# EXAMINING THE IMPACT OF CHANGES IN SENTENCING GUIDELINES AND OFFENDER DEMOGRAPHICS ON SENTENCING OF WHITE-COLLAR OFFENSES

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## ABSTRACT

Using the most recent data compiled by the United States Sentencing Commission and conducted within the conceptual framework of the focal concerns perspective, the current study investigates the impact of offender characteristics, case characteristics, and legally relevant factors on the sentencing outcomes of defendants sentenced under §2B1.1 of the federal sentencing guidelines. Results shows that while gender had no discernable influence on the probability of incarceration or the length of sentence, other demographics of the offender (race/ethnicity, age, and level of education) all emerged as statistically significant. Evidence of jurisdictional variation in sentencing was also detected. Consistent with the goals of sentencing reformers, legally relevant factors surfaced as the strongest determinants of sentencing outcomes. Policy implications and directions for future research are presented.

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# CHAPTER I

# INTRODUCTION

The detection and examination of unwarranted sentencing disparities have long been a topic of interest to sentencing scholars and policymakers. While much of the focus has been devoted to the sentencing outcomes of street crimes such as drug trafficking and robbery, the prosecution and sentencing of white-collar offenses has grown to become a topic of intrigue. Much of the attentiveness germinates from a cultivating perspective that white-collar offenses are a deleterious worldwide problem and one that critically damages not just the financial stability of individuals but that of the entire country (Gavrilova, 2022). Also, feeding the spotlight on white-collar offenses is past, and to some extent current, allegations that the criminal justice system gives these "suite" offenders preferential treatment compared to "street" offenders. Early findings depict white-collar offenders as highly educated, predominately older white males with a low propensity to commit crimes (Benson & Moore, 1992; Ragatz et al., 2012; Wheeler et al., 1988) further contributing to favorable perceptions of offenders who are not deserving of harsh sentences. Benson (2021), however, points out that over the last ten years, theoretical and empirical advances in white-collar research have challenged these earlier perceptions and stereotypes of white-collar offenses and offenders. A review of some of these advances triggered three justifications for the current study: the redefining of white-collar crime, significant changes to the sentencing guidelines, and swings in the demographics of white-collar offenders.

For starters, refining the definition of "white-collar" has led to the acknowledgment of a wide assortment of white-collar offenses. Currently, more than 300 federal statutes are subject to §2B1.1 of the federal sentencing guidelines, and the most recent codebook on economic crime type lists 21 offense type categories (United States Sentencing Commission, n.d.[b]). The existence of these various types of offenses suggests that focusing on a specific type of white-collar offense (e.g., embezzlement, tax evasion) rather than the traditional practice of aggregating all white-collar offenses, is likely to produce more accurate findings on the determinants of sentence outcomes.

Second, mounting awareness of the inequality of sentencing outcomes between "blue-collar" workers and "white-collar" workers has resulted in substantial reforms to the federal sentencing guidelines. The goal, for the most part, has been to enhance the punishment of white-collar offenders. For example, just two years after the 1987 implementation of the federal sentencing guideline, the USSC amended the monetary loss table for several economic crimes which resulted in longer prison sentences for some economic offenses (See Steer, 2003 for a historical discussion of the development of economic crime guidelines). As an illustration, Steer (2003) explained that in response to large corporate fraud, the USSC added two categories ($200-$400 million and greater than $400) to the monetary loss table. Doing so resulted in a 28-level and a 30-level, respectively, increase over the base level of 6. Today, the highest end of the loss table has increased to $500 million with an accompanying offense level of 37 months and a sentencing range of 210-262 months (17.5-21.8. years) (Boss & Kapp, 2021). Citing Judge Rakoff, Boss and Kapp (2021, p. 613) elucidated that "…while a typical fraud in 1987 would have produced a guideline range of 30-37 months, by 2003 that same case would result in a recommended sentence of 151-188 months, an increase of more than 500 percent".

Paradoxically, the changes have enhanced the penalty to such an extent that Boss and Kapp (2021), have joined other legal scholars (Bowman, 2015; Hewitt, 2016) on calls for the USSC to reduce the severity of the monetary loss table.

Lastly, over the years there have been significant changes in the social demographics of white-collar offenders. The majority of the changes occurred in the 21st century when middle-class offenses became "democratized" to the point that minorities were increasingly becoming more engaged participants in white-collar offenses (Benson, 2021, p. 4). Interestingly, the rise in participation in economic offenses among non-Whites predominately emanated from the Latino and Asian communities (Benson, 2021). According to Benson (2021), between 2000 and 2015, the percentage of Blacks involvement in white-collar offenses increased by 17%, while the percentages of Latino and Asian involvement increased by 22% and 59%, respectively.

Although the demographic shift in gender is not nearly as pronounced as it is for race/ethnicity, statistics show that the number of women occupying positions of power and leadership has increased over the years (Schaeffer, 2023). According to a study conducted by the Pew Research Center, the number of women leading major firms has reached 53, resulting in a notable milestone, where the proportion of female CEOs of Fortune 500 companies surged to 10.6%, a new record high. With the rise in female power, there is an indication that their involvement in white-collar offenses has also increased. For example, Benson (2021) noted that females made up 14.5% of white-collar offenders during the mid-to-late 1970s, but by 2015 their share had grown to 25.4%. These shifts in social demographical changes may partially be responsible for some of the mixed and inconclusive findings on the influence of offender characteristics on sentencing outcomes.

In sum, the redefining of white-collar offenses, significant changes to the sentencing guidelines, and swings in the demographics of white-collar offenders dictate that additional research on white-collar offenses and offenders is warranted. Hagen et al's (1980) earlier work recognized the importance of periodically examining sentencing data as it serves as an indicator of how power is exercised within society and how the social organization of a crime impacts how it is controlled. With that in mind, using the most recent federal sentencing data, the current study builds upon the sentencing research on white-collar offenses. More specifically, the purpose of this study is to examine the influence of extra-legal factors (e.g., race/ethnicity, sex, socio-economic status) and jurisdictional variation on the sentencing outcomes of defendants sentenced under §2B1.1 of the federal sentencing guidelines during the 2020-2021 fiscal year. The study begins with a brief overview of the birth of the federal sentencing guidelines before transitioning into a review of the literature followed by the presentation of the theoretical perspective that frames the study.

# CHAPTER II

# BACKGROUND

## Birth of the Federal Sentencing Guidelines

Before 1984, judges enjoyed broad discretion in federal sentencing decisions with limited oversight (Howell, 2004; Tonry, 2015). Since they were not required to provide reasoning for their decisions, judges imposed whatever sentence they deemed appropriate (USSC, n.d.[a]). This was inherently problematic as it often resulted in disparate sentences across the country. Moreover, because judicial decisions were largely immune from appellate review, those subject to "unjust" sentences had limited avenues for a remedy (USSC, n.d.[a]). The then-existing indeterminate sentencing structure, which granted sentences as a range rather than a fixed number, also proved problematic (Howell, 2004; Tonry, 2015). Under this sentencing arrangement, once the judge imposed a sentence the federal parole commission had the authority to reduce the defendant's prison sentence and apply good time credits to further reduce their sentence (Tonry, 2015; U.S. Department of Justice, 2003). This indeterminate sentencing structure became a source of some of the inconsistency and uncertainty in punishment.

To help tackle these issues, in 1987, the Sentencing Reform Act of 1984 went into effect with the goals of eliminating unwarranted sentencing disparities and introducing transparency, certainty, and fairness into sentencing (USCC, n.d.[a]). To assist in the accomplishment of its goals, the Act was also responsible for the congressionally established United States Sentencing Commission (USSC). The USSC was tasked with promulgating equitable sentencing policies

and practices, assisting the government in the development of effective crime control policies, conducting research on federal crime and sentencing data, and developing education programs (USSC, 2023[c]). A major product that emerged from the work of the USSC was the creation of the federal sentencing guidelines, an artifact that resulted in a shift from an indeterminate sentencing structure to a determinate structure. The guidelines, which are fashioned in the form of a sentencing grid, were based on what the Commission believed are the two most important factors that should determine a judge's sentence: severity of the offense, which is measured by a 43-point scale located at the vertical axis of the grid, and the defendant's prior criminal record, based on a 6-point scale situated on the horizontal axis of the grid (See Appendix 1).

The sentencing guidelines went into effect in 1987 and although it seemed like a promising solution to eliminating sentencing disparities, its constitutionality was quickly challenged (Nowacki, 2018). In the landmark case of *Mistretta v. United States* (1989), the petitioner argued that the guidelines were unconstitutional because the nondelegation doctrine prohibited Congress from delegating their legislative power to another agency. The United States Supreme Court, however, disagreed. They upheld the constitutionality of the USSC on the basis that the Sentencing Commission was simply *assisting* Congress by working together to establish sentencing guidelines not creating them on their own (*Mistretta v. United States*, 1989).

Fifteen years later, the landmark cases of *Blakely v. Washington* (2004) and *United States v. Booker* (2005) radically transformed the federal sentencing guidelines. The *Blakely* case opened debate on the constitutionality of guideline systems by addressing the issue of presumptive sentences (Mitchell, 2015; USSC, 2010). The Court held that any facts, other than a prior conviction, must be submitted at trial and proven beyond a reasonable doubt if it increases the sentence severity. More pointedly, the Court ruled that the sentencing judge could

not impose a harsher sentence based solely on facts admitted in a guilty plea. Noteworthy is the observation that the Court majority declined to discuss how the ruling would impact the federal sentencing guidelines. Justice O'Connor warned that the opinion may reverse 20 years of successful sentencing reform while Justice Breyer questioned if it is possible to distinguish federal sentencing guidelines from the Washington state guidelines (Blakely v. Washington, 2004; USSC, 2010).

Within a year, the *United States v. Booker* (2005) case appeared to have brought to fruition the concerns of Justice O'Connor. Booker was found guilty of distributing crack cocaine in the United States District Court of Wisconsin. During the sentencing phase, the judge conducted their internal investigation and found that the defendant distributed more crack cocaine than the jury originally found him guilty of, thereby increasing the offense level from 32 to 36 per federal sentencing guidelines. As a result, rather than imposing a sentence of 21 years and 10 months, a sentence that is reflective of the findings at trial, the sentencing judge sentenced Booker to 30 years, a sentence based on his internal investigation. The United States 7th Circuit declared that the sentence was unconstitutional under the new *Blakely* rule and directed the District Court to sentence Booker within the appropriate guidelines or hold a separate sentencing hearing before a jury (*United States v. Booker*, 2005). The case made its way to the U.S. Supreme Court, and in a 5-4 decision, the Supreme Court held that the guidelines were unconstitutional because they forced the judge to consider undisclosed facts within their sentencing calculations thereby violating the 6th Amendment right to trial (*Booker v. United States*, 2005; USSC, 2010). However, the Supreme Court understood the importance of the guidelines' role in establishing uniformity in sentencing. So, rather than dismantling the entire guidelines, the Court's decision changed the guidelines from mandatory to advisory. The

advisory nature of the guidelines allows federal judges to have more discretion in their sentencing decisions but also allows the guidelines to serve as a reference tool.

It is imperative to note that while the advisory nature of the guidelines paved the way for judges to sentence outside of the recommended guidelines, The *Gall v. United States* (2007) decision allows for a challenge of the "*reasonableness*" in the departure. In *Gall's* case, the appellate court argued that the below guideline sentence given to Gall was unreasonable citing that deviation outside of the sentencing guidelines must be supported by extraordinary circumstances. The U.S. Supreme Court, however, ruled that the sentence was "reasonable" because the guidelines should not be the only determining factor in federal sentencing decisions. The *Gall* ruling, in essence, established a precedent for sentencing judges to weigh other factors coupled with the guidance of the sentencing guidelines to determine an appropriate sentence.

While judges are no longer required to follow the federal sentencing guidelines, they continue to use the guidelines as a foundation to determine their decisions. As a result, sentencing remains largely determined by the intersection of the final offense level and criminal history score. Once the range has been calculated, judges are allowed to depart from the guideline and can do so based on guideline provisions such as §5K1.1 (a substantial assistance downward departure for providing the prosecutor with information that can be used in the successful prosecution of others) and §3E1.1 (a government-sponsored departure for accepting responsibility for one's actions). As the *Gall* decision made clear, the court can consider a host of other factors including the nature and circumstances of the offense, the purpose of the implied punishment, the availability of different types of sentencing options, the recommended sentence according to the sentencing guidelines, and efforts to avoid unwarranted sentencing disparities.

**Sentencing of Economic Offenders**

White-collar offenders are prosecuted pursuant to §2B1.1 of the federal sentencing guidelines. According to the United States Sentencing Commission (2023[b]) this category of offenses includes "larceny embezzlement, and other forms of theft; offenses involving stolen property; property damage and destruction; fraud and deceit; forgery; offenses involving altered or counterfeit instruments other than counterfeit bearer obligations of the United States" (p. 85). Although the type of offenses in this category varies (e.g., embezzlement, theft, property damage, and destruction), what they all have in common is the basic loss of something with monetary value. Therefore, when referring to defendants sentenced under USSG §2B1.1, we may interchangeably use the broader term "economic offenses/offenders" instead of the traditional term "white-collar offenses/offenders".

With regards to sentencing departures, in addition to the §5K1.1 and §3E1.1 provisions mentioned above, sentencing adjustments related to the specific offense are also considered in the determination of the recommended sentence. For example, under §2B1.1 are twenty "specific offense characteristics" (SOCs) that function as aggravating factors. The first, and paramount among these SOCs, is monetary loss. This SOC is an important factor because, for economic offenses, monetary loss serves as the primary measure of offense severity. According to the guideline, loss is defined as "the greater of actual loss or intended loss" (USSC, 2023[c] p. 1). While "actual loss" is defined as, "the reasonably foreseeable pecuniary harm that resulted from the offense" intended loss is expressed as, "pecuniary harm that the defendant purposely sought to inflict; and includes intended pecuniary harm that would have been impossible or unlikely to occur" (USSC, 2023[c] p. 2). The guideline further defines "pecuniary harm" as "harm that is monetary or that otherwise is readily measurable in money" (USSC, 2023 p. 2). It is necessary to

emphasize that the loss amount may be reduced based on the type of offense, and the application of "special rules" (USSC, 2023[c] p. 1). Central to the loss calculation is the understanding that the court "need only make a reasonable estimate of the loss" and the calculation is based on "all relevant conduct, including charged, uncharged, and acquitted conduct, and is not limited to losses directly attributable to the instant offense" (USSC, 2023[c], p. 1-2).

Another important consideration in the sentencing of economic offenders is the awareness that according to USSG §2B1.1(A)(1)(2), the base level for economic offenses starts at seven (7) if "(A) the defendant was convicted of an offense referenced to this guideline; and (B) that offense of conviction has a statutory maximum term of imprisonment of 20 years or more" (USSC[c], 2023 p.85). If not, the base level starts at six (6). As alluded to in the above discussion of SOCs and as stipulated in §2B1.1(B)(1), the base offense level can increase depending on the dollar value of the loss associated with the criminal activity. For example, an offense that results in a dollar value loss of less than $6,500 will not increase to the base level. On the low end, an offense that results in a loss from $6,500 to $15,000 will add 2 points, whereas, on the high end, a monetary loss of more than $550,000,000 will add upward of 30 points to the base level (See Appendix 2 for an illustration of the USSC loss calculation table). The lowering or increasing of the base level will ultimately influence the length of the sentence.

In sum, despite the advisory nature of federal sentencing guidelines, sentencing departures, and SOCs, such as the dollar value of the loss, are all legally relevant factors that according to the Commission should influence sentencing outcomes of economic offenders. The focal concerns of sentencing as well as a review of existing literature, however, reveal that extra-legal factors can also influence the outcomes. Specifically, there are allegations that even in the sentencing of economic offenses, stereotypes linked to the offender's race/ethnicity, gender, and

social status can result in the type of unwarranted sentencing disparities the federal sentencing guidelines were meant to reduce. The paper now turns to a review of this literature.

