

INTERSECTION OF RACE AND SEX AND ITS EFFECTS ON SENTENCING LENGTH: A PILOT STUDY

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ABSTRACT

Sociological literature has repeatedly documented racial disparities in incarceration, with Black males incarcerated disproportionately compared to their white counterparts. The “Chivalry hypothesis” asserts that women are sentenced less severely and less frequently than men for the same crimes. However, while most sociologists recognize intersectionality, little research exists in examining the intersection of racial identity and sex in the context of the criminal justice system, which work together to grant or deny privilege in various ways in the courtroom. Using a mixed method approach this study seeks to move towards an intersectional understanding of sentence length disparities. Quantitative investigation included a Factorial ANOVA on data from the United States Sentencing Commission’s 2019 fiscal year on white men, Black men, white women, and Black women sentenced for drug possession. Qualitative follow up involved interviews with two lawyers and a judge practicing in the state of Pennsylvania. Results indicate there was no significant effect of the intersection of race and sex on sentencing disparities for drug possession. However, there was a significant effect for robbery offenders when using an intersectional lens. Qualitative interviews support the existence of sentencing disparities on the basis of intersectionality for specific crimes, and lends further guidance to understanding quantitative findings.

INTRODUCTION

Although the core value and belief of the criminal justice system is that “justice is blind,” research and data suggest otherwise. Disparities in criminal justice sentencing across the United States is a widely studied sociological phenomenon. Most often these disparities are understood through analyzing the differences in sentencing between the individual characteristics of racial identity. Empirical research has shown that people who are Black are incarcerated disproportionately than people who are white (Bobo & Thompson 2006). The racial typification of crime (Chiricos et al. 2004) is one way that allows us to understand how one’s racial identity is implicitly associated with certain types of crimes based on negative and harmful racial stereotypes. The assumption that certain types of crimes are “Black crimes” is a part of implicit *de facto* racial biases, and further inflates this assumption of racialized crimes, ultimately contributing to the disparity between white and Black individuals who are sentenced

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to prison. This process of implicit thinking is present at all layers of the criminal justice system. Multiple studies have reached a similar conclusion about the impact of race on criminal sentencing (Shannon et al. 2017; Mauer 2010; Mustard 2001; King et al. 2010; Lu 2007; Daly & Tonry 1997; Sorenson et al. 2012), concluding that on average Black individuals are sentenced more than white individuals, and are often given longer sentences on average as well. However, almost none of these studies take into account the influence of sex in conjunction with racial identity on the extent of the punishment for committing said crimes. These studies fail to take into consideration that there are characteristics beyond race that could be influencing the outcome of individuals in the criminal justice system.

Less commonly compared, but still studied, is the Chivalry hypothesis. The Chivalry hypothesis suggests that on the basis of sex, women will most often receive less severe criminal sentences than their male counterparts for the same crimes (Zhao & Rogalin 2017; Rodriguez et al. 2006; Daly & Tonry 1997; Sorenson et al. 2012). While not itself a theory, the Chivalry hypothesis lends focused insight into an occurring phenomenon of gendered incarceration. Although women have been historically discriminated against through various social institutions, it would not be expected that their identity as a woman in society would grant them the upper hand in the criminal justice system. How criminal behavior came to be gendered may help explain this phenomenon. The Chivalry hypothesis falls squarely within the paradigm of feminist theory and asserts that women are essentially stereotyped. Gendered assumptions about their maturity, capabilities, and so on, are used to explain away their criminal behaviors. As a result of these stereotypes implicitly being used in the criminal justice system, female offenders will be given preferential treatment by all parties involved in the criminal sentencing process (Rodriguez et al. 2006:320). Similar to the racial typification of crime, criminal behavior is also gendered; the assumption exists that women are not as capable as men are of committing certain types of crimes and are somehow less responsible, or should be punished less harshly as a result of their sex. The essential question is whether it was a "heinous crime or an unfortunate incident," as posed through Zhao and Rogalin's work (2017). Nonetheless, current research focusing on the Chivalry hypothesis does not take into consideration the impact race may have on these sentences; the outcome of a white woman versus a Black woman being sentenced for the same crime may differ because of the race of the individual being tried. Gendered assumptions work in conjunction with racial stereotypes and the implicit perceptions of white women versus Black women are wildly different within American society (Donovan 2011; Lewis & Neville 2015). Racial identity plays a role in the courtroom - and the criminal justice system as a whole - and can work in relation to sex to create disparities among those sentenced in more profound ways than originally imagined.

