

THESIS

LEGAL FINANCIAL OBLIGATIONS:
A FOCAL CONCERNS PERSPECTIVE

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ABSTRACT

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Using State Court Processing Statistics (SCPS) data from 2009, I examine the effects of personal characteristics on the amount of legal financial obligations (LFOs) imposed on defendants and the monetary amount of these LFOs. Drawing on focal concerns theory, first developed by Steffensmeier (1980), which identifies three factors used by court actors in criminal sentencing: blameworthiness of the offender, protection of community, and practical constraints and consequences. Adjusting to these practical constraints causes court actors to employ “perceptual shorthand”, utilizing defendant’s characteristics in sentencing decisions. Applying focal concerns perspective is a novel approach to evaluating the effect of race/ethnicity, age, and gender on LFO imposition and LFO amounts.

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CHAPTER I

Introduction

At year-end 2016, state and federal correctional authorities held an estimated 1.51 million prisoners (BJS 2016 Prisoners). A total of 6,613,500 persons were under some form of criminal justice supervision, incarceration, probation, or parole (BJS 2016 Correctional Populations in US). The racial and ethnic makeup in the U.S. prisons and jails does not align with the demographics of the country. In 2016, black citizens represented 12% of the U.S. adult population but 33% of the sentenced prison population. Whites accounted for 64% of adults but only 30% of prisoners, and Hispanics represented 16% of the adult population, they accounted for 23% of inmates (Pew Research, 2018). One out of 13 African American adults have experienced a felony conviction while one of 56 non-African Americans have been convicted of a felony (Uggen, Shannon, and Manza 2012).

In current practice, monetary sanctions are not used as an alternative to, but rather, in addition to other common penalties such as community service, probation or parole, and incarceration (Diller, Bannon, and Nagrecha 2010). Fines, fees and other monetary sanctions are the most common form of punishment enforced by the American criminal justice system (Martin et al. 2018). The legal debt accumulated by legal financial obligations (LFOs) is typically substantial relative to expected earnings. Estimates suggest that between 30-36% of jail and state prison inmates did not have a job prior to their arrest (Harlow 1998). Nationally the earned annual income of two-thirds of jail inmates was under \$12,000 in the year prior to arrest (Bonzcar 1997). Legal debt is subject to interest and tends to grow significantly over time. Unlike consumer debt, legal debt cannot be cleared through bankruptcy. Therefore, individuals

who have accumulated legal debt and who lack the ability to pay the amounts in full will be negatively affected for long periods of time. LFOs are a practice in our criminal justice system that impose a considerably different kind of punishment on the offender. Criminal justice and criminology research has failed to recognize LFOs as an important field of study. Expanding this area of research is important because the use of LFOs in the criminal justice system will arguably increase for three reasons; (1) the costs of criminal justice operations are high and offenders are now expected to pay at least part of those costs, (2) the concern for victims has increased causing restitution to be awarded more frequently, and (3) there are increasing pressures for intermediate sanctions due to the recent concerns surrounding effectiveness of incarceration as well as concerns regarding prison overcrowding (Ruback et al. 2006).

LFOs perpetuate class and racial inequalities in our society. The majority of people who are sentenced to pay as punishment are non-white men who are undereducated, unemployed, homeless, or physically or mentally ill (Harris 2016). These already marginalized populations are frequently being troubled with legal debt that they simply cannot afford to pay. The criminal justice system mostly manages non-white populations which means these offenders are subject to LFOs more so than white offenders. The racial disparity that exists in our criminal justice system raises concerns of justice and fairness (Alexander 2012). Incarceration rates for blacks are about eight times higher than those for whites and this punishment coupled with LFOs has created a system that maintains class and racial inequalities (Pettit and Western 2004). LFOs need to be taken into consideration if we wish to understand how the criminal justice system creates social inequalities in our society. In order to holistically evaluate disparities in the criminal justice system, it is important to analyze whether or not there is an unequal distribution of LFOs.

Guided by the focal concerns perspective, I will address the general issue of racial/ethnic, gender, and age disparities in the criminal justice system while specifically focusing on the imposition of LFOs. Focal concerns perspective suggests that judges and court actors make decisions based on the blameworthiness of the offender, a desire to protect the community, and concerns about practical constraints and consequences (Steffensmeier et al. 1993, 1998). Due to time restraints or insufficient knowledge of the offender or the case, judges resort to using a perceptual shorthand to address these focal concerns and to quicken the decision-making process. The perceptual shorthand utilizes societal stereotypes about a defendant's race/ethnicity, gender, and/or age to make decisions. In order to analyze this topic, I begin by assessing the relationship between the characteristics of a defendant and the imposition of fines and differences in fine amounts. This research question is formulated by implementing prior sentencing research and the focal concerns perspective. I argue that the findings of the current study will demonstrate that the effect of defendant characteristics on the imposition of LFOs will align with prior general sentencing research. Therefore, I believe that that non-white offenders, men, and younger offenders will be sentenced to fines more often than whites, women, and older offenders.

The present study provides a new approach to understanding the imposition of LFOs and sentencing disparities by applying a focal concerns perspective in an analysis of State Court Processing Statistics (SCPS) data from 2009. The data will be used to examine the relationship between defendant characteristics and the imposition of LFOs by utilizing a number of sentencing and demographic variables. Researchers who study sentencing disparities in the criminal justice system have yet to address the imposition of LFOs. Because this form of punishment is such a common practice, it cannot be ignored if we wish to understand the breadth

of inequality and the processes by which discretion can result in disparities throughout the criminal justice system. The present study addresses a gap in sentencing research by focusing specifically on the imposition of LFOs and highlighting the effect of defendant characteristics during the sentencing stage. This study contributes to the broader field of sentencing research focused on race/ethnicity, gender, and age disparities in the criminal justice system as well as lends itself to the relatively new and growing interest in LFO research.

CHAPTER II

Literature Review

Legal Financial Obligations

Legal financial obligations (LFOs) take various forms, are implemented at all levels of jurisdiction, and are assessed for offenses ranging from the most serious criminal offenses to traffic violations (Martin et al. 2018). Legal financial obligations that are commonly imposed on an individual by the criminal justice system include fees, surcharges, public defender costs, restitution, and fines. Fees are used to help cover the cost of the offenders prosecution to different entities in the criminal justice system, including the jails, the prosecutors, the public defenders, and the courts (Meredith and Morse 2017). The number of fees that a court can order on a defendant varies from state to state. Because there is a lack of federal and state guidelines, states and counties can exercise a great deal of discretion in how they design and implement fee policies. For example, in Texas, defendants can be assessed a \$250 fee to the court for the costs of collecting, recording, and storing their DNA. In Louisiana, defendants can be charged a \$300 fee for a “judicial expense fund” and in Illinois, defendants are charged \$190 for a “filing fee” (Harris 2016).

Surcharges are imposed on top of initial fines, fees, and costs. Surcharges are commonly used to financially support courts and other government agencies. In Arizona, there is an 83% surcharge on all LFOs initially sentenced, so a fine of \$100 carries an additional penalty of \$83 (Harris 2016). Further, more than half of the states have statutes that allow courts to apply surcharges when defendants fail to pay, make late payments, or make incomplete payments. Surcharges can be applied as interest rates to existing fines and fees. These additional interest

charges can inflate the initial amount greatly. For example, if legal debtors make regular payments of \$100 a month toward a typical debt, they will still possess legal debt ten years later because of the accumulation of interest. Indigent offenders are more likely to struggle with these payments because \$100 a month equates to 11%, 12%, and 15% of monthly earnings for formerly incarcerated white, Hispanic, and black men (respectively) (Harris et al. 2010). The use of private collection agencies is a common way for courts to go about collecting outstanding court fees. In Florida, a collections agent can add up to 40% surcharge on debt (Brennan Center 2010). Surcharges can add a significant amount of debt to already indebted defendants and can keep individuals tied to the criminal justice system for long periods of time (Martin et al. 2018).

All but fifteen states allow judges to charge defendants for their public defenders. Through *Gideon v. Wainwright* (1963), the Supreme Court established that the Fourteenth Amendment creates a right for criminal defendants who cannot pay for their own lawyers to have the state appoint attorneys on their behalf. In Florida state, Gideon was charged with a felony and asked the court to appoint counsel for him because he could not afford one, the court denied Gideon on the ground that the state law permitted appointment of counsel for indigent defendants in capital cases only. The court decided that it is a fundamental right of an indigent defendant in a criminal trial to have the assistance of counsel to a fair trial (Bindra and Ben-Cohen 2003). However, it is not clear how the cost of appointed counsel will be paid and many courts have adopted language that withstands any constitutional challenges. Now it is common and legal to charge indigent defendants for their public defense, and defendants can be held responsible for at least a portion of the costs related to their legal representation (Harris 2016).