# CHAPTER III

# LITERATURE REVIEW

## Race/Ethnicity Influence on Sentencing Outcomes

An often explored extra-legal variable in the examination of unwarranted sentencing disparities is the race/ethnicity of the offender. In general, the empirical findings have been mixed with some detecting more punitive sanctions directed toward racial/ethnic minorities (Holland & Prohaska, 2021; Steffensmeier et al., 2017), while others found no discernable differences (Feldmeyer & Ulmer, 2011; Wu & D'Angelo, 2014). Still, there are those who observe a more nuanced picture that suggests that racial/ethnic disparities in sentencing may be contextualized by several factors such as the dependent variable (Holmes & Feldmeyer, 2023), the years being observed (King & Light, 2019), the geographical location of adjudication (Hartley & Armendariz, 2011; Iles et al., 2023) and even whether a presentence report was submitted to the court (Monaghan & Konefal, 2023).

The impact of race/ethnicity on the sentencing of economic offenders similarly yields mixed and at times contradictory findings. For instance, Maddan and colleagues (2012) used federal sentencing data to compare both measures of sentencing severity (e.g., in/out decision and length of sentence) of embezzlement offenders to that of auto theft offenders. Their investigation found no evidence that race/ethnicity was a statistically significant factor in either of the sentencing outcomes. In contrast, Schanzenbach and Yaeger's (2006) findings revealed that Black and Hispanic white-collar offenders were more likely to be incarcerated and when

incarcerated, were more likely to serve longer sentences than their White counterparts. Mixed findings were observed in state courts where Van Slyke and Bales (2013) three types of offenses (economic offenses, white-collar offenses, and street crimes) in the state of Florida. They found being Black increased the likelihood of incarceration for economic offenses and street crimes but had no effect on white-collar offenders. However, they found that being a Latino economic offender reduced the likelihood of receiving a jail sentence.

Like Van Slyke and Bales (2013), Cassidy and Gibbs (2019) also used state-level data and examined three categories of offenses (low-level white-collar offenses, property crimes for economic gains, and property crimes for non-economic gains). But unlike Van Slyke and Bales (2013), Cassidy and Gibbs (2019) examined both sentencing decisions, the decision to incarcerate and the length of the sentence. Their analysis of the direct effect of race disclosed that across all three offenses, Blacks face greater odds of incarceration but once the decision to incarcerate was made, except for non-economic property crimes, Blacks receive shorter sentences than Whites. Investigation into the interactive effects of race and age bared evidence that White males between 18-19 and White males over 50 who were sentenced for a white-collar offense received longer sentences than young Black men. Albonetti's (1998) exploration of the interplay between the complexity of the case, guilty pleas, and the length of the sentence highlights the impact of interactive effects. She found that race did not directly predict the severity of the outcome. Rather, she observed that race interacted with guilty pleas to indirectly impact the sentence. Specifically, she found that since African Americans were less likely to be sentenced for a complicated white-collar offense, they were subsequently less likely to benefit from the intervening effect of case complexity and the plea of guilt, and therefore, more likely than their racial counterparts to receive a severe penalty.

**Gender Influence on Sentencing Outcomes**

A sizable body of sentencing literature found that females were more likely than their male counterparts to receive lenient sentences (Cassidy & Gibbs, 2019; Holland & Prohaska, 2021; Ruhland & Selzer, 2020; Van Slyke & Bales, 2013). The findings of Schanzenbach and Yaeger (2006), for example, reveal that men generally receive longer prison sentences than women. Van Syke & Bales (2013) came to a similar conclusion when they found that compared to males, female economic offenders were more likely to be beneficiaries of non-incarcerated sentences; women face lower odds (47.8%) of receiving a jail sentence instead of probation and lower odds of receiving a prison sentence (40%) instead of probation. For Ruhland and Selzer (2020), a higher percentage (34.9) of female white-collar offenders were recipients of probation compared to only 25.9% of similarly situated male offenders.

Testa (2019), however, detected evidence of males being treated more leniently but attributed the disparate outcome to the specialization of offenses along gender lines. He observed that females were more likely to engage in embezzlement whereas males were more likely to engage in larceny. He then surmised that since embezzlement offenses are treated more harshly than larceny in federal courts, women are subsequently punished more severely than men. Still, there are others (Albonetti, 1998; Holtfreter, 2013), who found no evidence that gender directly impacts sentence outcomes once legally relevant and/or case characteristics are added as controls. Holtfreter (2013), for instance, used national survey data compiled by the Association of Certified Fraud Examiners between April 2001 and February 2002 to examine the relationship between gender and white-collar offenses. Survey participants had an average of 19 years of experience in fraud investigation and were asked to provide detailed information about recent

cases that met the following criteria a) investigation was complete, b) the perpetrator had been identified, and c) case proceedings were complete. Her findings revealed that for fraud offenders, the likelihood of not receiving a sanction was similar for both males and females (48.2% and 46.2%). She also detected that 24% of females were not sentenced to incarceration and a similar percentage of males (23.8%) likewise did not receive a prison sentence. However, she found evidence indicating that the median economic loss for female fraud offenders was $102,000 while the average loss for male fraud offenders was $250,000. Therefore, she concluded that since the monetary loss for males is substantially higher (hence a more serious economic crime), they are sentenced more harshly than their female counterparts.

**Age Influence on Sentencing Outcomes**

Economic offenders are, on average, in their 40's (Benson & Simpson, 2018; Holtfreter, 2013; Testa, 2019). However, the findings of more recent studies suggest that the age of economic offenders may be slightly decreasing. Logan and colleagues (2022) for example, found that the average age of white-collar offenders was approximately 34 years of age. This decrease in age may be attributed to several factors including a younger workforce or access to technology (e.g., computers and the internet) that allows people of any age to engage in fraudulent activities from the privacy of their homes. This represents a change from earlier times when white-collar offenders were middle-aged workers sitting in office suites. In any event, the age of the defendant has become a staple in the sentencing of economic offenses largely due to an assumption that older offenders are more likely than younger offenders to receive clemency in sentencing outcomes (Blowers & Doerner, 2015; Doerner & Demuth, 2010; Hartley, et al., 2007; Logan et al., 2022; Steffensmeier et al., 1995; Wheeler et al., 1988). For example, Steffensmeier

and colleagues' (1995) analysis of Pennsylvania state courts disclosed that older offenders are less likely to be sentenced to prison than younger offenders. They additionally found that when older offenders are imprisoned, they receive shorter sentence lengths when compared to their younger counterparts. Cassidy and Gibbs (2019) also used Pennsylvania state data. They analyzed the sentencing outcomes of 18-29, 30-49, and 50+ defendants sentenced for white-collar offenses and property offenses. Like Steffensmeier and his colleagues (1995), Cassidy and Gibbs (2019) found that white-collar offenders between 18 and 29 years of age are more likely to receive an incarcerated sentence while their older counterparts (e.g., 50+) are less likely to be incarcerated.

Older offenders at the federal level have similarly been found to experience lenient treatment (Blowers & Doerner, 2015; Doerner & Demuth, 2010). Doerner and Demuth (2010), for example, examined six age groups (18-20, 21-29, 30-39, 40-49, 50-59, 60+) and found that the youngest defendants (18–20-year-olds) were the age group most likely to receive a prison sentence; the likelihood of incarceration for defendants aged 60 and over was approximately 40 percent lower compared to those in the youngest age group. They also found that once sentenced, defendants over the age of 60 benefited from shorter sentences; on average, defendants aged 60 and over received sentences that were about 16 percent shorter than those given to defendants between the ages of 18 to 20. Blowers and Doerner's (2015) study is somewhat unique in that they explored the age leniency argument by specifically focusing on the sentencing outcomes of older federal inmates, those over the age of 50. The age groups were categorized as young-old (50-54), middle-old (55-64), and old-old (65+). They found that their youngest age category (50-54) had the highest odds of incarceration while their oldest age category (65+) experienced the lowest odds of incarceration. However, they found that once the

decision to incarcerate was made, older offenders, those 65 and over, were somewhat more likely to receive longer sentences than offenders in the young-old (50-54) and middle-old (55-64) categories.

**Education Attainment Influence on Sentencing Outcomes**

Educational attainment, often used as a proxy for social status, is another important variable used in the analysis of economic offenses. The consensus among the body of literature is that, unlike street crimes where the defendant is less likely to be highly educated, the opposite is the case for economic offenders who tend to acquire higher levels of educational attainment. Testa (2019), for example, found that only 13% of federal embezzlement offenders had less than a high school diploma compared to 40% of federal larceny offenders. He also found that 17% of embezzlement offenders were college-educated whereas only 8% of larceny offenders were similarly educated. For Wheeler and colleagues (1988), 79% of white-collar offenders earned at least a high school diploma and 27.1% had a college degree. Among those convicted of other types of offenses, only 45% had a high school diploma and only 3% graduated from college. Studies that have examined the level of education impact on sentencing outcomes of economic offenders (Franklin, 2017; Hagen et al., 1980; Maddan et al., 2012) have found a correlation between education attainment and the sentencing of white-collar offenders. Even so, the findings are inconclusive. For example, using education as a substitute for social status, Hagen and his colleagues (1980) found that for white-collar offenders sentenced in District C, the most proactive district, being college-educated resulted in a more lenient sentence than those with less education. However, in the remaining districts, attaining a college education had no discernable

advantage as those with a college education and those with less education received similar lenient sentences.

Still, the results of other studies suggest that the effects of education may not be direct, but rather indirect as it interacts with other factors, such as the severity of the offense. Wheeler et al. (1988), for example, found that the most damaging and complex white-collar crimes are more likely to be committed by college-educated individuals. Ten years later, Albonetti (1998) came to a similar conclusion. She found the higher one's education, the more complex the case, and offenders involved in complex cases are more likely to be offered a plea, which in turn results in favorable sentencing outcomes. There is also an indication that the effect of education is more noticeable in certain stages of the sentencing process and certain outcomes (Franklin, 2017; Maddan et al., 2012). For example, Maddan and colleagues' (2012) analysis of Pennsylvania state data revealed that higher education was relevant only in the sentencing of white-collar offenders, and only in the decision to incarcerate. However, unlike Albonetti's (1998) finding, Maddan and colleagues (2012) found that education had no effect on sentence length. Caution should be taken in comparison of both studies as Albonetti's (1998) analysis used federal data before the implementation of the federal sentencing guidelines, whereas Maddan and colleagues (2012) analyzed state data that was subject to state sentencing guidelines.

**Court Location Influence on Sentencing Outcomes**

An increasing number of studies show conditional effects of court location on sentencing outcomes (Hartley, 2008; Hartley & Armendariz, 2011; Hartley & Tillyer, 2019; Iles et al., 2023). While much of the literature on sentencing and jurisdictional variation has focused on drug offenses, the seminal work of Hagen and colleagues (1980) revealed that the sentencing of

white-collar offenders can also vary according to the geographical location of the court. Their collection of data from approximately 600 hours of interviews, 200 hours of court observations from 1974-1977, and site visits in ten federal district courts revealed that while there were some similarities between 9 of the districts, there were stark differences in one district, referred to as District C. District C was observed as more proactive than the other nine districts, it proportionately prosecuted and convicted twice the number of white-collar offenders than the other nine districts. The district also contained a higher number of college-educated defendants, which they observed were the benefactors of more lenient sentences than college-educated defendants in the remaining nine districts. With regards to the statutory seriousness of the initial charge, this legally-relevant factor was found to have a more pronounced effect for college-educated white-collar offenders in District C, whereas, in the remaining nine districts, the statutory seriousness of the offense had a more pronounced impact on defendants who were sentenced for non-white-collar offenses. The effects of pleas were also found to vary according to location – white-collar defendants who plead guilty in District C were rewarded with more lenient sentences ($b$ = -1.27), than their counterparts in the remaining nine districts ($b$ = -.26).

In a more recent study, Galloway's (2020) doctoral investigation of the sentencing of white-collar offenders in six U.S. federal districts (Southern New York, West Texas, Northern Illinois, Central California, South Florida, and North Georgia) between 1990 and 2015 also revealed evidence of jurisdictional effects. Her partitioning of the data based on three guideline periods (mandatory, 1990-1999; narrow: 2001-2005; and advisory, 2006-2015) reveals that the geographical location of the court had a significantly positive effect on the in/out decision as well as the length of sentence decision, but only during the era of mandatory guidelines. They found that the largest number of white-collar offenses were prosecuted in the Southern District

of New York and the Central District of California. She also found that defendants sentenced in South Florida faced 60% lower odds of incarceration compared to defendants sentenced in Northern Georgia. In terms of sentence length, defendants sentenced in South Florida and Central California were recipients of sentences that were 30% shorter than the sentence length awarded to defendants in northern Georgia. Altogether, these findings provide some evidence that court location can be an important predictor of sentencing outcomes. Having reviewed the previous literature, attention now turns to the theoretical framework used to guide the study.

# CHAPTER IV

# THEORETICAL FRAMEWORK

Originally constructed to explain the decision-making process of judges, Steffensmeier and colleagues' (1998) articulation of the focal concerns perspective has evolved to become a dominant theoretical framework for understanding the decision-making process of various legal actors (Hartely et al., 2007). From a judicial standpoint, the perspective posits that primary concerns surrounding (1) the blameworthiness or culpability of the offender, (2) the need to protect the community, and (3) practical constraints and consequences, serve as guiding principles to how judges make sentencing decisions.

The first concern, blameworthiness, refers to the offender's motive, responsibility, and inflicted harm (Steffensmeier et al., 1998; Van Slyke & Bales, 2013). It is backward-looking, as it focuses on the past behavior of the offender, and stems from the retributive philosophy of punishment. This "just deserts" approach to punishment embodies two distinct albeit interrelated ideas (Neubauer & Fradella, 2019). First, it argues that if one harms another the offender deserves punishment (Cassidy & Gibbs, 2019). Second, it maintains that not only does society have the right to punish the offender, but because the crime resulted in a harmed society and not just the victim, the state is obligated to inflict punishment that is proportionate to the harm done (Neubauer & Fradella, 2019).

The second focal concern, the protection of the community, considers whether the offender poses a significant risk or threat to the community or the likelihood that they would

commit another crime. Unlike the former concern, the second focal concern is forward-looking and centers on incapacitating dangerous offenders with the goal of preventing the offender from recidivism. It is rooted in the deterrence philosophy of punishment, which seeks to prevent the offender or others from engaging in future crimes (Cassidy & Gibbs, 2019).

The last focal concern of judicial decision-making pertains to practical constraints and consequences, which consider the organizational effects as a whole and the impact of decisions on the defendant. It also accounts for the financial, and emotional cost to society (Steffensmeier et al., 1998). For instance, since the efficiency of the system is at risk, courtroom actors are cautioned to think about how their decision may impact factors such as maintaining professional relationships within the criminal justice system, prison overcrowding or burden on the correctional system, and the community's reaction to the sentence (Holtfreter, 2013). Additionally, decision-makers could consider the impact of individual consequences. Individual consequences may include the offender's ability to handle incarceration, the special needs of the defendant, family dynamics, such as the number of dependents and the caretaking responsibilities of the offender, and costs to the correctional system (Cassidy & Gibbs, 2019; Steffensmeier et al., 1998).

