Assessing Cumulative Disadvantage against Minority Female Defendants in State Courts

by

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ABSTRACT

Prior sentencing research, especially research on cumulative disadvantage, has mainly focused on the treatment of male defendants, and little attention has been paid to female defendants, especially minority female defendants. Drawing on the intersectional vulnerability and focal concerns perspectives, the current study emphasizes the need to examine disparity in sentencing through an intersectional lens and across multiple decision-making points. Using the State Court Processing Statistics dataset (SCPS) from 1990-2009, this paper investigates the impact that race/ethnicity has for female defendants across individual and successive stages in the sentencing process. The results suggest that race operates through direct and indirect pathways to cause lengthier sentences for Black female defendants compared to White female defendants, thus providing evidence of cumulative disadvantage against Black female defendants. Theoretical, research, and policy implications will be discussed.

DEDICATION

For my mother, Janet Ann Kramer. Thank you for encouraging me to pursue my passions and to never give up. I know that you are looking down as a proud mom. I love and miss you every day.

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INTRODUCTION

Sentencing policy in the United States has undergone substantial changes, particularly with the implementation of sentencing guidelines and reform. “Justified largely on the notion that they can reduce unwarranted disparities” (Wang, Mears, Spohn, & Dario, 2013, p. 88), the primary goal of sentencing reform was to ensure equitable treatment for defendants across gender, race, and ethnicity in the courts (Frankel, 1972; see also Ulmer, 2012). However, the notion of gender equality posed a unique problem for the courts in that whereas women received more lenient treatment than men pre-reform, they experienced more equitable punishments when compared to their male counterparts post-reform (Nagel & Johnson, 1994). Yet, contradictory to the argument of “justice equalization” (Daly & Tonry, 1997), women are still receiving more lenient treatment compared to men (e.g., Doerner & Demuth, 2010; Freiburger & Sheeran, 2017; Griffin & Wooldredge, 2006; Spohn & Holleran, 2000; Steffensmeier & Demuth, 2006; Steffensmeier, Kramer, & Streifel, 1993; for a most recent meta-analysis, see Bontrager, Barrick, & Stupi, 2013).

While scholars have made significant contributions to the scholarship on gender-based sentencing disparity and male defendant’s treatment in the court process in particular (e.g., Crew, 1991; Demuth, 2003; Schlesinger, 2005; Spohn & Beichner, 2000; Warren, Chiricos, & Bales, 2012), few have focused their attention on female defendants (but see Ball & Bostaph, 2009; Brennan, 2006; Goulette, Wooldredge, Frank, & Travis, 2015; and most recently Spohn, Brennan, & Kim, 2018). This is a significant oversight because our knowledge of female defendants, particularly minority female defendants, and their treatment in the court process is relatively limited. Sex-specific analysis is

important in this regard for several reasons. First, comparisons between men and women often assume that there is a universal experience shared by all women and that oppression and marginalization do not differ across varying social characteristics (Nowacki, 2017). This, however, is not the case, as "...Black women can experience discrimination in ways that are both similar to and different from those experienced by White women and Black men" (Crenshaw, 1989, p. 149). Second, sex-specific analysis may offer a unique approach to understanding how legal and extra-legal factors operate differently for women, as it would allow scholars to examine the ways in which some factors (e.g., race/ethnicity and gender) intersect to disadvantage women of color (Doerner & Demuth, 2014; Crenshaw, 1991, 2012). Third, sex-specific analysis offers the opportunity to examine how case and offender characteristics of *female* defendants may affect their treatment in the criminal court process; thus, it may provide a platform with which better informed policies can be created to address how women, specifically minority women, are treated in the criminal justice system and to minimize current and future disparity (Brennan, 2006).

In the meantime, there have been renewed concerns about how minority defendants are treated at various decision points (e.g., pretrial detention) and how these decisions may impact later outcomes of the court process (Bushway & Forst, 2013; Goulette et al., 2015; Kutateladze, Andiloro, Johnson, & Spohn, 2014; Spohn, 2008; Stolzenberg, D'Alessio, & Eitle, 2013; Sutton, 2013; Ulmer, 2012). In particular, it is essential to investigate how race/ethnicity and gender intersect to influence the treatment of minority female defendants across successive stages for at least two reasons. First, examining only one stage in the court process may not provide an accurate depiction of

how minority females are treated, and thus more punitive punishment against them may go undetected (Farnworth & Teske, 1995; Spohn, 2008). Second, the disparities that exist at one stage may be exacerbated in subsequent case processing decisions (Kutateladze et al., 2014). Thus, without examining the successive stages of case processing decisions, it remains unclear whether minority females are treated equally compared to their White counterparts (Bloch, Engen, & Parrotta, 2014; Demuth & Steffensmeier, 2004; Pinchevsky & Steiner, 2016, Williams, Demuth, & Holcomb, 2007).

Against this background, this paper focuses on comparing how minority female defendants are treated across multiple decision points in state courts compared to their White counterparts. Specifically, drawing on the intersectional vulnerability and focal concerns perspectives (Crenshaw, 2012; Steffensmeier, Painter-Davis, & Ulmer, 2017; Nanda, 2011; Richie, 2012) and building on prior work on cumulative disadvantage, this paper aims to advance scholarship in two ways. First, this paper examines a sample of female defendants across 75 large urban counties, thus allowing for greater generalizability beyond one state to all large urban counties in the country. Second, by including multiple decision points, such as pretrial detention, dismissals/acquittals, adjudication, and sentencing outcomes, this research will be able to shed light on how race/ethnicity operates at these decision points, separately and cumulatively, for female defendants. In sum, this study seeks to provide an understanding of how women, particularly women of color, are treated in the criminal court process, and to offer future policy directions regarding their treatment in the criminal justice system.

BACKGROUND

The Intersectional Vulnerability and Focal Concerns Perspectives

Crenshaw (1989, 1991, 2012) asserts that women of color and their experiences have been marginalized into a single axis (i.e., being Black or being female). Yet, the experiences of discrimination that Black women face in the criminal justice system may be more similar to those faced by Black men than those faced by White women (Crenshaw, 1989). Nonetheless, the social realities that women of color experience daily are different from those experienced by other racial/ethnic groups (Crenshaw, 1991, 2012). Lipsitz (2012, p. 1770) contends that both Black and Hispanic women “suffer at the crossroads of mass criminality, in that their race, gender, and class positions work simultaneously to create *a cumulative vulnerability*.” Nevertheless, it is not defendants’ characteristics in isolation (e.g., being Black or Hispanic) that cause decision makers to associate defendants with criminality; rather it is the intersection of race/ethnicity with other characteristics such as gender and age that result in these associations. In other words, certain characteristics combine to create a cumulative vulnerability, especially for minority women (Steffensmeier et al., 2017, p. 817; see also Lipsitz, 2012).

The vulnerabilities of women of color are further amplified by negative constructs and stereotypes, such as the notion that Hispanic women are drug users (Brennan, 2006; Portillos, 1998) and the claim that Black women’s households are *criminogenic* (Ocen, 2013). Black women are also commonly characterized as masculine, domineering, assertive, strong, and loud (Young, 1998); hyper-sexed, dirty, dangerous, drug users, and overall irresponsible mothers (Brennan, 2006; Portillos, 1998; Spohn et al., 2018). Similarly, Hispanic women are often portrayed as drug addicts who become “welfare queens” (Brennan, 2006; Portillos, 1998), or gang members or promiscuous women (Brennan, 2006; Castro, 1998; Portillos, 1998). By contrast, White women are typically

characterized as professional, responsible and reliable mothers or “good” women. Whereas traditionally perceived “feminine” qualities (e.g., passive, gentle, and emotional) are qualities of “good” women who need to be protected and are often associated with White women, women of color are often viewed as nontraditional and unable to meet the same feminine expectations of “good women,” and in turn they are deemed “bad” and unworthy of protection (Koons-Witt, Seigny, Burrow, & Hester, 2014; Young, 1986).

