

Racial and Ethnic Disparities in Judicial Sentencing: The Case of Pennsylvania

**Arlana Henry, McNair Scholar
The Pennsylvania State University**

**McNair Faculty Research Advisor:
Dr. Laurie Scheuble, Ph.D
Senior Lecturer in Sociology
College of Liberal Arts
The Pennsylvania State University**

Abstract

Numerous studies examining racial and ethnic disparities and/or discrimination in judicial sentencing have been done with inconsistent results. The current study further investigates discrimination in the application of sentencing including the death penalty in criminal cases in Pennsylvania. Using data supplied by the Pennsylvania Commission on Sentencing, I examine the length of the incarceration that offenders receive, controlling for a number of extralegal variables including race, age, sex, prior record score, and disposition to determine whether or not disparities exist in the length of sentence. Findings show that race does have an effect on sentence length and the death penalty decision but the effect goes away when offense gravity score, prior offenses and use of weapons are added to the model. Implications are discussed.

Keywords: race, sentencing disparities, death penalty

Introduction

Lynching, the firing squad, lethal injection, and the electric chair are all forms of capital punishment that have either been legal or are still legal in the United States. In Stephen Bright's 1995 article entitled *Discrimination, Death and Denial: The Tolerance of Racial Discrimination in Infliction of the Death Penalty*, he explains that the death penalty is "a direct descendant of lynching and other forms of racial violence and racial oppression in America." (p. 439). More than two-thirds of those individuals who were lynched in America in 1930 were black. Since 1976, approximately thirty-four percent of the individuals who have been legally executed in the United States have been black, fifty-seven percent have been white and while seven percent have been Hispanic (the remaining two percent were classified as other) (deathpenaltyinfo.org).

Currently in the United States there are thirty-eight jurisdictions in which capital punishment is legal including the Federal Government, the U.S. Military and the state of Pennsylvania. From 1977 to 2008, there have been one thousand one hundred and thirty six (1,136) executions in the United States. In Pennsylvania, there have only been three executions

in that time period. It is however the fourth largest jurisdiction with the largest death row population, with two hundred and twenty-five inmates on death row. It follows California (690), Florida (403), and Texas (336) (deathpenaltyinfo.org; U.S. Census Bureau).

While minorities' only constitute a small portion of the general population, they constitute a large portion of the prison population. According to the Death Penalty Information Center there are three thousand two hundred and seventy-nine (3,279) inmates on death row in the United States today. While the U.S. general population is only approximately thirteen percent (13%) Black and fifteen percent (15%) Hispanic; approximately forty one percent (41%) of those individuals on death row are black and approximately twelve percent (12%) are Hispanic. Of those inmates on death row, three thousand two hundred and two (3,202) of them are men. Pennsylvania is the fourth largest jurisdictions with the highest percentage of minorities on Death Row (examining jurisdictions with death row populations > 10) with 69% of the inmates on death row being minorities (deathpenaltyinfo.org; Death Row USA, 2009).

Research has shown that the majority of inmates on death row are minorities and the majority of inmates were sentenced to death for crimes against white victims (Bright, 1994). Research has also found that race has an effect on the length of sentence that offender receives and that young black males are more likely to receive harsher sentences than any other group (Steffensmeier, Ulmer & Kramer; 1998). However, there have been other studies that have shown that race is not a determining factor in the length of sentence that an offender receives nor does it have an effect on the severity of their sentence (Spohn, Gruhl & Welch; 1981)

These contradictory findings and inconsistencies emphasize the importance of determining whether or not there is a disparity that exists within judicial sentencing based on an offender's race, ethnicity and/or gender. This in turn is the purpose of my study. The focus of this study is on the Pennsylvania since is amongst the top jurisdictions with the highest percentage of minorities on death row. It is important to reassess judicial proceedings as well as sentencing guidelines. Racial and ethnic disparities in judicial sentencing are both unwarranted factors that are inconsistent with the functions of the judicial system in America.

Capital Punishment in the United States

In 1972, the United States Supreme Court essentially declared the death penalty unconstitutional on the basis of "discrimination and arbitrariness" and exclaimed that it constituted "cruel and unusual punishment" in the case of *Furman vs. Georgia* (408 U.S. 238, 1972). However, it was reinstated in 1976 when, in *Gregg v. Georgia* (428 U.S. 153, 1976), the Court overruled the *Furman* decision and executions once again became legal. The question still remains, however, as to whether or not the death penalty is administered in a fair and reasonable manner so that individuals who commit the same crimes receive the same criminal sentences.