A fundamental feature of the focal concerns perspective is the incorporation of Albonetti's (1991) uncertainty avoidance/casual attribution perspective. As Albonetti (1991) explains, possessing full knowledge is crucial for removing uncertainty in the decision-making process and its subsequential outcome. In referencing the early work of Simon (1957), Albonetti (1991) further explained that decision-makers, specifically judges, are not always equipped with the necessary information to develop a full assessment of the case or defendant. This may be due to several factors such as insufficient time to thoroughly review each case, or simply the lack of

information on the defendant, such as their prior records (i.e., judges rarely have information on the prior criminal history of undocumented immigrants) (Hartley et al., 2007). The main point is that the theoretical integration of both perspectives (i.e., focal concern and the uncertainty avoidance/casual attribution perspective) posits that judges lack the ability to create well-calculated and rational decisions under one or more of the three focal concerns (Steffensmeier et al., 1998). Therefore, to help avoid and/or manage the uncertainty in their decision-making process, they adopt a "perceptual shorthand" that may be based on stereotypes of extralegal characteristics such as the race, and gender of the defendant (Steffensmeier et al., 1998). For example, stereotypes of Hispanics as "gang bangers" may create a perception that they are not only more blameworthy, hence more deserving of severe punishment but also less receptive to measures that prevent recidivism.

It is important to note that Steffensmeier et al. (2017, pp. 814), were careful to explain that insufficient information, "is not the only or main source of uncertainty, nor the necessary or important cause of reliance on attributions, stereotypes, and other perceptual shortcuts." They explain, for example, that uncertainty can also arise from the various, and at times, conflicting justifications for punishment. They further contend that even with sufficient information, judges are not always able to "digest" all the information in their possession (Steffensmeier et al., 2017). The presentencing reports conducted by probation officers, for example, may inadvertently provide an overload of information making it difficult for judges to cognitively process (Steffensmeier et al, 2017). Irrespective of the causes of the scarcity of information, the use of stereotypes as a proxy for dangerousness is often perceived as the leading cause of unwarranted sentencing disparities (Hartley et al., 2007; Holtfreter, 2013).

While the focal concerns perspective is commonly used in the examination of sentencing outcomes of street-level offenses (e.g., homicides, sexual violence, drug trafficking) (Kuziemko & Levitt, 2004; O'Neal & Spohn, 2017), its application to the examination of white-collar offenses is relatively new (Holtfreter, 2013). Nevertheless, consistent with the theoretical framework of the focal concerns perspective, findings from a growing body of empirical research on white-collar offenses show that the sentencing decisions of judges are indeed guided by one or more of the focal concerns of sentencing. There is also compelling evidence to suggest that extra-legal factors can be used as proxies for focal concerns in judicial sentencing decisions. Based on these speculations and in the context of the review of previous literature, attention now shifts to the research hypotheses of the study.

# CHAPTER V

## RESEARCH HYPOTHESIS

Based on the focal concerns theory and the review of the extant literature, four research hypotheses can be made. First, Steffensmeier's (1980) early work on the development of the focal concerns perspective attributed the leniency directed toward female offenders to judges' perception of women as less blameworthy than men. Specifically, he found that stereotypes depicting females as less likely to commit serious offenses, having fewer prior records, and being more likely to be caretakers, result in more favorable sentencing outcomes for female defendants than their male counterparts. The review of previous literature also produced evidence on the effects of gender on sentencing outcomes. Given these findings, the first research hypothesis is as follows.

*HO:1 – Men will receive harsher sentences than their female counterparts.*

*(a) Men will be more likely to receive a prison sentence.*

*(b) Men will receive longer sentences.*

Second, given stereotypes that link Whites to "suite crimes" and Blacks to "street crimes" (e.g., see Skorinko & Spellman, 2013) and considering Jones and Kaplan's (2003) findings that white-collar embezzlers are more likely than their Black counterparts to be found guilty, the second research hypothesis states:

*HO:2 White defendants will be sentenced more harshly than non-White offenders.*

*(a) White defendants will be more likely to receive a prison sentence.*

*(b) White defendants will receive longer sentences.*

Thirdly, the focal concerns approach suggests that factors such as high levels of education and employment will decrease the probability of sentence severity. However, compared to "street offenders" (e.g., drug dealers, violent offenders), the opposite might be true for "suite offenders" (e.g., white collar offenders) who are traditionally more educated and more likely to be employed (Hewitt, 2016; Steer, 2003). Therefore, higher levels of education and occupational positions of "suite offenders" potentially translate to higher rates of incarceration (Holtfreter, 2013). The third research hypothesis is as follows:

*HO:3 – The higher the level of education, the more blameworthy the defendant and therefore, the harsher the sentence outcome.*

*(a) Defendants with a college degree are more likely to receive a prison sentence.*

*(b) Defendants with a college degree will receive longer sentences.*

The belief that judges' decisions may be responsive to the needs and concerns of the community aligns with Ulmer's (1997) social world of sentencing. The belief is also consistent with the focal concerns perspective, which is mindful that judges' sentencing decisions may be influenced by shifts in public perceptions (Cullen et al., 2009; McGrath & Healy, 2021). McGrath and Healy (2021, p. 165), explain that "[h]igh-profile offenders are now seen not as respectful community citizens but as 'bad guys' whose crimes reflect inordinate greed and a disturbing lack of concern for victims." Therefore, high-profile cases such as that of Bernie Madoff and the recent case of Sam Bankman-Fried can trigger societal concerns about the viability of one's savings and emotional debates surrounding the management of pension funds. These concerns may pressure prosecutors in some districts to take white-collar cases more

seriously, and judges in turn to punish these offenders more harshly than offenders in other districts. For these reasons, the fourth hypothesis states that:

*HO: 4 – Defendants sentenced in the three districts with the highest number of prosecutions (middle Florida, south Ohio, and north Texas) will be sentenced more harshly than defendants sentenced elsewhere.*

*(a) Defendants sentenced in Middle Florida, South Ohio, and North Texas will be more likely than defendants sentenced elsewhere to receive a prison sentence.*

*(b) Defendants sentenced in Middle Florida, South Ohio, and North Texas will receive longer sentences than defendants sentenced elsewhere to receive a prison sentence.*

# CHAPTER VI

# DATA AND METHODS

## Data and Sample

The current study uses the most recently available (October 1, 2020, to October 30th, 2021) data from the Monitoring of Federal Criminal Sentences series. The data is compiled by the United States Sentencing Commission's (USSC) Monitoring of Federal Criminal Sentences series and is freely available via the Inter-University Consortium for Political Social Research (ICPSSR). The complete dataset for the years of observation contains 57,287 cases and richly covers over 500 variables. These variables include characteristics of the offender, types of offense, criminal history, severity of the offense, case processing characteristics, and outcomes. The ICPSR dataset was used to select all §2B1.1 cases (economic crimes). In addition to the ICPSR dataset, an abbreviated U.S. Sentencing Commission dataset containing 4,183 cases (7.3% of the total cases adjudicated in 2021) was then utilized to identify the specific economic crime typed sentenced under §2B1.1. This latter dataset was used to extract the 1,135 embezzlement/theft/fraud cases from the ICPSR dataset. The decision was made to focus on embezzlement/theft/fraud offenses because they constitute the largest category of economic offenses. For instance, in 2017 they comprise 24.6%, which is consistent with the previous 5-year trend (2016 – 28.2%; 2015 – 28.3%; 2014 – 27.1%; and 2013 – 24.6%) (Semisch, 2019).

The sample was further reduced for several reasons. First, since the probability of deportation can affect sentencing outcomes (Orrick et al., 2016) defendants who are not U.S.

citizens were excluded from the study. Second, given the unique characteristics of American territories (Kautt & Spohn, 2002; see also Iles et al., 2014 for a discussion on the rationale used for excluding American territories), cases adjudicated in Guam, Puerto Rico, and the US Virgin Islands were likewise excluded (there were no reported cases in the Northern Mariana Islands). Thirdly, since 98.9 percent of the cases were disposed of via plea agreements, the decision was made to exclude the 11 cases that went to trial and instead limit the study to only those cases where the defendant pleaded guilty. Lastly, after the elimination of cases with missing values for the main variables, the final sample is confined to 1,016 defendants sentenced for embezzlement/theft/fraud in fiscal year 2021.

**Dependent Variable**

Sentencing is a two-stage process. The first stage involves the decision of whether to incarcerate, traditionally known in sentencing research as the in/out decision. Once the decision has been made to incarcerate, the second stage is to determine the length of the sentence. Consistent with this two-stage process, there are two dependent variables used in this study. The first is a dichotomous variable that indicates whether the defendant received a prison sentence. The second dependent variable, sentence length, measures the number of months of incarceration. A log transformation was performed to adjust for the positive skewness of the data. To correct for defendants who received a prison sentence of less than 1 month, a constant of one was added to the original length of the sentence before the log transformation.

**Independent Variables**

The independent variables include extra-legal factors that pertain to the personal characteristics of the offender, such as gender, race/ethnicity, age, and educational attainment. Gender is a dichotomous variable (0 = male; 1 = female; male is the reference category). Race/ethnicity is operationalized as a categorial variable ("Black", "Hispanic", and "other", with "White" as the reference category). Age is measured as a categorical variable to reflect the age curvilinearity commonly found in sentencing data (see Steffensmeier et al., 1998).[1] Defendants 41-50 serve as the reference category. To capture the socio-economic status of the offender, the defendant's level of education is operationalized as a categorical variable. The category includes, "college grad", which is the reference category and represents defendants who have a college degree; "some college" refers to those defendants who have some college experience but did not graduate from college; "high school grad" are defendants who graduated from high school but did not attend college; and "less than high school", which represents defendants who lack a high school diploma.

Another category of variables traditionally observed in sentencing research is case processing variables. These variables sit halfway between extra-legal variables and legally-relevant variables. The two dominant variables in this category are the *pretrial status* of the defendant, a binary variable that measures whether the defendant was detained in custody before trial (0 = released; 1 = detained), and mode of disposition. However, as noted earlier, due to the small number of cases that went to trial, the current study focuses on only those defendants

[1] As you may recall, the focal concern of sentencing predicts that given judges' consideration of the practical constraints and consequences of their decisions, defendants, particularly females, caring for dependents, are more likely to receive a lenient sentence than defendants who does not share the same responsibility. However preliminary analysis revealed no significant effects of dependents and given the large number of missing cases for this variable, the decision was made to drop dependents from the analysis.

whose case was disposed of via a plea agreement. An additional variable of interest that can be classified as case processing is *district*. This variable is useful for exploring the possibility that jurisdictional variation in sentencing may occur due to judicial attention to the local concerns of the community in which they serve. For example, it is hypothesized that defendants sentenced in jurisdictions with high prosecutions of fraud cases or defendants sentenced in leading financial districts will be subject to harsher penalties than defendants sentenced elsewhere. To capture this possibility, a preliminary analysis of the data was used to identify the top three districts with the most cases. A categorial variable was created to represent these three geographical districts (Central Florida, South Ohio, and North Texas). Of the three districts, North Texas is identified as a leading financial center in the United States (Zandiatashbar et al., 2019).

The third category of variables is legally relevant factors, which according to the USSC should influence sentencing outcomes. In the current study, these variables include criminal history, acceptance of responsibility, counts of conviction, the presumptive sentence, the severity of the offense, and departures. Whether these variables are examined in studies on violent offenses or studies on economic offenses, a consistent finding is that they are strong predictors of sentencing outcomes. For instance, the legally-relevant factors in Cassidy and Gibbs' (2019) study were the primary determinant of the sentencing outcome. While extra-legal factors did not influence Holtfreter's (2013) sentencing outcomes, consistent with the focal concerns of protection of the community and blameworthiness, criminal history and severity of the offense emerged as the strongest predictors.

With respect to criminal history, Logan and colleagues (2022) pointed out that while white-collar offenders tend to score high on indicators such as age and education, they often score low on criminal history (Logan et al., 2022). Empirical studies also confirm that white-

collar offenders are less likely than other types of offenders to have a criminal history (Benson, 2013; Weisburd et al., 2001). Benson (2013), for example, noted that approximately 60% of federal white-collar offenders are first-time offenders and therefore, do not have a criminal history of any kind. However, in cases where economic offenders were previously convicted for similar offenses, they were 415% more likely to be sentenced to a period of incarceration (Holtfreter, 2013). Given these findings, a binary variable is included to account for whether the defendant had a *criminal history* (0 = no criminal history; 1 = yes, there is a criminal history).

One factor that has been found to lower the severity of economic offenses is the defendant's *acceptance of responsibility*. Under the federal sentencing guidelines, defendants are granted credit if they accept responsibility for their actions. This is especially salient in federal plea agreement cases (defendants who opt for a trial are rarely granted a reduction for acceptance of responsibility – see *United States v Gonzalez, 70 E.3d 1236 (11th Cir. 1995)*) which under §3E1.1 provides for a 2-3 points reduction in the offense level "if a defendant clearly demonstrates acceptance of responsibility for his offense" (USSC, 2023[b] p. 381). To control for this possibility, a binary variable is included that represents whether levels were subtracted in the determination of the sentence for *acceptance of responsibility* (0 = no level subtraction; 1 = levels subtracted); adjustment applied serves as the reference group. Another legally-relevant factor found to influence sentencing outcomes is the *number of criminal charges*. It is included in the current study as a dichotomous variable that measures whether the defendant had multiple counts of conviction (0 = single count; 1 = multiple counts); one count serves as the reference category.

Perhaps the most consistent predictor of this group of variables is the *presumptive sentence*, which is operationalized as the minimum number of months of incarceration the

defendant can receive under the recommended sentencing guidelines. The presumptive sentence considers the severity of the offense, the 43-point scale located on the vertical axis of the sentencing grid, and the defendant's criminal history, which is the 6-point scale located on the horizontal axis of the grid. The variable is logged to control for its skewness and a constant of 1 is added before log transformation to adjust for sentences that were less than once a month. *The final offense level* is also added as a control. Using the 43-point scale, the final offense represents the severity of the offense and takes into consideration the financial loss of the misconduct. Since the presumptive sentence also considers the final offense level, a multicollinearity test was performed, and no evidence of multicollinearity was detected. Therefore, to ensure that all relevant factors are taken into consideration and following the practice of others (e.g., Galloway, 2020) the final offense level is added as a control variable.

Lastly, another powerful-legally relevant variable identified in sentencing research is *departures*. As noted earlier, unless the crime carries a mandatory minimum sentence the sentencing guidelines are merely advisory. Judges, therefore, have the option of imposing sentences within, above, or below the guidelines. Although judges typically sentence within the guidelines (Schanzenbach & Yaeger, 2006), departures are known to occur and when they do, they have been found to have a statistically significant effect on sentence outcomes (e.g., Testa 2019). Schanzenbach and Yaeger (2006), for example, found that 76% of federal economic offenders were sentenced within the guidelines while 24% received a sentence that was less than recommended. They also found that less than 1% of cases resulted in an upward departure. In Testa's (2019) study, sentencing departures, particularly upward departure, emerged as the strongest predictive variable in both logistic models; recipients of an upward departure were observed as being 24.69% more likely to be sentenced to incarceration. She concluded that

departures, not extra-legal factors, were the primary determinant of the sentence outcomes. To capture the effects of departure, a categorical variable is added to measure whether the defendant's sentence departed from the recommended sentence, and if so, the type of departure. Sentenced "*within range*" serves as the reference category and represents those defendants whose sentence did not depart from the recommended sentence; "*upward departure*" refers to defendants whose sentence was higher than the recommended sentence; "*downward departure*" represents defendants who were sentenced below the recommended sentence due to judicial discretion; and "*substantial assistance departure*", pertains to defendants who received sentences below the sentencing guidelines after Federal Rule 5K1.1. The statute allows for a downward departure from the recommended sentence if the defendant substantially assists the government in the prosecution of others.

**Analytical Techniques**

Statistical Package for the Social Sciences (SPSS) is used to perform univariate, bivariate, and multivariate analyses. While univariate analysis is useful for describing the data, bivariate analysis is commissioned to explore correlations between two or more variables. For the multivariate analysis, logistic regression is used to measure the severity of the sentence outcome on the in/out decision while ordinary least squares (OLS) regression is employed to model the length of the sentence.

