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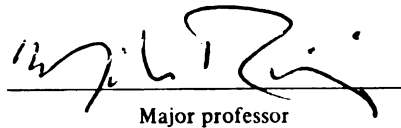
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DISCRIMINATION, RACE & POWER: SENTENCING
DISPARITIES IN MICHIGAN, 1998

By
NORMAN SAMUEL CARTER

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ABSTRACT

DISCRIMINATION, RACE & POWER: SENTENCING DISPARITIES IN MICHIGAN, 1998

By

NORMAN SAMUEL CARTER

A salient concern for sociologists and criminal justice policy analysts over much of the past century has been sentencing disparity among defendants with different attributes. After all, one only has to look at the disproportionate representation of racial and ethnic minorities in American correctional facilities to see that something is wrong. With the emphasis placed on the legal and extra-legal characteristics that affect sentencing decisions, the forthcoming analyses, which are guided by conflict theory, examine the sentencing dispositions carried out in 83 district courts in the State of Michigan.

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DEDICATION

Thanks mom and dad for never giving up on me. Grandma, thank you for the prayers, I Love You. Geoffrey & Josh, study hard. D. Ormsby, thanks for the scholarly uplift.

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INTRODUCTION

In the United States a disproportionate number of African-Americans are housed in jails and prisons. For example, in 1998 there were 17,362 incarcerated whites as opposed to 23,586 blacks in the State of Michigan (Bureau of Justice Statistics, 1998). What explains this disparity in incarceration practices? Is it a product of systematic racial bias in the administration of justice? Is it a reflection of biased beliefs on the part of judges? Or, do African-Americans simply commit more crime? The answer to the disparity question has been widely debated in the criminological literature. Although several studies have attempted to determine where the weight of the evidence lies (Hagan, 1974; Kleck, 1981; Spohn et al., 1981), the issue remains contentious.

Although some observers have concluded that the disproportionate number of African-Americans in our prisons and jails is a product of unfair sentencing practices that discriminate against racial minorities (Sellin, 1928; Hagan, 1974; Pope, 1975; Chambliss & Seidman, 1971; Quinney, 1970; Levin, 1977), others have highlighted wealth as a more salient factor. More specifically, poor defendants are usually unable to secure private, competent attorneys and are less likely to gain pretrial release (Burke & Turk, 1974; Lizotte, 1978; Swigert & Farrell, 1977). In the United States, however, race and wealth often times go hand-in-hand (see Wilson, 1987). So, discrimination based on wealth is likely to disproportionately affect black defendants because they are more likely to be poor. Accordingly, wealth discrimination can be viewed as an indirect form of racial discrimination.

Still, others argue that disparity in sentencing and incarceration stems from various legal factors, such as seriousness of offense and prior criminal record (Kleck,

1985; Griswold, 1987; Wilbanks, 1987; Kramer & Ulmer, 1996). The argument follows that since an African-American defendant is more likely to face a serious charge or have a more extensive prior record, he/she is also more likely to receive a stiffer sentence. It must be noted, however, that empirical evidence exists to the contrary. In fact, some research, albeit fairly dated, shows that white defendants receive significantly more punishment for their crimes than blacks (Bernstein et al., 1977; Bullock, 1961; Gibson, 1978). For the most part, however, these studies are treated as anomalies because they are inconsistent with one of the primary conceptual frameworks driving this line of research - - conflict theory.

This thesis explores the issue of racial disparity in sentencing using 1998 sentencing data from the State of Michigan. In so doing, two primary questions will be investigated. Are African-American offenders sentenced to prison more often than whites? Do African-American offenders who are sentenced to prison receive more lengthy sentences than white defendants? As noted above, conflict theory provides an analytical framework for better understanding why *African-Americans receive more severe punishment than whites for all crimes, under all conditions, and at similar levels of disproportion over time* (see Hawkins, 1987).

RACE & SENTENCING: A THEORETICAL FRAMEWORK

When conducting scientific research, the investigator must select a theoretical framework to guide his or her analysis. In the social sciences there are usually a host of theories to choose from. This is true here. In this section three “theories” (term used loosely) are identified and articulated. Each theory provides insight into the controversial

issue of race and sentencing. Ultimately, only one of these theories (i.e., conflict theory) will be selected and will serve as the driving force behind the analysis that follows.

The “Overt Racial Discrimination” Hypothesis

One way to explain racial differences in sentencing is to posit that judges use race as a determining factor when handing down sentences. Walker, Spohn and Delone (1996) refer to this view as the “Overt Racial Discrimination” hypothesis. It is possible to couch this perspective in a richer theoretical tradition. It is my contention that the basic premise of the overt racial discrimination hypothesis is rooted in “labeling theory.” One of the best-known labeling theorists is Howard Becker. Becker (1963) argued that individuals, such as criminal justice professionals (e.g., police, prosecutors, and judges), label people as “offenders.” Once the labeling process is complete, negative outcomes may follow.

Researchers have presented explanations of how this labeling process might affect the sentencing decisions of judges. For example, Spohn (1990) used data on the sentencing practices of judges in Detroit from 1976 through 1978. She found that judge’s decisions were influenced most by the seriousness of the crime and by prior criminal record. It was also noted, however, that the judges included in her study sentenced black offenders more harshly than whites. In addition, black offenders were more likely to be incarcerated. Could these last two findings be the result of judges labeling black offenders as “more dangerous” and deserving of “harsher sentences?” Goffman looked at issues of identity and of interpersonal relationships that might face a stigmatized individual. The perceived undesirability of a particular personal property, and its capacity to trigger stigma-related processes has a history of its own (Goffman, 1963).

These personal properties include, but are not limited to, membership in a racial minority group (also see Schur, 1965).

Although labeling theory appears to lend itself to explaining the possible mental state of the judges with respect to their reasoning in sentencing, there are still many other important aspects of the sentencing process, such as legal variables (i.e., severity of offense), which labeling theory does not take into account.

The “Minorities Commit More Crime” Thesis

A perspective that does take into account legal variables, such as the severity of offense and criminal history, is the “Minorities Commit More Crime” thesis. Others, such as Walker et al. (1996), refer to this approach as the “no racial discrimination” hypothesis. Here, it is posited that racial and ethnic minorities commit more serious crimes and have more extensive criminal records; hence they receive more severe sentences (Hagan, 1974; Wilbanks, 1987; Walker, Spohn & Delone, 1996). It can be inferred that more severe sentences are imposed on minorities because of legitimate legal factors rather than the effect of racial prejudice on behalf of judges (Spohn, 1990; Walker et al., 1996).

Wilbanks (1987) argues that extra-legal variables (e.g., race, sex, age, and the socioeconomic status of the defendant) do not influence sentencing decisions (e.g., length of sentence), but rather legal variables (e.g., type of crime and strength of evidence) are more important determinants. Hagan (1979) presents an alternative view of sentencing, which may be referred to also as the “legalistic” viewpoint. The most prominent variables in Hagan’s model are the defendant’s prior conviction record and the nature and number of charges brought against the alleged offender (Hagan, 1979). Kramer and

Ulmer (1996) also found that legally prescribed variables, especially criminal history and offense severity, were strong predictors of dispositional departures (also see Peterson & Hagan, 1984).

