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Senatorial Partisanship Affects Racial Disparity in Federal Criminal Sentencing Outcomes:
How the Federal Judicial Appointment Process Predicts Levels of Racial Bias

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Political Science Senior Thesis

Professor Bradley D. Hays

March 10th, 2023

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INTRODUCTION

Whether it's been recent, in the 1960s, or even prior to the Civil Rights Act of 1964, there have always been criminal court cases that we have seen in the headlines, or even on our televisions of Black men being falsely convicted and sentenced, as well as sentenced for more time than the United States Sentencing Commission's guidelines say to. This is a tale we've heard over and over again and each time people shake their head and wonder how this decision was upheld in a court at the state, or federal level. Even after these court cases or legislative Acts were passed in the 1960s, this did not do enough that would eliminate racial disparities present at the federal level within Criminal Courts. The Sentencing Reform Act of 1984 was a landmark legislative bill that worked to reform sentencing guidelines within the United States Sentencing Commission. While this was an effort to eliminate racial disparities present in cases like *Booker v. United States*, this did not do much to promote equality in criminal court cases and the sentencing outcomes of them.

Even in the present day, there is polarity within the United States government, where red and blue split the House and Senate, and the entire country for that matter. These political divides among party lines have great effects on who becomes nominated and appointed for lower court federal judicial positions. In an age of polarization like we are in today, Senators and their influence over federal judge nominations play a great role in how people within those states are tried, convicted and sentenced. The judges that get appointed to the lower federal courts are typically ones that were nominated by Senators in those states, where the President at the time granted senatorial courtesy. This senatorial courtesy has the opportunity to shape the judiciary for the political party's agenda, as well as the Senator and President's. When there are Republican Senators in charge within a state, and if the party in power is the Republican Party, chances are

the judge appointed will be conservative and right-leaning. The implications of a conservative judge can be great, considering there is evidence of racial bias in these judges. Therefore, I hypothesize that the ideological preferences of a state will determine what judges they will appoint and the ideology of that judge. I also take that one step further in saying that the more Republican the Senator that appoints the judge, the more likely the judge will be conservative and the more likely that there will be racial disparities in their decision-making.

LITERATURE REVIEW

Appointments

The Appointment process for any federal judge or Supreme Court justice is one that is not without biases. Whether it is the President at the time, or the Senate who confirms, the nomination, appointment, and confirmation processes all contain ideological preferences. These biases stem from what the political party in charge might want, or even what the President at the time may want to see in the judges he appoints. In *Advice and Consent: The Politics of Judicial Appointments* by Lee Epstein and Jeffery A. Segal, there is foundational knowledge laid out that demonstrates the federal judicial appointment process and all of the moving factors that come into play. In Chapter 3, there is the discussion of the nomination process for federal judges and justices. The chapter goes into discussion about presidents and their nominations and how it would not be in the president nor his party's favor to lose support in the senate or even go down in defeat over judicial nominees. Ideology is also something that Segal and Epstein discuss in chapter 3. Ideology played a large role in who presidents would consider nominating and appointing to the Supreme Court bench. This also stemmed into Federal benches with Federal lower court and Circuit Court judges.¹ President Bush even said that he does not believe in liberal activist judges and that he believes in strict constructionists. And those are the kinds of judges he would want to appoint.² The chapter then moves into the direction of senatorial courtesy and how that plays a role in what federal judges of the lower-level get appointed. Senators, when given the opportunity to exert their senatorial courtesy, tend to favor judges that would align with not only their state's ideology but their own personal ideologies in their party.

¹ Epstein, Lee, and Jeffrey A. Segal. "Chapters 3 and 6." *Advice and Consent: The Politics of Judicial Appointments*, Oxford University Press Inc., New York, New York, 2007, 60.

² Epstein, Lee, and Jeffrey A. Segal. "Chapters 3 and 6." *Advice and Consent: The Politics of Judicial Appointments*, Oxford University Press Inc., New York, New York, 2007, 60.

The vast majority, which is every four out of five nominations, that the Senate makes for a lower court federal judge get confirmed because of the fact that presidents want to adhere to the norms within the Senate. These are intended to ensure that Senators who are from the state where the nominee will serve will have a role in what the president's party does and feeling that they can see on the federal bench.³ While there can be objections to the nominee a Senator puts up in front of the President, this is not the norm for what a senatorial courtesy entails.⁴

When talking about the nomination and appointment process, it is important to point out that there are ways in which senators will use their influence over the Court and other lower federal courts in order to push their own political agendas. Howard Gillman in *How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States* discusses this very issue, where he examines deeper into the study of the late nineteenth century courts in a way that discusses the implications of it in the context of partisan politics, political development, and also the factors of judicial decision making.⁵ By demonstrating the effects the Republican Party had during this time on Reconstruction in the United States, Gillman demonstrates that there was an extensive use of political agenda pushing on the federal courts, where it was determining who was getting appointed to the federal level.⁶ He concludes that this case study shows the moves made by Jefferson during this time period and how that moved some of the localized pressure off of the Supreme Court and onto circuit court levels, creating a more

³ Epstein, Lee, and Jeffrey A. Segal. "Chapters 3 and 6." *Advice and Consent: The Politics of Judicial Appointments*, Oxford University Press Inc., New York, New York, 2007, 75-76.

⁴ Epstein, Lee, and Jeffrey A. Segal. "Chapters 3 and 6." *Advice and Consent: The Politics of Judicial Appointments*, Oxford University Press Inc., New York, New York, 2007, 76.

⁵ Howard Gillman, *How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States, 1875-1891*, 512.

⁶ Howard Gillman, *How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States, 1875-1891*, 515.

nationally centered Supreme Court system, something he chose to do in order to undo the Republican Party and their efforts before him.⁷

Relating to this, there is a certain politics that comes with the appointment process and how political agendas can interfere or determine who becomes appointed and nominated for the federal courts by senators and the president. C. K. Rowland, Donald Songer and Robert A. Carp in *Presidential Effects on Criminal Justice Policy in the Lower Federal Courts: The Reagan Judges* discuss how there are political agendas with any presidency and how they choose to select lower federal court judges within the federal court system. The appointment process by United States presidents is highly dependent upon whether or not they believe in certain areas of policy preference versus others. For example, this could be areas of criminal justice support versus criminal justice opposition. The author's argument talks about the effect Reagan's lower court appointments could have for criminal defendants in the federal court system, as well as the implications it could have for criminal sentences.⁸ The authors concluded that there are obvious differences between the Carter appointments and the Reagan appointments to the lower federal courts because Reagan had lower support for criminal justice issues whereas Carter had a higher support for criminal justice issues.⁹ The implications of this research also can be used for future delineations between the effects of the presidential versus the senatorial appointments and what that would mean for the nominations and then the jurisprudence of that presidency.

