

THE PENNSYLVANIA STATE UNIVERSITY  
SCHREYER HONORS COLLEGE

DEPARTMENT OF INTERNATIONAL POLITICS

The Effects of Judges' Personal Attributes on Sentencing in State Criminal Cases

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SPRING 2021

A thesis  
submitted in partial fulfillment  
of the requirements  
for a baccalaureate degree in International Politics: National Security  
with honors in International Politics

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## ABSTRACT

This thesis attempts to analyze how different personal attributes of judges, namely, judges' sex, political orientation, years served on bench, and prior legal experience, influence sentencing outcomes in Pennsylvania criminal cases. I analyze the sentence imposed by measuring whether or not incarceration was included in the sentence, and if so the length of incarceration (in months), and whether the sentence departed above or below the guideline recommendations. Unique to this thesis, is that, rather than relying on archival and biographical data to interpret judicial personal attributes, I utilize survey data administered to Pennsylvania judges in the Court of Common Pleas. The survey data is from 2019 and the sentencing data being analyzed is from 2017-2018.

**TABLE OF CONTENTS**

LIST OF TABLES .....	iii
ACKNOWLEDGEMENTS .....	iv
Chapter 1 Introduction .....	1
Chapter 2 Literature Review .....	4
Sex .....	4
Political Orientation .....	6
Prior Legal Experience.....	8
Chapter 3 Theory .....	10
Chapter 4 Data and Methods.....	17
Chapter 5 Analysis and Results .....	21
Chapter 6 Conclusion.....	36
Appendix A Bivariate Analyses: Crosstabulations.....	40

**LIST OF TABLES**

Table 1: Sentencing Characteristics & Sentences Imposed by Judge Characteristic.....	22
Table 2: Binary Logistic Regression Predicting Incarceration .....	26
Table 3: Linear Regression Predicting the Length of Incarceration .....	29
Table 4: Binary Logistic Regression Predicting Departure Above the Guideline Aggravated Range .....	31
Table 5: Binary Logistic Regression Predicting Departure Below the Guideline Mitigated Range.....	33

## ACKNOWLEDGEMENTS

First, I would like to thank my thesis advisor, Dr. Ulmer, for all of his help and encouragement throughout this whole process. Dr. Ulmer was always so willing to teach me and reassure me that I could accomplish this. Second, I would like to thank the best things Schreyer has given me, my fellow scholars and friends: Annabelle LaRosa, Olivia Daffan, and Brooke Przybylinski. I would not have been able to do this without you guys. We finally made it! Lastly, thank you to family and friends, who always believe in me more than I believe in myself.

## Chapter 1

### Introduction

Judicial bias has, unfortunately, played its part in the United States judicial system. Take for example, the Supreme Court case, *Williams v. Pennsylvania*, in which Ronald Castille, Chief Justice of the Pennsylvania Supreme Court, failed to recuse himself from a death penalty case despite having “significant, personal involvement” during his time as the District Attorney of Philadelphia (*Williams v. Pennsylvania*...2016). The defendant, Terrence Williams, claimed that Castille’s office engaged in misconduct during the investigation of the trial (*Williams v. Pennsylvania*...2016). The case was then appealed and sent to the Pennsylvania Supreme Court, where Castille now resided as Chief Justice. Rather than recusing himself from the case, Castille found, to no one’s shock, that his office did not engage in any misconduct. Fortunately, the case was eventually sent to the Supreme Court, where the Court held that no judge can try a case in which he or she has an interest in the outcome (*Williams v. Pennsylvania*...2016). This case set the precedent for not tolerating obvious judicial bias and misconduct in the courtroom. However, does that mean judicial bias has been completely removed from the justice system? Of course not. One example of implicit bias in the courtroom, is the effort attorneys put forth during *voir dire*, the process during which potential jurors are questioned and determined if they are “right” to serve on the jury based on their client and the details of the case. Attorneys will also sometimes petition for a new judge for similar reasons. These common courtroom procedures should cause one to question, ‘why?’. If judges are unbiased, why do attorneys petition for judges of different backgrounds? Given the discretion judges have over sentencing and the clear

examples of past judicial bias, judges should be analyzed, at the individual level, to determine their impact on sentencing disparity within the United States judicial system.

Judges are important to analyze when attempting to explain the variation in sentencing, as they are the ones who decide the sentence. Despite the implementation of sentencing guidelines, which were intended to promote fair and uniform sentencing, there still remains variation in the sentences imposed. This is due to the fact that, even with suggested guidelines to follow for certain offenses or types of offenses, judges still have discretion in the sentences they give. Therefore, although a majority of existing research has focused on the defendant in efforts to explain the variation in sentencing, judges are also key actors to consider in the question. Previous research has focused on judges, however, most of these studies have analyzed judges by looking at federal panels or districts as a whole. Studies that have analyzed the judge at the individual level have done so by relying on legal biographies or other forms of archival data. The issue with relying on such data is that these biographies and archives are often not uniform in the information they include and some are incomplete. I take advantage of this limitation in existing research by offering an analysis of sentencing disparity that focuses on the individual judges and relies on uniform and complete data.

I will examine judge characteristics that have proven to be significant in influencing sentencing. The personal attributes of judges that will be the focus of this study are; sex, political orientation, years served on the bench, previous experience as a prosecutor (or previously worked in a D.A.'s office), and previous experience as a defense attorney (or previously worked in a defense attorney's office). These personal and ideological attributes, in addition to legal aspects of a judge's background, will give insight into which characteristics, if any, are most influential. Perhaps the most unique aspect of my project is that it relies on survey

data administered to 170 judges. Unlike previous research, this study does not rely on coding legal biographies to determine a judge's sex, political orientation, or previous legal experience. Not only do the surveys provide direct and accurate responses regarding the personal attributes of judges, but the survey was administered in August 2019, making the data relatively current. The surveys provide a unique opportunity for merging with data from the Pennsylvania Commission on Sentencing (PCS). The sentencing data from PCS will also be recent, focusing on all sentences, imposed by the judges who completed the survey, during 2017-2018. The PCS data will allow me to account for other variables that could affect sentencing, including; the severity of the offense, the type of offense, the guideline recommended minimum, the mode of conviction, certain defendant characteristics, and the prior record score, which is a weighted measure for a defendant's prior criminal history, accounting for both the number of offenses and the severity of the offenses (SGS Web Data Codebook: 2001-2015, 2017).

The research resulted in the observation that sex and political orientation are the most significantly influential attributes in affecting sentencing. Female judges sentence more leniently and judges who selected "not say" proved to be the most lenient sentencers compared to all other political orientations (liberal, moderate, and conservative). The number of years a judge serves on the bench was not as significant as expected, but resulted in the most senior judges giving harsher sentences, contradictory to some previous studies. Having prior experience as a defense attorney or a prosecutor had similar effects on sentencing. Overall, judge sex and political orientation resulted in the most interesting observations.

## Chapter 2

### Literature Review

There have been many studies examining sentencing disparities in the United States. Extralegal factors have been the focus of many of these studies. Historically, gender and race have been the primary focus of a majority of studies, with a mixture of fewer studies analyzing socioeconomic factors and political affiliation and other uncommon extralegal factors. While there have been studies that analyzed how different characteristics of judges influence sentencing outcomes, a majority of the studies focus on the characteristics of the defendant. The few studies that have analyzed the effects of judge characteristics on sentencing have not done so at the individual level and have often relied on legal bibliographies and other forms of archival data. The issue with relying on these types of data is that they are often not uniform in nature. Legal biographies do not all contain the same information and archival data can be incomplete as well.

Although many social scientists would disagree, sometimes the public perceives the judge as being impartial and unbiased in their decision. However, judges are human and some believe it is nearly impossible to ignore one's core beliefs, values, or even experiences. Beliefs aside, experience is something that alters and influences everyone's perspectives in everything they do. Judges are no different. That being said, there has been considerable research dedicated to analyzing the effects of personal attributes on sentencing outcomes.