# CHAPTER VII

# RESULTS

Panel A of Table 1 provides the overall summary statistics of the data. It shows that for the fiscal year 2020-2021, the typical offender convicted for embezzlement/theft/fraud pursuant to §2B1.1 is male (57.1%), White (53.7%), between the ages of 41 and 50 (27.4%) and have some college education (38.4%). An examination of the district-level variable disclosed that most of the cases (86.5%) are dispersed across the districts with the top three districts (Middle Florida, South Ohio, and North Texas) only constituting 14.3 percent of the cases combined. The table also shows that most defendants (83.4%) are released before trial. Observation of the legally-relevant factors reveals almost two thirds (67.9%) of the defendants have a criminal history and a majority (82.5%) have just one count of conviction. Almost all (97.2%) defendants receive a point reduction for accepting responsibility. Where sentencing departures are concerned, just about half (51.1%) are sentenced below the recommended sentencing guidelines, 40.1 percent are sentenced within the guidelines, 6.7 percent received government-sponsored departures and 2.1 percent are sentenced above the guidelines. The Table also reveals that 58.1 percent of defendants are sentenced to prison, and when sentenced, receive an average sentence length of 23.85 months.

Table 1 Descriptive Statistics (N=1,016)

| | **Panel A** Overall Summary Statistics | | **Panel B** Differences in Receipt of a Prison Sentence | | | | **Panel C** Differences in Average Length of Sentence | | |
|---|---|---|---|---|---|---|---|---|---|
| | | | No | | Yes | | | | |
| Variables | N | % | N | % | N | % | Mean | SD | Range |
| *Sex* | | | | | | | | | |
| Male* | 580 | 57.1 | 211 | 36.4 | 369 | 63.6 | 24.71 | 24.24 | |
| Female | 436 | 42.9 | 215 | 49.3 | 221 | 50.7 | 22.41 | 20.61 | |
| *Race/Ethnicity* | | | | | | | | | |
| White* | 546 | 53.7 | 236 | 43.2 | 310 | 56.8 | 25.59 | 23.04 | |
| Black | 304 | 29.9 | 130 | 42.8 | 174 | 57.2 | 22.52 | 22.35 | |
| Hispanic | 100 | 9.8 | 38 | 38.0 | 62 | 62.0 | 19.69 | 24.49 | |
| Other | 66 | 6.5 | 22 | 33.3 | 44 | 67.7 | 22.65 | 22.07 | |
| *Age* | | | | | | | | | |
| <20-30 | 126 | 12.4 | 38 | 30.2 | 88 | 69.8 | 17.33 | 17.09 | |
| 31-40 | 230 | 22.6 | 98 | 42.6 | 132 | 57.4 | 22.73 | 21.37 | |
| 41-50* | 277 | 27.4 | 92 | 33.2 | 185 | 66.8 | 24.48 | 23.39 | |
| 51-60 | 234 | 23.0 | 107 | 45.7 | 127 | 54.3 | 29.66 | 27.23 | |
| 61> | 149 | 14.7 | 91 | 61.1 | 58 | 38.9 | 21.53 | 19.89 | |
| *Education* | | | | | | | | | |
| Less HS | 118 | 11.6 | 46 | 39.6 | 71 | 60.2 | 15.79 | 17.57 | |
| HS grad | 286 | 28.1 | 131 | 45.8 | 155 | 25.3 | 24.05 | 24.87 | |
| Some college* | 390 | 38.4 | 173 | 44.4 | 217 | 55.6 | 23.46 | 22.45 | |
| College grad | 222 | 21.9 | 75 | 33.8 | 147 | 66.2 | 28.10 | 23.02 | |
| *Court Location* | | | | | | | | | |
| FL-Middle | 52 | 5.1 | 35 | 67.3 | 17 | 32.7 | 26.71 | 20.02 | |
| OH-South | 46 | 4.5 | 38 | 82.6 | 8 | 17.4 | 10.50 | 10.15 | |
| TX-North | 39 | 3.8 | 14 | 35.9 | 25 | 64.1 | 37.16 | 26.86 | |
| All other dist.* | 879 | 86.5 | 339 | 38.6 | 540 | 61.4 | 23.34 | 22.79 | |
| *Pretrial Detention* | | | | | | | | | |
| In custody* | 169 | 16.6 | 2 | 1.2 | 167 | 98.8 | 29.27 | 28.39 | |
| Released | 847 | 83.4 | 424 | 50.1 | 423 | 49.9 | 21.71 | 20.06 | |
| *Criminal History* | | | | | | | | | |
| Yes | 690 | 67.9 | 259 | 37.5 | 431 | 62.5 | 23.53 | 24.00 | |
| No* | 326 | 32.1 | 167 | 51.2 | 159 | 48.8 | 24.71 | 19.91 | |
| *Accep of Respon* | | | | | | | | | |
| Adjust applied | 988 | 97.2 | 423 | 42.8 | 565 | 57.2 | 22.79 | 21.63 | |
| No adjust applied* | 28 | 2.8 | 3 | 10.7 | 25 | 89.3 | 47.72 | 36.30 | |
| *Cts of Conviction* | | | | | | | | | |
| 1 ct* | 838 | 82.5 | 396 | 47.3 | 442 | 52.7 | 21.32 | 20.88 | |
| 2 or more counts | 178 | 17.5 | 30 | 16.9 | 148 | 83.1 | 31.39 | 26.98 | |
| *Presumptive Sent* | | | | | | | 20.17 | 22.92 | 0-360 |
| *Final Offense Level* | | | | | | | 13.65 | 5.691 | 4-37 |
| *Departures* | | | | | | | | | |
| Within range* | 407 | 40.1 | 152 | 37.3 | 255 | 62.7 | 28.92 | 26.01 | |
| Above range | 22 | 2.2 | 0 | 00.0 | 22 | 100 | 42.90 | 18.71 | |
| Government Spon. | 68 | 6.7 | 23 | 33.8 | 45 | 66.2 | 16.44 | 12.01 | |
| Below range | 519 | 51.1 | 251 | 48.4 | 268 | 51.6 | 18.70 | 19.42 | |
| Recpt of prison sent | | | 426 | 41.9 | 590 | 58.1 | | | |
| Length of Sentence | | | | | | | 23.85 | 22.96 | 1-151 |

Note: * = Reference category

Panels B and C display the disaggregation of the summary statistics for the receipt of a prison sentence and the average length of the sentence. This analysis helps provide a closer look at the data. The panels disclose that relative to females a higher percentage of males (63.6%) receive prison sentences and on average, their length of sentence is just two months shorter than that of females ($M$ = 24.71 vs. $M$ = 22.41 months). With regards to race/ethnicity, compared to Whites (56.8 percent) and Blacks (57.2%), a slightly larger percentage of Hispanics (62 percent) and a greater percentage of defendants who make up the "other" category (67.7 percent) receive a prison sentence. However, once the decision to incarcerate is made, the average length of sentence is shortest for Hispanics ($M$ = 19.69) and the longest for Whites ($M$ = 25.59).

An equally interesting picture emerges when one considers the age of the defendants. The results show 69.8% of defendants under the age of 30 receive a prison sentence and they also receive the shortest ($M$ = 17.33 months) length of sentence (31- 40 ($M$ = 22.73); 41 -50 ($M$ = 24.48); 51- 60 ($M$ = 29.66); 61+ ($M$ = 21.53)). With regards to education, 66.2 percent of defendants with a college degree receive a prison sentence and they are also the group that receives the longest average sentence ($M$ = 28.10). Turning the attention to district, Table 2 shows that a larger percentage of defendants from North Texas (64.1 percent), a leading financial district, are subject to a prison sentence and they are also the recipients of the highest average length of sentence ($M$ = 37.16 months). Concerning legally relevant-factors, the results revealed that almost all (98.8 percent) of defendants held in custody before trial receive a prison sentence compared to just 50 percent (49.9) of those out on bail. When sentenced, pre-detainees receive a longer sentence ($M$ = 29.27 months) compared to those free on bail ($M$ = 21.71). A greater percentage (62.6) of defendants with a criminal history receive a prison sentence compared to just 48.8 percent of those with no criminal history. However, once the decision to incarcerate has

been made, defendants with a prior record interestingly receive average sentences that are slightly shorter ($M = 23.5$) than sentences imposed upon defendants with no criminal history ($M = 24.7$). Expectedly, a greater percentage of defendants who did not receive an adjustment for acceptance of responsibility (89.3 percent vs. 57.2 percent for those who received the adjustment), and those with two or more counts of conviction (83.1 percent vs. 52.7 percent for defendants with 1 count of conviction) receive a prison sentence. They are also recipients of an average sentence length that is longer than their counterparts (47.72 vs. 22.79; 31.39 vs. 21.32). The departure variables revealed that 100 percent of those sentenced above the guidelines receive a prison sentence compared to just 66.2 percent of those who received a government-sponsored departure, 51.6 percent of those who were sentenced below the guidelines and 62.7 percent of those sentenced within the guidelines. Defendants sentenced above the guidelines receive an average sentence length of 42.90 months compared to 16.44 months for recipients of government-sponsored departures, 18.71 months for recipients of below-range departures, and 28.92 months for those sentenced within the guidelines.

Table 2 displays the results of the bivariate analysis. Findings on the relationships between characteristics of the offender and case processing factors reveal that females ($r = .179$, $p < .01$), Whites ($r = .137$, $p < .01$), defendants 61 years of age and older ($r = .140$, $p < .01$), those with some college ($r = .065$, $p < .05$) and college graduates ($r = .121$, $p < .05$) are more likely to be released pending trial while Blacks ($r = -.106$, $p < .01$), those under age 30 ($r = -.257$, $p < .01$), and those with just a high school education ($r = -.155$, $p <. 01$) are less likely to be released. This is noteworthy because prior research has consistently found that defendants denied bail are more likely than their counterparts to experience adverse sentencing outcomes.

Attention to the correlation between offender demographics, case characteristics, and legally relevant factors disclosed that females ($r$ = -.141, $p$ <.01), Whites ($r$ = -.156, $p$ < .01), other race/ethnicities ($r$ = -.075, $p$ < .05), those over the age of 60 ($r$ = -.138, $p$ < .01), those with some college ($r$ = -.086, $p$ < .01), college graduates ($r$ = -.101, $p$ < .01), defendants sentenced in north Texas ($r$ = -.082, $p$ < .01), and those released on bail ($r$ = -.188, $p$ < .01) are less likely to have a criminal history. Conversely, Blacks ($r$ = .182, $p$ < .01), defendants younger than 30 years of age ($r$ = .099, $p$ < .01), those 31-40 years of age ($r$ = .064, $p$ < .05), those with less than a high school education ($r$ = .091, $p$ < .01), and those with a high school education ($r$ = .121, $p$ < .01) are all more likely to have a prior record. No statistically significant correlation is detected between defendant characteristics and acceptance of responsibility, but the results do reveal that defendants who are released pending trial ($r$ = .167, $p$ < .01) were more likely to get an adjustment for acceptance of responsibility whereas defendants with a criminal history were less likely to get the adjustment ($r$ = -.064, $p$ < .05). The only offender characteristic to have a statistically significant correlation with counts of conviction is defendants with a college degree; defendants who graduate from college ($r$ = .070, $p$ < .05) were more likely than other offenders to have more than one count of conviction. Conversely, defendants sentenced in North Texas ($r$ = -.065, $p$ < .05), who are out on bail *(*$r$ = -.135, $p$ < .01) and those who accept responsibility ($r$ = -.065, $p$ < .05) are less likely to be convicted of multiple counts. A look at the presumptive sentence divulges that females ($r$ = -.085, $p$ < .01), 31-40-year-old defendants ($r$ = -.066, $p$ < .05), those with less than a high school education ($r$ = -.068, $p$ < .05), those with a high school education ($r$ = -.103, $p$ < .01), those adjudicated in South Ohio ($r$ = -.145, $p$ < .01), those release on bail ($r$ = -.173, $p$ < .01), and those who accept responsibility ($r$ = -.110, $p$ < .01) are all recipients of shorter presumptive sentences. Inversely, defendants 41-50 years of age ($r$ = .116, $p$

< .01), college graduates ($r$ = .189, $p$ < .01), those sentenced in other districts ($r$ = .092, $p$ < .01), and those with multiple counts of conviction ($r$ = .260, $p$ < .01) are subject to longer presumptive sentences.

Final offense levels were higher among Whites ($r$ = .080, $p$ < .05), offenders age 41-50 ($r$ = .142, $p$ < .01), those with a college degree ($r$ = .234, $p$ < .01), those sentenced in other districts ($r$ = .064, $p$ < .05), those with multiple counts of conviction ($r$ = .220, $p$ < .01) and those with long presumptive sentences ($r$ = .887, $p$ < .01) but are lower for Blacks ($r$ = -.071, $p$ < .05), those less than 30 years of age ($r$ = -.132, $p$ < .01), 31-40 years of age ($r$ = -.096, $p$ < .01), less than high school education ($r$ = -.111, $p$ < .01), those with just a high school education ($r$ = -.178, $p$ < .01), those sentenced in South Ohio ($r$ = -.119, $p$ < .01), those with a prior record ($r$ = -.087, $p$ < .01), and those who accept responsibility ($r$ = -.118, $p$ < .01). While offenders 61 and over ($r$ = -.072, $p$ < .05), those with a college degree ($r$ = -.063, $p$ < .05), offenders adjudicated in Middle Florida ($r$ = -.080, $p$ < .05), those released on bail ($r$ = -.153, $p$ < .01), those who accept responsibility ($r$ = -.083, $p$ < .01), and those with long presumptive sentences ($r$ = -.346, $p$ < .01) are less likely than their counterparts to be sentenced within the guidelines, defendants with just a high school diploma ($r$ = .087, $p$ < .01), those sentenced in North Texas ($r$ = .088, $p$ < .01) are more likely to be sentenced within the guidelines. Meanwhile defendants 31-40 ($r$ = .081, $p$ < .01) and those sentenced in north Texas ($r$ = .076, $p$ < .05) are more likely to be sentenced above the guidelines. Observation of the downward departures reveals that females ($r$ = -.129, $p$ < .01), Whites ($r$ = -.075, $p$ < .05) and those 51-60 years of age ($r$ = -.062, $p$ < .05), are less likely to receive a departure for substantial assistance whereas Hispanic ($r$ = .123, $p$ < .01) and offenders less than 30 years of age ($r$ = .090, $p$ < .01) a statistically more likely to receive such a departure. Further inspection of departures exposed Hispanics ($r$ = -.067, $p$ < .05), those less than 30 ($r$ = -

.062, $p < .05$), high school graduates ($r = -.101$, $p < .01$), and those sentenced in North Texas ($r = -.102$, $p < .01$) are less likely to receive a regular downward departure while females ($r = .097$, $p < .01$), offenders 61 and over ($r = .105$, $p < .01$), those sentenced in Middle Florida ($r = .066$, $p < .05$), South Ohio ($r = .071$, $p < .05$), those released on bail ($r = .219$, $p < .01$), those who accept responsibility ($r = .076$, $p < .05$), those with long presumptive sentences ($r = .259$, $p < .01$), and those who have a long prior history score ($r = .237$, $p < .01$) are more likely to receive a downward departure.

Attention now turns to the bivariate correlations between independent and dependent variables. Focusing first on the initial decision of whether to incarcerate, the results reveal that females ($r = -.130$, $p < .05$), those 61 and over ($r = -.161$, $p < .01$), those sentenced in Middle Florida ($r = -.119$, $p < .01$), South Ohio ($r = -.180$, $p < .01$), those released on bail ($r = -.369$, $p <.01$), those who accept responsibility ($r = -.106$, $p < .01$), and those who are sentenced below the guidelines ($r = -.133$, $p < .01$) are statistically less likely to receive a prison sentence. The groups more likely to be sentenced to prison includes those less than 30 years of age ($r = .090$, $p < .01$), offenders 41-50 years of age ($r = .108$, $p < .01$), college graduates ($r = .087$, $p < .01$), defendants in other districts ($r = .173$, $p < .01$), those with a prior history ($r = .130$, $p < .01$), multiple counts of conviction ($r = .234$, $p < .01$), a long presumptive sentence ($r =.561$, $p < .01$), a high final offense level ($r = .464$, $p < .01$) and those sentence within the guidelines ($r = .076$, $p < .05$) and above the guidelines ($r = .126$, $p < .01$). When it comes to the length of sentence, results shows that Hispanics ($r = -.095$, $p <. 05$), those less than 30 years of age ($r = -.090$, $p < .05$), those 31-40 ($r = -.091$, $p < .05$), those with less than a high school education ($r = -.129$, $p < .01$), defendants sentenced in other districts ($r = -.083$, $p < .05$), those not held in custody ($r = -.106$, $p < .01$), offenders who accepted responsibility for their actions ($r = -.143$, $p < .01$) and

those with regular downward departures ($r$ = -.221, $p$ <. 01) were all awarded sentences that are lower than their counterparts.[2] Conversely, Whites ($r$ = .109, $p$ < .01), those 51-60 years of age ($r$ = .124, $p$ < .01), college grads ($r$ = .127, $p$ < .01), those adjudicated in North Texas ($r$ = .122, $p$ < .01), have multiple counts of conviction ($r$ = .164, p<.01), a long presumptive sentences ($r$ = .655, $p$ < .01), a high final offense level ($r$ = .560, $p$ < .01), and were sentenced within ($r$ = .191, $p$ < .01) and above the guidelines ($r$ = .169, $p$ < .01) were subject to longer sentences. Will the findings in the disaggregate summary statistics and the bivariate analysis remain once multiple factors are taken into consideration?

[2] For comparison purposes both the length of sentence and the log length of sentence is reported in the correlation matrix. However, only the results from the latter are reported in the discussion of the results of the bivariate analysis.

Table 2 Bivariate Analysis

| Independent Variables | | X1 | X2 | X3 | X4 | X5 | X6 | X7 | X8 | X9 | X10 | X11 | X12 | X13 | X14 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Offender Characteristics | | | | | | | | | | | | | | | |
| X1 | Female | 1 | | | | | | | | | | | | | |
| X2 | White | .063* | 1 | | | | | | | | | | | | |
| X3 | Black | -.011 | -.704** | 1 | | | | | | | | | | | |
| X4 | Hispanic | -.060 | -.356** | -.216** | 1 | | | | | | | | | | |
| X5 | Other | -.035 | -.284** | -.172** | -.087** | 1 | | | | | | | | | |
| X6 | < 30 | -.115** | -.232** | .158** | .076* | .083** | 1 | | | | | | | | |
| X7 | 31-40 | -.008 | -.111** | .083** | .042 | .020 | -.204** | 1 | | | | | | | |
| X8 | 41-50 | .045 | .054 | -.067* | .013 | .000 | -.230** | -.331** | 1 | | | | | | |
| X9 | 51-60 | .007 | .118** | -.077* | -.071* | -.011 | -.206** | -.296** | -.335** | 1 | | | | | |
| X10 | 61+ | .051 | .139** | -.070* | -.053 | -.087** | -.156** | -.224** | -.254** | -.227** | 1 | | | | |
| X11 | <HS | -.066* | -.126** | .011 | .138** | .066* | .115** | .009 | -.091** | -.030 | .032 | 1 | | | |
| X12 | HS grad | -.061 | -.003 | .016 | -.008 | -.014 | .083** | .012 | -.034 | .011 | -.062* | -.227** | 1 | | |
| X13 | Some college | .150** | .002 | .037 | -.043 | -.019 | -0.002 | .008 | .003 | .006 | -.018 | -.286** | -.494** | 1 | |
| X14 | College grad | -.059 | .099** | -.070* | -.047 | -.014 | -.177** | -.030 | .104** | .005 | .064* | -.192** | -.331** | -.417** | 1 |
| Case Characteristics | | | | | | | | | | | | | | | |
| X15 | FL-middle | .042 | -.062* | .063* | .043 | -.043 | -.006 | -.008 | .018 | -.032 | .030 | -.001 | .004 | .055 | -.069* |
| X16 | OH-south | .041 | .050 | .023 | -.072* | -.057 | -.053 | -.039 | -.038 | .016 | .124** | .010 | .053 | .003 | -.069* |
| X17 | TX-north | -.039 | .000 | -.019 | .037 | -.011 | -.060 | .002 | .039 | .012 | -.010 | .008 | .012 | .011 | -.031 |
| X18 | All other districts | -.030 | .009 | -.044 | -.005 | .069* | .070* | .028 | -.011 | .004 | -.089** | -.010 | -.041 | -.044 | .104** |
| X19 | Released | .179** | .137** | -.106** | -.021 | -.054 | -.257** | -.024 | .060 | .043 | .140** | -.036 | -.155** | .065* | .121** |
| Legally Relevant | | | | | | | | | | | | | | | |
| X20 | Crim hist | -141** | -.156** | .182** | .043 | -.075* | .099** | .064* | .014 | -.040 | -.138** | .091** | .121** | -.086** | -.101** |
| X21 | Accep respon | .012 | -.036 | .005 | .056 | -.004 | .027 | -.053 | .022 | -.008 | .019 | .042 | -.015 | .022 | -.042 |
| X22 | Cts of conviction | -.060 | .038 | -.041 | -.005 | .005 | -.032 | .029 | .026 | -.012 | -.023 | -.046 | -.029 | -.002 | .070* |
| X23 | Presump sent | -.085** | .040 | -.026 | -.015 | -.015 | -.053 | -.066* | .116** | .011 | -.032 | -.068* | -.103** | -.021 | .189** |
| X24 | Final off level | -.022 | .080* | -.071* | -.007 | -.020 | -.132** | -.096** | .142** | .034 | .018 | -.111** | -.178** | .039 | .234** |
| X25 | Within range | -.015 | .001 | -.030 | .013 | .037 | .009 | .019 | .018 | .016 | -.072* | -.020 | .087** | -.013 | -.063* |
| X26 | Above range | -.061 | -.036 | .050 | -.026 | .016 | .026 | .081** | -.046 | -.017 | -.043 | -.033 | .042 | -.020 | .003 |
| X27 | Gov sponsored | -.129** | -.075* | .023 | .123** | -.039 | .090** | .006 | .022 | -.062* | -.044 | .026 | .008 | -.033 | .011 |
| X28 | Below range | .097** | .048 | .003 | -.067* | -.022 | -.062* | -.046 | -.015 | .021 | .105** | .017 | -.101** | .036 | .055 |
| Dependent Variables | | | | | | | | | | | | | | | |
| Y1 | In/Out | -.130** | -.028 | -.011 | .026 | .046 | .090** | -.007 | .108** | -.042 | -.161** | .015 | -.049 | -.039 | .087** |
| Y2 | Sentence length ln | -.024 | .109** | -.054 | -.095* | -.004 | -.090* | -.091* | .068 | .124** | -.042 | -.129** | -.003 | -.024 | .127** |
| Y2 | Sentence length | -.049 | .080 | -.037 | -.062 | -.015 | -.119** | -.026 | .019 | .133** | -.033 | -.130** | .005 | -.013 | .107** |

Note: * = p is ≤ to .05 level of significance (two tailed)
** = p is ≤ to .01 level of significance (two tailed)

## Bivariate Analysis (continued)

| | | X15 | X16 | X17 | X18 | X19 | X20 | X21 | X22 | X23 | X24 | X25 | X26 | X27 | X28 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Case Characteristics | | | | | | | | | | | | | | | |
| X15 | FL-middle | 1 | | | | | | | | | | | | | |
| X16 | OH-south | -.051 | 1 | | | | | | | | | | | | |
| X17 | TX-north | -.046 | -.044 | 1 | | | | | | | | | | | |
| X18 | All other districts | -.588** | -.552** | -.506** | 1 | | | | | | | | | | |
| X19 | Released | .056 | .072* | -.062* | -.045 | 1 | | | | | | | | | |
| Legally Relevant | | | | | | | | | | | | | | | |
| X20 | Crim hist | -.003 | .069* | -.082** | 0.006 | -.188** | 1 | | | | | | | | |
| X21 | Accep respon | .039 | .008 | -.029 | -0.014 | .167** | -.064* | 1 | | | | | | | |
| X22 | Cts of conviction | -.013 | -.013 | -.065* | 0.053 | -.135** | -.033 | -.065* | 1 | | | | | | |
| X23 | Presumptive sent | -.013 | -.145** | .009 | .092** | -.173** | .036 | -.110** | .260** | 1 | | | | | |
| X24 | Final off level | -.029 | -.119** | .049 | .064* | -.003 | -.087** | -.118** | .220** | .887** | 1 | | | | |
| X25 | Within range | -.080* | -.043 | .088** | .029 | -.153** | .033 | -.083** | -.039 | -.346** | -.296** | 1 | | | |
| X26 | Above range | .027 | -.032 | .076* | -.040 | -.188** | .044 | -.058 | .056 | .040 | -.020 | -.122** | 1 | | |
| X27 | Gov sponsored | .009 | -.039 | -.013 | .025 | -.028 | -.018 | .045 | .053 | .137** | .119* | -.219** | -.040 | 1 | |
| X28 | Below range | .066* | .071* | -.102** | -.029 | .219** | -.036 | .076* | -.005 | .259** | .237** | -.836** | -.152** | -.274** | 1 |
| Dependent Variables | | | | | | | | | | | | | | | |
| Y1 | In/Out | -.119** | -.180** | .024 | .173** | -.369** | .130** | -.106** | .234** | .561** | .464** | .076* | .126** | .044 | -.133** |
| Y2 | Sentence length ln | .040 | -.071 | .122** | -.083* | -.106** | -.076 | -.143** | .164** | .655** | .560** | .191** | .169** | -.062 | -.221** |
| Y2 | Sentence length | .021 | -.068 | .122** | -.073 | -.148** | -.023 | -.219** | .190** | .667** | .564** | .193** | .163** | -.093* | -.205** |

Note: * = p is ≤ to .05 level of significance (two tailed)
** = p is ≤ to .01 level of significance (two tailed)

Table 3 displays the results of the multivariate analysis for the in/out decision. Model 1 predicts the odds of incarceration solely on the exogenous variables that relate to the characteristics of the offender. This partial model reveals that in comparison to males, females had a 38 percent decrease in the odds of incarceration ($b$ = -.481, $p$ < .001). With regards to race, compared to defendants 41-50 years of age, defendants 31-40, 51-60, and those over the age of 61, had a 31 percent ($b$ = -0.381, $p$ < .05), 40 percent ($b$ = -0.525, $p$ < .01), and 69 percent ($b$ = -0.307, $p$ < .001) decrease odds of receiving a prison sentence, respectively. Lastly, defendants who graduated from college ($b$ = 0.461, $p$ < .01) had a 1.586 increase in odds of incarceration compared to defendants who had some college. When case processing variables are added to the equation (see Model 2), age remains a statistically significant predictor of receiving a prison sentence. As was the case in Model 1, the probability of a 31-40-year-old, a 51-60-year-old, and a defendant 61 and over receiving a prison sentence is 43 percent ($b$ = -0.568, $p$ < .01), 45 percent ($b$ = -0.603, $p$ < .05) and 64 percent ($b$ = -1.030, $p$ < .001) lower, respectively, than that of defendants who are 41-50 years of age. Compared to defendants with some college, being a high school graduate decreases the odds of incarceration by 34 percent ($b$ = -0.424, $p$ < .05) while it increases the odds of incarceration by 1.589 percent ($b$ = 0.463, $p$ < .05) for defendants with a college degree.

Concerning the district-level variables, the results show that relative to defendants sentenced in the “other district” category, being adjudicated in Middle Florida and South Ohio, lowers the probability of receiving a prison sentence by 63 percent ($b$ = -1.006, $p$ < .01) and 82 percent ($b$ = -1.726, $p$ < .001), respectively. Turning the attention to pretrial detention status, the results show that the odds that defendants who are out on bail would receive a prison sentence is

98.9 percent ($b$ = -4.525, $p$ < .001) lower than that of defendants who are held in custody before trial.

Will the statistically significant results observed in Models 1 and 2 remain when factors germane to federal sentencing are added as legal controls? Model 3 addresses that question by adding legally-relevant variables to the previous model. The omnibus tests of model coefficients produce a chi-square of 723.592 and indicate that the model is statistically significant at the .001 level. The results show that HO 1(a), which posits that males will be more likely than females to receive prison sentences was rejected. However, the insignificant finding is consistent with the work of Albonetti (1998) and Holtfreter (2013) who also found no evidence that gender directly impacts sentence outcomes once legally-relevant and case processing factors are held constant. Likewise, none of the racial/ethnic categories reached a level of statistical significance, indicating that race/ethnicity has no discernable effects on whether the defendant receives a prison sentence; thereby rejecting HO 2(a). It was also hypothesized that defendants with high levels of education would be seen as more blameworthy, and thus more deserving of harsher punishment (HO 3(a)). However, unlike Maddan and his colleagues (2012), who found evidence that educational attainment was relevant in the in/out sentencing decision of state-level white-collar offenders, the result of the current study shows that once case processing and legally relevant factors are held constant, education loses its ability to predict who is sentenced to prison. Therefore, HO 3(a) is also rejected. Age then emerged as the only characteristic of the defendant to reach statistical significance. The probability of a 51-60-year-old defendant and one over the age of 61 receiving a prison sentence is 45 percent ($b$ = -0.598, $p$ < .05) and 63 percent ($b$ = -1.015, $p$ < .001) lower, respectively, than the sentence awarded to defendants who are 41-50 years of age. With regards to geographical variation in sentencing, it was hypothesized that

defendants adjudicated in Middle Florida, South Ohio, and North Texas – the top three districts with the highest rate of prosecution – would be sentenced differently than defendants sentenced elsewhere (HO 4(a)). However, Middle Florida emerged as the sole district to achieve statistical significance in the full model. More importantly, rather than finding harsher sentences, results revealed that the probability that defendants adjudicated in Middle Florida would receive a prison sentence is 71 percent ($b$ = -1.252, $p$ < .01) lower than that of defendants sentenced in the "other district" category. Like the finding in Model 2, for defendants released on bail, the probability of going to prison is 99.5 percent ($b$ = -5.512, $p$ < .001) lower than that for those who are held in custody before trial.

Turning attention to the influence of legally-relevant variables, the model shows that for defendants convicted on two more counts, the odds of going to prison are two times (odds ratio = 2.715) greater than that of defendants with one count of conviction. Consistent with the review of the extant literature, the presumptive sentence emerges as statistically significant and one of the strongest predictors of the likelihood of being sentenced to prison. For every one-unit increase in the log presumptive sentence, there is a 6.647 increase ($b$ = 1.894, $p$ < .001) in the odds of incarceration. As expected, government-sponsored and below-range sentencing departures also emerge as strong and statistically significant predictors and in the expected direction. The model shows that compared to defendants sentenced within the guidelines, defendants who are awarded a government-sponsored departure or a below-range departure had a 92 percent ($b$ = -2.609, $p$ < .001) and a 90 percent ($b$ = -2.310, $p$ < .001) decrease in the odds of receiving a prison sentence.