The “Minorities Commit More Crime” thesis flies in the face of empirical reality. In sum, despite the fact that legal variables do a fairly good job at explaining sentencing decisions, several studies still show that African-American offenders receive harsher sentences after legal variables are taken into account (e.g., Lizotte, 1978; Kramer & Ulmer, 1996; Spohn, Gruhl, & Welch, 1981). In the attempt to take into account for these differences across racial / minority groups, another theory that provides a more complete explanation - - conflict theory - - is adopted for the study at hand. Put simply, conflict theory addresses more holistically the inter-play between race and disparity in the sentencing process.

The Conflict Perspective

Conflict theory is not just a sociological explanation of criminal behavior, but also an explanation of the administration of justice. Conflict theorists maintain that social factors explain what behaviors will be defined as criminal, which people commit crime, and how crimes are investigated, prosecuted and punished. The basic premise of conflict theory is that the law is used to preserve the power of those who possess it, and to control the behavior of individuals who threaten existing power structures (Quinney, 1970).

Walker et al. (2000) assert that conflict theory explains racial disparities in the administration of justice, and also explains broader patterns of social, economic, and political inequality in the United States.

Conflict theory posits that people of all classes are equally likely to violate the law, but offenders who occupy lower societal positions are significantly more likely to have harsher sanctions imposed on them (Chambliss & Seidman, 1971). Since racial minorities are disproportionately found near the bottom of the socioeconomic spectrum, conflict theorists predict that non-white offenders will receive more severe sentences than whites.

To better understand conflict theory, the work of several theorists should be highlighted. Perhaps the best-known theorist under the conflict heading is Karl Marx. Marx conceptualized social life in economic terms (see Marx & Engels, 1848). Marx denounced the division of labor in capitalist societies as the unjust exploitation of one social class (the proletariat) by another (the bourgeoisie). To resolve the exploitation of the working-class, Marx maintained that capitalist systems must be overthrown. Put simply, once the “bottom-dwellers” realized that scarce resources were unevenly distributed, the legitimacy of the state would be questioned. Under such conditions, revolt and even revolution would occur. After such an event, power and wealth would be redistributed in a more fair and just manner. Needless to say, the type of revolution espoused by Marx never occurred in the United States, and the rich kept getting richer and the poor, as one author noted, “get prison” (Reiman, 1979).

During the Great Depression of the 1930s, Thorston Sellin (1938) argued for a more broad definition of “crime” and a less conventional approach to criminological theory. Sellin (1938) argued that “culture conflict” is a source of crime. He explained that different groups learned different “conduct norms” and that the conduct norms of one group sometimes clashed with those of other groups. Sellin (1938) defined “conduct

norms” as cultural rules that require certain types of people to act in certain ways under certain circumstances. Sellin called this phenomenon “primary cultural conflict.” With respect to which conduct norms would influence the formulation of criminal law, Sellin (1938:107) noted “the conduct which the state denotes as criminals, of course, that deemed injurious to society, or in the last analysis, to those who wield the political power within that society and therefore control the legislative, judicial and executive functions which are the external manifestations of authority.” Vold and Barnard (1986) state that in more complex societies overlap and contradiction exists between the conduct norms of different cultural groups. Sellin (1938) also noted that a single culture could evolve into several different sub-cultures, each having its own set of conduct norms, which can also conflict with one another (termed “secondary culture conflict”). Sellin’s work suggests, then, that substantive criminal law would not represent a consensus view, but rather would reflect the conduct norms of the dominant culture.

George Simmel, a German scholar with a deep interest in social theory, proposed “sociological formalism” (see Martindale, 1960). While Simmel was interested in conflict as a common feature of social life, he was not preoccupied with it as was Marx. Lilly, Cullen & Ball (1989) note that Simmel saw conflict not as a problem necessarily calling for solutions or even leading to change, but rather as a typical feature of social order. In Simmel’s view, conflict actually contributed to social order. Simmel also differed from Marx in that he did not focus on the causes of conflict, but instead focused on the consequences of conflict.

In the 1950s, Vold (1958) presented an extensive and detailed treatment of criminological theory from the conflict perspective. He argued that as social interaction

“processes grind their way through varying kinds of uneasy adjustment to a more or less stable equilibrium of balanced forces in opposition, the resulting condition of relative stability is what is usually called social order or social organization” (Vold, 1958:204). This inter-group conflict was conceptualized in Simmelian terms as potentially making a positive contribution to the strengthening of different groups because participation in the struggle resulted in group *esprit de corps* and solidarity (Lilly, Cullen & Ball, 1989). Vold posited that it was normal for groups in a complex society to come into conflict as their interest collided and that “politics . . . is primarily a matter of finding practical compromises between antagonistic groups in the community at large” (Vold, 1958: 208). Vold (1958: 209) refers to legal compromises cited by Edwin Sutherland: “those who produce legislative majorities win control over the police power and dominate the policies that decide who is likely to be involved in violation of the law.” Vold considered politics the art of compromise and noted “ the principle of compromise from positions of strength operates at every stage of this conflict process” (Vold, 1958: 209).

Vold posited many crimes were of a political nature. He alludes to crimes resulting from protest aimed at political reformation in that “a successful revolution makes criminals out of the government officials previously in power, and an unsuccessful revolution makes its leaders into traitors subject to immediate execution” (Vold, 1958: 214). Vold asserted “numerous kinds of crimes result from the clashes incidental to attempts to change, or to upset the caste system of racial segregation in various parts of the world notably in the United States and in the union of South Africa” (Vold, 1958:217).

Richard Quinney's (1970) six propositions of the "social reality of crime" are also informative. For the purposes of this review, only four of his propositions will be discussed. Quinney (1970:15) posited "crime is a definition of human conduct that is created by authorized agents in a politically organized society. Here conflict and labeling theory inter-mingle in that those who possess power and legal authority define what is criminal. He also maintained "criminal definitions describe behaviors that conflict with the interests of segments of society that have the power to shape public policy" (1970:16). Once again, conflict and labeling perspectives merge as the author posits those in power label what is criminal and then make laws to address the behaviors defined as such. Quinney (1970:18) also posited that "criminal definitions are applied by the segments of society that have the power to shape the enforcement and administration of criminal law." He asserted that the "probability that criminal definitions will be applied is influenced by such community and organizational factors as (1) community expectations of law enforcement and administration, (2) the visibility and public reporting of offences and (3) the occupational organization, ideology and actions of the legal agents to whom authority to enforce criminal law is delegated" (Quinney, 1970:19-20). Finally, Quinney (1970:20) argued, "behavior patterns are structured in segmentally organized society in relation to criminal definitions, and within this context persons engage in actions that have relative probabilities of being defined as criminal." Here the author asserts that those actors not in power are excluded from the policy formulation process, hence there is a greater chance their behavior will be defined as criminal more often.

