

Focal Concerns, Race & Sentencing of Female Drug Offenders

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Abstract

The increase of female incarceration in the United States over the past decade has become a cause for concern. This increase differs across racial groups, with black women disproportionately more likely to be incarcerated and to receive longer sentences. In the current study, we modify the "focal concerns" perspective developed by Steffensmeier et al. (1998) to explain the high incarceration rate for black males. We hypothesize that the sentencing disparity between black women and white women is at least partially due to perceived violations of traditional gender norms, an "evil woman" explanation. To test this, we examined the effects of legal and extralegal variables on sentence lengths in a sample of incarcerated drug offenders in Oklahoma. Legal factors such as prior incarceration and related factors such as employment were predictors of sentence lengths for white women, but not for black women. Instead, self-reported use of crack cocaine was associated with longer sentences for the black offenders despite the fact that white offenders were almost as likely to report use of crack. For both groups, trial by jury was associated with longer sentences, but more so for black women, providing some support for the "evil woman" focal concern.

Introduction

It is readily apparent that gender is a factor in the likelihood of going to prison. Males are incarcerated at much higher rates than females (Beck and Mumola 1999), although this is changing. In 1990, 44,065 women were in prison. However, nearly 85,000 women were incarcerated in either state or federal facilities by the end of 1998 (Beck and Mumola 1999). Furthermore, although males account for the majority of prisoners (Beck and Mumola 1999), during the last decade the increase in the rate of female imprisonment has outstripped the increase in the male rate. In 1998 alone, female incarceration increased 6.5% while the increase for males was 4.7% (Beck and Mumola 1999). However, the incarceration rate for female offenders is not the same across racial and ethnic groups. Almost half the female inmates in the United States are black, leading to concerns about discrimination (Belknap 1996; Chesney-Lind 1997). This study explores the possibility of discriminatory sentencing, suggesting that perceived characteristics of a defendant may enter into sentencing decisions. Following the "focal concern" per-

spective set forth by Steffensmeier, Ulmer and Kramer (1998), we suggest that differential sentencing may be partially attributable to media portrayals of black female offenders as "evil women" (Erez 1989), welfare queens (Culverson 1998) and mothers of "crack babies" (Humphries et al. 1995).

The increase in female incarceration has led to questions about possible causes. Are women committing more crimes than in the past, or are we now more likely to respond to female crime with prison sentences? The data suggest that the latter may be true. Female inmates are less likely than male inmates to have prior convictions, a history of violent crime, or juvenile arrest histories (Greenfeld and Snell 1999), suggesting a punitive stance toward female offenders. Furthermore, a recent governmental report suggests that much of the increase in female incarceration has been due to changes in sentencing practices (United States General Accounting Office 1999). This is particularly true for drug offenders, with the number of women incarcerated for drug offenses in 1997 nearly double the number in 1990 (United States General Accounting Office 1999).

This trend is relevant in Oklahoma, the state with the highest rate of incarcerated women (Beck and Mumola 1999:6). Females comprise more than 10% of the state prison population (Oklahoma Department of Corrections 1998), compared to 6% nationally (Snell and Morton 1994; Marcus-Mendoza and Briody 1996; Greenfeld and Snell 1999).

Race also plays a role in imprisonment. During the last decade, the percentage of all state or Federal prisoners who were white decreased from slightly over half to 47.9%. In contrast, the percentage of inmates who were black increased to 49.4% by 1997 (Beck and Mumola 1999). When one considers this in conjunction with the fact that blacks make up only 12% of the U. S. population, it is obvious that racial disparities in imprisonment exist. Among females, race is definitely a factor in the likelihood of incarceration. In 1997, black women were six times more likely than white women to be incarcerated (Beck and Mumola 1999:9). Equally disturbing, nearly half of the women incarcerated in state prisons are black, while two-thirds of the women on probation are white (Greenfeld and Snell 1999:7), suggesting the possibility of differential treatment (Chambliss 1995).

This disparity has led to a search for explanations. Much attention has been focused on the plight of the black male offender (cf. Chambliss 1995; Chiricos and Crawford 1995; Fishman 1998; Hawkins 1995; Mann and Zatz 1998; Steffensmeier et al. 1998). Explanations for their high incarceration rates have ranged from sociobiological ones (Wilson and Hernnstein 1985) to urbanization and poverty (DuBois 1899; Shaw and McKay 1942).