Discrimination by Race

Many researchers have reported that minorities, African Americans in particular, make up the majority of individuals incarcerated and on death row because they commit more serious crimes and are therefore more likely to have prior records (Kleck, 1981). Kleck, in his 1981 study, classified this as a form of institutional racism and explained that institutional racism is one of five different practices that could lead to racial differentials in criminal sentences. He also included overt racial discrimination against minority defendants, disregard for minority

crime victims, class discrimination and economic discrimination. He examines execution rates for both blacks and whites over an approximate 40 year time period for the entire United States and the South, and death sentences over an approximate 11 year time period.

Kleck (1981) found that black offenders are generally not discriminated against in states other than those in the South with respect to the death penalty and instead they were sometimes treated more leniently. He did, however, find a pattern when it came to the sentencing based on the race of the victim. Offenders killing black victims were less likely to receive the death penalty than offenders with white victims. When assessing cases where the death penalty was issued for rape, Kleck (1981) found overt discrimination existed against black defendants as there was substantial evidence showing that black defendants who raped white victims received harsher sentences. These findings were consistent with previous research that assessed criminal cases where rape was considered an offense punishable by death.

In perhaps one of the earliest studies examining racial disparities in sentencing, Wolfgang and Riedel (1973) found in their twenty year study that blacks were sentenced to the death penalty more often than whites. After examining the 1,265 cases that had both the race of the victim and the race of the offender, they found that blacks were sentenced to death almost seven times more than whites. Black defendants whose victims were white (N=317) were significantly more likely to be sentenced to the death penalty than all of victim-offender racial/ethnic combinations (N=921) (white/white, black/black, etc). Of the black defendants whose victims were white, approximately 36 percent were sentenced to the death penalty. Of the other victim-offender race combinations two percent were sentenced to the death penalty. These racial differences remained even after they controlled for other factors that did not relate to the offender's race. This shows that blacks with white victims were approximately eighteen times more likely to be sentenced to the death penalty than any other racial combination (Wolfgang and Riedel, 1973). Overall, the findings showed that racial discrimination with respect to the death penalty has existed and still exists within judicial proceedings.

Radelet (1981) examined criminal indictments after *Furman v Georgia* (1972) focusing on homicides in twenty Florida counties in 1976 and 1977. Assessing the race of victim, the race of defendant, and combinations of both, he hypothesized that the race of the defendant would be a determining factor in whether or not the defendant would receive a first degree murder indictment and a higher charge of the death penalty. However, contrary to his hypothesis and what earlier researchers found, there was no difference in a black defendant's indictment for first degree murder compared to a white defendant's.

The majority of research that was conducted in earlier years appeared to be consistent with one another in finding black offenders were more likely to be sentenced to the death penalty than whites and receive harsher sentences. Spohn, Gruhl and Welch's 1981 study of the relationship between race and sentencing in the "Metro City" area had findings that were not consistent with the previous literature. Their study was a replication of research conducted by Uhlman (1977) on the "Metro City" area as he concluded that racial discrimination existed. They examined the same sentences imposed on 2,366 black and white defendants in Metro City, hypothesizing that they would not find a direct relationship between race and sentencing controlling for seriousness of offense and prior record score, (Spohn, et al. 1981) Their findings showed blacks did receive harsher sentences than whites as blacks because blacks were more likely to have criminal records and were being charged with more serious offense., However, they found that race does not have a direct effect on the severity of the offender's sentence once they controlled for extralegal variables. They concluded that some judges in the Metro City area

were likely to discriminate against black males when establishing their sentencing and/or probation outcome. Black males were more likely to receive a short prison term than white males who were more likely to receive probation. They argue that even though this finding supported previous works that concluded racial discrimination, it does not establish racial discrimination in the court system (Spohn et al., 1981, p. 84 – 86).

Disparities in the Imposition of the Death Penalty

Williams and Holcomb (2001) studied the imposition of the death penalty in Ohio and whether or not any racial disparities exist. They focused on the number of death sentences imposed and the number of individuals who received a death sentence. Williams and Holcomb (2001) found that extralegal variables were significant factors in determining whether or not an offender received a death sentence. The victim's race had more of an effect of influence than the defendant's race on whether or not the defendant received a death sentence. These findings were consistent with previous studies that concluded that extralegal variables such as race of victim and race of offender play a role in the imposition of a death sentence.