Conventional criminology has provided the knowledge necessary in detecting and controlling those groups and individuals perceived as threats to the powerful. Platt (1969) contends that the original establishment of the juvenile court was not a means of helping youth but rather a technique by which upper-class, Republican, protestant women extended control over the children of the Catholic and Jewish immigrants. In a similar vein, the concept of rehabilitation was also criticized as a tool of political oppression which justified prolonged and invasive tinkering with the minds and bodies of prisoners under the guise of assisting them (Smith & Fried, 1974). Conflict theory has succeeded in providing for a broadened reorientation and an increased sensitivity to issues previously overlooked or threatened only in passing (Thomas & Hepburn, 1983).

REVIEW OF THE RESEARCH LITERATURE

In this section, a detailed review of the literature organized around three theoretical frameworks identified above will be provided. Doing so will provide justification for the variables that will be selected in the analysis presented below.

As previously noted, labeling theory has also been used as an avenue of explanation for sentencing disparity between whites and non-whites - - the “Overt Racial Discrimination” hypothesis. Scholars have argued that the most important factor regarding disposition is the degree to which formal social control organizations (e.g., police, prosecutors, and judges) determine which individuals will be defined as deviant (Chambliss & Leill, 1966). With regards to plea bargains, constitutionally-based arguments against plea bargaining have focused largely on the issue that defendants who exercise constitutionally guaranteed fair-trial rights are penalized for doing so (Uhlman &

Walker, 1979). Could this be interpreted as meaning that going to trial and pleading “not guilty” when there is evidence to the contrary in some way stigmatizes the defendant as a person who is not remorseful for what he or she has done? Could this perceived lack of remorse yield harsher sentences? Miethe and Moore (1986) found race to be a significant predictor of sentence length even when legal controls were introduced. The authors’ race-specific model showed that blacks, especially those who were deemed high-risk felons, were not married, did not complete high school, were unemployed, used a weapon in the commission of their criminal offence, and had prior felony convictions, were treated more harshly. In contrast, black offenders who were classified as low-risk felons, were married, had completed high school, were employed, did not use a weapon, and did not have a felony record, were not treated more harshly.

Burke and Turk (1974) found that men who have been institutionalized prior to their most recent conviction were significantly more likely to be brought to court, convicted, and given a prison sentence instead of a less severe punishment after controlling for race and other legal variables. With regards to juvenile offenders, the authors note that the home situation of nonwhite youths is “perceived” by authorities as less adequate than that of whites, which results in nonwhites being institutionalized at higher rates and white juveniles being released to the custody of their parents (Burke & Turk, 1974).

With regards to judges sentencing decisions, Kramer and Ulmer (1996) found race to be a significant predictor of dispositional departure decisions even when legal controls were introduced. When judges are confronted with a dispositional departure decision, they may not only rely on legal variables (e.g., prior convictions and offense

severity), but also on the defendant's plea decision, as well as extra-legal variables (e.g., race, sex, and age) (Kramer & Ulmer, 1996). The latter information may be used to stereotype defendants. Using these stereotypes, court actors may project behavioral expectations about whether the offender will benefit from rehabilitation programs, whether the offender is a potential danger to the community, and whether the offender is more or less blameworthy, and thus more or less deserving of punishment (Stone, 1962).

Peterson and Hagan's (1984) study of sentencing in drug-related cases was conducted during the late-1960s and 1970s. During this time, the Nixon Administration reformed federal drug statutes. The authors contend that the American drug prohibition began with the portrayal of minorities as the villains responsible for the growing drug menace (Peterson & Hagan, 1984: 67). Finally, Albonetti (1991: 261) found that black defendants who entered the sentencing stage early were defined as "posing a danger to the community" or a "risk of failure to return for pretrial processing" - a legally relevant criterion at the bail hearing in the District of Columbia - which indicates that under conditions of heightened uncertainty (defined by bail amounts) judges are more likely to rely on stereotypes of black defendants as being more likely to recidivate. As a result, judges impose harsher sentences on minorities relative to white defendants who have the same financial bail conditions (Albonetti, 1991). This section denotes primarily that it is the perception of those in power towards minority races as "dangerous," which frequently manifests itself through more harsh sentencing outcomes for minority defendants.

The "minorities commit more crime" thesis has its fair share of supporters. Blumstein (1982) concludes that the differential involvement of blacks as arrestees, especially for the offenses of homicide and robbery, accounts for 80% of the disparity

between black and white incarceration rates. Furthermore, Blumstein (1982) found that as the seriousness of the offense decreased, blacks were disproportionately represented in prison. It appears, then, that as the severity of the crime decreases judges use more discretion when rendering their sentencing decisions.

Hagan's (1974) "legalistic" approach, which de-emphasizes extra-legal attributes (e.g., race, sex, age and socioeconomic status of the alleged offender), focuses on prior convictions as well as the nature and number of the charges brought against the defendant. The "legalistic" approach closely parallels the "minorities commit more crime" thesis. Overall, the research in this area suggests that a modest relationship (at best) exists between race and disposition once legalistic variables are included in the equation. Pratt's (1998) meta-analysis of forty-seven studies is informative with regards to understanding disparity in sentencing. Pratt (1998) found that offense severity was the only significant variable related to the length of sentence. He noted also that neither race nor prior criminal record variables were found to be significant covariates of sentence length. Pratt (1998: 520) cautions, however, that researchers investigating the differential treatment of racial minorities in the criminal justice system would be well advised to pay special attention to measurement issues because they can influence research findings.

Spohn (1990) notes that judges sentencing decisions are determined most by the seriousness of the crime committed and by the offender's prior criminal record. Spohn (1990) found that offenders convicted of more serious crimes or a greater number of charges were punished more harshly as were offenders who used a gun, inflicted harm on their victim(s), or victimized a stranger. After investigating the matter further, Spohn

(1990) found that the race of the judge had little influence on case disposition and was overshadowed by legal factors.

In his study of “high control jurisdictions”(i.e., El Paso, New Orleans & Seattle), LaFree (1985) found that the race of the defendant was a significant predictor of sentence outcomes, but the magnitude of the effect was relatively modest. More specifically, LaFree’s (1985: 298-306) results suggest that ten other variables (e.g., defendant’s criminal record, whether the offender was probation or parole, whether a weapon was used) were more important than the race of the defendant. In “low control jurisdictions” (i.e., Pima County-Tucson, Norfolk, and two counties in Pennsylvania), LaFree (1985: 298-306) found that the best predictors of sentence severity were measures of statutory seriousness and evidence - - not the defendant’s race.

Another variant of the “Minorities Commit More Crime” thesis is the “differential involvement” perspective. The differential involvement perspective holds that racial minorities, particularly African-Americans, are over-represented in prison populations and are given harsher sentences than whites because they are involved in the commission of more crimes (Wilbanks, 1987; Wilson & Hernstein, 1985). This view contends that African Americans receive longer sentences because, on average, their crimes tend to be more serious and thus warrant harsher punishment (Hagan & Albonetti, 1982; Hindelang, 1969; Kleck, 1981, 1985; Peterson & Hagan, 1984; Wilbanks, 1987b).