Others have examined the role of perception, suggesting that higher incarceration rates are at least in part due to the public focus on "black crime" (Spitzer 1975; Cohn, Barkan and Haltman 1991; Chambliss 1995; Lockwood, Pottieger and Inciardi 1995). Steffensmeier and colleagues (1998) attributed the trend towards harsher sentences for young black males at least partially to the use of what the au-

thors refer to as "focal concerns." This perspective is based on a premise that sentencing decisions reflect the desire of judges to protect their communities. However, judges must make their decisions based on incomplete information. Thus, they develop "focal concerns" or stereotypes to assist them in sentencing decisions. Young black males, the authors argue, are seen as more dangerous, more blameworthy, and at greater risk of recidivism. Thus, judges strive to incapacitate them through sentencing. Legally relevant factors such as prior records, the type of conviction, and pre-trial bail or detainment (Zatz 1984; Zatz 1987) are considered in conjunction with extralegal stereotypical attributions about the offender's race, gender and age (Steffensmeier et al. 1998). Sentencing decisions then reflect this combination of legal and extralegal factors. The result is harsher sentencing of young black males.

A similar argument may explain the disparate sentencing of black females. However, young black women are less likely than young black men to be perceived as dangerous and a risk to the community. Instead, negative media portrayals and public outcry focus more on violation of gender norms, particularly through drug use (Culverson 1998). Indeed, Chesney-Lind has suggested that much of the rise in female incarceration is due to harsher sentences given to minority females as a result of the "War on Drugs" (Chesney-Lind 1997:99). This study explores correlates of sentence length among female prisoners in Oklahoma, focusing on racial differences. We address the issue of whether harsher sentencing of black women is the result of legal factors such as prior convictions or due to extralegal factors such as race and class. If extralegal factors are more likely to predict sentence length, "focal concerns" like those described by Steffensmeier et al. (1998) may be operational. In other words, judges and/or juries may be focusing on certain aspects of female crime and violations of traditional gender roles in assessing sentences.

Trends in Imprisonment: Race and Gender

Nationally, racial composition among male and female prisoners is relatively similar. Approximately 48% of both female and male prisoners are black (Beck and Mumola 1999). In Oklahoma, not only are women more likely to be incarcerated than in other states, but black women in particular face a higher risk of going to prison. The number of black females is disproportionately higher than that of black males (Sandhu et al. 1994). This poses several questions for researchers: Are black women more vulnerable to hardships and detrimental social factors that could ultimately lead them to prison? If so, are they exposed to these circumstances more than women of other races are? Alternately, is the higher incarceration rate of black women due to discrimination?

Two factors have contributed to the growth in the United States prison population. First, more offenders are being sentenced to prison, and second, offenders are being given longer sentences (Currie 1998). This is especially true in the case of female offenders who are being sentenced to prison more frequently and for longer periods. Reasons for the increase in incarceration may further vary by both race and gender. Over half of the increase in male incarceration between 1990 and 1997 was accounted for by violent offenses. In contrast, only one-fourth of the increase in female incarceration was attributable to violent crime. On the other hand, 38% of the increase in female imprisonment during the same period can be attributed to drug offenses, compared to only 17% of the male increase. When race is considered separately, the evidence does not appear quite as clear. Overall, the increase in black imprisonment is slightly more attributable to violent offenses than the increase in white imprisonment. However, a larger portion of the increase in black imprisonment as compared to white imprisonment is attributable to drug offenses (Currie 1998; Beck and Mumola 1999). What is missing is a more focused examination of the intersection of racial

and gender differences in crimes leading to incarceration.

There are clearly racial disparities in both the likelihood of incarceration and in sentence length of female offenders. What remains to be addressed, however, is whether these disparities are due to legal factors or extralegal factors. If legal factors such as prior legal history and type of conviction can account for sentence length, one could then conclude that disparity but not discrimination explains different sentence lengths (Zatz 1984). However, if extralegal factors such as race marital or parental status and unemployment are more salient, then it would appear that discrimination in the sentencing of female offenders is an issue. In her study of determinate sentencing practices, Zatz (1984; 1987) found that even legal factors may be applied differentially by race and ethnicity. Furthermore, race itself had a direct effect on sentencing (Zatz, 1984). In the current study, we examine the impact of both legal and extralegal factors on the sentence lengths of female drug offenders in Oklahoma. We further suggest that focusing on certain characteristics attributed to black female offenders may play a role in sentencing decisions.

