GENDER AND SENTENCING OUTCOMES: DOES REGION MATTER?

by

MELANIE M. HOLLAND

A THESIS

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Abstract

Previous research has acknowledged that a relationship exists between gender and sentencing outcomes. However, a gap exists in research regarding how regional differences affect this relationship. Some research suggests that gender ideologies differ by region within the United States. This predicted relationship can be explained using the paternalism theory, which states that women receive more leniency than men because they are perceived as needing more protection as a result of a patriarchal society. This study incorporates data from the 2008 Monitoring of Federal Criminal Sentences collected by the United States Sentencing Commission to analyze the relationship between region, gender, and sentence outcomes using the theoretical perspective of paternalism. This study found that women received leniency throughout the criminal justice system. The Deep South did exhibit more conservative values resulting in harsher sentencing for most of the stages. However, women from the Deep South did not appear to receive any more leniency than women not from the Deep South.
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Introduction

Research on offender characteristics has shown that the average offender has traditionally been young, male, and non-white (Langan, 1991), as well as poorly educated, unemployed, and from a lower socioeconomic status (Doerner, 2009). However, in 1991, men represented 45% of the population and 95% of the prisoners (Langan, 1991). African-Americans represented only 11% of the population, but 48% of prisoners. Individuals in their 20s represented 24% of the population, but 50% of prisoners. Over the past several years, these sentencing discrepancies appear to be declining. However, a sentencing gap still exists. In 2008, according to the most recently published Uniform Crime Report, 75% of those arrested were male (Federal Bureau of Investigation, 2007b). Nearly 82% of violent crimes and 65% of property crimes were committed by men (FBI, 2007b). Over 69% of those arrested in 2008 were Caucasian, 28% were African-American, and a little over 2% were of another racial background (FBI, 2007a). This data suggests that the race gap is narrowing; however, this gap is still highly disproportionate when compared to the general population. According to Franklin and Fearne (2008), African American and Hispanic offenders are more severely sanctioned than their counterparts. Spohn, Gruhl, and Welch (1987) ranked the likelihood of arrest, revealing that Hispanic men were the most likely to be arrested, followed by African-American men, Anglo men, and finally women of any race as the least likely to be arrested. While women are still less likely to be arrested at a rate of 24.5% to 75.5% (FBI, 2007b), racial disparities seem to be less drastic than previously assumed with 70.2% of arrests Caucasian offenders, 27.7% African-
American, and the remaining 2.1% other races (FBI, 2007a). Perhaps the most interesting change in offending patterns is the increase of female participation. The rate of women arrested and incarcerated has greatly increased over the years (Frazier, Bock, & Henretta, 1983; Langan, 1991; Herzog & Oreg, 2008; Doerner, 2009). However, criminal sanctions do not appear to emulate the change in offender patterns.

Several variables have been linked to differential sentencing. Legal variables such as crime severity and criminal history are frequently used to explain differences in crime rates (Doerner, 2009). Some scholars have argued that women commit less severe crimes and are less likely to recidivate (Doerner, 2009). While legal variables may appear as a legitimate means for sentencing decisions, they appear to be applied inconsistently. Legal variables such as crime severity, criminal history, and aggravating circumstances are applied more harshly to people of color than to whites. The inconsistency of the application of legal variables worsens if the victim of a non-white offender is white (Franklin and Fearne, 2008). Extralegal variables also factor into an evaluator’s decision. Offenders who are unemployed, on welfare, in their twenties, and poorly educated are more likely to be imprisoned (Franklin & Fearne, 2008). Therefore, numerous variables, both legal and extralegal, contribute to sentencing decisions, not all of which are consistently applied.

Research clearly exhibits the presence of gender and race sentencing disparities within the criminal justice system. However, research has not efficiently analyzed regional difference regarding such discriminations. Ideologies and values are predicted to differ according to location (Moore & Vanneman, 2003; Carter & Borch, 2005; Rice & Coates, 1995; Johnson, 1999; Pasko, 2002). Therefore, it may be expected that gender differences in the criminal justice
system would vary according to regional location. For example, research has shown that individuals from the Deep South have more conservative views regarding civil liberties (Carter & Borch, 2005). Identifying this relationship is critical so that researchers may determine how, or if, policies should be controlled to limit differential treatment in the courtroom and whether these policies should vary according to region.
Literature Review

Gender Differences in Sentencing

*Differences in detection, arrest, and decision to charge.* Data has consistently shown that women receive more lenient treatment in the criminal justice system (Frazier, Bock, & Henretta, 1983; Langan, 1991; Herzog & Oreg, 2008; Doerner, 2009). This tendency may be linked with the crimes they choose to commit. For example, women often participate in larceny, forgery, and shoplifting (Frazier et al., 1983). Some scholars, however, argue that leniency exists because women are less likely to commit crimes in general and are therefore less of a risk to society (Frazier et al., 1983). Franklin and Fearne (2008) found that women receive leniency in multiple stages throughout the criminal justice system. They are less likely to be detected, arrested, and charged with a crime (Herzog & Oreg, 2008). Gender effects are also present for both the rejection and dismissal stages of the criminal justice system (Spohn, 1987). There is further evidence of this leniency in women’s likelihood to receive pretrial release and beneficial sentencing guideline departures (Franklin & Fearne, 2008). Sentencing decisions are primarily based on legal factors such as the seriousness of the crime, the defendant’s prior record, and the presence of aggravating or mitigating circumstances (Franklin & Fearne, 2008). While these variables are often used to explain the gender disparities, Herzog and Oreg (2008) state that the gender differences still exist even when controlling for these factors.

Another explanation for this disparity in the initial stages is that women are genuinely not committing crimes. It has been argued that women are more respectful of the law and are more
socially controlled because they hold constraining roles such as mothers and homemakers (Kruttschnitt, 1984). Those arrested with a male co-offender receive more lenient sentences than their male counterpart. Women are more likely to be seen as an accomplice than a co-offender. Within the early stages of the criminal justice system, gender differences were found to be higher for the decision to release and sentencing options than for bail decisions (Kruttschnitt, 1984). Kruttschnitt (1984) found that several variables are related to these decisions. For instance, a woman is more likely to be released if she commits an offense with a light statutory penalty, has children living with her, and if those children are young. Female housewives, students, and those who are charged with multiple offenses also receive lighter sentences than their male counterparts (Kruttschnitt, 1984). These gender disparities are not exclusive to the initial stages of the criminal justice system.

Differences in the In/Out Decision. When women are brought to court, they are less likely to be convicted and sentenced (Herzog & Oreg, 2008; Franklin & Fearne, 2008; Frazier et al., 1983). In fact, a female defendant is 22% more likely than a man to receive a sentence other than incarceration (Frazier et al., 1983). Women who are incarcerated receive more lenient sentencing (Franklin and Fearne, 2008; Doerner, 2009; Steffensmeier, Kramer, and Streifel, 1993; Rodriguez, Curry, & Lee, 2006). In fact, the in/out decision, the decision to sentence an individual to prison, may constitute the greatest variation between the genders (Rodriguez et al., 2006). Research shows inconsistencies when assessing to what extent women benefit from the in/out decisions. According to Rodriguez et al. (2006), women are between 12% and 23% less likely than are men to receive a prison sentence. Doerner (2009) stated that women were nearly 74% less likely to be incarcerated. Not only does research vary regarding the extent to which women receive more lenient prison sentencing, there is some disagreement regarding...
explanations for this disparity. Doerner (2009) stated that this disparity is still evident when controlling for legal factors such as the defendant’s criminal history and crime severity. Steffensmeier, Kramer, and Streifel (1993) also found men are more likely to receive a prison sentence. However, they found that when properly controlled, gender is not statistically significant. Crime severity and criminal history explained most of the gender variation in the in/out decision (Steffensmeier et al., 1993). While some researchers have argued that the in/out decision exhibits the greatest gender discrepancy, other sentencing decisions also show great disparities.

There are several explanations for the lack of consistent data regarding in/out decisions. There are three key explanations for the contradiction regarding to what extent women receive leniency in prison sentencing. First, the study conducted by Rodriguez et al. (2006) was based on data collected as far back as 1991, while Doerner (2009) utilized more recent data ranging from 2001 to 2003. Therefore, the time period may explain the contradicting results in gender prison sentencing differences and changes in laws. Secondly, the location is essential. Results from the study conducted by Rodriguez et al. (2006) were collected using data from a Texas sample. Data from Doerner (2009) was analyzed according to information collected by the Monitoring of Federal Criminal Sentences program compiled by the United States Sentencing Commission. Therefore, the location used in the Rodriguez et al. (2006) study may have been too specific to accurately illustrate the gender gap. Thirdly, the difference in sample size may explain the different outcomes. Rodriguez et al. (2006) included a total of 7,729 offenders convicted of a felony. The data from the Monitoring of Federal Criminal Sentences consisted of 194,521 cases over the period of three years (Doerner, 2009). Likewise, the same three dilemmas arise when comparing the different outcomes regarding whether controlling for legal
variables negates the sentencing disparity. The data from the Steffensmeier et al. (1993) study were collected from the years 1985-1987 while the data from the Monitoring of Federal Criminal Sentences was collected from 2001 to 2003 (Doerner, 2009). The results from the study conducted by Steffensmeier et al. (1993) were based on Pennsylvania data while Doerner (2009) studied national data. Therefore, regional differences may once again explain the deviation. Finally, Steffensmeier et al. (1993) analyzed 61,294 cases compared to the 194,521 cases that Doerner (2009) examined.