On the topic of congressional control over the courts and how that affects the federal appointment process as well as the senatorial courtesy nomination process, John De Figueiredo and Emerson Tiller discuss this further in *Congressional Control of the Courts: A Theoretical*

⁷ Howard Gillman, *How Political Parties Can Use the Courts to Advance Their Agendas: Federal Courts in the United States, 1875-1891*, 521.

⁸ C. K. Rowland, Donald Songer and Robert A. Carp, *Presidential Effects on Criminal Justice Policy in the Lower Federal Courts: The Reagan Judges*, 192.

⁹ C. K. Rowland, Donald Songer and Robert A. Carp, *Presidential Effects on Criminal Justice Policy in the Lower Federal Courts: The Reagan Judges*, 197-198.

and Empirical Analysis of Expansion of the Federal Judiciary. These two authors argue that firstly, the timing of judicial expansion is motivated by political efficiency, and secondly that the number of judgeships authorized in a given expansion is a function of both political efficiency and institutional efficiency.¹⁰ Others get deeply into the econometrics of the expansion of not only the Supreme Court but the Federal Court of Appeals, they also talked about how Congress had used and exerted their power for expansive purposes of these courts in the judicial branch in total and how these expansions or in some cases, the lack thereof, have affected overall judge caseload as well as the outcomes of each case.¹¹ They concluded that in their research they found that in one hundred percent of the Supreme Court expansions and eighty four percent of the appellate court expansions their political efficiency model was supported.¹²

The process of nominations and appointments have judicial context and audiences present, whether it be a presidential or senatorial context. The ways in which senators have courtesy to nominate those who they feel best fit the lower federal courts in their state in turn can influence the way those judges behave on a case by case basis. Michael Giles, Virginia Hettinger, and Todd Peppers in *Picking Federal Judges: A Note on Policy and Partisan Selection Agendas* shed light upon judicial decision making at the federal level, more specifically the Court of Appeals. The study examines how the Court of Appeals is used as a window into the re-examination of politics behind the selection process at the lower court level.¹³ The authors conclude that the data clearly suggests that the politics of selection differ dramatically depending

¹⁰ John De Figueiredo and Emerson Tiller, *CONGRESSIONAL CONTROL OF THE COURTS: A THEORETICAL AND EMPIRICAL ANALYSIS OF EXPANSION OF THE FEDERAL JUDICIARY*, 439.

¹¹ John De Figueiredo and Emerson Tiller, *CONGRESSIONAL CONTROL OF THE COURTS: A THEORETICAL AND EMPIRICAL ANALYSIS OF EXPANSION OF THE FEDERAL JUDICIARY*, 446-447.

¹² John De Figueiredo and Emerson Tiller, *CONGRESSIONAL CONTROL OF THE COURTS: A THEORETICAL AND EMPIRICAL ANALYSIS OF EXPANSION OF THE FEDERAL JUDICIARY*, 460..

¹³ Michael Giles, Virginia Hettinger, and Todd Peppers *Picking Federal Judges: A Note on Policy and Partisan Selection Agendas*, 626-627.

upon whether senatorial courtesy is in operation.¹⁴ The authors also acknowledge that presidential preferences and judicial outcomes have no correlation.¹⁵ The authors also concluded that their data clearly suggested that the politics of selection and the appointment process clearly different when senatorial courtesy is in play versus when it is not.¹⁶ This article had highlighted the nomination process with senatorial courtesy and how that can affect appointment outcomes, which in turn affects how those judges tend to decide cases. When there is racial disparity present in a judge's decision making there is the possibility of senatorial courtesy and ideology being the reasoning behind a judge's decisions. This is also where it can be demonstrated that a judge's self-presentation is in play, where they get appointed by a senator and then feel the need to maintain the allegiance to that senator in their strategic decision making. This also feeds into the idea of maintaining audiences through strategic decision making which is something judges do when attempting to think about audiences and the context of the audiences present.

In Nancy Scherer's *Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process*, there is conversation about the ways in which the Senate, Congress, and the President can all use their powers to strategically obstruct or confirm judicial nominees, federal or even at the Supreme Court level. Chapter 3 talked about litmus tests and how different presidents used certain litmus tests for different judges in order to make sure that their policy preferences were being matched to the president's preferences and agenda. The study concluded that presidents when using a litmus test, more often Republican presidents, screen for like mindedness on their policy preferences.¹⁷ Chapter 6 talked about how there was a use of

¹⁴ Michael Giles, Virginia Hettinger, and Todd Peppers *Picking Federal Judges: A Note on Policy and Partisan Selection Agendas*, 637-638.

¹⁵ Michael Giles, Virginia Hettinger, and Todd Peppers *Picking Federal Judges: A Note on Policy and Partisan Selection Agendas*, 637-638.

¹⁶ Michael Giles, Virginia Hettinger, and Todd Peppers *Picking Federal Judges: A Note on Policy and Partisan Selection Agendas*, 638.

¹⁷ Nancy Scherer, *Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process*, 59.

obstruction tactics in the senate in order to stop or slow down the process of confirmation of a Supreme Court Justice. This strategy differs from the presidential ones because it looks at judicial candidates that are being Chosen and Target specific nominees rather than just setting General criteria for judicial appointments. This shows that there is politics behind who they want to confirm and who they do not want to confirm and the ways in which the Senate will go about obstructing confirmations in those hearings in order to stop the president from using this nomination.¹⁸ Chapter 8 talked about how there might be an alternative hypothesis in the reasons why lower court judicial selection and confirmation processes have become highly polarized. The chapter goes on to talk about how the predominance of a divided government in the modern political era in the polarization that has occurred because of it has heightened politicalization of the judicial selection and Confirmation process. The author hypothesizes here that this could be an alternative to the idea that there is a rise of issue activism among party leads and how that's coupled with the expansion of individual rights. The author did conclude that using this hypothesis does nothing in figuring out whether or not presidents are more or less likely to use a litmus test when choosing nominees and unified versus divided government doesn't necessarily contribute to the likelihood of confirmation by the Senate.¹⁹

Context

When examining the ways in which the audience plays a role in how judges decide outcomes of cases, it is important to take into account the actual audience that appoints and nominates the judges, giving them the power they have in the federal court. In *To Advise and Consent: The Senate and Lower Federal Court Nominations, 1977-1998*, by Wendy Martinek,

¹⁸ Nancy Scherer, *Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process*, 136-141.

¹⁹ Nancy Scherer, *Scoring Points: Politicians, Activists, and the Lower Federal Court Appointment Process*, 182-183.