Restitution is a convicted offender's court-ordered obligation to cover the victim's losses resulting from the crime that they committed. The funds collected from the offender can be used

to cover any costs directly related to the crime such as, medical expenses, counseling costs, lost or damaged property, and crime scene clean up. The idea of restitution has been around for nearly 4,000 years but orders of restitution became more common in the early 1980's due to a larger movement toward restorative justice. By 1990, all states had implemented statutes regarding restitution (Shapiro, 1990). Opinions on the effectiveness of restitution programs vary. The practice has been considered unsuccessful for two popular reasons: (1) because research has shown that there is a reluctance to impose restitution on offenders who are assumed unable to pay it (Lurigio and Davis 1990), and (2) because it has been found that collection rates on restitution are as low as 45% (Smith et al. 1989). Conversely, restitution is believed to be a positive practice because it addresses the victims' needs for compensation while simultaneously satisfying the goals of punishment and rehabilitation in the criminal justice system (Ruback, Shaffer, and Logue 2004). Studies have shown that sentencing offenders to restitution is more effective than straight probation or incarceration (Rowley, 1990). Further, it is found that offenders who compensate their victims are more likely to be reintegrated into the community and less likely to recidivate (Braithwaite 1989). Recent research on the topic has shown that case and individual demographic factors affect the imposition and payment of restitution, that it is more likely to be ordered when the harm was quantifiable, when the victim is a business, and when the offense is a property crime. It has also been shown that the greater proportion of restitution paid results in lower recidivism rates (Outlaw and Ruback 1999). Data gathered at the national level indicated that restitution was imposed in 14% of all felony convictions, 13% for violent offenses, 26% for property offenses, 6% for drug offenses, 6% for weapons offenses, and 10% for other offenses (Durose and Langan 2003:10).

The current study focuses specifically on fines. Fines are allowed in all fifty states and even required in some. The maximum fine allowed for a felony conviction varies greatly from state to state. For example, the maximum fine in Massachusetts is \$500 and in Alaska, a judge can charge up to \$500,000 (Harris 2016). Using fines as a criminal sanction has previously been considered advantageous for multiple reasons: it is punitive and deterrent in its aim; it is flexible to reflect the seriousness of the offense; it can be coupled with other noncustodial sanctions when multiple sentencing goals are sought; it does not further undermine the offender's ties to family and community; and it can be financially self-sustaining and provide revenue for related social purposes such as victim compensation (Hillsman 1990). The use of fines as punishment has gained more criticism recently. Alexis Harris (2016) collects qualitative and quantitative data to shed light on the frequency of fines and the negative unintended consequences they create for already indigent defendants. Fines as a supplement to confinement and criminal justice supervision are both frequent and increasing. For example, 84.2% of felons sentenced to probation were assessed fines and 85% of misdemeanants sentenced to probation were assessed fines in 1995. The percentage of felons sentenced to jail who were also fined rose from 12% in 1986 to 37% in 2004 (Harris et al. 2010:18).

History of LFOs

The history of LFOs in the American criminal justice system is complex and extensive. In Europe during the mid-nineteenth century, individuals who were unable to or did not pay civil debts were considered “debtors” and were imprisoned. Many escaped Europe to avoid imprisonment and relocated to America. These American cities were commonly referred to as “debtor’s asylums” because nearly two thirds of the European settlers in these cities were European debtors (Darlington 1955). The practice of imprisoning individuals who did not pay

their debts soon moved to the United States. In 1792 after the American stock market crashed, this practice took on a new meaning. During this time, an ideology emerged about the character of debtors, closely linking debt and forgiveness (Lepore 2015). Around 1831, all state legislatures abolished the practice of imprisoning people for debt but many still allowed incarceration of people who were labeled “absconding debtors.” Absconding debtors were those who did not pay their fines and fees imposed by law. Therefore, the imprisonment of debtors was found to be legally permissible because the individuals were failing to comply with court orders, not because of their inability to pay. In 1970, by *Williams v. Illinois*, the Supreme Court ruled that though a state has the freedom to impose alternative sanctions, under the Equal Protection Clause, it may not subject a certain class of convicted defendants to a period of imprisonment beyond the statutory minimum by reason of indigence. Following this case in 1971, *Tate v. Short* further prohibited states from automatically converting a fine to a jail term because a defendant is unable to pay. But, the court permitted the imprisonment of the debtor if the person was determined to have the means to make payments but did not. The court considers these individuals “willful” non-payers. Because of this distinction, determining defendants’ ability to pay becomes the focus of the courts’ analyses. Courts continue to struggle with how to determine non-payment as “willful” (Harris 2016). Presently, to analyze this uncertainty requires special attention to understanding the role of judges’ discretion in the sentencing process.

Current Relevance of LFOs

Harris, Evans, and Beckett (2010) found that monetary sanctions are imposed by the courts on a majority of the millions of U.S. residents who are convicted of felony and misdemeanor crimes each year. The number of imprisoned felons who were assessed fines or fees increased from 25 percent in 1991 to 66 percent in 2004 (Harris 2016). Misdemeanants and

felons not sentenced to prison were even more likely than felons sentenced to prison to receive monetary sanctions. In 1995, 84.2% of felons sentenced to probation were ordered to pay fines or fees, 39.7% were also required to pay restitution to victims. Of misdemeanants sentenced to probation, 85% were required to pay fees, fines, or court costs and 17.6% were also assessed restitution (Harris et al. 2010).

Monetary sanctions are increasingly imposed on defendants and additionally, the range of these monetary sanctions potentially imposed on defendants has continued to proliferate (Rosenthal and Weissman 2007). For example, New York State judges can impose up to 19 different fees. Even state departments of corrections and various private companies who are responsible for supervising probationers can charge inmates for the cost of their imprisonment, supervision, and even for their court mandated tests (Levingston 2008). In a study focused on Washington State LFOs, Harris et al. (2011) found that a felony conviction carries a mandatory \$500 minimum charge and any fines and fees beyond \$500 are assessed at the discretion of the court. In their sample of 3,256 convictions, 10% were assessed the minimum, the mean amount assessed was \$1,398, and the maximum fee and fine amount assessed was \$11,960.

Justification for LFOs

Policymakers impose monetary sanctions for three major reasons: (1) to provide restitution to victims, (2) to require offenders to reimburse the criminal justice system for the costs of their involvement, and (3) to hold offenders accountable for their behavior (Harris 2016). Because expenses are increasing and budgets are shrinking, federal and state criminal justice officials are becoming more aggressive in shifting a range of criminal justice system costs onto defendants (Levingston 2008). Offenders are obligated to pay for these costs through the imposition of fines and fees as a part of their sentence. Proponents of these court fines and fees

argue that the offender, not the taxpayer, should pay for the cost of punishing their misdeeds (Parent 1990). It is arguably problematic when jurisdictions become dependent on revenue from monetary sanctions. A recent example of this is seen in a U.S. Justice Department report on Ferguson, Missouri. In this report, it was revealed that the police chief was urged by city officials to generate more revenue from court fines to make up for a substantial sales tax short fall. They found that 20% of Ferguson's revenues came from court fines (Sances and You 2017). Often law enforcement is responsible for collecting outstanding debt from offenders. In some counties, automatic license plate reading (ALPR) technology has been installed in patrol cars. Counties give their outstanding court debt data to this ALPR company who can then collect a 25% surcharge on it. When people are stopped by officers using this technology, they have the choice to pay what they owe or be arrested. This is arguably a very problematic practice because it negatively affects those who cannot afford to pay their debt at the time (Harris et al. 2018).

LFOs are also justified because they are seen as successfully fulfilling the role of punishment in the American justice system. The system of imposing LFOs is arguably enforced by criminal justice bureaucrats whose discretion is shaped by a culture of accountability. Our culture relies heavily on the idea of responsibility and this is reflected in how offenders, regardless of their wealthy and indigent status, are expected to make payments on LFOs. If they fail to do so, they are faced with a number of additional penalties and are often viewed by court actors as having poor moral character. Notions of worthiness and accountability are largely shaped by American culture and this becomes problematic when judges have the discretion to incorporate these societal expectations into their decisions to impose LFOs on defendants.

Criticisms of LFOs

Fines in the United States are often negatively compared to day fines in Europe (Turner and Greene 1999). The major reason being because fines in the United States are typically assessed in addition to incarceration or supervision rather than in place of it (O'Malley 2010). In the U.S., fines are used as a criminal penalty but are rarely used as the sole sanction for offenders. In contrast, Europe uses fines as the only sentence for most crimes (Hillsman 1990). Day fines in Europe are closely linked to the daily income of the offender and to the severity of the crime. This approach is intended to give fines a more consistent impact across the rich and the poor. The sentencing process of day fines is highly constrained and uniform. Judges first assign a number of fine units which corresponds to the severity of the crime. These units rely on guidelines developed by each jurisdiction. Then judges assign a monetary value to each fine unit based on the individual's economic situation. Conversely, in the U.S., the imposition of fines is discretionary and judges have the flexibility to base their decisions on factors other than the severity of the crime and the individual's income.