Differences in Sentence length. When women are sentenced to prison, they receive shorter prison sentences (Rodriguez et al., 2006; Doerner, 2009). However, the research analyzing this stage of the criminal justice system is much less consistent than research regarding the other stages. For instance, female juveniles receive harsher penalties than do males and historically women have received harsher penalties (Rodriguez et al., 2006). In current adult court, women receive varying degrees of leniency depending on the crime. Women receive an average of 21 fewer months than men for bank robbery and 11 fewer months than men for drugs, the two crimes awarding the greatest leniency to women (Rodriguez et al., 2006). The crimes with the least variance are larceny, fraud, and immigration violations, with a range of only .8 to 1.6 months difference. Firearm violations and violence were found to have no gender differences in sentencing length (Rodriguez et al., 2006). Women, however, do not always benefit from gender sentencing discrepancies.

Steffensmeier et al. (1993) found that women actually receive harsher sentences for drug use than do men. Overall, women are more likely to receive sentencing departures than are men for all crimes (Doerner, 2009; Steffensmeier et al., 1993). When inquired, judges explained the departure as legitimate, warranted, and sensible (Steffensmeier et al., 1993). Women are
perceived as less culpable for their crime, have more responsibilities at home, and have more ties to the community than their male counterparts (Steffensmeier et al., 1993). Not only are men less likely to receive beneficial sentence departures, they have higher severity scores and longer prior records (Steffensmeier et al., 1993). These legal factors may partially explain the gender differences in this stage of the system. This leniency toward women varies according to the crime. Women receive shorter sentences for serious felonies but longer sentences for minor offenses (Steffensmeier et al., 1993). A common explanation for the harsher sentence among minor offenders compared to major offenders, especially regarding drug offenders, is that women were just as likely as men to be repeat offenders.

Differences in the Death Penalty. Research is much more consistent regarding women and the death penalty. In fact, of the estimated 18,000 to 20,000 individuals executed since colonial times, only about 400 have been women (Samuel, 2007). Nearly 99% of those executed are men (Samuel, 2007). The most common explanation for this disparity is that women commit fewer violent crimes. While this is true, it does not explain all of the gender gap. Women commit 10% of murders, but do not consist of 10% of death row inmates (Samuel, 2007). While women appear to receive more lenient treatment throughout all aspects of the criminal justice system, there is little agreement among researchers as to the underlying cause.

Differential Application of Laws in Sentencing

Though research has consistently found that women receive differential treatment in the courtroom, some researchers find that this treatment has sometimes resulted in harsher outcomes for women (Belknap, 2001). Davis (2003) argues that women have traditionally been absent from the legal system until well into the 19th century because they had virtually no legal rights as human beings. Instead, the woman belonged to her spouse, and he was in charge of disciplining
However, as women received more rights outside of the home, such as the right to own property and to vote, they were increasingly present in the criminal justice system, and received differential treatment. For instance, sex-segregated penal institutes were created to rehabilitate women, but to punish men (Belknap, 2006). Belknap (2001) argued that these sex-segregated penal institutes actually encourage female oppression, regardless of their original intent. They were designed to be more rehabilitative than retributive, under the assumption that women were more capable of change than were men. This desire to correct female offenders ultimately resulted in longer indeterminate sentencing for women. Penal institutions are not the only venue of legal discrimination. In fact, it seems that gender disparity in the courtroom is a result of discrimination against women. Several laws have been designed to control women more restrictively than men. For instance, the 1913 Muncy Act of Pennsylvania (Belknap, 2001) required judges to sentence women over the age of 17 years convicted of a felony to an indeterminate sentence in the Muncy State Industrial Home for Women. Until 1970, nine other states had similar laws that resulted in women receiving longer sentences than men for the same crime. Another example of legislation that controls women without equal application for men is the minimum age of sexual consent. In 1920, the age of consent for girls was raised to 16 years (Belknap, 2006). However, no such law was present for boys. Such laws are likely a result of the predominately male justice system (Belknap, 2006).

Some scholars have argued that certain laws specifically target women of color. African-Americans and Latina women make up 60% of the female prison population (Sudbury, 2005). In fact, black women constitute one of the most rapidly increasing groups within prisons (Davis & Shaylor, 2001). Sudbury believes that a lack of employment opportunity in communities that consist predominately of people of color resulted in tax cuts as a temporary solution, which
resulted in a decrease in funding for welfare, education, and medical aid. Such environments have increased poverty, drug addiction, and violence. Politicians have been under pressure to lower the crime rate in these underprivileged neighborhoods. In an attempt to appear successful, they have focused their efforts on increasing the arrest rate (Sudbury, 2005). This increasing arrest rate, combined with a diminishing focus on economic aid to the poor, has further resulted in the increased arrest of women of color (Davis & Shaylor, 2001).

Such policies to increase arrests include the “war on drugs” which began in the 1980s (Davis & Shaylor, 2001; Sudbury, 2005). Women, who are frequently involved in drug trafficking at the lower level, have often been found responsible for the actions of their significant other. Women often enter the drug trade through economic need, threats and coercion, and deception (Sudbury, 2005). The 1986 Anti Drug Abuse Act assumed that getting drug dealers off of the streets would result in the decline of drug trafficking. This policy therefore resulted in mandatory minimum sentencing, which eliminates judiciary discretion. According to Sudbury, mandatory sentencing has been applied more harshly to African-American and Latina women. Because women usually hold lower positions within the drug trade, they are less likely to receive a substantial assistance because they are less likely to know the necessary information required to make such agreements. A substantial assistance refers to the process of awarding leniency to a defendant who is willing and able to provide information regarding other offenders and/or crime specifics (Sudbury, 2005).

Also, the sentence for crack cocaine is much harsher than that for powder cocaine. Because crack is cheaper, it is more frequently used by the poor and people of color. This has resulted in the disproportionate arrest and sentencing of people of color. In fact, Belknap (2006) refers to the “war on drugs” as potentially a “war on women.” Because female drug users are
more likely to be poor, the “war on drugs” is particularly threatening to poor African-American women. Therefore, while women receive leniency in the criminal justice system, this leniency does not appear to apply to women of color. This intersection of racism and sexism continues to follow these women even after prison. According to Davis (2003), in states such as Florida and Alabama, once an individual is processed as a felon, he or she is labeled as such for life. This label is used to deny the individual of many rights, including the right to vote, resulting in the exclusion of votes for many people of color.

*Previously Tested Gender Inequality Theories.* Multiple theories have been used to explain the gender differences in sentencing. The first is gender conflict theory, which is a derivative of conflict theory (Franklin & Fearne, 2008; Doerner, 2009). While conflict theory argues that those with power (the elite) create and enforce laws so that they may maintain power at the expense of the poor and socially powerless, gender conflict goes one step further stating that it is the men who represent the elite and the women who are subordinate. However, the Franklin and Fearne (2008) study did not find evidence for this theory due to the leniency awarded women in the criminal justice system.

Another frequently examined theory is the focal concerns theory (Rodriguez et al., 2006; Doerner, 2009). This theory argues that sentencing disparities are the result of time constraints, which inevitably lead to quick decision making. In an attempt to quickly process court cases, evaluator’s are forced to make quick decisions that are often based on conscious or unconscious assumptions about the defendant’s characteristics that result in biases (Rodriguez et al., 2006). The three variables most often applied to make quick decisions include the blameworthiness of the offender, the danger he or she may present to the community, and the practical constraints that may interfere with sentencing decisions (Doerner, 2009). Therefore, women may be viewed
as less blameworthy and thus are seen as less liable for their actions. Women are also often believed to be less dangerous, likely due to their smaller size. Also, certain constraints such as prison overcrowding may impact evaluator decisions (Doerner, 2009).

Labeling theory has also been used to explain the gender disparity, however, there is little to no support for this theory (Kruttschnitt, 1984). Other researchers argue that gender does not directly lead to leniency, but rather legal variables that have not yet been properly controlled for in previous studies are to blame (Steffensmeier et al., 1993). Unfortunately, none of these theories have satisfactorily explained this relationship.