Focal Concerns and Sentencing

Drawing from Miller (1958), Steffensmeier et al. (1998) suggest that sentencing decisions made by judges and other players in the criminal justice process are influenced by three focal concerns. The authors argue that the degree to which an offender is seen as blameworthy, the need to protect the community, and constraints and practical consequences affect the decisions rendered by judges and juries. These individuals are faced with the task of determining appropriate sanctions for offenders, and Steffensmeier et al. (1998) suggest that they do so by focusing on characteristics that they attribute to certain types of offenders. Their study demonstrates an interaction between age, race, and gender. Young black males were found to receive disproportionately harsh sentences because they were seen as more dangerous and less reformable. Two im-

portant pieces of information can be gleaned from these findings. First, the study demonstrates the importance of examining the interaction effects among relevant variables. Furthermore, and perhaps even more important, the study illustrates how definitions and attributions may affect sentencing outcomes.

Steffensmeier and colleagues (1998) did not find an age interaction effect on female sentencing. They argued that the interaction of age, race and gender in sentencing was because young black males were seen as a threat. The effect of age was not present for women because women were more likely to be perceived as victims themselves and less likely to be viewed as a threat. Thus, one might conclude that perceived dangerousness is not as much a factor in racially disparate sentencing for women. This implies a need to identify other attributes that might be focal concerns in the processing of female offenders.

Although fewer women are incarcerated than are men, there is evidence that females have been harshly sanctioned when perceived as violating gender norms (Belknap 1996; Chesney-Lind 1997; Ochie and Ngenge 1996; Schur 1984). The "evil woman" hypothesis (Erez 1992; Belknap 1996) purports that women who violate appropriate gender-roles are discriminated against in the criminal justice process.

Gender norm violation may occur in either of two ways: through characteristics of the offender or through characteristics of the offense. Offender characteristics include marital/family status as well as race and social class. Women who are married and who are caretakers of children are fulfilling "appropriate" gender norms and thus less likely to be harshly sentenced (Daly 1987; Daly 1989; Farrington and Morris 1982). On the other hand, being divorced, separated, or receiving public assistance could result in harsher treatment (Farrington and Morris 1982; Culverson 1998). Furthermore, race is a factor in sentencing. Ample evidence exists that black women receive harsher sanctions than white women (Kruttschnitt

1981; Spohn et al. 1987). Additionally, social class affects sentencing, with women from more affluent backgrounds more likely to receive leniency than poor women (Kruttschnitt 1981) do. The characteristics of the offense may also violate ideas of "appropriate womanhood." For women, drug use, especially in conjunction with pregnancy or motherhood, may result in extremely harsh sanctions for women (Gomez 1997; Humphries et al. 1992; Humphries et al. 1995). In particular, the use of crack cocaine has received substantial negative attention. The media scare of the late 1980s and the "crack babies" campaigns brought this particular drug into the public arena, resulting in public outcry against women who used drugs, especially crack cocaine. However, a 1996 study of judicial attitudes in Oklahoma failed to find evidence of judicial bias (Ochie and Ngenge 1996).

A number of additional legal and extra-legal factors may affect sentence length, and some of these may have direct or indirect effects on sentencing decisions. Several legal factors have been reported to be significantly associated with sentencing. The type of legal representation, type of conviction (plea, bench trial or jury trial) (Albonetti 1997), posting of bail (Holmes et al. 1996), and prior criminal record (Spohn and DeLone 2000) have all been linked to sentence length. Blacks are disproportionately affected by legal factors linked to economic position, such as having a public defender or being unable to post bond (Holmes et al. 1996; Walker, Spohn and DeLone 2000). Additionally, unemployment (Kramer and Steffensmeier 1993; Spohn and Holleran 2000) and prior convictions (Kramer and Steffensmeier 1993) have been found to preclude lenient sentencing. Many poverty-stricken women commit crimes in order to support their families.

Method

Data were collected during May and June 1997 at two state correctional facilities in Oklahoma. The survey was administered to 144 female drug offenders at Dr. Eddie Warrior Correctional Center (mini-

mum/medium security) and Kate Bernard Community Correctional Center (minimum security). The Oklahoma Department of Corrections (DOC) provided lists of inmates chronologically ordered in terms of initial entry into the DOC system. At the Bernard facility, every second subject was selected, resulting in a subsample of 65. At the Warrior facility, the initial plan was to survey every third subject. However, the sampling was revised upon the researchers' arrival at the prison. The previous evening, 87 women were transferred to a prison in Texas with no advance notice. Therefore, the survey was administered to all remaining drug offenders who consented to participate. Three women refused, leaving a final subsample of $N=79$.