A major criticism of LFOs is that they are substantial relative to expected earnings. Harris, Evans, and Beckett (2010) found that the legal debt acquired by the imposition of LFOs perpetuates social inequality and reproduces disadvantage. They found through interviews with legal debtors that indebtedness continues the cycle of disadvantage in three major ways: by reducing family income, by limiting access to opportunities and resources (housing, credit, transportation, and employment), and by increasing the ongoing involvement with the criminal justice system (p. 1756). The majority of their interviewees felt that they were unable to disentangle themselves from the criminal justice system and that their economic punishments constrained their daily lives and reduced their future life chances. The authors suggest that in order to understand punishment, urban poverty, and inequality in the U.S., the significant amount

and consequences of debt that result from the imposition of monetary sanctions must be analyzed. Further, Rosenthal and Weissman (2007) suggest that because public safety is a community goal and a public good, the costs should be endured by the public and should not be shifted to those who can least afford these financial burdens.

Theoretical Framework

Focal Concerns Perspective

Focal concerns perspective was first developed and used by Walter B. Miller in 1958 to analyze gang delinquency in lower class cultures. Miller argues that the lower class has a separate, identifiable culture that is different from the culture of the middle class. In order to address these differences, he examines the values that the lower and middle classes hold. He suggests that the middle class has values such as achievement while the lower class has “focal concerns” that include trouble, toughness, smartness, excitement, fate, and autonomy. Miller defines focal concerns as “areas or issues which command widespread and persistent attention and a high degree of emotional involvement” (Miller 1958:6). Focal concerns are based on the general cultural setting in which they function. In his study, Miller finds that individuals orient to these concerns as they are defined within the lower-class society. The six focal concerns of the lower-class culture, as listed above, each have a range of alternative behaviors that can be followed by different individuals under different situations. Where alternative choices can be made to achieve similar objectives, the non-law-abiding avenue frequently provides a greater and more immediate return for a smaller investment of energy. Individuals demonstrate either an overt or a covert commitment to the law-abiding or non-law-abiding behaviors. The primary motivation for these choices comes from a positive effort to achieve what is valued in the certain tradition and to conform to its implicit and explicit norms.

In *Delinquency and Opportunity* by Richard Cloward and Lloyd Ohlin's (1960), there is a progression of Miller's 1958 theory. Cloward and Ohlin's theory is grounded as an anomie/strain theory of crime. Like Miller, they are most interested in understanding delinquent subcultures and how they emerge. Unlike Miller, they suggest that there are three distinctive kinds of delinquent subcultures. The three subcultures that they identify are the criminal subculture, the conflict subculture, and the retreatist subculture. The authors explain the basis of each delinquent subculture and highlight the different focal concerns that each are attempting to achieve or satisfy. The criminal subculture is devoted to theft and other illegal means of securing income, the conflict subculture uses violence to establish status, and the retreatist subculture experiences more with drugs in search of extreme experiences (Cloward and Ohlin 1960). In the same way Miller explains, Cloward and Ohlin believe that patterns of deviance are not always predictable because alternative responses are always possible. Fundamentally, they argue that delinquent subcultures are formed by the discrepancies between aspirations of lower-class youth and the possibility of achieving these through legitimate means.

An even further progression of Walter Miller's ideas can be seen in the work of Wolfgang and Ferracuti's (Wolfgang, Ferracuti, and Mannheim 1967) subculture of violence theory. These theorists apply Miller's conceptualization of criminal subcultures and develop it to better understand violent subcultures. Most central to their argument is that different groups, particularly lower-class minority populations, focus on norms and values that are more tolerant of violence. A distinct subculture that accepts violent behavior is created and it goes against dominant norms and values.

Contemporarily, focal concerns perspective is used in sentencing research and is utilized to better understand how judges and court actors make legal decisions. Focal concerns

perspective was first applied to sentencing research by Darrel Steffensmeier in 1980. This perspective centralizes the idea of subculture and uses concepts from these prior subcultural theories to emphasize the importance of how norms and values differ across different subsets of people. Steffensmeier uses the definition of “focal concerns” directly from the 1958 work of Walter Miller. Steffensmeier suggests that court actors use focal concerns to make legal decisions. These three focal concerns include blameworthiness of the offender, a desire to protect the community, and concerns about practical constraints and consequences (Steffensmeier et al. 1993, 1998). The first focal concern, blameworthiness of the offender, involves the judge’s evaluation of the offender’s criminal history, the offender’s role in the offense and motivation, and the seriousness of the crime. The second focal concern is the judges desire to protect the community. This concern is guided by the judge’s perception of the offender’s threat posed on the community and the offender’s likelihood of recidivism. The third focal concern, practical constraints and consequences, involves concerns about the organizational costs acquired by the criminal justice system, disruption of ties to children or other family members, and potential impact of offender recidivism on the court’s or the judge’s standing in the public’s eye (Wolfgang, Ferracuti, and Mannheim 1967). In order to account for these focal concerns, court actors may resort to using a “perceptual shorthand.” Using a perceptual shorthand causes courtroom actors to depend on societal stereotypes related to the defendant’s race/ethnicity, gender, age, or class to manage uncertainty and to make sentencing decisions. These defendant characteristics are specified as legally irrelevant but studies have shown that they are still contributing to the disparities in sentencing outcomes (Albonetti 1997). In short, the focal concerns approach provides both an individual and organizational approach to understanding

how various stereotypes viewed by court actors may influence sentencing outcomes of offenders in general (Sharp, Braley, and Marcus-Mendoza 2000).

Disparities in sentencing outcomes have primarily been studied by examining sentence length and sentence severity as the dependent variables. Studies have not examined the imposition of LFOs as a sentencing outcome that can be analyzed to better understand sentencing disparities. The discussion to follow is an accumulation of sentencing research that utilizes the focal concerns perspective, these studies do not include any findings specific to the discussion of LFOs. The findings do illuminate the race/ethnicity, gender, age, and combination effects on sentencing outcomes in general. The current study aims to understand whether or not these disparities persist when examining the imposition of LFOs as the dependent variable. The prior sentencing research indicates that the current study is relevant and important to expanding our understanding of sentencing disparities.

The racial disparities that exist in the criminal justice system have inevitably drawn researchers to study the relationship between a defendant's race/ethnicity and sentencing outcomes. Bridges and Steen (1998) examine how court officials' perceptions of offenders influence their assessment and recommendations for punishment. A major finding was that black offenders receive more severe penalties than white offenders because officials may perceive black offenders as more culpable and dangerous than whites in part because they believe the etiology of their crimes is linked to personal traits (Ulmer and Kramer 1996). Likewise, Spohn (2000) found that at both state and federal levels, blacks and Hispanics were more likely than whites to be sentenced to prison. And specifically, at the federal level, blacks received longer sentences than whites. Mitchell (2005) uses a meta-analysis to synthesize research that addresses whether or not African-Americans are treated more harshly than whites. Mitchell found that even

independent of other measured factors like offense seriousness and criminal history, on average, African Americans were sentenced more harshly than whites.

Men are sentenced more harshly than women (Daly and Bordt 1995). This is possibly due to the gendered presuppositions of crime and justice that court actors take into consideration during sentencing, these include relations to kin and family, offense roles, and the prognosis for future behavior (Daly 1994). Daly found that women were more often viewed as less blameworthy than men (Daly 1994 pg. 162). In addition, female offenders are more likely to be viewed by court actors as less dangerous and less likely to recidivate than male offenders (Spohn 2009). One study found that gender differences in court outcomes reflect a concern with maintaining the family unit and the high priority accorded to women's care-taking role and that courtroom outcomes reflect 'real' differences between male and female defendants in criminal involvement and in danger or threat to society (Steffensmeier, Kramer, and Streifel 1993). In analyzing the effect of gender on sentencing decisions, Spohn and Spears (1997) found that women charged with violent crimes were more likely than men charged with violent crimes to have all of the charges against them dismissed. They found that women convicted of violent crimes were less likely to be incarcerated and received shorter prison sentences than their males counterparts (Spohn and Spears 1997). Steffensmeier et al. (1993) found that female offenders were less likely to be incarcerated when compared to male offenders but their results showed that gender did not affect the prison sentence length.

Steffensmeier, Kramer, and Ulmer (1995), examine age differences in sentencing with the main hypothesis being that older offenders are sentenced more leniently than young offenders. Their findings suggested that older offenders are less likely to be imprisoned than younger offenders, and if imprisoned, they received shorter terms than younger offenders. They

found that the peak ages for receiving the most severe sentences were 21-25. Young offenders between 18-20 receive sentences that match offenders between 30-40. Offenders in their 50s and 60s receive the most lenient sentences. The authors suggest that the three focal concerns in combination with age-graded expectations such as degree of dangerousness, propensity for crime, and ability to serve time in prison influence the age disparities in sentencing and cause judges to be harsher on younger offenders than older offenders (Steffensmeier, Kramer, and Ulmer 1995). Spohn and Holleran (2000) examine the effects and interactions of race, gender, and age on sentencing outcomes. Their results indicated that young adults are sentenced more harshly than either teenagers or older adults. They found that offenders aged 21-29 are more likely to be incarcerated and 10% more likely to be sentenced to prison than offenders aged 17-20. In conclusion, age was more influential in the sentencing of male offenders than female offenders and that the influence of race among males was dependent on the offenders age.