Individual characteristics do not exist in a vacuum. Rather, each characteristic is part of an intersecting identity that works together to either grant or deny privilege within the social institutions created by those in power. This concept is recognized as intersectionality theory (Crenshaw 1989), which assists in understanding the effects of being marginalized on the basis of sex and race in the criminal justice system and, ultimately, helps us to determine how the combination of those identities impact disparities in incarceration. This is a multi-layered issue that requires a multi-layered approach, and Crenshaw's framework allows for proper exploration. Individuals have overlapping identities that impact their treatment and

experiences through various social institutions. Previous feminist discourse failed to address gendered issues from a non-white perspective, which is why an intersectional lens to examine these disparities in the criminal justice system is necessary. Historically, it is impossible to deny both the social and structural privileges denied to women and people of color, which leads to a hierarchy of privilege based on those identities. As Crenshaw applies her theory of intersectionality to understanding incarceration of Black women, she discusses how individual identities are not “irrelevant or wholly transparent” throughout social processes. Instead, they are all connected, and individually create advantages and disadvantages that influence social power (Crenshaw 2012:1441). Again, since it is possible to be marginalized both on the basis of race and sex, it is important to recognize how racial discrimination and sex discrimination work in conjunction with each other through systematic structures. Not every man or woman’s experience is the same because they share the same biological sex; intersectionality theory acknowledges the differences and variety in identities that create experiences that are specific to individual people. Systemic structures are not the only parts contributing to the disparities in incarcerated individuals, as they are covertly penetrated by beliefs of socially constructed, universally recognized, and toxic stereotypes of Black women. Often understood as “immoral and irresponsible”, the facets of a woman of color’s identity as both being a woman and being Black is used to continue the vilification of people with these intersecting, oppressed identities (Lewis & Neville 2015). Thus, the Chivalry hypothesis is anticipated to not work in the favor of women of color, who have been stereotyped and disadvantaged both systemically and culturally. Crenshaw’s lens allows for deeper inspection of the Chivalry hypothesis by using previously established literature on racial disparities in the criminal justice system to no longer see sex disparities in sentencing as dichotomous. Intersectionality theory takes into consideration the impact that all aspects of one’s identity has on their placement and treatment within society, and, especially in this case, within the criminal justice system.

More specifically, preexisting studies and their findings will be the baseline for understanding these concepts when it comes to looking at the impact of race and sex on drug offenders’ sentences across the United States. As positioned through Rodriguez, Curry, and Lee’s (2006) work, women are less likely to be sentenced, or receive significantly shorter sentences, for drug crimes, but they failed to examine this phenomenon among racial lines. As is widely known, drug policies are already inherently rooted in racism and the war on drugs has continually targeted oppressed racial groups (Bobo & Thompson 2006; Mauer 2010), often resulting in long term systemic effects on low income, minority communities. The war on drugs primarily targeted Black men creating a link between drug use and “violent” mental illness stigma, making mass imprisonment for drug use a quick, discriminatory process to affect Black communities. According to the Federal Bureau of Prisons, 38.2% of the inmate population is made up of people who are Black, and males constitute 93.2% (Federal Bureau of Prisons 2021). In comparison to both their total populations, both Black individuals and men are disproportionately represented within the prison system (Bobo & Thompson 2006:451). Women and people of color are both marginalized in American society, and yet the drastic differences in their representation of prison populations poses questions about how bias works within this social system. As a result of these fast-changing drug policies, it has ultimately increased the female to male imprisonment ratio as well (Harmon & O’Brien 2011). However, it

is likely this increase in female imprisonment has not been consistent across racial groups, and research is beginning to show the fastest growing imprisoned group is Black female offenders (Harmon & O'Brien 2011:658). It is important to acknowledge that changes in policies are the reason for these rapid increases in incarceration rates and the disproportionate populations represented within them. Anti-drug policies have not done this same thing to white populations, but there has been no case made on whether or not sex and race has a joint, influencing effect on incarceration for drug related crimes. Both race and sex matter; how they intersect to create an independent identity and a complex perception of said identity reveals new ways of advantage and disadvantage for each individual.

An attempt was made to understand both race and sex in the criminal justice system in a study by Sorenson, Sarnikar, and Oaxaca (2012), where they established the gendered circumstance that gives white women less severity in sentencing. They found that compared to sentences for white women, white men and Black men were sentenced around double the amount of time for the crimes they committed. They also establish the racial differences in severity of sentencing between men, with Black men receiving more severe sentences than their white counterparts. However, Sorenson, Sarnikar, and Oaxaca ultimately make no conclusions regarding women of color and the overlap of these identities for Black women and sentencing. Crenshaw describes Black women as being “theoretically erased” (1989:139). The exclusion of Black women, and other women of color, from examining a double bind system that may both privilege and oppress them does not allow us to fully understand the extent of bias influence on the criminal justice system and the experiences of those within it. Thus, the previously posed question remains. This study will examine the impact of racial identity on disparities in incarceration length and the Chivalry hypothesis through an intersectional lens. Sentencing for drug possession is hypothesized to be impacted by the intersection of racial and sex identities, and thus white women, white men, Black women, and Black men will be sentenced least to most often, respectively.