Mark Kemper, and Steven Van Winkle, there is this acknowledgment of the fact that senatorial influence play a big part into the audience of the courts and the federal judicial appointment process. The authors look into whether or not race and gender affect the senatorial nominations made for federal court judges.²⁰ After examining this hypothesis and seeing if this was something that affects the senatorial nomination, the authors found that while it is less likely presidents will confirm federal nominees for the courts later on in their term, there is clear evidence that race and gender become a factor in the district court nominations and appointments, since they found that the these courts had more weight later on in the president's term in office. There was this cycle that the authors had found as well that shows the, “ model of competing risks: confirmation, withdrawal of the nomination, return of the nomination to the president.”²¹ These risks that are shown in this model can help identify just how the audience of the senate and the president can affect nominations, and the racial or gender bias that can come into play at different levels of the court.

Audiences and judges are complex in the sense that there are different areas where audiences have a great deal of influence over how judges decide cases and how they may use their judicial authority based on what they believe their audiences will respond to. In *Judges and Their Audiences: a Perspective on Judicial Behavior*, Lawrence Baum dives into great detail within chapter 2, where three headings, “people and their audiences”, “judicial self presentations”, and “audiences and judicial behavior”. These three headings dive deeper into the ways in which a judge will be influenced by an audience to decide a certain way, to try certain cases, and just how the audiences can affect a person and the way they wish to be perceived to

²⁰ Wendy Martinek, Mark Kemper, Steven Van Winkle, *To Advise and Consent: The Senate and Lower Federal Court Nominations*, 338.

²¹Wendy Martinek, Mark Kemper, Steven Van Winkle, *To Advise and Consent: The Senate and Lower Federal Court Nominations*, 352.

the public. By looking into the audiences present in a judicial matter, there is a clear link to the audience effect and the way that does impact the racial bias present in federal cases, as well as racial disparities in sentencing outcomes. Under the section about “People and their Audiences”, there is a conversation about how self esteem can play a massive role in how someone decides to do something, and how this carries over into judicial authority and trying cases for federal judges.²² Baum goes on to talk about how books or articles that talk about judicial behavior but skip over self-presentation or self-esteem are missing key elements to how judges tend to behave.²³ Baum gives the example of public officials, where he discusses how, “To achieve their positions, most officials had to work hard to appeal to some combination of higher officials, politicians, and voters. Once in office, they continue to engage in impression management.”²⁴ Public officials need the support from voters in order to win and then once elected have to continue maintaining the self-presentation in order to be reelected. The same sort of principles apply to judges and their self-presentation. When talking about judges in terms of audience and context, Baum blatantly states that, “judges are social isolates. The world around them influences their choice on the bench, but only because they have strategic reasons to take that world into account. Strategic considerations aside, judges do not care what people think of them.”²⁵ Judges will use self-presentation in different ways, whether it is through the questions asked in oral arguments, in decisions, or written opinions.²⁶

When examining the ways in which the context of local and state audiences and how this links to sentencing guidelines and ideology of federal judges, there is commonality under what influences the judges to decide in a certain way and how does this prove that there are racial

²² Baum, Lawrence. *Judges and Their Audiences: a Perspective on Judicial Behavior*, 50.

²³ Baum, Lawrence. *Judges and Their Audiences: a Perspective on Judicial Behavior*, 53-54.

²⁴ Baum, Lawrence. *Judges and Their Audiences: a Perspective on Judicial Behavior*, 55.

²⁵ Baum, Lawrence. *Judges and Their Audiences: a Perspective on Judicial Behavior*, 57.

²⁶ Baum, Lawrence. *Judges and Their Audiences: a Perspective on Judicial Behavior*, 60-61.

disparities present in their decisions. Orley Ashenfelter, Theodore Eisenberg, and Stewart Schwab in *Politics and the Judiciary: The Influence of Judicial Background on Case Outcomes* assess the ideological biases of federal trial judges fairly by using the fact that the cases are normally assigned randomly to judges to their advantage. They go into how the judicial background on outcomes of cases in hopes of finding ideological influences in the published opinions of cases.²⁷ They concluded that unlike political science research on this topic of ideology, there is no strong evidence that the trial judges are not the deciding factor in the outcomes of cases, it's the law itself. In most cases the judges treat cases as one and leave the political cases to the side.²⁸

In *The Role of Discretion in the Criminal Justice System* by Daniel P. Kessler and Anne Morrison Piehl, the authors investigated the hypothesis that social norms in the criminal justice system influence the sentences received for certain crimes regardless of if the sentences are determinate sentencing laws or indeterminate sentencing laws.²⁹ This article then concluded that there may not actually be discretion agreed upon in the role that the determinate and indeterminate sentencing laws play, and therefore it may be due to the ever changing social norms.³⁰

In Brian D. Johnson's *Racial and Ethnic Disparities in Sentencing Departures Across Modes of Conviction*, This article aimed to study the differences in courtroom actors and how that affects the sentencing process. This study then conducted research on the downward and upward departures that come with sentencing, using standard sentencing as the control and then viewed age, race, gender, and other independent variables in terms of courtroom actors. They

²⁷ Orley Ashenfelter, Theodore Eisenberg, and Stewart Schwab, *POLITICS AND THE JUDICIARY: THE INFLUENCE OF JUDICIAL BACKGROUND ON CASE OUTCOMES*, 258.

²⁸ Orley Ashenfelter, Theodore Eisenberg, and Stewart Schwab, *POLITICS AND THE JUDICIARY: THE INFLUENCE OF JUDICIAL BACKGROUND ON CASE OUTCOMES*, 281.

²⁹ Daniel P. Kessler and Anne Morrison Piehl, *The Role of Discretion in the Criminal Justice System*, 4-5.

³⁰ Daniel P. Kessler and Anne Morrison Piehl, *The Role of Discretion in the Criminal Justice System*, 26.

concluded that departures from sentencing guidelines are important for extralegal sentencing disparity.

Sentencing and Ideology

When relating the senatorial courtesy influence or presidential nomination process of federal judges to this proven theory of racial disparities in federal criminal decisions, it is important to note the racial disparities already studied and how they prove that there is the presence of this in the federal criminal court systems. From the literature, we can see that there is not only disparities present in the minimum sentencing lengths, but it is also apparent in the ways in which prosecutors, along with other courtroom actors, choose to act in terms of the lengths and degrees of punishments depending on the race of the defendant. In *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, the authors conclude from their research surrounding the sentences of white versus Black males, that while the percentage of disparities between Black and white males has not grown, that percentage has stayed persistent and consistent for a concerning amount of time.³¹ This goes to show that there is this stability within the criminal justice system of racial discrimination within decision making, as well as in the outcomes of the cases. The cases have varying outcomes that contain but the reasoning overall behind how judges can impose these racially biased sentences on people of color is what is in question, especially when federal commissions are put in place to prohibit this from occurring.