Research has shown that race, gender, and age have interactive effects that are considerably important when attempting to understand how defendant characteristics influence sentencing outcomes. Steffensmeier, Ulmer, and Kramer (1998) examine how the interaction of race, gender, and age effect sentence severity. They concluded that these three legally irrelevant characteristics had significant effects on the likelihood of incarceration and the length of the sentence. Spohn and Spears (1997) study showed an interactive relationship between race and gender. They found that white women were more likely than men, white or black, to have their charges dismissed but black women were less likely than white or black men to have their charges dismissed. Their results also showed that black women were sentenced less harshly than black or white males. Steffensmeier (1993) found that sentences imposed on males did not differ by race. His results showed that black women were sentenced on average 3 months longer than

white women. Albonetti (2002) found that gender of the offender only affected sentencing decisions for white and black offenders but not for Hispanic offenders. In a study done in 1998, Steffensmeier found that the effects of race and age were conditioned by gender; for men, race affected sentence severity for younger offenders but not older ones, for women, the effect of race did not vary by age. Black women irrespective of age were sentenced more harshly than white females. His results showed that young black men were sentenced the harshest.

Courtroom Communities Perspective

Closely linked to the focal concerns perspective is the courtroom community perspective. Focal concerns perspective suggests that the three core concerns of court actors are universal, but the meaning, interpretation, and the emphasis of each varies at the local level. This variation then can be explained by the courtroom community perspective. The courtroom community perspective views courts as distinctive social worlds based on participants' shared workplace, interdependent working relationships between key sponsoring agencies, and distinctive legal and informal case processing and sentencing norms (Eisenstein, Flemming, and Nardulli 1988). It is believed that all members of the courtroom community share common goals, resources, circumstances, responsibilities, and are dependent on one another in regard to the court outcomes of offenders (Leifker and Sample 2010). It is important to discuss courtroom community perspective and the focal concerns perspective in close proximity because the ideas suggested by each are arguably inseparable. The features of courtroom community perspective likely influence individual level sentencing decisions through these focal concerns avenues, community protection, perceived offender dangerousness, and the practical constraints. This is thought to be the case for the following reasons: practical constraints and consequences invoke issues of case processing efficiency and local jail capacity, community protection invokes the notion of racial

threat and the relative size of minority population which may be perceived as more of a crime threat by court actors (Ulmer and Johnson 2004).

There are four main hypotheses posed by the courtroom community perspective: sentencing severity will vary significantly between counties, the effects of key predictors will vary significantly across counties, county size will be negatively related to sentencing severity, and counties with more conservative political electorates will exhibit more severe sentencing (Ulmer and Johnson 2004). Courtroom community perspective suggests that sentence severity and the effects of key predictors will vary across courts because sentencing processes and workgroup members interpretations of sentencing criteria, such as focal concerns of sentencing, are embedded in court community culture and interpersonal and interorganizational relationships (Ulmer and Kramer 1998). Sentencing processes are often restrained by guidelines and how members of the court navigate these guidelines. To this point, Johnson (2004) studies the theoretical and empirical linkages between criminal court social contexts and the judicial use of sentences that deviate from the recommendations of sentencing guidelines. His findings highlight the crucial role that guideline departures play in worsening contextual disparities in criminal sentencing. His results also provide evidence that judicial use of sentencing guideline departures combined with the relative emphasis placed on individual sentencing considerations varies significantly across courts.

Further, according to this perspective, sentencing is expected to be less severe in large urban court communities. This is due to two main factors related to large court community size: 1) the relatively high degree of autonomy of the court community from external controls from other community institutions and 2) the relatively low public visibility of routine case processing matters and sentences. Additionally, it is believed that the amount and diversity of social

deviance in general tend to be greater in large urban areas so this may produce tolerance and less punitiveness (Dixon 1995; Eisenstein et al. 1988). Ulmer and Johnson (2004) found that counties with heavier caseloads were relatively less likely to incarcerate defendants. More broadly, their findings suggested that large courts were considerably less likely to incarcerate than medium or smaller courts, and to a lesser extent, large courts also gave out shorter sentences (p. 166).

The focal concerns perspective emphasizes particular kinds of substantive rationalities at work in sentencing decisions which are in turn embedded in the culture and organization of courtroom communities, thus illustrating the importance of discussing one with recognition of the other (Ulmer and Kramer 1996). The imposition of LFOs is restrained by certain guidelines, and although these guidelines are intended to reduce sentencing disparities and produce uniformity, extralegal criteria taken into consideration through the judges' focal concerns and produced in courtroom communities is arguably a source of sentencing disparities.

Sentencing and LFOs

The sentencing literature largely ignores legal financial obligations and rarely recognizes them as an important part of criminal sentencing in the United States criminal justice system (Harris, Evans, and Beckett 2010). There are major concerns of fairness that arise when examining the sentencing process of LFO's. One issue is that there is a significant lack of assessment of the offender's current ability to pay at the time of sentencing. Judges are more likely to assign a routine amount than take adequate time to analyze an offenders current financial situation. In addition, judges tend to rely heavily on an assessment of the offender's hypothetical future ability to pay. These problems are likely due to the lack of judicial understanding or policy guiding the assessment of indigence.

A second critical issue in the sentencing process of LFOs is the determination of offender's willful non-payment. In 44 states judges are allowed to incarcerate people for delinquent or unpaid LFOs (Harris 2016). As a result of cases like *Williams v. Illinois* (1970), *Tate v. Short* (1971), and *Bearden v. Georgia* (1983), the notion of willfulness is what determines whether or not a person can be incarcerated. Judges can use their discretion when deciding whether or not a defendant is a "willful-nonpayer." Understanding the magnitude of these issues is challenging because research has shown that within each county, court actors thought about LFOs very differently and use their discretion at different key points in the process (Harris 2016).

The severity of LFOs has been found to vary by race. For example, research has shown that Latinos convicted of drug charges and drug offenders convicted in counties with larger Latino populations receive significantly greater LFOs than do other defendants. Black defendants sentenced in counties with comparatively large black populations also receive more severe monetary penalties (Harris, Evans, and Beckett 2011). In the same study, Harris et al. found that violent offenders do not receive significantly greater fines than non-violent offenders. Her findings also showed that Latinos were assessed 6.7% greater fines than similar white and black defendants, and that individuals convicted at trial were assessed 30% greater fines, on average, than defendants who plead guilty, and men were assessed greater monetary sanctions than women.

In 2016 data on sentencing and LFOs was gathered in Larimer County, Colorado. The Community Law Enforcement Action Reporting (CLEAR) Act enabled researchers to gather information on arrests and court cases and required them to produce a public report of the findings. In Larimer county, 46% of drug cases resulted in a fine, 21% of property offenses

resulted in a fine, and only 2% of violent offenses resulted in a fine. 15% of cases for both men and women resulted in a fine. 11% of cases involving black defendants resulted in a fine, 15% of cases with Hispanic defendants, and 16% of cases with white defendants resulted in a fine.

Harris (2016) draws on extensive sentencing data, legal documents, observations of court hearings, and interviews with defendants, prosecutors, judges, and other court actors in Washington State to better understand how offenders are assessed when court actors impose LFOs. Findings revealed that judges rely heavily on a hypothetical image of the offender that is based on their moral character and notions of accountability. Her research also exposed that court actors are more likely to discuss assumptions of a defendant's motivations and intentions than to discuss the different structural factors that may be related to the defendant's criminal behavior. Within the discussions that she witnessed, various descriptions were made of marginalized people, undereducated, unemployed, and chemically addicted people as malicious or lazy. These different characteristics of the defendant were linked to assumptions of a "negative lifestyle." Because judges rely on an assessment of the offender's future ability to pay, notions of accountability tend to be the basis their LFO imposition decisions. Another factor that results identified as a major concern for judges was the defendant's exhibition of remorse. Because LFOs are considered by the criminal justice system as a punishment and as a way to hold offenders accountable, making payments on LFOs is a way for the defendant to show remorse in the eyes of the court.

Current Study

The purpose of the current study is to expand research on sentencing disparities in the criminal justice system by analyzing how individual-level characteristics of a defendant influence the likelihood of the imposition of fines and fine amounts. Previous studies have

examined the relationship between defendant characteristics and sentencing outcomes (Albonetti 1997, Spohn and Holleran 2000, Steffensmeier and Demuth 2006). Research in this area has yet to specifically examine the relationship between defendant characteristics and LFO imposition as a sentencing outcome. The few studies that currently exist on LFOs examine them from two main angles: by exploring how frequently they are imposed and by examining the discrepancies in the laws and statutes across counties that determine how court actors impose LFOs (Harris et al. 2010, Harris et al. 2011, Harris 2016, Martin et al. 2018). My study will be one of few to examine how defendant characteristics are related to LFO imposition while utilizing a focal concerns perspective.