In 1984, Gross and Mauro studied all homicides (N=379) in eight states that had death penalty statutes written after the Furman case. They were particularly interested in whether or not racial discrimination occurred during the imposition of the death penalty. Gross and Mauro (1984) explained the concept of "arbitrariness" which they defined as

"arbitrariness is the major target of the equal protection clause of the fourteenth amendment and involves (1) the random or 'capricious' use of the death penalty, or (2) the imposition of the death penalty because of the presence or absence of a legally irrelevant factor, such as race." (Gross and Mauro, 1984, pg 35; *Gregg v Furman*, 1976)

Gross and Mauro (1984) found that offenders who killed whites were more likely to be sentenced to the death penalty than those who killed blacks. This finding is consistent with Kleck's (1981) earlier study. Gross and Mauro (1984) also found that among those offenders who killed whites, blacks offenders were more likely than white offenders to be sentenced to death.

Gender Disparities in Offender Sentencing

In the 1985 study conducted by Spohn, Welch and Gruhl they examined sentencing outcomes for men and women defendants in the "Metro City" area, to determine whether or not women defendants are subject to paternalistic treatment. They also wanted to determine if there was any difference in the sentences imposed upon male and female defendants. They did this by examining the seriousness of the offense and found that black female defendants are often the only groups that are treated paternalistically in court. However, there were only a small number of white female defendants. They also found a significant interaction between race and sex.

A 1998 study conducted by Steffensmeier, Ulmer and Kramer in which they studied sentencing outcomes in Pennsylvania from 1989-1992, found that the subgroup of young black males received the harshest sentences. These effects were significant for cases in which sentences departed from guidelines as well as cases in which the sentencing guidelines were being followed. While race, gender and age were all found to have an effect on the offender's

sentence, they concluded that gender had the largest effect, followed by age and then race (Steffensmeier et. al., 1998).

Sentencing Guidelines and Racial Disparities

Researchers have also focused on sentencing guidelines, policies, and sentencing as well as racial disparities. A 1993 study focused on racial differences in sentencing and judicial proceedings with data from the Pennsylvania Crime Commission. Kramer and Steffensmeier (1993) found that race as well as other extralegal variables were minimal factors in an offender's judicial proceeding. They also found that the possibility of incarceration for an offender had an even smaller effect on the offender's length of incarceration. While they did not find that race had a direct effect on the length of sentence, they did find that blacks were more likely to be incarcerated than whites. They concluded that the establishment of sentencing guidelines removed the racial bias that had presented itself previously. This finding seems to be the same in many other jurisdictions even when controlling for a variety of other extralegal variables and in turn raises a very important question about the status of sentencing guidelines within the American criminal justice system. These guidelines were established to get rid of unwarranted disparities did reduce the differences in length of sentence; however, these disparities in the percentage of blacks sent to prison still exist.

In 2003, Johnson took a different approach and examined the role that departures from sentencing guidelines play in contributing to racial/ethnic disparities. Using the data from the Pennsylvania Commission on Sentencing, he focused on the ways in which these disparities are contextualized by different courtroom processes focusing on extralegal factors such as race and ethnicity. He examined these relationships on the basis of four modes of conviction (non-negotiated pleas, negotiated pleas, bench trials, and jury trials). Findings indicated that there were important differences in the effects of both legal and extralegal variables across modes of conviction and that these different factors may contribute to sentencing disparities that exist. This finding is consistent with previous research which found that departures from sentencing contribute to disparities.

Mustard (2001) examined racial, ethnic, and gender disparities at the federal level. He examined disparities in sentencing under the Sentencing Reform Act of 1984 for all offenders sentenced under the Act. The Sentencing Reform Act of 1984 is similar to the sentencing guidelines that were established in Pennsylvania and other states across the U.S. in the 1980's. Mustard (2001) looked specifically at differences in the length of sentences for offenders who are sentenced in the same district court, for the same offense, and also have the same criminal background. He concluded that large differences do exist when controlling for extra-legal variables such as race, gender, ethnicity, and education. Black offenders, males, and offender's with low education levels as well as low income levels were more likely to receive longer sentences. The largest difference occurred between black and white offenders who were sentenced for drug and trafficking offenses.

Similarly, a study completed by Everett and Wojtkiewicz (2002) analyzed federal sentencing guidelines and differences in the severity of an offender's sentence. Findings showed that disparities existed as a result of racial and ethnic bias as well as other extra-legal factors such as gender, age and education. They found that Blacks, Hispanics and Native Americans are often all convicted for offenses that receive harsher sentences. Their arguments are based upon both attribution and conflict theories which argue that minorities tend to receive harsher

punishments when compared to whites when all factors included are equal (Everett & Wojtkiewicz, 2002). Their findings were consistent with this theory. They found that if blacks and whites were sentenced exactly the same and had all of the same sentencing elements implemented, a bias would still exist in that the severity of their sentences would be different. They found that blacks were 50 percent more likely than whites to receive harsher sentences and Hispanics were 39 percent more likely to receive harsher sentences.