The conflict perspective has also guided criminal court processing research. Researchers using this theoretical framework hypothesize that defendants at the bottom of the social heap will receive more severe dispositions (Unnever, Frazier & Henretta, 1980). Simply put, conflict theorists posit that the law is applied differentially to protect

the hegemony of a ruling elite. Citizens at the top of the social strata do violate the law, but they are less likely to be held accountable because they have the power and resources to avoid severe dispositions. Sellin (1928) noted that some groups (i.e., poor citizens) lack political and social status and are more likely to suffer hardships when dealing with the police and courts. In sum, the administration of criminal justice fails those at the margins of society by not providing necessary safeguards against arrest, trial and conviction.

The differential treatment of blacks may also be seen prior to sentencing in the criminal courts. For example, Zatz and Hagan (1985) argue that determinant sentencing may encourage prosecutors to exercise more discretion in deducing which cases are worthy of full prosecution. Conflict theorists contend that prosecutors who are mainly white and representative of the ruling class will exercise their legal authority disproportionately on minority defendants.

Other factors, such as the race of the victim and the race of the defendant, may also be interpreted within the conflict theoretical framework. For example, Quinney (1970) posits that courts tend to regard the slaying of a white by an African-American as evidence of guilt. The same cannot be said, according to Quinney, if the alleged offender was white and the murdered victim African-American. Does this dynamic reflect the power in-balance between the “haves” and the “have-nots?”

Several authors have found race to be a significant factor in sentencing decisions even after legal factors were introduced into the equation (Spohn, Gruhl & Welch, 1981; Levin, 1977; Pope, 1975; Unnever, Frazier & Henretta, 1980). Pope’s (1975) study on Superior Court sentencing in rural areas, which included both jail and prison

commitments, found that 66% of all white offenders were sentenced to terms of incarceration compared to 79% of black offenders - a 13% difference (Pope, 1975). Unnever, Frazier and Henretta (1980) found that even when controlling for important legal and extra-legal variables, there was a direct race effect. Put differently, the authors found that whites had an 18% greater chance of receiving probation than blacks when all else was equal (Unnever, Frazier & Henretta, 1980). Spohn, Gruhl and Welch, (1981) hypothesized they would find no direct racial discrimination either in the decision to impose a more or less severe sentence or in the decision to incarcerate. Their hypothesis was not confirmed. Even after controlling for both legal and extra-legal factors, black males still were sentenced to prison more often than white males. Levin's (1977) analysis of sentencing decisions in Pittsburgh and Minneapolis found that whites received shorter terms of incarceration than blacks (Levin, 1977). These findings lie in stark contrast to studies reporting that race is not a significant predictor once legal variables (i.e., prior convictions and offense severity) are taken into account.

Research also indicates that the association between the defendant's race and the outcome of the case may be influenced by social class (Swigert & Farrell, 1976, 1977). Accordingly, it has been argued that blacks are more severely sanctioned because they are disproportionately members of the lower class. Lizotte (1978) studied the indirect effects of occupation and race on prison sentence length. Not only did Lizotte (1978) find that non-whites and people with lower occupational prestige were less likely to make bail, but he also found these factors also influenced the length of prison sentences. Bridges and Crutchfield (1988) found that social characteristics of states contribute significantly to racial disparity in imprisonment. The social standing of blacks when

compared to whites fosters disparity in imprisonment by increasing the chances of blacks being imprisoned and decreasing the chances of whites being imprisoned, even after racial differences at arrest are considered (Bridges & Crutchfield, 1988). The lower class defendants who possess little status in the community, low occupational prestige, and a personal life frequently described as disorganized enters the court process with little to lose (Swigert & Farrell, 1977). More affluent citizens, on the other hand, have suffered greatly simply because they have been arrested. Suspended professional license, loss of status in the community, personal and familial trauma is seen as being a sufficient punishment (Swigert & Farrell, 1977). This review of the literature has provided an in-depth discussion of the causes and circumstances that lead to the overrepresentation of racial and ethnic minorities in American correctional institutions. While some controversy persists in the research literature, it is the author's view that institutionalized racism manifested covertly through the American criminal justice system is the most significant determinant of racial disparity in the sentencing stage of the court process.

RESEARCH OBJECTIVE

Conflict theorists argue the application of criminal sanctions will vary according to the extent to which the "behavior of the powerless conflict with the interest of the power segments" (Quinney, 1970:18). However, some authors still argue that conflict theory needs to be re-conceptualized (Hawkins, 1987; Peterson & Hagan, 1984). For example, a fair amount of evidence suggests that judges' decisions are influenced by the seriousness of the crime, the weight of the evidence, as well as other legal factors (e.g., the number of charges and the defendant's prior criminal record). A rigorous test of

conflict theory with regards to sentencing outcomes would take these legal factors into account. Therefore, racial discrimination will be defined as disparity in the sentencing process between members of different racial groups once legal variables are taken into account. Accordingly, the following questions are proposed for empirical inquiry. Are racial minorities more likely to be sentenced to prison than whites once legal factors are taken into account? Are racial minorities more likely to receive longer sentences? To investigate these questions, a sample of 1998 district court dispositions from the State of Michigan are used to estimate a series of multivariate models.

METHODS

Data

The original data set includes offender-based information, such as demographic characteristics, offense information, and case outcomes, from 83 district courts in the State of Michigan for the year 1998. These data were collected by the Michigan Department of Corrections (MDOC). The original data file contains a total of 56,844 sentencing dispositions. For the purpose of the analysis two samples were taken from the original data file. First, a random sample of 8,000 sentencing dispositions was drawn from the original total population file. A random sample was taken because such techniques ensure that the sample will be highly representative of the population. The results provided in Table 1 support this contention. The second analysis file was created using the random sample, and only contains offenders who were sentenced to prison ($N = 2,065$)(referred to hereafter as “prison-only sample”).

Overall, these data provide a wealth of information, and will allow for the operationalization of various independent and dependent variables. There are, however, a

few limitations that should be noted. First, the data file does not provide information regarding the characteristics of the victims (if there was a victim). It is also impossible to determine the type of plea entered by the offender (e.g., “guilty”). Lastly, in the event of a trial, it is not possible to determine whether the offender selected a “bench” or “jury” trial. Despite these shortcomings, the data file provided by the MDOC provides a wealth of information that is well suited for the research objective at hand.

Dependent Variables

For the purpose of determining whether sentencing disparities exist with regards to the defendant’s race, two dependent variables have been selected. The first variable (termed “sentenced to prison”) is a dummy variable indicating whether the offender’s sentence included incarceration in a state prison (1 = yes, 0 = otherwise). This variable will be used to determine whether black offenders were more likely to receive prison sentences when compared to white defendants. As can be seen in Table 1, 25 percent of all offenders were sentenced to prison in 1998. The second outcome variable, termed “sentence length” is an interval-level measure reflecting the maximum term imposed (in years). This dependent variable will be used to address the question of whether blacks were significantly more likely to be sentenced to longer durations than white defendants. The mean number of years is 11 within the prison-only sample. This variable is positively skewed with the majority of offenders receiving maximum sentence lengths of 20 years or less.