The United States Sentencing Commission (USSC) is designed to, “study and develop sentencing policies for the federal courts. The Commission serves as an information resource for Congress, the executive, the courts and the public on matters relating to federal crime and

³¹ *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, SONJA B. STARR and M. MARIT REHAVI, The Yale Law Journal Company, Inc.

sentencing as well.”³². The USSC has goals, according to Paul Hofer, Kevin Blackwell, and Barry Ruback, where these goals are changing as time goes on, but nevertheless there are goals of the Commission. These goals are, “‘truth in sentencing’, control of prison populations, and reduction of unwarranted disparity.”³³ These goals set are ones that, in theory, would be followed and respected by those interpreting and upholding the law. Yet, Hofer et. al. suggest that judges and inter-judge sentencing are the reason for there being this disparity in the first place, regardless of the USSC. Because of the findings under the “natural experiment” and how the random assignment of cases to judges works post Sentencing Reform Act of 1984, there is reason to believe that there hypothetically is less unwarranted disparity in sentences, yet this is not the case. Hofer et. al. concluded that this natural experiment has reduced inter-judge sentencing disparities, but the fact that they are still able to stray away from the sentencing guidelines without much investigation as to why, is what still leaves room for the disparities to slip through the cracks and affect the outcomes of various cases.³⁴ Stephen Breyer, prior to his Supreme Court nomination and confirmation, wrote for Hofstra Law Review about the Sentencing Reform Act of 1984 and the implications of the compromises they rested on. *The Federal Sentencing Guidelines and Key Compromises Upon Which They Rest* started with Breyer giving the differences in state and federal sentencing, as well as the guideline differences. Breyer explains further in saying that, “Congress' second purpose [to the Act] was to reduce "unjustifiably wide" sentencing disparity. It relied upon statistical studies showing, for example, that in the Second Circuit, punishments for identical actual cases could range from three years to twenty years

³² “U.S. Sentencing Commission.” *USAGov*, <https://www.usa.gov/federal-agencies/u-s-sentencing-commission#:~:text=The%20U.S.%20Sentencing%20Commission%20studies,crime%20and%20sentencing%20as%20well.>

³³ *The Effect of Federal Sentencing Guidelines on Inter-Judge Sentencing Disparity*, Paul Hofer, Kevin Blackwell, Barry Ruback, Northwestern Pritzker School of Law, 239.

³⁴ *The Effect of Federal Sentencing Guidelines on Inter-Judge Sentencing Disparity*, Paul Hofer, Kevin Blackwell, Barry Ruback, Northwestern Pritzker School of Law, 241-242.

imprisonment ”.³⁵ Breyer concludes that these compromises made within the Sentencing Reform Act were to, “reconcile politically-based differences among Commissioners,” but also the compromises reflect, “the efforts of a multi-member governmental body to deal with institutionally-related considerations of administration and management, with the competing principles of fairness and efficiency, and with disparate aims and tendencies now found within the criminal justice system,”.³⁶ Where these compromises were made, became spaces for judges to gain leeway in the decisions they make, creating another space for forms of disparity.

David Mustard, in *Racial, Ethnic, and Gender Disparities In Sentencing: Evidence From The U.S. Federal Courts*, supports the above claim that there is a disparity present and the sentencing guidelines present are not substantial in stopping it, but he takes this one step further. He talks about how race, gender, socioeconomic status, and education levels all play into the disparities present within the criminal justice system. He concluded that there was solid evidence showing that Blacks and males are more likely to be sentenced harsher than whites and females are, as well as more disparities in less educated and non-citizens versus highly educated and U.S. citizens, where depending on the category the sentences and punishments are worsened or lessened for the crime committed. This is continued to be backed up by Celesta Albonetti in *Sentencing Under the Federal Sentencing Guidelines: Effects of Defendant Characteristics, Guilty Pleas, and Departures on Sentence Outcomes for Drug Offenses, 1991*. Albonetti had discussed the differences in defendants as well, such as race, gender, education level and citizenship, but she used these demographics in the context of post Sentencing Reform Act and how these demographics were affected in cases dealing with drug offenses. She had concluded as

³⁵ *The Federal Sentencing Guidelines and Key Compromises Upon Which They Rest*, Stephen Breyer, Hofstra Law Review, 4-5.

³⁶ *The Federal Sentencing Guidelines and Key Compromises Upon Which They Rest*, Stephen Breyer, Hofstra Law Review, 31.

well that there are disparities present among these drug offense cases and that there is, in fact, a link to the characteristics of the defendant and the outcomes, something that is supposed to be legally irrelevant in a criminal case according to the Sentencing Commission.

Similarly, in *Racial Disparity in the Wake of the Booker/Fanfan Decision*, authors Jeffery Ulmer, Michael Light, and John Kramer looked into the ways in which racial disparities in criminal sentencing have been impacted post *Booker v. United States* and more specifically in response to the post PROTECT era, which was an act enacted by Congress in 2003 to help protect children and any offenses in which they are the victim and ended in 2004. This act affected the advisory that went into place from *Booker v. United States*, where there were issues with more racial disparities present in criminal sentences due to the then lack of mandatory guideline following. When *Booker* was decided, there was an opinion written by Justice Breyer that said the Sentencing Reform Act, and the USSC's Guidelines, should no longer be taken as mandatory but more so in the advisory context. Ulmer et. al. discussed how racial disparities in criminal sentencing outcomes have increased post *Booker* and how they more specifically have increased in relation to the PROTECT act era.³⁷ They argued that while there was evidence in the United States Sentencing Commission's report analysis on racial disparities findings, there was no methodological link to the ways in which these racial disparities were occurring. The authors argued that their research gives the reasoning behind why there was still this racial bias present in decision making that was found in the 2010 report's analysis, where they have been able to successfully link it to other major issues like the post *Booker* and even post *Gall v. United States*. *Gall* was a case that came after *Booker*, where the Court sided with *Booker* and upheld that as long as the court deciding gives rational reasoning behind the decision they made, they can make

³⁷ *Racial Disparity in the Wake of the Booker/Fanfan Decision*, Jeffery Ulmer, Michael Light, John Kramer, The Pennsylvania State University, 1079.

any decision they so choose, which in turn opened up the guidelines further for more racial disparity to occur, quote rational reasoning. They concluded that not only was there racial disparities present, but that, “Black male imprisonment odds do increase significantly post-Gall. This post-Gall increase in Black males’ odds of imprisonment plays a big part in driving the USSC’s findings of greater Black male sentence-length disparity.”³⁸ It is also important to point out that the authors go on to conclude as well that, “We have in fact shown that post-Gall increases in Black male disparity are specific to the imprisonment decision and not to sentence-lengths.”³⁹

When discussing disparities and more specifically differences in sentencing between African American and white people. In *A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies*, Ojmarrh Mitchell dives into this more specifically, where they find three different things:

“Further, I hypothesize that unwarranted racial disparity is most pronounced in cases and structural contexts where minorities pose the greatest symbolic or political threat... that unwarranted racial disparity is smallest in studies that carefully control for factors related to both race and sentence severity... that the size of unwarranted racial disparity is larger in those sentencing contexts where sentencing discretion is greatest.”⁴⁰

When looking at these hypotheses, there is clearly an understanding of the fact that there are disparities present in criminal sentences, but Mitchell takes it one step further in hypothesizing about the disparities in areas of study that tend to have smaller or larger areas of sentencing discretion. Mitchell takes these hypotheses about the racial disparities and goes on to show how if there is more discretion present, then there will be a larger rate of racial bias and disparity. But also, taking it and excluding sentencing of death penalty, and also excluding any other

³⁸ *Racial Disparity in the Wake of the Booker/Fanfan Decision*, Jeffery Ulmer, Michael Light, John Kramer, The Pennsylvania State University, 1105.