Table 3 Logistic Regression (N=426)

| | Model 1 | | | Model 2 | | | Model 3 | | |
|---|---|---|---|---|---|---|---|---|---|
| Variable | *b* | *SE* | *Exp(B)* | *b* | *SE* | *Exp(B)* | *b* | *SE* | *Exp(B)* |
| Sex: Female | -0.481 | 0.135 | **0.618*** | -0.245 | 0.146 | 0.782 | -0.025 | 0.205 | 0.975 |
| Race: Black | -0.109 | 0.155 | 0.896 | -0.233 | 0.171 | 0.792 | -0.131 | 0.234 | 0.877 |
| Race: Hispanic | 0.005 | 0.236 | 1.005 | -0.066 | 0.258 | 0.936 | 0.149 | 0.359 | 1.161 |
| Race: Other | 0.172 | 0.286 | 1.187 | 0.037 | 0.311 | 1.037 | -0.123 | 0.445 | 0.884 |
| Age: <20-30 | 0.189 | 0.244 | 1.208 | -0.419 | 0.283 | 0.658 | 0.374 | 0.379 | 1.453 |
| Age: 31-40 | -0.381 | 0.189 | **0.684*** | -0.568 | 0.205 | **0.567**** | -0.200 | 0.284 | 0.818 |
| Age: 51-60 | -0.525 | 0.186 | **0.591*** | -0.603 | 0.201 | **0.547**** | -0.598 | 0.280 | **0.550*** |
| Age: 61> | -1.181 | 0.217 | **0.307***** | -1.030 | 0.230 | **0.357***** | -1.015 | 0.310 | **0.362***** |
| Education: <HS | 0.116 | 0.226 | 1.123 | 0.134 | 0.247 | 1.143 | 0.585 | 0.328 | 1.795 |
| Education: HS Grad | -0.168 | 0.162 | 0.845 | -0.424 | 0.185 | **0.655*** | -0.397 | 0.261 | 0.672 |
| Education: College Grad | 0.461 | 0.182 | **1.586**** | 0.463 | 0.191 | **1.589*** | -0.036 | 0.261 | 0.964 |
| District: Florida Middle | | | | -1.006 | 0.342 | **0.366**** | -1.252 | 0.483 | **0.286**** |
| District: Ohio South | | | | -1.726 | 0.346 | **0.178***** | -0.570 | 0.547 | 0.565 |
| District: Texas North | | | | -0.179 | 0.298 | 0.836 | -0.303 | 0.661 | 0.738 |
| Pretrial Detention: Released | | | | -4.525 | 0.722 | **0.011***** | -5.512 | 0.833 | **0.005***** |
| Criminal History: Yes | | | | | | | 0.380 | 0.224 | 1.463 |
| Responsibility: Adjust applied | | | | | | | 1.507 | 1.169 | 4.514 |
| Conviction Counts: 2 or more | | | | | | | 0.999 | 0.304 | **2.715***** |
| Presumptive Sentence Log | | | | | | | 1.894 | 0.299 | **6.647***** |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Final Offense Level Log | | | | | | | 0.866 | 0.698 | 2.378 |
| Departure: Above Range | | | | | | | 18.541 | 6557.194 | 112756837.000 |
| Departure: Gov. Sponsored | | | | | | | -2.609 | 0.460 | **0.074*** ** |
| Departure: Below Range | | | | | | | -2.310 | 0.277 | **0.099*** ** |
| Constant | 0.862 | 0.183 | **2.367*** ** | 5.297 | 0.746 | **199.678*** ** | -1.518 | 1.797 | 0.219 |

*Note.* * p < 0.05, ** p < 0.01, *** p < 0.001

The results of the linear regression are reported in Table 4. Model 1 provides estimates on the effects of extra-legal factors ordinarily deemed irrelevant by the Federal Sentencing Commission. This model, which explains less than one percent ($r^2$ = .057) of the variance in sentence length, reveals that none of the characteristics of the defendant in the model predict the length of the sentence. Ten percent ($r^2$ = .103) of the variance in the length of sentence can be explained by the addition of case processing factors to Model 2. The model reveals that defendants who are 31-40 years of age are recipients of sentences that are 24 percent ($b$ = -.280) shorter than the sentences imposed on 41-50-year-old defendants ([$\exp^b$ - 1] x 100). Compared to defendants with some college, defendants with less than a high school education receive sentences that are 28 percent ($b$ = -.338) shorter while defendants with a college degree are awarded sentences that are 33 percent ($b$ = .287) longer. None of the district-level variables reached statistical significance and observation of pretrial detention status revealed that defendants released before trial a subject to sentences that are 33 percent ($b$ = -.415) shorter than the sentence imposed on those who are detained.

The final model includes the addition of legally-relevant factors. This statistically significant model produced an $R^2$ of .632, which validates previous findings that factors deemed

legally relevant by the Sentencing Commission account for much of the variability in sentencing outcomes. Unlike the previous models, Hispanics are the only racial/ethnic group to attain statistical significance, albeit the finding is not in the expected direction. Specifically, the results of Model 3 show Hispanics receiving sentences that are 21 percent ($b$ = -.244) shorter than the sentences awarded to White defendants. The finding contradicts that of Maddan and his colleagues (2012), who found no evidence that race/ethnicity mattered in predicting the length of a sentence. Once legally-relevant factors are added to the equation, the age does not affect how much time the defendant will serve. The influence of education paints a somewhat nuanced picture. Not only did educational attainment emerge as a statistically significant factor in the length of sentence, but contrary to HO 3(b), defendants with less than a high school education and those who are high school graduates, are recipients of sentences that are 21 percent ($b$ = .214) and 20 percent ($b$ = .187), respectively, longer than the sentences imposed on defendants with some college education. In other words, the lower the defendant's level of education the longer their prison sentence. This contradicts the hypothesis that more educated offenders would be penalized more harshly. While none of the district-level variables reached statistical significance, the model does show that defendants on bail benefit from sentences that are 16 percent ($b$ = -.186) shorter than sentences imposed on those who are held in custody.

Table 4 Linear Regression (N=590)

| | Model 1 | | Model 2 | | Model 3 | |
|---|---|---|---|---|---|---|
| Variable | *b* | *SE* | *b* | *SE* | *b* | *SE* |
| Sex: Female | -0.102 | 0.104 | -0.069 | 0.103 | 0.016 | 0.067 |
| Race: Black | -0.124 | 0.118 | -0.162 | 0.117 | -0.034 | 0.076 |
| Race: Hispanic | -0.294 | 0.170 | -0.318 | 0.167 | **-0.244*** | 0.110 |
| Race: Other | -0.019 | 0.194 | 0.001 | 0.190 | 0.050 | 0.124 |
| Age: <20-30 | -0.218 | 0.165 | -0.306 | 0.166 | 0.095 | 0.109 |
| Age: 31-40 | -0.251 | 0.136 | **-0.280*** | 0.134 | -0.073 | 0.088 |
| Age: 51-60 | 0.167 | 0.135 | 0.174 | 0.133 | 0.146 | 0.086 |
| Age: 61> | -0.309 | 0.177 | -0.228 | 0.175 | -0.203 | 0.114 |
| Education: <HS | -0.291 | 0.166 | **-0.338*** | 0.163 | **0.214*** | 0.108 |
| Education: HS Grad | 0.049 | 0.125 | -0.023 | 0.124 | **0.187*** | 0.082 |
| Education: College Grad | 0.245 | 0.129 | **0.287*** | 0.127 | 0.133 | 0.079 |
| District: Florida Middle | | | 0.497 | 0.284 | 0.208 | 0.186 |
| District: Ohio South | | | -0.656 | 0.414 | -0.092 | 0.269 |
| District: Texas North | | | 0.704 | 0.236 | 0.133 | 0.157 |
| Pretrial Detention: Released | | | **-0.415***** | 0.115 | **-0.186*** | 0.081 |
| Criminal History: Yes | | | | | -0.054 | 0.076 |
| Responsibility: adjust applied | | | | | -0.054 | 0.156 |
| Conviction Counts: 2 or more | | | | | 0.077 | 0.073 |
| Presumptive Sentence Log | | | | | **0.805***** | 0.076 |
| Final Offense Level Log | | | | | **0.461**** | 0.173 |
| Departure: Above Range | | | | | **0.816***** | 0.168 |
| Departure: Gov. Sponsored | | | | | **-0.967***** | 0.126 |
| Departure: Below Range | | | | | **-0.841***** | 0.068 |
| Constant | **2.803***** | 0.132 | **3.090***** | 0.158 | -0.536 | 0.364 |
| R-squared | 0.057 | | 0.103 | | 0.632 | |

*Note.* * p < 0.05, ** p < 0.01, *** p < 0.001.

*Note:* [a]No is reference category. [b]Male is reference category. [c]White is reference category. [d]41-50 is referent. [e]Some College is referent. [f] All Other Districts is referent. [g] Within Range is referent.

Model 1 *F*-score (3.161) ($p < 0.001$)
Model 2 *F*-score (4.389) ($p < 0.001$)
Model 3 *F*-score (42.177) ($p < 0.001$)

Concerning legally-relevant factors, the analysis reveals that criminal history, acceptance of responsibility, and counts of conviction are statistically insignificant. However, as was the case in the logistic regression, the significant and large coefficient for the presumptive sentence

($b$ = .805) emerges as a strong predictor of time served. A positive relationship is also found regarding offense level; a one-point increase in the offense level results in a .461 increase in the length of the sentence. Lastly, sentencing departures emerged as the variable with the strongest explanatory powers, and their influence is consistent with what is expected when departures are granted. Particularly, recipients of government-sponsored and below-range departures are granted sentences that are 61 percent ($b$ = -.967) and 56 percent ($b$ = -.841) shorter than the sentence given to those sentenced within the guidelines, respectively. Defendants whose sentence departed upward receive sentences that are 126 percent longer than those sentenced within the guidelines.

# CHAPTER VIII

# DISCUSSION

Using the most recent data from the United States Sentencing Commission and conducted within the conceptual framework of the focal concerns perspective, the study sought to investigate the impact of offender demographics, case characteristics, and legally relevant factors on the sentencing outcomes` of defendants sentenced under §2B1.1 of the federal sentencing guidelines. Based on the findings, four major points are worthy of further discussion. First, according to Benson and Simpson (2018, pp. 20), at the time Sutherland wrote his pieces on white-collar offenses, the typical white-collar offender was a "respectable person of high social status who uses his/her employment position as an opportunity to engage in illegal behavior." They further described the typical offender during Sutherland's time as a middle-aged White male. Based on the sample of the current study, the typical offender remains a middle-aged (41–50-year-old) White male. However, the observation that males make up just 57.1 percent of the defendants in the study and Whites make up 53.7 percent, suggests that white-collar offenses are no longer dominated by White males. For Benson and his colleague (2018), this observation is not surprising because they have found that over the years, the archetype of white-collar offenders has changed. Some of the changes can be attributed to an increase in the diversity of the workforce and their presence in occupations and positions that provide an opportunity to engage in economic offenses. For example, as of June 2024, the number of women leading Fortune 500 companies stands at 10.4 percent, a far cry from 1998 when only 0.4

percent of Fortune 500 companies were run by women (Hinchliffe & Abrams, 2024). In terms of race/ethnicity, Benson (2021) pointed out that since 2015 most of the increase in non-White participation in white-collar crime came from Latinos and Asians' involvement in low levels of economic offenses. Indeed, the observed leniency given to Hispanics in the current study may be attributed to the less serious crimes committed by Hispanics compared to the more serious offenses committed by Whites.

Other factors that can contribute to the changing demographics are the expansive and heterogenous perspective of white-collar offenses driven partially by worldwide events (e.g., the COVID-19 pandemic) and technological advancements such as computers, cyberspace, and AI. For example, the Paycheck Protection Program (PPP) loans and the Economic Injury Disaster Loans (EIDL) during the pandemic ushered in a surge of fraud cases across the nation (see Nanz, 2024 for a discussion of FBI investigations of those loans), other financial exploitations driven by the digital age (e.g., online fraud, blockchain, and cryptocurrency frauds) can create challenges for the operationalization of white-collar offenses. As Thakur (2023, p. 144) points out, although the cryptocurrency industry has been around for decades, it is "still in its infancy" and suffers from "a lack of taxonomies, standards, rules, and even standardized terminology." These challenges can impact who is characterized as a white-collar offender, how the offense is defined and classified, and ultimately, how the case is prosecuted under federal sentencing guidelines.

Second, albeit related to the former discussion, the growing variety of white-collar offenses also makes it possible for lower-educated offenders to participate in the type of criminal activities that were once populated by more sophisticated and higher-educated individuals. For instance, the mere 22 percent of defendants in the current study with a college degree aligns with

Benson and Simpson's (2018) argument of the evolving demographic composition; whereby white-collar offenders are no longer overwhelmingly those with advanced education. This is noteworthy because as Wheeler et al. (1988) and Albonetti (1998) have long speculated, the more educated the offender, the more complex the case, and the more complex the case, the greater the likelihood of receiving better plea negotiations and other mitigating factors that produce favorable outcomes. Within this context, the current finding of longer sentences for defendants with lower levels of education may undeniably reflect growth in the uncomplicated cases of the high number of low-educated defendants in the sample.

Third, high-profile cases such as those of Bernie Madoff and the recent case of Sam Bankman-Fried have the potential to create societal concerns over the viability of savings and pension accounts. Prosecutors may respond to their constituents' concerns by vigorously prosecuting white-collar offenses while judges may respond by imposing severe sentences. For these reasons, it was hypothesized (HO4) that defendants sentenced in the top three districts with the highest volume of cases will receive sentences that are more severe than the sentences imposed on defendants sentenced elsewhere. This hypothesis led to the third point of contention, which pertains to the finding of jurisdictional variation in the sentencing of white-collar offenders. Compared to the “other district” category, the probability of being incarcerated in the Middle District of Florida is approximately 71 percent lower; a partial support for HO4(a). However, once the decision to incarcerate is made, the district has no discernable influence on the length of the sentence; a rejection of HO4(b). The partial support of HO4 is consistent with previous studies (e.g., Galloway, 2020; Hagen et al., 1980) which also found effects of jurisdictional variation in the sentencing outcomes of white-collar offenders in federal courts. Although the current study focused on the Middle District of Florida whereas Galloway’s (2020)

study focused on the Southern District of Florida, the similar finding of leniency in both districts and the growing awareness that the Miami and West Palm areas are now perceived as the "Wall Street of the South" (Landman, 2023), lends credence that there may be something distinct about the prosecution of white-collar offenses in Florida. Further research is needed to explore whether the more lenient sentences occurring in Florida districts are based on the type of white-collar offenses, the characteristics of the offender, or both.

Lastly, in line with the focal concerns perspective of blameworthiness and consistent with the extant literature, the results of the current study indicate that legally-relevant factors are strong predictors of sentencing outcomes. Specifically, the presumptive sentence emerged as a central determinant of both whether a defendant receives a prison sentence and their eventual length of sentence. The effects of the sentencing departure also exhibited statistically significant and strong influence, albeit only for sentence length. Collectively, this finding highlights the enduring influence of the sentencing guidelines and the USSC's goal to fashion sentences based on factors deemed legally relevant.

# CHAPTER IX

# CONCLUSION

In conclusion, while regression analysis did unearth persistent disparities in sentencing outcomes based on extralegal factors such as education, age, and race/ethnicity, the stronger determinants of sentencing outcomes were the legally-relevant factors such as the presumptive sentence and sentencing departures. The detection of disparate outcomes based on the district-level variable is also a valuable finding that contributes to the body of sentencing research on white-collar offenders. Nevertheless, the results of the current study, combined with the review of existing literature, suggest that there is more work to be done to fully comprehend the sentencing outcomes of white-collar offenders.