Independent Variables

Sixteen independent variables will be used in the analyses. These variables can be grouped into three categories: offender characteristics (or extra-legal variables), legal variables, and control variables.

Offender Characteristics. The following analyses will include five offender characteristics. The first variable, gender, is a dummy variables which is coded 1 = male and 0 = female. Males comprised 85 percent of the random sample, and 93 percent of the prison-only sample. This variable is included because departure decisions may be influenced by the defendant's gender. The age variable is continuous and reflects the age of the convicted offender in years. The average age for offenders in the random sample was 30 years, and 30 years in the prison-only sample. Finally, three race / ethnicity dummy variables are also included: black, Hispanic, and "other race." For each of these variables, Caucasians are used as the reference group. Blacks comprised 40 percent of the random sample and 45 percent of the prison-only sample. Hispanics and other members of other racial minority groups were less well represented in both samples (see Table 1). Previous studies using multivariate modeling techniques have included offender characteristics (see, for example, Unnever, Frazier & Henretta, 1980; Miethe & Moore, 1986; Swigert & Farrell, 1977; Blumstein, 1982).

Legal Variables. Ten legal variables are also included in the analyses. The first variable, firearm possession, is a dummy variable indicating whether the offender violated any existing gun laws during the time of their offense (1 = yes, 0 = otherwise). Zatz and Hagan (1985) found the use of a firearm increased sentence length. The offender's legal status at the time of the offense is also included in the following

analyses. Doing so is accomplished by using a series of dummy variables: out on bond (1 = yes, 0 = otherwise), parolee (1 = yes, 0 = otherwise), probationer (1 = yes, 0 = otherwise,), or incarcerated offender (1 = yes, 0 = otherwise,). Offenders not falling into one of the four predetermined categories (e.g., citizens not under correctional supervision or on pretrial release) are used as the reference category.

Criminal activity will be gauged using variables under two broad categories. First, prior incarceration will be captured using two variables: number of times the offender has been incarcerated in jail (prior jail) or prison (prior prison; 1 = yes, 0 = otherwise). Existing research shows that prior jail and prison terms influence sentencing decisions (Pope, 1975). Second, the nature of the offense is captured using three dummy variables: drug offender, violent offender, and property offender. Other offenses, such as public order violations, are used as the excluded category. Previous studies have found the severity of the present offense to be a significant predictor of sentencing decisions (Spohn, 1990; Pratt, 1998; Uhlman & Walker, 1979; Blumstein, 1982; Zatz & Hagan, 1985; Peterson & Hagan, 1984).

Control Variable. To further guard against spurious findings within the statistical analysis, an additional dummy variable will be used. Previous studies have controlled for pre-sentence investigation (PSI) reports (1 = yes, 0 = otherwise)(Peterson & Hagan, 1984; Unnever, Frazier & Henretta, 1980). Unnever, Frazier & Henretta (1980: 205) noted that PSI's might influence sentencing outcomes because race bias may subtly enter the criminal justice process and be passed on in the form of sentencing recommendations. Descriptive statistics for the variables used in the analysis are provided in Table 1.

Statistical Procedure

Two different multivariate statistical models will be used in the following analyses. To assess the effects of the independent variables on whether the defendant received a sentence that included incarceration, which is binary response variable, logistic regression will be used. Logistic regression is an appropriate technique when the analyst is interested in regressing a dummy variable on a set of independent variables with different levels of measurement (Bachman & Paternoster, 1997). For the analysis regarding length of imprisonment, Ordinary Least-Squares (OLS) regression will be employed. OLS is a multivariate technique that is designed for modeling the effects of independent variables on a dependent variable that is interval in nature. Because collinearity concerns often arise when estimating multivariate models, tolerance tests will be used to assess the strength of the linear relationships between the independent variables. In addition to the above techniques, bivariate techniques will also be used to diagnose potential statistical problems, as well as to conduct preliminary hypothesis tests.

Table 1
Descriptive Statistics & Codings

Variables	Population		Random Sample		Prison-Only Sample	
	Mean	S.D.	Mean	S.D.	Mean	S.D.
Sentenced to Prison 1= Yes 0= Otherwise	.25	.43	.25	.43	1.00	.00
Sentence Length # Of Years	5.34	12.06	5.46	12.34	11.31	12.33
Black 1= Yes 0= Otherwise	.41	.49	.40	.49	.45	.49
Hispanic 1= Yes 0= Otherwise	.02	.15	.02	.15	.02	.15
Other Race 1= Yes 0= Otherwise	.01	.10	.01	.10	.00	.09
Gender 1= Male 0= Female	.84	.36	.84	.35	.93	.25
Age # Of Years	30.17	10.41	30.13	10.55	30.49	10.12
Firearm Possession 1= Yes 0= Otherwise	.01	.12	.01	.12	.05	.22
Out on Bond 1= Yes 0= Otherwise	.06	.25	.06	.24	.07	.26
Parolee 1= Yes 0= Otherwise	.05	.21	.05	.22	.14	.35
Probationer 1= Yes 0= Otherwise	.21	.41	.21	.41	.27	.44
Incarcerated Offender 1= Yes 0= Otherwise	.01	.11	.01	.10	.03	.19
Prior Prison 1= Yes 0= Otherwise	.21	.40	.21	.41	.44	.49
Prior Jail # of Incarcerations	1.45	2.17	1.42	2.17	2.12	2.47
Drug Offender 1= Yes 0= Otherwise	.13	.34	.14	.34	.14	.35
Violent Offender 1= Yes 0= Otherwise	.10	.30	.10	.30	.19	.39
Property Offender 1= Yes 0= Otherwise	.12	.32	.12	.32	.10	.30
Pre- Sentence Investigation 1= Yes 0= Otherwise	.99	.07	.99	.07	.99	.02
N=	56,844		8,000		2,065	

RESULTS

Bivariate Results

Bivariate associations for the variables used in the analysis are presented in Tables 2 and 3. Not only do bivariate techniques allow the analyst to assess the correlation between two variables, but they can also be used to determine whether collinearity problems may present themselves in multivariate analyses. The optimal situation would be for the independent variables to strongly correlate with the dependent variable, but only weakly correlate with each other. The results from the correlation matrices provided in Table 2 and 3 show that none of the coefficients for the independent variables exceed 0.50. Accordingly, it is reasonably safe to assume that collinearity will not be an issue in the multivariate analysis. The bivariate results presented here serve another purpose as well: the results provide a first opportunity to assess the hypothesized relationships. I will first discuss the bivariate results assessing whether blacks and other racial and ethnic minorities are disproportionately sentenced to prison. Following this discussion, I will focus on the question of whether blacks are sentenced to longer periods of incarceration in state prisons.