METHODS

To understand the complex relationship between sex and racial identities on the disparities in incarceration for drug related charges for white women, white men, Black women and Black men, a mixed method approach was used. Using both quantitative and qualitative components in this research strengthens the results garnered in each component. Quantitative results can only display the existence of problems in the criminal justice system, while qualitative results can fill in the gaps and provide further explanation. Qualitative methods can also capture the experiences of individuals who have worked in the field of criminal justice, thus providing context to available data. Quantitative data was taken from the United States Sentencing Commission’s (USSC) 2019 fiscal year. These data provide a wide range of variables on individuals sentenced in federal courts. This data set was chosen specifically for its ability to distinguish the race and sex of the offender, allowing us to analyze both race and sex within the sample. Youth and adolescent offenders were excluded from analysis. Although there are parallel trends in sentencing disparities among juvenile offenders compared to adult offenders, this data set collects information on offenders categorized as legal adults, therefore this research can only contribute a better understanding of incarceration for adult offenders. The

hypothesis was tested quantitatively using Factorial ANOVA, which allows us to understand the relationship between these variables and each individual offender's length of incarceration, as well as the interconnecting trends when accounting for both racial identity and sex. Factorial ANOVA accomplishes this by comparing means dependent on the independent variables, in this case those independent variables being the intersection of race and sex. Although there are several statistical methods appropriate for this investigation, Factorial ANOVA was chosen because it best fits the parameters of the data. Factorial ANOVA is appropriate when independent variables under investigation are categorical in nature. To understand the differences of intersecting race and sex identities on length of time incarcerated, a Factorial ANOVA analysis must be used to more thoroughly answer the question posed. The limitations of the available data include the inability to look beyond sentence length for crimes outside of federal courts. Additionally, while the data is categorized by primary crime type, it is unable to distinguish of any other possible crimes that may be influencing sentence length. However, by examining nationally acquired data, trends that are not region specific and presume to be generalizable are hoped to be discovered.

Quantitative analysis will specifically focus on white women, white men, Black women, and Black men sentenced for drug possession. While the quantitative data examines the sex of each offender in relation to their racial identification, this research is establishing that the Chivalry hypothesis exists due to historically perpetuated, societally recognized gender norms and stereotypes attributed to the sexes; this is not an attempt to conflate sex and gender. Similar to other research, sentencing is defined as having two separate parts - incarceration, and the length of those being incarcerated. Severity, in this case, refers to the length of time sentenced in months. From here, the USSC's 2019 fiscal year data will be used to determine the effects of the intersection of the race and sex on the length of incarceration for drug possession.

Quantitative - Dependent Variable

As the hypothesis is looking to determine the impact of race and sex on sentencing severity, the dependent variable was selected from the USSC's 2019 fiscal year sentencing data, and indicates the total prison sentence in months, plus alternatives (home detention, community confinement, intermittent confinement) with zeros for probation. Sentences larger than 470 months are capped at 469.99, and life sentences are given the value 470. After eliminating cases that were not primarily drug possession crimes, a Factorial ANOVA was run through SPSS testing the effect of the INTERSECTION variable (IV) on the sentencing variable (DV).

Quantitative - Independent Variables

Independent variables were taken from the USSC's 2019 fiscal year data; the sex of the offender, the race of the offender, and the primary type of crime per individual case. First, all cases originally coded as primarily drug possession (9 = drug possession) were recoded (1 = drug possession), and then all other cases (1-8, 10-30) were coded as missing. Missing cases were deleted to focus the analysis specifically on drug possession offenders and their sentences. The sex of the offender was then recoded from (0 = male, 1 = female) into (1 =

female, 2 = male), creating a new SEX variable. Similarly, the race of the offender was also recoded from (1 = White, 2 = Black, 3 = Hispanic, and 6 = other) into (3 = White, 4 = Black, and 3, 6 = system missing), creating a new RACE variable. The reason for doing this is to align the coding of the variables with the hypothesis, associating higher values to the sex and racial categories presumed to be sentenced more often and more severely, and giving lower values to those identities presumed to be sentenced less often and less severely. By categorizing Hispanic and other racial identities as system missing, they will not be included in the Factorial ANOVA as they are not relevant to the hypothesis. Reducing race to simply Black and white identities is not the intention of this research and the inclusion of other racial or ethnic identities will be important for future research in this area. Lastly, the creation of the intersection variable was done by combining both the new sex and race variables, and coding them to assign numerical values to the intersecting identities that correspond with the presumed hierarchy of sentence severity (3 = white female, 4 = white male, 6 = Black female, and 8 = Black male). Any case in which the intersection variable was categorized as missing, assuming because the racial category was not a part of the sample, was then deleted, with a final sample size of (n = 268). The breakdown of drug possession offenders' race and sex intersection along with additional descriptive statistics is shown in Table 1.