The Chivalry/Paternalism Hypothesis

Perhaps the most useful theory for understanding gender discrimination in sentencing is the chivalry/paternalism hypothesis. This theory argues that in a patriarchal society, women are treated more leniently than men because women are believed to be born biologically inferior and in need of protection from men (Franklin and Fearne, 2008; Koons-Witt, 2002). Referred to as the chivalry hypothesis by Herzog and Oreg (2008), this theory originated in the 1970s (Rodriguez et al., 2006). Paternalism theory further states that traditional women are treated with extreme leniency due to chivalry resulting from paternalistic attitudes within a patriarchal society. According to Franklin and Fearne (2008), the presence of patriarchy in American society is evident when considering wage differences between the genders. Furthermore, the authors argue that women are underrepresented in positions of authority such as political and economic occupations. This lack of female leadership is likely due to the preconceived notion that females are less effective at leadership than are men. Further evidence of the effect of discrimination against women can be found in female victimization. Women, viewed as physically weak and inherently sexual, are most frequently victimized through the use of rape
and domestic violence, both of which demonstrate male domination, power disparities, and the biologically inferior female body (Franklin & Fearne, 2008). Furthermore, male offenders receive longer sentences for murdering a stranger than they do for murdering their wives, devaluing women as victims (Belknap, 2006). While women are disproportionately sexually victimized, they also receive disproportionate leniency in the courtroom. Yet, not all women receive the same leniency.

**Exceptions to the Chivalry/Paternalism Hypothesis.** Only specific women reap the benefits of paternalism. Women who maintain traditional gender roles are more likely to receive lenient treatment than those who appear to have deviant lifestyles. Herzog and Oreg (2008) and Belknap (2006) refer to this discrimination as selective chivalry. Selective chivalry is perceived as a form of exchange. Women are rewarded in the courtroom for maintaining proper lifestyles (Herzog & Oreg, 2008). Women who are unemployed, on welfare, economically disadvantaged, single, and childless often receive harsher sentences than those who are not (Belknap, 2006; Franklin & Fearne, 2008). Women who live with their spouses, serve as housewives, and do not have full-time jobs are more likely to receive lenient treatment (Herzog & Oreg, 2008). Those with marital stability and dependents receive more lenient punishments (Doerner, 2009; Koons-Witt, 2002). Furthermore, women who commit masculine crimes, such as sex crimes, receive harsher treatment (Franklin & Fearne, 2008). Rodriguez et al. (2006) found that women who commit typical female crimes, such as illegal drug use, and property crimes, such as shoplifting, receive more lenient sentencing. In fact, nontraditional women who commit crimes are perceived as multi-deviant; they are violating norms by committing a crime and not conforming to societal notions of womanhood (Herzog & Oreg, 2008).
Selective chivalry is also denied to women of color (Belknap, 2006). Women of color often receive harsher sentences than Caucasian women (Belknap, 2006; Franklin & Fearne, 2008). Belknap (2006) argues that this is likely due to perceptions of white women as more feminine and fragile than women of color. Therefore, they are more in need of protection than are women of color. Also, because chivalry requires men to protect women, it applies to both female offenders and victims. Offenders who victimize female victims are more likely to receive a harsher sentence than those who do not (Belknap, 2006; Franklin & Fearne, 2008). However, only limited studies have found this relationship to be statistically significant (Franklin & Fearne, 2008). Even among those who conform to traditional female roles and crimes, the chivalry hypothesis does not always apply. This is likely due to evaluator effects.

Evaluator Effects. The chivalry hypothesis not only depends on the victim and the offender, but on the evaluator as well. In fact, it is the shared values and norms of the police officers, lawyers, and judges that determine the extent of paternalistic leniency an offender receives (Herzog & Oreg, 2008). Most evaluators tend to be men because most criminal justice officials are male (Frazier et al., 1983). Herzog and Oreg (2008) identify two forms of sexism that result in an evaluator offering lenient sentencing to women. The first form is referred to as benevolent sexism, in which women are viewed as weak and in need of protection, which is offered in the form of lenient sentences. In such cases, women are seen as less intelligent and as unaware of their wrongdoing (Herzog & Oreg, 2008). The other form is referred to as hostile sexism in which women are viewed as inferior and therefore receive harsher sentences when they do not conform to traditional gender roles (Herzog & Oreg, 2008). Evaluators with higher education and income exhibit less sexist attitudes (Herzog & Oreg, 2008). Furthermore, Songer and Crewes-Meye (2000) found conclusive evidence that judges vary in their personal beliefs
and values. Female judges are more likely to vote for liberal candidates than their male counterparts, even when controlling for party and region. Even more significant to criminal justice, female judges appear to have more liberal views regarding the death penalty and obscenity cases than men (Sonner & Crewes-Meye, 2000). This may be the result of different career backgrounds that men and women tend to have. Women are likely to have less prosecutorial experience and are more likely to participate in liberal groups such as women’s organization. Women also tend to have more humanitarian ideals regarding gun control, capital punishment, environmental intervention, the draft, unemployment, and income disparities (Walker and Barrow as cited by Sonner & Crewes-Meye, 2000). Female legislators are more likely to support policies that result in gender equality. Therefore, to thoroughly analyze the relationship between region and gender sentencing discrepancies, the attributes of the victim, the offender, and the evaluator must all be considered.

Region and Sentencing

Regional Differences in Gender Ideology. There are significant ideological differences between the different regions within the United States. Studies consistently show that non-Southerners are more liberal than Southerners (Moore & Vanneman, 2003; Carter & Borch, 2005; Rice & Coates, 1995). Individuals from the Deep South report more conservative values regarding civil liberties, euthanasia, and prohibition (Carter & Borch, 2005). One explanation for this conservatism is that there are regional differences in the distribution of wealth and natural resources, the type of economy, and interregional immigration (Carter & Borch, 2005). These conservative values directly influence beliefs regarding the roles of women within society. Southerners are more likely to believe that women should avoid working when possible (Rice & Coates, 1995). They are also more likely to believe politics should remain male dominated. The greatest variation regarding regional beliefs is found in political preferences.
Southerners are far more likely to believe women should not participate in politics than non-Southerners. This is even true when controlling for other variables such as age, gender, and education. Carter and Borch (2005) find that the regional gap in conservatism is actually decreasing substantially. This is especially the case when considering the changing roles of women within society. All Americans, regardless of gender, region, and political affiliation, are becoming more accepting of changing female roles (Carter & Borch, 2005).

The propensity for conservatism within the South is not always consistent. For instance, contrary to expectation, Southerners are not any more likely to find working mothers to be inadequate when compared to other regions (Rice & Coates, 1995). While Southerners vary from the Northeast, they do not differ from Midwestern and Western attitudes regarding women working outside the home if the husband can support her. Southerners differ only mildly from Northeastern attitudes on whether a woman should help her husband with his career or focus her own career, with Southerners slightly more likely to believe women should support the husband’s career over her own (Rice & Coates, 1995). However, not all individuals within a region share the same values.

While regional trends are apparent, a few differences exist within regions. Rice and Coates (1995) found that African American men maintained the most traditional values toward female roles while African American women held the least. White men were only marginally more conservative than white women. Younger individuals and those with more education hold more liberal views (Rice & Coates, 1995). Surprisingly, there is no apparent gender difference regarding attitudes toward women participating in politics (Rice and Coates, 1995). The two most frequently used explanations for differential regional values are the distribution of fundamentalist values and urbanization.
**Regional Differences in Fundamentalism and Gender Ideology.** According to Carter and Borch (2005) protestant fundamentalism is more common in the Deep South than anywhere else, with 40 percent of Southerners, defined as the 11 former confederate states, exhibiting fundamentalist beliefs compared to 19% of non-Southerners (Moore & Vanneman, 2003). Fundamentalism directly results in increased conservative values. In fact, fundamentalist Protestants report the most conservative values toward gender roles. Unfortunately, this conservative ideology often results in intolerance (Carter & Borch, 2005). Fundamentalist Protestantism originated from the Holiness and Pentecostal movements in the 19th century. Such individuals believe in the literal interpretation of the bible, the necessity of salvation, and the need to convert others (Carter & Borch, 2005). The Bible states that men are to be the leaders and women are designed to be followers. Therefore, it is the literal interpretation that often explains the traditional values maintained by fundamentalist Protestants. They believe women should have traditional roles such as acting as their husbands’ helpmate and their children’s mother (Carter & Borch, 2005). The relationship between conservative values and fundamentalist religions is present when controlling for age, income, and education. Of fundamentalist Protestants, white Southern Baptists held some of the most conservative values regarding pro-family issues such as sexuality, gender roles, and abortion (Carter & Borch, 2005). One explanation for the relationship between conservative gender ideology and region comes from the subculture hypothesis (Moore & Vanneman, 2003). This theory argues that the South has created its own subculture that consists primarily of protestant fundamentalists who create their own values and beliefs. Another explanation, the compositional hypothesis, assumes that low education and poverty are more frequent in the South, and it is these characteristics that result in conservative ideology (Moore & Vanneman, 2003). This abundance of fundamentalist
beliefs in the South has been encouraged through local media, schools, and even politics. Women in the South with fundamentalist backgrounds are less likely to seek careers with leadership positions than women elsewhere. Research has not discovered, however, if living in the South leads to traditionalism or if traditional individuals flock to the South (Moore & Vanneman, 2003). Furthermore, the role of fundamentalism and urbanization may be partially intertwined.