### Sex

Gender / sex, of both the defendant and the judge, has been prominent in research on sentence variation. In general, gender has been proven to be significant in affecting the sentence

determined in regards to whether or not incarceration was included in the sentence and the length of the sentence. However, research has not agreed on the exact effect that gender has on sentencing. When analyzing different types of cases, gender proves to have differing effects. In an examination of marijuana-related drug cases, the gender of the judge was not found to be significant in affecting the sentence imposed (Boyd and Nelson, 2017). Other studies, that have not analyzed specific types of cases but rather analyzed the effect that the appointment of female and minority judges to the United States District Court bench had on criminal case outcomes and policy decisions, also found the gender of the judge to not be significantly predicative of case outcomes (Walker and Barrow, 1985).

Other studies that analyzed the effect of gender on sentencing, have done so by narrowing its analysis to certain types of cases, such as sexual assault cases (King and Greening, 2007) and discrimination cases (Songer, Davis, and Haire, 1994). These studies chose to focus on certain cases because it was believed that the judge's gender would prove to be influential in cases that revolved around "gendered issues". By focusing the analysis on cases that centered around "gendered issues", such as employment discrimination, female judges were more likely than male judges to vote in favor of the victim (Songer et al., 1994). However, when analyzing sentences of sexual assault cases at the International Criminal Tribunal for the Former Yugoslavia (ICTY), the results of the study show that, holding all else constant, the presence of one female judge dramatically lessens the sentence imposed (King and Greening, 2007). However, the more female judges on a panel, the less significant this effect is (King and Greening, 2007).

These studies analyzed panels or percentage of female judges within a court system, or only focus on certain types of cases. There is not as much research conducted that analyzes and

compares gender of judges at the individual level *and* analyzes a variety of cases. There is opportunity for future research to focus on personal attributes, such as sex, at the individual judge level and look at this variable across a wide variety of cases. This would offer results regarding a smaller number of judges, due to the individual unit of analysis, but it would also present more detailed information on the effect that sex has on sentencing outcomes.

### **Political Orientation**

Political orientation is also important to consider when analyzing the effects of judges' personal attributes on sentencing. Political orientation has been proven to be significant in affecting the decisions among U.S. judges at the federal level (Schanzenbach and Tiller, 2007, Westergren, 2004). Even studies focusing on specific cases, in which other personal attributes are expected to play a larger role, political orientation proved to be more significant. For example, despite gender being expected to play a more significant role in federal sexual discrimination cases, race and political affiliation of a judge were found to be more influential in affecting the outcome (Westergren, 2004). This highlights the need to account for both personal and political or ideological aspects of judges, because even in cases where gender is more prominent in the case, a judge's political orientation still plays a more significant role than his or her gender, and in some cases even the judge's race (Westergren, 2004, Cohen and Yang, 2019).

Previous research demonstrates the importance of political orientation, and therefore, the need to account for it when examining judicial effects on sentencing disparity. However, previous research has done so by only examining the court-level variation between Republican and Democratic appointed judges (Cohen and Yang, 2019). This presents a more

accurate difference between different district courts, rather than a difference between individual judges (Cohen and Yang, 2019). This method of examination can lead to varying results. For example, by only viewing the court-level variation between different party appointed judges, racial disparities have been shown to not vary among courts that are predominantly Democratic (Cohen and Yang, 2019). Whereas in studies that connect decisions to the judge for that particular case, results showed that Republican-appointed judges gave Black defendants longer sentences by three months, compared to non-black and female defendants (Cohen and Yang, 2019). While examining the court-level variation between different political party appointed candidates does offer valuable information about the court system as a whole, it leaves room for research to focus on the political orientation of a judge at the individual level.

Conventional wisdom, supported by surveys, suggest that Democratic, or more liberal judges, favor lenient sentences compared to Republican, or more conservative, judges (Schanzenbach and Tiller, 2007). The conventional wisdom is supported by the reasoning that since there is such significant partisan differences in regards to attitudes towards the death penalty and severity of sentences, these differences will be present in judges deciding sentences (Schanzenbach and Tiller, 2007). While political orientation has been proven to be significant in influencing sentencing outcomes among federal appointed judges, the effect is not consistent across all types of offenses. Democratic judges were more likely to favor lenient sentences, but only when analyzing street crimes (Schanzenbach and Tiller, 2007). Republican judges were likely to serve more lenient sentences, but only when focusing on white collar crimes (Schanzenbach and Tiller, 2007). However, when all crimes were grouped together, political ideology of judges was found to have no effect on sentencing (Schanzenbach and Tiller, 2007).

Yet, other research, using random case assignment, suggests that judge political affiliation is the source of the *persistent* gender and racial disparities in sentencing (Cohen and Yang, 2019).

These discrepancies in findings further call for research to examine the effects of political orientation through a way of measurement that is different than viewing the court system as a whole. Previous studies create an opportunity for future research to examine political orientation at a more individualized level by treating it how other personal attributes of judges are often treated in sentencing disparity studies. By including both personal and political variables of individual judges, the results will demonstrate which is more influential in affecting case outcomes and will offer a different perspective on the effect of political orientation in the U.S. judicial system.

### **Prior Legal Experience**

In addition to the personal and political attributes of judges, the legal experience of judges has also been shown to play an interesting role in influencing sentencing decisions. Prior legal experience has been analyzed in numerous ways. Some studies simply view the age of the judge, others view the years served on the bench, and some also consider what the judge's legal occupation was prior to serving as a judge. These are extremely important factors to consider because legal socialization proves to be very influential, especially when courtroom groupwork is relevant. Some studies even suggest that the influence of legal factors, legal socialization, and courtroom workgroup actually reduce effects resulting from other judicial characteristics (Steffensmeier & Britt, 2001; Steffensmeier & Hebert, 1999).

### **Years on the Bench**

One way of measuring prior legal experience, is measuring how long a judge has served on the bench. While some studies tend to equate years on the bench with age, this present study will treat the two as separate, distinct concepts, only analyzing bench tenure. The findings regarding the effect of years served on the bench are inconsistent with many scholars' expectations (Spohn, 1990). It was expected that judges who served on the bench longer were more likely to sentence harsher sentences (Spohn, 1990). However, research demonstrated that the longer a judge serves on the bench, the less harsh of a sentence he or she will impose (Spohn, 1990, Steffensmeier and Hebert, 1999). This could be due to the fact that the longer judges serve on the bench, the better and more fully, they get to witness and understand the effects of incarceration, especially on different individuals / groups of minorities.

#### Prior Experience as Prosecutor in a DA's Office/ Defense Attorney

Another approach to analyzing the effect of prior legal experience on judicial sentencing decisions, is to study judges' prior occupations within the legal field, prior to serving on the bench. Former, older, prosecutors are more likely to impose harsher sentences than those who have served on the bench longer (Steffensmeier and Hebert, 1999). This finding was consistent for both male and female judges, suggesting that legal socialization will offset any bias or attitudes that a judge may hold prior to serving on the bench (Steffensmeier and Hebert, 1999). Essentially, this research suggests that men and women judges are more similar than different in the sentencing because of the effect of legal socialization and the embodiment of the judicial role (Steffensmeier and Hebert, 1999). Findings like these suggest that it is the job, rather than the person, that makes the judge (Steffensmeier and Hebert, 1999).

Previous research has demonstrated the varying influence that personal attributes of judges have on sentencing. With gender and race being the most commonly analyzed factors,

other research has proved it important to also consider other characteristics of judges, such as political affiliation and prior legal experience. With a majority of previous studies focusing on the federal or district level, there lies a unique opportunity to analyze all of the previous variables at the level of the individual judge. At the end of the day, judges are human and it is nearly impossible to put aside all of one's subconscious judgments. Depending on the court level and type of case analyzed, the effect of different personal characteristics tends to vary. In some cases, personal characteristics of judges are influential, while other studies find the effect to be nullified when including the effect of legal socialization. Analyzing personal, political, and legal attributes of judges will provide great insight into how influential each characteristic is individually, and in combination with other characteristics.