Hypothesis 1: Men are more likely to be assigned fines and incur greater fine amounts than women.

The basis for the first hypothesis is derived from prior research on the relationship between sentencing outcomes and gender. The majority of the research in this area has illustrated that men are more likely to receive harsher punishments than women (Daly 1994; Spohn and Spears 1997; Steffensmeier et al. 1993). This is thought to be the case for a number of reasons, the two most popular reasons being: 1) because female offenders are more likely to be viewed by court actors as less dangerous and less likely to recidivate than male offenders (Spohn 2009), 2) and because judges tend to be concerned with maintaining the family unit and do not want to disrupt women's care-taking role (Steffensmeier et al. 1993).

Hypothesis 2: Non-white offenders are more likely to be assigned fines and incur greater fine amounts than white offenders.

Justification for the second hypothesis stems from the body of research that has examined the relationship between race and sentencing outcomes. Much of the research on sentencing

disparities is driven by a desire to understand racial inequalities that exist in the criminal justice system. A large amount of past research has shown that when controlling for offense type and criminal history, non-white offenders are sentenced more harshly than their white counterparts (Chiricos and Crawford 1995; Doerner and Demuth 2010; Pettit and Western 2004; Steffensmeier and Demuth 2006).

Hypothesis 3: Younger offenders are more likely to be assigned fines and incur greater fine amounts than older offenders.

Supporting this hypothesis are empirical findings that age has a positive effect on sentencing outcomes. Findings suggest that older offenders are sentenced less harshly than younger offenders (Doerner and Demuth 2010). Researchers suggest that this is due to age-graded expectations (degree of dangerousness, propensity for crime, and ability to serve time in prison) (Steffensmeier et al. 1995).

Hypothesis 4: Non-white men are more likely to be assigned fines and incur greater fine amounts than white men.

This hypothesis is supported by research on both, the relationship between race and sentencing outcomes and the relationship between gender and sentencing outcomes. We would expect the addition of gender and race/ethnicity characteristics to result in a similar outcome.

Hypothesis 5: Young black men are more likely to be assigned fines and incur greater fine amounts than any other group.

My fifth hypothesis is based on studies that examine how age, race, and gender interact in terms of sentencing outcomes. Steffensmeier, Ulmer, and Kramer (1998) found that young, black men are sentenced the harshest in comparison to all other groups.

CHAPTER III

METHOD

In the current study, I will use individual-level data from the State Court Processing Statistics (SCPS). The SCPS has collected data on felony cases in approximately 40 of the 75 most populous counties in even numbered years from 1990-2009. I will use the most recent version of the data from 2009. The 2009 SCPS includes data on 16,694 defendants charged with a felony offense in 40 counties.¹ Because the 75 counties sampled account for more than a third of U.S. population and represent courts that handle a substantial amount of felony cases, the findings are considered somewhat generalizable. SCPS includes data on arrest charges, demographic characteristics, criminal history, sentencing, pretrial release and detention and other criminal justice variables. The inclusion of important demographic characteristics such as race/ethnicity, age, and gender at the time of sentencing makes this data a sufficient source to use in order to address the research question posed in the current study.

Dependent Variables

The first independent variable that I am interested in is fine imposed. In the original dataset, the variable label is “fine” and it is a dichotomous measure. There are two situations where values were considered missing: either the data is genuinely missing from the dataset, or the imposition of a fine is not applicable. In my analysis, fine is measured using a single dummy

¹ The counties included in the SCPS dataset are Arizona (Maricopa, Pima); California (Los Angeles, Orange, San Bernardino, Ventura); Connecticut (Hartford); Florida (Broward, Miami-Dade, Hillsborough; Orange); Hawaii (Honolulu); Illinois (Cook); Indiana (Marion); Maryland (Baltimore, Montgomery, Prince George); Michigan (Oakland, Wayne); Missouri (Saint Louis); New Jersey (Essex, Middlesex); New York (Bronx, Kings, Nassau, New York, Suffolk); North Carolina (Wake); Ohio (Cuyahoga, Franklin, Hamilton); Tennessee (Shelby); Texas (Dallas, El Paso, Harris, Tarrant); Utah (Salt Lake City); Washington (King); and Wisconsin (Milwaukee).

variable, yes as “1” and no as “0.” The variable “fine” indicates whether or not an offender was assessed a fine for the current offense that they were convicted for.

Fine amount is measured as a continuous variable and is represented by dollar amounts. The minimum fine amount allowed in the dataset was \$1.00 and the maximum fine amount was \$250,0000.00. In my analysis, I use the mean as the measure of central tendency instead of the median. I do this because of serious outliers in the dataset. I limit the variable to < \$100,000 when calculating the average fine amounts due to these three serious outliers. These outliers are fine amounts of \$143,000, \$300,000, and \$500,000 and I discuss these outliers further in the results section.

Focal Concerns Variables

The primary independent variables of interest are gender, age, and race/ethnicity. In the dataset, gender is a dichotomous variable, either male or female. The dataset was coded as male is “1” and female is “2”. In my analysis, I measure gender dichotomously as well. I use a single dummy variable so that female is “1” and male is “0.” Age of the defendant in the original dataset is a continuous variable. I divide age into three different categories, “young” will be defendants between the ages of 18-30, “middle” will be those between 31-49 years old, and “older” will be defendants 50 years or older (Steffensmeier, Ulmer, and Kramer 1998). Studies on sentencing outcomes that have used the age of the defendant as an independent variable use this strategy and have set the precedent for this procedure. I divide age into three categories and code them each as their own set of dummy variables so that I can successfully test the full range of joint effects between race/ethnicity, gender, and age. The different race/ethnicities that I am interested in analyzing in the current study are white, black, and Hispanic. The race/ethnicity variable that I use in my analysis is derived from a variable in the dataset that is measured as a

nominal level variable, white non-Hispanic, black non-Hispanic, Hispanic of any race, and other non-Hispanic. To better test the joint effects of my independent variables, I create three dummy variables: White non-Hispanic (labeled as white), black non-Hispanic (labeled as black), and Hispanic (labeled as Hispanic), each are measured dichotomously now as “0” for no or “1” for yes.

Analytic Strategy

To start, I will be analyzing descriptive statistics of the data. I will be doing cross-tabs to compare fine imposition and the average fine amount for the focal concern variables of interest (race/ethnicity, gender, and age). I will also do cross-tabs to compare fine imposition and the average fine amount for six combinations of race/ethnicity and gender. Cross-tabs are also done in order to compare fine imposition and average fine amount for all 18 combinations of the focal concerns variables (race/ethnicity, gender, and age). I run chi2 to understand the relationship between each focal concern variable (race/ethnicity, gender, and age) and one of the dependent variables (fine imposition). Chi2 is a statistical procedure used to test a null hypothesis about the relationship between two categorical variables. The null hypothesis is that no relationship exists between the two variables and that they are independent. In addition to the descriptive statistics, I use Cramer’s V to better understand the association between the dependent variable (fine imposition) and the various different independent variables, including the combinations of race/ethnicity and gender and the combinations of race/ethnicity, gender, and age. This test is a statistical measure of the association that quantifies the strength of magnitude of a relationship between two nominal-level variables (Privitera 2011). Lastly, I use the point-biserial correlation coefficient to understand the relationship between the different independent variables and the dependent variable (fine amount). I use this test instead of the Pearson correlation coefficient

because it can be used to measure the direction and strength of the relationship between one variable that is continuous (fine amount) and one that is dichotomous (focal concerns variables) whereas the Pearson test can only be used to test the strength and direction of the relationship between two interval scale measurements (Bachman and Paternoster 2016).

CHAPTER IV

RESULTS

Descriptive Statistics

Descriptive statistics of the variables are included in the results below. Comparisons of the variables are done separately by gender, age, and race. Additionally, comparisons across race/gender categories are in Table 3 and comparisons across race/gender/age categories are done in Table 4. Table 5 includes the findings from Table 4 but rank orders them to examine any patterns.

Table 1: Descriptive Statistics from SCPS Dataset

Variables	N (16,694)	%
Male	13,767	82.466
Female	2,791	16.718
Ages 18-30	8,560	51.275
Ages 31-49	6,210	37.198
Ages 50+	1,436	8.601
White	4,924	29.495
Black	7,343	43.985
Hispanic	3,769	22.576
Fine Imposed	1,878	11.249
Fine Amount	M:\$1504.48	

The general statistics for the characteristics of interest (gender, age, race/ethnicity) out of the entire sample are provided in Table 1. Male offenders make up 82% of the all individuals in the dataset. 51% of offenders in the sample are between the ages of 18-30, 37% are between 31-49 years old, and 37% are 50 years or older. 29% of offenders are white, 23% are Hispanic, and 44% are black. 1,878 individuals received a fine, representing 11% of all offenders in the dataset. The mean fine amount for all offenders who received a fine as punishment is \$1504.48.