The aforementioned stereotypes may adversely impact women of color, and may be integrated with the focal concerns theory to explain harsher treatment women of color may face in the criminal justice system when compared to their White counterparts. Specifically, the focal concerns theory links the use of discretion to unwarranted racial/ethnic disparity in decision-making and can be used to explain how and why race/ethnicity influences court outcomes. According to this perspective, judges and prosecutors make decisions based on three primary concerns: (1) the offender’s blameworthiness or culpability; (2) their desire to protect the community by incapacitating or deterring dangerous offenders; and (3) their concerns about the practical consequences or the social costs of their decisions (Steffensmeier, 1980; Steffensmeier & Demuth, 2000, 2006; Steffensmeier et al., 1998). While courtroom actors typically examine legally-relevant factors such as criminal history, they may not have enough information to make an unbiased decision and in turn, may develop a “perceptual shorthand” (Hawkins, 1981, p. 208) and rely on stereotypes linking defendants’ characteristics, such as gender, race/ethnicity, age and other social positions to focal

concerns (Engen, Gainey, Crutchfield, & Weis, 2003; Kramer & Ulmer, 2002; Steffensmeier & Demuth, 2000; Steffensmeier et al., 1998; Ulmer & Johnson, 2004).

In particular, given that women of color have been historically, socially, and culturally disadvantaged (Brennan, 2006; Crenshaw, 2012; Lipsitz, 2012; Nanda, 2012; Richie, 2012), as well as constantly negatively stereotyped (Crenshaw, 2012; Ocen, 2013), women of color may be perceived as less conforming to traditional roles (Crenshaw, 1989, 2012; Ocen, 2013; Richie, 2012). Considering discussions surrounding the focal concerns theory, women of color who are associated with these negative stereotypes may be perceived as more culpable and less deserving of protection, and as less desirable candidates for rehabilitation (Brennan, 2006). Courtroom decision-makers may also view the social costs of incarcerating women of color as less detrimental than those for White women, which may be due to perceptions of minority women being “bad mothers” and “unreliable” (Brennan, 2006; Steffensmeier & Demuth, 2000). As such, it is possible that being Black or Hispanic may increase the likelihood of courtroom decision-makers’ perceptions of dangerousness and/or blameworthiness for women in a similar manner as it does for men (Brennan, 2006; Farnworth & Teske, 1995; Nagel & Johnson, 1994; Steffensmeier & Demuth, 2000). Overall, the focal concerns theory (Steffensmeier et al, 1998; Steffensmeier et al., 2017) suggests that when courtroom actors make decisions, they use stereotypes that are associated with women of color,

which may result in differential treatment for minority women compared to White women (Belknap, 2007; Brennan, 2006; Bloch et al., 2014; Franklin & Fearn, 2008).¹

Empirical Research on Gender and Race/Ethnicity

Reviews of sentencing literature have found substantial evidence of racial disparity (e.g., Chiricos & Crawford, 1995; Mitchell, 2005; Spohn, 2000; see also Baumer, 2013). Further, studies assessing gender and racial/ethnic disparities often find that Black and Hispanic male defendants tend to receive the harshest penalties in sentencing, and are more likely to receive prison or jail sentences and longer terms of incarceration compared to White defendants (e.g., Demuth & Steffensmeier, 2004; Fearn, 2005; Steen, Engen, & Gainey, 2005; Spohn 2000; Spohn & Beichner, 2000; Spohn & Holleran, 2002; Steffensmeier & Demuth, 2000, 2006; Steffensmeier et al., 1993, 1998; Steffensmeier et al., 2017; Ulmer & Johnson, 2004). However, the literature on the effect of race/ethnicity among female defendants is less consistent.

Specifically, some studies have found leniency for White women relative to Black or Hispanic women (Crawford, 2000; Spohn, Welch, & Gruhl, 1985; Steffensmeier et al., 1993). Others, however, have revealed no differences in the sentencing of Black versus White women (Albonetti, 2002; Spohn & Beichner, 2000; Spohn & Brennan, 2011; Spohn & Spears, 1997). In particular, finding that there were no differences in the sentences received by White, Black, and Hispanic female defendants, Steffensmeier and

¹ Albonetti's (1991, 1997, 2002) uncertainty avoidance/causal attribution theory may also be used to explain the differential treatment of minority women versus White women in the sentencing process.

Demuth (2006, p. 257) suggest that White female defendants may benefit from being *female* but may not benefit from being *White*; Black and Hispanic females also benefit from being *female* but are not necessarily penalized for being a *minority*. Further, several studies have reported that Black women even receive more lenient treatment compared to other racial/ethnic groups (e.g., Koons-Witt, 2002; Kramer & Ulmer, 2002, 2009; Lafrentz & Spohn, 2006). For example, using U.S. Sentencing Commission data, Doerner (2015) found that White females were more likely to be incarcerated than Black and Hispanic females and received longer sentence terms than Hispanic females. Overall, the current literature is mixed on how females, and particularly, how minority females are treated in the criminal court process.

Cumulative Disadvantage and Current Evidence

Over the past several decades, scholars have often examined gender and racial/ethnic disparity at a single decision point in the criminal court process (e.g., the sentencing decision). While single-stage analyses of case processing decisions can provide evidence of disparities, they may not account for the accumulated effects of race/ethnicity in which additional decision points (e.g., pretrial release) may create harsher outcomes for defendants (Stolzenberg et al., 2013). Racial/ethnic disparities that occur at one stage of the criminal justice system may be offset by successive case-processing decisions; thus, by examining successive stages, disparities may emerge that would typically go undetected in single-stage studies (Kutateladze et al., 2014). In more recent years, research has begun examining multiple decision points to understand the disadvantage that some defendants may face. Often, this idea is referred to as cumulative disadvantage, which reflects the increased probability of “unfavorable” case processing

decisions at multiple outcomes, particularly for minority defendants (DiPrete & Eirich, 2006; Hagan, 1974).

Notably, prior research that has examined multiple decision points has typically focused on the comparisons between males and females (e.g., Spohn, 2009; Stolzenberg et al., 2013; Wooldredge, Goulette, Frank, & Travis, 2015), or just males (e.g., Kutateladze et al., 2014; Stolzenberg et al., 2013; Sutton, 2013). For example, using New York County District Attorney's Office (DANY) data from 2010-2011, Kutateladze and colleagues (2014) examined racial/ethnic disparity for males across multiple prosecutorial and judicial decisions, finding that Black and Latino male defendants receive the most severe punishment, while Asian males receive the least severe in comparison to White male defendants. Sutton (2013) draws similar conclusions regarding cumulative disadvantage against Black male defendants.

Though the literature on cumulative disadvantage for women is scant, a few exceptions exist. In particular, Brennan's (2006) seminal work on female misdemeanants contributed significantly to our understanding of how race/ethnicity operates, directly and indirectly, to affect women's treatment in multiple case processing outcomes. Specifically, using New York City's Criminal Court data between 1989 and 1991, Brennan (2006) reported that race/ethnicity did not exert a significant and direct effect on the sentencing outcome or on the likelihood of pretrial release; instead, race/ethnicity had a significant and indirect effect on sentencing and pretrial release through prior criminal history for Black women, and through educational attainment for both Black and Hispanic women. Overall, Brennan's findings emphasize the need to examine both direct and indirect effects of race/ethnicity on case processing decisions.

Since Brennan's (2006) seminal work, three additional studies have further investigated cumulative disadvantage against minority female defendants. Specifically, Ball and Bostaph (2009) examined pretrial release decisions and outcomes, and reported that Hispanic females were indirectly impacted through prior criminal history and when they had a public defender as their attorney, resulting in their increased likelihood of being held in pretrial detention compared to White females. In another study, Goulette and colleagues (2015) found that Black females were more likely to be sentenced to prison via higher bond amounts compared to White females. Most recently, Spohn and colleagues (2018) examined cumulative disadvantage against minority female defendants in federal courts, reporting that Hispanic females received harsher sentences than White females as a result of a higher likelihood of being detained pretrial and a lower likelihood of receiving substantial assistance departures, whereas Black female defendants received less harsh sentences compared to White females as a result of lower odds of pretrial detention.

