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UNIVERSITY OF OKLAHOMA

GRADUATE COLLEGE

LEGAL AND EXTRA-LEGAL VARIABLES IN SENTENCING OUTCOMES: THE EFFECT OF RACE AND GENDER

A Dissertation

SUBMITTED TO THE GRADUATE FACULTY

in partial fulfillment of the requirements for the

degree of

Doctor of Philosophy

By

Dennis R. Brewster
Norman, Oklahoma
2002

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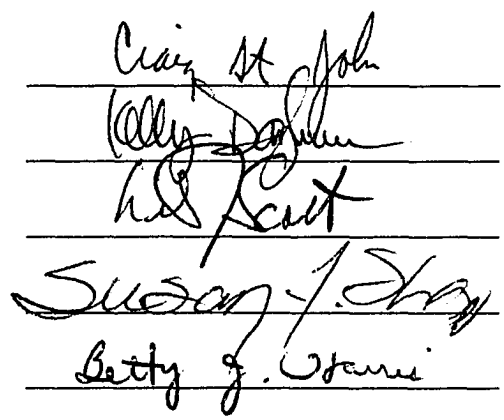
A Dissertation APPROVED FOR THE
DEPARTMENT OF SOCIOLOGY

BY



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Abstract

A long debate has existed in criminal justice literature about the effects of legal variables and extra-legal variables on sentencing. The debate centers on the importance of each type of variables and the effects produced on the length of sentence handed down by judges in the trial process and district attorneys through plea-bargaining. One side of the debate focuses on the importance of legal factors, such as the severity of the offense, the type of crime committed, and the amount prior involvement with the criminal justice system. The other side of the debate focuses on the influence of extra-legal variables, such as age, race, sex, education, or socio-economic status.

The current study explores the effects of both legal and extra-legal variables on sentencing outcomes. The study uses only those offenders sentenced to incarceration, comparing the sentence length handed down by the judge. The study examines the sentence length for 5,357 offenders sentenced in the calendar year 2001 in the state of Oklahoma. The unique focus of this study is on differences in racial minorities and gender groups using a feminist perspective. The feminist perspective calls for separate analysis of men and women. Most previous studies use gender as a control variable, but this study provides comparisons within each minority group between men and women.

The study indicates that Oklahoma, with the exception of African Americans, does not use minority group status as a basis for sentencing after controlling for legal

and extra-legal factors. The significance of race, while present, is not a strong predictor of sentence length. Notably, women of each minority group are not sentenced differently than their male counterpart. The results also indicate that regardless of gender, Oklahoma sentencing patterns follow a patriarchal structure, in that women appear to be protected by the criminal justice system.

The study also indicates that legal and extra-legal variables have differing effects on men and women. Legal variables explain more of the variance in the regression models for men, whereas, extra-legal variables play a stronger role in sentence length outcomes for women. Finally, the models used in the analysis explain more of the variance for women than men.

CHAPTER 1

Introduction

One of the few areas of agreement in criminal justice literature is that there is disparity in the sentencing of minority groups and women. Outside of that agreement, controversy exists as to whether that disparity is an indication of discrimination. The controversy centers on two distinct camps, one that argues that disparity in prison populations indicates discrimination on the part of the criminal justice system, and the second that argues there are many factors outside of race and gender that could be reasons for the disparity in sentencing.

The current study focuses on the factors that lead to the disparity found in Oklahoma sentence lengths. There appears to be racial disparity in incarceration in Oklahoma. According to the Oklahoma Department of Corrections, thirty percent of the Oklahoma prison population is black (Oklahoma Department of Corrections 2002). However, blacks make up only eight percent of the population in Oklahoma (U.S. Census Bureau 2002).[1] Additionally, Oklahoma has the highest female incarceration rate in the nation (Beck and Harrison 2001; Harrison and Beck 2002; Sandhu, Al-Mosleh, Chown 1994). This suggests that some factors, legal or extra-legal, make women in Oklahoma qualitatively different from their peers in other states, either in criminality or in the consequences of their crimes. Looking at both

[1] This includes only those reporting one race. Another 4.5 percent report two or more races, some of which would be black.

legal factors and extralegal factors will provide insight as to which factors are most important in sentencing outcomes for males and females of all races.

Disparity refers to a large difference in the numbers that may be explained by legitimate factors (Walker, Spohn and DeLone 1996). For example, in the U.S., almost half of the prison population is African American (Bureau of Justice Statistics 2001), while African Americans only make up about 12% of the population (U.S. Census Bureau 2002). Thus, there is a difference or disparity between the African American population in the U. S. and the African American population in the prisons. Discrimination is the differential treatment of individuals in minority groups based on the beliefs and stereotypes of the larger group. So the question arises, is the disparity in Oklahoma due to differential treatment of offenders based on the race of the offender? Or is it simply that African Americans commit more crime, resulting in greater proportions being incarcerated?

Disparity is also found in the women's prison population. While smaller in population than many other states, Oklahoma has the highest incarceration rate for women (Beck and Harrison 2001; Harrison and Beck 2002; Sandhu, Al-Mosleh, Chown 1994). Oklahoma's prison system is also overrepresented by African American women (29%) and other minorities (12%) (Oklahoma Department of Corrections 2002). Past research has suggested that at the "decision to incarcerate" stage, women are treated more leniently (Farnworth and Teske 1995; Nobiling, Spohn and DeLone 1998). However, when race and gender are considered at this stage, the leniency afforded females is less marked (Farnworth and Teske 1995). On

the other hand, a meta-analysis of past research indicates that leniency was less likely in sentence length decisions (Daly and Bordt 1995). What is missing, however, is a closer examination of how gender and race may affect sentence length. In light of the sentencing disparity debate, the main question is, "How do sentence lengths for minority women compare to those of white women or men?" Many of the same factors that would explain the disparity in male sentencing should be found for women, but women's sentences may need further explanation.

The sentencing debate centers on the different use of legal and extra-legal variables. Legal variables are those that center on the legal aspects of the criminal case. In order to ensure justice, legal variables should be the only factors used in sentencing. Legal variables are items such as the seriousness of the crime, the number of prior convictions, and the jurisdiction of the offense. Extra-legal variables are those not related to the crime. They include items such as race, gender, socioeconomic status, and age. The issue is how these factors influence sentences. Do judges use these extra-legal factors when determining the sentence of offenders? If that is true, the system of criminal justice is thought to be less "pure" justice and more discriminatory (Walker et al. 1996). Social scientists argue that the use of these factors in sentencing puts some groups—depending on which of the factors is used—at a disadvantage in the criminal justice process.

Walker et al. (1996) argue that discrimination in the criminal justice system can be placed on a continuum of severity. Pure justice would indicate no discrimination in the system, while they locate systematic discrimination –

discrimination at all points in the criminal justice system - on the other end of the continuum. Between these extremes, Walker et al. (1996) identify individual acts of discrimination, contextual discrimination, and institutional discrimination as other types of discrimination. Acts by individual members of the criminal justice system are closest to what Walker et al. call "pure justice." Contextual discrimination refers to differential treatment in certain contexts, such as region of the country or certain victim-offender combinations. Perhaps their most controversial category, institutionalized discrimination refers to differential treatment that occurs as a result of neutral factors such as employment status or marital status.

The debate has spread across the different facets of the criminal justice system. Studies ranging from police behavior to the final outcome—sentencing—have explored indications of discriminatory actions. Sentencing outcomes have been the focus of most of the debate (Wilbanks 1987). Sentencing studies have found both evidence of discrimination, in the form of longer sentences for convicted offenders, and evidence of no difference in the sentences handed down by courts.

One camp in the disparity debate argues that the criminal justice system is not racist and does not use race as key factor in sentencing of offenders. Hagan (1974), for example, argues that studies looking at the discrimination theory used faulty methodology. Hagan suggested that there are three key areas of concern with early studies finding discrimination—problems with tests of significance, confusion of statistical and causal statements, and a lack of adequate data when exploring the discrimination theory. (A fuller explanation of Hagan's work is discussed below.)

Kleck (1981) also argued that the criminal justice system is not racist. Like Hagan, Kleck argued that studies finding evidence to support discrimination did not control for the legal variables, especially prior criminal record. Kleck noted that many of the studies were flawed with other problems of methodology.

The problem, however, is not so clear. William Wilbanks (1987) wrote that the problem for many of the studies is an unclear definition of racist behavior. He argued that the discrimination that exists in the criminal justice system is not systematic, but individual in nature. Discrimination by individual police officers, prosecutors, or judges would not make the entire criminal justice system racist.

On the other side of the debate, Hall and Simkus (1975) found that race did play a role in the sentences received by Native Americans. They argued that Native Americans suffered from negative stereotyping and received longer sentences than whites. Pruitt and Wilson (1983) also found a race effect supporting the discrimination position. According to Pruitt and Wilson (1983: 633), ". . regardless of method, race had an independent effect on sentencing outcomes."

Others have also examined the indirect effects of race on sentencing outcomes by exploring other factors. Poverty or socioeconomic status plays a key role in both sentence length and the decision to incarcerate (the "in-out" decision). For example, those who are not able to make bail because of their socioeconomic status were more likely to be sentenced to prison as well as to longer prison terms than those who are able to make bail and release prior to trial (Bureau of Justice Statistics 1994; Spohn and DeLone 2000). Other areas of study include private

attorneys versus those who use public defenders, again indicating a socioeconomic effect (Weitzer 1996). However, here the results are inconclusive, with others suggesting that public defenders are able to establish working relationships with the courts that ultimately serve their clients well (Wice, 1985).

Continuing evidence of discrimination can be found in the work of Steffensmeier and colleagues (Steffensmeier, Ulmer and Kramer 1998; Steffensmeier and Demuth 2001). Steffensmeier and Demuth (2001) expanded the focus of racism from concentration on African Americans (thought to be the largest threat to white dominant society) to Hispanics. According to Steffensmeier and Demuth, Hispanic groups have experienced in the past and continue to experience the negative effects of stereotyping and racist behavior. They indicate that Hispanics receive harsher sentences than both African Americans and whites. Poverty and the "War on Drugs" have directly affected the sentencing of Hispanics. Negative stereotypes of Hispanics as narcotics dealers have fueled that stereotype.

The problem of the extant literature on sentencing focuses on the ability of researchers to combine all of the legal and extra-legal variables in the research process. Data available at one point may or may not have all of the variables thought to be important in determining the amount, if any, of discrimination in the system. While some states, such as Pennsylvania and California, have made efforts at providing accurate information on extra-legal variables, much of the data used elsewhere have been lacking in extra-legal variables. Sentencing data often do not contain the extra-legal variables needed. Other data, such as that provided by

correctional departments, often are missing many of the legal variables necessary to develop an accurate picture of the amount of discrimination. Thus, making a determination of the amount of and significance of discrimination in the system has been inconclusive at best. The current study uses correctional data because of the focus on extra-legal variables. Furthermore, the issue of whether or not to incarcerate is not addressed. Instead, the focus is on sentence length among only those sentenced to time in prison. While the decision to incarcerate is an important aspect of sentencing, it is also important to focus on sentence lengths of those sent to prison.

The current project adds to the knowledge of sentencing outcomes, specifically sentence length, in a contextual manner. The focus of this research is sentencing outcomes in one southern state—Oklahoma. Oklahoma has the highest incarceration rate for women (Beck and Harrison 2001; Harrison and Beck 2002; Sandhu, Al-Mosleh, Chown 1994) and ranks fourth in overall incarceration rate (United States Department of Justice 2001). While representing almost one-third of the prison population (Oklahoma Department of Corrections 2002), African Americans make up only about six to ten percent of the state population (United States Census Bureau 2002). The state has also gone through the process of preparing for truth-in-sentencing, bringing awareness to the problems of sentencing to the attention of lawmakers.

While controlling for the legal variables, such as the seriousness of the offense and prior incarceration, the current study will focus on other extra-legal

factors, such as race and gender. Four issues will be explored. First, I examine whether females receive the same length of sentence as males for similar offenses. Second, I examine whether minority women receive different sentences than minority men. Third, I examine whether minority women receive different sentences than white women. Finally, I will examine how the type of offense is related to differences in sentence length, with a focus on the effects of legal and extra-legal variables. The current study will use Index crimes (as defined by the Uniform Crime Report), drug crimes (those crimes that involve drug use, distribution, or alcohol), and Part II crimes (all crimes not reported in the other categories).

Providing information on sentencing outcomes will provide practitioners and policymakers an accurate description of what factors are important in Oklahoma sentencing. The study will also provide insight into the factors that are important when considering sentencing policy. While limited as to total generalizability, the study should provide guidance to anyone interested in the effects of race and gender in the criminal justice system.

CHAPTER 2

Review of Literature

Whether looking at the breakdown of offenders by race twenty-five years ago or looking at breakdown by race for the current year, one finds disparity in the prison population when contrasted to the make-up of the larger population. There appears to be agreement on the fact that some groups, usually minority groups and particularly African Americans, are over-represented in prison populations (Walker et al. 1996; Mann 1993; Steffensmeier et al. 1998; Steffensmeier and Demuth 2000). The overrepresentation of minority groups has stirred debate over whether race is a factor in the sentencing of offenders.

While a great deal of research has been completed on males, very little research has examined racial disparity among women in correctional facilities. Minority women have not directly benefited from studies looking at the impact race has on sentencing. Many of the same questions could be asked about the female population that have been asked about male populations.

The current study will examine the literature for both males and females. While most of the studies have focused on males, it is important to begin to look at the differential treatment of women in correctional settings. The literature review will examine sentencing in general, studies finding no racial effects, studies indicating racial effects, and studies indicating gender effects.

Sentencing in General:

The debate over sentencing disparity revolves around several key issues. First, the debate centers on the difference between disparity and discrimination. Disparity can be defined as any difference found in the differences in proportionality in populations (Walker et al. 1996). The proportion of different races in the criminal justice system population is different from that in the general population. The fact that there are differences in proportionality does not automatically indicate that there is systematic discrimination in the criminal justice process (Wilbanks 1987). Other factors, such as poverty or employment—as they affect the ability to get out of jail on bond—could be creating the disparity in sentencing and not be related to discriminatory action on the part of the system.

Second, studies of discrimination have been conducted over different time periods. Zatz (1987) describes the research in four waves: Wave I examines studies created early in sociological and criminal justice history (1930's to mid-1960's). These studies indicated racial bias in the criminal justice system. Wave II included studies from the late 1960's through the 1970's, and many were critical of the earlier studies and found no evidence of discrimination. Wave III studies were a reexamination of data from the 1960's and 1970's, conducted during the 1970's and 1980's. These studies again began to find evidence of limited racial discrimination in the system, while looking at direct effects in the study models. Wave IV studies, which include those conducted in the 1990's and current research, focus on the changes in sentencing structures—moving from the rehabilitative modes of

indeterminate sentencing to more mandatory, determinate sentencing. Wave IV studies are beginning to explore more *indirect* effects of sentencing policy and looking at the *cumulative disadvantage* effects in the criminal justice system (Zatz 1987).

Indirect effects provide evidence that a variable operates through some other factor (Zatz 1987). For example, those people who spend more time in jail prior to trial tend to receive longer sentence lengths (Walker et al. 1996). Minority groups tend to be those who spend more time in jail (Walker et al. 1996). While the race of the individual may be directly related to sentencing, the indirect effect of minorities spending more time in jail prior to sentencing may be significant.

Cumulative effects are the accumulation of small non-significant effects throughout the system (Zatz 1987). In other words, while race may be found to have no direct effects, the effects of race may be found in the accumulation of other factors, such as minorities not being able to afford private attorneys and not being able to afford bail. The accumulation of the smaller non-significant factors may lead to minority groups receiving longer sentences, but not manifest itself as a significant race effect.

The criticism of the earlier waves has focused on four key issues. First, findings indicating discrimination in the criminal justice system tended to be located in Southern states (Hindelang 1969). Second, studies in early waves did not control for many important relevant non-racial variables (Hindelang 1969; Wilbanks 1987; Hagan 1974; Kleck 1981). Third, all of the early wave studies that did indicate

discrimination used older data sets (Hindelang 1969; Wilbanks 1987; Hagan 1974; Kleck 1981). Fourth, those studies primarily focused on homicide, with little or no attention devoted to other offenses (Hindelang 1969; Wilbanks 1987; Hagan 1974; Kleck 1981). Each of these criticisms will be explored more fully in the following sections.

Newer developments in methodological procedures are a feature of later waves of research (Keppler, Nagin, and Tierney 1983). The development of regression models as opposed to simple chi-square tests of significance are being used to explore the data for better explanation of the factors used in sentencing. Even the newer models of study, though, have been criticized for manipulating the numbers. For example, Hagan (1974) makes the point that almost any difference will be significant if the sample used is very large. This over-reliance on statistical significance can be overcome by using reports of the strength of the relationship, not just the differences noted.

The use of different types of variables in analyses is another area of concern in the debate. Two types of variables have been identified as key to the disparity/discrimination debate. First, legal variables are those factors that pertain to the legality of the case against an offender (Walker et al. 1996). These legal variables include the severity of the offense and the number of prior convictions (Petersilia 1983; Klein, Petersilia, Turner 1990).

Walker et al. (1996) indicated that legal variables are, ". .considered legitimate bases for decisions by criminal justice officials because they relate to an

individual's criminal behavior" (p.15). In their opinions, the use of legal variables only is necessary to eliminate discrimination and provide "pure" justice.

Second, there are extra-legal variables that are considered in the sentencing process. These extra-legal variables include race, gender, marital status, socioeconomic status, and employment history (Walker et al. 1996; Hagan 1974). The debate focuses on how these variables are associated with the outcomes of sentencing.

The final issue concerns the data. The data used have played a key role in whether or not discrimination is demonstrated. Many authors criticized the early studies of racial effects in sentencing for omitting several key legal variables, such as seriousness of offense and prior history, from the analysis (Hindelang 1969; Wilbanks 1987; Hagan 1974; Kleck 1981). On the other hand, omitting extra-legal factors such as employment history may mask some of the indirect effects (Zatz 1987).

Silberman (1978) introduced another important factor in sentencing decisions, that of a rural versus urban difference. While not a legal variable itself, this difference is important due to the legal and cultural differences between rural courts that play a significant role in the sentencing outcomes. Another important finding by Silberman was that current trends toward mandatory sentencing are problematic.

> It follows that most of the sentencing reforms now being proposed—mandatory minimum prison terms, 'flat-time' or 'determinate' sentencing, sentencing

> councils, appellate review of sentences, are aimed at the wrong problem (Silberman 1978: 395).

Silberman indicated that the above changes shift the sentencing decision from the judge to the prosecutor. When this is coupled with the effects of the parole process, the judge's background is thought to be of little significance in sentencing by judges.

Studies Finding No Racial Effect:

Michael Hindelang (1969) was one of the first to criticize claims that the criminal justice system was racist. His argument focused on the distinction between the American society being racist and the criminal justice system being racist. This country was founded by white men, and the U.S. Constitution was written by white men. He pointed out that the Constitution was written with the preference to keep African Americans in a position of social, economic, and political subordinance. Hindelang noted that while changes have occurred, many of the effects of those changes still keep African Americans in lower positions. For example, the Fourteenth Amendment to the Constitution made former slaves citizens and bestowed full rights of citizenship on the former slaves. (Note: At that time, the Fourteenth Amendment did not apply to African American females; all females at the time were still viewed as the property of males, to be protected by a patriarchal system). The Fifteenth Amendment provided that all citizens have the right to vote. According to Hindelang, the system of criminal justice is merely a reflection of the

amount of racism found in the society at large. According to this view, as American society becomes less discriminatory in general so will the criminal justice system.

According to Hindelang, the findings of racism may be more a reflection of poverty or socioeconomic status than race. "Any condition that affects the poor as a group will include a disproportionate number of Negroes" (Hindelang 1969: 307). The conclusion is that discrimination against African Americans in the criminal justice is not systemic, but differences may be accounted for by the myriad of problems that African Americans face, crime only being one of those problems.

John Hagan (1974) was also critical of elements of earlier studies. Hagan focused attention on the methodological flaws. First, Hagan argued that many of the results were misinterpreted. He argued that many times statistical significance was confused with substantive significance. He called for the reporting of the strength of the relationship, not just whether variables were statistically significant. The strength of the association then becomes the key to determining discrimination.

Second, Hagan argued that social scientists often confuse statistical and causal points. He notes that without careful control, many of the results reported as causal may in fact be spurious relationships—some other factor may be causing changes in both variables. He indicated that the small amount of explained variance in many studies indicated that the variables included explained very little of the total variation and until studies included either more variables or more important variables, the results reported were not the only causal features in sentencing outcomes.

Third, Hagan was critical of data used in earlier studies. Hagan noted that data sets that included all of the relevant variables would correct the first two criticisms. Standardized reporting at all levels of criminal justice and a standardized system of procedures in all areas of criminal justice were suggested as a correction for the inadequate data that had handicapped earlier studies. With the current trend toward more standardized sentencing guidelines, his call for better reporting and collection of data becomes more critical. If in fact the goal is equal justice, the system needs an accurate accounting from corrections of the process from arrest to release.

Hagan compared results of previous studies and found little evidence of systematic discrimination:

> Review of data from twenty studies of judicial sentencing indicates that, while there may be evidence of differential sentencing, knowledge of extra-legal offender characteristics contributes relatively little to our ability to predict judicial dispositions (1974: 379).

He indicated that the studies used in his analysis were cross-sectional, but there was a clear need for accurate, longitudinal studies of the issue. He noted that while not indicating systematic discrimination, the studies suggested other areas that needed attention. First, how caseloads, court referral rates and fluctuations in prison capacity play a role in sentencing outcomes needed consideration. Second, he pointed out the need to examine how community factors, such as high recidivism rates, influence sentencing decisions. Finally, he raised the issue of how the

characteristics of different judges reflect different sentence outcomes. Hagan also indicated the need to study interaction effects among many of the variables considered. For example, how does socioeconomic status interact with race? Hagan insisted that the interaction effects could explain at least a portion of the findings of racism in the criminal justice system.

Gary Kleck (1981) also indicated that the findings of racial discrimination might be spurious. Five practices could be causing a spurious relationship in previous studies. Kleck cited a general disregard for minority crime victims as contributing to the findings of prejudice in the criminal justice system. More importantly, he stressed that class discrimination is more prevalent than racism. Economic discrimination in capitalistic systems creates disparity for those who turn to crime to escape the problems of lower economic positions. Finally, institutional racism may be continuing to play a role in the disparity that is found. He defined institutional racism as the application of decision-making standards, which in themselves have consensual support, but that result in less favorable outcomes for minorities. However, he viewed institutional racism as an unusable term that was too broad to be studied. Kleck reported that prior studies found racism only in the South, but those failed to control for prior record or class. In his examination of prior research, he noted that the discrimination hypothesis was supported in only eight of forty studies. Twelve of the forty indicated mixed results, and twenty did not support the discrimination hypothesis.

Kleck argued that in previous research, the key predictor to harsher sentences was the victim/offender relationship. When the victim was white and the offender black, research indicated African Americans received harsher sentences in comparison to other victim-offender racial combinations. These types of crimes appeared to be less victim-precipitated and less likely to be premeditated. These results would indicate contextual effects in the sentencing process. However, Kleck also noted a lack of research indicating more lenient treatment of blacks. Kleck argued that most crime is intraracial, and black victims are devalued. Thus, black defendants should be more likely to receive lenient sentences. Second, the lingering effects of paternalism—minorities are seen as childlike—toward blacks allow judges to sentence blacks less harshly. Third, sociology-based tolerance for blacks creates a situation where crime is expected behavior, and blacks do not receive harsher sentences. Fourth, there is an affirmative action hangover, in that guilt over past overt discrimination produces lesser sentences for blacks. Fifth, blacks actually receive lesser sentences to offset many of the effects of the economic discrimination of the larger society. Finally, Kleck argued that judges may consciously sentence blacks to lighter sentences to offset any unconscious prejudice they might have.

Kleck's final argument was that legislatures, not criminal justice officials, write many of the laws that are enforced by police. This would indicate that the cause of any discrimination in the system comes from the legislatures, not criminal justice officials. Legislatures are still mostly controlled by white, middle-class males, who in turn write the laws by which society must abide. This legislative

factor has not been addressed by previous sentencing studies and may provide fruit for future research. The implication is that the criminal justice system is merely a reflection of broader racism of American society. Wilbanks (1987) noted that while there may be individual-level discrimination, there is little evidence of systematic discrimination. He argued that findings that indicate little or no discrimination may be due to this individual discrimination phenomenon. There are those who discriminate, but there are also those who do not. This creates a "canceling-out" effect that shows up in the results of studies of discrimination.

Wilbanks also noted that one of the key issues in the discussion of discrimination theory is the very term "racist." His argument was that what is considered evidence of racism on the part of whites is not considered as racist when African Americans undertake the same behavior. While Wilbanks focused on all areas of criminal justice, such as what factors lead to higher arrests for blacks and differences in attitudes toward the system by blacks, my focus will be on the sentencing process.

Wilbanks noted that there are more empirical studies on sentencing and discrimination than any other part of the criminal justice system. His contention was that there is generally more data available at this point in the criminal justice system. This introduces the problem of selection bias into previous research. Those who have been funneled out of the criminal justice system may be different from those who make it to the incarceration end of the criminal justice system.

There might be another selection effect operating in sentencing research. Those who believe in discrimination at sentencing use imprisonment rates as indicators of discrimination (Wilbanks 1987). According to Wilbanks' data, blacks are incarcerated in state prisons in the United States on a per capita basis eight times more frequently than whites. Those who believe that discrimination exists in the criminal justice system use this as *prima facie* evidence that the system is discriminatory and, according to Wilbanks, this is accepted without question. However, he concluded that the criminal justice system is not discriminatory on a systematic basis. His argued that individual police, prosecutors, and judges might be guilty of prejudice and discrimination, but this is not indicative of the system. According to Wilbanks, "The inconclusive nature of the evidence would seem to preclude any claim that the discrimination theory has been proven for any particular decision point" (1987: 143). He argued that if the system was systematically discriminatory, then the gap between whites and blacks should increase as African Americans passed through the system. In other words, the gap in proportionality at the beginning of the system would increase as whites are filtered out and blacks continue in the system. Wilbanks argued that this has not been shown in past studies of the criminal justice system.

Studies indicating racial effects:

A number of studies have reported racial discrimination. Steffensmeier and his colleagues have completed several studies that do indicate that race has an effect in sentencing (Steffensmeier and Demuth 2001; Steffensmeier, Kramer and Streifel

1993; Steffensmeier, Kramer, and Ulmer 1995; Steffensmeier, Ulmer, and Kramer 1998; also see Ulmer and Kramer 1996). In their work, "fair" sentencing revolves around three key areas. The offender's "blameworthiness" or culpability in the crime is first. Factors involved in blameworthiness are the severity of the offense, prior criminal record, prior victimization, and the offender's role in the offense. Second, Steffensmeier noted the need to protect the community—the need to incapacitate or deter would-be offenders. Education level, employment history, and community ties are factors considered as important in the risk to the community. Finally, organizational and practical constraints—concerns about the offender's ability to do time, the costs of incarceration, and the disruption of ties to family or children—are third. Part of this consideration is also the public's view of the court and criminal justice system (Steffensmeier et al. 1998, Steffensmeier and Demuth 2000).

In the 2001 study, Steffensmeier found that Hispanics were much more likely than whites to receive long sentences and that they received somewhat longer sentences than blacks (For further information on the effect of ethnicity see also: Albonetti 1991; Castberg 1971; Chiricos and Crawford 1995; Holmes, Hosch, Daudistel, Perez, and Graves 1996; Welch, Gruhl, and Spohn 1984; Welch, Spohn, and Gruhl 1985). For non-drug offenses, for example, Hispanics received sentences that averaged ten months longer than whites and three months longer than blacks (while controlling for legal variables). When looking at the decision as to whether or

not to incarcerate, Hispanics were eighteen percent more likely to be incarcerated than whites and six percent more likely than blacks.

Steffensmeier and Demuth (2001) also noted that when looking at sentencing criteria, all groups—whites, Hispanics, and blacks—experienced increased sentence length as the severity of the offense increased. They also noted that there was similarity of outcomes across the groups when considering the legal variables. Steffensmeier and Demuth also noted that there was a similar pattern for all groups when considering the "trial" penalty—those who do not plea-bargain and demand a trial. Their work lends mixed support for the presence of discrimination in criminal justice when focusing on legal variables.

Walker et al. (1996) took exception to the work of Wilbanks (1987) and others. They argued that race is a social construct, based on beliefs about race rather than biological factors. They define ethnicity as, "differences between groups based on cultural customs, such as language, religion, foodways, family patterns and other characteristics" (1996: 9).

Of importance to the current study, Walker et al. indicated that the discrimination/disparity argument is a continuum based on differing amounts of discrimination found in the criminal justice system. At the far right of the continuum is "pure justice." Pure justice means that there is no racial or ethnic group discrimination found in the system. Under a system of pure justice, only the legal factors mentioned previously would be used to determine sentences. Moving left, the next category of discrimination is that of "individual" acts of discrimination. For

example, if one police officer is biased in arrests, or one judge uses negative stereotypes of different groups, then that discrimination would be on an individual level. Contextual discrimination is next. This refers to discrimination found in certain situations or contexts. Walker et al. noted that contextual discrimination can best be seen in the offender/victim relationship:

> The odds that the death penalty will be given are greatest when an African American murders a white person, whereas there is almost no chance of a death sentence when a white person murders an African American (1996:17-18).

Also, organizational policies, such as aggressive patrols or drug sweeps, provide contextual discrimination if those patrols and actions are located in minority group neighborhoods.

The next level of discrimination, institutional discrimination, involves the use of the institutions, such as education, the economic system, or the political system (Walker et al. 1996). Discrimination in this area would not necessarily be tied to racism, but the policies set out by these institutions deny equal opportunity to minority groups. The outcome of such policies limits the choices and chances of minority citizens, so the outcome is of importance, not necessarily the intent.

At the far left of the continuum is systematic discrimination. "Systematic discrimination means that discrimination occurs at all stages of the criminal justice system, in all places, and at all times" (Walker et al. 1996:17). They also imply that

this discrimination has little variation across the differing parts of the country and has continued for long periods of time.

Evidence indicates that the disparity between the number of African American and white offenders sent to prison is at least in part due to discrimination. For example, among California felons, 44% percent of African Americans convicted of a felony were sentenced to prison, compared with 37% percent of Hispanics, and only 33% percent of whites. They also indicate that those African Americans that are sentenced to prison also receive longer prison terms (Walker et al. 1996).

When exploring differences in sentencing, Walker et al. argued that there is discrimination in the criminal justice system and it is located in the "contextual" discrimination category. The evidence suggested differences depending on the situation. For example, devaluing black victims was noted as evidence that black-on-black crime provides a context in which African Americans receive less harsh sentences than do whites. Wilbanks (1987) would agree that discrimination exists, but would place the discrimination only at the "individual" level.

Spohn and Welch (1987) also found evidence that race affected sentencing outcomes. The focus of their research was on the correct variable to use to best measure prior record. They noted that the use of prior incarceration is a better predictor of sentence outcomes than is prior arrest or prior convictions. Prior record is one of the legal variables that was consistently shown to play a key role in harshness of sentences handed down. When testing different measures of prior record, they found, "Prior incarceration had the strongest effect, and prior arrest had

the weakest effect" (Spohn and Welch 1987: 289). They also found that this measure is less critical in the "in-out" decision, but was key to the length of sentence variable. The effect of prior incarceration was equally strong when considering females as well as males:

> Thus it appears that judges' reluctance to incarcerate a female, particularly a female convicted of a nonviolent crime, can be overcome by the fact that the woman was previously sentenced to prison but not by the fact that she was previously arrested or convicted (Spohn and Welch 1987: 297).

Spohn and Welch's findings on sentencing of females will be discussed later, but it should be noted here that previously incarcerated females are sentenced to harsher sentences than those who have not previously been incarcerated.

Mann (1993) noted that the issue of whether discrimination exists in the criminal justice system is like being a little bit pregnant. If there is a difference, then that fact must be recognized. For Mann, the criminal justice system is not only a reflection of the larger racist American society, but the system itself is also racist because it targets minority groups for police action (Mann 1993; Mann and Zatz 1998). Mann also indicated that the current "lock-em up" attitude of American society influences many of the current sentencing policies (see also McDonald and Carlson 1993).

Other early research focused on inequality in sentencing for Native Americans (Hall and Simkus 1975). Using a conflict approach, the authors found that Native Americans were more likely to receive sentences involving at least some

form of limited incarceration than were whites. This finding held true regardless of prior felonies, education, employment status, sex, or marital status. Looking at responses from judges, two key factors played a role in the higher incarceration of Native Americans. First, judges mentioned the attitude of the offender and second, judges relied on the recommendation of the presentence report.

Hall and Simkus also noted the "labeling" effects with Native Americans. The negative stereotype of Native Americans leads to higher incarceration. That in turn creates a negative image of those sentenced. "From the viewpoint of the Native American offenders, the inequalities in sentencing reported here are substantial" (1975: 215). The distrust of and negative attitude toward the system were used by sentencing judges, who were then more likely to sentence Native Americans to prison. They concluded that Native Americans see themselves as subjected to discrimination. This view then keeps them in a vicious cycle within the criminal justice system.

Kempf and Austin (1986) also found limited race effects in their study of urban, rural, and suburban areas. Using the "in-out" decisions of sentencing judges, they indicated that race was a factor in sentencing across all areas in the study—urban, rural, or suburban. Discrimination was found to be least prevalent in rural court systems on the in-out decision. When viewing sentence length, their study found race had no independent effect, but was shown to have several interaction effects. However, contrary to their findings on the "in-out" decision, they found that rural courts were more likely to sentence offenders to longer periods of time.

In an interesting study using longitudinal data, Pruitt and Wilson (1983) found race had an independent effect on sentencing in the first time period, 1967-68 (t_1), but not in the later two periods, 1971-72 (t_2), and 1976-77 (t_3). Regardless of the measure used—the "in-out" decision or sentence length—race was found to have an independent effect in t_1. Those findings were not found in t_2 or t_3. In fact, Pruitt and Wilson found a negative effect in the latter two time periods suggesting leniency for blacks in those periods.

Other key findings by Pruitt and Wilson (1983) were that legal variables played a key role in the outcome of sentencing. The effect of a prior record was a strong indicator of not only increased likelihood of incarceration, but also longer prison terms. The seriousness of the crime was also more predictive of the probability of incarceration and longer prison terms. Showing some support for conflict theory, the authors indicated that the more commercial the crime, the more likely the offender was to receive a prison term and longer sentence length as well. Finally, noting the effect of the victim/offender relationship, they found that in situations where the offender was a stranger, the offender was more likely to receive a prison term and a longer sentence length.

Others have found that extra-legal factors, particularly socioeconomic status, may be important in sentence length as well as the decision of whether to incarcerate. Historically, African Americans were more likely to be refused bail or to have bail set inordinately high (Myrdal 1944). In the 1960s, the concern about the negative effects of pretrial detention led to bail reforms. Critics argued that pretrial detention

occurred more often with minority defendants and led to guilty pleas and more severe sentences (Albonetti 1991; Petersilia 1983; Wheeler and Wheeler 1980). Then, in the late 1970s, preventive detention emerged, focusing on the perceived dangerousness of offenders as well as their ties to the community (Albonetti et al, 1989; Chiricos and Bales 1991). There appears to be a strong relationship between pretrial detention and likelihood of incarceration, with half of those detained in jail pending trial receiving prison sentences as compared to only 19% of those who received pretrial release (Bureau of Justice Statistics 1994). Although some legal factors predicted pretrial detention, extra-legal factors were also strongly linked. Both race and socioeconomic status were implicated. For example, one study indicated that the probability of pretrial detention was highest for African Americans who were not employed (Chiricos and Bales 1991). Conversely, another research team found that more education and a higher income were more likely to be associated with lower bail for whites than for blacks (Albonetti et al. 1989).

Pruitt and Wilson also found age to be a strong predictor in all time periods. The older offenders were more likely to be incarcerated. Judges were also likely to give longer prison sentences to older offenders. Additionally, they found that as time periods changed so did the ideology of sentencing judges. Older judges were found to be more conservative and younger judges were more liberal in ideology. In fact, Pruitt and Wilson report that at t_3, judges' ideology had no effect on either the in-out decision or sentence length.

Gender and Sentencing

While the racial disparities mentioned above have been the major focus of inequality in sentencing research, gender is also a key extra-legal variable. One of the ways that gender has been used is to control for the effect of gender. Other studies have begun to look more specifically at the factors that play a role in sentencing outcomes for women.

Two major factors have increased the focus of attention to the sentencing disparities found for women. First, women are increasingly becoming more involved in the criminal justice system. There has been an increase in the number of arrests, convictions, and prison sentences for women. For example, the incarceration rate for women has increased from 32 per 100,000 in 1990 to 59 per 100,000 in 2000 (Bureau of Justice Statistics 2001). More specific to the current research is the number of women under the jurisdiction of state and federal correctional authorities in Oklahoma. In 1990 there were 1,071 women incarcerated in Oklahoma. By 2000, that number had increased to 2,394, an average annual increase of 8.4% (Bureau of Justice Statistics 2001).

The second major factor in the increased study of women in the criminal justice system is the increased focus on women's issues in general. Criminal justice practitioners and academics have worked toward a better understanding of women's needs in all areas of criminal justice. The effects on the families of women (Sharp, Braley and Marcus-Mendoza 2000) and the effects of programming for incarcerated

women (Sharp 2002) have been explored for the differences between the imprisonment of women and men.

Research has also begun to explore the differences in sentences received by females and males. There are three approaches to the inclusion of women in sentencing research. First, the "add women and stir" (Simpson 1999) approach has used gender as a variable to control for differences in sentencing (Albonetti 1991; Hall and Simkus 1975; Kramer and Steffensmeier 1993; Meyers 1987, 1988; Steffensmeier and Demuth 2000; Zatz 1984). Second, feminist writers and others have begun to develop methods to fully explore the specific differences of males and females at the point of sentencing (Daly 1987, 1994; Steffensmeier, Ulmer, and Kramer 1998; Spohn, Welch and Gruhl 1985; Spohn and Welch 1987). The third approach uses only females, seeking fuller explanations of women in the criminal justice system (Kruttschnitt 1980; Marcus-Mendoza and Briody 1996; Sandhu, Al-Mosleh, and Chown 1994; Sharp et al. 2000).

The final approach mentioned above focused on sentence and offender characteristics of female offenders. Sharp et al. (2000) focused on the differences in sentencing of white and black female offenders on drug charges. They found differences in sentence length varied for different legal and extra-legal variables. For white females legal factors, such as prior incarcerations and having a jury trial, were better predictors of sentence length than were extra-legal factors. They also noted that employment was a significant predictor for white offenders. On the other hand, they noted that extra-legal factors were better predictors for black offenders. Two of

the important predictors found for black offenders were education level and crack cocaine use. The effect of having a jury trial was also related to longer sentence length. The Sharp study controlled for a number of variables that are important to females, such as types of drugs used and prior convictions. The number of prior convictions was not found to be significantly different for white or black female offenders.

Sandhu, Al-Mosleh, and Chown (1994) focused on why Oklahoma had the highest rate of female incarceration in the nation. In 1994 the rate of female arrest was not higher than the national average (5,700 per 100,000 in Oklahoma vs. 5,900 per 100,000 nationally), yet the incarceration rate was found to be more than twice the national average (39.2 per 100,000 in Oklahoma vs. 18.9 per 100,000 nationally). The study indicated that black females were disproportionably represented in prison admissions (3.8% of Oklahoma's population vs. 40% of female prison population). Sandhu et al. also found that females were more likely than males to commit property and drug offenses. Females were also more likely to be married and the primary caregiver for children.

Marcus-Mendoza and Briody (1996) supported many of the findings of Sandhu et al. While not looking at sentencing outcomes per se, they found that Oklahoma's female inmate population was almost identical to the national female population and had many of the same problems found for females. The study indicated that many offenders face social, political, and personal problems that were different from those of males. Women sentenced to prison were more likely to be

caring for dependent children, to have other family members that were incarcerated, and to be suffering from alcohol and drug problems.

Kruttschnitt (1980) studied 1,034 females, finding different sentence lengths for white and black offenders. The study explored the effects of social status of women and the sentence handed down by the court. According to Kruttschnitt, "Specifically, regardless of the offense of conviction, women who have spent previous time on probation are significantly more likely to receive the harsher sentence" (1980: 258). She also found that women in lower socioeconomic positions were more likely to receive severe sentences. Minority groups are more likely than whites to be in positions of lower class status. Finally, Kruttschnitt found that the extra-legal variable age was significant at sentencing. Those who were older were sentenced less severely than younger offenders.

Studies of sentencing where sex was measured as a separate variable have indicated that in certain circumstances some females are sentenced differently than males and other females. Spohn and Welch (1987: 294) found that, "A female who had been incarcerated previously, for example, received a sentence 1.85 points more severe than a female who had not been incarcerated." They also found that a female with a prior incarceration was incarcerated ten percent more often than a woman without a prior incarceration. The focus of the research was how judges sentenced both male and female offenders. Looking at the effects of prior record, they noted that for females convicted of non-violent offenses, prior prison term was significantly related to the decision to incarcerate:

> Thus it appears that judges' reluctance to incarcerate a female, particularly a female convicted of a nonviolent crime, can be overcome by the fact that the woman was previously sentenced to prison but not by the fact that she was previously arrested or convicted (Spohn and Welch 1987: 297).

Thus, according to Spohn and Welch, the effect of prior record on a judges' decision varied by gender.

Steffensmeier, Ulmer, and Kramer (1998) have also studied the effect of gender on sentence outcomes. They indicated that adult females are treated more leniently than adult male defendants. They also indicated that gender differences are more likely to be found at the sentencing or imprisonment stage of the criminal justice process than at earlier stages, such as in dismissals and convictions. They found that severity of offense and prior record were the most strongly associated variables on sentencing in their study. They found that females received sentence lengths almost six and one-half months less than males. They also 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 Steffensmeier et al. (1998: 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." Their reasoning for this is that women are seen as less of a threat than males, pose greater costs to

correctional systems (in terms of health care and children), and whites are perceived as more tied to the community than are blacks.

Daly (1987) compared sentencing outcomes of females and males using court records and interviews with judges. Her theoretical position was that there were three sources of explanations for the more lenient treatment of women. Court paternalism posits that judges try to protect women, as the "weaker sex," from the stigma of a criminal record. Second, multifactor explanations indicate that while paternalism may be a factor, there are other factors that also play a role in the judicial sentencing process, such as the perceived dangerousness (men are thought to be more dangerous) and ability to reform (women are thought to be better able to be reformed). Finally, social control explanations argue that the more an individual is tied to other people the less likely formal social controls will be needed. Social control explanations imply that women experience more informal social controls than do men, so women are less involved in formal social control mechanisms, such as the criminal justice system.

Daly (1987) found that the "in-out" decision did play a key role in the judges' actions. Court personnel involved in the study indicated three key areas of concern in sentencing women to prison—prior record, the specifics of the crime, and the defendant's family situation and work. When considering these factors, Daly found that rather than taking a paternalistic approach, her evidence suggested that judges were protecting the family—familial paternalism. For example, a woman was much less likely to be sentenced to prison if she was responsible for the care of children.

She also found that women could be judged based on the notion that they were "bad" mothers, in which case mothers who were not taking on the responsibility of childcare were not protected by lenient sentences. For example, Daly noted, "Familied women charged with prostitution are *a priori* considered 'bad' mothers" (1987: 285). Daly found that in these types of cases familied women were just as likely to be jailed as were nonfamilied women. When compared to men, women who were perceived by the court as good mothers were sentenced less harshly than men, even if the man was providing support to his family.

In another study, Daly (1994) compared sentences handed out by judges in a pair-wise method. In this study, she examined the sentence length in multiple regressions and then explored the disparity noted by comparing selected pairs of offenders—one male and one female. She found that while the regression analysis indicated sentencing disparity in general, her pair-wise analysis was able to explain the disparity through legal factors, not the gender of the individual. Only in one of her pairs was the disparity in sentence given not explainable by either the serious of the offense or the previous history of criminal activity.

Spohn, Welch, and Gruhl (1985) measured the mean sentence length for males and females. They found that with no controls for legal or extra-legal variables, women received significantly lower sentences. Their second test introduced race as a variable and the results indicated that black females were sentenced significantly more harshly than white females, but less harshly than white males. When introducing controls for type of crime, the same patterns of sentencing

existed. In their final model, they controlled for not only the type of crime, but also for prior record, type of attorney, type of plea, pretrial status, amount of bail, whether or not the charge was reduced from the original one, and the sex of the sentencing judge. While controlling for these factors, the length of sentence differences disappeared, but the decision to incarcerate was found to still have a racial effect in that black females were more likely to be incarcerated than white females and comparably to the incarceration rate of white males.

Finally, there are studies that use the "add women and stir" approach. These studies make comparisons while using gender as a control variable. While controlling for gender, Kramer and Steffensmeier (1993) found no racial effects in sentencing in Pennsylvania. Albonetti (1991) used gender as a control variable when examining the outcomes of federal sentencing judges. Using attribution theory, Albonetti found that race was a significant predictor of harsher sentences. Blacks were seen as a higher risk for future criminal behavior, and judges used that attribution to attempt a reduction of the risk for society. (See above: Zatz 1984; Meyers 1987, 1988; Hall and Simkus 1975; Steffensmeier and Demuth 2000 for other examples of studies using gender as a control variable in the study.)

Theoretical Approach:

The theoretical approach for the current study is a critical feminist approach to sentencing behavior. Critical feminist approaches focus on inequality and oppression in society. Using the lens of women to view the current social

arrangements, feminist approaches explore those features of any current situation that affect women.

Of importance to the current research is whether women and men are sentenced differently, and if so what are the important factors associated with those sentencing outcomes. There is a noticeable absence of research on sentencing differences for minority women compared to minority males. For example, do black females receive different sentences than do black males? The same question could be asked for other minority groups as well—for instance Hispanics, Native American, and Asians. The question arises as to whether there are gender differences in sentencing for these groups. If so, it is important to explore what factors might account for those differences.

The second area of concern from a critical feminist perspective is the difference between white women and minority women. The literature on racial sentencing differences has, for the most part, focused on men. Most studies of racial sentencing differences that do use sex as a variable have used the "add women and stir" approach (Simpson 1999), meaning that gender was included as a control variable, not allowing for differences within each group to be explored. The feminist critique of that type of study notes that without looking at sentencing of women separately, it does not allow a full investigation of gender effects. Furthermore, it is imperative to examine racial differences among women to gain a fuller understanding of how the experiences of women are affected by their social placements.

The effects of paternalism and male dominance are two key factors explored by the critical feminist perspective regarding sentencing outcomes. Daly (1987) used this approach to study sentencing and found that paternalism in its truest sense—that of male control of women—was not the major factor in sentence outcomes. She found that "familial" paternalism was more prominent. In other words, women who were married, had children, and were providing proper care for those children were given lesser sentences than men or than women who did not display those qualities. Daly also noted that childcare was more important in sentencing decisions than was economic support. This provides evidence of why women receive lesser sentences than men. However, "bad mothers," those who used drugs or engaged in sex crimes, were treated more harshly. Furthermore, minority women were more likely to be viewed as "evil women." Thus, they were less likely to receive lenient treatment (Young 1986)

When looking at the racial outcomes for women, there is a need for a fuller explanation of sentencing differences for minority and white females. Most studies have only looked at the differences in white/non-white groups (Kruttschnitt 1980; Sharp et al. 2000; Steffensmeier, Ulmer, and Kramer 1998), while some work has been done looking at Hispanics (Steffensmeier and Demuth 2001; Zatz 1984). Studies using the critical feminist approach call for a comparison of each racial group, comparing minority females to white females to locate the factors of any disparity in sentencing.

The current research proposes using this critical feminist approach to explore the areas that have long been overlooked in women's sentencing research. First, the study will examine the factors in sentencing between males and females separately to see if minority women are sentenced differently than are minority men, a subject missing in our current body of knowledge. Second, the research will also provide a detailed examination of sentencing differences between minority women—blacks, Hispanics, Native American, and Asian—and white women. Exploring these differences will increase the amount of knowledge in the sentencing literature.

Focus of the Study:

In order to explore those differences set out above, the current research will focus on a very unique set of offenders. The current study consists of only those individuals—both male and female—that were sentenced to prison time in the State of Oklahoma in 2001. The dependent variable for the research is sentence length as handed down by the courts.

From the literature review of both racial and gender factors, two sets of variables are key in sentencing outcomes. The current study will control for as many of the legal and extra-legal factors as are available in the data. The relationship between sentence severity and prior criminal history has been implicated in all recent studies of sentencing disparity. The relationship between these two legal variables has been found to explain most of the observed variance in studies of racial disparity (Steffensmeier and Demuth 2001; Steffensmeier, Kramer and Streifel 1993; Steffensmeier, Kramer, and Ulmer 1995; Steffensmeier, Ulmer, and Kramer 1998;

also see Ulmer and Kramer 1996; Spohn and Welch 1987). Thus, prior criminal history needs to be address. Severity of crime is also a strong predictor of sentence length. One other legal variable is also used in the current research: the type of crime committed by the offender. Research has indicated, especially for females, that the type of crime committed—usually found in studies using a drug/non-drug comparison—makes a difference in sentence length.

Extra legal variables comprise the second key set of variables found in the literature on sentencing outcomes. Age has been shown to have a negative effect on sentencing, meaning that older offenders receive lesser sentences than do younger offenders (Steffensmeier, Ulmer and Kramer, 1998). Marital status has an effect on sentencing for women, but the effects for men are not as strong or even neutral. Married women receive less severe sentences than do men or non-married women (Daly 1994). Education has also been shown in the literature to affect sentencing for some groups of offenders. Those with more years of education in these groups are sentenced more leniently than those with fewer years (Sharp et al. 2000).

Differences in courts have also been shown to have an effect on sentencing. Urban areas are thought to produce more severe sentences than are rural areas (Kemp and Austin 1986). Finally, there is evidence that those who are released on bail or recognizance also receive shorter sentences than those who cannot afford bail. While not having a bail variable in the data, the current research has a variable indicating the number of days the offender spent in the county jail before coming to prison (Walker et al. 1996). This measure must be viewed with care in that it is

being used here as a measure of ability to obtain early release, but it could also be a measure of severity of the crime or a combination of the two.

The legal and extra-legal factors are thought to work the same way in the current research, but they are not the main focus. Two other extra-legal variables are of importance. First, the race of the individual is an independent variable in this study. Oklahoma is unique in that it is one of the states with a large Native American population, along with sizable numbers of African Americans, Hispanics, and Asians. Therefore, the current study examines five racial and ethnic groups: whites, African Americans, Hispanics, Native Americans, and Asians.

Second, this research will focus on females in two important areas. First, the research will compare men and women of each racial group separately. This is an area that has not been previously explored to the extent that is done here. Second, the minority women will also be compared to white women to note any significant sentencing differences. This area also lacks knowledge to the extent provided by the current research.

Finally, this study will add to the current knowledge by examining whether there are gender and race differences based on the type of crime. While prior research has indicated that drug crimes are most likely to have racial disparities in sentence length (Albonetti 1997; Walker et al. 1996) and that sentences for index crimes are closest to pure justice (Daly and Tonry 1997; Kalven and Zeisel 1966; Spohn and Cederblom 1991; Spohn, Welch, and Gruhl 1985), little attention has been paid to other crimes. The literature indicates that women are more likely to be

convicted of less serious crimes than men, such as sex work, property crimes, and drug offenses (Belknap 2001, pp. 82-83; Chesney-Lind 1997; Greenfeld and Snell 1999; Steffensmeier 1993). Furthermore, discretion in sentencing is more likely to occur in less serious types of offenses. In the current study, I will compare the variables related to sentencing disparities across these three types of crime (See Table 1 for a complete list of variables and the expected effects). Four hypotheses will be tested in the current research:

> H_1: The effects of legal and extra-legal variables on sentence length are the same for women and men.

> H_2: Minority women will be sentenced to longer sentences than are white women, controlling for legal variables such as prior record and seriousness of offense.

> H_3: The effects of extra-legal variables (race, age, sex) on sentence length will be greater for those sentenced for Part II crimes than those sentenced for Index crimes, controlling for legal variables. The effects of legal variables will be greater for those sentenced for Index crimes than for those sentenced for Part II crimes, controlling for extra-legal variables.

> H_4: The effects of extra-legal and legal variables on sentence length will not differ significantly for those sentenced for Part II crimes compared to those sentenced for drug crimes.

Table 1. Hypothesized Effects of Legal and Extra-Legal Variables on Sentence Length, by Race and Gender.

	Effect on Sentencing								
Variable	Over all	Black Male	Black Female	Hispanic Male	Hispanic Female	Native American Male	Native American Female	Asian Male	Asian Female
Legal Variables									
Severity of offense	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Prior incarceration	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Type of crime (Part II omitted)									
Index	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Drug	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Extra-Legal Variables									
Age	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Marital status (Single omitted)									
Married	(0)	(0)	(+)	(0)	(+)	(0)	(+)	(0)	(+)
Divorced	(0)	(0)	(+)	(0)	(+)	(0)	(+)	(0)	(+)
Education	(-)	(-)	(-)	(-)	(-)	(-)	(-)	(-)	(-)
Race (White omitted)									
Black	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Hispanic	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Native American	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Sex (Male omitted)									
Female	(-)	***	(-)	***	(-)	***	(-)	***	(-)
Other extra-legal variables									
Days in county jail	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)
Jurisdiction (Rural omitted)									
Urban	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)	(+)

CHAPTER 3

Methodology

Data:

Data for this research were provided by the Oklahoma Department of Corrections. Secondary data analysis was completed using variables provided to the researcher. The data consisted of all offenders received by the Oklahoma Department of Corrections for the calendar year 2001. Only those persons convicted and sentenced for a new crime were considered (N=5,332).[2] Those returning to the Oklahoma Department of Corrections for probation violation or parole revocation were deleted from the study. Analyses consisted of Ordinary Least Squares (OLS) regression using several models to test the hypotheses set out above.

Variables in the study:

The dependent variable was an interval variable, *sentence length,* measured in months.[3] The study was only concerned with what happened to males and females that have been sent to prison. Other stages of the criminal justice process, such as differences in arrest, pretrial release points, whether the offender had a private or public attorney, whether the offender received a plea bargain or a jury or bench trial, and the "in-out" decision were not considered here. All of these points are important

[2] Due to the sensitivity of studying juveniles, only those individual 18 years or older are considered in the present study.

[3] Sentences of life were coded as a 60-year sentence, those sentenced to life without parole were coded as 80-years, and those given the death penalty were coded as 100-years. In order to eliminate the effects of extreme sentences, those who were sentenced to more than 100 years were coded as 100-year sentences.

and worthy of fuller explanation, but they are beyond the scope and the focus of this research.

There were two independent variables in the current study. Race was measured using a series of dummy variables identifying the race of the offender as reported to the Oklahoma Department of Corrections. *Black* was a dummy variable coded 1 if black and 0 if other. *Hispanic* was a dummy variable coded 1 if Hispanic and 0 if other. *Native American* was a dummy variable coded 1 if Native American and 0 if other. The excluded group in the regression analyses, *White*, was those reporting their race as non-black, non-Hispanic, or non-Native American. [4]

The second independent variable was gender. *Gender* was a dummy variable coded 1 if female and 0 if male. Two types of gender analysis were conducted. First, whether women receive different sentences than men was considered. The analyses indicated whether women received different sentences than men. The second analysis compared the sentence lengths of minority women with non-minority women.

The study controlled for both legal variables and extra-legal variables found in the literature. Legal variables considered included the severity of the crime, number of prior incarcerations, and the type of crime committed. *Severity of the offense* was an ordinal variable created using the Oklahoma Sentencing Commission matrix.[5]

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[4] Of the 3,195 offenders in this category, 3,174 were white. There were a total of 21 Asians sentenced in Oklahoma, only 1 of which was female. Because of the small number, Asians are included in the analysis in this non-minority category.

[5] Oklahoma began the process of moving toward truth-in-sentencing and created a sentencing matrix in order to implement the legislation. The truth-in-sentencing legislation was later repealed and Oklahoma judges do not use the matrix in their sentencing decisions.

Crimes were located in the category of offense set out by the sentencing commission and then located on the severity axis of the sentencing matrix.

Prior incarcerations was an interval variable indicating the number of prior incarcerations of the offender. Type of crime was measured by a set of dummy variables. *Index crime* was coded 1 if the offender had a controlling offense that was an index crime and 0 if other crime. Index crimes included murder, rape, robbery, assault, burglary, larceny, arson, and auto theft. *Drug crime* was coded 1 if the offender had a controlling offense that was a drug crime and 0 if other crime. The drug crime category included the crimes of possession of a controlled dangerous substance, distributing or trafficking in controlled dangerous substances, and alcohol related crimes, such as driving under the influence. The omitted category of crime was Part II offenses that would include all other crimes.

One contextual legal variable, *urban*, was also used as a control variable. A variable was created determining whether the offender was from an urban county or from a rural area of the state. The dummy variable *urban* was coded 1 if the offender was from an urban area and 0 if from a non-urban area. Those counties that were included in the urban category were Oklahoma, Tulsa, Cleveland, and Comanche—the four largest populations in Oklahoma. All other counties were coded as non-urban counties.

This study also controlled for extra-legal variables, such as age of the offender, the marital status of the offender, and the education level of the offender. *Age* was an

interval variable measuring the age of the offender in years when they were received by the Oklahoma Department of Corrections.

Marital status was also an extra-legal factor used in this study. Dummy variables were created indicating *married* coded 1 if the offender reported being married and 0 if other. *Divorced* was coded 1 if the offender reported being divorced and 0 if other. The omitted group was those who were single, as reported to the Oklahoma Department of Corrections. Years of education attained was coded as an interval variable (*education*) indicating the number of years of schooling completed.

Another extra-legal variable considered in this study is the number of days the offender spent in the county jail before coming to prison (*days in county jail*). This measure must be viewed with care in that it was used in this research as a measure of ability to obtain early release.[6]

Data analysis:

The test of Hypothesis 1 was completed in two steps. First, separate Ordinary Least Squares regression models were constructed for males. Model 1 indicated the effects of the legal variables (see above) on sentence length. Model 2 indicated the effect of the extra-legal variables (see above) on sentence length. Model 3 examined the effect of both legal and extra-legal variables on sentence length. Model 4 added the independent variable race to the model. Second, separate Ordinary Least Squares regression models were constructed for women. The models in the analysis for women were identical to those for men.

[6] This measure is used here as a proxy for the ability to be released (a socioeconomic status), but could also measure severity of the crime, the offender's refusal to accept a plea bargain, or lack of institutional space.

To test Hypothesis 1, a comparison of the regression coefficients for all the legal and extra-legal variables was necessary. T-tests of the regression coefficients of Model 4 in the analyses for men and for women provided the information required. The t-tests will determine the statistical differences, if any, between men and women. T-tests for significant differences between regression coefficients were conducted using the formula:

$$T = (b_1 - b_2)/(S_{b1}^2 + S_{b2}^2)^{1/2}$$

Where b_1 = unstandardized coefficient from sample 1
b_2 = unstandardized coefficient from sample 2
S_{b1} & S_{b2} = the standard error of the coefficients (To the ½ power means to take the square root)

To test Hypothesis 2, a separate regression analysis of women was conducted using only the legal variables. Sentence length was the dependent variable, and legal variables included the severity scale, the type of crime (whether it was an Index crime or a drug crime, with Part II crimes as the omitted category), prior incarcerations, and the jurisdiction of offense. The independent variable race was then included (white women were the omitted category).

To test Hypothesis 3, separate regression models were constructed for both males and females using only those convicted of index crimes and those convicted of Part II crimes. Comparisons were then made based on the regression coefficients of those models for both legal and extra-legal variables.

Testing of Hypothesis 4 used the same procedures as the test of Hypothesis 3. Separate regression models were created using only those convicted of drug crimes

and Part II offenses. Comparisons were again made based on the regression coefficients using the formula set out above.

CHAPTER 4

Findings

General Findings:

Frequency distributions for the data are reported in Table 2. Drug crimes were the most frequent type of crime for both males and females. Of the total crimes for which men were sent to prison 2,070 (45%) were drug offenses. Index crimes were the next most frequent 1,671 (36%), with another 875 (19%) men committing Part II offenses. Women were also more likely to be sentenced for a drug offense, with 395 women sentenced for drug offenses in 2001 (55%). Women committed fewer index crimes than did men (151 or 21%), with the remaining 24% (170) committing Part II offenses.

The majority of both men and women in the study received their sentences in urban areas. Two thousand five hundred seventy two men (56%) were sentenced in urban areas, with an even higher percentage of women (60%, n=431) sentenced in urban counties. The remaining 2,044 offenses for men and 285 offenses for women were sentenced in rural (non-urban) counties (44% and 40% percent respectively).

Men were more likely to be single when sentenced than were women. Forty-one percent (1,112) of men reported being single at sentencing. On the other hand, only 97 (27%) females were single when sentenced to prison. More females reported being divorced than men. In the case of men, 862 (32%) reported being divorced, while 43 % (153) of women reported being divorced. Women also reported

Table 2. Descriptive Factors in Sentencing Disparity

Variable	Frequency	Percent	Frequency	Percent
Sex				
Men	4616	86.6	***	***
Women	***	***	716	13.4
Type of Crime				
Index	1671	36.2	151	21.1
Part II	875	19.0	170	23.7
Drug	2070	44.8	395	55.2
Jurisdiction				
Urban	2572	55.7	431	60.2
Rural	2044	44.3	285	39.8
Marital Status				
Single	1112	41.3	97	27.1
Divorced	862	32.0	153	42.7
Married	718	26.7	108	30.2
Race				
White	2734	59.2	440	61.5
Black	1197	25.9	190	26.5
Hispanic	282	6.1	20	2.8
Native American	403	8.7	66	9.2

being married more often than men. Thirty percent (108) of the women reported being married at the time of incarceration compared to only 27% (718) of the men.

The breakdown of race for those offenders in the study indicated an overrepresentation of African Americans among both males and females. Twenty-six percent (1197) of sentenced male offenders were African American. African Americans also comprised 27% (190) of the female offenders coming to prison in 2001. Hispanics were not an over-represented group in sentencing in Oklahoma. Six percent (282) of those sentenced to prison in 2001 were Hispanic males, with 20 (3%) Hispanic women sentenced to incarceration. According to the Census Bureau (2002), those reporting Hispanic origin comprise only 5% of Oklahoma's population (United States Census Bureau 2002). Native Americans also were not greatly overrepresented in those sentenced to prison in 2001. The United States Census Bureau (2002) reports 8% of Oklahoma's population were Native American. Findings here indicated that 9% of both male and female offenders reported being Native American (403 men and 66 women).

Those sentenced to prison in Oklahoma in 2001 were different from the existing Oklahoma prison population in general. For example, blacks made up 26% of those coming to prison in 2001, while the existing prison population was about 30% African American for both males and females (Oklahoma Department of Corrections 2002). Another important difference was found concerning the incoming offenders. The end of year prison population numbers for Oklahoma indicated that the prison population was heavily male (90% males; 10% females) (Oklahoma Department of

Corrections 2002). Those sentenced to incarceration in 2001 were 87% male and 13% female, possibly indicating a growing population of women offenders in the state.

The mean sentence length, the mean scores for the severity index, and the number of prior incarcerations are reported in Table 3. The mean sentence length for men entering prison in 2001 was 97 months, while women received an average sentence of 78 months (with a standard deviation of 159.63 for men and 132.42 for women). A t-test comparing the mean for men and women indicated that the difference for men and women was significant (t=3.00) (See Table 3).

The mean score on the severity scale was similar for males and females. Males had a 3.65 mean score, while females had a 3.56 score (the standard deviation was 1.02 for males and .97 for females). However, a t-test of the difference between means indicated that the difference in the mean scores on the severity scale for men and women was significantly different (t=2.10) (See Table 3).

The mean number of prior incarcerations (.39) was less for females than for males (.60), with a standard deviation of 0.77 for females and 1.00 for males. These numbers indicate that many offenders were coming to prison for the first time, and women had fewer instances of prior incarceration on average. A t-test comparing the mean prior incarcerations for women and men was significant (t=5.16) (See Table 3).

Extra-legal descriptive variables were also examined, including age, the number of years of school, and the number of days spent in the county jail. Women were slightly older than males on average. The mean age for female offenders was 32.21 years, while males were 31.31 years (standard deviation of 10.72 for men and

Table 3. Means of Sentence Length, Severity Scale, Prior Incarcerations, Age, Years of School, and Days in Jail.

	Men		Women		
Variable	Mean	Std. Deviation	Mean	Std. Deviation	t
Sentence Length	97.22	159.63	78.38	132.42	3.00
Severity Scale	3.65	1.02	3.56	0.97	2.10
Prior Incarcerations	0.60	1.00	0.40	0.77	5.16
Age	31.30	10.72	32.19	8.95	-2.12
Years of School	10.95	1.54	10.99	1.67	-0.56
Days in Jail	145.75	141.72	128.59	134.69	2.88

8.95 for women). A t-test for differences in means indicated that the difference in ages for males and females was significant (t=-2.12) (See Table 3). Both males and females coming to the Oklahoma Department of Corrections were younger than the existing population. The average age for inmates (both male and female) was 36 years of age, while the incoming offenders average ages were 32 years for females and 31 years for males (Oklahoma Department of Corrections 2002). This suggests the aging of the prison population as a consequence of longer sentences. On the other hand, these results could be a reflection of the age crime curve (Gottfredson and Hirschi (1990), in that going to prison is something that a younger offender is more likely to do, almost assuring that those coming to prison will be younger than those already incarcerated. Further research is required to indicate if sentencing is creating older inmates.

Years of schooling was almost identical between males and females, with males averaging 10.95 years of school and females 10.99 years. T-tests of the difference in means did not indicate a statistically significant difference in the number of years of school for males and females. Finally, the number of days spent in the county jail before being incarcerated was slightly higher for males than females. Males spent an average of 146 days in county jail (standard deviation = 141.72), while females' mean number of days in jail was 129 (standard deviation = 134.69). The t-test for difference in means indicated a significant difference between males and females (t=2.88) (See Table 3).

Table 4. Pearson Correlation: Variables for Men.

	Sen Length	Severity	Index Crimes	Part II Crimes	Drug Crimes	Incarcerations	Urban	Age	Single	Divorced	Married	Education	Days in Jail	White	Black	Hispanic	N. American
Sen Length	1.000																
Severity	.426**	1.000															
Index Crimes	.130**	.366**	1.000														
Part II Crimes	-.010	-.060**	-.364**	1.000													
Drug Crimes	-.118**	-.307**	-.679**	-.436**	1.000												
Incarcerations	.034*	-.137**	-.031*	-.003	.032*	1.000											
Urban	-.031*	-.043**	-.018	-.050**	.057**	.077**	1.000										
Age	.112**	-.102**	-.241**	.055**	.189**	.277**	-.026	1.000									
Single	-.103**	.039**	.161**	-.046*	-.116**	-.163**	.072**	-.485**	1.000								
Divorced	.072**	-.059**	-.116**	.027	.088**	.205**	-.011	.430**	-.576**	1.000							
Married	.038*	.019	-.057**	.023	.036	-.035	-.069**	.087**	-.506**	-.414**	1.000						
Education	.037*	-.046**	-.101**	.079**	.035*	.095**	.009	.230**	-.125**	.152**	-.021	1.000					
Days in Jail	.401**	.293**	.166**	-.016	-.146**	.040*	.046**	-.014	.089**	-.015	-.082**	-.066**	1.000				
White	.006	-.043**	-.048**	.049**	.008	-.085**	-.175**	.099**	-.137**	.142**	.003	.014	-.114**	1.000			
Black	.011	.038**	.039**	-.039**	-.007	.146**	.247**	-.085**	.178**	-.140**	-.051**	.077**	.103**	-.713**	1.000		
Hispanic	-.009	.048**	-.042**	-.015	.052**	-.097**	.027	-.044**	-.024	-.061**	.090**	-.177**	.045**	-.307**	-.151**	1.000	
N. American	-.019	-.026	.059**	-.013	-.047**	.003	-.101**	-.003	-.017	.018	.000	.001	.000	-.373**	-.183**	-.079**	1.000

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

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

Table 4 provides the results of bivariate correlations for males. Correlations with the dependent variable, sentence length, will be discussed first, and other correlations will be noted. Collinearity diagnostics were completed on all variables, and no collinearity was found between them. The severity scale was highly correlated with the dependent variable sentence length. The relationship was positive and statistically significant ($r = .426, p \leq .01$). This indicates that as the severity of the offense increased, the offender received a longer sentence.

The type of crime committed by offenders was related to sentence length. Those offenders committing index crimes received significantly longer sentences ($r = .130, p \leq .01$). Part II crime was not found to be correlated to sentence length. Finally, drug crime was found to receive shorter sentences than other types of crimes ($r = -.118, p \leq .01$). The index crimes included crimes that are the most severe crimes (murder, rape, robbery, and aggravated assault), so those committing those crimes would be expected to receive longer sentences. However, it should be noted that the less serious offenses of burglary and motor vehicle theft are also included.

Prior incarceration for males was also related to sentence length ($r = .034$). The relationship was positive and statistically significant ($p \leq .05$). This indicated that the more times the offender was previously incarcerated, the longer the sentence received. The jurisdiction of the offense—whether in an urban area or a rural area—was also related to sentence length[7]. The relationship was significant and negative ($r = -.031, p \leq$

[7] Jurisdiction of offense for correlational analysis was coded 1 if the offender was from an urban area and 0 if from a rural area.

.05). Those offenders from urban areas received shorter sentences than those from rural areas.

Several extra-legal variables were also significantly related to sentence length for men. The correlation for age was statistically significant, and the relationship was positive. As the age of male offenders increased, so too did the length of sentence ($r = .112$, $p \leq .01$). Marital status was related to sentence length among males. Those who were single received shorter sentences ($r = -.103$, $p \leq .01$) than other marital categories. Divorced offenders received a longer sentence ($r = .072$, $p \leq .01$). Those who were married at the time of incarceration also received a longer sentence ($r = .038$, $p \leq .05$).

The number of years of school was also related to the length of sentence for men. The relationship was positive indicating that as the number of years of education increased the length of sentence also increased ($r = .037$, $p \leq .05$). Another important relationship was between the number of days spent in county jail and the length of sentence. The relationship was significant and positive ($r = .401$, $p \leq .01$). The more days that male offenders spent in jail, the longer the length of sentence was.

Finally the independent variable race was not statistically related to sentence length. It is interesting that both whites and blacks were sentenced to longer sentences, yet these differences were not statistically significant. Other minority groups—Hispanics, and Native Americans—received shorter sentences, but again the relationships did not reach statistical significance.

Other correlations were significant for males. Sentence length depended on the type of crime committed. Index crimes were statistically correlated to the severity

scale (r=.366, p ≤01), indicating that those committing an index crime ranked higher on the severity scale. Part II crimes were negatively related to the severity scale (r=-.060, p ≤01), and drug crimes were strongly related to the severity scale (r=-.307, p ≤01) indicating that Part II crimes and drug crimes were lower on the severity scale.

Prior incarceration was statistically related to the severity of offense. Those having more prior incarcerations were more likely to have committed more severe crimes (r=-.137, p≤ .01). Finally, the jurisdiction of the offense was negatively related to the severity of the offense and the relationship was statistically significant (r=-.043, p≤ .01). That indicated that those from rural (non-urban) areas of the state were more likely to have committed less severe crimes.

When looking at the extra-legal variables and the severity of offense, age (r=-.102, p≤ .01) was significantly related to the severity of the offense. Younger offenders were more likely to commit more serious offenses than were older offenders. Being single was also positively related to the severity scale (r=.039, p ≤01). That would indicate that single males were also more likely to commit more serious crimes. Being divorced was negatively associated with the severity scale (r=-.059, p ≤01), indicating that divorced males were less likely to commit more severe crimes. Married males were not statistically correlated with the severity scale.

The number of years of school (education) was statistically related to the severity scale of offenses. The relationship was negative (r=-.046, p ≤01) indicating that those with fewer years of education were more likely to commit more severe offenses. The number of days in jail (r= .293, p≤ .01) was significantly associated

with the severity of offense. That indicates that those who spent more days in jail were more likely to have committed more severe offenses.[8]

The correlations for the race variables with severity of offense varied. Whites were less likely to commit more severe crimes ($r=-.043$, $p \leq 01$). Blacks were positively related to the severity scale, thus more likely to commit more severe crimes ($r=.038$, $p \leq 01$), and Hispanics were also more likely to commit more severe offenses ($r=.048$, $p \leq 01$). Native Americans were not statistically correlated with the severity scale.

Index crimes had several key correlations with other variables. As expected, Part II crimes and drug crimes were significantly related to Index crimes, both negative in their relationship ($r=-.364$, $p \leq 01$ and $r=-.679$, $p \leq 01$ respectively). Prior incarcerations had a negative relationship with Index crimes ($r=-.031$, $p \leq 05$), indicating that those with fewer prior incarcerations were more likely to commit Index crimes. Age also had a negative relationship with Index crimes ($r=-.241$, $p \leq 01$) indicating that younger males were more likely to commit index crimes than were older offenders.

The marital status of the offender was also related to Index crimes. Single men were more likely to commit Index crimes ($r=.161$, $p \leq 01$). Divorced ($r=-.116$, $p \leq 01$) and married men ($r=-.057$, $p \leq 01$) were less likely to commit index crimes. Education was also negatively related to Index crimes ($r=-.101$, $p \leq 01$) indicating that those with fewer years of education were more likely to commit Index crimes. The number of days spent in the county jail was also related to Index crimes ($r=.166$, $p \leq 01$)

[8] Collinearity was checked and none was found.

indicating that those spending more days in jail were more likely to have committed Index crimes.[9]

All racial categories were significantly related to index crimes. Among whites (r=-.048. p ≤01) and Hispanics (r=-.042, p ≤01) the relationship was negative, indicating that compared to others, whites and Hispanics were less likely to commit Index crimes. Blacks were more likely to commit Index crimes (r=.039, p ≤01), as were Native Americans (r=.059, p ≤01).

Part II crimes were also related to several variables among men. As expected, Part II crimes were negatively correlated with drug crimes (r=-.436, p ≤01). When compared to urban areas, rural offenders were more likely to commit Part II offenses (r=-.050, p.01). Unlike Index crimes, Part II crimes were positively related to the age of the offender (r=.055, p ≤01), indicating that older offenders were more likely to commit Part II offenses. Single offenders (r=-.046, p ≤05) were negatively related to Part II offenses indicating that others were more likely to commit Part II offenses than were single offenders. Those with more years of education were also more likely to commit Part II offenses (r=.079, p ≤01).

Whites and blacks were the only races that were statistically correlated to Part II offenses. Whites were positively related to Part II offenses (r=.048, p ≤01) indicating that they were more likely than other groups to commit Part II offenses. Blacks, on the other hand, were negatively related to Part II offenses (r=-.039. p ≤01) indicating that they were less likely to commit Part II offenses than were others. Hispanics and Native Americans were not statistically correlated to Part II offenses.

[9] Collinearity was checked and none found.

Drug crimes were statistically related to prior incarcerations, urban, age, being single or divorced, years of education, days spent in jail, being Hispanic or Native American. Those with more prior incarcerations were more likely to commit drug crimes than others (r=.032. $p \leq 05$). Those from urban areas were also more likely to commit drug crimes than are rural offenders (r=.057, $p \leq 01$). Age was positively related to drug crimes (r=.189, $p \leq 01$), indicating older offenders were more likely to be incarcerated for drug crimes than were younger offenders. Single offenders were less likely than other to commit drug crimes (r=-.116, $p \leq 01$). On the other hand, divorced offenders were more likely to commit drug crimes than others (r=.088, $p \leq 01$). Those with more years of education were also more likely to commit drug crimes (r=.035, $p \leq 05$) than those with fewer years of education.

The number of days the offender spent in the county jail was also significantly related to drug offenses. Those spending more days in jail were less likely to commit drug crimes (r=-.146, $p \leq 01$). Hispanic was positively related to drug crimes (r=.052, $p \leq 01$), while the dummy variable Native American was negatively related to drug crimes (r=-.047, $p \leq 01$). Whites and blacks were not statistically related to drug offenses.

Prior incarceration was also related to several variables for males. Those offenders from urban areas (r= .077, $p \leq .01$) were more likely to have prior convictions. The relationship was statistically significant. Age was a strong correlate of prior convictions. The relationship was positive indicating that the older offenders were more likely to have prior convictions (r= .277, $p \leq .01$). Single offenders (r=-

.163, p ≤01) were less likely than others to have prior incarcerations. Those reporting being divorced (r= .205, p≤ .01) were more likely to have prior convictions. Being married was not statistically related to prior incarcerations. The number of years of school (r= .095, p≤ .01) was positively related to prior incarcerations indicating that as the years of school increased so did the number of prior incarcerations. The number of days in jail was statistically related to the number of prior incarcerations (r= .040, p≤ .05). The relationship was positive indicating that those who were in jail more days were more likely to have prior incarcerations.

Male offenders had different relationships with prior incarcerations depending on the race of the offender. Whites (r=-.085, p ≤01) and Hispanics (r=-.097, p ≤01) were negatively related to prior incarcerations indicating that they were less likely to have prior incarcerations than others. Blacks (r=.146, p ≤01) and were more likely to have prior incarcerations than others. Native Americans were not statistically related to prior incarcerations.

Being from an urban or rural area (jurisdiction) was related to the marital status of offenders, days in jail, and the race of the offender. Single offenders were more likely to be from urban counties than others (r=.072, p ≤01) than other groups, while married offenders were more likely to be from rural areas (r=-.069, p ≤01). Being divorced was not statistically related to the jurisdiction (urban/rural counties). Those convicted in urban areas (r= .046, p≤ .05) were more likely to have spent more days in the county jail than those from rural areas. The relationship between jurisdiction and race differed according to the race of the offender. White (r=-.175, p ≤01) and Native

American (r=-.101, p ≤01) were both negatively related to urban jurisdictions indicating white and Native American offenders were more likely to be convicted in rural counties. On the other hand, black (r=.247, p ≤01) was positively related to the urban variable indicating that they were more likely to be convicted in the urban counties. Hispanic was not statistically related to the jurisdiction of offense.

The age of the offender was also related to marital status for males. Those reporting being divorced (r= .430) or married (r= .087) were more likely to be older (p≤ .01). Single (r=-.485), on the other hand, was negatively related to age indicating that they were younger than others. Years of school (r= .230, p≤ .01) was also related to the age of the offender. The relationship was positive indicating that older offenders were more likely to have completed more years of education. White offenders (r=.099, p≤ .01) were more likely to be older than those of other minority groups. Black was negatively related to age, indicating blacks were younger than other groups (r=-.085, p ≤01), as were Hispanic (r=-.044, p ≤01). Native Americans were not correlated with age.

Single offenders had several significant relationships with other variables. Being divorced or married were correlated in the expected fashion.[10] Being single was negatively related to the number of years of education (r=-.125, p ≤01) obtained by male offenders, indicating that single offenders had fewer number of years of education. Whites were less likely to be single (r=-.137, p ≤01) than others, while

[10] One would expect these relationships to be negative and highly correlated.

blacks (r=.178, p ≤01) were more likely to be single than others. Hispanics and Native Americans were not statistically related to being single.

Being divorced or married was again statistically related in the expected direction (see footnote 9). Being divorced was positively related to the number of years of education, indicating that those who were divorced were more likely to have more years of education (r=.152, p ≤01). When examining the race of the offender, whites (r=.142, p ≤01) were more likely to be divorced than other minority groups. Blacks (r=-.140, p ≤01) and Hispanics (r=-.061, p ≤01) were less likely to be divorced than other groups. Native Americans were not statistically correlated with being divorced.

Being married was negatively related to the number of days spent in the county jail (r=-.082, p ≤01), indicating that those who were married were more likely to spend fewer days in the county jail than the other groups. Black offenders were less likely to report being married (r=-.051, p ≤01) than were others, while Hispanic were more likely to report being married (r=.090, p ≤01) than others. Whites and Native Americans did not indicate significant relationships with being married.

The education variable (the number of years of school) was negatively related to the number of days spent in the county jail (r=-.066, p ≤01) indicating that the more years of education an offender had achieved, the fewer number of days spent in jail. The race of the offender and the education variable was only significant for black offenders. Blacks were more likely than others to report more years of education

received (r=.077, p ≤01). Whites, Hispanics, and Native Americans did not indicate a statistically significant relationship with education.

Days in jail was also statistically related to the race of the offender. White was negatively related to the days spent in jail (r=-.114, p ≤01), indicating that others spent more days in jail than did whites. On the other hand, black (r=.103, p ≤01) and Hispanic (r=.045, p ≤01) were positively related to the number of days spent in jail, indicating that these minorities spent the most days in jail. Native American was not statistically related to the number of days in jail. The race of the offender was statistically correlated as expected for all groups (See footnote 9).

Table 5 presents the bivariate correlations for women. As with the correlations for men, the correlations for women and sentence length will be discussed first, followed by the results of other correlations. As with men, the severity of offense (r= .432, p≤ .01) was strongly related to sentence length for women. The relationship was positive and indicated that as the severity of offense increased, the length of sentence also increased. The type of crime—Index, Part II, or drug—had much the same effect for women as for men. Those sentenced for Index crimes received longer sentences than those committing other crimes (r=.141, p ≤01). The relationship between

Table 5. Pearson Correlation: Variables for Women

	Sen Length	Severity	Index Crimes	Part II Crimes	Drug Crimes	Incarcerations	Urban	Age	Single	Divorced	Married	Education	Days in Jail	White	Black	Hispanic	N. American
Sen Length	1.000																
Severity	.432**	1.000															
Index Crimes	.141**	.472**	1.000														
Part II Crimes	-.017	-.131**	-.288**	1.000													
Drug Crimes	-.101**	-.275**	-.573**	-.619**	1.000												
Incarcerations	-.008	-.054	.086*	-.056	-.022	1.000											
Urban	-.042	.006	.029	-.076*	.041	.191**	1.000										
Age	.082*	-.016	-.093*	-.045	.115**	.230**	.021	1.000									
Single	.042	.059	.197**	-.178**	-.018	-.153**	.005	-.389**	1.000								
Divorced	.007	-.043	-.121*	.049	.062	.177**	.077	.343**	-.527**	1.000							
Married	-.049	-.011	-.060	.120*	-.050	-.043	-.087	.007	-.401**	-.568**	1.000						
Education	.033	-.083	-.031	.121**	-.074	.155**	.060	.181**	-.058	.065	-.014	1.000					
Days in Jail	.464**	.310**	.145**	-.009	-.112**	.065	.118**	-.032	.110*	-.049	-.056	-.056	1.000				
White	.079*	-.048	-.160**	.031	.105**	-.182**	-.240**	.089*	-.156**	.173**	-.036	-.001	-.070	1.000			
Black	-.038	.103**	.178**	-.008	-.139**	.176**	.321**	-.070	.212**	-214**	.026	.062	.129**	-.759**	1.000		
Hispanic	-.026	.042	-.005	-.035	.034	.012	-.001	-.039	-.079	.090	-.021	-.041	-.032	-.214**	-.102**	1.000	
N. American	-.060	-.100**	.001	-.019	.015	.031	-.086*	-.021	-.009	-.025	.036	-.068	-.063	-.402**	-.192**	-.054	1.000

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

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

sentence length and Part II crimes was not significant for women. Those women committing drug crimes were sentenced less severely than those women committing other crimes (r=-.101, p ≤01). Prior incarcerations and the jurisdiction of the offense—urban/rural—were not statistically related to sentence length for women.

The extra-legal variables age and days in jail were correlated with the length of sentence for women. Older offenders received longer sentences than younger offenders (r=. 082, p≤ .05). Women who served more time in jail were also more likely to receive longer prison sentences (r= .464, p≤ .01). Women's marital status—single, divorced, or married—was not correlated to the length of sentence. Years of education was also not related to sentence length for women.

Finally, the race of the offender was related to sentence length. White women (r=.079, p≤ .05) received longer sentences than other groups. While not significant, the relationships between the other groups of women and sentence length were negative.

Examination of other significant correlations for women indicated that the type of crime committed was significantly related to the severity scale. Those committing Index crimes (r=.472, p≤ .01) were associated with higher scores on the severity scale. Part II crimes were negatively related to the severity scale (r=-.131, p ≤01) indicating that this type of crime ranked lower on the severity scale. Finally, among women, drug crimes (r=-.275, p ≤01) were also significantly related to the severity scale. The relationship was negative indicating that women that committed drug crimes scored

lower on the severity scale. Prior incarcerations and the jurisdiction of the offense were not correlated with the severity of the offense.

The number of days in jail ($r = .310$, $p \leq .01$) was significantly correlated with the severity scale, indicating that time spent in jail was related to higher rankings on the severity scale. Age, marital status, and years of education were not statistically related to the severity scale.

Black ($r = .103$, $p \leq 01$) women ranked higher on the severity of offense scale than did other women. Being white or a member of another minority group was not statistically related to the severity scale. This indicates that black women were more likely to commit crimes ranked higher on the severity scale.

When looking at the Index crime variable, Part II crimes and drug crimes were both statistically significant relationships, as would be expected (See footnote 9). Prior incarcerations ($r = .086$, $p \leq 05$) was related to Index crimes. Those with more prior incarcerations were more likely to be incarcerated for Index crimes than those with fewer prior incarcerations. Women's age was related to Index crimes. The relationship was negative and indicated that younger women were more likely to be sentenced for index crimes ($r = -.093$, $p \leq .05$). Marital status was also related to Index crimes. Those women that were single were more likely to have committed Index crimes than others ($r = .197$, $p \leq 01$). Divorced women, on the other hand, were less likely to have committed Index crimes than the other groups ($r = -.121$, $p \leq 05$). Married women were not statistically related to the Index crimes.

The number of days in jail was also correlated with Index crimes by women. The relationship was positive ($r=.145$, $p \leq 01$) and indicated that women who commit index crimes were more likely to spend more days in jail than those convicted of other crimes. Two race variables were significant, indicating that white women ($r=-.160$, $p \leq 01$) were less likely to commit Index crimes, while black women ($r=.178$, $p \leq 01$) were more likely to commit Index crimes than others. Membership in other minority groups was not statistically related to Index crimes.

Part II crimes for women offer many of the opposite results found for Index crimes. For example, the relationship between marital status and Part II crimes is opposite of Index crimes. Being a single woman is negatively related to Part II crimes ($r=-.178$, $p \leq 01$), indicating that single women are less likely to commit Part II crimes than other crimes. But, Part II crimes also have other significant relationships not found with Index crimes. The jurisdiction of offense—urban/rural—was statistically related to Part II crimes ($r=-.076$, $p \leq 05$) indicating that rural women were more likely to be convicted of Part II crimes than were urban women. Being married was also positively related to Part II crimes for women ($r=.120$, $p \leq 05$) and women with more years of education were more likely to commit Part II crimes than those with less education ($r=.121$, $p \leq 01$). The number of days in jail or the race of the offender was not correlated to Part II crimes.

Age ($r=.115$, $p \leq 01$) was related to drug crimes. Older women were more likely to be convicted of drug crimes than other types of crimes. The number of days in jail ($r=-.112$, $p \leq 01$) was negatively related to drug crimes indicating that women

convicted of drug crimes spent fewer days in jail than did women committing other types of crimes. Finally, the race of the offender—being white or black—was significantly related to drug crimes. White women ($r=.105$, $p \leq 01$) were more likely to commit drug crimes than other groups of women, while black women ($r=-.139$, $p \leq 01$) were less likely to commit drug crimes than other women.

For women, prior incarcerations, while not related to sentence length, were correlated with several key variables. Women from urban jurisdictions were more likely to have prior incarcerations than were women in rural areas ($r= .191$, $p \leq .01$). Also, older women were more likely to have prior incarcerations than were younger women ($r= .230$, $p \leq .01$). Being divorced was also related to prior incarcerations. This indicated that women who reported being divorced were more likely to have prior incarcerations ($r= .177$, $p \leq .01$), while those who were single ($r=-.153$, $p \leq 01$) were less likely to have prior incarcerations.

Those women who reported more years of school ($r= .155$, $p \leq .01$) were also more likely to have prior incarcerations than those with fewer years of education. Finally, the race of the offender was correlated to prior convictions. Black women ($r=.176$, $p \leq 01$) were more likely to have prior incarcerations than other women, while white women ($r=-.182$, $p \leq .01$) were less likely to have prior incarcerations than other women.

The jurisdiction of the offense—either urban or rural—was correlated with the number of days spent in jail. The relationship was positive and statistically significant ($r= .118$, $p \leq .01$). This indicated that women in urban areas were more likely to spend

more time in jail than were those from rural areas. The jurisdiction of offense was also related to the race of the offender. White women (r=-.240, p ≤01) and Native Americans (r=-.086. p ≤05) were more likely to be convicted in rural areas, whereas black women (r=.321, p ≤01) were more likely to be from urban areas.

When looking at the offender's age—other than those relationships mentioned above—only being divorced (r= .343, p≤ .01), being single (r=-.389, p ≤01), and the number of years of education (r=. 181, p≤ .01) were significantly related. This indicated that older women reported being divorced more often than younger women. Single women were more likely to be younger than the other groups. Older women were also more likely to have more years of education than were younger women. One final significant relationship needs notation. The number of days in jail only reached significant levels for black women (r=.129, p ≤01) indicating that black women spent more days in jail than did other women.

Hypothesis 1Regression Analysis for Men:

The results of the regression analysis for males are reported in Table 6. The dependent variable sentence length was an interval variable measured in months. In Model 1 of Table 6, the effects of the legal variables were explored. The coefficient for severity of the offense was significant, indicating that with each step higher in severity, the offender received about 70 months longer sentence (p ≤001). Those males committing an index crime were less likely to receive a longer sentence (b=-12.36, p≤ .05) than those committing a Part II offense. The relationship was negative and statistically significant. There was no statistically significant difference between

Table 6. Regression Coefficients of Sentence Length on Legal and Extra-Legal Variables for Men.

Variable	Model 1 Unstandardized Coefficient	Sig.	Model 2 Unstandardized Coefficient	Sig.	Model 3 Unstandardized Coefficient	Sig.	Model 4 Unstandardized Coefficient	Sig.
Legal Variables								
Severity Scale	70.15	.000	***	***	45.96	.000	46.10	.000
Type of Crime								
Index	-12.36	.045	***	***	-6.02	.361	-5.93	.369
Drug	-2.27	.697	***	***	8.62	.141	8.89	.129
Prior Incarcerations	15.40	.000	***	***	4.39	.031	5.07	.014
Jurisdiction								
Urban	-6.21	.147	***	***	-1.85	.663	-.101	.982
Extra-Legal Variables								
Age	***	***	0.112	.653	0.50	.037	0.47	.053
Marital Status								
Divorced	***	***	23.08	.000	20.65	.000	18.69	.001
Married	***	***	22.75	.000	17.61	.001	16.96	.002
Years of School	***	***	3.38	.026	2.85	.044	2.97	.039
Days in Jail	***	***	.296	.000	.217	.000	.221	.000
Race Variables								
Black	***	***	***	***	***	***	-12.47	.019
Hispanic	***	***	***	***	***	***	-13.30	.159
Native Americans	***	***	***	***	***	***	-13.91	.078
Constant	-158.86		-3.742		-165.47		-162.58	
R^2	.192		.128		.249		.252	

Dependent Variable: Sentence Length

those males committing drug offenses and those committing Part II crimes. Prior incarcerations was also significantly related to sentence length for men. For each prior incarceration males received about 15 ½ months longer sentence. The relationship was statistically significant ($p \leq .001$). Finally, there was no significant relationship between jurisdiction and sentence length.

Model 2 of Table 6 examines the extra-legal variables in relationship to sentence length. Age was not significant when controlling for the other extra-legal variables. The number of years of education was statistically significant. For each year of education gained offenders were sentenced to 3 ½ months longer sentences ($p \leq .05$). There was a penalty for those who reported either being married or divorced. Divorced men received almost two years longer sentences ($b=23.08$, $p \leq .001$) than did single men. Married men also received longer sentences than single men. Again, almost a two year longer sentence was indicated ($b=22.75$, $p \leq .001$). Finally, the number of days a man spent in county jail was related to the length of sentence. The relationship was positive and statistically significant. For each day the offender spent in jail he received almost 1/3 of a month longer sentence ($b=.296$, $p \leq .001$).

Model 3 of Table 6 indicates the results of both legal and extra-legal variables on sentence length for males. Severity of offense was still statistically significant, indicating that the more severe the crime committed, the longer the sentence received by the offender. Those committing a more severe crime received about 46 months longer sentences for each step up in the severity scale ($p \leq .001$). In this model, the type of crime males committed was not statistically significant for either the index

crimes or drug offenses compared to Part II crimes. Prior incarcerations still provided a predictor of longer sentences in Model 3. The relationship was positive and statistically significant (b=4.39, p≤ .05). For each prior incarceration an offender had, his sentence was increased by just over 4 months. The jurisdiction of offense, whether urban or rural, was not statistically related to longer prison sentences.

There were some changes in the relationships between the extra-legal variables and sentence length when legal variables were controlled. Without controlling for legal factors, age was not a predictor of longer sentences, but when legal variables were controlled the age of the offender reached statistical significance (b=0.50, p≤ .05). For each year increase in age, sentence length was approximately one-half month longer. The relationship between marital status and sentence length was the same in Model 3 as in Model 2. When controlling the legal factors, those men who reported being divorced were given 20.65 months longer sentences than were single men (p≤ .001). Married men also received approximately 18 month longer sentences than did single males (p≤ .001).

Education was also significantly related to sentence length for male offenders. The relationship was positive indicating that for each year of education received, the offender was sentenced to three additional years of prison (p ≤05). While the relationship was not as strong as in Model 2, days spent in the county jail remained related to sentence length. For each day spent in jail, the offender received 0.217 months longer sentence (p≤ .001).

Model 4 in Table 6 adds the independent dummy variables measuring the race of the offender. As in the previous models, severity of offense had a statistically significant effect on sentence length (b=46.10, p≤ .001). Those having prior incarcerations received about 6 months longer sentences for each prior incarceration (p≤ .05). The type of crime and the jurisdiction did not have statistically significant coefficients.

For males, age no longer had a significant effect when controlling for the legal variables and other extra-legal variables. The marital status effect found in Model 3 was also found in Model 4. Both divorced (b=18.69, p≤ .001) and married (b=16.96, p≤ .001) males received longer sentences than did single males. Education was also a significant predictor of longer sentences in Model 4. Male offenders received about three months longer sentences for each year of education obtained (b=2.97, p≤ .05). The number of days spent in county jail remained significant. Males received about one-fourth of a month longer sentence for each day spent in the county jail (b= .221, p≤ .000).

When controlling for both legal and extra-legal variables, race was only significant for African Americans (b=-12.47, p≤ .05). The relationship was negative indicating that black males received shorter sentences than white males of about 1 year. Hispanics and Native Americans were not sentenced any differently than whites, after controlling for legal and extra-legal factors. This finding is in direct conflict with those arguing discrimination in the criminal justice system. Wilbanks' (1987) argument of more leniency for minorities would seem to justify this finding.

The amount of variance explained by each model was important in light of Hagan's (1974) concerns. Hagan argued that the amount of variance explained by legal factors should exceed the amount explained by extra-legal factors. The results of the regression analysis indicate that legal factors explained more of the variance in sentence length than the extra-legal factors (R^2 = .192 for legal factors and .128 for extra-legal factors) for males, supporting Hagan's argument. When both legal factors and extra-legal factors were entered (Model 3), the amount of explained variance increased to .249. The total amount of explained variance for the regression equation in Model 4 indicated that race added very little to the explanatory power. The explained variance in Model 4 was .252, which was only slightly more than Model 3. This again would support the argument by Hagan in that the effects of the extra-legal variables are not as strong as the effects of the legal variables. About one-fourth of the variance was explained by Model 4, indicating a need to explore other factors that may affect sentence length.

Hypothesis 1: Regression Analysis for Women:

The regression analysis for women is reported in Table 7. Overall, the results indicated different factors influenced sentence length for women than for men. Model 1 in Table 7 includes only legal factors.

In Model 1, severity of the offense was significant, indicating that for each one-unit increase in severity, women were sentenced to 65 additional months ($p \leq .001$). Women who committed index crimes received shorter sentences than those committing Part II offenses. Those women who committed a Part II crime received

Table 7. Regression Coefficients of Sentence Length on Legal and Extra-Legal Variables for Women.

	Model 1		Model 2		Model 3		Model 4	
Variable	Unstandardized Coefficient	Sig.	Unstandardized Coefficient	Sig.	Unstandardized Coefficient	Sig.	Unstandardized Coefficient	Sig.
Legal Variables								
Severity Scale	64.85	.000	***	***	54.79	.000	56.05	.000
Type of Crime								
Index	-31.65	.031	***	***	-33.92	.208	-35.76	.186
Drug	-6.35	.563	***	***	-17.77	.397	-23.35	.268
Prior Incarcerations	5.91	.320	***	***	-9.86	.350	-5.33	.619
Jurisdiction								
Urban	-12.91	.165	***	***	-28.67	.091	-17.32	.334
Extra-Legal Variables								
Age	***	***	1.61	.152	1.51	.164	1.51	.164
Marital Status								
Divorced	***	***	-6.62	.772	1.98	.928	-10.06	.659
Married	***	***	-9.02	.698	-11.97	.589	-16.27	.465
Years of School	***	***	6.33	.216	9.07	.065	9.34	.058
Days in Jail	***	***	0.58	.000	0.49	.000	0.48	.000
Race Variables								
Black	***	***	***	***	***	***	-45.42	.031
Hispanic	***	***	***	***	***	***	-31.17	.500
Native Americans	***	***	***	***	***	***	-20.37	.491
Constant	-136.97		-101.25		-276.34		-267.65	
R^2	.195		.252		.362		.373	

Dependent variable: Sentence Length

about 32 months longer sentences than those committing index crimes (b=-31.65, p≤ .05).[11] Those women who committed drug offenses did not differ significantly from women committing Part II crimes in sentence length. Prior incarcerations and the jurisdiction of sentence were not statistically significant when examining sentence length.

Model 2 of Table 7 shows the effects of the extra-legal factors on sentence length for women. For women, only the number of days spent in the county jail was significantly related to sentence length. For each day spent in the county jail, women received about a half a month additional sentence (b= .583, p≤ .001). The age of the women, the marital status of women, and the number of years of school were not related to sentence length.

Model 3 in Table 7 combines the legal and extra-legal variables in the equation. When controlling for extra-legal factors, the severity of the offense was the only legal variable that predicted sentence length. For each additional step up in the severity scale, women received 54 additional months of sentence (b=54.79, p≤ .001). The type of crime (index or drug), prior incarcerations, and the jurisdiction (urban or rural) were not related to the length of sentence for women.

Of the extra-legal factors, the only significant predictor of longer sentences was days in the county jail. The relationship was positive and statistically significant (b= .49, p≤ .001), indicating that for each day a woman spent in county jail, she received about one-half month longer sentence. The age of the woman, the marital

[11] Remember that this model controls for drug offenses, so these results would not be explainable by women committing more drug offenses.

status (either divorced or married), and the years of education were not statistically related to sentence length when controlling for the legal and extra-legal variables.

The independent variable race was added in Model 4 of Table 7. In this model, severity of offense remained statistically significant. Each move up in the severity index increased the sentence length by about 56 months (b=56.05, p≤ .000). The type of crime, prior incarcerations, and the jurisdiction of the offense were not statistically significant.

The only extra-legal variable found to have statistical significance was the number of days spent in the county jail, indicating that the more days an offender spent in jail, the longer their sentence (b=.48, p≤ .001). Age, marital status, and education did not have statistically significant effects on sentence length. These findings also work against those arguing that there is discrimination in the system. These findings indicate that judges and district attorneys are not using the age, marital status, or education level of women when sentencing offenders to prison.

When examining the effects of race on sentence length, black women received about 45 months shorter sentences than did white women (b=-45.42, p≤ .05), after controlling for the legal and extra-legal variables. Hispanic women and Native American women were not sentenced differently than white women.

As with the male regression models, the amount of variance explained by each model was again important in light of Hagan's argument. For women, however, the extra-legal variables explained more of the variance than did the legal variables (R^2 = .195 for legal variables and .252 for extra-legal variables), not supporting Hagan's

argument. When both legal and extra-legal variables were included in the analysis (Model 3) the amount of explained variance increased to .362, indicating better explanatory power for women than for men. As with the male model, the race of the offender added very little to the power of the equation, as would have been predicted by Hagan. The R^2 for Model 4 (includes the independent variable race) was .373. However, the model appears to be a better predictor of sentence length for women than for men, explaining over one-third of the variation in women's sentence lengths as compared to only one-fourth of the variation in men's sentence lengths.

Tests of Hypotheses:

To test Hypothesis 1 a comparison of the regression coefficients for men and women was needed. Table 8 provides the results of the comparisons of the regression analyses by sex. Analysis indicated that for the legal variables none of the coefficients were significant. That indicated that the severity of the offense, the type of crime, the number of prior incarcerations, and the jurisdiction of offense did not significantly differ by sex in their effects on sentence lengths.

Table 8 also indicates that for the extra-legal variables, only the number of days in jail was significantly different for women and men. Although Table 3 indicated that men spend significantly more time in jail than do women, the consequences of pretrial detention appear harsher for women. Women receive significantly longer sentences for each day in county jail than do men. Supporting the prior research (see Albonetti 1991; Albonetti et. al 1989; Chiricos and Bales 1991; Myrdal 1944; Petersilia 1983; Wheeler and Wheeler 1980) this suggests that after

Table 8. T-tests of unstandardized regression coefficients, by sex of offender.

	Males		Females		
Variable	Unstandardized Coefficient	Standard Error	Unstandardized Coefficient	Standard Error	t
Legal Variables					
Severity Scale	46.10	2.444	56.05	9.685	-1.00
Type of Crime					
Index	-5.93	6.601	-35.76	26.944	1.08
Drug	8.89	5.855	-23.35	21.030	1.48
Prior Incarcerations	5.07	2.069	-5.53	10.706	0.97
Jurisdiction					
Urban	-.101	4.356	-17.32	17.896	0.93
Extra-Legal Variables					
Age	1.47	0.241	1.51	1.079	-0.04
Marital Status					
Divorced	18.69	5.771	-10.06	22.784	1.22
Married	16.96	5.488	-16.27	22.226	1.45
Years of School	2.97	1.437	9.34	4.906	-1.25
Days in Jail	.221	0.016	1.48	0.058	-21.00**
Race Variables					
Black	-12.47	5.307	-45.42	20.977	1.52
Hispanic	-13.30	9.433	-31.17	46.186	0.38
Native American	-13.91	7.892	-20.37	29.524	0.21

** Significant at the $p<.001$

controlling for severity of offense, prior incarcerations, and the type of crime, the number of days in the county jail could be seen as a socioeconomic indicator linked to pretrial detention.

The analysis also indicated that minority men and women were not sentenced differently. For example, for African American males the unstandardized coefficient was –12.45 with a standard error of 5.314. For African American women the unstandardized coefficient was –45.42 with a standard error of 20.977.
The t-test (See Table 8) indicated that the difference was not statistically significant (t=1.54) between African American males and African American females. The same patterns were found for Hispanic and Native American females and males.

To test Hypothesis 2, an examination of women's sentence length was compared, controlling for legal variables such as the seriousness of offense (severity scale), the type of crime, prior incarcerations, and the jurisdiction of offense. Model 1 in Table 9 indicates the effects of legal variables on sentence length.[12] Model 2 adds the race of the offender while controlling for the legal variables (Hypothesis 2). The findings indicate that black women were the only minority group that differed significantly from white women (b=-26.21, $p \leq 05$). Black women in Oklahoma, controlling for the effects of the legal variables, received significantly shorter sentences than did white women. Other minority women—Hispanic or Native American—also received shorter sentences than white women, although the differences did not reach statistically significant levels. These results disprove Hypothesis 2

[12] Model 1 of Table 9 is the same as Model 1 in Table 7.

Table 9. Regression of Sentence Length for Women on Legal Variables and Race.

Variable	Model 1 Unstandardized Coefficient	Model 1 Stand Error	Model 2 Unstandardized Coefficient	Model 2 Stand Error
Legal Variables				
Severity Scale	64.85**	5.26	65.17**	5.29
Type of Crime				
Index	-31.65*	14.67	-28.28	14.70
Drug	-6.35	10.97	-7.35	10.97
Prior Incarcerations	5.91	5.93	7.96	5.97
Jurisdiction				
Urban	-12.92	9.30	-6.85	9.73
Race Variables				
Black	***	***	-26.16*	11.16
Hispanic	***	***	-45.26	27.25
Native Americans	***	***	-16.22	15.83
Constant	-136.97		-133.03	
R^2	.195		.204	

Dependent Variable: Sentence Length

Table 10. Regression Coefficients of Sentence Length on Legal and Extra-Legal Variables by Type of Crime, Reported Separately by Sex.

	Index Crimes				Part II Crimes				Drug Crimes			
	Male		Female		Males		Females		Males		Females	
Variable	b	Std. Error	b	Std. Error	b	Std. Error	b	Std. Error	b	Std. Error	b	Std. Error
Legal Variables												
Severity Scale	62.36**	5.34	90.01**	22.01	15.27**	4.90	34.95	23.08	35.36**	2.53	34.36**	8.42
Prior Incarcerations	4.98	5.68	-3.25	25.79	10.10**	3.80	-19.42	37.84	4.76**	1.76	12.11	6.28
Urban	5.21	12.03	57.68	52.18	9.10	8.10	-7.42	52.82	-7.43*	3.64	-23.92*	10.34
Extra-Legal Variables												
Age	-0.38	0.72	2.74	2.62	0.76	0.42	1.41	3.36	0.43*	0.20	0.11	0.64
Marital Status												
Divorced	31.93	16.62	-35.53	61.90	6.32	10.23	-132.21	87.75	16.34**	4.82	16.66	11.94
Married	25.54	15.10	25.79	57.13	18.86	10.17	-145.82	75.87	15.50**	4.62	-0.95	12.72
Years of School	3.93	4.03	16.72	14.21	2.55	2.62	16.24	14.67	1.96	1.20	-0.65	2.73
Days in Jail	0.25**	0.04	0.50**	0.11	0.22**	0.03	0.71**	0.20	0.18**	0.02	0.13**	0.05
Race Variables												
Black	-11.58	14.32	-76.95	54.18	-16.13	9.98	-89.76	61.48	-12.16**	4.47	-9.15	12.40
Hispanic	-12.09	30.85	-88.19	207.76	-26.01	17.45	-58.55	140.34	-12.72	7.35	-14.69	22.43
Native Americans	-29.33	19.38	-23.75	87.89	-5.52	14.61	-44.85	84.48	-1.02	7.22	12.10	16.07

**$p \leq .001$

* $p \leq .05$

Table 10 reports the regressions of sentence length separately for the three types of crime. To provide further information, the results are reported separately for males and females. To test Hypothesis 3, separate regression models were constructed using two groups of offenders: those convicted of Index crimes (N= 1822) and those convicted of Part II crimes (N=1045). The results, reported in Table 10, indicated that the severity of the offense was significantly related to sentence length (b=62.36, $p \leq 001$) for males convicted of Index crimes. That indicated that as a person moved up each step in the severity scale, there was additional sentence length. Also, the number of days spent in county jail was significantly related to sentence length. The relationship was positive indicating that for each day spent in county jail, the sentence length was increased (b=.25, $p \leq 001$).

The results for females mirrored the results for males when looking only at those convicted of Index crimes. Women were sentenced to longer prison terms for each increase in the severity scale (b=90.01, $p \leq 001$). The number of days spent in jail (b=0.50, $p \leq 001$) was also significantly related to sentence length for females. Women received almost one-half month longer sentences for each day spent in jail.

Table 10 also provides the results of regression analysis of Part II crimes. For males convicted of Part II crimes the severity of the offense (b=15.27, $p \leq 001$), prior incarcerations (b=10.10, $p \leq 001$), and days in jail (b=.22, $p \leq 001$) were all related to sentence length. Those committing the more serious crimes—those higher in the scale—were sentenced to longer terms than those at the bottom of the scale. Those offenders who committed Part II offenses and had prior incarcerations were also given

Table 11. Comparison of Regression Coefficients by Sex for Index Crimes and Part II Crimes.

	Males					Females				
	Index		Part II			Index		Part II		
Variable	b	Stand Error	b	Stand Error	t	b	Stand Error	b	Stand Error	t
Legal Variables										
Severity Scale	62.36	5.34	15.27	4.90	6.50*	90.01	22.01	34.95	23.08	1.73
Prior Incarcerations	4.98	5.68	10.10	3.80	-0.75	-3.25	25.79	-19.42	37.84	0.35
Urban	5.21	12.03	9.10	8.10	-0.27	57.68	52.18	-7.42	52.82	0.88
Extra-Legal Variables										
Age	-0.38	0.72	0.76	0.42	1.36	2.74	2.62	1.41	3.36	0.97
Divorced	31.93	16.62	6.32	10.23	1.31	-35.53	61.90	-132.21	87.75	0.90
Married	25.54	15.10	18.86	10.17	0.37	25.79	57.13	-145.82	75.87	1.81
Years of School	3.93	4.03	2.55	2.62	0.29	16.72	14.21	16.24	14.67	0.02
Days in Jail	0.25	0.04	0.22	0.03	0.60	0.50	0.11	0.71	0.20	-0.95
Race Variables										
Black	-11.58	14.32	-16.13	9.98	0.26	-76.95	54.18	-89.76	61.48	0.16
Hispanic	-12.09	30.85	-26.01	17.45	0.39	-88.19	207.76	-58.55	140.34	-0.12
Native American	-29.33	19.38	-5.52	14.61	-0.98	-23.75	87.89	-44.85	84.48	0.17

* $p<.05$

longer prison sentences. As with the Index crimes, the more days spent in jail predicted longer prison sentences. For women convicted of Part II offenses, only the number of days in jail was a predictor of a longer prison sentence ($b=.71, p \leq 001$). To test Hypothesis 3 a comparison of the regression coefficients was necessary. Table 11 provides the t-test comparison for both males and females. When comparing those convicted of an Index crime with those convicted of a Part II offense, only the severity of the offense was significantly different ($t=6.50, p \leq 05$). For females, there was no difference in sentencing between Index crimes and Part II offenses. This provides only partial and very limited support for Hypothesis 3. None of the extra-legal variables were found to be significantly different for Part II crimes when compared to Index crimes, resulting in rejection of that part of Hypothesis 3. The only support for Hypothesis 3 was that the severity of the offense—a legal variable—was significantly different when comparing Part II and Index crimes as predicted by the hypothesis. The other legal variables were not significantly different.

To test Hypothesis 4, separate regression models were constructed only using those convicted of Part II crimes (N= 1045), then those convicted of Drug crimes (N=2465). Table 10 provides the results of regression analysis for both Part II crimes and drug crimes separately by sex, controlling for the other legal and extra-legal variables. The results of the regression analysis for Part II crimes is explained above, but explanation of drug crimes is necessary for both men and women. For males, and to a more limited extent for females, more variables were related to the length of sentence for drug offenders.

The severity of the offense (b=35.36, p ≤001) was related to sentence length. As the offender moved up in the severity scale, there was a corresponding addition to sentence length. Prior incarcerations was also related to sentence length for male drug offenders (b=4.76, p ≤001), indicating that those with prior incarcerations were given longer prison sentences. The analysis also indicates that drug offenders from rural areas were given longer sentences than were those from urban areas (b=-7.43, p ≤001. Age (b=.43, p ≤05) was also a predictor of longer sentences for drug offending males, indicating that for each year older, the offender received about one-half month longer sentence.

Marital status for male drug offenders was also significant. Divorced men received about 16 months longer sentences than did single men convicted of drug offenses (b=16.34, p ≤001), while married male drug offenders received over 15 months longer sentences than did single men (b=15.50, p ≤001). For male drug offenders there was about one-fifth additional month added for each day spent in jail (b=.18, p ≤001). Finally, black males convicted of drug offenses were sentenced to about 12 months shorter sentences than were white males (b=12.16, p ≤001), indicating that there was no racial discrimination in sentencing in Oklahoma in 2001 (a fuller explanation of this finding will be discussed later).

For women drug offenders, more variables were also predictors of longer sentences than for Index or Part II offenses, though not as many as for males. For each step up in the severity scale, female drug offenders received about 34 months longer sentences (b=34.36, p ≤001). Those women convicted of drug offenses in rural

areas were also more likely to receive longer sentences than those from urban areas ($b=-23.92$, $p \leq 05$). Finally, the number of days spent in jail was significantly related to longer sentences for female drug offenders. Those women who spent more days in jail were more likely to receive longer sentences than those who spent fewer days in jail ($b=.13$, $p \leq 001$).

To complete the test of Hypothesis 4 a comparison of the regression coefficients was necessary. Table 12 indicates the results of t-test comparisons of the regression coefficients. The hypothesis predicts that there will not be significant differences between those convicted of Part II offenses and drug offenses. The analysis indicated that, for males, there were significant differences in the effects of the severity scale between Part II offenders and drug offenders ($t=-3.65$, $p \leq 05$). Those convicted of drug offenses were not sentenced as severely as those sentenced for similarly classified Part II crimes. For female offenders, the number of days spent in jail was significantly different for Part II offenders than for drug offenders ($t=.276$, $p \leq 05$). That indicates that the number of days in jail was a better predictor for those who committed a Part II offense than for those committing a drug offense. These differences—in both male and female offenders—disprove Hypothesis 4. When comparing those convicted of Part II crimes with those convicted of drug crimes, there are significant differences in the effects of several variables on sentence length.

Table 12. Comparison of regression coefficients by type of crime and sex.