Table 2 presents the bivariate relationships for the variables used in the “sentenced to prison” analysis. Again, the primary question concerns whether African-American offenders are sentenced to prison more often than whites. A positive association was observed between whether the offender was sentenced to prison and whether the offender was black ($r = 0.06$). Although statistically significant, the magnitude of the association was very weak. In other words, the hypothesis that one’s race influenced sentencing decisions in Michigan does not appear to be strongly

supported in this analysis. This finding does not square with Pope's (1975) contention that the disproportionate number of blacks in American prisons is a product of unfair sentencing practices. Similar associations were observed between being sentenced to prison and the other racial and ethnic groups, such as Hispanic and "other" minorities. Before proceeding to the question concerning length of imprisonment, one additional note is necessary. The results provided in Table 2 indicate that blacks are disproportionately involved in drug offenses ($r = 0.24$). This finding is consistent with prior research (Peterson & Hagan, 1984: 67).

Concerning the other independent variables, weak correlations ($r < 0.10$) were observed between being sentenced to prison and several variables, including whether an offender was out on bond or a probationer at the time of their present offense, whether the offender was guilty of drug or property crimes, whether a PSI was made available to the court, as well as the offender's age. In relative terms, stronger correlations were observed between "sentenced to prison" and seven other variables: offenders with prior prison ($r = 0.33$) and prior jail experience ($r = 0.19$), offenders who were out on parole at the time of their offense ($r = 0.24$) or who were incarcerated at the time of their present offense ($r = 0.14$), offenders guilty of firearm possession ($r = 0.19$), offenders guilty of violent crimes ($r = 0.17$), as well as an offenders gender ($r = 0.13$). All of these relationships were in the expected direction.

Table 2
Correlation Matrix for Random Sample (N= 8, 000)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Sentenced To Prison	1																
2. Black	.06**	1															
3. Hispanic	.00	-.13**	1														
4. Other Race	-.01	-.09**	-.01	1													
5. Gender	.13**	-.03**	.02*	-.00	1												
6. Age	.02	.01	-.01	-.01	-.06**	1											
7. Firearm Possession	.19**	.09**	-.00	-.01	.05**	-.03**	1										
8. Out On Bond	.02*	.02*	.00	.00	.00	-.01	-.00	1									
9. Parolee	.24**	.08*	-.01	.00	.07**	.07**	.01	-.06**	1								
10. Probationer	.09**	-.02**	.01	-.01	.03**	-.07**	.00	-.13**	-.12**	1							
11. Incarcerated Offender	.14**	.02*	-.00	-.00	.03**	-.01	.04**	-.02**	-.02	-.05**	1						
12. Prior Prison	.33**	.14**	-.02*	-.02*	.10**	.25**	.04**	.00	.43**	-.04**	.14**	1					
13. Prior Jail	.19**	-.02*	.01	.00	.07**	.24**	-.03**	.05**	.14**	.11**	.06**	.33**	1				
14. Drug Offender	.00	.24**	-.00	-.03**	.00	.07**	-.03**	.02	.04**	-.00	.00	.05**	-.02*	1			
15. Violent Offender	.17**	.06**	.00	.01	.05**	-.02	.19**	-.00	.00	-.01	.00	-.00	-.03**	-.13**	1		
16. Property Offender	-.03**	-.10**	.00	.01	.03**	-.13**	-.04**	-.01	-.00	.00	-.01	-.04**	-.02*	-.15**	-.07**	1	
17. PSI	.04**	.02*	.01	.00	.01	-.00	.00	.02	.01	.03**	.00	.02*	.01	.01	.02*	-.00	1

* $p < .05$. ** $p < .01$.

Table 3 presents the bivariate relationships between the variables used in the “sentence length” analysis. The primary question here concerns whether African-American offenders receive harsher (i.e., longer) prison sentences than whites. A positive association was observed between sentence length and whether the offender was black ($r = 0.08$). Although the coefficient is statistically significant, the strength of the association is very weak. Subsequently, the hypothesis that one’s race influences sentence length in Michigan does not appear to be strongly supported in this analysis. This finding is consistent with Wilbanks (1987) contention that extra-legal variables, such as race, do not influence the length of sentence dispositions. Similar associations were observed between sentence length and the other racial and ethnic groups, such as Hispanic and “other” minorities.

Concerning the other independent variables, weak correlations ($r < 0.10$) were observed between sentence length and several variables, including gender, age, out on bond, parolee, probationer, incarcerated offender, prior prison, drug offender, as well as PSI. The associations between sentence length and four other variables were more notable. Property offenders and those with prior jail experience were incarcerated for shorter durations. Violent offenders, in contrast, received longer sentences. One of the most impressive correlations, at least with regards to the strength of association, was between sentence length and firearm possession ($r = 0.31$). This finding indicates that offenders who were in possession of a firearm at the time of the crime received more time.

Table 3
Correlation Matrix For Prison Only Sample (N= 2,065)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Sentence Length	1																
2. Black	.08**	1															
3. Hispanic	.00	-.15**	1														
4. Other Race	-.01	-.08**	-.01	1													
5. Gender	.04	-.01	-.00	.00	1												
6. Age	.02	-.04*	.02	-.02	-.10**	1											
7. Firearm Possession	.31**	.17**	-.02	-.02	.06**	-.07**	1										
8. Out On Bond	-.06**	.03	.01	.01	.00	-.04*	-.02	1									
9. Parolee	-.00	.06**	-.00	.03	.06**	.09**	-.03	-.11**	1								
10. Probationer	-.01	-.05*	.02	-.00	-.06**	-.16**	-.01	-.17**	-.25**	1							
11. Incarcerated Offender	-.02	.02	-.03	.01	.03	-.04*	.01	-.05*	-.08**	-.12**	1						
12. Prior Prison	-.05*	.12**	-.01	-.01	.02	.28**	-.04*	-.03	.43**	-.15**	.14**	1					
13. Prior Jail	-.12**	-.08**	.03	-.01	-.02	.23**	-.12**	.03	.13**	.04*	.03	.28**	1				
14. Drug Offender	.07**	.25**	-.01	-.02	-.01	.01	-.07**	.00	.05**	-.00	-.01	.02	-.03	1			
15. Violent Offender	.11**	.09**	.02	.05*	.06**	-.07**	.24**	-.01	-.05**	-.03	-.02	-.09**	-.12**	-.20**	1		
16. Property Offender	-.12**	-.09**	-.01	-.01	.02	-.08**	-.07**	-.01	.00	.02	-.02	-.01	.01	-.14**	-.10**	1	
17. PSI	-.00	-.02	.00	.00	-.00	-.00	.00	.00	.00	.01	.00	-.02	.01	.00	.01	.00	1

* $p < .05$. ** $p < .01$.