For Tables 2-5, the percentage of fine imposed is found by dividing the total number of individuals who received a fine in each category by the total number of individuals convicted in

each category. This percentage then is representative of the offenders who received a fine out of the total number of offenders in the dataset that were eligible to receive a fine.

Table 2: Focal Concerns Variables

Variables	Fine Imposed	%	Standard Deviation	Cramer's V	Mean Fine Amount	Standard Deviation	Chi2
<i>Gender</i>							3.15
Male (<i>n</i> = 7,710)	1551	20.12	.40	.0212	\$1,019.15	3249.40	
Female (<i>n</i> = 1,420)	315	22.18	.42	-.0186	\$933.73	3060.02	
<i>Age</i>							11.09**
18-30 (<i>n</i> = 4,608)	942	20.44	.40	.0011	\$994.83	3809.48	
31-49 (<i>n</i> = 3,521)	704	19.99	.40	.0097	\$1,036.58	2629.71	
50+ (<i>n</i> = 814)	210	25.80	.44	-.0411	\$987.99	1965.12	
<i>Race/Ethnicity</i>							87.28***
White (<i>n</i> = 2,703)	642	23.75	.43	-.0523	\$1,157.06	5069.19	
Black (<i>n</i> = 4,066)	651	16.01	.37	.0991	\$782.10	1659.53	
Hispanic (<i>n</i> = 2,134)	518	24.27	.43	-.0517	\$1,118.71	1359.20	

p<.05* p<.01** p<.001***

Table 2 shows the separate comparisons across gender, comparisons across age groups, and comparisons across race/ethnicity groups. The percentage of convicted male offenders in the dataset who receive fines is 20.12% and convicted female offender receive fines 22.18% of the time. Female offenders who receive fines incur lower fine amounts on average (\$933.73) than male offenders (\$1,019.15). These findings provide partial support for hypothesis 1: “Men are more likely to receive fines and incur greater fine amounts than women.” In actuality, convicted men are slightly less likely to receive fines than convicted women but men do incur greater fine amounts than women. Statistics in Table 2 provide information to evaluate hypothesis 2: “Non-white offenders are more likely to receive fines and incur greater fine amounts than white offenders.” Convicted black offenders have the lowest percentage of fine imposition (16.01%) and convicted Hispanic offenders have the highest percentage (24.27%). White offenders receive fines 23.75% of the time. The findings show that white offenders actually receive higher fine amounts on average (\$1,157) than black and Hispanic offenders. Lastly hypothesis 3 is also addressed in Table 2: “Younger offenders are more likely to receive fines and incur greater fine

amounts than older offenders.” The findings show that convicted offenders ages 50+ are actually more likely to receive fines than convicted offenders ages 18-30, 25.8% to 20.44% respectively. Younger offenders do in fact incur greater fine amounts on average than older offenders, but there is only a \$8 difference between the two. The age group that receives the highest fine amounts on average is offenders between the ages 31-49.

The chi2 results in Table 2 test the null hypothesis that there is not relationship between fine imposition and each focal concern variable. The chi2 for age is 11.09 and it is statistically significant with a p-value that is less than .01. I reject the null hypothesis and conclude that there is a relationship between age and fine imposition. The chi2 for race/ethnicity is 87.28 and this result is statistically significant with a p-value less than .001. Based on chi2, there is a relationship between fine imposition and race/ethnicity.

Table 3: Race/Ethnicity and Gender Comparisons

Variables	Fine Imposed	%	Standard Deviation	Cramer's V	Mean Fine Amount	Standard Deviation
White Male (n = 2,132)	508	23.83	.43	-.0455	\$1,149.43	5209.10
Black Male (n = 3,485)	548	15.72	.36	.0925	\$822.28	1778.80
Hispanic Male (n = 1,898)	450	23.71	.43	-.0408	\$1,133.08	1341.26
White Female (n = 561)	131	23.35	.42	-.0181	\$1,180.21	4559.69
Black Female (n = 579)	101	17.44	.38	.0196	\$573.86	718.01
Hispanic Female (n = 231)	67	29.00	.45	-.0339	\$1,033.05	1490.92

Table 3 displays the results of fine imposed and the mean fine amounts for the 6 combinations of race/ethnicity and gender. Black males have the highest number of fines imposed of all race/gender combinations. Yet the proportion of black males who receive fines out of all black males who are convicted is the lowest of all the groups in Table 3. Hispanic

females have the highest percentage of fine imposition and a mean fine amount of \$1,033. Black females have the lowest mean fine amount (\$573.86) of all the race/gender combinations. and Black males have the second lowest of all race/gender combinations (\$822.28) and the lowest mean fine amount of the three male groups. White females have the highest mean fine amount (\$1,1180.21) of all groups and the next highest mean fine amount belongs to white males (\$1149.43). The descriptive statistics in this table do not provide support for hypothesis 4: “Non-white men are more likely to be assigned fines and incur greater fine amounts than white men.” In fact, rows 1-3 of Table 3 show that the percentage of convicted white males who receive fines is 8% higher than convicted black males who receive fines and .12% higher than convicted Hispanic males who receive fines. Additionally, white men incur greater fine amounts than both black and Hispanic males.

Table 4: Race/Ethnicity, Gender and Age Comparisons

Race/Gender	Age	Fine Imposed	%	Standard Deviation	Cramer's V	Mean Fine Amount	Standard Deviation
White Male	18-30	237	23.38	.42	-.0245	\$1190.428	6519.63
	31-49	199	23.55	.42	-.0242	\$1186.962	4265.08
	50+	67	27.69	.45	-.0294	\$960.8537	1415.54
Black Male	18-30	280	15.86	.37	.0561	\$727.344	1145.20
	31-49	185	14.69	.35	.0573	\$938.8324	2274.45
	50+	70	21.94	.41	-.0068	\$952.5714	2417.11
Hispanic Male	18-30	233	22.04	.41	-.0139	\$1155.679	1591.39
	31-49	187	26.45	.44	-.0427	\$1163.013	1012.92
	50+	27	27.27	.45	-.0176	\$836.2963	957.35
White Female	18-30	53	22.84	.42	-.0094	\$1585.87	6819.02
	31-49	57	21.59	.41	-.0047	\$669.3125	764.01
	50+	21	35.00	.48	-.0292	\$1518.81	3211.02
Black Female	18-30	55	21.40	.41	-.0038	\$475.2037	479.16
	31-49	37	14.68	.35	.0242	\$577.5676	556.97
	50+	9	14.52	.36	.0122	\$1150.556	1738.63
Hispanic Female	18-30	42	33.60	.47	-.0382	\$1009.512	1726.67
	31-49	21	22.58	.42	-.0052	\$1223.9	1027.66
	50+	4	33.33	.49	-.0115	\$320	226.42

The descriptive statistics in Table 4 show the percentage of fine imposed and the mean fine amounts for 18 combinations of race/gender/age. One finding from this table shows that young white women on average incur the highest mean fine amount (\$1585.87). The next highest mean fine amounts are also received by women, older white women (\$1518.81) and middle aged Hispanic women (\$1223.90). All men ages 50+ of all race/gender categories incur average fine amounts that do not exceed \$1000. The mean fine amount for convicted Hispanic women ages 50+ is the lowest of all other groups, \$320. Table 4 addresses hypothesis 5: “Young black men are more likely to be assigned fines and incur greater fine amounts than all other groups.” The percentage of convicted black men ages 18-30 who receive fines is only 15.86%, this is one of the lowest of all groups. The mean fine amounts for black men ages 18-30 is \$727.34, which is also one of the lowest of all groups. These findings are not supportive of hypothesis 5 and suggest that in reality, young black men fare better in terms of both percentage of fine imposed and mean fine amounts than 73% of all other race/gender/age groups. Black men of all ages do not have mean fine amounts that exceed \$1000 while all other race/gender categories have at least one age group that has a mean fine amount exceeding \$1000.