**Regional Differences in Urbanism and Gender Ideology.** Urbanism has also been linked with more liberal gender ideology. Individuals living in urban areas are more open-minded and receptive than those in non-urban locations (Carter and Borsch, 2005; Rice and Coates, 1995). Those who live in an urban environment are exposed to a greater variation of ethnicities and cultural values. Repeated contact with people of different backgrounds results in the realization that those who are different are not a threat (Carter & Borch, 2005). The realization that those who are different are not a threat results in more tolerant attitudes toward those with diverse religious and political views. Therefore, urban dwellers are more willing to extend civil liberties to atheists, communists, homosexuals, African Americans, and militarists. They are also more tolerant of extramarital sex, premarital sex, and pornography (Carter & Borch, 2005). Johnson (1999) found metropolitan residents who are not fundamentalists have more liberal attitudes regarding sex and reproduction. This relationship, however, appears to be changing over time. This is partially due to a decrease in fundamentalist religious attitudes and an increase in immigration (Carter & Borch, 2005). Yet interestingly, conservative conversion is more prominent than liberal conversion. Those nonmetropolitan individuals who migrated to metropolitan areas were slower to adopt liberal views than those metropolitan individuals who moved to nonmetropolitan areas were to adopt conservative views (Johnson, 1999).
Furthermore, it appears that perceptions of women as primary caregivers are similar for urban and rural dwellers (Johnson, 1999). Urbanism and rurality are defined by size, density, and heterogeneity (Carter & Borch, 2005). The Deep South as a whole consists of more rural areas than the non-South (Hayes & Lee, 2005). Furthermore, individuals from rural areas within the South are believed to exhibit different values than those in non-rural areas of the South (Hayes & Lee, 2005). Therefore, the differences evident in urban and rural areas may explain some of the regional variation in fundamentalism resulting in differences in gender ideology.

**Regional Race Disparities in Sentencing**

Another reason to look at regional differences in gender sentencing disparities is because there are significant regional differences in the treatment of non-white defendants within the criminal justice system in the South. Though regional differences in racial sentencing disparities are not a focal concern for this paper, it should be acknowledged that research has found that people of color are treated differently in the South than in the non-South (Kleck, 2009; Everett and Wojtkiewicz, 2002; Mitchell, 2005). African-Americans as a whole are sentenced more harshly than Caucasians (Everett & Wojtkiewicz, 2002; Mitchell, 2005). However, this tendency varies according to rurality, with more sentencing disparities in rural areas than urban ones (Mitchell, 2005). Therefore, location is a significant factor for analyzing sentencing discrepancies. According to Kleck (2009), older data consistently found discrimination in sentencing within the South. Furthermore, the South is the only region that was linked to the use of the death penalty for rape cases. Perhaps for this reason, the South was linked to racial discrimination regarding the use of capital punishment. Furthermore, of the studies conducted, many found that results that were true for the South were often not the case for all of the other regions. Even when controlling for the crime committed, nonwhites were more likely to be sentenced to the death penalty than whites. This was particularly the case for the South.
deciphering what stage is most critical, however, research becomes contradicting. Kleck (2009) found that this regional difference was specific to capital punishment (Kleck, 2009). Everett and Wojtkiewicz (2002) found that racial discrepancy was most common in the in/out decision, with people of color being substantially more likely to receive a prison sentence than Caucasian defendants.

While the race of the dependant has been found to influence the sentencing outcome in general, regional variation does exist. According Pasko (2002), both legal and extralegal variables influence racial sentencing disparities. Varying legislation, as well as extralegal biases, unique to specific regions offers Caucasian men and women with an advantage in the courtroom. These differences are often applied through judicial discretion. Guidelines are applied differently across regions. The study further found that sentence length was closely tied to differing regional attitudes (Pasko, 2002). The southern and northeastern states were found to have the most severe sentencing outcomes.
Hypotheses

Research has shown that women are treated differently than men in the criminal justice system. There is evidence that beliefs regarding gender roles vary by region. There is also evidence of sentencing disparities according to race that vary regionally, leading one to hypothesize that gender would vary similarly. Therefore, it would be assumed that differences in gender ideology would influence sentencing outcomes. However, research has not yet identified to what extent regional differences in gender norms influence the sentencing outcome for women. This research is designed to analyze and explain the differential treatment of sentencing outcome according to gender and region from the theoretical perspective of the chivalry hypothesis.

Hypothesis 1: Women receive leniency within the criminal justice system. This applies to nearly every process of the criminal justice system, from arrest to sentencing. Though there is evidence in the literature that much of this discrepancy may be due to legal variables, extralegal variables such as the defendant’s demographics are likely to play a significant role. Gender stereotypes are predicted to have a significant effect, even when controlling for these variables. This is expected to be illustrated in the decreased likelihood that a woman would be sentenced to prison, a reduced amount of months in prison for women who are sentenced to prison, and finally, an increased likelihood to receive a downward sentencing departure when compared to men. Therefore, women are expected to receive more lenient sentencing than men for each of these outcomes while controlling for legal variables such as guideline minimums, criminal histories, case dispositions, and the total number of counts being charged, as well as the
extralegal variable age. Therefore, based on the chivalry hypothesis, women receive more leniencies in the courtroom while controlling for legal and extralegal factors. They are expected to be less likely to receive a prison sentence, more likely to receive shorter prison sentences, and more likely to receive a downward departure.

Hypothesis 2: As the literature has shown, substantial variation exists between the regions regarding conservatism and fundamentalism. Therefore, people from the Deep South are expected to receive fewer leniencies in the courtroom. They will be more likely to receive a prison sentence, less likely to receive a downward departure, and more likely to receive longer sentences.

Hypothesis 3: Furthermore, gender disparities are expected to vary significantly according to region. Because gender ideologies are related to varying degrees of conservatism, one would expect that disparities in sentencing would vary by region as well. Previous studies have shown that the South generally maintains more conservative values, and therefore, more traditional gender stereotypes. This propensity for conservatism in the South has often been explained by fundamentalist values and rural location. Regardless of the cause, gender differences in sentencing outcomes are expected to vary according to region.

Hypothesis 4: While women in general receive more lenient sentencing, this is not true of all women. Women of color are expected to receive harsher sentencing than Caucasian women. According to selective chivalry, only certain women benefit from chivalry within the criminal justice system. The literature has shown that race is often influential in the courtroom. Therefore, paternalism will be most frequently applied to Caucasian women.

Hypothesis 5: Paternalism theory also applies primarily to traditional women. Women who do not epitomize femininity are less likely to receive lenient sentencing. Femininity is often
associated with traits such as nurturing and patience, which are often associated with the 
presence of children and an education. Therefore, women who do not have children are less 
likely to receive leniency than those who are responsible for at least one dependant. Likewise, 
women with less education are less likely to receive leniency than women with higher education.
Methods

Design

Data for this study was collected from the 2008 Monitoring of Federal Criminal Sentences program. Compiled by the United States Sentencing Commission (USSC), this data includes all federal cases within the United States that were reported between October 1, 2007 and September 30, 2008. This data was collected to examine sentencing practices and policies, to offer advice on more efficient policies, and to collect a vast array of information to be used as an information resource for future studies. The data presented includes demographics, sentencing details, and guideline information. The 2008 USSC includes 76,478 cases. This dataset was chosen for its extensive research regarding explanations for sentencing decisions and inclusion of location as a variable. Other datasets failed to analyze these variables as thoroughly.

Sample

As stated previously, the original dataset includes 76,478 cases. These cases were collected from October of 2007 through September of 2008. The sample includes all cases reported to the USSC. However, certain groups were omitted for various reasons. Following Doerner (2009), I omit all non-U.S. citizens due to variations in the sentencing process. Primarily, the presence of immigration violation cases, the opportunity for deportation outcomes, and the incomplete data provided (such as criminal history) would complicate the analysis. Furthermore, all juveniles (those under the age of 18 years) have been excluded. Because juvenile courts and outcomes differ from those of adults, such data would skew the results.
Finally, individuals who receive upward departures are excluded from the study because there are so few in number. Also, all missing data is excluded. The final sample size, after these changes, is 43,505 individuals.

Measures

**Dependent variables.** Three dependent variables regarding sentencing outcome are analyzed in this study. The first variable is the in/out decision (INOUT). This variable describes whether the defendant received a prison sentence or not. It was originally coded as a dichotomous variable with 1 being indicative of a prison sentence and 0 representing a non-prison decision. It only included data on those who were capable of receiving a non-prison option. Therefore, defendants who would receive a prison sentence regardless due to mandatory sentencing laws were excluded. However, because it is argued that legal variables are unjustly applied to specific individuals, this data was re-coded to include all cases, including those which were originally excluded. The variable was further recoded so that 0 represented a non-prison sentence and 1 represented a prison sentence.

The second variable is the sentence length (SENTTOT0) which is a continuous variable ranging from one month to 470 months and includes only those who receive a prison sentence. Any sentences over 470 months are considered life sentences and are therefore included with the 470 month cap. This variable was then logged because it was skewed toward lighter sentences.

The departure status (BOOKER2) was also included. It is coded as a 0 for no departure, and a 1 for a downward departure. Because this study examines leniency, upward departures and governmental departures, which were a combination of both upward and downward departures, were excluded from the variable. The departures are determined by judges based on a predetermined set of guidelines.
Independent variables. Several independent variables are expected to influence sentencing outcomes. The first variable is gender. As stated earlier, data has shown that women receive more lenient sentences than men. It has also shown that gender role expectations differ according to gender. Therefore, the gender of the defendant is one of the primary independent variables in this study. Gender (MONSEX) is a dichotomous variable which has been dummy coded as 0 for male and 1 for female. Males were omitted from the regressions as the reference category.

Several independent variables are included to test the efficiency of the paternalism hypothesis as an explanation for the gender sentencing disparity. According to this theory, non-traditional women are denied paternalism. Therefore, education and the number of dependents for which the defendant is responsible are used to measure traditional female stereotypes. Education status (NEWEDUC) originally included four categories: those with less than a high school degree, those with a high school degree, and those with a few years of college, and college graduates. Because so few defendants have attended college or have completed degrees, education status has been re-coded (Education2) to combine some college and college graduates. The number of dependents for which the defendant is responsible (NUMDEPEN) is coded as a continuous variable ranging from 0 through 96, with 97 referencing an unknown number of children. Following Doerner (2009), this variable was dummy coded (NEWNUMDEPENDANTS) as a nominally dichotomous variable including no dependents as 0 and one or more dependents as 1. Individuals with no children were omitted as the reference category.

Because the literature has shown a relationship between region and ideology, region is included as an independent variable. The location of the crime commission was originally coded
nominally on a scale of 1 through 94, according to the district (CIRCDIST). This variable, however, has been re-coded into two regions. Following Reif, Geonnotti, and Whetten (2006) and Whetten and Reif (2006), the Deep South was defined using the Merriam-Webster definition. Though the U.S. census data was considered, it was decided against because research suggests there are substantial differences in ideologies between the Deep South and the remaining United States. However, the census did not include information on the Deep South as its own region. Therefore, region (Region2) is defined as the Deep South, which includes Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, and the remaining U.S., which includes all other U.S. states. The states and regions are provided in Appendix A. The remaining U.S was omitted as the reference category.

Control variables. Finally, this study controls for several extralegal variables. Demographics are predicted to play a significant role in this study and have been found to be significant in past research. These demographic variables include race and age. Race/Ethnicity (NEWRACE) is a nominal variable dummy coded as white non-Hispanic, black non-Hispanic, Hispanic of any race, and other. White was omitted as the reference category. Age (AGE) was originally a continuous variable ranging from 15 years to 100 years. However, this variable was re-coded (NEWAGE) into ordinal categories ranging from 20 to 29, 30 to 39, 40 to 49, 50 to 59, and 60 and over.

Furthermore, several legal variables are considered in this study. Because judges are often expected to offer a specific sentence according to sentencing guidelines (Doerner, 2009), the guideline minimum (XMINSOR) is included as a legal variable. The variable is coded as a continuous variable according to the number of months required as the minimum. As stated in
the literature review, crime severity and criminal history are also expected to influence sentencing outcomes. Criminal history (XCRHISSR) is measured from one to six. The offense severity and criminal history are found to be highly co-linear with the guideline minimum (Doerner, 2009), and are therefore excluded from this study. The case disposition (NEWCNVTN) explains whether the case was resolved by trial or by plea bargaining. It is a dichotomous nominal variable that is dummy coded as 1 for trial cases and 0 for cases resulting in a guilty plea. Plea was omitted as the reference category. Also, the number of counts (NOCOUNTS) involved is taken into consideration because those with multiple counts are more likely to receive harsher sentences. A 0 represents single counts and a 1 is used for multiple counts. The category single count is omitted as the reference category. Lastly, because the literature suggests the type of crime one commits varies according to gender and that the type of crime committed influences sentencing outcomes, the offense type is included as an independent variable. This variable has been re-coded using definitions provided by the Uniform Crime Report (FBI, 2007c; FBI 2007d). The type of crime revision is provided in Appendix B. Originally consisting of 35 different crimes, it has been dummy coded to include violent crimes (0), property crimes (1), drug crimes (3), and other (4). Drug crimes were omitted as the reference category.

Analysis Procedures

In this study, I will examine the relationship between gender, region and sentencing disparities. More specifically, I will first determine if there is a difference in sentencing outcomes according to gender and region, controlling for all other relevant variables, and if so, to what extent this discrepancy exists.
In order to test these relationships, I will first run a series of frequencies using crosstabs with SPSS. The appropriate descriptive statistics will be calculated for each variable. I will also run frequencies separately for men and women. Next, a series of regressions will be run for specific variables. Logistic regression will be used to analyze the relationship between the decision to incarcerate, which has been dummy coded as either a prison sentence was given or no prison sentence was given, and the predictor variables outlined in the variables section. This variable will be regressed with the two primary predictor variables (gender and region), the variables resulting in selective chivalry by the paternalism theory (race, education, and number of dependants), the extralegal control variable age, and the four legal variables (guideline minimum, criminal history, case disposition, and number of counts). Also, logistic regression will be used for the departure status which has been dummy coded as within range and below range. Next, linear regression will be used to examine the relationship between the continuous variable sentence length and the predictor variables previously mentioned. Sentence length is logged to correct for skew; most sentences tended to be shorter in length.

To examine my hypotheses, gender and sentencing outcomes were incorporated into a series of regression models along with controls for both legal and extralegal variables. In order to test Hypothesis One, the variable female was analyzed in the main model, controlling for all other relevant variables. For Hypothesis Two, the effect of Deep South was analyzed, controlling for other independent variables. To examine Hypothesis Three, I created an interaction term from the variables region and gender to examine interaction effects. Each dependent variable was regressed on Women from the Deep South and the variables from the main effects model. For Hypothesis Four, I created an interaction term from the variables gender
and race to examine the selective chivalry hypothesis, which was also added to the main effects model for each dependent variable. Black women, Hispanic women, and other women were added to the main effects model, with white women as the reference category. To further analyze this theory, the same process was applied for Hypothesis Five, with an interaction term for gender and the number of dependants as well as gender and education status added to the main effects model.
Results

The results from the frequencies are divided into two different tables. Table 1 is constructed using demographic variables including race, gender, education, number of dependents, age, and region. For these variables, both the N and the valid percent are provided for the total sample, the male sample, and the female sample respectively.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Race (NEWRACE)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>White(1)</td>
<td>17818</td>
<td>14545</td>
<td>3273</td>
</tr>
<tr>
<td>Black(2)</td>
<td>15849</td>
<td>13895</td>
<td>1954</td>
</tr>
<tr>
<td>Hispanic(3)</td>
<td>7481</td>
<td>6043</td>
<td>1438</td>
</tr>
<tr>
<td>Other(6)</td>
<td>2122</td>
<td>1660</td>
<td>462</td>
</tr>
<tr>
<td><strong>Gender (MONSEX)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female(0)</td>
<td>7176</td>
<td>0</td>
<td>7176</td>
</tr>
<tr>
<td>Male(1)</td>
<td>36329</td>
<td>36329</td>
<td>0</td>
</tr>
<tr>
<td><strong>Education (EDUCATION2)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No High School(1)</td>
<td>14711</td>
<td>12537</td>
<td>2174</td>
</tr>
<tr>
<td>High School(2)</td>
<td>16452</td>
<td>13885</td>
<td>2566</td>
</tr>
<tr>
<td>College(3)</td>
<td>11800</td>
<td>9470</td>
<td>2330</td>
</tr>
<tr>
<td><strong>Dependants (NEWDEPENDANTS)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>None(1)</td>
<td>16595</td>
<td>13893</td>
<td>2702</td>
</tr>
<tr>
<td>1 or more(2)</td>
<td>17031</td>
<td>14204</td>
<td>2827</td>
</tr>
<tr>
<td><strong>Age (AGE)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>18-20(1)</td>
<td>1665</td>
<td>1391</td>
<td>274</td>
</tr>
<tr>
<td>21-29(2)</td>
<td>14152</td>
<td>11860</td>
<td>2285</td>
</tr>
<tr>
<td>30-39(3)</td>
<td>13484</td>
<td>11345</td>
<td>2135</td>
</tr>
<tr>
<td>40-49(4)</td>
<td>8178</td>
<td>6693</td>
<td>1483</td>
</tr>
<tr>
<td>50-59(5)</td>
<td>4212</td>
<td>3469</td>
<td>743</td>
</tr>
<tr>
<td>60 and up(6)</td>
<td>1810</td>
<td>1556</td>
<td>254</td>
</tr>
<tr>
<td><strong>Region (REGION)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Deep South</td>
<td>17517</td>
<td>14437</td>
<td>3073</td>
</tr>
<tr>
<td>Not the Deep South</td>
<td>25984</td>
<td>21877</td>
<td>4101</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>43505</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
According to Table 1, of the total 43,505 cases, 83.5% are male. The majority of cases are committed by white offenders. Caucasian defendants represent 41.2% of all reported cases. African-American defendants (36.6%) are almost as prevalent as Caucasian defendants. A much smaller percentage of the defendants are Hispanic (17.3%). A slightly higher percentage of women defendants are Caucasian (45.9%) than men defendants (40.2%). Education status is relatively evenly distributed. A small majority of the defendants have high school degrees. A slightly higher percentage of women have some college or a college degree (33%) when compared to men (26.4%). The dependents variable appears evenly distributed. Slightly more than 50% have children. There is less than a one percent difference between males (49.4%) and females (48.9%) without children. The majority of defendants are in their 20s. A few crimes were committed by defendants between 18 and 20 (3.8%), a majority between 21 and 30 (32.5%), slightly fewer in their 30s (31%), even fewer in their 40s (18.8%), less than 10% in their 50s (9.7%), and very few above 60 years (4.2%). This pattern applies to both males and females. Surprisingly, forty percent of defendants are from the Deep South, even though the Deep South consists of only 11 states. A slightly higher percentage of women defendants are from the Deep South (42.8%) than men (39.8%).