To summarize, two important findings were revealed in the bivariate analyses. First, the individual's race and/or ethnicity did not appear to influence whether the offender received a prison sentence, nor did it influence the length of incarceration for those offenders who were sent to prison. Second, variables falling under the "legalistic" heading were stronger correlates of sentence disposition (i.e., whether sent to prison) and sentence length. In short, the bivariate analyses indicate that race does not appear to matter much in the State of Michigan. However, before more definitive conclusions can be drawn, more rigorous assessments of the hypotheses of interest need to be conducted. Toward this end, multivariate analyses (e.g., OLS and logistic regression) are presented below that tests which factors (e.g., legal and extra-legal) predict sentencing outcomes in Michigan for the 1998 calendar year.

Multivariate Results

Some scholars argue that disparity in sentencing and incarceration stems from various legal factors, such as the seriousness of the offense and prior criminal record (Kramer & Ulmer, 1996). Still, others contend that the disproportionate number of African-Americans in our prisons and jails is a product of unfair sentencing practices that discriminate against racial minorities (Quinney, 1970). Tables 4 and 5 show the results of the multivariate analyses. Specifically, Table 4 provides the results for a logistic regression model predicting whether the offender was sentenced to prison. Table 5, which reports the results from an ordinary least-squares regression model, reveals the factors that contribute to sentence length for those offenders who were shipped off the state prisons. Before proceeding, it should be noted that tolerance tests for all of the

independent variables included in the following statistical models showed that collinearity was not a matter of concern.

Table 4 addresses the question of whether African-Americans are more likely to be sentenced to prison than whites, after taking into account a host of relevant factors. Counter to the hypothesis specified above, the results show that black offenders were *not* significantly more likely to be sentenced to prison (t -ratio = -1.04). This finding is inconsistent with LaFree (1985) who found that the race of the defendant was a significant predictor of sentencing outcomes. It is consistent, however, with others who have found that the race of the offender is not a statistically significant determinant of sentencing outcomes once legal variables are taken into account (Spohn, 1990; Pratt, 1998; Hagan, 1974). Null effects were also found for Hispanics (t -ratio = 0.24) and “other” minorities (t -ratio = -1.46) with regards to being sentenced to prison.

Three additional independent variables did not achieve statistical significance ($p < 0.05$). In particular, whether the offender was convicted of a property offense, a drug offense, or had a PSI did not influence whether they were sentenced to prison. As for the remaining independent variables, several significant findings emerged. Males and younger offenders were significantly more likely to be sentenced to prison, as were offenders who were out on bond, on parole, on probation, or who were incarcerated at the time of the offense in question. Further, prior incarcerations (i.e., prior jail and prior prison) and offense type (i.e., violent offenders) were significant ($p < 0.01$) predictors of whether an offender was sentenced to prison. Before proceeding to the question concerning length of imprisonment, one additional finding needs to be noted. Offenders who were guilty of firearm possession at the time of their present offense were

significantly more likely to be sentenced to prison. The odd-ratio revealed that these offenders were thirty-nine times more likely to be sentenced to prison than offenders who did not use a firearm during the commission of their crime. This finding is consistent with prior research that indicates other variables (e.g., whether a firearm was used) were more important predictors of sentence outcomes than the race of the offender (Spohn, 1990; Hagan, 1974; LaFree, 1985: 298-306).

Table 4
Logistic Regression Model for Prison Disposition (N = 8,000)

	<i>Coefficient</i>	<i>SE</i>	<i>t-Ratio</i>
Constant	-4.26	1.00	-4.26**
Black	-.06	.06	-1.04
Hispanic	.04	.18	.28
Other Race	-.41	.29	-1.46
Gender	.74	.10	7.02**
Age	-.01	.00	-4.69**
Firearm Possession	3.67	.42	14.64**
Out On Bond	.49	.11	4.26**
Parolee	1.36	.12	13.06**
Probationer	.75	.06	11.11**
Incarcerated Offender	2.22	.28	10.30**
Prior Prison	1.31	.07	19.02**
Prior Jail	.09	.01	7.70**
Drug Offender	.16	.08	1.89
Violent Offender	1.21	.08	14.39**
Property Offender	-.06	.09	-.60
PSI	1.94	1.00	1.90
Model Chi-Square	1719.39**		
Nagelkerke R-Square	.28		

* $p < .05$, ** $p < .01$.

Table 5 addresses the question of whether African-Americans receive harsher prison sentences (i.e., more time) than white offenders after considering several pertinent

factors. The hypothesis specified above is not supported in the regression analysis. The results show that African-Americans were not significantly more likely to receive longer prison sentences (t -ratio = 0.53). This finding is consistent with prior research that de-emphasized extra-legal characteristics (e.g., race and sex) as significant predictors of sentence length (Hagan, 1974; cf. Kramer & Ulmer, 1996). Null effects were found as well for Hispanics (t -ratio = 0.86) and “other” minorities (t -ratio = -0.17) with respect to receiving harsher prison sentences.

Five additional independent variables were not statistically significant ($p < 0.05$). Whether an individual was on either parole or probation, whether the individual was incarcerated at the time of the offense or had prior prison incarcerations, and whether a PSI was conducted did not significantly influence the amount of prison time the offender received. With respect to the remaining independent variables several significant findings were observed. Older offenders were significantly more likely to receive longer sentences, and so were individuals with prior jail incarcerations. Further, offenders convicted of drug, property, and violent offenses all received more prison time than individuals convicted of public order offenses. Convicted offenders who were out on bond at the time of the crime were significantly more likely to receive long prison sentences.

Before proceeding to the discussion section one additional note is necessary. Offenders guilty of firearm possession at the time of their present offense were significantly more likely to be given longer prison sentences. The regression coefficient indicates that possessing a firearm increased sentence length by thirteen years. This finding is consistent with prior (Hagan, 1974).

Table 5*OLS Model for Sentence Length (N = 2,065)*

	<i>Coefficient</i>	<i>SE</i>	<i>t-Ratio</i>
Constant	8.05	11.62	.69
Black	.29	.55	.53
Hispanic	1.40	1.61	.86
Other Race	-.48	2.83	-.17
Gender	1.41	1.02	1.37
Age	.09	.03	3.34**
Firearm Possession	15.83	1.16	13.57**
Out On Bond	-2.46	1.01	-2.43*
Parolee	.33	.86	.39
Probationer	-.18	.62	-.29
Incarcerated Offender	-1.43	1.39	-1.03
Prior Prison	-.96	.62	-1.54
Prior Jail	-.41	.11	-3.71**
Drug Offender	3.00	.77	3.86**
Violent Offender	1.38	.69	1.97*
Property Offender	-3.02	.85	-3.53**
PSI	-.76	11.54	-.06
F	19.82**		
R-Square	.13		

* $p < .05$, ** $p < .01$.

To summarize, two important findings were revealed in the multivariate analysis. First, an offender's race/ethnicity did not significantly influence whether they were sentenced to prison, nor did it influence the length of their sentence. Second, "legalistic" variables were more significant predictors of sentence disposition (i.e., whether an offender was sentenced to prison) and sentence length. In conclusion, the multivariate analyses indicate that an offender's race does not influence sentencing outcomes.