Steffensmeier and Demuth (2000) focused on racial and ethnic disparities in sentencing examining data from the United States Commission from 1993 through 1996 to determine if an offender's racial/ethnic groups had an effect on the sentence. The data contained a large number of Hispanics. This allowed for a test of ethnic differences which did not happen in previous research. In the cases used, the judges were also allowed to depart (downward) from the sentencing guidelines as done in federal courts. Steffensmeier and Demuth (2000) concluded that Hispanics receive harsher sentences than both blacks and white defendants. Their findings show some degree of racial and ethnic disparity in sentencing as downward departures are present which is consistent with previous research surrounding other racial groups.

Hypotheses

I will test the following hypotheses in this research.

1. African Americans (blacks) and Hispanics will have lengthier sentences and will more likely constitute a large portion of the offenders sentenced to the death penalty as compared to whites and other minorities. Previous research has shown over lengthy time periods, in numerous states across America, that racial and ethnic disparities exist with minority defendants receiving the lengthier sentences and harsher punishments such as the death penalty (Kleck, 1981; Steffensmeier & Demuth, 2000; Williams & Holcomb, 2001).

2. Offenders from urban areas/counties will more likely have higher prior record scores than offenders who live in more suburban areas and in turn will more likely receive harsher sentences. Urban areas are usually primarily populated by minorities groups while suburban areas are usually populated by white. There is also more crime in largely populated urban areas because they are more people there.

3. White offenders' will not receive sentences as severe as that of other racial and ethnic groups. Previous research has found that Black offenders are often sentenced harsher than white offenders and that many times black offenders with white victims are sentenced harsher than white offender's with black victims. There is a history of racial discrimination against blacks and other minority groups so there is the possibility that whites who are the majority will receive more lenient sentences. Wolfgang and Riedel in their 1973 study concluded that some of the differences that occur in judicial sentencing are the results of racial discrimination that occurs within our society.

4. Younger offenders will receive lengthier and harsher sentences than older offenders who commit the same offenses. Older offenders will more likely have their sentences reduced, or be sentenced to probation. Previous studies by Steffensmeier, Ulmer and Kramer (1998) found that young black males were sentenced than any other group. I believe that my findings will be consistent with previous findings.

5. Prior criminal record and the seriousness of the offense will have an effect upon the length of sentence received. An offender's prior record refers to their criminal history and one can assume that the majority of offender's will have some form of criminal history which will more

than likely effect the length of sentence that they receive since an offender's criminal history is taken into account in court.

Methods

Data Source

Data for this study came from the Pennsylvania Commission on Sentencing. In order to examine the relationship between race, gender, age, and length of incarceration, I analyzed the crimes committed by offenders, controlling for a number of extra-legal and legal variables as well as specifically all sentencing outcomes for all offenders convicted of murder in Pennsylvania from 2004- 2008 (N=1817) . In addition, I analyzed the data with the same independent variables used in the life or death penalty analysis with the maximum sentence received as the dependent variable.

Pennsylvania Commission on Sentencing

The primary purpose of the Pennsylvania Commission on Sentencing is “to address problems of unwarranted disparity and undue leniency in judicial sentencing” (PA Commission on Sentencing, 2009). The commission was established in 1978 by the General Assembly and their primary responsibility is “to develop sentencing guidelines that must be considered by all judges in sentencing felony and misdemeanor offenses” (Sentencing in Pennsylvania, 2007, p. 3). Pennsylvania first implemented sentencing guidelines in 1982. These guidelines are periodically updated so that they remain up to date with new legislation. The most recent edition of sentencing guidelines was released in 2008 (PA Commission on Sentencing, 2009)

Sentencing Data Collection

The Pennsylvania Commission on Sentencing data consists of felony and misdemeanor convictions in Common Pleas Courts that were reported to the commission in a given year. While the Commission does receive the majority of Murder 1 cases, it is important to note that Murder 1 cases are not required to be reported to the Commission because of the mandatory life/death penalty. District Magistrates and Philadelphia Municipal Courts are not required to report their sentences to the Commission. This is one of the limitations that exist within my research study.

All data compiled by the Pennsylvania Commission on Sentencing is gathered through a web based data entry system called Sentencing Guideline Software (SGS). The system was first used in 1998 and has been an integral part of the commission's data collection process since 2002 when it was formally introduced to counties and established as the new data collection format. The web based system improved the quality of the Commission data through built in accuracy checks. Prior to Sentencing Guideline Software, paper sentencing guideline forms were mailed to the Commission and entered by staff.

Offenses in Pennsylvania are classified by the seriousness of the current offense, which is referred to as Offense Gravity Score (OGS) and the seriousness and extent of the offender's prior record, which is referred to as Prior Record Score (PRS). (PA Commission on Sentencing, 2009). The Offense Gravity Score ranges from 1 (least serious) to 14 (most serious) and the Prior

Record Score ranges from 1-5 with categories for Repeat Felony Offenders (RFEL) and Repeat Violent Offenders (REVOC). These are the primary determinants in the length of an offender's sentence which consists of a minimum and a maximum sentence. The minimum refers to the average amount of time that an offender must serve before they can be considered for parole. The maximum refers to the total amount of supervision time that is required. Only the maximum sentence is used in this research.

Data Weighting

The unit of analysis for this study is the offender. Data were weighted by the number of crimes committed by an inmate. If an inmate committed only one crime, they were weighted as 1; two crimes resulted in a weight of 1/2; three crimes 1/3; etc. The maximum number of crimes committed by any one offender was 23.

Independent Variables

The independent variables to be examined include race, gender, ethnicity, County, prior record score, offense gravity score, and weapon type. Race of the offender was measured in four categories (1 "other," 2 "Blacks," 3 "Hispanics," and 4 "Whites)." "Other" included those races and/or ethnicities that had small numbers such as Asia Pacific Islander, American Indian, and those offenders who identified as "other" in their report. Due to the very small number of other races in the data set, the "other" category was removed in the analyses. Blacks represented 63.3 percent (n= 1150), of the offender in the study, whites represented 25.7 percent (n=467) of the offenders in the study, and Hispanics represented 8.8 percent (n=159) of the offenders in the study. The remaining 2.2 percent of the offenders were in the "other" category which was not included. There were 163 females included in the data set and 1673 males.

The next independent variable used in the analysis was the offender's age on the day they committed the crime. The ages ranged from 8 to 78, the mean age was 27 and the median age was 25.

Prior Record Score is a weighted measure that takes into account the offenders prior criminal history (number and severity of prior offenses). Prior Record Score is measured on a scale from 0 – 5 with 5 being the highest and 0 meaning that the offender had no prior record. Under prior record score, offenders could also be classified as a "Repeat Felony Offender" which was measured as 6 or a Repeat Violent Offender which was measured as 7 (Pennsylvania Commission on Sentencing, 2009).

An offenders Offense Gravity Score (OGS) refers to the gravity or seriousness of the current offense, is measured on a scale from 1- 14, with 14 being the most serious score that an offender can receive and the number assigned to offenders who were sentenced to life in prison or the death penalty.. All offenses are classified on the basis of the seriousness of the current offense and the seriousness and extent of the offender's prior record (Prior Record Score). The commission has established guideline ranges for each combination of Offense Gravity Score and Prior Record score: (1) the standard range, to be used under normal circumstances, (2) the aggravated range, to be used when and if the judge determines that there aggravating circumstances (things that tend to increase the seriousness of the offense), and (3) a mitigated range, to be used when and if the judge determines that there are mitigating circumstances (things that tend to lessen the seriousness of the offense) (PA Commission on Sentencing, 2009).

When examining the data for the Pennsylvania counties that were analyzed in this study, I found that of the sixty counties, eight of those counties (McKean, Union, Tioga, Snyder, Elk, Montour, Forest, and Cameron County) were absent from the data set due to the fact that these counties do not have any convictions reported for the years 2004-2008. The counties that were included in this analysis were categorized according to their population sizes which were retrieved from the United States Census Bureau (2010). County populations were measured in seven categories (1 "Population less than 10,000," 2 "Population 10,000 - 50,00," 3 "Population 50,000 - 100,000," 4 "Population 100,000 - 150,000," 5 "Population 150,000 - 300,000," 6 "Population 300,000 -500,000," and 7 "Population greater than 500,000."

The final independent variable that was examined was the weapon enhancement which I recoded into three categories. The weapon types included Guns, Hammer/Blunt Instruments, HandGun/Pistol/Revolver, Knife/Sharp Instrument, Long Gun/Rifle/Shotgun, and Other Weapons. I grouped the various types of weapons into three categories; (00 "no weapons", 1.00 "knives, hammers, etc.", 2.00 "firearms."). Approximately 80 percent or 1446 offenders did not use a weapon when they committed their offense while approximately 4 percent (n= 65) offenders used a knife, hammer etc., and 16 percent (294) offenders used a firearm. The descriptive information for the independent variables is presented in Table 1.