For starters, the changing demographics of offenders, financial exploitations triggered by the digital age, and the broad and growing heterogeneity of white-collar offenses raise the possibility that the mix and inconsistent findings in past and current research may be more closely linked to when the studies were conducted than authors may think. Researchers, therefore, must be cognizant of the impact those factors may have on the outcomes of their study. Even changes in working practices have the potential to create variations in the type of offenders, types of offenses, and consequential sentencing outcomes. For example, the option to work from one's place of residence fosters an environment where economic offenses that once took place in the public domain of American suites are now taking place in the privacy of one's home. The routine of working from home makes it possible to engage in fraudulent behaviors

away from the watchful eyes of others thus making the illicit activity more difficult to detect and police (see Payne 2020 for examples of fraud and other types of illicit activities that criminals working from home engaged in during the pandemic). Within that context, studies that only analyze white-collar offenses conducted in the suites may produce an inaccurate picture of white-collar offenses and offenders. To build on the existing literature, future research must explore how white-collar offenses conducted in the suites differ from those conducted in remote work settings.

Taken as a whole, the directions for future research and policy implications of the study are far-reaching. Concerning future research, it raises the question of whether we should continue to restrict the definition of white-collar crime to illegal activities conducted by middle-aged White males in suites and board rooms across America. Or should we broaden our conceptualization of the phenomenon to incorporate offenses done by a younger generation and conducted in the basements and garages of their parent's homes? What about the type of offense? Should it be limited to the traditional offenses such as fraud and embezzlements or should it encompass a more liberal definition that disentangles the nuances of offenses such as COVID-related frauds? The point of the matter is that work-from-home policies, cyberspace activities, and economic phenomena, such as movements towards a cashless society, create a fertile ground for innovative opportunities to engage in financial crimes. Therefore, the time is ripe for the United States Sentencing Commission and researchers to adapt to these changing environments. One possible starting point is calls for the USSC to provide data with "offender-based" attributes and datasets that make it possible to more clearly disaggregate the classification of offenses that fall under §2B1.1. The infusion of offense-based data with offender-based attributes will trigger the employment of advanced methods and sophisticated statistical

techniques that can strengthen the body of literature on white-collar offenders and offenses. Lastly, given findings of jurisdictional variation in some of the seminal studies on white-collar offenses (e.g., the Yale studies) and the continual evidence of its influence in the current study, it is imperative that investigation into the effects of place of adjudication remain a critical variable in future empirical research.

# CHAPTER X

# LIMITATIONS OF THE STUDY

The design of the current study, like many others, is not without limitations. A major drawback of the current study is the relatively small sample size. Small sample sizes are problematic in criminological research for various reasons. The first reason is that small sample sizes may compromise the generalizability of the findings to a broader population. In other words, small sample sizes may not be universally applicable resulting in conclusions that may not be true in different contexts (Dhami et al., 2020). One of the biggest issues with generalizing data produced from small sample sizes is the fact that small sample sizes are more susceptible to high variability and outliers (Bornstein et al., 2017). When sample sizes are larger, there tends to be lower variability thus making it easier to accurately predict trends. Additionally, small sample sizes are prone to diminished statistical power which can result in the increase of type 1 errors (false positives) and type 2 errors (false negatives). When statistical power is compromised the probability of detecting meaning relationships is reduced, statistically significant findings may not actually correspond to a genuine relationship, and the statistically significant effect size may be overcompensated (Barnes et al., 2020; Button et al., 2013). Future research could enhance the robustness and generalizability of the findings of the current study by expanding the sample size to incorporate multiple years. By doing so researchers can make more accurate conclusions that generate effective policy recommendations.

Another area of concern in the current study is selection bias, which occurs when the sample does not fully represent the population being studied. This is problematic because it distorts research findings, potentially leading to inaccurate conclusions. While selection bias is a minor concern in the current study, it is evident due to case filtering, as we decided to include only cases resolved through plea agreements. Since approximately 99% of cases were resolved this way, we excluded the 11 cases that went to trial. However, there is a possibility that this 1% of trial cases could affect the overall findings. This is especially relevant because acceptance of responsibility, a key element in plea agreements, often results in point reductions, which lower the final sentencing level. Offenders who go to trial are less likely to receive these reductions and thus tend to receive harsher sentences, increasing their likelihood of incarceration and longer sentences. In contrast, those who received point reductions due to plea agreements are likely to face more lenient sentencing outcomes, which may not fully reflect the seriousness of the offense. Consequently, including both plea and trial cases may introduce greater variability in sentencing outcomes and make the data more susceptible to outliers, particularly given the lack of individual case-specific details.

A third possible limitation of the study is the use of the USSC offense-based approach to defining white-collar crime. According to Benson and Simpson (2018), the offense-based definition differs from an offender-based definition in that the former identifies the high social status, power, and respectability of the actor as a defining element in the definition of white-collar crimes. In other words, the social demographics of the offender such as a middle-class, well-educated white male play a central role in defining whether his illicit activity is considered a white-collar offense. Conversely, for the latter approach, the definition of white collar is contingent upon the nature of the illicit act. Here the emphasis is placed not on the characteristics

of the offender (e.g., upper-class White male), but on the characteristics of the act itself (e.g., "an illegal act or series of illegal acts committed by non-physical means and by concealment or guild to obtain money or property, or to obtain business or personal advantage" (Edhelertz, 190, p. 3). According to Benson and Simpson (2018), offense-based data is popular among researchers because, among other things, it is useful for exploring how the diversity in the offender's social status influences the characteristics of white-collar offenses and how society responds to the offense. Conceivably the most advantageous aspect of the offense-based approach is that it allows researchers to extract a sample population of white-collar offenders from official data sources such as the one provided by the USSC (Benson & Simpson, 2018). However, a limitation of the use of an offense-based approach is that it typically results in the investigation of relatively minor offenses of low-level offenders who lack the prestige or financial means to obtain a high-profile attorney. Therefore, these low-level offenders are trapped in a system where they may be subject to harsher penalties while their wealthier and more connected counterparts can escape punishment or suffer a less severe punishment for their criminal violations. Despite the obvious problem associated with the use of offense-based data to study white-collar offenses, its impact on the current study is minuscule given that the data provided by the USSC is the most exhaustive dataset in terms of the number of variables and cases available, and the fact that is freely accessible. Nevertheless, moving forward researchers should try to incorporate both offender-based and offense-based approaches in their empirical studies.

Perhaps the most significant limitation of this study is the lack of distinction between the various offenses categorized under USSG §2B1.1. As alluded to earlier, §2B1.1 does not make a clear distinction between property crimes and white-collar offenses. Rather, it encompasses a wide variety of crimes that share a common element of monetary loss, including larceny,

embezzlement, various forms of theft, as well as fraud, deceit, forgery, various theft-related offenses, crimes involving property damage, and offenses involving counterfeit or altered instruments (USSC, 2023[b]). Knowledge of the conditional effects of offender and case characteristics on sentencing outcomes could be enhanced by focusing on specific offenses rather than the aggregation of economic crimes under §2B1.1. Indeed, as Testa (2019) has established in his comparison of white-collar and property offenders, there are notable differences between those convicted of traditional white-collar crimes, like embezzlement, versus those guilty of property crimes, such as larceny. He found, for example, that embezzlement offenders tend to be more educated, and individuals convicted of embezzlement are more likely to receive prison sentences when compared to larceny offenders. The harsher treatment of embezzlement offenders may be due to perceptions of them as more culpable, and fully aware of the implications of their actions, whereas larceny offenders may not be regarded as equivocally blameworthy and therefore, deserving of a more lenient sentence (Testa, 2019). This suggests that there are clear distinctions between the embezzlement and larceny offenders and offenses and the combination of the two groups may be masking important differences.

REFERENCES


Albonetti, C. A. (1991). An integration of theories to explain judicial discretion. *Social Problems (Berkeley, Calif.), 38*(2), 247–266. https://doi.org/10.1525/sp.1991.38.2.03a00090

Albonetti, C. A. (1998). Direct and indirect effects of case complexity, guilty pleas, and offender characteristics on sentencing for offenders convicted of a white-collar offense prior to before sentencing guidelines. *Journal of Quantitative Criminology, 14*(4), 353–378. https://doi.org/10.1023/A:1023077704546

Barnes, J. C., TenEyck, M. F., Pratt, T. C., & Cullen, F. T. (2020). How powerful is the evidence in criminology? On whether we should fear a coming crisis of confidence. *Justice Quarterly*, *37*(3), 383–409. https://doi.org/10.1080/07418825.2018.1495252

Benson, M. L. (2013). *Crime and the life course: An introduction* (2nd ed.). New York, NY: Routledge.

Benson, M. L. (2021). Theoretical and empirical advances in the study of white-collar offenders. *Justice Evaluation Journal, 4*(1). 1-20. https://doi.org/10.1080/24751979.2020.1808855

Benson, M. L. & Simpson, S. S. (2018). *White-collar crime: An opportunity perspective* (3rd ed.). New York, NY: Routledge.

Benson, M. L., & Moore, E. (1992). Are white-collar and common offenders the same? An empirical and theoretical critique of a recently proposed general theory of crime. *The Journal of Research in Crime and Delinquency*, *29*(3), 251–272. https://doi.org/10.1177/0022427892029003001

*Blakely v. Washington*, 542 U.S. 296 (2004).

Blowers, A. N., & Doerner, J. K. (2015). Sentencing outcomes of the older prison population: An exploration of the age leniency argument. *Journal of Crime & Justice, 38*(1), 58–76. https://doi.org/10.1080/0735648X.2013.822161

Bornstein, B. H., Golding, J. M., Neuschatz, J., Kimbrough, C., Reed, K., Magyarics, C., & Luecht, K. (2017). Mock juror sampling issues in jury simulation research: A meta-analysis. *Law and Human Behavior, 41*(1), 13-28. https://doi.org/10.1037/lhb0000223

Boss, B. & Kapp, K. (2021). How the economic loss guideline lost its way, and how to save it. *Ohio State Journal of Criminal Law, 18*(2). 605-631.

Bowman, F. D. (2015). Damp squib: The disappointing denouement of the sentencing commission's economic crime project (and what they should do now). *Federal Sentencing Reporter, 27*(5)., 270-283.

Breyer, C. R., Cushwa, P. K., Wroblewski, J. J., Cohen, K.P., & Schmitt, G. R. (2022). *Overview of Federal criminal cases fiscal year 2021* [PDF]. United States Sentencing Commission.

Button, K. S., Ioannidis, J. P. A., Mokrysz, C., Nosek, B. A., Flint, J., Robinson, E. S. J., & Munafo, M. R. (2013). Power failure: why small sample size undermines the reliability of neuroscience. *Nature Reviews. Neuroscience*, *14*(5), 365–376. https://doi.org/10.1038/nrn3475

Cassidy, M., & Gibbs, C. (2019). Examining sentencing patterns and outcomes for white-collar and property crime offenders. *Victims & Offenders, 14*(1), 75–95. https://doi.org/10.1080/15564886.2018.1547996

Cullen, F. T., Hartman, J.L., & Jonson, C.L. (2009). Bad guys: Why the public supports punishing white-collar offenders. *Crime, Law, and Social Change, 51*(1). 31-44. DOI: 10.1007/s10611-008-9143-3

Dhami, M. K., Belton, I. K., Merrall, E., McGrath, A., & Bird, S. M. (2020). Criminal sentencing by preferred numbers. *Journal of Empirical Legal Studies*, *17*(1), 139–163. https://doi.org/10.1111/jels.12246

Doerner, J. K., and & Demuth, S. (2010). The independent and joint effects of race/ethnicity, gender, and age on sentencing outcomes in U.S. federal courts. *Justice Quarterly, 27*(1), 1-27. https://doi.org/10.1080/07418820902926197

Feldmeyer, B., & Ulmer, J. T. (2011). Racial/ethnic threat and federal sentencing. *Journal of Research in Crime and Delinquency*, *48*(2), 238-270.

Franklin, T. W. (2017). Sentencing outcomes in U.S. district courts. *Crime & Delinquency, 63*(2), 137-165. https://doi.org/10.1177/0011128715570627

*Gall v. United States,* 552 U.S. 38 (2007).

Galloway, L. F. E. (2020). *An investigation of white-collar criminal sentencing disparities in six federal district courts*. The University of Nevada Las Vegas. https://doi.org/10.34917/19412071

Gavrilova, M. (2022). Basic characteristics of "white collar" as a highly high profile type of crime. *Knowledge – International Journal, 50*(1), 159-164. Retrieved from https://ikm.mk/ojs/index.php/kij/article/view/4922

Hagen, J., Nagel, H., & Albonetti, C. (1980). Differential sentencing of white-collar offenders in ten federal district courts. *American Sociological Review, 45*(5). 802-820.

Hartley, D. R., & Tillyer, R. (2019). Inter-district variation and disparities in federal sentencing outcomes: Case types, defendant characteristics, and judicial demography. *Criminology, Criminal Justice, Law & Society, 20*(3), 46-63.

Hartley, R. D. (2008) Sentencing reforms and the war on drugs: An analysis of sentence outcomes for narcotics offenders adjudicated in U.S. District Courts on the southwest border. *Journal of Contemporary Criminal Justice, 24*(4), 437-461. https://doi.org/10.1177/1043986208323

Hartley, R., Maddan, S., & Spohn, C. C., (2007). Concerning conceptualization and operationalization: Sentencing data and the focal concerns perspective – a research note. *The Southwest Journal of Criminal Justice, 4*(1), 58-78.

Hartley, R.D., & Armendariz, L.A. (2011). Border justice? Sentencing federal narcotics offenders in southwest border districts: A focus on citizenship status. *Journal of Contemporary Criminal Justice, 27*(1), 43-62. https://doi.org/10.1177/1043986211402208

Hewitt, J. (2016). Fifty shades of gray: Sentencing trends in major while-collar cases. *The Yale Law Journal, 135*(4), 1018-1071.

Hinchliffe, E., & Abrams, J. (2024). *The share of Fortune 500 businesses run by women can't seem to budge beyond 10%.* Fortune. https://fortune.com/2024/06/04/share-of-fortune-500-businesses-run-by-women/

Holland, M. M., & Prohaska, A. (2021). Gender effects across place: A multilevel Investigation of gender. Race/ethnicity, and region in sentencing. *Race and Justice, 11*(1). 91-112. https://doi.org/10.1177/2153368718767495

Holmes, B., & Feldmeyer, B. (2023). The only thing constant is change: Temporal analyses of racial/ethnic sentencing disparities. *American Journal of Criminal Justice, 48*(5). 1080-1104. https://doi.org/10.1007/s12103-023-09725-9.

Holtfreter, K. (2013). Gender and other people's money: An analysis of white-collar offender sentencing. *Women & Criminal Justice, 23*(4), 326–344. https://doi.org/10.1080/08974454.2013.821015

Howell, R. (2004). Sentencing reform lessons: From the Sentencing Reform Act of 1984 to the Feeney Amendment. *The Journal of Criminal Law & Criminology, 94*(4), 1069–1104. https://doi.org/10.2307/3491416

Iles, G., Bumphus, V., & McGuffee, K. (2014). U.S. Territorial exclusion in federal sentencing research: Can it be justified. *International Journal of Criminology and Sociology, 3*. 113-124.

Iles, G., Dierenfeldt, R., & Basham, S. L. (2023). Drug offending in the golden state: A closer examination of border justice. *Safety & Emergency Services Journal*. https://csesjournal.columbiasouthern.edu/511-2/

Jones, C. S. & Kaplan, M.F. (2003). The effects of racially stereotypical crimes on Juror decision-making and information-processing strategies. *Basic and Applied Social Psychology, 25*(1), 1-13. https://doi.org/10.1207/S15324834BASP2501_1

Kautt, P., & Spohn, C. (2002). Crack-ing down on black drug offenders? Testing for interactions among offenders' race, drug type, and sentencing strategy in federal drug sentences. *Justice Quarterly, 19*(1), 1-35. https://doi.org/10.1080/07418820200095151

King, R. D., & Light, M. T. (2019). Have racial and ethnic disparities in sentencing declined?. *Crime and Justice, 48*, 365-437. https://doi.org/10.1086/701505

Kuziemko, I., & Levitt, S. (2004). An empirical analysis of imprisoning drug offenders. *Journal of Public Economics*, 88(9-10), 2043-2066. https://doi.org/10.1016/s0047-2727(03)00020-3

Landman, B. (2023, Feb 17). *How West Palm Beach was transformed into 'Wall Street South'*. New York Post. https://nypost.com/2023/02/17/west-palm-beach-has-become-wall-street-south/

Logan, M. W., Morgan, M. A., Long, J. S., Hazelwood, A., & Bacigalupo, J. (2022). More similar than different? Examining prison infractions and recidivism among female and male white-collar offenders. *Journal of Criminal Justice*, 82. p.101982.