Overall, these aforementioned studies have significantly advanced scholarship. That said, they are characterized by several limitations. For example, Brennan (2006) focused on female misdemeanants in New York State alone. Ball and Bostaph (2009) only examined pretrial outcomes (e.g., decision to grant financial release) and did not investigate sentencing outcomes. Further, Goulette and colleagues (2015) did not include Hispanic females in their overall analyses. Although Spohn and colleagues (2018) addressed these limitations in their study by using federal sentencing data, a study that does so by looking at state courts is also much needed.

The Current Study

This study is designed to address the abovementioned limitations by examining a sample of White, Black, and Hispanic female felony defendants across 75 large urban counties from 1990-2009, and investigating multiple decision points, including pretrial detention, dismissals/acquittals, adjudication, and sentencing outcomes. Specifically, this study investigates how race/ethnicity and gender intersect in ways that may disadvantage women of color, and assesses how minority women are treated across multiple decision points. To this end, I develop two sets of hypotheses focusing on the treatment of women of color by the criminal justice system across multiple decision-making stages. Specifically, the first set of hypotheses (Hypotheses 1a-1e) make predictions about how minority female defendants are treated at individual case processing decisions, and the second hypothesis (Hypothesis 2) assesses cumulative disadvantage against minority female defendants across multiple decision-making stages.

Hypothesis 1: Minority female defendants will receive harsher treatment than White female defendants across each decision-making stage.

Hypothesis 1a: Minority female defendants will be more likely than White female defendants to be held in pretrial detention.

Hypothesis 1b: Minority female defendants will be less likely than White female defendants to have their cases dismissed/acquitted.

Hypothesis 1c: Minority female defendants will be more likely than White female defendants to be adjudicated at the felony level.

Hypothesis 1d: Minority female defendants will be more likely than White female defendants to be incarcerated.

Hypothesis 1e: Minority female defendants will receive longer sentence terms than White female defendants.

Hypothesis 2: Minority female defendants will be more likely than White female defendants to experience cumulative disadvantage across combinations of more punitive criminal case-processing outcomes.

DATA AND METHODS

Data

To assess my hypotheses, I use the State Court Processing Statistics (SCPS) program from the Bureau of Justice Statistics (ICPSR 02038). The data set contains information on the prosecution of felony cases filed in May of even numbered years from 1990-2009. The only exception is that the SCPS data skip from 2006 to 2009. Each felony case prosecuted in state court was tracked until the final disposition of the case was reached or until one year had passed since the filing of the case (Stolzenberg et al., 2013).

The SCPS data are well suited for this study as they provide information on multiple decision points (e.g., pretrial detention, dismissals/acquittals, adjudication, the decision to incarcerate, and sentence length). That said, the SCPS data contain relatively limited criminal history measures, and constructing measures for offense severity that are applicable across state jurisdictions may be problematic (Ulmer, 2012). With these caveats in mind, I use the SCPS data because they permit for more generalizable findings since the counties sampled represent courts that handle a substantial proportion of felony cases in the United States (Steffensmeier & Demuth, 2006).

I restrict the original data sample to include only females (N = 25,250), as this study seeks to examine female defendants and to advance our knowledge about how minority women are treated relative to their White counterparts in the criminal court process. In addition, I include only White, Black, and Hispanic defendants. This is because those defendants belonging to the “Other” race/ethnicity categories, such as Asian (1.79%) or American Indian or Alaska Native (.50%) made up too small a proportion of the total female sample to make meaningful comparisons between women of these racial/ethnic backgrounds and White female defendants.

Dependent Variables

I assess multiple decision points, thus including five dependent variables. The first dependent variable, pretrial detention, is operationalized as a dummy variable indicating whether the defendant was detained prior to trial or was released (1 = detained; 0 = released). The second outcome is dismissals/acquittals. This variable reflects whether the defendants case was dismissed/acquitted prior to adjudication and sentencing (1 = dismissed/acquitted; 0 = no).² The third dependent variable is adjudication, which reflects whether the defendant was convicted at the felony level or misdemeanor level (1 = felony; 0 = misdemeanor). The fourth dependent variable is the decision to incarcerate. Consistent with other sentencing research (e.g., Freiburger & Hilinski, 2013; Harrington

² Generally, dismissals refer to an order or judgment, only by a judge, in which the case is disposed of without a trial, whereas acquittal refers to a defendant exonerated (found not guilty) on charges. Acquittals are generally more serious than dismissals, as the defendant must go through a formal trial process (Goldkamp, 1980). However, the SCPS data do not separate dismissals from acquittals in this variable.

& Spohn, 2007; Holleran & Spohn, 2004; Wang & Mears, 2010a, 2010b; Wang et al., 2013), this variable includes three categories: prison (whether the convicted felon was sentenced to any length of incarceration in a state prison), jail (whether the convicted felon was sentenced to any length of incarceration in a county jail), and noncustodial sanction (whether the convicted felon was sentenced to any combination of non-incarceration options, including probation, restitution, a fine, or a different type of sentence). The final dependent variable is sentence length measured in months.³ I take the natural log of this variable because sentence length is positively skewed. Further, cases in which the defendant did not receive a term of incarceration were coded as 0 months (see Kim et al., 2018; Steffensmeier et al., 1993; Wheeler, Weisburd, & Bode, 1982), and were added .1 prior to the natural log.

Key Independent Variable

The primary focus of this study is on racial/ethnic disparity among female defendants. I measure the offender's race/ethnicity using dummy variables for Black women (= 1; otherwise = 0) and Hispanic women (= 1; otherwise = 0), respectively, holding White women as the reference category.

Control Variables

³ Studies using Federal sentencing data often cap the sentence length at 470 months for defendants receiving life imprisonment (e.g., Spohn, 2008; Kim, Wang & Cheon, 2018). Since State courts are different from Federal courts, I use the maximum sentence length available in the data (840 months). Cases where the defendant received life imprisonment (N = 9) are coded as the maximum prison length of 840 months. There were no women sentenced to the death penalty.

To ensure that the effects of race/ethnicity across multiple decision points are not spurious, I include a series of legal and extralegal variables as controls in the analysis. First, I construct a prior criminal history factor score using six items: prior felony arrests, prior felony convictions, prior misdemeanor arrests, prior misdemeanor convictions, prior jail incarcerations, and prior prison incarcerations, with higher scores representing more extensive criminal histories (Cronbach's $\alpha = .86$). The exploratory factor analysis (EFA) determined that the six variables for prior criminal history explained one factor with factor loadings ranging from .55 to .85. Second, I include criminal justice status as an additional measure of criminal history. This is measured as a dummy variable reflecting whether the defendant had an active criminal justice status or not (1 = yes; 0 = no).⁴

The SCPS data also contain relevant information about the criminal offense defendants were charged with. Arrest charge severity is measured using a series of 16 dummy variables that identify the most severe type of charge the defendant was arrested on. These offense types fit into four general categories: (1) violent offenses, including murder, rape, robbery, assault, and other violent offenses; (2) property offenses, including burglary, larceny-theft, motor vehicle theft, forgery, fraud, and other property offenses; (3) drug offenses, including drug sales and other drug offenses; and (4) public order

⁴ Some scholars also include a measure for prior failure to appear (FTA) as a measure of criminal history, which identifies whether the offender had a history of FTA for prior court dispositions (see Demuth, 2003; Franklin & Fearn, 2015). This variable, however, is highly correlated with pretrial detention ($r = .96, p < .01$). Thus, I did not include FTA in the analysis.

offenses, including weapons offenses, driving-related offenses, and other public order offenses. In this paper, I use assault as the reference category, thus including 15 dummies in the analysis.⁵ In addition, I control for a variable indicating whether the defendant was arrested on more than one criminal charge (1 = yes; 0 = no). I also use a dummy variable to control for whether the defendant plead guilty or went to trial (1 = plead guilty; 0 = trial), and this variable is included in the analysis of sentencing outcomes.