Dependant Variables

The first dependant variable in this study is the length of sentence. The length of sentence that an offender receives refers to the longest allowable maximum sentence and is recorded in months. Offenders who did not receive a prison sentence and instead got probation, community service, or a fine received a score of zero. Those offenders who receive the maximum sentence receive either a life or death sentence received 49 and 50 respectively.

The second dependent variable is whether or not the offender received a life or death sentence. These penalties are received for offenses classified as murder in the first-degree. Murder is classified as a felony in Pennsylvania and some types of murder are punishable by death. Under Pennsylvania law as it is defined in the Pennsylvania Crimes Code and Vehicle Handbook, a person is guilty of criminal homicide if he intentionally, knowingly, reckless or negligently causes the death of another human being (Pennsylvania Crimes Code and Vehicle Handbook, year, p. 502).

Criminal homicide is classified as murder, voluntary manslaughter, or involuntary manslaughter. Criminal homicide essentially constitutes murder of the first degree when it is committed by an intentional killing. Under Pennsylvania law, an offender can only be sentenced to the death penalty in cases where said offender is charged with first degree murder, Murder I. In this study, 0.5 percent (n=10) were sentenced to death and 17.3 percent (n=314) were sentenced to life in prison. Table 1 contains the descriptive information for the dependent variables.

Table 1. Descriptive Statistics

Independent Variables	N	Minimum	Maximum	Mean	Standard Deviation
Race					
Black	1798	.00	1.00	.6402	.48009
White	1798	.00	1.00	.2597	.43861
Hispanic	1798	.00	1.00	.0884	.28400
Offender's Age at Date of Offense	1813	8.90	78.03	27.4525	10.14227
Severity					
Offense Gravity Score (OGS)	1817	1.00	14.00	11.0141	4.16121
Prior Record Score (PRS)	1817	1	8	2.76	2.168
Weapon Type					
No Weapon	1806	.00	1.00	.8008	.39949
Knives	1806	.00	1.00	.0362	.18683
Guns	1806	.00	1.00	.1630	.36945
PA County	1817	1	59	33.11	17.500
Dependant Variables					
Maximum Sentence	1817	.00	99.00	30.7779	34.14918
Life or Death Sentence	324	.00	1.00	.0306	.17256

Analysis Method

Two analysis methods were used in the current analysis. Multiple regression was used for the analysis with the dependent variable maximum sentence because the dependent variable was at the ratio level of measurement. The life and death analysis was done with logistic regression. Logistic regression is used when the dependent variable is dichotomous. In the case of this analysis, the two categories are life (0) and death (1).

Findings

One dependent variable analyzed in this research is whether or not the offender received a life or death sentence. Since the dependent variable is dichotomous (0= life; 1= death), it was necessary to use logistic regression. Logistic regression allows me to determine the odds of an offender receiving a life or death sentence based upon the value of the independent and control variables. Table 2 presents logistic regression of the relationship between the independent variables and life versus death. Model 1 presents the effect of the offender's race on receiving a life or death sentence. Race did not have a statistically significant effect on whether or not an offender received a life or death sentence for murder. Model 2 adds the offender's age at the date of the offense and the offender's prior record score (PRS). None of the independent variables (race, age, offense gravity score, prior record, or weapon type) were found to be significant, Offense gravity score was not included in this analysis since all offenders convicted of murder have a score of 14 which is the highest possible score. In addition to examining the overall effect of race on receiving a life or death sentence, I also examined the effect of gender. The pattern for both men and women was the same as for the overall data.

Table 2. Logistic Regression of the Relationship between Independent Variables and Life versus Death Sentence, N=324

Including everyone in Population

Independent Variables	Model 1			Model 2		
	B	S.E.	Exp(B)	B	S.E.	Exp(B)
Race						
Hispanic (Black is the comparison)	-1.480	2.689	.228	-1.377	2.694	.252
White (Black is the comparison)	.551	.657	1.735	.592	.712	1.807
Age of Offender at the Date of the Offense				.009	.030	1.010
Prior Record Score (PRS)				.091	.133	1.095
Constant	-3.591			-4.171		
Nagelkerke R ²	.018			.026		

Note

*significant at the .05 level

**significant at the .01 level

***significant at the .001 level

When examining the maximum offense that an offender received, I used a multiple regression analysis. For this dependent variable, the higher the number, the higher the offender's maximum sentence. The results are presented in Table 3. Findings show that whites are significantly more likely than both Blacks to receive a lengthier sentence for an offense ($p < 0.05$). Model 2 introduces the control variables. Controlling for the other independent variables in the analysis, race is no longer significant. It is important to note that the more serious the offense, the longer the sentence will be and overall, whites are committing more serious offenses than Blacks. Blacks are more likely to be sentenced for less serious offenses such as drug related crimes. Again, I examined the effects for both men and women and the findings were the same as for the overall sample.