³⁹ *Racial Disparity in the Wake of the Booker/Fanfan Decision*, Jeffery Ulmer, Michael Light, John Kramer, The Pennsylvania State University, 1105.

⁴⁰ *A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies*, Ojmarrh Mitchell, Journal of Quantitative Criminology, 442.

demographic other than African Americans and white people. By narrowing the research to these controlled groups, this article is more focused on a niche argument, and therefore the research and conclusion becomes more centered on the fact that there is a connection between more discretion and larger disparities in the sentencing of African Americans than there is in whites. Mitchell concludes that the theory of no discrimination is, in fact, not true. They state that, “This finding suggests that pooling cases across jurisdictions introduces bias into estimates of unwarranted racial disparity”⁴¹ which in turn shows that there is the racial disparity present in the areas that the author argued.

Carlos Berdejó in *Criminalizing Race: Racial Disparities in Plea-Bargaining* brings light to the side of plea bargaining and how that affects different demographics in terms of the racial disparities present. They argue that there are shocking disparities early on in the process by looking at specific data sets from Wisconsin's Circuit Court system. The article also sheds light on the underlying dynamics behind the racial disparities in plea-bargaining deals, where there might be certain deals cut for white people, but black people would not have those same deals cut.⁴² The article concludes that if there was low information in a case that has been presented for a plea-bargaining deal, race will be used as a proxy for determining if the defendant will commit the crime again. This proves that in the early stages and in the process of plea bargaining as a whole, there is racial disparities involved in the decision. There is also evidence found that Berdejó concludes that white felony charges will more likely than not be knocked down to a misdemeanor, whereas if it were a black person, this would most likely not happen for them, even if the circumstances were the same in both cases.⁴³ In addition to this, there is evidence that

⁴¹ *A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies*, Ojmarrh Mitchell, *Journal of Quantitative Criminology*, 463.

⁴² *Criminalizing Race: Racial Disparities in Plea-Bargaining*, Carlos Berdejó, *Loyola Law School (Boston College Law Review)*, 1190-1191.

⁴³ *Criminalizing Race: Racial Disparities in Plea-Bargaining*, Carlos Berdejó, *Loyola Law School (Boston College Law Review)*, 1240.

Berdej3 also finds that shows white defendants with initial misdemeanor charges will more likely than not get convicted of the crime without incarceration times, or even be convicted at all. Whereas in black defendants charged initially with a misdemeanor will most likely never receive the same lesser convictions as their white defendant counterparts.⁴⁴ Sentencing and ideology have much to play into proving that there is the racial bias present. And while there is racial disparities present in sentencing and this shows that ideology plays a factor into the decision making of federal judges, how and why the racial bias is present to begin with is another question to uncover.

Sonja B. Starr and M. Marit Rehavi in *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker* open the transition from the question of is the racial bias present to a why are there even racial disparities within criminal sentencings. This article highlights some findings showing that while a black-white gap appears to be introduced in the criminal justice process, it appears to stem largely from prosecutor choices, especially decisions to charge defendants with "mandatory minimum" offenses.⁴⁵ It also talks about how the research seeks to close a surprisingly wide gap that separates two bodies of scholarship: the theoretical and qualitative literature on how the criminal justice system functions and the empirical research on sentencing disparities. They conclude that their research suggests there is a huge social issue in the criminal justice system with black men, where they found that the degree to which the sentences diverge in black men versus white has not grown, but it is a consistent and persistent percentage.⁴⁶ They acknowledge that the remedy for this issue is not to get rid of prosecutorial discretion since that will become virtually impossible. And there is no

⁴⁴ *Criminalizing Race: Racial Disparities in Plea-Bargaining*, Carlos Berdej3, Loyola Law School (Boston College Law Review), 1240.

⁴⁵ SONJA B. STARR and M. MARIT REHAVI, *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, 5.

⁴⁶ SONJA B. STARR and M. MARIT REHAVI, *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, 78-80.

way to remove all discretion from the criminal justice system because that would end up creating a system that would allow for “unwarranted uniformity”.⁴⁷

M.Marit Rehavi and Sonja B. Starr in a different article, *Racial Disparity in Federal Criminal Sentences*, where they discuss similar issues, but more on the topic of federal criminal cases and how those sentences have their own disparities. The issue becomes how and why are the disparities happening at the federal level from arrest to conviction. Starr and Rehavi study and research arrests to sentences of federal criminal cases and determine from there whether or not there is racial disparity in the journey following the defendant throughout the federal criminal sentencing process.⁴⁸ This study found that the path to and the actual sentences were full of racial disparity and there was even more substantial evidence pointing to the punishments on the prosecution side and the disparities in that side of the justice system.⁴⁹ The way they chose to charge these cases also showed how the disparities exist in that process as well after the arrest. This research highlights the start of where we can see the “why” in federal judicial decision making and the racial bias that gets attached to it.

Conservative Ideology and Race

When examining the “why” in racial disparities within federal criminal sentencing, a lot can be pinpointed from the post *Booker v. United States* era. In *Free at Last? Judicial Discretion and Racial Disparities in Federal Sentencing*, Crystal Yang researched the “why” in why are there racial disparities in federal courts. She argued that, “*Booker* significantly increased racial disparities after controlling for extensive offender and crime characteristics.”⁵⁰ Yang had researched how the effects of *Booker* impacted the judges and their disparities at the federal court

⁴⁷ SONJA B. STARR and M. MARIT REHAVI, *Mandatory Sentencing and Racial Disparity: Assessing the Role of Prosecutors and the Effects of Booker*, 79..

⁴⁸ M.Marit Rehavi and Sonja B. Starr, *Racial Disparity in Federal Criminal Sentences*, 1321.

⁴⁹ M.Marit Rehavi and Sonja B. Starr, *Racial Disparity in Federal Criminal Sentences*, 1349.