### **Chapter 3**

#### **Theory**

The impact of judges' personal background characteristics on sentencing outcomes has been a concern in the United States for decades. This concern has led to the implementation of sentencing guidelines. The Pennsylvania General Assembly created the Pennsylvania Commission on Sentencing in 1978 and assigned the Commission the task of establishing sentencing guidelines with the intention of increasing the severity for certain crimes, while also creating more uniform sentencing practices for judges to follow (The Pennsylvania Commission on Sentencing, 2019). The guidelines created by the Commission were meant to "...promote sentencing equity and fairness by providing every judge with a common reference point for sentencing similar offenders convicted of similar crimes" (The Pennsylvania Commission on

Sentencing, 2019). Despite the implementation of these guidelines, sentencing disparity still remains present in the United States judicial system.

There has been extensive research designed to explain this disparity. Scholars have disagreed on the significance of the impact that the personal attributes of judges have on sentencing. John Hogarth stated that “one can explain more about sentencing by knowing a few things about a judge than by knowing a great deal about the facts of the case” (Hogarth, 1971, p. 350). Many scholars disagree with Hogarth’s statement on the importance of judge characteristics. Some studies emphasize legal socialization and experience (Steffensmeier and Hebert, 1999), as well as courtroom workgroup and the judicial recruitment process (Spohn, 1990), over personal characteristics, such as sex, age, and race.

Other scholars seem to support Hogarth in emphasizing the importance of judges’ personal attributes. James Gibson viewed judicial decision making as being similar to any other kind of decision making (Gibson, 1983). Gibson held that the sentencing the judge determines is a “...function of what they prefer to do, tempered by what they think they ought to do, but constrained by what they perceive is feasible to do” (Gibson, 1983). This view on sentencing, incorporates the impact of legal socialization while still prioritizing the personal characteristics of judges. Gibson also accounted for the importance of the facts of cases. Naturally, judges will be influenced by different aspects of cases, however, they will not be influenced by the same facts equally. Judges will value and weigh facts of the case differently because of their personal values or preferences (Gibson, 1983).

This is the driving theoretical background behind my general hypothesis in that personal attributes of judges do matter and do influence sentencing. Although previous studies have concluded with inconsistent and insignificant results regarding different characteristics of judges,

I believe that is due to the narrow scope of judges often analyzed in studies and the failure to incorporate both personal and legal aspects of judges, in conjunction with the mode of conviction. It is expected that when accounting for mode of conviction, and analyzing both personal characteristics of judges, such as sex and political orientation, along with legal factors, such as years served on the bench and prior legal experience, there will be a clearer analysis of the impact that these characteristics have on sentencing both individually and in conjunction with one another.

***H1a:** Judges who consider themselves to be more conservative, will be more likely to impose harsher sentences.*

***H1b:** When the defendant is a minority, conservative judges will be even more likely to impose harsher sentences.*

***H1c:** When the case involves a drug offense, conservative judges will be even more likely to impose harsher sentences.*

I expect political orientation to be an influential factor in impacting the sentence that a judge imposes because political orientation encapsulates a lot of a person's core values and opinions, especially in regards to governmental institutions like the U.S. legal system. It has been demonstrated in previous studies that Republican appointed judges are more likely to sentence disproportionately in regards to gender and race (Cohen and Yang, 2019). Republican appointed judges were more likely to sentence Black offenders to a longer incarceration length and sentence female offenders to a shorter incarceration length (Cohen and Yang, 2019). This analysis demonstrates the influence of political orientation at the federal level and allows one to logically predict that political orientation would also be influential at the state level, when analyzing judges individually and not under the party that they were appointed.

Pennsylvania state court judges are elected to their positions for a ten-year term.

When judges first run, they run under a political party, but for reelection they run in nonpartisan elections. Being that, at first, Pennsylvania judges do run under a political party, political affiliation is an important factor to consider when analyzing the effects of judge characteristics. Studies have shown that the sentencing tendencies of elected judges is more variable than the sentencing behavior of appointed judges (Lima, 2013). How harsh elected judges sentenced was strongly related to the voters' political ideology (Lima, 2013). This is an important distinction to note because a majority of prior research studied the effect of political orientation by only analyzing appointed judges. I expect that political orientation will influence judges in their sentencing in that judges who self-identify as more conservative will implement harsher sentences than those judges who self-identify as more liberal. Being that conservatives tend to favor punitiveness over rehabilitation, I expect more conservative judges to impose longer sentences and be more likely to include incarceration in a sentence for all cases (when controlling for severity).

*H2: Male and female judges will not differ significantly in the way that they sentence, but when prior record is considered, female judges will be more likely to sentence more severely as the prior record increases.*

Although previous studies have not found a judge's gender to be consistently influential in sentencing outcomes, I believe that gender will influence the sentencing that a judge imposes when prior record is considered. There are several theories behind if or why men and women sentence differently. Maximalists believe that men and women are fundamentally different which results in them behaving differently because they have different experiences that are distinct to that sex (Gilligan, 1982). On the other hand, minimalists claim that men and

women do not differ fundamentally and actually share a lot of similarities (Steffensmeier and Hebert, 1999). Under the minimalist view, men and women differ in attitudes which reflect different opportunities and experiences that are associated with one of the sexes (Steffensmeier and Hebert, 1999). Regardless of which view one takes, the result is differences in the ways in which men and women experience the world, whether it be due to their fundamental differences or their differences in attitudes.

I believe that the different ways in which men and women experience and/or perceive the world is something that judges cannot completely remove from themselves when they are imposing sentences. As a consequence of not being able to ignore these subconsciously different values and experiences, I hypothesize that women will impose harsher sentences when a defendant's prior record is higher. When a defendant's prior record is high, it is natural for the sentencing to be harsher than a defendant who committed the same crime but with a very low prior record. However, I think women will be more likely to impose harsher sentences, including incarceration, for defendants with higher prior records because women are more afraid of crime than men, despite women being less likely to be victims of crime than men (Lewyn, 1993). This fear of crime will lead female judges, either consciously or sub-consciously, to impose harsher sentences to defendants who have prior records because they will relate to the fear of the victim and they will be hesitant to allow previous defiant defenders to quickly return back to society.

*H3: The longer a judge serves on the bench, the less likely the judge is to impose harsh sentences.*

In addition to the personal characteristics that I believe influence judges' sentencing, prior legal experience will also influence judges' sentencing behavior. There are a

few different components of ‘prior legal experience’ that I consider relevant: years served on the bench, whether or not the judge has previously worked as a defense attorney, and whether or not a judge has previously worked as a prosecutor in a DA’s office. The amount of time a judge has served on the bench will have a negative relationship with the sentence that judge imposes.

While previous research speculated that the longer a judge serves on a bench, the harsher sentence he or she will impose (Hogarth, 1971), more recent research actually supported the opposite effect of judge tenure (Steffensmeier and Hebert, 1999). I believe that this effect will continue to be true and will be even more significant, given that the present study is analyzing recent data from 2017-2018. The United States in general has become more progressive and in recent years there has been scrutiny placed on its legal system for focusing more on punitiveness than rehabilitation. Due to this societal trend and the fact that judges who have been on the bench longer have seen the negative effects that can occur from disproportionately sentencing minorities to harsher sentences, that judges who have longer tenure in this dataset will impose less harsh sentences compared to judges who are relatively new to the bench.

*H4: If a judge has previously worked as a defense attorney OR as a prosecutor in a DA’s office, the judge will be more likely to impose a harsher sentence (no matter the judge’s sex).*

Continuing to focus on the effect of prior legal experience, unlike my prediction for the effect of years served on the bench, I hypothesize that those who previously worked as a defense attorney or as a prosecutor in a DA’s office, will be more likely to impose a harsher sentence as a judge, unless they have served on the bench for a long time. Previous studies have found that prior experience as a prosecutor increases the sentence imposed, not matter the judge’s sex (Steffensmeier and Hebert, 1999). I believe that this will also be true for those who served as defense attorney’s prior to serving as a judge because the goal of their prior job was to

achieve the highest sentence possible and that this appreciation for punishment and sense of justice will remain with them as they serve as a judge.