Further, I include dummy variables for each county in the analysis because there might be significant variation in case processing outcomes across jurisdictions. The inclusion of these county dummies allows the mean differences in outcomes across counties to be controlled for (Demuth & Steffensmeier, 2004). The reference category for county is Los Angeles, CA. Dummy variables for filing year are also included in the analysis, with 2009 serving as the reference year. Additionally, I include pretrial detention in the dismissal/acquittals, adjudication, the decision to incarcerate, and sentence length models, and incorporate adjudication in the decision to incarcerate and sentence length models. Doing so not only allows me to assess the indirect effects of race/ethnicity through previous decisions, but also controls for possible confounding

⁵ A conviction charge variable is often used in sentencing models to account for the offense severity. However, the conviction charge variable in the SCPS data contains 17 categories, including 16 most severe felony offenses defendants were charged with and a misdemeanor charge. This variable thus overlaps with adjudication (1 = felony; 0 = misdemeanor), causing a harmful level of multicollinearity. Because this study focuses on multiple decision points and cumulative disadvantage through successive stages, I include the adjudication variable, which allows me to assess the effects of race/ethnicity on sentencing through adjudication. As a result, I could not control for conviction charge severity, but have to control for arrest charge severity, in the decision to incarcerate and sentence length models (Table 5 and 6).

effects they may cause to the effects of race/ethnicity. Last, I control for the defendant's age. I include both linear and quadratic terms of the age of the defendant to account for the possibility of a non-linear relationship between age and the various outcomes (Kim et al., 2018; Steffensmeier et al., 1993). Table 1 provides descriptive statistics for all study variables.

[Insert Table 1 about here]

Analytic Strategy

The main analysis is proceeded in two steps. First, I examine the direct effects of race/ethnicity on five case processing decisions (pretrial detention, dismissals/acquittals, adjudication, the decision to incarcerate, and sentence length). To examine the racial/ethnic disparity at each individual decision point, I use a variety of regression models to estimate the effects of race/ethnicity on each outcome. The first three outcomes of interest, pretrial detention, dismissals/acquittals, and adjudication are analyzed using binary logistic regressions. The decision to incarcerate, with noncustodial sanctions serving as the omitted category, is analyzed using a multinomial logistic regression.⁶ Sentence length is analyzed using ordinary least squares (OLS) regression.

Second, I assess the indirect and total effects of race/ethnicity through pretrial detention, adjudication, and the decision to incarcerate to examine whether minority

⁶ It can be argued that this variable is ordinal, and thus the use of ordinal logistic regression is appropriate. However, ordinal logistic regression requires the proportional regression assumption be met, and the Brant test conducted in Stata 15 indicated that the parallel regression assumption had been violated.

women experience “cumulative disadvantage” leading to final case disposition. To assess whether Black and Hispanic female defendants face cumulative disadvantage, I use generalized structural equation modeling (gsem) to estimate a path model.⁷ This technique allows for the examination of causal patterns among selected variables (Stage, Carter & Nora, 2004) and provides a depiction of the direct and indirect path(s) that race/ethnicity may take to affect final case disposition. Following Wooldredge et al. (2015), I analyze the full sample for estimating all paths, “because our interest is in evaluating race effects across decision points rather than treating the decisions as discrete” (see p. 203). After conducting a path model, the indirect and total effects of race/ethnicity are calculated using nlcom commands. In addition, I use the vce clustering option, which obtains robust standard errors and allows for clustering by county. The vce clustering option specifies that the standard errors allow for intragroup correlation, relaxing the usual requirement that the observations be independent (Froot, 1989; White, 1980). Listwise deletion is used to deal with the missing data problem.⁸ All analyses are conducted in Stata 15.

RESULTS

⁷ In traditional path analysis, one can take each OLS estimate that compromises a path/paths to determine the size of an indirect effect on the last outcome (see Brennan, 2006). However, because this analysis uses binary or multinomial logistic regressions for several outcomes, traditional path analysis is not appropriate. Instead, gsem is used to specify the outcomes of interest appropriately.

⁸ The sample size from the original reported (N = 25,250, see page 13) to the analysis of pretrial detention (N = 14,143, see Table 1) is reduced due to listwise deletion. Replication analysis will be conducted with multiple imputation.

Before assessing the effects of race/ethnicity across multiple decision points, I first conduct diagnostic tests to detect any issues with multicollinearity. These diagnostic tests include a bivariate correlation matrix and variance inflation factors (VIF). Both reported no evidence of a harmful level of multicollinearity. Then I assess whether minority women receive harsher treatment at each individual decision-making stage, and Tables 2, 3, 4, 5, 6 present the outcome-specific models for pretrial detention, dismissal/acquittals, adjudication, sentence type, and sentence length, respectively.

[Insert Table 2 about here]

[Insert Table 3 about here]

[Insert Table 4 about here]

[Insert Table 5 about here]

[Insert Table 6 about here]

Inspection of Table 2 suggests that Black female defendants ($b = .192$, $SE = .066$, $p < .01$) are significantly more likely to be detained pretrial compared to White female defendants. However, Hispanic female defendants are treated no differently compared to White female defendants. Thus, the significant finding associated with race and the insignificant finding associated with ethnicity provide partial support for Hypothesis 1a.

Table 3 presents the effects of race/ethnicity on the likelihood of having a case dismissed/acquitted. Review of Table 3 suggests that there are no significant differences between Black/ Hispanic and White female defendants in the likelihood of having their case dismissed/acquitted. This finding provides no support for hypothesis 1b. However, being held in pretrial detention ($b = -0.496$, $SE = .096$, $p < .01$) decreased the likelihood of the case being dismissed/acquitted.

Turning to the effects of race/ethnicity on adjudication, Table 4 reveals that there are no significant differences between Black/ Hispanic and White female defendants adjudicated at the felony level versus misdemeanor level. This finding does not provide support for Hypothesis 1c. It is important to note that female defendants held in pretrial detention have much higher odds of being adjudicated at the felony level compared to the misdemeanor level.

Table 5 presents the effects of race/ethnicity on the decision to incarcerate (i.e., jail or prison, with noncustodial sanctions serving as the reference category). Inspection of Table 5 indicates that there are no significant differences between Black and White female defendants or between Hispanic and White female defendants in terms of sentence type. This finding provides no support for Hypothesis 1d. Further, female defendants who were held in pretrial detention have significantly higher odds of being incarcerated in jail ($b = .946$, $SE = .097$, $p < .01$) and prison ($b = 1.727$, $SE = .094$, $p < .01$) compared to noncustodial sanctions. Unsurprisingly, female defendants adjudicated at the felony level are significantly more likely to be meted out a prison sentence than noncustodial sanctions. Last, review of Table 6 reveals no significant racial/ethnic effects on sentence length, thus suggesting no support for Hypothesis 1e.

It is worth noting that although race/ethnicity does not exert a statistically significant effect on sentence length, female defendants held in pretrial detention are sentenced to significantly longer terms of incarceration ($b = 1.202$, $SE = .148$, $p < .01$). Further, it is important to point out that female defendants with prior criminal history and female defendants with active criminal justice statuses are more likely to be held in pretrial detention and are less likely to have their case dismissed/acquitted. In addition,

female defendants with prior criminal history and active criminal justice statuses are more likely to be adjudicated at the felony level versus the misdemeanor level, and are more likely to receive longer sentence terms.

Overall, the findings from the outcome-specific analysis reveal a lack of racial/ethnic effects on four of the five outcomes of interest (i.e., dismissals/acquittals, adjudication, the decision to incarcerate, and sentence length), and a statistically significant race effect on the odds of being held in pretrial detention for Black female defendants. Although few racial/ethnic group differences are observed in individual analysis of case-processing decisions, the results from the outcome-specific analysis seem to suggest that disadvantage might accumulate for Black females through pretrial detention. Since individual analysis of case-processing decisions does not capture the complex racial/ethnic group differences that may exist through indirect pathways, next I conduct a path model to assess cumulative disadvantage against minority female defendants.

Assessing Cumulative Disadvantage

Table 7 displays the total, direct, and indirect effects of a defendant's race/ethnicity on pretrial detention, dismissals/acquittals, adjudication, the decision to incarcerate, and sentence length. Direct effects are the effects of a defendant's race/ethnicity on each outcome net of controls (Wooldredge et al., 2015, p. 213). Indirect effects are the product of all the mediating paths that separate a defendant's race/ethnicity from a specific outcome (Wooldredge et al., 2015, p. 213). In this case, indirect effects are the multiplicative effects of a defendant's race/ethnicity across multiple decision points mediated by prior decision points, such as pretrial detention. The total effects are

the sum of both direct and indirect racial/ethnic effects. In Table 7 the effects are separately presented for Black female defendants and Hispanic female defendants.

[Insert Table 7 about here]

Review of Table 7 indicates that there exists a statistically significant and direct effect of race on pretrial detention as Black female defendants have a greater likelihood of receiving pretrial detention compared to White females. Race then indirectly impacts the likelihood of the defendant's case being dismissed/acquitted via pretrial detention, as Black females are less likely than White females to have their cases dismissed/acquitted ($b = -0.095$, $SE = .040$, $p < .05$). Race further indirectly impacts the likelihood of being adjudicated at the felony level compared to misdemeanors through pretrial detention ($b = .128$, $SE = .052$, $p < .01$).

Table 7 also presents the total, direct, and indirect effects for the decision to incarcerate—that is, jail or prison sentences versus noncustodial sanctions. Review of these effects indicate that race/ethnicity does not exert a direct effect on jail or prison sentences when compared to noncustodial sanctions. Further, the total effect and the total indirect effects of race are statistically significant and positive for both jail and prison sentences compared to noncustodial sentences. In addition, through a cumulative impact of race through pretrial detention, Black female defendants are more likely to receive either a jail sentence ($b = .181$, $SE = .068$, $p < .01$) or a prison sentence ($b = .331$, $SE = .110$, $p < .01$) compared to noncustodial sanctions. Moreover, race operates indirectly through pretrial detention and felony adjudication to influence the likelihood of receiving a prison sentence ($b = .431$, $SE = .190$, $p < .05$). Turning to the total, direct, and indirect effects for sentence length, I find that race operates indirectly through pretrial detention

($b = .231$, $SE = .084$, $p < .01$) resulting in lengthier sentences for Black female defendants compared to White female defendants. Again, here, the total effect and total indirect effects of race are statistically significant and positive for sentence length.

It bears emphasizing that review of the total effects of race for sentence length and for the decision to incarcerate are both positive and statistically significant, suggesting cumulative disadvantage against Black female defendants. Overall, these findings provide support for Hypothesis 2, as I find that Black female defendants face greater disadvantages across successive stages. They also highlight the importance of partitioning direct versus indirect effects and examining the total effects of race/ethnicity. However, none of the pathways tested for Hispanic female defendants has a significant impact on sentence length when compared to White females.

Last, Figure 1 and Figure 2 provide a depiction of the significant pathways that race operates through to affect the decision to incarcerate and sentence length for Black female defendants. Inspection of these figures indicate that race impacts some outcomes through direct effects and others through indirect effects. Although neither Black nor Hispanic defendants receive harsher punishment across every stage of the criminal court process, Black female defendants face significant disadvantages at pretrial detention and the decision to incarcerate them in prison, which results in sentence lengths that are significantly longer than those of White female defendants. Overall, the results from the path analysis provide support for Hypothesis 2, suggesting that minority women, particularly Black women, experience greater cumulative disadvantage across multiple decision points.

[Insert Figure 1 about here]

[Insert Figure 2 about here]

DISCUSSION AND CONCLUSION

The purpose of this study is to contribute to sentencing research by assessing whether racial/ethnic disparity exists at individual decision points among female defendants, and examining the various pathways that race/ethnicity may take to create “cumulative disadvantage” for minority female defendants. Drawing on the intersectional vulnerability and focal concerns perspectives, I expected that minority females would receive harsher punishment at each decision point (Hypothesis 1a - 1e), and that cumulatively minority females would face greater disadvantage across successive stages in the criminal court process (Hypothesis 2).

The main findings can be summarized as follows. First, the effects of race/ethnicity vary depending on the outcome of interest. While race increased the odds of receiving pretrial detention for Black women compared to White women, the same pattern was not found for Hispanic women. Further, the outcome-specific models for dismissals/acquittals, adjudication, the decision to incarcerate, and sentence length yielded no significant differences between minority female defendants and White female defendants. The outcome-specific results for race/ethnicity on sentence length are consistent with prior research that largely finds no differences in sentence length between Black, Hispanic, and White female defendants (e.g., Brennan, 2006; Demuth & Steffensmeier, 2004; Goulette et al., 2015). That said, the absence of direct race/ethnicity effects at these decision points does not provide conclusive evidence of a racially/ethnically unbiased sentencing process (Brennan, 2006).

Second, the results from the path analysis on the cumulative effects of race/ethnicity indicate that race impacts specific decision points, both directly and indirectly. Specifically, race directly influences the likelihood of being held in pretrial detention. Further, race indirectly affects the likelihood of female defendants being sentenced to either jail or prison, rather than being given a noncustodial sanction, through the likelihood of pretrial detention. In addition, Black females were more likely to receive prison sentences as a result of their higher odds of pretrial detention and felony adjudication. At sentence length, Black females received significantly longer sentences through the indirect effects of being held in pretrial detention compared to White females. These racial effects were masked because traditional statistical approaches are only able to examine direct effects of race, and cannot tease out subtle racial effects that indirect pathways can (see also Spohn et al., 2018).

Based on these findings, a number of important theoretical implications can be drawn from this study. First, this paper adds to the growing body of literature on intersectionality and its application to sentencing decisions. As the results from this study demonstrate, the intersection of race and gender may cause courtroom actors to associate minority female defendants with negative stereotypes associated with women of color, particularly Black women, like being dangerous and crime prone (Brennan, 2006; Koons-Witt et al., 2014; Ocen, 2013; Young, 1986). Thus, it is not gender or race in isolation, but the combination of these two characteristics that may adversely impact Black women at individual and successive stages in the sentencing process, and further create and perpetuate disparity against minority women in the criminal justice system.

Although this study examines the intersection of race/ethnicity with gender, other characteristics, such as socioeconomic status, also likely intersect with race/ethnicity and gender to differentially impact sentencing outcomes. However, due to the limited nature of the SCPS data, some relevant characteristics, such as measures for socioeconomic status, education, or employment were not available to be examined. Thus, scholars should continue to examine other characteristics that may intersect with gender and race/ethnicity to create inequality (Gaub & Holtfreter, 2015; Steffensmeier et al., 2017).

Second, this paper illustrates that the intersectional vulnerability perspective and the focal concerns theory can be used as an integrative framework to understanding racial/ethnic disparity. For example, the effect of race on pretrial detention reveals that Black females are more likely to be detained pretrial than White females. Thus, Black females may be viewed as more “risky” or “dangerous,” and consequentially more blameworthy for their actions, which may influence judges’ and prosecutors’ decision to impose harsher punishments (Brennan, 2006; Farnworth & Teske, 1995; Nagel & Johnson, 1994; Steffensmeier & Demuth, 2000). However, Hispanic female defendants are not subject to the same harsh punishments that Black female defendants are in the sentencing process. One possible explanation for the insignificant findings associated with Hispanic female defendants surround discussions about the intersectional vulnerability and the focal concerns perspectives, and could suggest that some stereotypes associated with being Hispanic and being female may work to benefit or shield them in the sentencing process. For example, the stereotype of “welfare queen” (Brennan, 2006; Portillos, 1998) could signify to judges and prosecutors that Hispanic females need to be helped in their communities. Therefore, judges and prosecutors may

feel no need to impose harsher punishments on Hispanic female defendants than their White counterparts. Another possibility, although I can only speculate, may be that Hispanic females are treated more leniently in terms of sentence length because these offenders may have played a more minimal role than White females in the offenses for which they were convicted or were more likely to have been involved in the offense as a result of a romantic partnership (Spohn et al., 2018). If this is true, then judges and prosecutors may view Hispanic women as less culpable and blameworthy for their offenses. Future research should continue to use this integrative framework to examine the ways in which defendant characteristics intersect to impact judges and prosecutors' focal concerns, especially for Hispanic females.

Third, the results from the path analysis highlight the importance of examining racial/ethnic disparity using a cumulative disadvantage approach. I find that race indirectly and directly impacts sentence length through pretrial detention, causing significantly longer terms of incarceration for Black female defendants. These findings illustrate that race/ethnicity can operate through indirect paths to affect minority women's treatment in the sentencing process. As a result, neglecting to examine all the ways in which race/ethnicity and gender intersect (i.e., indirect pathways) to impact sentencing may result in erroneous conclusions about racial/ethnic disparity in the sentencing process.

While this study examines multiple decision points, I limit my focus to five decision points. Therefore, evidence of harsher punishment may still go undetected (Farnworth & Teske, 1995; Spohn, 2008), and it would be wise for researchers to take a cumulative disadvantage approach and incorporate decision points studied far less often,

such as plea bargaining and charge reductions, to provide insights into how female defendants, especially minority female defendants, are treated at these stages.

Several research implications can be derived from this study. First, the findings from this paper reiterate the importance of examining earlier decision points, such as pretrial detention in the sentencing process (e.g., Baumer, 2013; Demuth & Steffensmeier, 2004; Spohn, 2000; Ulmer 2012). I find that race directly impacts pretrial detention, and race indirectly operates through pretrial detention to impact dismissals/acquittals, adjudication, the decision to incarcerate (jail and prison compared to noncustodial sanctions) and sentence length for female defendants. Thus, earlier case-processing decisions, like pretrial detention, create potential for characteristics such as defendants' race/ethnicity and gender as well as other extra-legal factors to influence decision-making at later stages. Scholars should continue to understand how extra-legal factors impact earlier decision points and their impact on later decision points in the criminal court process.

Second, the findings from this study also echo prior scholarship suggesting the need to disaggregate prison and jail sentences because these two outcomes are substantially different and should be examined separately (e.g., Freiburger & Hilinski, 2013; Holleran & Spohn, 2004; Harrington & Spohn, 2007; Wang & Mears, 2010a, 2010b; Wang et al., 2013). In particular, I find racial influence in the examination of prison sentences as well as jail sentences for Black female defendants. Thus, separating jail and prison sentences can provide more nuanced direct and indirect effects regarding race/ethnicity.

Third, given that this study only examines racial/ethnic disparity using quantitative data analysis, it may prove fruitful for researchers to consider using qualitative methods. These could include analyzing sentencing hearing reports, or interviewing judges and prosecutors to explore their beliefs about certain racial/ethnic groups as well as their gender beliefs. Doing so would allow researchers to understand how courtroom actors decide who is considered dangerous and who should be incarcerated (e.g., Steffensmeier et al., 2017).

Importantly, this study raises some concerns regarding sentencing reform. While the overarching goal of sentencing reform were to ensure equality for defendants across gender, race/ethnicity, and age in the courts (Frankel, 1972; Ulmer, 2012), the findings from this study suggest that this goal is not being met, at least not in large urban jurisdictions. Heeding to similar policy advice from Wang and Mears (2010b), policymakers and courts may need to take more steps to ensure that only legally relevant factors are affecting case processing decisions. A good starting place would be to more carefully monitor courtroom actors' decision-making processes and examine how these decisions vary, if at all, and attempt to understand why courtroom actors are making these decisions.

In conclusion, the current study provides an examination of how race/ethnicity and gender intersect to impact the treatment of minority female defendants across multiple decision points. Overall, the findings from this study provide evidence of cumulative disadvantage against Black female defendants and highlight the importance of examining racial/ethnic disparity in sentencing through an intersectional lens. Considering these findings, scholars, policymakers, and courtroom actors may need to be

more mindful of the potential direct and indirect effects that characteristics like race/ethnicity, gender, and age may have on case processing decisions. Although contemporary sentencing research has made significant strides, scholars may need to place intersectionality at the top of its docket, as it provides us with a better understanding of how defendant's characteristics intersect to affect defendant's treatment in the criminal court process.

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Table 1. Descriptive Statistics

Variables	All Cases				
	Frequency ^a	Mean	Std. Dev.	Min.	Max.
Pretrial Detention	14,143	0.25	0.44	0	1
Dismissed/Acquitted	11,037	0.29	0.45	0	1
Adjudication	7,857	0.82	0.38	0	1
<i>Decision to Incarcerate</i>					
Prison	1,549	0.21	0.40	0	1
Jail	2,925	0.39	0.49	0	1
Noncustodial Sanctions (R)	3,047	0.41	0.49	0	1
Sentence Length	7,830	2.62	4.16	-2.30	6.91
<i>Race/Ethnicity</i>					
Black	7,528	0.46	0.50	0	1
White (R)	6,252	0.40	0.49	0	1
Hispanic	2,932	0.17	0.37	0	1
Age	-	31.97	9.89	14	83
Prior Criminal History Factor Score	-	0.03	0.97	-0.62	5.02
Active Criminal Justice Status	3,513	0.25	0.43	0	1
Defendant has multiple charges	13,984	0.98	0.12	0	1
<i>Arrest Charge Severity</i>					
Violent					
Murder	43	0.003	0.05	0	1
Rape	17	0.001	0.03	0	1
Robbery	413	0.03	0.18	0	1
Assault (R)	1,657	0.12	0.32	0	1
Other Violent	512	0.04	0.19	0	1
Property					
Burglary	735	0.05	0.22	0	1
Larceny-Theft	2,161	0.15	0.36	0	1
Motor Vehicle Theft	276	0.02	0.14	0	1
Forgery	841	0.06	0.24	0	1
Fraud	1,057	0.07	0.26	0	1
Other Property	564	0.04	0.20	0	1
Drugs					
Drug Sales	1,724	0.12	0.33	0	1
Other Drug	3,270	0.23	0.42	0	1
Public-Order Offenses					
Weapons	114	0.01	0.09	0	1
Driving Related	243	0.02	0.13	0	1
Other Public-Order	516	0.04	0.19	0	1

Note: Total Sample N = 25,250. ^aFrequency shows the N using listwise deletion for each variable. (R) Reference category. For ease of presentation year and county are not shown, but are available upon request.

Table 2. Logistic Regression of Race/Ethnicity on Pretrial Detention

Variables		b	(se)	OR
<i>Defendant Race/Ethnicity</i>				
	Black	0.192**	(0.066)	1.211**
	Hispanic	0.110	(0.117)	1.116
Age		0.069**	(0.016)	1.072**
Age ²		-0.001**	(0.000)	0.999**
Prior Criminal History Factor Score		0.613**	(0.051)	1.846**
Active Criminal Justice Status		0.866**	(0.093)	2.378**
Defendant has multiple charges		0.279	(0.290)	1.322
<i>Arrest Charge Severity</i>				
Violent				
	Murder	2.454**	(0.367)	11.635**
	Rape	0.894*	(0.386)	2.444*
	Robbery	1.078**	(0.158)	2.939**
	Other Violent	-0.216	(0.150)	0.805
Property				
	Burglary	0.188	(0.191)	1.206
	Larceny-Theft	-0.523**	(0.113)	0.593**
	Motor Vehicle Theft	0.248	(0.186)	1.282
	Forgery	-0.303	(0.174)	0.739
	Fraud	-0.812**	(0.249)	0.444**
	Other Property	0.049	(0.130)	1.050
Drug				
	Drug Sales	0.132	(0.118)	1.142
	Other Drug	-0.287*	(0.143)	0.750*
Public-Order				
	Weapons	-0.543	(0.302)	0.581
	Driving Related	-0.804**	(0.238)	0.447**
	Other Public-Order	-0.177	(0.215)	0.838
Constant		-1.916**	(0.376)	0.147**
Observations			15,205	

Note: b reflects the coefficient; OR= Odds ratios. For ease of presentation, year and county are not shown, but are available upon request. Standard errors are adjusted for county clusters. The sample size is significantly reduced due to the missing data problem.

** p<0.01, * p<0.05

Table 3. Logistic Regression of Race/Ethnicity on Dismissals/Acquittals

Variables		b	(se)	OR
<i>Defendant Race/Ethnicity</i>				
	Black	-0.011	(0.050)	0.989
	Hispanic	0.078	(0.124)	1.081
Age		-0.011	(0.013)	0.989
Age ²		0.000	(0.000)	1.000
Prior Criminal History Factor Score		-0.180**	(0.045)	0.835**
Active Criminal Justice Status		-0.148	(0.078)	0.862
Defendant has multiple charges		-0.190	(0.363)	0.827
Pretrial Detention		-0.496**	(0.096)	0.609**
<i>Arrest Charge Severity</i>				
Violent				
	Murder	-1.637**	(0.512)	0.195**
	Rape	0.158	(0.571)	1.171
	Robbery	-0.881**	(0.149)	0.414**
	Other Violent	-0.386*	(0.191)	0.680*
Property				
	Burglary	-0.863**	(0.134)	0.422**
	Larceny-Theft	-1.273**	(0.153)	0.280**
	Motor Vehicle Theft	-0.172	(0.223)	0.842
	Forgery	-1.266**	(0.140)	0.282**
	Fraud	-1.134**	(0.135)	0.322**
	Other Property	-0.612**	(0.129)	0.542**
Drug				
	Drug Sales	-1.157**	(0.115)	0.314**
	Other Drug	-0.784**	(0.236)	0.457**
Public-Order				
	Weapons	-0.596**	(0.198)	0.551**
	Driving Related	-1.753**	(0.262)	0.173**
	Other Public-Order	-0.968**	(0.185)	0.380**
Constant		-0.403	(0.456)	0.668
Observations			11,716	

Note: b reflects the coefficient; OR= Odds ratios. For ease of presentation, year and county are not shown, but are available upon request. Standard errors are adjusted for county clusters. The sample size is significantly reduced due to the missing data problem.

** p<0.01, * p<0.05

Table 4. Logistic Regression of Race/Ethnicity on Adjudication

Variables	Felony			
	b	(se)	OR	
<i>Defendant Race/Ethnicity</i>				
	Black	0.008	(0.085)	1.008
	Hispanic	0.137	(0.164)	1.147
Age		0.009	(0.018)	1.009
Age ²		-0.000	(0.000)	1.000
Prior Criminal History Factor Score		0.183**	(0.064)	1.201**
Active Criminal Justice Status		0.352**	(0.083)	1.421**
Defendant has multiple charges		-0.212	(0.341)	0.809
Pretrial Detention		0.669**	(0.108)	1.952**
<i>Arrest Charge Severity</i>				
Violent				
	Murder	2.475*	(1.013)	11.877*
	Rape	0.536	(0.938)	1.708
	Robbery	0.981**	(0.230)	2.666**
	Other Violent	0.684**	(0.212)	1.981**
Property				
	Burglary	0.780**	(0.202)	2.182**
	Larceny-Theft	0.754**	(0.186)	2.126**
	Motor Vehicle Theft	0.832*	(0.344)	2.298*
	Forgery	1.188**	(0.181)	3.279**
	Fraud	0.733**	(0.218)	2.082**
	Other Property	0.621**	(0.197)	1.860**
Drug				
	Drug Sales	1.849**	(0.206)	6.356**
	Other Drug	1.129**	(0.264)	3.094**
Public-Order				
	Weapons	1.023*	(0.473)	2.782*
	Driving Related	0.621	(0.318)	1.861
	Other Public-Order	0.29	(0.214)	1.336
Constant		1.391**	(0.523)	4.021**
Observations			8,205	

Note: b reflects the coefficient; OR= Odds ratios. For ease of presentation, year and county are not shown, but are available upon request. Standard errors are adjusted for county clusters. Cases that are dismissed/acquitted were removed because they are not subject to any sentence; only cases adjudicated at the felony level versus the misdemeanor level are included in this model. The sample size is significantly reduced due to the missing data problem.

** p<0.01, * p<0.05

Table 5. Multinomial Logistic Regression of Race/Ethnicity on the Decision to Incarcerate

Variables	Jail			Prison		
	b	(se)	OR	b	(se)	OR
<i>Defendant Race/Ethnicity</i>						
Black	0.063	(0.076)	1.065	0.093	(0.120)	1.097
Hispanic	-0.093	(0.131)	0.912	0.074	(0.192)	1.077
Age	0.022	(0.018)	1.023	0.043	(0.028)	1.044
Age ²	-0.000	(0.000)	1.000	-0.001	(0.000)	0.999
Criminal History Factor Score	0.239**	(0.053)	1.270**	0.638**	(0.049)	1.892**
Active Criminal Justice Status	0.176**	(0.068)	1.192**	0.651**	(0.096)	1.917**
Defendant has multiple charges	0.097	(0.410)	1.102	0.207	(0.262)	1.230
Pretrial Detention	0.946**	(0.097)	2.575**	1.727**	(0.094)	5.627**
Adjudication	-0.272	(0.160)	0.762	3.356**	(0.356)	28.672**
Defendant Plead Guilty	0.170	(0.212)	1.186	-0.675**	(0.229)	0.509**
<i>Arrest Charge Severity</i>						
Violent						
Murder	0.030	(1.102)	1.031	2.694**	(1.027)	14.789**
Rape	0.384	(1.022)	1.469	1.177	(1.311)	3.245
Robbery	0.165	(0.200)	1.179	0.888**	(0.300)	2.431**
Other Violent	-0.224	(0.159)	0.799	-0.331	(0.268)	0.718
Property						
Burglary	0.271	(0.185)	1.311	0.307	(0.246)	1.360
Larceny-Theft	-0.077	(0.171)	0.926	-0.457*	(0.209)	0.633*
Motor Vehicle Theft	0.054	(0.324)	1.055	-0.075	(0.207)	0.928
Forgery	-0.306	(0.238)	0.737	-0.397	(0.264)	0.673
Fraud	-0.373	(0.258)	0.689	-0.457	(0.242)	0.633
Other Property	0.146	(0.198)	1.157	-0.635**	(0.245)	0.530**
Drug						
Drug Sales	0.158	(0.180)	1.171	0.295	(0.245)	1.343
Other Drug	-0.246	(0.267)	0.782	-0.764**	(0.262)	0.466**
Public-Order						
Weapons	0.583	(0.382)	1.792	-0.325	(0.463)	0.723
Driving Related	0.678**	(0.250)	1.970**	0.294	(0.368)	1.342
Other Public-Order	-0.222	(0.327)	0.801	-0.812*	(0.348)	0.444*
Constant	0.173	-0.6	1.189	-4.907**	-0.533	0.007**
Observations	7,805					

Note: b reflects the coefficient; OR= Odds ratios. For ease of presentation, year and county are not shown, but are available upon request. Standard errors are adjusted for county clusters. Cases that are dismissed/acquitted were removed because they are not subject to any sentence; only cases adjudicated at the felony level versus the misdemeanor level are included in this model. The sample size is significantly reduced due to the missing data problem.

** p<0.01, * p<0.05

Table 6. OLS Regression of Race/Ethnicity on Sentence Length

Variables		b	(se)
<i>Defendant Race/Ethnicity</i>			
	Black	0.060	(0.108)
	Hispanic	-0.189	(0.199)
Age		0.026	(0.026)
Age ²		-0.000	(0.000)
Criminal History Factor Score		0.220**	(0.075)
Active Criminal Justice Status		0.353**	(0.106)
Defendant has multiple charges		0.086	(0.659)
Pretrial Detention		1.202**	(0.148)
Adjudication		-0.329	(0.262)
Defendant Plead Guilty		-0.177	(0.304)
<i>Arrest Charge Severity</i>			
Violent			
	Murder	2.429**	(0.704)
	Rape	0.128	(1.390)
	Robbery	0.339	(0.266)
	Other Violent	-0.396	(0.218)
Property			
	Burglary	0.255	(0.277)
	Larceny-Theft	-0.237	(0.259)
	Motor Vehicle Theft	-0.075	(0.472)
	Forgery	-0.487	(0.319)
	Fraud	-0.540	(0.425)
	Other Property	0.178	(0.301)
Drug			
	Drug Sales	0.211	(0.265)
	Other Drug	-0.466	(0.363)
Public-Order			
	Weapons	0.520	(0.562)
	Driving Related	0.729	(0.407)
	Other Public-Order	-0.384	(0.441)
Constant		3.374**	(0.990)
Observations		8,165	
R-squared		0.229	

Note: b reflects the coefficient; OR= Odds ratios. For ease of presentation, year and county are not shown, but are available upon request. Standard errors are adjusted for county clusters. Cases that are dismissed/acquitted were removed because they are not subject to any sentence; only cases adjudicated at the felony level versus the misdemeanor level are included in this model. The sample size is significantly reduced due to the missing data problem.

** p<0.01, * p<0.05

Table 7. Total, Direct, and Indirect Effects of Race/Ethnicity on Pretrial Detention, Dismissals/Acquittals, Adjudication, the Decision to Incarcerate and Sentence Length

Variables	Model 1 Black		Model 2 Hispanic	
	b	(se)	b	(se)
<i>Pretrial Detention</i>				
Direct Effect	0.192**	(0.066)	0.110	(0.117)
<i>Dismissals/Acquittals</i>				
Total Effect	-0.106	(0.065)	0.024	(0.140)
Direct Effect	-0.011	(0.050)	0.078	(0.124)
Indirect via Pretrial Det.	-0.095*	(0.040)	-0.054	(0.056)
<i>Adjudication</i>				
Felony				
Total Effect	0.137	(0.098)	0.210	(0.186)
Direct Effect	0.008	(0.085)	0.137	(0.164)
Total Indirect Effect	0.128**	(0.052)	0.073	(0.081)
Indirect via Pretrial Det.	0.128**	(0.052)	0.073	(0.081)
<i>Decision to Incarcerate</i>				
Jail				
Total Effect	0.207*	(0.088)	-0.046	(0.158)
Direct Effect	0.063	(0.076)	-0.093	(0.131)
Total Indirect Effect	0.144*	(0.063)	0.047	(0.108)
Indirect via Pretrial Det.	0.181**	(0.068)	0.104	(0.108)
Indirect via Felony Adj.	-0.002	(0.023)	-0.037	(0.044)
Indirect via Pretrial Det. & Felony Adj.	-0.035	(0.024)	-0.020	(0.020)
Prison				
Total Effect	0.883*	(0.418)	0.970	(0.768)
Direct Effect	0.093	(0.120)	0.074	(0.192)
Total Indirect Effect	0.790*	(0.400)	0.896	(0.755)
Indirect via Pretrial Det.	0.331**	(0.110)	0.190	(0.203)
Indirect via Felony Adj.	0.028	(0.285)	0.459	(0.554)
Indirect via Pretrial Det. & Felony Adj.	0.431*	(0.190)	0.247	(0.275)
<i>Sentence Length</i>				
Total Effect	0.245*	(0.120)	-0.126	(0.213)
Direct Effect	0.060	(0.107)	-0.189	(0.197)
Total Indirect Effect	0.186*	(0.077)	0.063	(0.151)
Indirect via Pretrial Det.	0.231**	(0.084)	0.132	(0.141)
Indirect via Felony Adj.	-0.003	(0.027)	-0.045	(0.057)
Indirect via Pretrial Det. & Felony Adj.	-0.042	(0.038)	-0.024	(0.024)

Note. Pretrial Det. = Pretrial Detention. Felony Adj. = Felony Adjudication. For ease of presentation, all control variable coefficients are not presented, but are available upon request. Robust standard errors are clustered by county. Cases that were dismissed/acquitted were removed from the adjudication and sentencing decision stages because they are not subject to any sentence; this path analysis does not include those who have not received any sentences. The sample sizes are significantly reduced due to the missing data problem.

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

Figure 1. The Direct and Indirect Pathways of Race/Ethnicity on the Decision to Incarcerate for Black Females

Note: Estimates of indirect and direct paths are available in Table 6.
 All control variables were used in the gsem model; coefficients are available upon request.

Figure 2. The Direct and Indirect Pathways of Race/Ethnicity on Sentence Length for Black Females

Note: Estimates of indirect and direct paths are available in Table 7.
All control variables were used in the gsem model; coefficients are available upon request.

APPENDIX A

COUNTY, STATE, AND FREQUENCY

County	State	Frequency	County	State	Frequency
Jefferson	AL	304	Middlesex	MA	108
Maricopa	AZ	901	Suffolk	MA	180
Pima	AZ	646	Macomb	MI	123
Alameda	CA	426	Oakland	MI	136
Contra Costa	CA	160	Wayne	MI	451
Los Angeles	CA	1,874	Jackson	MO	204
Orange	CA	717	St Louis	MO	395
Riverside	CA	349	Essex	NJ	449
Sacramento	CA	326	Middlesex	NJ	180
San Bernardino	CA	689	Bronx	NY	652
San Diego	CA	305	Erie	NY	115
San Francisco	CA	199	Kings	NY	611
San Mateo	CA	81	Monroe	NY	142
Santa Clara	CA	497	Nassau	NY	164
Ventura	CA	209	New York	NY	505
Hartford	CT	160	Queens	NY	270
New Haven	CT	54	Suffolk	NY	230
Washington	DC	26	Westchester	NY	159
Broward	FL	608	Wake	NC	169
Dade	FL	866	Cuyahoga	OH	171
Duval	FL	65	Franklin	OH	141
Hillsborough	FL	612	Hamilton	OH	357
Orange	FL	458	Allegheny	PA	79
Palm Beach	FL	192	Montgomery	PA	93
Pinellas	FL	339	Philadelphia	PA	603
Fulton	GA	279	Shelby	TN	515
Honolulu	HI	209	Dallas	TX	508
Cook	IL	1,073	El Paso	TX	299
DuPage	IL	98	Harris	TX	992
Marion	IN	798	Tarrant	TX	496
Jefferson	KY	48	Travis	TX	131
Baltimore (County)	MD	367	Salt Lake	UT	310
Montgomery	MD	280	Fairfax	VA	354
Prince George	MD	92	King	WA	285
Baltimore (City)	MD	264	Milwaukee	WI	308
Essex	MA	65			

APPENDIX B
YEAR AND FREQUENCY

Year	Frequency
1990	1,913
1992	1,888
1994	2,130
1996	2,527
1998	2,879
2000	2,827
2002	2,746
2004	2,863
2006	2,821
2009	2,927