The survey was self-administered and took approximately forty-five minutes to complete. Members of the research team assisted subjects who needed help reading the questionnaire. The inmates were assured of anonymity. They were instructed not to write their name or other identifying information on the survey form. Informed consent was obtained from all participants and participation was strictly voluntary.

Survey Instrument

Basic demographic data were collected including self-reported race, age, educational level, and employment status at time of arrest. Due to the small number of subjects who were Native American, Asian, or Hispanic, the sample was further restricted to two races: white and black. The final sample consisted of 51 black females and 67 white females.

Inmates were asked to respond to questions concerning several aspects of their lives prior to and during incarceration. Topics included educational level attained, drug use history, mean family income prior to incarceration, whether they lived with a minor child, and employment history. Some questions were created by the research team while others were drawn from the National Youth Survey, Wave VI (Elliot 1993), Men's Relationship Study (Umberson 1995), Inmate Population Sur-

vey (Marcus-Mendoza and Briody 1996), and the AIDS Initial Assessment (National Institute on Drug Abuse 1993).

The dependent variable, *Sentence Length* was measured by presenting subjects with ordered categories of potential responses. In the following analyses, the variable is collapsed into four categories: deferred/delayed sentence, 1-4 years, 5-10 years, and more than 10 years. The analyses also include several independent variables. *Prior Convictions* was coded as a four category ordinal level variable, with measures ranging from "none" to "two or more prior felonies." *Prior Incarcerations* included three categories: "none," "one", or "two or more."

We also operationalized three categories for *Type of Trial/Conviction*: "plea or nolo contendere," "trial by jury" and "trial by judge." Finally, we explored types of drugs that subjects reported using in the six months prior to their current imprisonment. Reported drug use included *Crack, Heroin, Marijuana, and Amphetamines*.

Findings

Black females comprise 35.4 percent of the sample of drug offender and white females represent 46.5 percent. There is a significant over-representation of black females given that they only represent 7.4% percent of the total Oklahoma female population (U.S. Census 1990). The average age of both groups is mid-thirties, with a mean age for black prisoners of 34.3 years and a mean age for white prisoners of 35.8 years.

The self-reported family income of the women prior to incarceration is reported in Table 1. Blacks reported an average family income of \$12,624.79 prior to incarceration whereas whites reported \$31,494.38. This difference in average income could be a result of many social factors. The difference in levels of education between the two groups is one possible reason for the dissimilarity. As can be seen in Table 1, white women are more likely than black women to report graduation from high school (46.2% of the white prisoners versus 34% of the black prison-

ers). Another possible explanation could be employment status. However, as reflected in Table 1, black prisoners are more likely than white prisoners to report that they were employed either full-time or part-time. However, with lower levels of education the earnings of the black women could be expected to be lower.

Sentence Length

Table 2 reports sentence length by race. It is apparent that more white than black women are found in the lower sentence categories (deferred/delayed or less than 5 years). Sentences of ten or more years are almost equally distributed by race. The category with the largest percentage difference is 5 to 9 year sentences, with 38% of the black women but only 28.1% of the white women falling into this group.

Drug Use

Table 3 indicates the drug use of female inmates during the six months prior to incarceration. Black women are more likely to report using crack (36.0%) than white women (22.7%). White prisoners report higher rates of cocaine use (31.8% compared to 6.0% of blacks), marijuana use (51.5% compared to 32.0% of blacks), heroin (13.6% compared to 4.0% of blacks), and amphetamines or methamphetamine use (53% compared to 2.0% of blacks). It is evident that the types of drugs varied by race.

Legal Factors Potentially Affecting Sentence Length

Three legal variables are presented in Table 4. First, we present information about the number of prior convictions re-

Table 1. Demographics

	Black	White
Mean Age in Years	34.3	35.8
Mean Income Prior to Incarceration	\$12,625	\$31,494
Education		
< HS Grad/GED	44.0% (22)	33.0% (22)
HS Grad/GED	34.0% (17)	46.2% (30)
Vo-Tech/College	22.0% (11)	20.0% (13)
Full-Time or Part-Time Employment	45.1% (23)	40.3% (27)

Table 2. Sentences by Race

	Black	White
Deferred or Delayed	0.0% (0)	6.3% (4)
<5 Years	16.0% (8)	20.3% (13)
5 - 9 Years	38.0% (19)	28.1% (18)
10 or More Years	46.0% (23)	45.3% (29)

ported by the prisoners. The number of prior convictions for both blacks and whites are almost equivalent. However, 15.2% of white females report prior misdemeanor convictions, as compared to 8% of black women. The percentage of black prisoners with one prior felony is slightly higher than that of white prisoners (30% versus 28.8%). Finally, black prisoners (28.0%) are more likely to report two or more felony convictions than white prisoners (22.7%).