DISCUSSION

The present analysis compared blacks, Hispanics, and members of “other” minority groups with white offenders to answer two questions: Do blacks get sentenced to prison more often than whites? Do blacks receive harsher sentences? The study produced two important findings. First, African-Americans were not sentenced to prison more often than whites, nor did they receive longer periods of incarceration. Second, “legalistic” characteristics (e.g., offense type, prior record, legal status) were more significant predictors of sentence disposition (i.e., whether an offender was sentenced to prison) and sentence length than an individual’s race. In recent years, social scientists have debated whether legal or extra-legal characteristics are more important during criminal sentencing procedures. The results reported here suggest that legal variables are more important. Offense type, weapon use, legal status and prior record were found to be significant predictors. The results of the present analyses parallel Spohn’s (1990) findings that sentencing decisions are determined primarily by the seriousness of the crime committed and by the offender prior criminal record (i.e., legal variables). Other factors that fell outside of the legalistic heading were also significant determinants. For example, an individual’s gender and age at the time of their present offense strongly influenced sentence dispositions. These observations suggest that some early criticisms of extra legal variables (age and sex) were premature (LaFree, 1985: 298-306; Hagan, 1974).

Some individuals might interpret the present analysis to suggest that sentencing decisions are based solely on legally prescribed characteristics, but I disagree. The differential treatment of blacks may not be seen during sentencing but discrimination may

be uncovered in earlier stages of the criminal justice process (i.e., prior to sentencing in criminal courts). For example, scholars argue that determinant sentencing may encourage prosecutors to exercise more discretion when deciding which cases are worthy of full prosecution (Zatz & Hagan, 1985). Though not supported in the present analysis, conflict theorists contend that prosecutors who are mainly white and representatives of the ruling class will exercise their legal authority disproportionately on minority defendants (Zatz & Hagan, 1985).

Peterson and Hagan's (1984) study on sentencing in drug-related cases was conducted during the late 1960s and 1970s. As noted, during this time the Nixon administration reformed federal drug statutes. The authors contended that the American drug prohibition began with the portrayal of African-Americans and "other" minority groups as the "villains responsible for the growing drug menace" (Peterson & Hagan, 1984: 67). This connection between blacks and drug offenses held true in the present analysis. It was observed that blacks were disproportionately involved in drug crimes when compared with other types of crimes (i.e., property and violent crimes). Offenders guilty of drug crimes were significantly more likely to receive harsher sentences than other types of offenders. Further, correlations were observed between African-Americans and firearm possession. Firearm possession was the most significant predictor of sentencing outcomes.

It should be noted that the two findings pertaining to black offenders and legal variables (i.e., drug offenses and firearm possession) are supported by Richard Quinney's (1970) six propositions of the "social reality of crime." For the purposes here, two propositions will be discussed. Quinney (1970: 15) posited "crime is a definition of

human conduct that is created by authorized agents in a politically organized society.”

Here the author contends that those with political power define or label what is criminal.

Is it outside the realm of possibility that the Nixon Administrations war on drugs targeted “inner city” neighborhoods realizing that harsh drug laws would disproportionately affect blacks? “Criminal definitions describe behaviors that conflict with the interest of segments of society that have the power to shape public policy” (Quinney, 1970:16).

Here, the author posits that those in power determine what is criminal and make laws to address the behaviors defined as such. Prior research has noted that stiffer penalties for drug violations and the use or possession of a firearm while committing felonies have resulted in longer prison sentences in Michigan (Early, 2001). Again, one could speculate that African-American offenders propensity towards firearm possession, which was supported by the present study, could be targeted by policy makers, resulting in more stringent gun law penalties.

Why is it that race was not found to be a significant predictor of sentencing outcomes in the present study? One explanation is that Michigan’s judges have lost the majority of their discretion due to highly structured sentencing guidelines, hence the chances for discrimination based on an offender’s race is low. This process starts with the sentencing information request (SIR) (Michigan Sentencing Guidelines, 1999). The SIR contains all pertinent information regarding the sentencing of an offender. Each offense covered by the guidelines is divided into separate crime groups. The groups are as follows: Assault, Burglary, Criminal Sexual Conduct, Drug, Fraud, Homicide, Larceny, Property Destruction, Robbery and Weapons Possession (Michigan Sentencing Guidelines, 1999). The offender’s prior criminal record and present offenses are scored

using a point system. An individual's score is then matched up against a sentence length grid. Each grid provides a recommended minimum sentence range for combinations of the offense and prior record levels. With each crime group there is a sentencing guideline grid for the offender's present crime.

A perceived flaw in the guidelines is that judges are afforded broad sentencing discretion with regards to "habitual offenders." The established guidelines do not include habitual offender sentencing parameters. Hence, in order to derive a sentence length for habitual offenders, judges must "score" the offender and establish a new statutory minimum and maximum (Michigan Sentencing Guidelines, 1999). Through the present analysis it was observed that positive correlations exist between African-Americans and prior criminal involvement (e.g., prior prison incarcerations). Black offenders may be more likely than whites to have more extensive histories of criminal behavior (i.e., habitual offenders) and may be punished more severely (Bridges & Crutchfield, 1988). However, the results of the present analysis do not support this conclusion. It is my contention that this rationale is the most credible explanation of why an offender's race was not found to be a significant predictor of sentence length or the decision to incarcerate in Michigan for 1998.

Some additional notes are necessary at this time. Once again, Quinney's (1970:15) first proposition (i.e., "crime is a definition of human conduct that is created by authorized agents in a politically organized society") is useful. Although judges' sentencing practices in Michigan are highly structured, the guidelines they employ could reflect racial bias. Certain offenses carry harsher penalties (i.e., drug offenses and firearm possession)(Early, 2001). Through the present analysis it has been observed that

African-Americans disproportionately commit offenses that fall into the crime categories mentioned above (e.g., drug offenses). Scholars contend that policy makers target these areas (i.e., drug offenses and firearm possession) to enforce the most stringent sentencing penalties (Early, 2001).

As previously noted, Thorston Sellin's (1938) culture conflict is helpful in conceptualizing the issue. Primary cultural conflict (Sellin, 1938) between African – Americans and policy makers is a plausible explanation for the racial discrimination argument. Previous research has noted that the conduct norms of African-Americans versus policy makers (mainly white) conflict, hence resulting in the formulation of criminal law that targets certain behaviors (Sellin, 1928). Further, such behaviors (i.e., drug offenses and firearm possession) could be specifically targeted as external manifestations of racial discrimination (by policymakers) and carry more harsh sentencing outcomes (Early, 2001).

Although the present analysis did not find race to influence sentencing outcomes, I believe it would be premature to posit that discrimination in the criminal justice system is no longer present. Instead these results should encourage other individuals to also question why race was not found to factor into sentencing decisions in Michigan. Ultimately, racial discrimination may no longer be overtly present in the highly formalized and publicized environment of the American courtroom. However, discrimination may still persist elsewhere in the criminal justice system, and should be revealed, targeted, and eradicated.

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