Prior research has demonstrated that personal attributes of judges do influence sentencing. While the effects of these characteristics may differ depending on the type of case examined or the type of court analyzed, the effect still remains and the reasoning is sound. Building off of previous literature, this thesis aims to explore more deeply the effect that different characteristics of judges have on sentencing. Judges' sex, political orientation, years served on the bench, and prior legal experience (divided into two categories: prior experience as a prosecutor in a DA's office and prior experience as a defense attorney) will be analyzed, both individually and in relation to one another. These independent variables provide a balance of different sides of judges by incorporating personal characteristics, political/ ideological characteristics, and legal characteristics.

In order to demonstrate a clear relationship between the characteristic of the judge and the sentence determined, it is necessary to include numerous control variables. Being that the cases will cover a span of violent, drug, and property cases, the severity of each case will be controlled for using the OGS variable from the Pennsylvania Commission on Sentencing. Prior record of the defendant and the minimum sentence that the guideline suggests for that particular crime will also be controlled for. Other studies have also pointed out the importance of the mode of conviction in cases and that judge characteristics tend to be more evident in trial cases (Johnson, 2014). That being said, the mode of conviction will also be controlled for when analyzing the effects of different judge characteristics on sentencing.

My thesis aims to build upon existing literature, while also providing a closer analysis of judge characteristics on sentencing. Taking note of limitations and suggestions from

previous studies, my research builds off of existing research by accounting for mode of conviction and prior record score, and also analyzing a broader range of judge characteristics. This research is unique in that it is analyzing judges at the individual level, rather than at the district or federal level, which is often commonly done. My thesis also relies on survey data provided directly by judges themselves, rather than relying on incomplete or non-uniform legal biographies. The results of this thesis will add useful information to the field by providing an analysis of judges at the individual level and examining a variety of cases from recent years. The results are expected to reaffirm the findings of previous research that personal characteristics do influence a judge's decision in sentencing and, hopefully, provide more clarity regarding the consistency of characteristics' effects across cases.

## **Chapter 4**

### **Data and Methods**

In order to test my hypotheses, I used a merged dataset, created by Dr. Jeffrey Todd Ulmer, that combines sentencing data and survey data. The sentencing data cover all criminal cases sentenced in Pennsylvania between the years 2017 and 2018. Pennsylvania serves as an ideal state to analyze for several reasons. First, the Pennsylvania Commission on Sentencing (PCS) provides some of the most extensive sentencing data in the United States. Criminal court judges in the state of Pennsylvania are also mandated by state statute to report all sentencing to the Commission through the completion of guideline sentence forms. This mandate provides uniform and complete documentation of all sentences imposed within the state. Perhaps most

important to my study, Pennsylvania sentencing data provide the name of the judge who rendered each sentence.

By including the name of the judge who sentenced the case, Dr. Ulmer was able to merge the PCS data with judge survey data. The survey was administered in August 2019 to 170 Pennsylvania Court of Common Pleas judges and resulted in 120 responses with no missing information. The survey mainly included brief hypothetical situations and required the judge to provide their sentencing recommendation for the given hypothetical, as well as, a determination of “how blameworthy” the judge found the defendant to be. The survey concluded with questions regarding their personal demographics. Dr. Ulmer merged the responses of the survey with the 2017-2018 PCS sentencing data, by creating observations for each sentence imposed by each judge in 2017 and 2018. Therefore, the unit of analysis for my study is the case.

The dependent variable of my study is the sentence given in each case. Given that the PCS database provides numerous variables to measure sentencing, I focused on three main characteristics to measure the sentence. First, I analyze whether or not the sentence included incarceration or not. Second, if incarceration was included in the sentence, I include the length of the incarceration, which is measured in months. This provides a closer analysis of how incarceration sentences truly differ among judges with certain personal attributes. Lastly, I measure the sentence based on whether or not it departed from the guideline recommendation. The sentence can either depart above the aggravated guideline range or depart below the mitigated guideline range. This measure best encapsulates what I truly want to know because it is a measure of whether or not the judge decided to deviate from what the guidelines, which are intended to provide uniformity. Departure from the sentencing guidelines demonstrates discretion by the judge.

I analyzed how personal, ideological, and legal characteristics of judges, namely, judge sex, political orientation, years served on the bench, and prior legal experience, influence these departures and differences in sentencing. The information regarding these personal attributes were acquired from five of the demographic questions on Dr. Ulmer's survey. Regarding their sex, judges selected their sex as either male or female. Males were assigned a "0" and females were assigned a "1". Judges reported their political orientation as "very liberal" to "very conservative" with "somewhat liberal", "somewhat conservative", "moderate", and "prefer not to say" also being options. Due to very few judges selecting "very liberal" and "very conservative", "very liberal" and "somewhat liberal" were combined into the category of "liberal". The same combined categorization was done with "conservative". In the data set, liberal, moderate, and conservative were then treated as binary variables. Judges who reported being liberal were assigned a "1" and if they selected any other option, they were assigned a "0". This same process was done for "moderate", in that judges who selected moderate were assigned a "1" and judges who selected any of the other options were assigned a "0". This process was repeated for the "conservative" variable. In terms of measuring how many years judges served on the bench, they were given five options to choose from: 0-1 years, 2-5 years, 6-10 years, 11-20 years, and 21+ years, which were assigned a "1", "2", "3", "4", or "5", respectively. Lastly, I included a measure of judges' legal experience, other than serving as a judge. The survey asked the judge if he or she has previously worked as a defense attorney or in a defense' attorney's office, and if he or she has previously worked as a prosecutor or worked in a district attorney's office. The judge answered with a "yes" or a "no". Judges who selected "yes" to the either question were assigned a "1" and those who responded "no" were assigned a "0".

The previous independent variables are designed to determine if one or any personal attributes influence sentencing disparity. However, while it is true that judges do exercise discretion over sentencing, one cannot confidently conclude that the departure from the guidelines or the disparity of sentencing is solely due to judges' personal attributes without controlling for key elements of the case. First and foremost, the severity of the offense must be controlled for. The PCS controls for the severity of cases by using a 0-15 scaled measure that accounts for both the minimum recommended sentence and the offender's prior record score. Prior record score is a weighted 0-7 scaled measure that takes into account prior criminal history using the number and the severity of prior offenses committed (SGS Web Data Codebook: 2001-2015, 2017). Previous research has demonstrated that the mode of conviction influenced the level of impact that judge characteristics can have on sentencing outcomes (Johnson, 2014). Therefore, my study also controls for the mode of conviction, noting whether the case was a jury trial conviction, a bench trial conviction, or a negotiated guilty plea bargain. Influence of judicial characteristics is the focus of my thesis, however, there has been substantial research that emphasizes the importance of defendant characteristics, especially race and ethnicity, in sentencing disparities. Therefore, I also control for the race of the defendant when running my multivariate analysis. Lastly, I control for the type of offense. I include whether the sentence was classified as a violent offense, drug offense, or property offense. This provides a general insight into whether or not judges' personal attributes are more influential in certain types of offenses than others.

Lastly, some of my hypotheses required the creation of five interactive variables. In order to address whether conservative judges sentenced more harshly for minority defendants (hypothesis H1b), I created the interactive variables of "conservative judge x Black defendant",

“conservative judge x Hispanic defendant”, and “conservative judge x defendant of other ethnicity”. I then created “conservative judge x drug offense” to address whether or not conservative judges are more likely to sentence drug offenses more harshly (hypothesis H1c). The interactive term, “female judge x prior record score” was created to determine if female judges were more likely to sentence more harshly when prior record score was considered (hypothesis H2).

## **Chapter 5**

### **Analysis and Results**

My analysis will demonstrate the effect, if any, that each personal attribute of the judges had on the sentence rendered. The attributes of judges will be looked at individually in how they influence each measure of the dependent variable. In addition, the personal attributes will also be analyzed aggregately to determine which variables appear to have the most significant or interesting impact on sentencing when looked at together, while controlling for important case factors. The data being analyzed resulted in 56,386 cases sentenced by 134 judges.

The first half of table 1. presents the number of sentences that included incarceration, as well as the average length (in months) of incarceration, and the number of sentences that departed above and/or below the guidelines. Most notable about the sentencing descriptive statistics, is that it is extremely rare for judges to depart either above or below what the guideline recommends. Therefore, cases in which departure from guidelines is present will provide interesting insight. There is a relatively even sample of cases that included incarceration in the sentence compared to sentences that did not include incarceration in the sentence.