The second legal variable examined was prior incarceration record. White women are far more likely to report that this was their first incarceration, and less likely to report one prior incarceration. However, the difference between white women and black women is somewhat less for two or

Table 3. Reported Drug Use in Six Months Prior to Arrest, by Race

Drug	Black	White
Crack	36.0% (18)	22.7% (15)
Cocaine	6.0% (3)	31.8% (21)
Marijuana	32.0% (16)	51.5% (34)
Heroin	4.0% (2)	13.6% (9)
Amphetamine/ Methamphetamine	2.0% (1)	53.0% (35)

Table 4. Legal Factors Potentially Affecting Sentencing, by Race

	Black	White
Prior Convictions		
<i>None</i>	34.0% (17)	33.3% (22)
<i>Misdemeanor only</i>	8.0% (4)	15.2% (10)
<i>One prior felony</i>	30.0% (15)	28.8% (19)
<i>Two or more prior felonies</i>	28.0% (14)	22.7% (14)
Prior Incarcerations		
<i>None</i>	58.0% (29)	74.2% (49)
<i>One</i>	30.0% (15)	16.7% (11)
<i>Two or more</i>	12.0% (6)	9.1% (6)
Type of Trial/Conviction		
<i>Plea or Nolo Contendre</i>	76.6% (36)	75.4% (49)
<i>Trial by Jury</i>	3.9% (2)	15.4% (10)
<i>Trial by Judge</i>	17.6% (9)	9.2% (6)

more prior incarcerations (9.1% versus 12.0%).

The final legal factor examined was the type of conviction or trial. Over three-fourths of white and black women report that plea bargains or "nolo contendere" pleas were entered. Of the remaining women, blacks are slightly more likely to report being tried in front of a judge, while white women are slightly more likely to report being tried in front of a jury. However, it is important to remember that these percentages apply to women in prison and may not be representative of all women facing drug charges.

Prior Convictions, Prior Incarcerations & Current Sentence

Table 5 is a cross-tabulation of prior convictions with current sentences of the women prisoners. One notable difference

is in deferred/ delayed sentences. Blacks report no delayed sentences, while four white women report receiving delayed sentences. Indeed, one white prisoner reporting a prior felony conviction reported a deferred/ delayed sentence. A higher percentage of black women with no prior convictions (20.4%) than white women (12.7%) report a sentence of 10 or more years. Additionally, 16.3% of the black prisoners with one prior felony received 5-9 years whereas only 7.9% of white respondents with one prior felony received the same sentence. There is a somewhat higher concentration of white women in the 1-4 years category and a higher concentration of black women in both the 5-9 years and 10 or more years categories, regardless of prior conviction status.

Table 6 presents a cross-tabulation of

Table 5. Prior Convictions and Current Sentences, By Race

<i>Sentence length in years</i>	Black				White			
	0*	1-4	5-9	10+	0*	1-4	5-9	10+
<i>No prior convictions</i>	0.0% (0)	6.1% (3)	8.2% (4)	20.4% (10)	3.2% (2)	6.4% (4)	7.9% (5)	12.7% (8)
<i>Misdemeanor only</i>	0.0% (0)	2.0% (1)	6.1% (3)	0.0% (0)	1.6% (1)	4.8% (3)	6.4% (4)	3.2% (2)
<i>One prior felony</i>	0.0% (0)	2.0% (1)	16.3% (8)	10.2% (5)	1.6% (1)	7.9% (5)	7.9% (5)	12.7% (8)
<i>Two or more prior felonies</i>	0.0% (0)	6.1% (3)	8.2% (4)	14.3% (7)	0.0% (0)	1.6% (1)	4.8% (3)	12.7% (8)

* The category "0" Sentence length refers to deferred/delayed sentencing.