Table 3. Multiple Regression of the Independent Variables of Maximum Sentence, N= 777.

Including all Variables for all population

Independent Variables	Model 1			Model 2			
	B	S.E.	Beta	B	S.E.	Beta	
Race							
Hispanic (Black is the comparison)	-1.813	2.896	-.015	-3.632	2.315	-.030	
White (Black is the comparison)	4.309	1.880	.055 *	-.158	1.618	-.002	
Age of Offender at the Date of the Offense				.119	.068	.035	nearly significant
Prior Record Score (PRS)				1.343	.307	.085	***
Offense Gravity Score				4.984	.159	.605	***
Weapon Type (No weapon is the comparison)							
Knives				-19.766	3.526	0.107	***
Guns				-19.124	1.801	0.206	***
Constant	29.981			-26.73			
R ²	.004			.369			

Note

- *significant at the .05 level
- **significant at the .01 level
- ***significant at the .001 level

Table 4 presents a cross tabulation of the offender's race and their weapon type. I found that Blacks (18.8%) are more likely to use firearms than both Hispanics (15.6%) and Whites (9.9%). Whites were more likely to use weapons that were not firearms such as knives and hammers (6.2%) when compared to Hispanics (5.6%) and Blacks (2.35%). When examining the offenses in which there was no weapon used, though there was a very slight percentage difference, with whites more often than both Blacks and Hispanics having no weapon when they committed a crime.

Table 4. Cross Tabulation of Race by the Type of Weapon, N= 1766

Weapon Type		Race			Total
		Blacks	Hispanics	Whites	
No Weapon	Count	900	126	390	1416
	% with Race	78.90%	78.85	83.90%	80.20%
Not Firearms-- Knives, etc.	Count	26	9	29	64
	% with Race	2.35	5.60%	6.20%	3.60%
Firearms	Count	215	25	46	286
	% with Race	18.80%	15.60%	9.90%	16.20%
Total	Count	1141	160	465	1766
	% with Race	100%	100%	100%	100%

Table 5 presents the findings from the multiple regression model which examines the effects of the size of the county where the crime was committed. Model 1 shows that the Pennsylvania counties of resident was related to the maximum sentence that an offender received ($p < .01$ level). Offender's who lived in larger counties, received a longer sentence than those. When race was included in the analysis, county still had a statistically significant effect on sentence ($p < .05$). In the third model, I add the incremental effects of the offender's age at the date of the offense, their Prior Record Score (PRS), and their Offense Gravity Score (OGS). Both the offender's Prior Record Score (PRS) and their Offense Gravity Score (OGS) were found to be significantly related to their maximum sentence when examining the Pennsylvania County ($p < .001$). After adding these variables, the county of residence was no longer statistically significant. It appears that the relationship between county and sentence is not significant once seriousness of offense and prior recorded are added as control variables.

Table 5. Multiple regression of County and Independent Variables on Maximum Sentence, N=1777.

Independent Variables	Model 1			Model 2			Model 3		
	B	S.E.	Beta	B	S.E.	Beta	B	S.E.	Beta
PA County	-2.083	.672	-.073 **	-1.735	.748	-.061 *	-.595	.621	-.021
Race									
Hispanic (Black is the comparison)				-2.314	2.896	-.019	-3.543	2.400	-.029
White (Black is the comparison)				2.177	2.081	.028	.367	1.810	.005
Prior Record Score (PRS)							1.385	.316	.088 ***
Offense Gravity Score							4.569	.161	.556 ***
Offender's Age at Date of Offense							.132	.070	.039
Constant (County)	43.952			41.407			-22.930		
R ²	.005			.007			.320		

Note

- *significant at the .05 level
- **significant at the .01 level
- ***significant at the .001 level

Discussion

It is important to ask whether or not race and ethnicity are important factors in an offender's judicial sentencing process, especially since research over the years has provided inconsistent results as to whether or not minorities are discriminated against by the criminal justice system or whether or not race and ethnicity has an effect on an offender's sentence. Since the results are inconsistent, it is important to continue to examine this issue. In the current study, no race effect was identified. Steffensmeier and Demuth (2000) found that Hispanics received the harshest sentences for drug offenses when compared to whites who received more lenient sentences. Blacks were in the middle. They also found that Hispanic and Black Offenders received harsher sentences for drug offenses than for non-drug offenses (Steffensmeier & Demuth, 2000). Race effects were also found largely in earlier years in the studies of Kleck (1981), who found evidence of racial bias, but primarily in southern jurisdictions; and Radelet and Pierce (1985) who found that the defendant and victims race both played important roles in whether or not a defendant is sentenced to be executed.