⁵⁰ Crystal Yang, *Free at Last? Judicial Discretion and Racial Disparities in Federal Sentencing*, 77.

level, where not only was her argument that post *Booker* judge appointees more likely to be racially biased in their decision making, but also her studies had found that, “judges with experience sentencing under the guidelines may have become relatively acculturated to the guidelines regime compared with newer judges who began their tenure in a post-Booker regime.”⁵¹ Yang found in her research that other characteristics attached to a black defendant post *Booker* would have also disproportionately affected them more than white defendants since there was more of a chance that a judge appointed after *Booker* would have more racial disparity present in their decisions.⁵² Yang concluded that, “recent increases in racial disparities in sentencing were larger among judges appointed after Booker, which is consistent with a story in which judges who are experienced with sentencing under rule-based sentencing continued to follow the guidelines even when given more discretion.”⁵³ She goes on, however, to disclaim, that, “these findings should, however, be interpreted cautiously, as they apply predominantly to new Bush appointees.”, which further suggests that there is more racial bias present in federal judges appointed by Republican Senators and Presidents.

Matthew Clair and Alix Winter expand upon the question of why are there these disparities present in judicial decision making at the federal level in *How Judges Think About Racial Disparities: Situational Decision-Making in the Criminal Justice System*. This article aimed to consider judges’ subjective understandings of racial disparity and the strategies they use in decision-making to account for racial disparities. Clair and Winter had argued that, “by elaborating the interpretive constraints that judges face along the course of the court process, the situational approach to decision making enhances explanations of the reproduction of racial

⁵¹ Crystal Yang, *Free at Last? Judicial Discretion and Racial Disparities in Federal Sentencing*, 78.

⁵² Crystal Yang, *Free at Last? Judicial Discretion and Racial Disparities in Federal Sentencing*, 99.

⁵³ Crystal Yang, *Free at Last? Judicial Discretion and Racial Disparities in Federal Sentencing*, 108.

disparities in the criminal justice system.”.⁵⁴ The authors researched how interpretive constraints have actually largely impacted marginalized groups, such as Black and Latino people. They concluded that, “We argue that the non interventionist decision-making of most judges in our sample at each stage of trial helps to explain the persistence of racial disparities in the criminal justice system despite well intentioned judging.”.⁵⁵ While they do conclude this, they note that limitations to the research were that it is restrictive data to the Northeast State Court and that they did not seek to study representativeness, they sought to study a diverse group of judges in a smaller area.⁵⁶ This article has shown that there are racial biases present even within a diverse group of judges, and how that bias can also affect the outcomes of criminal cases.

Chester Britt continues the conversation of just how and why there are racial disparities present in the decision making process. In *Social Context and Racial Disparities in Punishment Decisions*, Britt looks into how there are often disparities in criminal sentence outcomes due to social contexts inside the court system. Britt proposes four different hypotheses behind the reason as to why there is a lack of evidence linking social context to racial disparities in punishment decisions, urbanization, racial threat, economic threat, and crime control.⁵⁷ Britt had researched this and found within these four areas, there are actually broader causes and concerns for the racial disparities linked to the social context of the courts. Britt concludes that there is a more fundamental problem in the theoretical linkage between social contexts and issues and the racial disparities present in individual punishment decisions.⁵⁸ While there can be a direct linkage

⁵⁴ Matthew Clair and Alix Winter, *How Judges Think About Racial Disparities: Situational Decision-Making in the Criminal Justice System*, 336.

⁵⁵ Matthew Clair and Alix Winter, *How Judges Think About Racial Disparities: Situational Decision-Making in the Criminal Justice System*, 353.

⁵⁶ Matthew Clair and Alix Winter, *How Judges Think About Racial Disparities: Situational Decision-Making in the Criminal Justice System*, 353.

⁵⁷ Chester Britt, *Social Context and Racial Disparities in Punishment Decisions*, 707-708

⁵⁸ Chester Britt, *Social Context and Racial Disparities in Punishment Decisions*, 729.

between these two issues, there is often now necessarily that direct of one on the individual scale and Britt explains this in his conclusion on his findings.⁵⁹

Transitioning into just what makes the judges at the federal level decide cases based on their conservative ideology, which in turn creates racial bias, *Does Unconscious Racial Bias Affect Trial Judges?* is an example of research that narrows down on the judges and their tendencies themselves. Jeffrey Rachlinski, Sheri Lynn Johnson, Andrew Wistrich, and Chris Guthrie in this article argue that the judges hold these biases and that they do impact their decisions and how they use their judgment and they researched implicit bias among judges and how that would play into bias decision making in trial decisions.⁶⁰ This research honed in on the very subconscious nature of trial judges and examined just how implicit bias could be the cause or at least one of the causes for racial disparities in criminal sentencing outcomes at the trial level.⁶¹ The authors concluded after looking into just what makes the judges implicit bias go off in certain cases that there is this implicit bias in judges and even in some instances there is no effort to guard against the biases while judging a decision on a case. And they also concluded that on the other hand, most judges, even though they do have implicit biases, try hard to avoid letting them influence their judgments.⁶²

This conservative ideology and racial bias crosses over the branches into the legislative branch, where we see that Republicans in the Senate are also known for having issues with racial bias and race in general. Historically, we have seen that there has never been a good relationship with the GOP and African Americans, which in turn points to racial bias. In Joshua D.

⁵⁹ Chester Britt, *Social Context and Racial Disparities in Punishment Decisions*, 729.

⁶⁰ Jeffrey Rachlinski, Sheri Lynn Johnson, Andrew Wistrich, and Chris Guthrie, *Does Unconscious Racial Bias Affect Trial Judges?*, 1197.

⁶¹ Jeffrey Rachlinski, Sheri Lynn Johnson, Andrew Wistrich, and Chris Guthrie, *Does Unconscious Racial Bias Affect Trial Judges?*, 1204.

⁶² Jeffrey Rachlinski, Sheri Lynn Johnson, Andrew Wistrich, and Chris Guthrie, *Does Unconscious Racial Bias Affect Trial Judges?*, 1232.

Farrington's review of Timothy N. Thurber's "Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945-1974", we see that there is historical evidence dating back to the Civil Rights Act of 1964. Farrington talks about how the Republicans had a critical role in shaping legislation in the 1950s and 1960s for civil rights.⁶³ The major civil rights bills in this time period were heavily shaped by Republicans in Congress, which in turn left a barrier between the Republican Party and African Americans. Since the Republicans during this time pushed legislation to be more restrictive of African Americans rights, creating animosity between these two groups. There is also evidence that points towards African American Republicans being used as a prop by white Republicans.⁶⁴ Overall, we see evidence that there is racial bias against African Americans by the Republican party, which explains why that connection can be made in their senatorial influence over federal judicial appointments.