Maddan, S., Hartley, R. D., Walker, J. T., & Miller, J. M. (2012). Sympathy for the devil: an exploration of federal judicial discretion in the processing of white-collar offenders. *American Journal of Criminal Justice, 37*(1), 4-18. https://doi.org/10.1007/s12103-010-9094-y

McGrath, J. & Healy, D. (2021). Theorizing the drop in white collar crime prosecutions: An ecological model. *Punishment & Society, 23*(2). 164-189. https://doi.org/10.1177/1462474520939060

*Mistretta v. United States*, 488 U.S. 361 (1989).

Mitchell, K. L. (2015). *What is Blakely and why is it so important?.* Robina Institute of Criminal Law and Criminal Justice at University of Minnesota. https://robinainstitute.umn.edu/articles/what-blakely-and-why-it-so-important

Monaghan, R. & Konefal, K. (2023). Presentence investigation reports and racial/ethnic disparities in sentencing. *Crime & Delinquency, 69*(12). 2460-2483. https://doi-org.proxy.lib.utc.edu/10.1177/00111287221077632

Nanz, D. (2024, Jan 12). *How the FBI is combating COVID-19 related fraud.* https://www.fbi.gov/contact-us/field-offices/springfield/news/how-the-fbi-is-combatting-covid-19-related-fraud

Neubauer, D. W., & Fradella, H. F. (2019). *America's courts and the criminal justice system* (13th ed.). Cengage Learning.

Nowacki, J. S. (2018). Federal Sentencing Guidelines and United States v. Booker: Social context and sentencing disparity. *Criminal Justice Policy Review, 29*(1), 45–66. https://doi.org/10.1177/0887403415619987

O'Neal, E. N. & Spohn, C. (2017). When the perpetrator is a partner: Arrest and charging decisions in intimate partner sexual assault cases—A focal concerns analysis. *Violence Against Women, 23*(6), 707-729. https://doi.org/10.1177/1077801216650289

Orrick, E. A., Compofelice, K., & Piquero, A. R. (2016). Assessing the impact of deportable status on sentencing outcomes in a sample of state prisoners. *Journal of Crime and Justice*, *39*(1), 28–40. https://doi.org/10.1080/0735648X.2015.1087142

Payne, B. K., (2020). Criminals work from home during pandemics too: A public health approach to respond to fraud and crimes against those 50 and above. *American Journal of Criminal Justice, 45*(4), 563-577. https://doi.org/10.1007/s12103-020-09532-6

Ragatz, L. L., Fremouw, W., & Baker, E. (2012). The psychological profile of white-collar offenders: Demographics, criminal thinking, psychopathic-traits and psychopathology. *Criminal Justice and Behavior, 29*(7), 978-997.

Ruhland, E. L, & Selzer, N. (2020). Gender differences in white-collar offending and supervision. *Criminal Justice Studies, 33*(1). 13-30. https://doi.org/10.1080/1478601X.2020.1709950

Schaeffer, K. (2023). The data on women leaders. *The Pew Research Center*. Retrieved on 2/12/2024 from: https://www.pewresearch.org/social-trends/fact-sheet/the-data-on-women-leaders/#fortune-500-ceos

Schanzenbach, M., & Yaeger, M. L. (2006). Prison Time, fines, and Federal white-collar criminals: The anatomy of a racial disparity. *The Journal of Criminal Law & Criminology, 96*(2), 757–793.

Semisch, C. (2019). What does federal economic crime really look like? [PDF]. United States Sentencing Commission. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2019/20190130_Econ-Crime.pdf

Simon, H. A. (1957). Administrative behavior: A study of decision making processes in administrative organizations. New York: Macmillian.

Skorinko, J., & Spellman, B. A. (2013). Stereotypic crimes: How group-crime associations affect memory and (sometimes) verdicts and sentencing. *Victims & Offenders, 8*(3), 278-307. https://doi.org/10.1080/15564886.2012.755140

Steer, J. R. (2003). The Sentencing Commission's implementation of Sarbanes-Oxley. *Federal Sentencing Reporter, 15*(4), 263-269. https://doi.org/10.1525/fsr.2003.15.4.263

Steffensmeier, D. J. (1980). Assessing the Impact of the Women's Movement on Sex-Based Differences in the Handling of Adult Criminal Defendants. *Crime & Delinquency*, *26*(3), 344-357. https://doi.org/10.1177/001112878002600305

Steffensmeier, D. J., Kramer, J. H., & Ulmer, J. T. (1995). Age differences in sentencing. *Justice Quarterly, 12*(3), 583-602. https://doi.org/10.1080/07418829500096151

Steffensmeier, D. J., Painter-Davis, N., & Ulmer, J. T. (2017). Intersectionality of race, ethnicity, gender, and age on criminal punishment. *Sociological Perspectives, 60*(4), 810-833. https://doi.org/10.1177/0731121416679371

Steffensmeier, D. J., Ulmer, J., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology, 36*(4), 763-798. https://doi.org/10.1111/j.1745-9125.1998.tb01265.x

Testa, A. (2019). Examining federal criminal sentencing of white-collar and common property offenders: The case of embezzlement and larceny. *Criminal Justice Policy Review, 30*(5), 681–707. https://doi.org/10.1177/0887403417709313

Thakur, A. (2023). Blockchain and cryptocurrency frauds: Emerging concern. In Chander M. Gupta (Eds). *Financial crimes: A guide to financial exploitation in a digital age*. (pp 131-145). Springer.

Tonry, M. (2015). Federal Sentencing "reform" since 1984: The awful as an enemy of the good. *Crime & Justice (Chicago, Ill)*, *44*(1), 99–164. https://doi.org/10.1086/681666

Ulmer, J. (1997). *Social worlds of sentencing: Court communities under sentencing guidelines*. Albany: NY. State University of New York Press.

United. States. Department of Justice. (2003). *History of the federal parole system* [PDF]. United States Parole Commission. https://www.justice.gov/sites/default/files/uspc/legacy/2009/10/07/history.pdf

United States Sentencing Commission. (2010). *Supreme Court cases on sentencing issues* [PDF]. https://www.ussc.gov/sites/default/files/pdf/amendment-process/Supreme_Court_Cases_201007.pdf

United States Sentencing Commission. (2023[a]). *About the U.S. Sentencing Commission brochure* [PDF]. https://www.ussc.gov/sites/default/files/pdf/about/overview/2023_About-Us-Trifold.pdf

United States Sentencing Commission. (2023[b]). *Guidelines manual*. https://www.ussc.gov/guidelines/2023-guidelines-manual-annotated

United States Sentencing Commission. (2023[c]). *Primer on loss calculation under §2B1.1* [PDF]. https://www.ussc.gov/sites/default/files/pdf/training/primers/2023_Primer_Loss.pdf

United States Sentencing Commission. (n.d.[a]). *Executive summary* [PDF]. https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/15-year-study/executive_summary_and_preface.pdf

United States Sentencing Commission. (n.d.[b]). *Variable codebook for economic crime offense type datafiles*. [PDF]. Retrieved, February 12, 2024, from https://www.ussc.gov/sites/default/files/pdf/research-and-publications/datafiles/USSC_Economic_Crime_Codebook_FY13_FY22.pdf

*United States v. Booker*, 543 U.S. 220 (2005).

*United States v. Gonzalez,* 520 U.S. 1 (1997).

Van Slyke, S. R., & Bales, W. D. (2013). Gender dynamics in the sentencing of white-collar offenders. *Criminal Justice Studies, 26*(2), 168–196. https://doi.org/10.1080/1478601X.2012.729707

Weisburd, D., Waring, E., & Chayet, E. F. (2001). *White-collar crime and criminal careers*. Cambridge University Press. https://doi.org/10.1017/cbo9780511499524

Wheeler, S., Mann, K., & Sarat, A. (1988). *Sitting in judgment: The sentencing of white collar criminals*. https://www.ojp.gov/ncjrs/virtual-library/abstracts/sitting-judgment-sentencing-white-collar-criminals

Wheeler, S., Weisburd, D., Waring, E., & Bode, N. (1988). White collar crimes and criminals. *American Criminal Law Review, 25*, 331-357.

Wu, J., & and D'Angelo, J. M. (2014). Unwarranted disparity in federal sentencing. *Criminal Justice Review, 39*(1), 58-80. https://doi.org/10.1177/0734016814522644

Zandiatashbar, A., Hamidi, S., & Foster, N. (2019). High-tech business location, transportation accessibility, and implications for sustainability: evaluating the differences between high-tech specializations using empirical evidence from U.S. booming regions. *Sustainable Cities and Society, 50*, 101648. https://doi.org/10.1016/j.scs.2019.101648

# APPENDIX A

## FEDERAL SENTENCING TABLE

# SENTENCING TABLE
## (in months of imprisonment)

| | Offense Level | Criminal History Category (Criminal History Points) I (0 or 1) | II (2 or 3) | III (4, 5, 6) | IV (7, 8, 9) | V (10, 11, 12) | VI (13 or more) |
|---|---|---|---|---|---|---|---|
| | 1 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 |
| | 2 | 0–6 | 0–6 | 0–6 | 0–6 | 0–6 | 1–7 |
| | 3 | 0–6 | 0–6 | 0–6 | 0–6 | 2–8 | 3–9 |
| | 4 | 0–6 | 0–6 | 0–6 | 2–8 | 4–10 | 6–12 |
| Zone A | 5 | 0–6 | 0–6 | 1–7 | 4–10 | 6–12 | 9–15 |
| | 6 | 0–6 | 1–7 | 2–8 | 6–12 | 9–15 | 12–18 |
| | 7 | 0–6 | 2–8 | 4–10 | 8–14 | 12–18 | 15–21 |
| | 8 | 0–6 | 4–10 | 6–12 | 10–16 | 15–21 | 18–24 |
| | 9 | 4–10 | 6–12 | 8–14 | 12–18 | 18–24 | 21–27 |
| Zone B | 10 | 6–12 | 8–14 | 10–16 | 15–21 | 21–27 | 24–30 |
| | 11 | 8–14 | 10–16 | 12–18 | 18–24 | 24–30 | 27–33 |
| Zone C | 12 | 10–16 | 12–18 | 15–21 | 21–27 | 27–33 | 30–37 |
| | 13 | 12–18 | 15–21 | 18–24 | 24–30 | 30–37 | 33–41 |
| | 14 | 15–21 | 18–24 | 21–27 | 27–33 | 33–41 | 37–46 |
| | 15 | 18–24 | 21–27 | 24–30 | 30–37 | 37–46 | 41–51 |
| | 16 | 21–27 | 24–30 | 27–33 | 33–41 | 41–51 | 46–57 |
| | 17 | 24–30 | 27–33 | 30–37 | 37–46 | 46–57 | 51–63 |
| | 18 | 27–33 | 30–37 | 33–41 | 41–51 | 51–63 | 57–71 |
| | 19 | 30–37 | 33–41 | 37–46 | 46–57 | 57–71 | 63–78 |
| | 20 | 33–41 | 37–46 | 41–51 | 51–63 | 63–78 | 70–87 |
| | 21 | 37–46 | 41–51 | 46–57 | 57–71 | 70–87 | 77–96 |
| | 22 | 41–51 | 46–57 | 51–63 | 63–78 | 77–96 | 84–105 |
| | 23 | 46–57 | 51–63 | 57–71 | 70–87 | 84–105 | 92–115 |
| | 24 | 51–63 | 57–71 | 63–78 | 77–96 | 92–115 | 100–125 |
| | 25 | 57–71 | 63–78 | 70–87 | 84–105 | 100–125 | 110–137 |
| | 26 | 63–78 | 70–87 | 78–97 | 92–115 | 110–137 | 120–150 |
| | 27 | 70–87 | 78–97 | 87–108 | 100–125 | 120–150 | 130–162 |
| Zone D | 28 | 78–97 | 87–108 | 97–121 | 110–137 | 130–162 | 140–175 |
| | 29 | 87–108 | 97–121 | 108–135 | 121–151 | 140–175 | 151–188 |
| | 30 | 97–121 | 108–135 | 121–151 | 135–168 | 151–188 | 168–210 |
| | 31 | 108–135 | 121–151 | 135–168 | 151–188 | 168–210 | 188–235 |
| | 32 | 121–151 | 135–168 | 151–188 | 168–210 | 188–235 | 210–262 |
| | 33 | 135–168 | 151–188 | 168–210 | 188–235 | 210–262 | 235–293 |
| | 34 | 151–188 | 168–210 | 188–235 | 210–262 | 235–293 | 262–327 |
| | 35 | 168–210 | 188–235 | 210–262 | 235–293 | 262–327 | 292–365 |
| | 36 | 188–235 | 210–262 | 235–293 | 262–327 | 292–365 | 324–405 |
| | 37 | 210–262 | 235–293 | 262–327 | 292–365 | 324–405 | 360–life |
| | 38 | 235–293 | 262–327 | 292–365 | 324–405 | 360–life | 360–life |
| | 39 | 262–327 | 292–365 | 324–405 | 360–life | 360–life | 360–life |
| | 40 | 292–365 | 324–405 | 360–life | 360–life | 360–life | 360–life |
| | 41 | 324–405 | 360–life | 360–life | 360–life | 360–life | 360–life |
| | 42 | 360–life | 360–life | 360–life | 360–life | 360–life | 360–life |
| | 43 | life | life | life | life | life | life |

# APPENDIX B

# LOSS CALCULATION TABLE

| Loss (Apply the Greatest) | | Increase in Level |
|---|---|---|
| A | $6,500 or less | No increase |
| B | More than $6,500 | Add 2 |
| C | More than $15,000 | Add 4 |
| D | More than $40,000 | Add 6 |
| E | More than $95,000 | Add 8 |
| F | More than $150,000 | Add 10 |
| G | More than $250,000 | Add 12 |
| H | More than $550,000 | Add 14 |
| I | More than $1,500,000 | Add 16 |
| J | More than $3,500,000 | Add 18 |
| K | More than $9,500,000 | Add 20 |
| L | More than $25,000,000 | Add 22 |
| M | More than $65,000,000 | Add 24 |
| N | More than $150,000,000 | Add 26 |
| O | More than $250,000,000 | Add 28 |
| P | More than $550,000,000 | Add 30 |

# VITA

Tayler Lovelace was born in Chattanooga, Tennessee to parents Christopher Lovelace and Shannon Adcox. She is the oldest with two younger sisters Madison McFarland and Kate Carroll as well as two brothers Ryder and Chance Lovelace. Upon completing her coursework at Hixson High School in December of 2013, Tayler immediately began earning her Associate of Science Liberal Arts Transfer degree from Chattanooga State Community College and graduated in the Spring of 2017. Tayler began working on her Bachelor of Science in Criminal Justice at the University of Tennessee at Chattanooga in the Fall of 2017 and was awarded her degree with honors in the Spring of 2022. Tayler continued her education by enrolling in the Master of Science in Criminal Justice program at the University of Tennessee at Chattanooga in the Fall of 2022 where she worked as a teaching assistant for Dr. Gale Iles. Tayler currently works at a local law firm in Chattanooga and plans to take the LSAT early 2025.