TABLE 1 – Descriptive Statistics for the Intersection of Drug Possession Offenders

<i>INTERSECTION Label</i>	<i>Mean</i>	<i>Std. Deviation</i>	<i>N</i>
White female	.8839	3.32916	61
White male	1.3009	4.717938	107
Black female	.0344	.12193	16
Black male	2.1617	5.46503	83
Total	1.3973	4.36196	267

Qualitative

A qualitative component consisting of three separate interviews with two federal public defenders and a magisterial judge from Pennsylvania who have experience working within the criminal justice system was conducted. The reason for this mixed method approach is to not solely rely on data; rather, to gauge the perception of those “in the trenches” to see if perception and experience match the reality of the statistical results attained. While quantitative results can provide mean averages of sentencing disparities on account of race and sex, qualitative follow up further dives into why these disparities are happening, and how they are continuing to play out in the criminal justice system. Touching on the experiences of individuals with constant exposure to the facets of the criminal justice process allows for a deeper understanding of sentence length disparities. This includes participants understanding of implicit biases and social stigmas present within this system, as well as knowledge of sentencing patterns noticed throughout their careers. The quantitative results provide the basic answers, while qualitative results provide reasons and explanation.

Convenience sampling is recognized as a possible limitation, as those who practice law in Pennsylvania may have different experiences about how these racial and sex-based

disparities exist than those in other areas of the country. Although the participants are a sample of convenience, each interviewee is an expert on issues of criminal justice and sentencing disparities. Each interview was conducted through a video conference, which was recorded and then transcribed. For all three participants, the same set of nine questions guided each interview. Interview questions can be found in Appendix A. Interview questions were created to understand the participants' knowledge and perception of both racial and gendered disparities in the criminal justice system, as well as how they might work together. Some questions focused on these disparities in instances of drug possession crimes.

RESULTS

Results of the Factorial ANOVA for the effects of the INTERSECTION variable on the length of time served for drug possession offenders were tested at ($p < .05$), and the results were not statistically significant (see Table 2). The intersection of race and sex variable showed no significant difference on the length of time served for drug possession for white women, Black women, white men, and Black men tried in federal courts.

TABLE 2 - Test of Between Subject Effects

Dependent Variable: SENSPCAP							
<i>Source</i>	<i>Type III Sum of Squares</i>	<i>df</i>	<i>Mean Square</i>	<i>F</i>	<i>Sig.</i>	<i>Partial Eta Squared</i>	
Corrected Model	95.287	3	31.762	1.682	.171	.019	
Intercept	191.375	1	191.375	10.136	.002	.037	
INTERSECTION_FINAL	95.287	3	31.762	1.682	.171	.019	
Error	4965.811	263	18.881				
Total	5582.432	267					
Corrected Total	5061.098	266					

a. R Squared = .019 (Adjusted R Squared = .008)

This is a direct contrast to previous research on both racial disparities in the criminal justice system and the Chivalry hypothesis established. As previously discussed, this deviates from juvenile patterns of sentencing disparities, making the insignificant results outside the norm. This is assumed to be due to the lack of seriousness of the crime; the USSC collects data on federal offenders, and drug possession, while still federally illegal, is less taboo and widely viewed as less serious than other crime types. As a result of this, an additional Factorial ANOVA was conducted for the effects of the INTERSECTION variable on the length of time served; in this case the data set examined people who committed robbery, eliminating all other cases and those with missing INTERSECTION variables with a sample of ($n = 1491$). Robbery was chosen due to the more serious nature of the offense in comparison to drug possession, with the anticipation that the more serious the crime, the more prominent sentence length disparities would appear. Descriptive statistics regarding the intersection of race and sex for robbery offenders is shown in Table 3.

TABLE 3 – Descriptive Statistics for the Intersection of Robbery Offenders

<i>INTERSECTION Label</i>	<i>Mean</i>	<i>Std. Deviation</i>	<i>N</i>
White female	43.2506	40.23516	33
White male	97.3548	71.72481	362
Black female	64.4245	555.75970	66
Black male	122.1646	88.76772	1030
Total	111.8386	84.77642	1491

When running the analysis for another crime, any cases that were not primarily robbery offenses were eliminated from the dependent variable, and another Factorial ANOVA was run to test the same independent variables on the dependent sentencing variable for robbery. In the case of robbery offenders, results show a significant effect ($p < .001$) of the intersection of race and sex on length of time served (see Table 4). There were significant differences in length of time served between both white women and Black women, white men and Black men, and women and men regardless of racial background.

TABLE 4 - Tests of Between-Subject Effects

Dependent Variable: SENSPCAP						
<i>Source</i>	<i>Type III Sum of Squares</i>	<i>df</i>	<i>Mean Square</i>	<i>F</i>	<i>Sig.</i>	<i>Partial Eta Squared</i>
Corrected Model	489383.11	3	163127.705	23.737	<.001	.046
Intercept	2176478.28	1	2176478.28	316.698	<.001	.176
INTERSECTION_FINAL	489383.115	3	163127.705	23.737	<.001	.046
Error	10219262.8	1487	6872.403			
Total	29357872.0	1491				
Corrected Total	10708645.9	1490				

a. R Squared = .046 (Adjusted R Squared = .044)

Responses from participants were viewed as an extension of the frameworks used. Their experiences and expertise in law and criminal justice were used to lend further support to the hypothesis and quantitative results, while providing an additional yet necessary lens into sentencing disparities in the criminal justice system. Participant responses generated a consensus surrounding the existence of both racial and sex based disparities in sentencing, as well as support for the intersection of the two. Participant #1, a federal public defender, demonstrated the intersectionality of both race and sex when regarding women and their sentence:

If they're absolutely, equally, factually situated, Black women will get sentenced more harshly [than white women] because of the cultural baggage.

The cultural baggage mentioned here is referring to the stereotypes and systemic oppression of Black individuals throughout America; the Chivalry hypothesis asserts that women will be sentenced less severely than men, but not all women are white. Stigma surrounding Black women's identities was discussed by this participant, as people assume these women are familiar or "used to" the criminal behavior due to their racial identity. Participant #1 echoes Crenshaw's theoretical framework here, as race and sex do not exist in a vacuum but rather work together to create individual experiences for specific identities and influence perceptions about those identities. A similar narrative emerged through responses from participant #2, who is also a federal public defender:

I think it's again, an overt bias, that a lot of people believe that females, and particularly white females, are more innocent... [judges] may look at a female and find her to be attractive, innocent, things of that nature.

Responses show support for all frameworks being used in this research; the ability to distinguish differences in criminal justice outcomes between women of different racial backgrounds indicates the necessity of using an intersectional lens to understand sentencing disparities. The Chivalry hypothesis, while not a theory, is well supported in participant responses and should be explored further through future research.

When prompted with questions regarding sentencing disparities along the lines of race and sex among those being sentenced for drug possession, participant responses are consistent with quantitative findings. Participant #3, a magisterial judge, stated:

I would say that... there are more people of color being arrested for those [drug] crimes, and so it's only a matter of time. You build up a record pretty quickly, and then you end up going to jail for stuff like that - you know, the first time you get caught with possession you're not going to go to jail, but the sixth or the seventh time and statistically speaking, you know, I think more people of color are getting arrested for that stuff.

Participant #1 provided a similar response:

I think where the disparities are at now [for drug possession] is who actually gets arrested, what they get charged with, and how far they have to go in the court system... more of the minority folks are going to get to the day of sentencing.

Qualitative results are consistent with the frameworks used to reach these answers. While no significant findings were apparent for drug possession offenders, there were significant findings for robbery offenders. Qualitative responses help to fill in gaps pertaining to the hypothesis and lend further explanation regarding the differences in quantitative findings. Participants asserted with certainty the drastic difference in sentence length outcomes between men and women, as well as between white and Black individuals. When asked to conceptualize both of these disparities as occurring simultaneously, participants agreed there

were obvious differences in sentencing outcomes along the lines of both race and sex. Additionally, when trying to examine how these disparities exist, participants each articulated that the current trends in drug criminalization is moving away from incarceration and more towards rehabilitation. They also indicated increased encounters with police as a reason for disparities in who is getting sentenced for these crimes, rather than how long these individuals are serving, when specifically discussing drug possession offenders.

When discussing sentencing in a broader sense, especially in regards to more serious crimes, the effects of the Chivalry hypothesis and racial disparities working together emerge in participant responses. Gender norms about women penetrating the courtroom were discussed by all three interviewees, and how those gender norms vary between racial groups were distinct, ultimately affecting the sentence of individuals charged with more serious crime types.

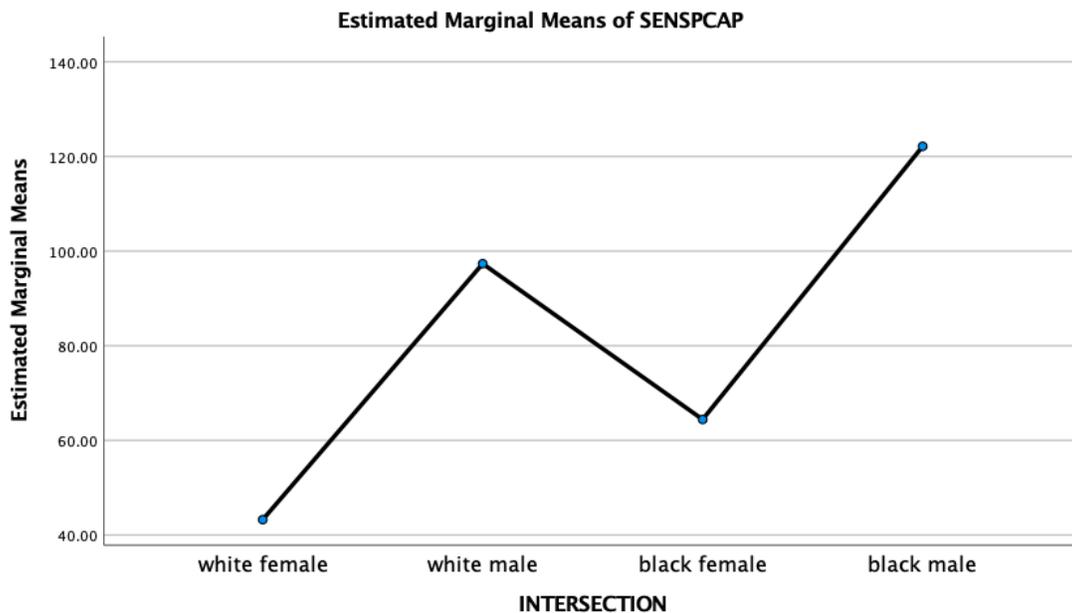
ANALYSIS

Initial quantitative findings on drug possession offenders does not show a disparity in sentencing length between white women, Black women, white men and Black men. Responses from the qualitative interviews agree that the racial and sex demographics that make up the overall demographics of drug offenders is dependent upon police contact and the increased likelihood of people of color, particularly Black men, in heavily policed, low-income neighborhoods. Sentence length for drug possession is not particularly dependent upon race and sex, but rather sentencing rates are due to the differences in police contact between these groups, with more arrests or police contact simply leading to more incarcerated individuals, primarily for Black individuals as discussed by previous research. The rate at which these groups are being sentenced refers to the how often Black or white individuals are being arrested and sentenced for a specific crime, whereas the severity of sentencing is contingent upon the amount of time they are sentenced to incarceration. Sentencing rates, as opposed to sentencing length, is where the disparity seems to lie for this specific crime type; although two different issues, these findings lend a key insight into where disparities are continuing to exist.

FIGURE 1 – The Intersection of Sex and Race Disparity for Robbery Offenders

Other responses from participants are consistent with the additional quantitative findings regarding the sentence length disparities present for those who committed robbery on the basis of race and sex. To see this disparity emerge with a more serious crime type in comparison to drug possession, it is assumed that these sentencing disparities between white women, Black women, white men and Black men may be crime dependent. As drug possession is becoming regarded as a less serious crime culturally, it could also be beginning to be viewed that way in the courtroom. The influence of race and sex on sentencing disparities for robbery offenders but not for drug possession offenders allows future research to more closely examine where the disparities continue to lie in the criminal justice system. Participants mentioned culturally categorizing Black individuals, specifically Black men, as “dangerous criminals”, which helps to explain the significant disparities existing for robbery offenders as opposed to drug possession offenders. Thus, further assumption is made that the more serious or violent the crime, the more pronounced these sentencing disparities will become when looking at the intersection of racial identity and sex on sentencing length.

FIGURE 1 – The Intersection of Sex and Race Disparity for Robbery Offenders



Both quantitative and qualitative results lend further support to theoretical frameworks used to form the hypothesis, especially for the understudied Chivalry hypothesis. On average, women regardless of any race are being sentenced to significantly less jail time than their male counterparts for robbery (see Figure 1). This exists within racial categories as well, with a similar average difference in time served between white women and White men, and Black women and Black men. Racial disparities are present both between and within sex categories as well, with an average difference of 20 months served for robbery between white women and Black women, and a slightly longer difference between white men and Black men. These findings present more evidence of how race-based disparities in incarceration exist within the criminal justice system, and even with this research lending support to the Chivalry hypothesis, Black women are still receiving longer sentences than white women for the same crime. Participant responses support these phenomena. This research is only looking at the binary sex categories each offender was assigned to, while qualitative findings lean into a necessary dependence on the function of cultural narratives surrounding typical gender roles and norms for women as an explanation. Interview findings often mentioned women as being the more “docile” sex, less culpable for their crimes unless they violate gendered expectations (i.e. crimes involving the harm or killing of children).

Participant responses give insight to the grey areas of quantitative findings. They put emphasis on sex as a major influencer in determining how much time someone will serve for any given crime, with women often serving significantly less than men. They acknowledged that race and sex are intersecting, and work together to determine an individual’s sentencing outcome in the criminal justice system. Multiple responses demonstrated that Black communities have more police contact, and that Black men receive the longest sentences in comparison to any other identity makeup. As one participant mentioned, the equally situated

scenarios between white and Black women will produce different results regarding sentencing, especially for crimes regarded as more serious in nature. Other responses indicate the impact police contact has on drug possession offenders, specifically, as the disparities of the intersection of race and sex lie within the demographics of who is getting arrested and making it to the day of sentencing. Ultimately, all three participants acknowledge that race and sex are factors that determine the severity of one's sentence, significantly more so for more serious crimes. Quantitative data suggests sentencing disparities may be dependent on what crime has been committed, with disparities emerging for more serious or violent crime types.

DISCUSSION

Results suggest the intersection of race and sex on sentencing disparities in the criminal justice system may be crime dependent. While no significant results were found for sentence length differences for drug possession offenders, this does not assert there are no race and sex based disparities in other layers of the criminal justice system for those charged with drug possession. Previous research has also addressed the higher likelihood of Black individuals being incarcerated than their white counterparts for the same crime (Mauer 2010; Mustard 2001). This may exist due to increased contact with the police, and results in disproportionate incarceration of people of color relative to their entire population (Shannon et al. 2017). While there may not be disparate sentence lengths for drug possession, future research should address the sample sizes within the race and sex categories relative to this crime type. Secondly, the disparities in sentencing length attributed to the intersection of race and sex emerged when an additional analysis was run for a more serious crime type - robbery. The effects of the intersection variable may become statistically significant for specific crimes; thus, it is assumed that the more serious or violent the crime, the disparities will continue to emerge and possibly become more disproportionate. Again, additional quantitative findings for robbery offenders allows for future research to more thoroughly examine where the impact of the intersection of race and sex on sentencing length may prominently exist within the criminal justice system. For robbery offenders, white women, Black women, white men, and Black men were sentenced least to most severely. This severity "hierarchy" is believed to persist in the same pattern regardless of crime type, however the actual length of time between each identity category could vary. This is evidenced by the fact that a similar pattern could be seen for drug possession, although results were not statistically significant. Since disparities did emerge in a way consistent with previous research studying race and sex separately, this research lends continued support to those findings.

To find no significant sentence length disparities for drug possession offenders was somewhat supported through all qualitative findings. Participants' knowledge and experience with the criminal justice system was used as an extension of the hypothesis and to help guide predictions for results. Responses provided an explanation for the insignificant quantitative results for drug possession offenders. Again, it is a further indicator that the presence of race and sex disparities exist in various parts of the criminal justice system. For individuals who were sentenced for drug possession, the disparities lie along the intersection of race and sex with initial police contact and the individuals actually reaching the day of sentencing. These findings

lend an understanding to the intersection of race and sex, and the assumptions that follow those intersecting identities, within the criminal justice system.

The Chivalry hypothesis was relevant when looking at the disparities between men and women for average time served, regardless of race (Figure 1). This is especially significant because sex disparities in sentencing remains understudied, even more so when also accounting for racial identity. Remembering to not conflate sex with gender is essential to deconstructing what these results are indicating. With the help of supporting research and interview responses, the Chivalry hypothesis emerging in significant findings can be understood through the gender norms culturally attributed to each sex. It is less about the legitimate, biological sex of each offender, but rather the constructed societal meaning and expectations surrounding what it means to be male or female (Zhao & Rogalin 2017). These cultural expectations surrounding identities are especially relevant when looking at the intersection of race and sex for each offender. Living in a patriarchal society has limited the criminal justice system's ability to view women as culpable for their crimes. Female offenders were described as "docile", "protectors of children", and "innocent" by interview participants, consistent with patriarchal understandings of women and their assumed placement within society. When society is already viewing women as not fully capable of anything beyond passivity, that assumption hinders the criminal justice system's ability to adequately sentence them for their crimes. This research is not demanding longer sentences for women; it is simply scratching the surface of deeply ingrained, institutional gender bias that happens to benefit the outcome of female offenders in comparison to their male counterparts.

Figure 1 also demonstrates racial disparities for average time served for robbery offenders, present within both sexes. There is, on average, a twenty-month difference in sentence length between white women and Black women, as well as white men and Black men, with offenders of color receiving more months for the same crime. Previous research supports the existence of these disparities within the criminal justice system and attributes them to the implicit racial biases that have penetrated social institutions born from the War on Drugs (Bobo & Thompson 2006). Culturally understood stereotypes about racial groups lends an explanation to this finding (Chiricos et al 2004). Participants discussed how Black offenders, particularly Black male offenders, are typically associated with dangerous crime and criminal activity, and that is an implicit factor that determines sentencing outcome. The previously discussed issue of increased police contact in low income, predominantly Black communities can fuel these stereotypes by "catching" more offenders in that racial demographic and entangling them in the criminal justice system. Black individuals have a significantly higher chance of being arrested and incarcerated than white individuals, bringing them back into the system more than once, and increasing their likelihood of being sentenced more punitively due to the assumption that Black people, especially men, are inherently criminal. Additionally, when looking at race and sex as separate variables and accounting for previous police encounters, previous research still found disparities in sentencing to exist (Daly & Tonry 1997). While quantitative methods in this research did not account for previous encounters with the criminal justice system as an influencing factor on sentence length, findings display multifaceted forces previously established as driving the racial disparities in the criminal justice system. Future research should investigate this further.

The most interesting intersection of race and sex identities is Black women's place in this scale of sentencing severity. Aforementioned research provides an understanding of racial disparities in the criminal justice system and asserts Black offenders are sentenced more often and more harshly than white offenders. The Chivalry hypothesis demonstrates that women are sentenced less often and less severely than male offenders. Positive results for robbery offenders show both of these phenomena to be occurring, but Black women's identities position these frameworks at odds with one another. Crenshaw's (1989) lens allows us to view them simultaneously rather than oppositional, and thus demonstrate the necessity of using an intersectional lens to study criminal justice disparities. As interview participants discussed the gender-based assumptions about women's culpability in the courtroom, they indicated that particularly white women were viewed as more innocent, and were the least likely to receive a longer sentence than any other race and sex identity make up in the sample. Participants provided reasonings as to why this is, demonstrating that although Black women are still viewed as less culpable than their male counterparts, they were also perceived as less innocent than white women. Black individuals and associations with their engagement with criminal behavior still falls on the backs on Black female offenders. Additionally, the perception of Black women in society differs from the perceptions of white women, often viewing them as more domineering in general (Donovan 2011). The patriarchy and racial stereotypes have merged; the criminal justice system still views Black women as less responsible, but yet they hold on to the cultural baggage that assumes they are still more inclined to commit crime. The intersection of these race-based and gender-based cultural narratives allows us to understand why the twenty-month average difference between white women and Black women who committed robbery may be occurring.

Essentially, the hypothesis is partially supported; both quantitative and qualitative results continue to support racial disparities in the criminal justice system, the Chivalry hypothesis, and the necessity of looking at the criminal justice system through an intersectional lens. Interview responses provided understanding around societal assumptions around sex and gender, as well as racial biases within the criminal justice system. While significant results were obtained for the intersection of race and sex on sentencing length for robbery, this did not occur for drug possession, indicating that sentencing disparities may be crime dependent. The sentencing severity scale assumed to exist for intersecting race and sex identities, through the use of the aforementioned theoretical frameworks, was partially upheld; the position of white men and Black women was switched from the original ordering. It was assumed that in spite of the Chivalry hypothesis, the cultural baggage associating Black individuals with criminal behavior would trump the patriarchal notions that women are incapable of engaging in criminal behavior, thus Black women would serve slightly more time on average than white men for the same crime. This did not prove to be true. Nonetheless, Black women's average sentence length in comparison to white men's for robbery was found to only strengthen the theoretical frameworks that led to these findings.

Overall, the intersection of race and sex does appear to affect sentencing length and appears to be crime specific. The use of an intersectional lens has allowed us to better understand implicit race and gender stereotypes based on sex present within the criminal justice system and how those biases impact the outcome of an individual's sentence for a given

crime. The possibility of crime dependency allows for further investigation into where the intersectional disparities occur and how implicit biases are continuing to fuel said disparities for specific crime types. Limitations in this research include the federal data acquired from the USSC on insignificant results for drug possession offenders, as it is crime data reported only from federal courts. Drug possession is considered a minor crime, and perhaps local or state data would better exhibit the disparities not present in these findings for drug possession offenders going through federal court systems. Additionally, problems with generalizability may arise when trying to compare these disparities in more rural areas, as the majority of these crime types are most likely occurring in urban areas. Prior offenses or prior contact with law enforcement were not accounted for, which may increase the length of time served for any offense committed by any individual. Future research should address other racial or ethnic identities intersection with sex on sentence length disparities as a way to further understanding of these theoretical frameworks and the impact of Crenshaw's (1989) intersectionality theory. Additionally, socioeconomic status should also be addressed in conjunction with race and sex. It has been argued by Black feminists that to examine any issue without a lens consisting of race, class, and gender is an incomplete understanding of inequality (Daly & Tonry 1997:238-239). It is important to recognize that class is considered to be one of the most influential components in determining the privileges awarded throughout society, and as previously mentioned, not considering class in this research does not provide a complete account of the issue. There is substantial literature on how social class influences sentencing outcomes in the criminal justice system. However, this research addresses how previous literature has failed to examine identities as intersecting rather than singular, and therefore are building the foundation for future analysis of understanding inequality in the criminal justice system from an intersectional viewpoint. The inclusion of control variables, such as class or education, in future analysis would lend further insight into the question posed, as this research is beginning to scratch the surface of looking at the criminal justice system through an intersectional lens. Class was mentioned by interview participants as another factor in an offender's sentencing outcome, with participants indicating that more wealth leads to a better and shorter sentence. Social class is closely correlated with race and sex, and can be another way to understand the intersection of various social identities and their effects on individuals going through the criminal justice system. Ultimately, the intersection of race and sex does impact sentencing severity for specific crime types, lending further guidance for future research on where sentencing disparities in the criminal justice system lie, with white women, Black women, white men, and Black men receiving the shortest to longest average sentences, respectively.

APPENDIX A

Qualitative Interview Questions

2. Can you briefly describe your experience with criminal justice sentencing?
3. Do you feel that gender and race are factors that determine the outcome of individuals going through the criminal justice system? In what ways?
4. Do you feel that a jury would see and perceive white women and Black women differently, even for the same type of crime committed? Why or why not?
5. Tell me how would you define "racial privilege" in the criminal justice system?

6. Tell me how would you define “gender privilege” in the criminal justice system?
7. In your experience, have you noticed a racial disparity among those sentenced for the possession of illegal drugs? If so, how would you describe this disparity?
8. In your experience, have you noticed a gendered disparity among those sentenced for the possession of illegal drugs? If so, how would you describe this disparity?
9. Have you noticed any trends in sentencing throughout your career along the lines of gender and race?
10. Rank a white man, a Black man, a white woman, and a Black woman from least likely to most likely to be sentenced for drug possession; why did you rank them that way?

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