	Males					Females				
	Part II		Drug			Part II		Drug		
Variable	b	Stand Error	b	Stand Error	t	b	Stand Error	b	Stand Error	t
Legal Variables										
Severity Scale	15.27	4.90	35.36	2.53	-3.65*	34.95	23.08	34.35	8.42	0.02
Prior Incarcerations	10.10	3.80	4.76	1.76	1.27	-19.42	37.84	12.11	6.28	-0.82
Urban	9.10	8.10	-7.43	3.64	1.86	-7.42	52.82	-23.92	1.34	0.31
Extra-Legal Variables										
Age	0.76	0.42	0.43	0.20	0.70	1.41	3.36	0.11	0.64	0.38
Divorced	6.32	10.23	16.34	4.82	-0.89	-132.21	87.75	16.66	11.94	-1.68
Married	18.86	10.17	15.50	4.62	0.30	-145.82	75.87	-0.95	12.72	-1.88
Years of School	2.55	2.62	1.96	1.20	0.20	16.24	14.67	-0.65	2.73	1.13
Days in Jail	0.22	0.03	0.18	0.02	1.00	0.71	0.20	0.13	0.05	2.76*
Race Variables										
Black	-16.13	9.98	-12.16	4.47	-0.36	-89.76	61.48	-9.15	12.40	-1.29
Hispanic	-26.01	17.45	-12.72	7.35	-0.70	-58.55	140.34	-14.69	22.43	-0.31
Native American	-5.52	14.61	-1.02	7.22	-0.28	-44.85	84.48	12.01	16.07	-0.66

* $p<.05$

CHAPTER 5

Discussion

This study indicates that in Oklahoma some legal and extra-legal factors are significant indicators of sentence length. While the original hypotheses were not supported entirely, the findings provide valuable information about sentencing in the state for both women and men. The regression analyses provide interesting results concerning the explanatory power of legal and legal variables. There are significant differences in the factors that are important for women as opposed to men.

From the feminist perspective, the study confirms that female offenders differ from male offenders. That difference is important for criminal justice officials at all levels. More importantly, this study indicates that in terms of both legal variables—severity of offenses, type of crime committed, prior incarcerations, and jurisdiction of the offense—and extra-legal variables—age, marital status, days in jail, and education—women are different than men. For example, the mean sentence handed down was significantly different for females and males. Males receive longer sentences. Females and males also differ in the types of crimes they commit. Criminal justice officials should recognize those differences in providing programs and services that are different for those provided to males.

The test of Hypothesis 1 was informative from a feminist perspective. For males, the regression analysis supports the work of Hagan (1974) indicating that legal variables play a larger role in predicting sentence length. However, for women the extra-legal variables were better predictors. Feminist writers (Chesney-Lind

1989; Chesney-Lind and Sheldon 1998; Sharp 2003; Sharp, et al. 2000; Simpson 1999) have argued for locating differences in females and males and further exploring those differences. The findings here would indicate that judges and district attorneys do use extra-legal variables when sentencing females, thus placing a need to further explicate the exact nature of those differences. When looking at the effect of extra-legal variables, for example, more variables were found to be significant for men, but the overall amount of variance for the extra-legal variables was greater for women. In other words, the effect of the number of days in jail was greater for women than all the significant variables for males. In this study, days of jail is used as a proxy for socioeconomic status. In the analyses, seriousness of offense and type of crime are both controlled, yet for women the time spent in jail prior to incarceration in the Oklahoma Department of Corrections remains significant. Thus, support is given to the interpretation of days in jail as a proxy of SES.

This finding supports the patriarchal model of justice set out by feminism (Simpson 1999; Datesman and Scarpitti 1980). Factors outside the legal realm are considered when sentencing women to prison. Since the only variable that was significantly related to sentence length was the number of days in the county jail, this study suggests that higher socioeconomic status, in the form of being able to make pretrial release, is related to lighter sentences. Prior research has indicated that pretrial release can be a measure of socioeconomic status (Albonetti 1991; Albonetti et al. 1989; Chiricos and Bales 1991; Myrdal 1944; Petersilia 1983; Spohn and Delone 2002; Wheeler and Wheeler 1980). The present study controls for the

severity of offense and the type of crime, but could not control for other factors that might affect the number of days spent in jail, such as bed space available at the department of corrections or plea-bargaining, although plea-bargaining has also been implicated as an indicator of socioeconomic status (Walker et al. 1996).

For the composite model (Model 4 in both Table 6 and Table 7) the amount of variance explained is higher for women than men. Further research is needed to help explain the variance for both men and women. This information is needed by the criminal justice system. A few states have begun comprehensive data collection from the initial contact with police, through prison release (Petersilia 1983, Steffensmeier 2001), but most states do not have comprehensive data. The research presented here is based on sentencing outcomes only and provides no controls for earlier steps in the process. For example, this study does not address the decision of whether or not incarcerate. Instead, it focuses only on those offenders who are sentenced to incarceration. Nor is there information available about decision to arrest or decisions about how charges are filed. Data from those steps in the criminal justice process may provide answers to questions raised here.

The study also indicated that males suffer a marriage penalty that was not found for women. On the surface that would indicate that women are not penalized for deviating outside the family role, yet men are. On the other hand, the finding that females are sentenced the same, regardless of marital status, could indicate that "any" female that deviates from the traditional female role is punished by the system, regardless of marital status. Furthermore, the current study could not control for

those women who were the primary caregivers for children. In other words, what cannot be teased out of these findings is the effect of motherhood. Further research should take care to distinguish between the "familied" role of the female and the motherhood role of the female (Daly 1987). Prior research has suggested that while marital status may be linked to accepted gender roles for men, motherhood is strongly linked with traditional views of appropriate female gender roles (Daly 1987, 1994; Sharp et al. 2000).

Finally, the results of the independent variable race did not support the discrimination position. The independent variable indicates that there are not significant differences in sentence length for Hispanics or Native Americans and whites (the omitted group). This is an interesting finding in light of Steffensmeier and Demuth (2001) and Petersilia's (1983) findings of significant difference in sentencing for Hispanics and Simkus and Hall's (1975) findings of significant differences for Native Americans. While not significant, both Hispanics and Native Americans receive shorter sentences in Oklahoma compared to whites.

Blacks, both men and women, receive shorter sentences than do whites in Oklahoma. This finding directly disputes the argument of the discrimination position. There are several possible explanations for this finding. First, there is a conscious effort on the part of criminal justice officials to ensure equity in sentencing to the point of the unintentional lighter sentencing for blacks. This would support the findings of Wilbanks (1987) that the criminal justice system overcompensates for minorities in light of civil rights laws and political pressures. Second, there could be

a penalty effect for whites that deviate from societal norms. Whites could be viewed as not taking advantage of the privilege of being in a better social position, thus sentenced more harshly. Of course, the current study is limited to sentences lengths of those who are incarcerated. It does not examine the issues in the decision to incarcerate. It is possible that racial and ethnic discrimination occurs at earlier stages of the process, in charging decisions as well as in the decision to incarcerate. If that occurs, there may be less discrimination in actual sentence length due to attempts to apply sentencing guidelines unilaterally.

The difference in black females and white females is also important to the work of feminists. The findings here would suggest that white women are treated more from a paternalistic position than are black females. These findings would indicate that white women are punished more harshly for deviating from traditional female role than are black females.

There is another important finding that is important in the differences between black and white women. From the correlational analysis, black women were the only group that was significantly correlated to the number of days in jail. The importance here is that while blacks receive lighter sentences than do white women, they also spend more time in jail, so the difference in sentence length seen here could be an underestimate of the difference between the two groups. Could this be an indication that black females are devalued or thought to be less worthy of patriarchal oversight than white women or that white females are held to a higher standard of "femaleness" than are black women? Future research is definitely

needed to explore the difference in treatment received by black women compared to white women.

The above explanations would also help explain the differences in other minority group findings. With a strong societal ethos dictating individualism, white males are in a position of privilege and if they do not live up to that standard they are punished more severely than other minority groups—blacks, Hispanics, and Native Americans. Further research should focus on why minorities in this context would receive shorter sentences.

The test of Hypothesis 2 was also informative. When considering only legal variables, only African American females received significantly different sentences than white females. Again, this test disproved the discrimination position in that blacks receive significantly shorter sentences than whites. Of importance in this model is the effect of legal variables on sentence length for women. The only significant predictor was the severity of the offense committed. Petersilia (1983) had indicated that prior incarcerations had significant effects on sentencing. This study did not find support for that position. Prior incarcerations were not an accurate predictor of sentence length for women when only using legal variables.

The test of Hypothesis 3 compares the effects of the legal and extra-legal variables on Index crimes and Part II crimes. In other words, were the effects of the legal or extra-legal variables significantly different based on the type of crime? For males, there is a significant difference for the severity of the crime, indicating that severity of crime is a better predictor for those committing an Index crime than those

committing a Part II offense (Wilbanks 1987). Yet, the factors explaining women's sentences lengths did not differ based on the type of crime. The findings also indicate that the effects of extra-legal variables do not differ significantly for both sex, while controlling for legal variables and looking only at Index and Part II crimes. This would support the arguments of Hagan (1974) and Wilbanks (1987) at least for men. Of importance to feminists would be why that same difference is not found for women. Future research should focus on why the effects of legal variables are of greater significance for men than for women.

The test of Hypothesis 4 also results in different results for women and men. When comparing those males that commit Part II crimes to those committing drug crimes, the only difference in variables predicting sentence length was again attributed to the severity of the offense. The relationship indicates that drug offenses were more affected by the severity scale than were Part II offenders. This may indicate the emphasis on the "War on Drugs" and its commitment to punish more harshly those committing drug crimes.

Comparing women that committed Part II crimes with those sentenced for drug crimes drug crimes, the only significant difference in the variables was that of days in jail. The variable was significantly higher for those who committed Part II crimes. As used in this research, the finding places an emphasis on the socioeconomic position of the female. This indicates that the severity of offense (a legal variable) is a significant predictor for males, yet an extra-legal factor (days in jail) is significantly different for females.

Hypothesis 4 predicted that there would be no differences in the factors related to sentencing between these two types of offenders (Part II and drug). Instead, the findings (as explained above) indicate that the effect of severity on sentence length is different for males depending on the offense. For females, the time spent in jail had a different effect. Part II crimes would include those crimes more specific to the female gender role than would the drug crimes. The difference, from a feminist perspective, must be explored looking for explanations of why severity and days in jail work differently for males and females depending on the crime type. Future research should focus on developing models of punishment based on these gender differences (Chesney-Lind 1989; Chesney-Lind and Sheldon 1998; Simpson 1999).

CHAPTER 6

Conclusions

This study provides some evidence that judges and district attorneys are relatively fair in almost all areas of sentencing in Oklahoma. Focusing on legal factors, judges and district attorneys have almost eliminated any significant differences in sentencing in areas of race, at least in respect to sentence length. In fact, the current study indicates that judges and district attorneys are more likely to sentence whites to longer sentences than minority groups. While those differences are not significant for other groups, this research indicates that blacks actually receive significantly shorter sentences than whites. However, these results must be interpreted with considerable caution. Sentence length is at the end of the process. In the current study, the data precluded examination of earlier stages. It may well be that discrimination occurs prior to imposition of sentence, in the decision to arrest, charging decisions, and the decision to incarcerate.

The mean sentence length for men is significantly longer than for women. Feminist positions have argued that women are protected by marriage and children in the criminal justice system. The current study supports that argument in a general sense, although marital status does not appear related to women's sentencing. When comparing the overall mean sentence, women do serve significantly less time than do men, even when compared to males in their own racial category. While the extra-legal factors (or the socioeconomic factor) are more important in sentence length, women are not sentenced more harshly than men, regardless of race.

This research provides valuable information to other states and criminal justice systems. In Oklahoma, judges do in fact place importance on the severity of the crime, a legal factor. Those with more serious offenses are, in fact, sentenced to longer sentences than those with less severe crimes. The research provides a clear need to examine crimes individually to examine differences in the sentence length for each crime. The current research cannot accurately depict differences in each crime within the major categories used here. For example, more research is needed to determine if men and women are sentenced differently for the crime of larceny (the predominant crime for women) and burglary (the predominant crime committed by men). Additionally, closer scrutiny of the types of drug offenses should be conducted. In the current study, drug offenses constituted a single category, whereas the relationship between legal and extra-legal factors may vary within the category itself.

The study also provides new knowledge in the area of sentencing differences within ethnic minority groups. While previous research has focused on gender as a control group, this research looks at gender differences in sentencing within minority categories. This study indicates the minority women are not sentenced differently than their corresponding male counterparts. While the study indicates no significant differences in sentencing, further research should make these same comparisons using specific crimes for males and females. For example, are black women sentenced differently than black men for the crime of drug possession? The findings for each specific crime would further the knowledge of female and male criminality.

While important, the findings must also be viewed with care. The research uses sentencing data and cannot control nor predict events prior to sentencing. Other areas of the criminal justice system are important to the outcome of all sentences. For example, as mentioned before, the days spent in the county jail may be a result of a number of factors, such as severity of the crime, the type of crime committed, the ability to make bail, or the attitude of the offender toward the system. It is important to continue to explore the factors contributing to pretrial detention as well as the effects of pretrial sentencing. It would be worthwhile to explore the relationship between pretrial detention and the decision to incarcerate separately by both race and gender, for example.

The limitations of the data also preclude knowledge of the type of attorney each offender had. Research literature indicates that those offenders who have private counsel receive lighter sentences than those who rely on public defenders (Worden 1991; Casper 1971). On the other hand recent research has also found limited differences in outcomes based on type of attorney (Nardulli 1986; Hanson and Chapper 1991). This research cannot make that distinction.

The data also do not provide for an examination of changes in sentencing over time. The current data (calendar year 2001) are a snapshot of what occurred during that year only. Oklahoma went through the process of implementing truth-in-sentencing guidelines in 1998.[13] Going though the process of truth-in-sentencing may have brought variables used in sentencing to the attention of both district

[13] While going through the truth-in-sentencing process, the legislation was repealed in Oklahoma.

attorneys and judges. Being more aware that people are investigating or examining the process of sentencing may create an unintended consequence of focusing on the sentences handed down to minorities or an over-awareness of sentencing of minority groups, thus creating situations where minorities are actually sentenced to shorter sentences for comparable crimes.

Hagan's (1974) work may instructive in this concept as well. Hagan considers the impact of changing the criminal justice system—either intentionally or unintentionally—from a loosely coupled system to a more tightly coupled system. For purposes of the current findings, Hagan's work would argue that the process of truth-in-sentencing and the attention on sentencing outcomes focused both judges and district attorneys on the process of sentencing. Tightening of the charges produced by district attorneys may produce plea bargains that provide lesser sentence lengths. Conversely, judges may have begun to pay more attention to plea-bargaining and the effect on sentences. This tightening of the system, or the more rigid coupling discussed by Hagan, could in fact lessen the length of sentences in Oklahoma.

Directions for Future Research

The current study suggests the need for future research. Further research should investigate changes in sentencing over time. Using the same variables in a year prior to 1998 (when the process of truth-in-sentencing occurred) would provide an indication of whether going through the implementation of truth-in-sentencing had an effect on sentencing outcomes. It would also be instructive to examine the

factors related to sentencing prior to the recent change in dollar amount necessary to carry the charge of "grand" larceny. Prior to July of 2001, Oklahoma defined grand larceny as: 1. When property taken is of value exceeding fifty dollars ($50.00). 2. When such property, although no of value exceeding fifty dollars ($50.00) in value, is taken from the person of another. Larceny in other cases is petit larceny (Oklahoma State Courts Network 2002). Oklahoma, in 2001, moved the dollar amount up to five hundred dollars when committing grand larceny (Oklahoma State Courts Network 2002). This change in the definition of larceny would change the sentences handed down by judges. Only a time comparison of sentencing outcomes will fully develop a clearer picture of how sentencing outcomes have changed. Future research should concentrate on identifying more variables that will help explain the amount variance in these findings. What factors, other than those here, are predictors of sentence length? Research should also focus on the reasons why legal and extra-legal variables play a different role for women and men.

Another important area of future research should be on a careful examination of why in this context, whites are sentenced to longer sentences than minorities. Answering questions such as "are whites being held to a higher standard?" or, "are blacks devalued in the criminal justice system?" would provide information important for both race and gender.

Data should be continuously collected at all points in the system so that future research can examine the outcomes based on all points in the system, not just one point as this study undertakes. Short of developing complete data, research should

focus on the pretrial processes by race and gender in order to better explicate the factors involved at that stage of the process. Research should also be conducted on specific crimes to find any differences by race and gender for specific crimes or crimes that are thought to be gender specific.

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