The second half of table 1. presents the number of sentences imposed by a judge with the designated characteristic. Male judges have sentenced a majority of the cases, which makes sense considering male judges make up a majority of judges in most jurisdictions. In regards to political orientation, nearly 41% of the sentences were rendered by judges who identified themselves as moderate. A majority of the sentences rendered were imposed by judges who have served on the bench for at least six years. Lastly, the cases imposed by judges with different prior legal experiences are relatively even.

**Table 1: Sentencing Characteristics & Sentences Imposed by Judge Characteristic**

<b>Sentencing Characteristics</b>	<b>Frequency</b>	<b>Percentage (non-missing)</b>
<u>Incarceration</u>		
Included in the Sentence	22,769	40.4%
Not Included in the Sentence	33,617	59.6%
Missing	0	
Length (in months)	1.8263 (mean)	1.21560 (st. dev.)
<u>Departure from Guideline</u>		
Departed Above the Guideline	1,209	2.1%
Departed Below the Guideline	4,970	8.8%
<b>Judge Characteristic</b>	<b># of Sentences Imposed by Judge Characteristic</b>	<b>Percentage (non-missing)</b>
<u>Judge Sex</u>		
Male	31,578	72.2%
Female	12,168	27.8%
Missing	12,640	
Total	56,386	
<u>Judge Political Orientation</u>		
Liberal	8,587	19.2%
Moderate	18,244	40.7%
Conservative	10,193	22.7%
Prefer Not to Say	7,808	17.4%
Missing	11,554	
<u>Years Served on Bench</u>		
0-1 Years	14	.0%
2-5 years	3,472	7.8%
6-10 years	13,820	31.0%

11-20 years	20,194	45.3%
21+ years	7,046	15.8%
Missing	11,840	
Total	56,386	
<u>Previous Legal Experience</u>		
Prior Defense Attorney	17,235	38.7%
Prior Prosecutor	18,840	43.6%
Other Experience	15,999	

Now that the descriptive statistics of the data have been highlighted, I will move into the observations derived from my bivariate analyses. I conducted a cross tabulation between each measure of my binary dependent variables (incarceration and departure from guidelines) and each of my independent variables. Length of incarceration was not included in the bivariate analysis due to the fact that it is a continuous variable. Length of incarceration will be analyzed by linear regression in the multivariate analysis section. The bivariate analyses were done to determine whether or not the variables were significantly associated before running my multivariate analyses with control variables.

In the bivariate analyses (Appendix A.), judge sex and the inclusion of incarceration were found to be significantly associated with one another. The crosstabulations showed that a higher percentage of cases sentenced by female judges included incarceration, compared to sentences imposed by male judges. There was not much of a percentage difference in regards to which political orientation was more likely to incarcerate and all political orientations were significantly associated with incarceration, except for moderate. The amount of time a judge served on the bench was also shown to be significantly associated with incarceration. The only judges who were more likely to incarcerate than not, were those judges with the least experience (0-1 years). The type of previous legal experience judges had before serving on the bench did not

seem to matter, as previous defense attorneys and previous prosecutors, were almost the exact percent as likely to include incarceration in their sentences.

As stated in the descriptive analysis section above, departures from the guidelines were extremely rare. Therefore, it was no surprise that for every personal characteristic, there was a very low percentage of sentences that departed from the guidelines. Although no personal characteristic was more likely to depart from the guidelines than not, there were some interesting observations regarding the significance of the associations. In the chi-square tests, sex was only significantly associated with departing *below* the guideline. Similarly, the political orientations of moderate and conservative, were also only significantly associated with departing below the guidelines; whereas, liberal political orientation was significantly associated with departing both below and above guidelines. These general observations and notes of significant association will serve as an interesting comparison to the multi-variate analyses when control variables are accounted for.

Multivariate analyses were conducted to observe the effect that the personal attributes, along with control variables, important defendant characteristics, and interactive terms, had on each measure of the dependent variable. As shown in table 2., a binary logistic regression was conducted to predict the likelihood of each variable influencing the inclusion of incarceration in the sentence. All personal judge attributes were found to be statistically significant, except for the number of years a judge served on the bench. The results demonstrate that sentences imposed by female judges were 29% less likely to include incarceration, which contradicts the bivariate analysis, in which female judges were found to be more likely to incarcerate. This discrepancy demonstrates that the control variables and defendant characteristics included in the multivariate analysis are relevant to consider when analyzing the

effects on sentencing. Political orientation also proved to be significant in influencing the likelihood of incarceration. To serve as a comparison, judges who chose “not say” as their political orientation were left out of the regression. This resulted in the interesting observation of all liberal, moderate, and conservative judges being more likely to incarcerate than the judges who chose not to disclose their political orientation. Another interesting observation, was that among liberal, moderate, and conservative judges, conservative judges were actually the least likely to incarcerate, partially refuting the first hypothesis. Regarding legal experience, both prior defense attorneys and prosecutors were less likely to include incarceration in their sentences. This could possibly be due to their past personal experiences with clients and an inclination to empathize with them and see other, more rehabilitative options.

Table 2: Binary Logistic Regression Predicting Incarceration

	B	Exp(B)	Significance
<u>Judge Personal Attributes</u>			
Sex	-.343	.710	***
Political Orientation			
Liberal	.488	1.630	***
Moderate	.373	1.452	***
Conservative	.356	1.428	***
Years Served on Bench	.012	1.012	---
Previous Experience as Defense Attorney	-.398	.671	***
Previous Experience as Prosecutor	-.064	.938	*
<u>Control Variables</u>			
Mode of Conviction			
Jury Trial Conviction	2.152	8.604	***
Bench Trial Conviction	-.057	.945	---
Prior Record Score	.347	1.415	***
Offense Gravity Score	.563	1.755	***
Defendant Race			
Black Defendant	-.111	.895	**
Hispanic Defendant	.879	2.409	***
Other Ethnicity	.106	1.111	---
Defendant Sex			
Female Defendant	-.471	.625	***
Type of Offense			
Violent/ Person Offenses	.510	1.665	***
Drug Offenses	-.656	.519	***
<u>Interactive Terms</u>			
<i>Conservative Judge * Black Defendants</i>	.369	1.446	***
<i>Conservative Judge * Hispanic Defendants</i>	-.218	.804	---
<i>Conservative Judge * Defendants of     Other Ethnicity</i>	-.127	.881	---
<i>Conservative Judge * Drug Offenses</i>	.438	1.550	***
<i>Female Judges * Prior Record Score</i>	.008	1.008	---

\*\*\* =  $p \leq .000$ , \*\* =  $p \leq .01$ , \* =  $p \leq .05$

Regarding the control variables of the regression, jury trial convictions result in a significantly higher chance of incarceration, which is consistent with previous research. A defendant's prior record score and the overall severity of the case were also significant in predicting incarceration, both resulting in an increased likelihood of incarceration in response to a 1 point scaled increase for each measure. This observation is not surprising because the guideline recommendations call for harsher punishments, including incarceration, when an offender is a repeat offender and when the offense is severe. The defendant characteristics were all found to be significant, except for defendants described as having "other ethnicity". The effect of the defendant's race was interesting in that, Black defendants were 10% less likely to receive incarceration as part of their sentences, whereas, Hispanic defendants were actually 41% *more* likely to be incarcerated, as part of their sentence. Female defendants were also 37% less likely to receive incarceration included in their sentence. Regarding the different types of offenses, it is no surprise that violent / person offenses are more likely to receive incarceration compared to property offenses, and drug offenses are less likely to receive incarceration compared to property offenses. This observation is not surprising due to the gradual decriminalization of marijuana throughout Pennsylvania and other U.S. states.