The data for my study came from the Pennsylvania Sentencing Commission whose charge is to examine and inform about racial disparities in sentencing. Since they have been in existence for more than a decade, there has been time to put into effect changes in the sentencing system which would result in reduced racial sentencing disparities.

The rate of incarceration in the United States is extremely high and is perhaps the highest in the entire world. A 2008 study completed done by PEW, a research organization that works to advance state policies that serve the public interest, found that approximately one in one hundred Americans are behind bars. (PEW, 2008) The Bureau of Justice Statistics also found that from 1990- 2007, Blacks were almost three times more likely than Hispanics and five times more likely than whites to be in jail (Bureau of Justice Statistics, 2010). While these numbers may suggest problems in other areas of our judicial system, such as policies, which is what PEW suggests is a major problem; they are still a reflection of our judicial system and should raise a number of concerns for the American public.

Another important factor that needs to be empirically researched are the events that occur prior to an offender being sentenced. It is important to think about not only the offender's lives before they have been sentenced but also their interactions with law enforcement. Studies have shown that larger numbers of African Americans and Hispanics are being incarcerated especially for drug offenses and offenses that have white victims (Steffensmeier et al, 1998; Crawford et al, 1998) and this is inconsistent with data that shows that together they constitute less than 30 percent of the U.S. population.

It is highly possible that the discrimination in the criminal justice system begins when people are first stopped by police and not at the end when the sentencing occurs. It starts when people are picked up and searched by police via race. That part of the system is not as heavily watched as the sentencing and death penalty portion because no one is at the scene. Police have a significant amount of discretion when it comes to stopping people. As long as the officers indicate they stopped a person because they were suspicious, it is legally appropriate. However, it is possible that the officers are socialized to view minorities, especially black men, as being "more suspicious" than whites. Almost every state has a sentencing commission whose charge it is to be sure penalties are handed out in a fair way. On the other hand, there are many studies that show that police are more likely to stop African Americans and Hispanics, i.e. profiling,

more likely to search them and more likely to charge them with a crime (Alexander, 2010). All of this occurs despite the fact that racial profiling is unconstitutional.

Limitations of Current Research

It is important to note that like previous research, there are a number of limitations with this study. Prior studies found that the race of the victim often played a major role in the length of the offender's sentence (Williams & Holcomb, 2001); unfortunately victim information was not available in the data set used for this analysis. The Commission does not have a great deal of information on victims, with the exception of victim age. Victim age is included in some of the data, but it is not a required field, so it is missing for approximately 90% of the offenders in the data set. Due to the large amount of missing data, I was not able to include victim's age in the analysis. Previous researchers included race of offender/race of victim in their analyses and found disparities. In order to better make sense of the findings, it is important to have information about the victim included in the analysis and I was unable to do this in the current study.

Another limitation is how Murder 1 cases are reported to the Sentencing Commission. While the Commission does receive the majority of the cases the Murder I cases, it is important to note that Murder I cases are not required to be reported to the Commission because of the mandatory life/death penalty. Murder II cases are also not required to be reported, but may sometimes be reported. District Magistrate judge sentences, which include some DUI and Misdemeanor 3 offences as well as Philadelphia Municipal Court sentences, which include driving under the influence (DUI) as well as other misdemeanor offenses, are also not required to report their sentences to the Commission (Pennsylvania Commission on Sentencing, 2009).

Conclusion

Studies examining racial and ethnic disparities in judicial sentencing have had inconsistent findings. The current study did not find a racial or ethnic disparity in judicial sentencing, but instead has shown that whites are more likely to be sentenced to the death penalty than Blacks and Hispanics. However, after controlling for a number of extralegal variables, race once again was shown not to be a determining factor. It appears that whites are more likely to commit crimes that result in longer sentences as compared to Blacks and Hispanics. Further research should focus on how people enter the criminal justice system to determine if disparities exist in the beginning of the system. These data will be more difficult to gather since it involves a researcher traveling with police to examine their behaviors.

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