Table 2 is constructed using the sentencing outcomes and legal variables. It includes the in/out decision, the sentence length, the departure status, the guideline minimum, the case disposition, and the number of counts charged. It also includes the N and the valid percent for the total participants, males, and females respectively.
<table>
<thead>
<tr>
<th>Variable</th>
<th>Total</th>
<th>Male</th>
<th>Female</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>In/Out (INOUT)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Prison Sentence(0)</td>
<td>41989</td>
<td>96.5</td>
<td>6747</td>
</tr>
<tr>
<td>No Prison Sentence(1)</td>
<td>1512</td>
<td>3.5</td>
<td>427</td>
</tr>
<tr>
<td><strong>Sentence Length in Months (SENTOTT0)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>43356</td>
<td>64.55*</td>
<td>7126</td>
</tr>
<tr>
<td><strong>Departure Status (BOOKER2)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Departure(0)</td>
<td>24518</td>
<td>77.5</td>
<td>3780</td>
</tr>
<tr>
<td>Downward Departure(1)</td>
<td>7136</td>
<td>22.5</td>
<td>1340</td>
</tr>
<tr>
<td><strong>Guideline Minimum (XMINSOR)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>43020</td>
<td>110.95*</td>
<td>7110</td>
</tr>
<tr>
<td><strong>Case Disposition (NEWCNVTN)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trial(1)</td>
<td>2167</td>
<td>5</td>
<td>218</td>
</tr>
<tr>
<td>Plea Bargain(2)</td>
<td>41353</td>
<td>95</td>
<td>6958</td>
</tr>
<tr>
<td><strong>Number of Counts (NEWNOCOUNTS)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Count(0)</td>
<td>33335</td>
<td>76.6</td>
<td>5860</td>
</tr>
<tr>
<td>Multiple Counts(1)</td>
<td>10170</td>
<td>23.4</td>
<td>1316</td>
</tr>
<tr>
<td><strong>Offense Type (NEWOFFTYPE)</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Violent(1)</td>
<td>1664</td>
<td>3.8</td>
<td>179</td>
</tr>
<tr>
<td>Property(2)</td>
<td>1479</td>
<td>3.4</td>
<td>561</td>
</tr>
<tr>
<td>Drug(3)</td>
<td>17742</td>
<td>40.8</td>
<td>2546</td>
</tr>
<tr>
<td>Other(4)</td>
<td>22616</td>
<td>52</td>
<td>3888</td>
</tr>
<tr>
<td>Total</td>
<td>43505</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: An asterisk by a number under the valid percent column represents the mean of a continuous variable.
According to Table 2, the majority of defendants receive prison sentences (96.5). A higher percentage of crimes committed by women receive non-prison sentences (6%) than those committed by men (3%). When incarcerated, the average length is 64.55 months. Women in this sample receive much shorter sentences (25.33 months) than men (72.29 months). The majority of sentence outcomes are within range (77.5%). Again, a higher percentage of women receive downward departures (26.2%) than men (21.8%). The guideline minimum is higher for men (124.83 months) than for women (40.93 months). The majority of cases resulted in a plea (95%), though slightly more men (5.4%) took their cases to trial than women (3%). The majority of cases consist of only one count (76.6%). More men (24.4%) were charged with multiple counts than were women (18.4%). Finally, while the majority of crimes fell under the “other” category, a large number were drug crimes. A slightly higher percentage of men committed drug crimes (41.8%) than women (35.5%). A higher percentage of women (7.8%) committed property offenses than men (2.5%), and a higher percentage of men (4.1%) committed violent crimes than women (2.5%).

In addition to the frequencies, a series of regression analyses were run to better examine the hypotheses. First, sentence length was regressed on the independent variables. As stated previously, the variable for sentence length was logged because the variable was skewed toward shorter sentences. The results from this analysis are shown below in Table 3.
According to Table 3, the first model confirms that women receive significantly shorter prison sentences than men ($b = -0.825$, $p < 0.001$). Individuals who go to trial receive significantly longer sentences than those who plea ($b = 0.82$, $p < 0.001$). As predicted by the literature, individuals from the Deep South receive significantly longer sentences than individuals from the remaining U.S ($b = 0.163$, $p < 0.001$). Violent offenders did not receive significantly shorter or longer sentences than drug offenders. Both property offenses ($b = -1.266$, $p < 0.001$) and other offenses ($b = -0.652$, $p < 0.001$) received shorter sentences than drug offenses. African-American offenders received significantly longer sentences than white offenders ($b = 0.263$, $p < 0.001$). Hispanic ($b = -0.124$, ...
p<.001) and other offenders (b = -0.201, p<.001) received significantly shorter sentences than white offenders. As expected, those with multiple counts receive significantly longer sentences than those charged with only one count (b = 0.505, p<.001). Surprisingly, individuals with children received longer sentences than those without (b = 0.36, p<.05). As expected, the higher the education of the defendant, the shorter the sentence given (b = -0.124, p<.001). Age did not significantly predict sentence length. The regression shows that 18.8% of the variance in sentence length is explained by the independent variables in this model.

Several interaction terms were included in the second model. Of these, the only significant interaction term was that of African-American women. Surprisingly, black women actually receive shorter sentences than white women (b = -0.338, p<.001). Hispanic women, other race women, women with kids, women from the Deep South, and women and education were all found to be non-significant. All of the variables that were significant in Model 1 remained so after the addition of the interaction terms. With the interaction terms included, 18.6% of the variance in sentence length is explained by the independent variables.

Next, in/out decision was regressed on the demographic and legal variables. The results are presented in Table 4.
According to Table 4, as expected, the first model shows that women are 57.2% less likely than men to go to prison ($B = -0.572, p < 0.001$). Those who go to trial are significantly more likely to go to prison than those who plea ($B = -0.717, p < 0.001$). Surprisingly, those from the Deep South are 19.7% less likely to go to prison than those from the remaining U.S ($B = -0.197, p < 0.01$). Once again, violent crimes are not significantly more or less likely to receive a prison sentence than drug crimes. Both property crimes ($B = -2.330, p < 0.001$) as well as other crimes ($B = -1.545, p < 0.001$) are less likely than drug crimes to go to prison. African-Americans are more likely to receive a prison sentence than whites ($B = 0.193, p < 0.01$). Unlike sentence length, Hispanic individuals are not significantly more or less likely to go to prison than Caucasians. Other races,
however, are less likely than Caucasians to go to prison ($B = -.256, p<.05$). Those with multiple counts are significantly more likely to go to prison than those charged with only one count ($B = .398, p<.001$). Like with sentence length, those with children are significantly more likely than those without to go to prison ($B = .157, p<.05$). For the in/out decision, education was not significant. Surprisingly, the older the defendant was, the more likely he or she was to receive a prison sentence ($B = .139, p<.001$). The regression shows that 2.2% of the variance in the in/out decision is explained by the independent variables in this model.

For the second model, none of the interaction terms were significant. Though still significant, the significance for African-Americans dropped from the .01 level to the .05 level once interaction terms were included ($B = .173, p<.05$). Other race was not significant with the inclusion of the interaction terms. The significance for defendants with kids increased from the .05 level to the .01 level ($B = .194, p<.01$). The variance explained by the independent variable for the in/out decision remained at 2.2%.

Finally, a logistic regression was run for the departure status. This variable is coded as within range and below range. The results are provided in Table 5.
Table 5- Logistic Regression for Departure Status
Regression on Demographics, Location, Offense Type, and Court Details

<table>
<thead>
<tr>
<th>Variables</th>
<th>Model 1</th>
<th></th>
<th>Model 2</th>
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<tr>
<td></td>
<td>B</td>
<td>Exp(B)</td>
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*p<.05, **p<.01, ***p<.001

For the first model, as expected, women are 29.5% more likely to receive a downward departure than men (B=.295, p<.001). Those who go to trial are also more likely to receive a downward departure than those who plea (B=.140, p<.05). Furthermore, the individuals from the Deep South are 73.8% less likely to receive a downward departure than the remaining U.S (B= -.738, p<.001). Violent (B= -.257, p<.01) and property (B= -.546, p<.001) crimes are less likely than drug offenses to receive a downward departure. African-American (B= -.236, p<.001) and Hispanic (B= -.128, p<.01) individuals are less likely than Caucasians to receive a downward departure. Those with multiple counts are actually more likely to receive a downward departure than those charged with only one count (B=.096, p<.05). The higher the education of
the defendant, the more likely the defendant will receive a downward departure \((B=.161, p<.001)\). For age, the older the defendant, the more likely he or she will receive a downward departure \((B=.107, p<.001)\). The regression shows that 3.8% of the variance in the departure status is explained by the independent variables in this model.

Once again, surprisingly, the second model shows that African-American women are 29.1% more likely to receive a downward departure than white women \((B=.291, p<.01)\). The other interaction terms were not significant. Hispanic women, women of other races, women with kids, women from the Deep South, and women and education were not significant in the model. With the interaction terms included, 3.9% of the variance in the departure status is explained by the independent variables.

In summary, Hypothesis 1 was fully supported. Women received more leniencies than men for all dependent variables. Women were less likely to go to prison, more likely to receive a sentencing departure, and received shorter sentences than men. Hypothesis 2 received mixed support. Individuals from the Deep South received longer sentence lengths and were less likely to give a sentencing departure than the remaining U.S. However, they were also less likely to receive a prison sentence. Hypothesis 3 was not supported. Women from the Deep South did not receive significantly more lenient sentences for in/out, sentence length, or departure status as compared to women from other regions of the U.S. Hypothesis 4 was not supported. Surprisingly, African-American women received shorter sentences and were more likely to receive a downward departure than white women. However, they were not significantly more or less likely to receive a prison sentence. Finally, Hypothesis 5 was not supported. Women with children were not significantly more likely to receive leniency for any of the three dependent
variables compared to women without children. There was also no significance regarding women and education. Therefore, the results of this study do not support the selective chivalry hypothesis.
Discussion and Conclusion

Women have traditionally been absent from the criminal justice system (Samuel, 2007). However, this tendency is beginning to change. Women are becoming increasingly likely to be arrested (Doerner, 2009; Kruttschnitt, 1984; Steffensmeier et al., 2003). As the gender disparity within the criminal justice system declines, research on this phenomenon seems to have increased. However, there seems to be substantial variation within this research regarding the extent of gender discrimination in the justice system.

Many of the results of this study are consistent with the literature. Women received leniency in the courtroom in comparison to men (Frazier et al., 1983; Kruttschnitt, 1984; Langan, 1991; Rodriguez et al., 2006). As Herzog and Oreg (2008) and Doerner (2009) suggest, women were less likely to receive a prison sentence in this study. Of those few women in this study who did receive a prison sentence, the length was significantly shorter than that of men, which was also consistent with previous literature (Rodriguez et al., 2006; Doerner, 2009). Finally, consistent with the findings of Doerner (2009), the results of this study show that women were more likely than men to receive a downward departure. Therefore, it seems that women in general consistently receive leniency in the criminal justice system.

As the literature suggests, based on the conservative values common in the Deep South, this region does seem to have more traditional values regarding sentencing (Carter & Borch, 2005; Hayes & Lee, 2005; Moore & Vanneman, 2003; Rice & Coates, 1995). As such, the sentencing outcomes vary by region (Pasko, 2002). The results of this study partially supported this finding. As the literature predicted (Pasko, 2002), the results of this study found that
defendants from the Deep South received longer prison sentences than those not from the Deep South. They were also less likely to receive a downward departure. However, individuals from the Deep South were less likely to receive a prison sentence. One explanation for this finding is that differences in political ideology may be diminishing between the South and the non-South (Powers, Suitor, Guerra, Shakelford, Mecom, & Gusman, 2003; Carter & Borch, 2005). Therefore, it is possible that while the Deep South remains more conservative regarding sentence length and departure decisions, it is becoming more lenient regarding the in/out decision.

Surprisingly, gender disparities did not appear to be more prevalent in the Deep South than in the remaining U.S. Women from the Deep South were not less likely to receive a prison sentence than women not from the Deep South. They were also not significantly less likely to receive a downward departure when compared to women from other regions of the United States. Finally, women from the Deep South did not receive significantly shorter sentences than their counterparts from other regions. This is not necessarily inconsistent with the literature. There are three explanations for this unexpected finding. First, as stated previously, regional differences in sentencing outcomes do appear to be declining (Powers et al., 2003; Carter & Borch, 2005). Therefore, it is possible that this study failed to find regional differences in gender leniency because regional differences in ideology are becoming attenuated. Second, Carter and Borch (2005) found that all regions are becoming more accepting of changing female roles. These changing roles are expected to seep into the criminal justice system as well. Therefore, chivalry may be applied less to all women, regardless of region, due to changing societal roles. Finally, it is possible that differences in gender roles are presumed to begin with. In fact, Rice and Coates (1995) found that there were no regional differences regarding gender roles for several beliefs including women in the work place.
Though several studies have found support for selective chivalry, this study did not find support for the theory that women of color receive harsher sentences than Caucasian women. In fact, it appears the opposite may be true. This study found that African-American women receive shorter sentences and are more likely to receive a downward departure. Hispanic women and women of other races were not found to receive significantly harsher sentences than Caucasian women. This is particularly surprising since many researchers have found that people of color receive harsher sentencing (Belknap, 2006; Davis & Shaylor, 2001; Pasko, 2002). In fact, Pasko (2002) found that Hispanic individuals received the harshest penalties. However, while Pasko (2002) found that race was significant, this relationship between Hispanic defendants and harsher sentencing outcomes when compared to white defendants was not strong. Further, Kleck (1981) acknowledged that leniency toward people of color is common in the criminal justice system. There are several explanations for this unexpected finding. First, Kleck (1981) argued that more leniencies may be awarded for black victims than for white victims. Because crimes are frequently intra-racial, it is likely that African-American defendants are receiving leniency because their victims are also African-American. Therefore, it is the devaluing of black victims that result in leniency toward African-American women. Secondly, Kleck (1981) states that paternalism may be awarded to blacks in the South. Guilt over past injustices, such as slavery, is likely to result in leniency toward African-American defendants. Thirdly, Kleck (1981) argued that evaluators may be consciously or subconsciously compensating for institutional racism. Because the system is believed to be inherently biased against certain races, these evaluators could be attempting to correct this inequity. Fourth, Kleck (1981) argues that this leniency may be compensating for individual racism within the evaluator. It is possible that individuals from the Deep South are bothered by their subconscious racist
propensity and attempt to correct these undesirable ideologies by offering leniency toward people of color. Kleck (1981) further stated that leniency may be awarded to people of color due to assumptions of unfair advantages. For instance, people of color are assumed to be more likely to suffer from poverty and racism, which are seen as mitigating circumstances to the evaluator. Therefore, people of color may receive leniency because of these prejudices within society.

Finally, as stated previously, Herzog and Oreg (2008) argued that some women receive leniency because they are seen as less intelligent than men. Therefore, women may not realize the repercussions of their actions to the same extent that men do. If evaluators further believe in racial differences in intelligence, they may believe that black women are less intelligent their race and gender counterparts, and therefore may believe that they did not “know better”, leading to more lenient sentencing.

Not only did this study fail to support the assumptions of selective chivalry according to race, it also failed to support the idea that chivalry is applied more frequently to traditional women. Women with children were no more likely to receive leniency for any of the three stages than were women without children. Also, differences in education among women did not appear statistically influential. This finding is unexpected because previous literature (Pasko, 2002) found that female offenders with children received shorter sentences than those without children. However, it may be that the type of crime influences the application of chivalry. Therefore, the specification of drug offenses may be more excusable for mothers than for childless women while other crimes, such as violent crimes, are less excusable for women regardless of traditionalism. Because the courts are likely to have preconceived notions of how a good mother should act, crimes that are expected to put the child at risk, such as violent crimes, might actually result in harsher sentences for mothers than for childless defendants. The same
could be expected for educated women. In fact, according to Belknap (2006), the evil woman hypothesis suggests that women receive harsher sentences than do men. It is argued that these women are punished for both the crime committed and for violating gender roles as well. The more severe the crime, the harsher the sentence is expected to be for women. It may be the case that evil woman hypothesis is applied more toward white women than black women. Therefore, drug crimes and violence may result in harsher sentences for white women than for black women, further explaining why white women may receive harsher sentences than black women. Finally, it may be the case that marital status and employment are better predictors of traditionalism.

Despite the mixed support for the hypotheses, one thing is certain. As a result of the disproportionate arrest and increasing arrest rate of women, researchers have exhibited mixed suggestions regarding the best means of coping with this phenomenon. As Franklin and Fearne (2008) suggest, many feminists argue that offering leniency toward women in the criminal justice system exacerbates the unequal opportunities for women within society. The assumption that female criminals are different than male criminals implies that women within society are also different than men, resulting in differential treatment. However, Franklin and Fearne (2008) continue to state that many researchers find that women within the criminal justice system come from a more severely disadvantaged background than their male counterparts. Women in prison are more likely to have been abused, impoverished, and misled than men (Franklin & Fearne, 2008). Given these facts, should the characteristic of womanhood be considered in the courtroom?

Due to the increasing prison rates of women (Davis, 2003), gender is playing a smaller, although still significant, role than it has in the past. Several policy implications can help to
further reduce gender disparities. The primary response to this evident gender disparity is to include more determinate sentencing. Determinate sentencing is designed, in theory, to ensure that offenders with similar case characteristics will receive similar outcomes (Pasko, 2002). However, according to the Pasko (2002) study, determinate sentencing does not guarantee equality in the criminal justice system because the guideline procedures are not applied equally across regions and persons. If society does choose to enact more determinate sentencing, mandatory guidelines, and structured sentencing policies, an increase in prison inmates will be expected (Sudbury, 2002). To account for this increase, Sudbury (2002) argues that society has begun building more female prisons. Because women have represented such a small portion of prisoners in the past, existing prisons are no longer adequate. They are too few in number to house the increasing population, they are inadequate at dealing with the female prisoners’ physical needs, and they are not effective at coping with prisoners’ interpersonal needs (Carcedo, Lopez, Orgaz, Toth, & Fernandez-Rouco, 2008). Furthermore, sexual abuse and medical neglect, which have been important issues within female prisons, further exacerbate the need for better corrections for women (Davis, 2003). Therefore, while women are still a minority within the criminal justice system, they are increasing. As such, the penal system must make allowances for this new growing population, or, as Davis (2003) suggests, abolish the prison system altogether. This sudden increase in female prisoners may, to some extent, be due to harsher sentences for both men and women. Due to policies such as the three-strikes law, which requires incarceration after the third offense, the prison population has grown exponentially, potentially effecting women, who are more likely to be poor and single parents, more than men (Belknap, 2006).
Some people argue that paternalism is actually a hindrance for women’s equality. If women were to be treated equally within society, there would be no paternalism because the genders would be viewed as the same. This would alleviate unjust gender disparities in the system. However, Koons-Witt (2002) argues that it is naïve to assume, at least for the time being, that men and women are equal within society and should therefore be treated as such in the courtroom. Furthermore, prisons are not equal between the genders. Because female prisons are distinctly poorer than male prisons regarding treatment and training programs, it is particularly detrimental to emphasize an increase in female prison sentences (Belknap, 2001).

With this in mind, it seems that the best means for controlling discrimination within the courtroom is to rely less on incarceration and more on community sanctions. For instance, drug offenders should receive prison-based as well as community-based drug treatment programs (Harm & Phillips, 2001). Without such treatment, they are more likely to reoffend, resulting in a revolving door system. Also, Harm and Phillips (2001) argue that parole officers and other such personnel should be trained to identify environmental targets that may result in recidivism. For instance, some women stay in high-risk atmospheres where they are subjected to the presence of drugs or other illegal activity because leaving might violate their parole (Harm & Phillips, 2001).

Also, society should offer services to ease the stress on the family of female offenders. For instance, services are available to offer support and advice for family members who are caring for the child of an incarcerated offender (Harm & Phillip, 2001). These services should be more readily available within society. Finally, Harm and Phillips (2001) argue that there is a need for safe and affordable housing for female ex-offenders as well as career opportunities. With limited funding and children to care for, such housing opportunities are limited. This lack of housing is exacerbated by the difficulties in acquiring a decent paying job. Because of the stigma placed on
female offenders, finding a job is difficult. Without a good income, a safe neighborhood is difficult to achieve. Low income neighborhoods are often associated with crime and recidivism.

While the findings of this research are valid, there are a few setbacks. As referenced in the literature review, many studies find that women receive leniency within the criminal justice system (Frazier et al., 1983; Kruttschnitt, 1984; Langan, 1991; Rodriguez et al., 2006). While some research finds that there is significant leniency regarding the detection of crimes, decisions to arrest, and decision to prosecute (Herzog & Oreg, 2008), such data was not available in the data. Therefore, I was unable to test these processes. It is, however, likely that gender discrimination occur here. Also, information on the death penalty was not available. Research suggests that the decision to sentence a defendant to the death penalty is one of the most consistent venues of gender discrimination (Samuel, 2007). Therefore, such data would be useful for gender discrimination analyses.

Unfortunately, other variables were also not available that would have been useful in this study. Previous studies included variables such as marital status, employment, welfare status, the number of dependants for which the defendant is responsible, education, and socioeconomic status (Franklin & Fearne, 2008; Herzog & Oreg, 2008) to operationalize traditionalism among women when studying selective chivalry. Unfortunately, the number of children and the education of the defendant were the only variables available in the data with which to operationalize traditionalism. The inclusion of these other variables would have been useful in this analysis.

Another limitation of this study is that this research focuses solely on federal data. It is likely that the results may differ from state level cases, due to the differences in severity between the two levels. Therefore, because the cases determined at the state level are different than those
at the federal level, it is likely that some of the disparity findings may differ. Also, only data from October 1, 2007 through September 30, 2008 were analyzed. Therefore, the generalizability of this study may not be as strong as it would be with the inclusion of multiple years.

Finally, there were some limitations regarding the data. For instance, there is very little variation for the in/out decision as well as the case disposition. Nearly all of the cases resulted in plea bargaining as well as a prison sentence. Therefore, this lack of variance may have influenced some of the findings. Also, criminal history was excluded from the analysis. According to a similar study using the same data conducted by Doerner (2009), criminal history, offense severity, and guideline minimums are found to be multi-collinear. Therefore, criminal history and offense severity were excluded from the study. Because these variables are frequently used to determine sentencing outcomes, the inclusion of such variables would have been useful in this study.

Despite these limitations, the findings of this research are noteworthy. Future research, however, should attempt to analyze each of the processes in which gender discrimination occurs. For instance, self-report data can be used to get a clearer idea of whether and to what extent women are committing crimes. Also, data on the detection of, arrest of, and decision to prosecute women as dependent variables will provide a more in-depth analysis of where this discrimination is taking place. Finally, research on women and the death penalty is likely to provide insight on gender discrimination in the court system.

Another area for future research is the study of evaluator effects. As suggested in the literature review, gender discrimination varies according to the evaluator (Herzog & Oreg, 2008; Songer & Crews-Meye, 2000. The inclusion of evaluator demographics such as gender, age,
race, political beliefs, religion, and region is expected to explain some of the gender variation in sentencing outcomes. Furthermore, a qualitative analysis of the explanations given for the sentencing outcome would further advance our knowledge of the role of the evaluator in sentencing disparities.

Lastly, transgendered defendants should be studied. Because such individuals defy expectations of masculinity and femininity, it is expected that they will be treated differently in the courtroom. Some researchers argue that gender and sex are separate variables (Samuel, 2007). While sex may be dichotomously male and female, gender should be seen as a continuum ranging from man to woman.

Research has argued that women receive more leniency in the criminal justice system (Frazier et al., 1983; Kruttschnitt, 1984; Langan, 1991; Rodriguez et al., 2006), regional variation exists regarding conservative values (Moore & Vanneman, 2003; Carter & Borch, 2005; Rice & Coates, 1995), gender ideologies vary according to region (Carter & Borch, 2005; Moore & Vanneman, 2003), people of color receive harsher sentences (Kleck, 2009; Everett and Wojtkiewicz, 2002; Mitchell, 2005), and traditional women receive more leniency in the courtroom (Doerner, 2009, Franklin & Fearne, 2008; Herzog & Oreg, 2008). This study has provided evidence that women do, in fact, receive more lenient sentencing for the in/out decision, sentence length, and departure decision. It has further provided evidence that the Deep South does often provide harsher sentences. This finding, however, does not apply to all areas of the courtroom process. This study has also found no evidence that women from the Deep South receive more leniency than those not from the Deep South. Furthermore, no support was found for selective chivalry on the basis of race or traditionalism. Several policy implications are
associated with these findings. While there were a few limitations associated with this study, future research should address these issues. In fact, more research is needed to analyze why this disparity exists and how it should be rectified.
References


### Appendix A

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<tr>
<td>Violent</td>
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<td>Drug</td>
<td>Trafficking, Communication Facilities, Simple Possession</td>
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