METHODS

I hypothesize that the ideological preferences of a state will determine what judges they will appoint and the ideology of that judge. I also take that one step further in saying that the more Republican the Senator that appoints the judge, the more likely the judge will be conservative and the more likely that there will be racial disparities in their decision-making. In order to flush out this hypothesis and demonstrate that this, is in fact, an issue plaguing the federal criminal justice system, there will be quantitative research conducted. Based on the data recently collected, and data from the 1984 Sentencing Reform Act implications, there is evidence that will exemplify the ways in which Senators and their ideology have an effect on the outcomes

⁶³ Joshua D. Farrington's, "Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974 by Timothy N. Thurber," *Register of the Kentucky Historical Society* 113, no. 1 (2015): pp. 143-144, <https://doi.org/10.1353/khs.2015.0009>.

⁶⁴ Joshua D. Farrington's, "Republicans and Race: The GOP's Frayed Relationship with African Americans, 1945–1974 by Timothy N. Thurber," *Register of the Kentucky Historical Society* 113, no. 1 (2015): pp. 143-144, <https://doi.org/10.1353/khs.2015.0009>.

of criminal sentences. Racial disparities show up more frequently than acknowledged at the federal judicial level, hence why there is reason for this study to uncover the extent to which it is present at the federal level in criminal sentencing outcomes.

The United States Sentencing Commission (USSC) has created an interactive database entitled the Interactive Data Analyzer which takes data from each state and from different crimes to show percentages of racial disparities.⁶⁵ For example, one could plug in the state of Alabama and the crime of drug trafficking and also plug in white and black males both of the same levels of education. This set of variables that one could plug in would then spit out pie charts that would give percentages of sentencing lengths, sentencing outcomes and whether or not their actual time sentenced was the time served. By plugging in race and gender, one can figure out disparities within sentencing outcomes state-by-state at the federal level dependent upon the Circuit Court. One can also compare, within this interactive data analyzer, different states and how they handle the same crimes between different races. In this example, one could plug in the state of Massachusetts and the state of Georgia at the Circuit Court Federal level, and be able to see the same crime among different races and genders and how those disparities differ state to state depending upon the typical partisan lines that those states fall on. State ideology then becomes the context and the audience for the appointments of federal judges. There are also different variables that can be toggled with in order to observe data on multiple fronts. For example, one can choose to see data for major crime types, sentencing outcomes, and sentencing guideline applications.

This study would prove that there are racial disparities present at the federal judicial level through the fact that the more right-leaning a state and its Senators are, the more racial bias

⁶⁵“Interactive Data Analyzer,” United States Sentencing Commission, October 27, 2022, <https://www.ussc.gov/research/interactive-data-analyzer>.

present within the judges they appoint. This is proven through the fact that the more left-leaning a state and the Senators are, the more likely they are to nominate and confirm lower court federal judges who would be less likely to criminally sentence someone different based on race. A limitation on this Interactive Data Analyzer is that there are year limitations, where the data only goes as far back as 2015. This is still crucial data since there is evidence of an age of polarization in the executive and legislative branches, which in turn trickled into the judicial branch, at the Supreme Court and lower federal levels.

The National Conference of State Legislatures has also published data about state partisanship in the State Partisan Composition map.⁶⁶ Within this map, one can control the years of two different variables: legislature and legislature plus governor control. In these two sections, there is the ability to see what states were dominated by what partisanship in the desired year of interest. This database goes back to 2002 where it shows every other year, since every other year there is an election. While this is a limitation to some extent, this is a plethora of data to be able to see how each state aligned politically for two decades now. This data will help interpret how states were leaning for the last two decades and help to determine if this impacted the appointments of federal judges during those twenty years. Within the data, there are specific breakdowns of what the legislature looks like for any given year, as well as the physical numbers of each state and their breakdowns. The database also goes one step further in giving composition tables for state and legislative partisan composition for every election year since 2002. These charts then bring up the specific numbers from each state and how that then allowed them to lean left or right in each election.

⁶⁶Ben Williams John Mahoney, "State Partisan Composition," The National Conference of State Legislatures, accessed November 14, 2022, <https://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>.

The final resource that this study will use to prove the hypothesis is State Ideology Data formulated together by Richard C. Fording. This site has multiple compiled links to other sources to help explain state citizen and government ideology measures.⁶⁷ Within these resources there is access gained to areas like updated citizen and government measures of ideology, as well as state policy moods and recreating documentation of ideologies in governments. These different sources lead to data that will help understand the state tendencies politically and also understand citizens and their ideological preferences based upon the states they are living in. The data present within this site will help to uncover the local audiences present state to state and allow this study to connect full circle, where the citizens play a role in who is getting elected.

The methods to my research will be conducted quantitatively by closely examining the years after the Sentencing Reform Act of 1984 and into the 2000's, where not only is there connection to recent racial disparities in sentencing outcomes, but there is a contextual audience that comes into play. This audience will not only affect the Senators that are elected, but also the state ideological preferences, where these Senators are often given opportunities to nominate the federal judges for their state. These nominations will ultimately have great implications for who will serve as a judge at the federal level and how those decisions will affect certain races differently, depending upon the judges ideological preferences.

OVERVIEW OF CHAPTERS

In the upcoming chapters, there will be an in depth, quantitative analysis of the data presented in the methods section above. The databases available for the research needed will be presented and manipulated in a manner that will help discuss the study present. While there can

⁶⁷Richard C Fording, "State Ideology Data," State ideology data, February 7, 2020, <https://rcfording.com/state-ideology-data/>.

be limitations with each database and how they can help or prohibit the extent of the research that can be done on this hypothesis. The hypothesis present is that the more Republican a Senator is, it will in turn have an effect on the conservative ideology of the federal judges appointed in the Senator's state. In turn, there will be more racial disparity present within sentencing outcomes of cases that those conservative judges decide on. This hypothesis will be given spotlight through the different sources like the United States Sentencing Commission Interactive Data Analyzer and Richard Fording's Ideological Scoring Algorithm through the data they present on race and crime type, as well as state breakdowns of ideology and partisan preferences. Each chapter will be: Introduction to Data, Data Presentation of Each State, State Data Comparison with a Limitations sub-section, and a Conclusion. In these chapters, there will be a full examination of the data for each of the six states studied, as well as an average of the data in comparison of conservative and liberal states. This, in turn, will help to exemplify the hypothesis and demonstrate how there is racial disparity present more often in conservative lower court federal judges and that is in part due to the Republican Senators who nominated them.