Now that the likelihood of incarceration has been analyzed, incarceration is looked at a little more deeply by analyzing the length of the incarceration sentence. To predict the length of incarceration by each variable, a linear regression was conducted, which is presented in table 3., The length of the incarceration is measured in months and was logged in order to correct for skewness. Although judge sex proved to be significant in predicting the inclusion of incarceration in a sentence, it was not significant for predicting the length of that sentence. Again, the judges who chose not to identify their political orientation were shown to be

more lenient than any other political orientation. Liberal, moderate, and conservative judges gave longer incarceration sentences than those judges who chose not to say their political orientation. Regarding judges' legal experience, the only factor that proved to be statistically significant was prior experience as a prosecutor. Having a prosecutor sentence a case resulted in a 4% longer sentence. Consistent with previous research, mode of conviction proved to have a significant effect on sentencing. Jury trials increase the length of incarceration by almost 40%, compared to negotiated plea bargains. Most notable of the defendant characteristics is the defendant's gender. Female defendants, who were found to be less likely to receive incarceration in the first place, also receive incarceration sentences that are 20% shorter than male defendants. In terms of the interactive variables created to test my sub-hypotheses, the only significant effects were the relationship between conservative judges and drug offense and the relationship between female judges and an increase in prior record score. Incarceration sentences for drug offenses imposed by conservative judges were found to be 14% longer, partially supporting hypothesis H1c. A one-point increase in prior record score actually resulted in female judges rendering shorter incarceration sentences compared to males, which partially refuted hypothesis H2.

Table 3: Linear Regression Predicting the Length of Incarceration

	B	Standardized B	Significance
<u>Judge Personal Attributes</u>			
Sex	.021	.007	---
Political Orientation			
Liberal	.185	.065	***
Moderate	.145	.059	***
Conservative	.099	.036	***
Years Served on Bench	.004	.003	---
Previous Experience as Defense Attorney	.000	.000	---
Previous Experience as Prosecutor	.043	.017	***
<u>Control Variables</u>			
Mode of Conviction			
Jury Trial Conviction	.396	.045	***
Bench Trial Conviction	.237	.016	**
Prior Record Score	.176	.312	***
Offense Gravity Score	.319	.754	***
Defendant Race			
Black Defendant	-.027	-.010	---
Hispanic Defendant	.129	.012	*
Other Ethnicity	-.029	-.003	---
Defendant Sex			
Female Defendant	-.202	-.061	***
Type of Offense			
Violent/ Person Offenses	.122	.043	***
Drug Offenses	-.040	-.014	**
<u>Interactive Terms</u>			
<i>Conservative Judge * Black Defendants</i>	-.001	.000	---
<i>Conservative Judge * Hispanic Defendants</i>	.356	.008	---
<i>Conservative Judge * Defendants of     Other Ethnicity</i>	.065	.004	---
<i>Conservative Judge * Drug Offenses</i>	.143	.029	***
<i>Female Judges * Prior Record Score</i>	-.028	-.038	***

\*\*\* =  $p \leq .000$ , \*\* =  $p \leq .01$ , \* =  $p \leq .05$

As mentioned in the discussion of the descriptive statistics, departures from the guidelines, both below and above, were very rare. Less than half of the variables, including control and interactive variables, were found to be significant in predicting a departure above the guidelines. The only personal attributes found to be significant were sex, years served on bench (which was not found to be significant for any other dependent variable measure), and previous experience as a prosecutor. In accordance with previous observations, suggesting female judges are actually more lenient sentencers, female judges were 29% less likely to depart above the guidelines compared to male judges. Prediction of the departure above the guidelines was the only measure that years served on the bench proved to be significant for. However, partially refuting hypothesis 3, for every increase in the scale of years served, there is a 14% increase in the likelihood that the judge will depart above the guidelines, resulting in a harsher punishment than the guidelines recommend. Again, prior record score and offense gravity score were found to be significant, except they had opposite effects. For every increase in the scale of a defendant's prior record score, the sentence imposed was actually less likely to depart above the guidelines. While this may seem surprising at first, it follows logically, due to the fact that the higher one's prior record score is, the more severe a punishment the guidelines will suggest. Since the punishment recommended is already pretty severe, most judges do not find it necessary to exceed that established punishment. In contrast, however, for every increase in offense gravity score, there was a slightly more likely chance of the sentence departing above the guideline recommendations. It is possible that judges are more forgiving if a defendant has a prior record, but less forgiving if the crime is severe in nature. This regression provided more evidence suggesting female defendants are sentenced more leniently than males, due to the fact that female defendants were 42% less likely to receive sentences that departed above guidelines.

Table 4: Binary Logistic Regression Predicting Departure Above the Guideline Aggravated Range

	B	Exp(B)	Significance
<u>Judge Personal Attributes</u>			
Sex	-.330	.719	**
Political Orientation			
Liberal	.225	1.252	---
Moderate	.021	1.021	---
Conservative	-.192	.825	---
Years Served on Bench	.129	1.137	**
Previous Experience as Defense Attorney	-.113	.893	---
Previous Experience as Prosecutor	.226	1.254	**
<u>Control Variables</u>			
Mode of Conviction			
Jury Trial Conviction	.411	1.509	---
Bench Trial Conviction	-.044	.957	---
Prior Record Score	-.127	.880	***
Offense Gravity Score	.078	1.081	***
Defendant Race			
Black Defendant	.113	1.119	---
Hispanic Defendant	-.202	.817	---
Other Ethnicity	.418	1.519	---
Defendant Sex			
Female Defendant	-.549	.578	***
Type of Offense			
Violent/ Person Offenses	.422	1.525	***
Drug Offenses	-.551	.576	***
<u>Interactive Terms</u>			
Conservative Judge * Black Defendants	-.047	.954	---
Conservative Judge * Hispanic Defendants	.665	1.944	---
Conservative Judge * Defendants of Other Ethnicity	.129	1.137	---
Conservative Judge * Drug Offenses	.451	1.570	*
Female Judges * Prior Record Score	.060	1.062	---

\*\*\* =  $p \leq .000$ , \*\* =  $p \leq .01$ , \* =  $p \leq .05$

Finally, a third binary logistic regression was run to predict the likelihood of a sentence departing below the guidelines. In contrast to departure above guidelines, almost all personal

judge characteristics were found to have significant effects. All political orientations were shown to be less likely to depart below the minimum guideline recommendations, compared to those who did not state their political orientation. The longer a judge served on bench, the sentence imposed was 10% less likely to depart below guidelines. This evidence of judges who have served on the bench longer imposing harsher sentences, contradicts previous research and partially refutes the third hypothesis. Regarding legal experience before serving on the bench, defense attorneys and prosecutors were both more likely to depart below the guideline minimums. The higher a defendant's prior record score, the more likely the sentence rendered was to be below the guideline minimum. Similar to the previously mentioned effect of prior record score on the departure *above* the guideline, this may seem surprising but makes sense when one thinks of how the guidelines operate. The higher one's prior record score is, the more severe of a punishment the guidelines will recommend. Therefore, since the punishment is already so intense, judges are more likely to sentence less harshly than the guidelines call for. A similar effect was observed for the offense gravity score of the case. The only race of defendants proven to be significant for this measure of sentencing, was those identified as Black. Black defendants were shown to be 76% more likely to receive a sentence that depart below the guidelines. Lastly, female defendants were shown to be 25% more likely to receive a sentence that departed below the guidelines, again demonstrating that female defendants, overall, receive more lenient sentences than male defendants.

Table 5: Binary Logistic Regression Predicting Departure Below the Guideline Mitigated Range

	B	Exp(B)	Significance
<u>Judge Personal Attributes</u>			
Sex	-.118	.889	---
Political Orientation			
Liberal	-.398	.672	***
Moderate	-.301	.740	***
Conservative	-.224	.799	**
Years Served on Bench	-.107	.899	***
Previous Experience as Defense Attorney	.365	1.441	***
Previous Experience as Prosecutor	.272	1.312	***
<u>Control Variables</u>			
Mode of Conviction			
Jury Trial Conviction	-2.766	.063	***
Bench Trial Conviction	-.463	.630	---
Prior Record Score	.785	2.193	***
Offense Gravity Score	.288	1.334	***
Defendant Race			
Black Defendant	.567	1.763	***
Hispanic Defendant	-.033	.967	---
Other Ethnicity	.158	1.171	---
Defendant Sex			
Female Defendant	.226	1.254	***
Type of Offense			
Violent/ Person Offenses	-.036	.965	---
Drug Offenses	.518	1.679	***
<u>Interactive Terms</u>			
Conservative Judge * Black Defendants	-.545	.580	***
Conservative Judge * Hispanic Defendants	-17.380	.000	---
Conservative Judge * Defendants of Other Ethnicity	-.742	.476	---
Conservative Judge * Drug Offenses	-.684	.505	***
Female Judges * Prior Record Score	.070	1.072	*

\*\*\* =  $p \leq .000$ , \*\* =  $p \leq .01$ , \* =  $p \leq .05$

To conclude the observations of the multiple regressions, each hypothesis that was presented in the theory section will be addressed individually. The hypotheses predicted that

certain personal attributes of judges would result in more lenient or harsher sentences. Due to the fact that there were multiple measures of sentencing, it was decided to address each hypothesis at the end, after all of the regressions for each measure have been run. Now that all the results for each measure have been presented, I can fully address the predictions of each hypothesis.

***H1a:** Judges who consider themselves to be more conservative, will be more likely to impose harsher sentences.*

As shown throughout all the regressions, those who chose not to identify their political orientation were proven to be more lenient sentencers. However, compared to moderate and liberal judges, conservative judges were less likely to incarcerate and, when they did, they gave the shortest sentences. Conservative judges were less likely to depart both above and below the guidelines, however, it was only found to be significant for departures below. Therefore, the results refute hypothesis 1a.

***H1b:** When the defendant is a minority, conservative judges will be even more likely to impose harsher sentences.*

In order to address this hypothesis, an interactive variable was created and included in the regressions. When it came to predicting the length of incarceration and departures above the guidelines, the relationship between conservative judges and minority defendants was shown to not be significant. The only significant effect of the interaction between a conservative judge and a minority defendant was when the defendant was black. Conservative judges were 45% more likely to incarcerate black defendants and were less likely to depart below the minimum guideline recommendations for black defendants. Due to the fact that the relationship between conservative judges and minority defendants was not very significant, it cannot be

stated that this hypothesis was fully supported by the observations. However, the effects that were significant do suggest conservative judges sentence black defendants more harshly.

*H1c: When the case involves a drug offense, conservative judges will be even more likely to impose harsher sentences.*

Another interactive variable was created to address this sub-hypothesis. For drug offenses, conservative judges were 55% more likely to include incarceration in the sentence and tended to impose sentences that were 14% longer than the average. Conservative judges were also found to be more likely to depart above the guidelines, and less likely to depart below the guidelines for drug offenses. These observations support the hypothesis predicting that conservative judges will sentence harshly for drug offenses.

*H2: Male and female judges will not differ significantly in the way that they sentence, but when prior record is considered, female judges will be more likely to sentence more severely as the prior record increases.*

Regarding the first part of the hypothesis, sex was only found to be significant in predicting the possibility of incarceration and the departure above the guidelines. Female judges were less likely to incarcerate and less likely to depart above the guidelines, suggesting male and female judges *do* sentence differently and that female judges are more leniently sentencers. In regards to the effect the relationship between female judges and prior record score had on sentencing, the relationship did not have a significant effect on all the measures, but when it did it resulted in more lenient sentencing. Therefore, hypothesis 2 is refuted by the observations.

*H3: The longer a judge serves on the bench, the less likely the judge is to impose harsh sentences.*

The amount of time a judge served on the bench did not prove to be significant for the prediction of incarceration nor the length of incarceration. However, time served on the bench was significant for predicting departures from guidelines. The longer a judge served on the bench the more likely he or she was to impose sentences that departed above the guidelines and the less likely he or she was to depart below the guidelines. These results suggest that, the longer a judge serves on the bench, the more harshly they sentence, refuting the third hypothesis.

***H4:** If a judge has previously worked as a defense attorney OR as a prosecutor in a DA's office, the judge will be more likely to impose a harsher sentence (no matter the judge's sex).*

Unlike previously being a defense attorney, previous experience as a prosecutor had a significant effect on each measure of sentencing. Cases sentenced by prior prosecutors were more likely to result in a longer sentence and were more likely to depart above the guidelines; whereas, being a previous defense attorney had no significant effect on these measures. However, cases sentenced by both prior prosecutors and prior defense attorneys, were less likely to include incarceration and more likely to depart below the guideline minimum. Due to significance, it is hard to fully support or refute this hypothesis, however, for the measures that both prosecutors and defense attorneys had a significant effect on, the result was a more lenient sentence. Therefore, hypothesis 4 is also refuted by the observations.

## **Chapter 6**

### **Conclusion**

My analyses of judges' sentencing behavior resulted in interesting findings, many which were not expected. Female judges were ultimately found to be more lenient sentencers than male

judges and the effect of judge sex proved to be significant only for predicting incarceration and departure below guidelines. Political orientation had an interesting effect on sentencing. A judge's political orientation proved to be significant in predicting every measure of sentencing except for the departure above guideline recommendations. The most notable observation regarding political orientation is that all liberal, moderate, and conservative judges sentenced more severely than the judges who did not state their political orientation. This is interesting and provides an opportunity for further research. If a majority of those who chose not to state their political orientation actually identify with the same political ideology, the results would be very significant and provide great insight into the influence of political orientation on sentencing.

The legal characteristics of the judges, their bench tenure and previous legal experience, proved to not be as significant as anticipated. Bench tenure only proved to be significant for predicting departure above and below the guidelines, but were not significant in predicting incarceration or the length of incarceration. The longer judges served on the bench, the more likely they were to depart above the guidelines and the less likely they were to depart below the guideline. This finding contradicts some of the existing research that demonstrated that the longer judges served, the more lenient they became with their sentencing (Spohn, 1990, Steffensmeier and Hebert, 1999). This discrepancy, however, can be attributed to the measures of sentencing used. I measured sentencing by analyzing the inclusion and length of incarceration, as well as the departure from guidelines, whereas, previous studies measured sentences simply by the inclusion and length of incarceration. In regards to previous legal experience, the prior experience as a defense attorney and prosecutor had similar effects on each measure of the dependent variable. The prediction of incarceration and departure below the guidelines were the two measures of sentencing that both prior experience as a defense attorney and as a prosecutor

proved to be significant for. Both prior experiences resulted in a less likely chance to incarcerate and a more likely chance to depart below the minimum recommended sentence. Therefore, whether the judge was previously a defense attorney or district attorney did not matter, but rather the previous experience as an attorney, in general, was influential.

This present study provides some opportunity for future research to expand upon. Given the unique observation of the judges who did not disclose their political orientations being the most lenient sentencers, future research should explore why this is. It is intriguing that the category of people who did not disclose their political orientation sentenced less harshly for every measure of sentencing compared to all of the other political orientations. Looking further into this or even just mainly focusing on judges' political orientation could provide a very interesting look into how exactly judges' personal ideologies influence the sentences they impose. Another opportunity lies in explaining why judges who have been on the bench longer sentence more harshly. This finding contradicts with previous studies and serves as a great place for future research to clarify.

Overall, the implications of this study are beneficial to adding some clarity and providing new insights to the existing literature. As stated in the introduction, despite the many efforts made in the U.S. legal system, sentencing disparity still exists. Two of the most notable observations of the effect of judges' personal attributes are sex and political orientation. Male judges sentence much more harshly than their female counterparts. This effect of sex also proved to be important for the defendants, as female defendants receive significantly less severe sentences than male defendants. Lastly, judges who did not state their political orientation sentenced the most leniently. These effects of the personal and ideological attributes of judges demonstrate the need for a representative bench of judges. It has been observed that personal

attributes of judges do influence the sentence rendered. Therefore, it is important for the U.S. justice system to continue to work on uncovering unconscious bias and, more importantly, ensuring the judges are truly representative of the people they serve.