Table 6. Prior Incarcerations and Current Sentences, By Race

<i>Sentence length in years</i>	Black				White			
	0*	1-4	5-9	10+	0*	1-4	5-9	10+
<i>No prior incarceration</i>	0.0% (0)	10.2% (5)	24.5% (12)	24.5% (12)	6.4% (4)	17.5% (11)	22.2% (14)	27.0% (17)
<i>One prior incarceration</i>	0.0% (0)	4.1% (2)	10.2% (5)	14.3% (7)	0.0% (0)	3.2% (2)	3.2% (2)	11.1% (7)
<i>Two or more prior incarcerations</i>	0.0% (0)	2.0% (1)	4.1% (2)	6.1% (3)	0.0% (0)	0.0% (0)	1.6% (1)	7.9% (5)

* The category "0" Sentence length refers to deferred/delayed sentencing.

prior incarceration record by sentence length. In this table, we see that deferred sentences were given only to those white prisoners with no prior incarcerations. However, white prisoners with no prior incarcerations are also slightly more likely to report receiving sentences of ten or more years. Among those women with one prior incarceration, a higher percentage of black women report receiving sentences in the 1-4 year category, 5-9 year category and the 10 year or more category.

Bivariate Regressions of Sentence Length on Legal and Extra-Legal Variables

In Table 7, we examine the bivariate models. For black prisoners, having a jury trial is associated with a longer sentence length, as is the level of crack cocaine use, heroin use, and marijuana use. Higher levels of education are also associated with longer sentences. For white prisoners, the significant coefficients are quite different other than the effect of having a jury trial. Instead, longer sentences for white prisoners are associated with prior incarcerations, employment and amphetamine use.

Table 7. OLS Bivariate Regression of Sentence Length on Legal and Extra-Legal Variables (standardized coefficients in parenthesis)

	Black	White		Black	White
Prior convictions	.004 (.005)	.040 (.030)	Lived with minor child	.324 (.156)	.003 (.001)
Prior incarcerations	.159 (.113)	.397 [†] (.167)	Income prior to incarceration	.000 (.156)	-.000 (-.090)
Jury	1.104 [†] (.220)	.792 [†] (.179)	Level of crack use	.090** (.216)	.113 (.044)
Judge	-.226 (-.084)	-.598 (-.113)	Level of cocaine use	.090 [†] (.216)	.113 (.044)
Employment	.231 (.117)	-.517 [†] (-.164)	Level of heroin use	.107* (.233)	.142 (.171)
Education level	.277* (.218)	.098 (.046)	Level of marijuana use	.092* (.253)	.161 (.240)
Age	.005 (.040)	.021 (.111)	Level of amphetamine use	.080 (.185)	.207** (.315)

[†] $p \leq .10$, * $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

Multivariate Regressions of Sentence Length on Legal and Extra-Legal Variables

Finally, ordinary least squares analyses of sentence length on the legal and extra-legal variables were undertaken. The final models are presented in Table 8. Other than having a jury trial, it is apparent that very different variables are associated with sentence length for white prisoners as compared to black prisoners. For white prisoners, the predictive variables are primarily legal factors: prior incarcerations and

jury trial. Additionally, employment is significantly associated with lower sentence length. For black prisoners, however, the predictive variables are primarily extra-legal factors: educational level and crack use. Being tried by a jury is related to longer sentences for blacks but not for whites.

Discussion

The current study did not explore the likelihood of incarceration among female offenders, being limited to an examination of factors affecting sentence length among

Table 8. OLS Multivariate Regression of Sentence Length on Legal and Extra-Legal Variables (standardized coefficients in parenthesis)

	Black	White
Prior convictions	-	-
Prior incarcerations	-	.477* (.201)
Jury	1.210** (.242)	.832* (.189)
Judge	-	-
Employment	-	-.660* (-.209)
Education level	.300* (.237)	-
Age	-	-
Lived with minor child	-	-
Income prior to incarceration	-	-
Level of crack use	.101† (.162)	-
Level of cocaine use	-	-
Level of heroin use	-	-
Level of marijuana use	-	-
Level of amphetamine use	-	-
R2	.131	.103

† $p \leq .10$, * $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$

those who were incarcerated. Our findings indicate that, in terms of sentence length, race matters. First, the sentence length received by female offenders varied by race. Second, we found that deferred or delayed sentences were only reported by white prisoners. Finally, our findings indicate that different factors predicted sentence length for black women as compared to white women.

The data also suggest that detrimental social factors experienced by black women cannot explain the difference (Currie 1998). For example, although black female prisoners report lower levels of education, it appears that higher levels of education are associated with longer sentences for this group. It is possible that this is an

artifact, with those women incarcerated for the longest terms being more likely to obtain education while in prison. Certainly, the relationship between sentence length and education bears further investigation.

Prior research has suggested that employment at the time of incarceration is often associated with less harsh sentencing (Kramer and Steffensmeier 1993). However, this study did not appear to support those findings unilaterally. Regression analyses indicated that employment was not associated with shorter sentences for black prisoners, only for white prisoners. This is despite the fact that black women were more likely to report having either a full-time or part-time job prior to

incarceration.

Drug use varied by race. In the six months prior to incarceration, black women were more likely to report using crack, while white women were more likely to report using all other drugs. However, drug use was not associated with sentence length for all women. Instead, drug use was only associated with sentence length for black women, adding support to Chesney-Lind's (1997) observation about the War on Drugs being a war on women of color.

In a system where disparity of sentence lengths was not due to racial factors, one should expect to find similar predictors of sentence length. In particular, legal variables should be associated with sentencing. However, this was not the case for both black and white offenders in our sample. While black prisoners were more likely to report no prior convictions, none received deferred sentences. On the other hand, white respondents were slightly more likely to have a prior conviction on their record, yet four white inmates were given deferred sentences, one of these reporting a prior felony conviction and another reporting a misdemeanor conviction. Furthermore, although black prisoners were less likely to report prior convictions, they were more likely to report prior incarcerations. This would suggest that some level of discrimination exists. Jury trials were associated with longer sentences for both races.

This study was designed to explore the possibility that focal concerns exist in the sentencing of female inmates similar to those described in the sentencing of young black male inmates (Steffensmeier et al. 1998). The Steffensmeier study suggested that young black males receive harsher sentences because they are seen as blameworthy and dangerous. We suggest that different focal concerns might be operative with female offenders, particularly concerns surrounding gender norm violations (Schur 1984; Belknap 1996; Erez 1992; Ochie and Ngenge 1996; Schur 1984). Our findings appear to support this in regards to the harsher sentencing of black female offenders. It is notewor-

thy that crack cocaine use was associated with longer sentencing for black women but not for white women. Given the media representation of black women giving birth to impaired infants (Humphries et al. 1995), this should not be particularly surprising. Almost one-fourth of the white prisoners reported using crack in the six months prior to incarceration, compared to slightly more than one-third of the black prisoners. However, at neither the bivariate nor the multivariate level was an association found between crack use and sentence length for white women, suggesting that there is a difference across races in the perceived "inappropriateness" of crack usage. Notably, having a minor child in the home was not associated with sentence length for either race.

It is equally telling that the variables predictive of sentence length for white prisoners are primarily legal variables (Zatz 1984). In the multivariate model, employment was the one extra-legal variable associated with sentence length. Employment has been associated with sentence length in a number of studies of male offenders, and there is some intuitive logic there. Simply, an employed offender is considered to be less of a risk. Offenders who are employed are perceived as more tied to the community, and thus better able to provide for their families (Kramer and Steffensmeier 1993; Spohn and Holleran 2000). However, the beneficial effect of employment does not appear to be extended to black female offenders, despite the fact they were more likely to report regular employment.

Conclusion

The circumstances surrounding each respondent's case were not examined. Therefore, it is difficult to delve deeper into the issue of discrimination. Many factors influence sentencing, including aggravating and mitigating circumstances in individual cases. All offenders in this study were convicted of drug offenses. However, we do not know the exact offenses for each offender, although that might partially explain the outcomes. Nonetheless, it appears that Chesney-

Lind's (1997) warning cannot be ignored. Further research is needed to determine the specific types and levels of discrimination that exists within the criminal justice system.

A comparison of a female offenders not charged with drug offenses to those charged with drug offenses might shed further light on the role of stereotypes and focal concerns in sentencing decisions. Additionally, further research might explore whether similar patterns exist in decisions of whether to incarcerate convicted women.

The findings of this study give cause for concern about racial equity in sentencing of female offenders. In particular, the finding that legal factors were not associated with sentence length of black females merits further investigation. If these findings are replicated in terms of decisions to incarcerate as well as across a wider variety of offenders, current sentencing practices will need to be examined and changed. Otherwise, if the trend of rising female incarceration continues unchecked, we may find a generation of children with neither mother nor father available to parent them.

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