INTRODUCTION TO DATA

After collecting data on six states, there has been data collected on a multitude of levels, where there is consideration for region, ideological score, partisan alignment, number of courts and the number of judges. When looking at the number of federal district courts within each state, this predicts the sheer amount of cases coming out of that state at the federal criminal level. The data is also examined through the number of judges within each federal district court for each state. This was crucial to look at because the number of judges could indicate the amount of racial disparity coming into those courts through criminal cases. The states chosen for this study

are New York, Massachusetts, Missouri, Alabama, Texas, and Arizona. These states were chosen because of their regional variance and the number of courts and judges. In each state, there was also the consideration of the senator's partisan affiliation, and the senators serving their respective terms during the time period of 2015-2021.

Table 1 shows the breakdown of every court and the number of judges within each federal district court present in the states that were selected for the study. This table lays out the framework for how the states can be categorized and what each factor was accounted for. When picking each state, states were selected to pick up variance in different areas, for example the number of judges, its caseload, region, ideological score, and partisanship. Therefore, it was necessary that some states had more than one federal district court, but then also necessary to have a few states in the mix who only have one court. Even though it may seem like the two states with one court each are an outlier in the study, the states still produced sufficient enough data because they both have a significant number of judges serving in that one court.

The ideological score of each state gives great insight into how liberal or conservative a state tends to lean. Averaged out over the time period studied, the scores reflect the ideology of the government. The lower the score is, the more the state leans toward being conservative. The higher the score is, the closer the state is to leaning liberal. The scale is made up of a multitude of factors and is on a one hundred point scale. This score can help to back up the partisanship affiliation each state gravitates toward

Table 1: Considerations in Each State

State	Region	Number of District Courts	Number of Judges in Each Court	Partisanship	Ideological Score ⁶⁸
New York	Northeast	4 courts	Northern has 5 judges, Southern has 28 judges, Eastern has 15 judges, Western has 4 judges	Democrat	72.14
Massachusetts	Northeast	1 courts	13 judges	Democrat	78.055
Missouri	Midwest	2 courts	Eastern has 9 judges, Western has 7 judges	Republican	44.66
Alabama	South	3 courts	Northern has 8 judges, Middle has 3 judges, Southern has 3 judges	Republican	36. 595
Texas	South	4 courts	Northern has 12 judges, Southern has 19 judges, Eastern has 8 judges, Western has 13 judges	Republican	41.725
Arizona	Southwest	1 courts	13 judges	Swing State	43.38

⁶⁸“State Ideology Data,” Richard C. Fording, November 22, 2022, <https://rcfording.com/state-ideology-data/>.

It is crucial, when looking at the states, to examine them individually in order to understand how every state may or may not validate the hypothesized question being asked. To start, New York is a liberal, or Democratic, state, where during the time period of 2015-2021, both senators of the state during this time period, Senator Charles Schumer and Senator Kirsten Gillibrand, did not change and they are both Democrats.⁶⁹ In Massachusetts, which is also a Democratic state, both senators, Senator Elizabeth Warren and Senator Edward Markey, have been the same for the entirety of this time period and they are both of the Democratic party.⁷⁰

When comparing these Democratic states to other states chosen, Missouri is an example of the opposite. Missouri is a Republican, conservative, state during the period of study. One senator, Roy Blunt, has been a senator for Missouri during the entire time frame, and is a member of the GOP, or the Republican party. The previous other senator, Senator Claire McCaskill, was a Democratic senator that served until she was beat by Republican Josh Hawley in 2019. Since then, Hawley has been the second senator in Missouri, making both of the current senators Republican, matching the typical partisanship of the state.⁷¹ Alabama is a Republican state, always leaning red. Its senators during the time period of 2015-2021 are Senator Richard Shelby who served the entire time frame, a member of the GOP. But the second senatorial seat has changed around a bit, starting with Jeff Sessions until 2017, then moving to Luther Strange until 2018, then it became Doug Jones until 2021, but then Tommy Tuberville was elected in 2021. All of the senators that shifted around and served as the second senator of Alabama along with Shelby were members of the Republican party, except for Doug Jones who is a member of

⁶⁹“Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

⁷⁰ “Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

⁷¹ “Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

the Democratic party.⁷² Texas is also another strong conservative Republican state, where both of their senators during this time period, Senator Ted Cruz and Senator John Cornyn are members of the Republican party, otherwise known as the GOP.⁷³

Arizona becomes the most mixed of the states picked, where they can be considered a “swing state”. Arizona has the tendency to lean more Republican, but there are elections that have shown Arizona leaning more liberal than conservative. In terms of who served during the time period of 2015-2021, it becomes a bit more difficult. Senator John McCain (Republican) served until 2018, where Senator Martha McSally (Republican) replaced him from 2019-2020. Senator Mark Kelly (Democrat) then beat McSally and has been the serving senator since 2020. As for the other senator of Arizona, Jeff Flake (Republican) served until 2019 and then Senator Kyrsten Sinema (Democrat) became senator in 2019 and is currently serving as senator of Arizona.⁷⁴

After examining the states individually and the partisanship present in the Senate during the time period of 2015-2021, it is also necessary to touch upon the likelihood and importance of senatorial courtesy and the influence it may have had over the appointment of federal judges to the district courts in these specified states. We would anticipate the confirmation of judges where senators are in the same political party as the president would create ideological congruence among appointments. But for states that confirm judges where the senators and the president are of different partisan affiliations, we can anticipate ideological division in the outcome, and may end up with more moderate judges serving at the federal district level. It is also critical to note that during this time frame, the Obama Administration was ending and in 2017 Trump had been

⁷² “Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

⁷³ “Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

⁷⁴ “Members of the U.S. Congress | Congress.gov | Library of Congress,” Congress.gov, accessed February 21, 2023, <https://www.congress.gov/members>.

sworn into office for his presidential term in office. Considering that in this time frame there were only two years of the Obama presidency and administration left, there is evidence that shows that ideologically aligned senators may have gotten to shed more influence on the judicial appointments during the years of 2017-2020, when President Trump took office and his administration took over. This gave more influence to the GOP (Republican) senators that were serving their terms overlapping with the Trump presidency, also a member of the GOP. The federal judicial appointments made during both of these presidents had an impact on what judges were serving at the federal level, and then directly determined the outcome of cases coming through those courts.

This, in turn, can have implications on the outcomes of the cases, but also how fairly and justly they are decided upon. During this time period, it is highly likely that there will be ideologically conservative and liberal individuals serving in the Senate, as well as conservative and liberal judges serving judicial terms at the federal district court level. More conservative judges at the federal level during the time frame of 2015-2021 most likely had been appointed by the Trump administration with influence from senators in those more conservative states. The data tested if this senatorial influence over judicial appointments was supportive in some ways of the hypothesis that the more Republican the senator the more likely the judge's decision outcomes will have more racial disparities. But in some ways, the hypothesis was disproved by the actions taken at the federal district level in more Democratic states.

The data gathered in the study was collected through the United States Sentencing Commission's Interactive Data Analyzer. This Interactive Data Analyzer covered the time period chosen for this study, from the years 2015-2021. