attorneys in Tulsa and
        Oklahoma City. The general purpose of this study was to explore how
        race/ethnicity, gender related attributes, and legal variables influenced the arrest,
        charge/sentence of women involved in drug related offenses in Oklahoma. The
        significance of this study is grounded in the understanding that Oklahoma has
        held the highest national rate for incarcerating women since 1991.

Findings and Conclusions: The secondary portion of this study revealed that when one
        considers race as a correlation with either legal or extra-legal variables sentencing
        for African-American women is longer than that of their counter parts. However,
        as variables both legal and extra-legal were incorporated in an additive regression
        analysis the primary indicator of sentence length for all women were factors
        associated with legal issues. On the other hand, the interviews within the primary
        component of this study suggest that "both" legal and extra-legal variables are
        significant within the context of the discretionary charging process specified to
        the district attorney's office. More significant, these interviews illustrate the
        implication of personal experience and social background at the charging stage.

ADVISER'S APPROVAL: Richard Dodder