Table 5: Race/Ethnicity, Gender and Age Rank Ordered

Age/Race/Gender	% Fine Imposed	Age/Race/Gender	Mean Fine Amount
Older White Female	35.00	Young White Female	\$1585.87
Young Hispanic Female	33.60	Older White Female	\$1518.81
Older Hispanic Female	33.33	Middle Hispanic Female	\$1223.9
Older White Male	27.69	Young White Male	\$1190.428
Older Hispanic Male	27.27	Middle White Male	\$1186.962
Middle Hispanic Male	26.45	Middle Hispanic Male	\$1163.013
Middle White Male	23.55	Young Hispanic Male	\$1155.679
Young White Male	23.38	Older Black Female	\$1150.556
Young White Female	22.84	Young Hispanic Female	\$1009.512
Middle Hispanic Female	22.58	Older White Male	\$960.8537
Young Hispanic Male	22.04	Older Black Male	\$952.5714
Older Black Male	21.94	Middle Black Male	\$938.8324
Middle White Female	21.59	Older Hispanic Male	\$836.2963
Young Black Female	21.40	Young Black Male	\$727.344
Young Black Male	15.86	Middle White Female	\$669.3125
Middle Black Male	14.69	Middle Black Female	\$577.5676
Middle Black Female	14.68	Young Black Female	\$475.2037
Older Black Male	14.52	Older Hispanic Female	\$320

The 18 combinations of age, race/ethnicity, and gender are ranked from highest percentage of fine imposed to lowest and highest mean fine amount to lowest in Table 5. Ordering these statistics allows us to evaluate certain groupings that emerge at the top and bottom of rankings. One initial finding that is notable is that female offenders have the 3 highest percentages of fine imposed as well as the 3-highest mean fine amounts. Women also have the 4 lowest average fine amounts of all groups. Black offenders of both genders and all age categories are all ranked on the bottom half of the percentage fine imposed list. The percentages of fine imposed only differ by 20.48% from the top of the list (older white females) to the bottom (older black males). The average fine amount differs by \$1,265.87 from the top of the list (young white females) to the bottom (older Hispanic females).

Cramer's V

In Tables 2-5, results of the Cramer's V test are also reported. This test provides a coefficient that is representative of the strength of the association between the dependent variable (fine imposed) and the different independent variables. In Table 2, the results show that the relationship between male offenders and fine imposition is positive but weak and the relationship between female offenders and fine imposition is negative and weak. These results show support for hypothesis 1, that male offenders are more likely to receive fines than female offenders. The Cramer's V coefficient for the relationship between race/ethnicity and fine imposition show that white offenders have a negative and weak relationship with fine imposition, black offenders have a positive, weak relationship with fine imposition, and Hispanic offenders have a negative, weak relationship with fine imposition. Therefore, white and Hispanic offenders are less likely to receive fines but black offenders are more likely to receive fines. These results show partial support for hypothesis two, that non-white offenders are less likely to receive fines than white offenders. Lastly, Table 2 shows the Cramer's V score for the association between the different age groups and fine imposition. Young offenders between the ages 18-30 and middle-aged offenders between the ages 31-49 have a positive, weak association with fine imposition, meaning they are more likely to receive fines. Older offenders 50 years or older have a negative weak association with fine imposition, therefore they are less likely to receive fines. These results show support for hypothesis three, that younger offenders are more likely to receive fines than older offenders.

The Cramer's V scores in Table 3 show the association between 6 different race/ethnicity gender combinations and fine imposition. The association between white male offenders and fine imposition is negative and weak, black male offenders have a positive and weak association with

fine imposition, and Hispanic male offenders have a weak, negative association with fine imposition. These results show support for hypothesis 4, that non-white male offenders are more likely to receive fines than white male offenders. According to the results, black male offenders are more likely to receive fines than both white and Hispanic male offenders. White female offenders have a negative, weak association with fine imposition therefore are less likely to receive fines. Black female offenders have a positive, weak association with fine imposition, so are more likely to receive fines. Lastly, Hispanic female offenders have a negative weak relationship with fine imposition, thus are less likely to receive fines.

Table 4 displays the Cramer's V scores for the association between the 18 combinations of race/ethnicity, gender, and age with fine imposition. Young white males, middle aged white males, and older white males have a weak negative relationship with fine imposition. Young black male offenders have a positive weak relationship with fine imposition. This result shows support for hypothesis 5, that young black males are more likely to receive fines than other groups. Middle aged black male offenders have a positive weak relationship with fine imposition as well, so are more likely to receive fines. Older black male offenders have a negative weak association with fine imposition. Hispanic male offenders, young, middle-aged, and older ones, have a negative weak relationship with fine imposition, so are less likely to receive fines. The association between young, middle-aged, and older white females with fine imposition is negative and weak, therefore these three groups are less likely to receive fines. Young black female offenders are less likely to receive fines, they have a negative weak relationship with fine imposition. Black female offenders between the ages of 31 and 49 and black female offenders 50 years and older have a weak positive relationship with fine imposition, suggesting that they are more likely to receive fines. Young Hispanic females, middle-aged Hispanic females, and older

Hispanic female offenders all have a weak negative association with fine imposition, thus they are less likely to receive fines.

Correlations

In Tables 6-8, I report the results of the point bi-serial correlation coefficient test. These results are a measure of the direction and strength of the relationship between my various different independent variables and the dependent variable (fine amount).

Table 6: Focal Concerns Variables

<i>Variable</i>	<i>Point Bi-Serial Correlation Coefficient</i>
Male	-.0449
Female	.0465*
White	.0219
Black	-.0370
Hispanic	.0203
Younger	.0359
Middle	.0474*
Older	-.0129

p<.05* p<.01** p<.001***

Table 6 provides the point bi-serial correlation coefficient for the relationship between each independent variable and fine amounts. There is a negative, weak correlation between fine amount and male offenders. There is a statistically significant, positive, weak relationship between female offenders and fine amount. These two results do not support my first hypothesis, that men will incur greater fine amounts than women. The relationship between white offenders and fine amount is positive and weak. There is a negative, weak correlation between black offenders and fine amount and a positive weak correlation between Hispanic offenders and fine amount. These results show partial support for my second hypothesis, that non-white offenders will incur greater fine amounts than white offenders. According to these correlation coefficients, white offenders will receive greater fine amounts, black offenders will receive lower fine amounts, and Hispanic offenders will receive greater fine amounts. The relationship between

younger offenders and fine amount is positive and weak, meaning they will incur greater fine amounts. Middle aged offenders have a statistically significant, positive, and weak correlation to fine amount. And the relationship between older offenders and fine amount is negative and weak, suggesting that they will receive lower fine amounts. The results from this test show support for my third hypothesis, that younger offenders will incur greater fine amounts than older offenders.

Table 7: Race/Ethnicity and Gender Combinations

<i>Race/Ethnicity and Gender</i>	<i>Point Bi-Serial Correlation Coefficient</i>
White Male	-.0152
Black Male	-.0309
Hispanic Male	.0016
White Female	.0673**
Black Female	-.0156
Hispanic Female	.0226

p<.05* p<.01** p<.001***

In Table 7, results of the point bi-serial correlation coefficient test are displayed for the relationship between the combined race/ethnicity and gender variables and fine amount. Results reveal a weak, negative relationship between white male offenders and fine amount. The correlation between black male offenders and fine amount is negative and weak. Hispanic male offenders have a positive, weak relationship with fine amount. These results suggest that white male offenders and black male offenders will incur lower fine amounts and that Hispanic male offenders will incur greater fine amounts, which is partially supportive of my fourth hypothesis: non-white men will incur greater fine amounts than white men. The relationship between white women and fine amount is positive, weak, and statistically significant with a p-value less than .01. Black women have a negative, weak relationship with fine amount and the relationship between Hispanic women and fine amount is positive and weak.

Table 8: Race/Ethnicity, Gender, and Age Combinations

<i>Age, Race/Ethnicity, Gender</i>	<i>Point Bi-Serial Correlation Coefficient</i>
Young White Male	-.0084
Middle White Male	-.0077
Older White Male	-.0074
Young Black Male	-.0229
Middle Black Male	-.0132
Older Black Male	-.0077
Young Hispanic Male	-.0092
Middle Hispanic Male	.0295
Older Hispanic Male	-.0057
Young White Female	.0010
Middle White Female	.0989***
Older White Female	.0001
Young Black Female	-.0125
Middle Black Female	-.0093
Older Black Female	-.0017
Young Hispanic Female	-.0052
Middle Hispanic Female	.0485*
Older Hispanic Female	-.0039

p<.05* p<.01** p<.001***

Results of the point bi-serial correlation coefficient test for each of the 18 combinations of race/ethnicity, gender, and age in relation to fine amount are provided in Table 8. The relationship with fine amount is negative and weak for the following independent variable combinations: young white males, middle aged white males, older white males, young black males, middle aged black males, older black males, young Hispanic males, older Hispanic males, young black females, middle aged black females, older black females, young Hispanic females, and older Hispanic females. My fifth hypothesis was that young black men would incur greater fine amounts than any other group, this hypothesis is not supported by the point bi-serial correlation coefficient test because there are other groups that have a positive relationship with fine amounts while young black men have a negative relationship, meaning they will incur lower fine amounts. The relationship between middle aged Hispanic males and fine amount is positive

and weak. Young white females have a positive, weak relationship to fine amount. The relationship between middle aged white females is positive and weak. The coefficient is statistically significant with a p-value less than .001. The relationship between older white females and fine amount is positive and weak. Lastly, the correlation between middle aged Hispanic females and fine amount is positive and weak. The coefficient is statistically significant with a p-value less than .05.