## Appendix A

### Bivariate Analyses: Crosstabulations

<b>Bivariate Analysis: Incarceration by Judge Sex</b>			
<b>Included Incarceration in Sentence (Column % in Parentheses)</b>			
	<b>Female Judge</b>	<b>Male Judge</b>	<b>Total</b>
Yes	7,980 (65.0)	13,330 (42.2)	21,310
No	4,260 (35.0)	18,248 (57.8)	22,508

<b>Bivariate Analysis: Incarceration by Judge Political Orientation</b>				
	<b>Liberal Judge</b>	<b>Moderate Judge</b>	<b>Conservative Judge</b>	<b>Total</b>
Yes	3,837 (44.7)	7,380 (40.5)	4,305 (42.2)	15,532
No	4,750 (55.3)	10,864 (59.5)	5,888 (57.8)	21,502

<b>Bivariate Analysis: Incarceration by Years Served on Bench</b>						
<b>Included Incarceration in Sentence (Column % in Parentheses)</b>						
	<b>0-1 Years</b>	<b>2-5 Years</b>	<b>6-10 Years</b>	<b>11-20 Years</b>	<b>21+ Years</b>	<b>Total</b>
Yes	8 (57.1)	1,545 (44.5)	5,672 (31.8)	8,193 (40.6)	2,404 (34.1)	17,822
No	6 (42.9)	1,927 (55.5)	8,148 (59.0)	12,001 (59.4)	4,642 (65.9)	26,724

<b>Bivariate Analysis: Incarceration by Previous Legal Experience</b>			
<b>Included Incarceration in Sentence (Column % in Parentheses)</b>			
	<b>Defense Attorney</b>	<b>Prosecutor</b>	<b>Total</b>
Yes	6,263 (36.3)	7,054 (37.4)	13,317
No	10,972 (64.7)	11,786 (62.6)	22,758

<b>Bivariate Analysis: Departure from Guideline by Judge Sex</b>			
<b>Sentence Departed ABOVE Guideline Aggravated Range (Column % in Parentheses)</b>			
	<b>Female Judge</b>	<b>Male Judge</b>	<b>Total</b>
Yes	233 (1.9)	682 (2.2)	915
No	11,935 (98.1)	30,896 (97.8)	42,831
<b>Sentence Departed BELOW Guideline Mitigated Range (Column % in Parentheses)</b>			
	<b>Female Judge</b>	<b>Male Judge</b>	<b>Total</b>
Yes	1,424 (11.7)	2,429 (7.7)	3,853
No	10,744 (88.3)	29,149 (92.3)	39,893

<b>Bivariate Analysis: Departure from Guideline by Judge Political Orientation</b>				
<b>Sentence Departed ABOVE Guideline Aggravated Range (Column % in Parentheses)</b>				
	<b>Liberal Judge</b>	<b>Moderate Judge</b>	<b>Conservative Judge</b>	<b>Total</b>
Yes	224 (2.6)	374 (2.0)	197 (1.9)	795
No	8,363 (97.4)	17,870 (98.0)	9,996 (98.1)	36,229
<b>Sentence Departed BELOW Guideline Mitigated Range (Column % in Parentheses)</b>				
	<b>Liberal Judge</b>	<b>Moderate Judge</b>	<b>Conservative Judge</b>	<b>Total</b>
Yes	795 (9.3)	1,658 (9.1)	615 (6.0)	3,068
No	7,792 (90.7)	16,586 (90.9)	9,578 (94.0)	33,956

<b>Bivariate Analysis: Departure from Guideline by Years Served on Bench</b>						
<b>Sentence Departed ABOVE Guideline Aggravated Range (Column % in Parentheses)</b>						
	<b>0-1 Years</b>	<b>2-5 Years</b>	<b>6-10 Years</b>	<b>11-20 Years</b>	<b>21+ Years</b>	<b>Total</b>
Yes	0 (0.0)	83 (2.4)	301 (2.2)	390 (1.9)	175 (2.5)	949
No	14 (100)	3,389 (97.6)	13,519 (97.8)	19,804 (98.1)	6,871 (97.5)	43,597
<b>Sentence Departed BELOW Guideline Mitigated Range (Column % in Parentheses)</b>						
	<b>0-1 Years</b>	<b>2-5 Years</b>	<b>6-10 Years</b>	<b>11-20 Years</b>	<b>21+ Years</b>	<b>Total</b>

Yes	2 (14.3)	607 (17.5)	822 (5.9)	1,728 (8.6)	726 (10.3)	3,885
No	12 (85.7)	2,865 (82.5)	12,998 (94.1)	18,466 (91.4)	6,320 (89.7)	40,661

<b>Bivariate Analysis: Departure from Guideline by Previous Legal Experience</b>			
<b>Sentence Departed ABOVE Guideline Aggravated Range (Column % in Parentheses)</b>			
	<b>Defense Attorney</b>	<b>Prosecutor</b>	<b>Total</b>
Yes	344 (2.0)	439 (2.3)	783
No	16,891 (98.0)	18,401 (97.7)	35,292
<b>Sentence Departed BELOW Guideline Mitigated Range (Column % in Parentheses)</b>			
	<b>Defense Attorney</b>	<b>Prosecutor</b>	<b>Total</b>
Yes	1,706 (9.9)	1,987 (10.5)	3,693
No	15,529 (90.1)	16,853 (89.5)	32,382

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[bias/](http://www.theconstitution.org/blog/williams-v-pennsylvania-a-true-case-of-judicial-bias/).

# ACADEMIC VITA OF KELSEY GORMAN

## EDUCATION:

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**The Pennsylvania State University**, College of Liberal Arts  
*Paterno Fellows Program, The Schreyer Honors College*  
Bachelor of Arts in International Politics: National Security  
Minor in Business of Liberal Arts  
University Park, PA  
May 2021

## LEADERSHIP:

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**Recruitment Assistant**, *Phi Sigma Sigma* **Spring 2020- Present**

- Organized the production of the recruitment video to best showcase the values of Phi Sigma Sigma
- Aided in coordinating the schedule of recruitment while adhering to COVID-19 guidelines

**Student Grader**, *Macroeconomics* **Fall 2019 – Spring 2020**

- Graded exams and assignments for a 300-person lecture to assist the professor
- Provided feedback on online discussion posts in order to help students understand macroeconomics concepts related to current events

**Fundraising specialist**, *Penn State THON Dancer Relations Committee* **Fall 2018- Spring 2019**

- Developed new fundraisers, contributing to THON's 2019 total of \$10,621,683.76
- Coordinated fundraising efforts between my committee and the fundraising captain to maintain consistency and cohesiveness among over 700 committee members

**Security Leader**, *Penn State THON Rules & Regulations Committee* **Fall 2017- Spring 2018**

- Diffused and resolved problems among dancers and guests
- Directed 25 group members inside the Bryce Jordan Center to ensure safety for all those attending THON
- Oversaw and executed security screening for entrance into the building

**Sub-Committee Chair**, *Penn State Pillar (THON Special Interest Organization)* **Fall 2017- Spring 2018**

- Communicated with businesses to receive approval to fundraise on their property
- Organized the logistics of the fundraising trip
- Presented and explained the plans of the trip to the organization

## WORK EXPERIENCE:

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**Diaspora Law Firm**, Virtual – *Intern* **Summer 2020**

- Researched country conditions to aid in compiling background information for cases
- Composed a succinct report of El Salvador's country conditions

**H.U.B. Dining Starbucks**, University Park, PA- *Barista* **Fall 2018- Present**

- Performed in a fast-paced, socially diverse team environment
- Adapted to unique requests from managers, such as providing services to other establishments within H.U.B. dining when necessary

**Ike's Famous Crab Cakes Restaurant**, Ocean City, NJ – *Server* **Summer 2019- Present**

- Managed a hectic environment to provide timely service
- Represented the company in a positive manner to ensure vacationers return every year

**T.G.I. Friday's Restaurant**, Easton, PA – *Server* **Spring 2018- Winter 2019**

- Managed tables' payments and solved problems/ complaints from customers regarding food orders

## HONORS:

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Michael Ruger Scholarship in Liberal Arts **Fall 2019- Spring 2020**

Outstanding Achievement in Spanish Studies **Spring 2019**

Member of Phi Eta Sigma National Honor Society **Fall 2018- Present**