Outliers

While examining the fine amounts in the dataset, I identified three serious outliers. These fine amounts were excluded from my analysis but do require more investigation. These outlying fine amounts are \$143, 000, \$300,003.36, and \$500,000. The fines of \$143,000 and \$300,000 were assessed in Orange County, California and the fine of \$500,000 was assessed in Hillsborough County, Florida. The offender who received a fine of \$143,000 was a 46-year-old Hispanic female charged with grand theft. Prior to this felony charge, the offender had 0 prior arrests. She was detained and her bond was set at \$100,000. The offender was represented by a private attorney. The offender who received a fine of \$300,000 was charged with grand theft. This offender was a 42-year-old Hispanic male with 0 prior arrests. He was detained and his bail was set at \$100,000. He was represented by a public defender. The offender who was assessed a \$500,000 fine in Florida was a charged with trafficking in illegal substances. The offender was a 45-year-old white female. Prior to this felony charge, she had 3 prior arrests, 2 of which were felony arrests and 1 misdemeanor arrest. She was detained and her bond was set at \$50,000. She was represented by a public defender.

CHAPTER V

DISCUSSION

Many studies have examined the relationship between defendant characteristics and sentencing outcomes by making comparisons across race/ethnicity, gender, and age and some by examining the joint effects of these characteristics (Doerner and Demuth 2010; Spohn 2013). The primary focus of most of these studies is on sentence severity as the outcome. This study contributes to research on sentencing disparities by concentrating on fines as a result of the sentencing stage. In general, the results imply that the comparisons across the characteristics when examined separately differ only slightly but when the characteristics are combined either by race/ethnicity and gender and by race/ethnicity, gender, and age, the findings are noteworthy. The outcomes can be utilized to better understand the different focal concerns of the judges and can specifically contribute to our understanding of the role of the perceptual shorthand in fine imposition decisions and assessments of fine amounts.

From my findings, it can be concluded that male offenders are more likely to receive fines than female offenders. Although the results from the correlation test show that female offenders have a positive association with fine amount while male offenders have a negative association with fine amount. Due to the lack of other important variables included in my analysis, I can only speculate as to why this is the case. One important variable to take into consideration in this case would be whether or not the offender was also sentenced to incarceration. If male offenders are receiving fines more often but female offenders receive higher fine amounts, this may be because male offenders are sentenced to incarceration in addition to receiving a fine more often than women. Thus, female offenders may receive higher

fine amounts because they are not sentenced to incarceration in addition to receiving a fine. Findings from prior sentencing research in combination with the third focal concern of court actors (practical constraints and consequences) might lead us to believe that women receive a fine in lieu of incarceration more often than men because they may have ties and responsibilities to children that judges do not want to disrupt. When a fine is assessed in lieu of incarceration, it may be higher in order to fulfil the appropriate level of punishment in the eyes of the judge.

I hypothesized that non-white offenders would be more likely to receive fines and incur greater fine amounts than white offenders. This was partially supported by my results. White offenders are more likely to receive higher fine amounts than black or Hispanic offenders, and the Cramer's V results shows that black offenders have a positive relationship with fine imposition while white and Hispanic offenders have a negative relationship with fine imposition. These findings may be related to the idea of a perceptual shorthand that judges use in order to make their sentencing decisions. This perceptual shorthand causes judges to rely on societal stereotypes to manage uncertainty. Black offenders may be perceived by judges to be less able to pay fines, therefore they are assessed lower fine amounts. This theory is discussed in more depth in sections below.

Younger offenders have a positive relationship with fine imposition and with fine amount and older offenders have a negative relationship with fine imposition and fine amount. One of the focal concerns of court actors is the protection of the community where they take into consideration the offenders threat posed on the community and the offenders likelihood of recidivism. A judge may perceive an offender as less of a threat to the community due to their age and as less likely to recidivate because they have aged out of the peak time frame in which offenders are thought to commit crimes. These results speak to the idea of judges age graded

expectations of offenders. Older offenders may receive less fines and lower fine amounts because court actors are less concerned with deterring them from future criminal behavior.

Most interestingly, the results from this study highlight the benefit of studying the joint effects of gender and race/ethnicity, and gender, race/ethnicity, and age over examining each characteristic separately. In Table 2, we can see that in general, men receive higher fine amounts on average than women (\$1,019.15 and \$933.73 respectively). Yet in this study, white women receive, the highest average fine amounts (\$1,180) when compared to other race/ethnicity and gender groups (Table 3). The two-highest average fine amounts of all 18 age, race/ethnicity, and gender groups belong to young white women (\$1,585.87) and older white women (\$1,518.81). Research has shown that white female defendants benefit from being “female” but do not benefit from being “white” (Steffensmeier and Demuth 2006). A study that focuses on perceptions of the connection between race and class found that people tend to mentally represent the “poor” category as blacker and the “rich” category as whiter (Lei and Bodenhausen 2017). Using the focal concerns perspective, this finding may emerge because these assumptions of class based on race may be used by judges during the sentencing stage through the perceptual shorthand. Therefore, perceptions of white female offenders as having a higher-class status than other groups may result in the imposition of higher fine amounts.

Another notable finding from the research is that the percentage of older Hispanic women who receive fines is 33.33%, this is the 3rd highest percentage for all age, race/ethnicity, and gender categories. Yet older Hispanic women receive the lowest average fine amount (\$320) of all 18 age, race/ethnicity, and gender categories. This finding may be explained by research on perceptions of race and class as well but also by research on court actors’ age graded expectations. Studies have shown that greater leniency will be extended to older offenders due to

practicality reasons (Steffensmeier et al. 1995). This type of reasoning may explain why despite the high percentage of fine imposition, older Hispanic women receive lower fine amounts.

Studies that focus on black male offenders and the negative labels that they invoke found that a variety of labels are applied to this specific group; “delinquents, “dope addicts,” and “welfare pimps” (Gibbs 1988). Further, black offenders are socioeconomically disadvantaged and are often viewed as lacking resources (Myers 1987). The association of these negative stereotypes with black male offenders may explain the number of black male offenders that receive fines. Opposite of my prediction based on prior sentencing research, black men have lower average fine amounts than many other groups. This finding may be because court actors have a tendency to presume that black men lack viable resources. This is important because it may suggest that the imposition of LFOs has a reverse effect on court actors’ decision-making processes. Class bias in criminal sentencing may cause court actors to view black men as unable to pay LFOs, therefore they are sanctioned to lower amounts while white offenders may be sanctioned to higher amounts due to positive assumptions of class and availability of resources.

Due to the lack of other variables in the analysis in the study, the results are most applicable to understanding the role of the perceptual shorthand in the imposition stage of fines and the assessment of fine amounts. Societal stereotypes and the assumptions that are paired with these stereotypes may likely influence whether or not a judge decides to impose a fine and if so, the amount of the fine. If judges have a shortage of time to deal with the case and a shortage of information about the case or the offender, it may be more cost and time efficient for them to deal with their uncertainty and base their sentencing decisions on assumptions of an offenders’ character. These assumptions may be derived from past experiences in the courtroom but are arguably largely derived from the stereotypes that are created in society and reflected in

courtroom communities. If so, this is problematic specifically when discussing LFOs because it may result in a certain group of people being negatively affected more so than other groups.

There are a number of limitations to this study that are important to address. First being the issues with the SCPS database. Although the SCPS provides adequate information on felony sentencing outcomes, it does not include information on misdemeanors and traffic charges which are frequent in the criminal justice system and commonly result in some form of LFO imposition (Fan 2015). Additionally, the SCPS do not include data on fees, surcharges, interest, and court-ordered programs. These variables are important to consider because they account for a considerable amount of debt incurred by individuals involved with the criminal justice system. LFOs take many forms, but due to the availability of variables in the SCPS, the current study only examines fines. One variable that is missing from the data that would be ideal for this study is a measure of judicial discretion. This type of variable would allow for a more accurate examination of the focal concerns perspective and would be beneficial to understanding how defendant characteristics influence judges' decisions to impose fines.

More limitations exist due to the analysis of the data. The comparisons are made by using descriptive statistics, meaning the significance of these findings that emerged can only be inferred. Using a method such as regression would have allowed me to explore the forms of the relationships between the independent and dependent variables. Further, the comparisons that I make in this study do not account for variables that sentencing research have shown to be imperative to include in studies on disparities in sentencing outcomes: type of offense and criminal history (Demuth and Steffensmeier 2004; Mitchell 2005).

Future research on sentencing disparities and LFOs should continue to study the imposition phase of this practice. It is plausible that discretion plays a significant role in deciding

who receives fines as punishment and who does not. Discretion may also help explain the differences in average fine amounts across different groups of offenders. Future research should also attempt to better understand the collateral consequences of legal debt, specifically how this debt affects family members of an offender. Lastly, future research should be aimed at understanding how LFOs operate as a barrier to successful offender reentry and their effects on recidivism.

To end, the current study examines the relationship between defendant characteristics and fine imposition and fine amounts. Particularly, this research shows the importance of examining the joint effects of age, race/ethnicity, and gender. It also illustrates that LFOs are an important result of the sentencing stage that are commonly ignored by sentencing research. To conclude, it is exemplified here and in prior studies that LFOs are important to understanding inequalities that exist in, and result from, the criminal justice system.

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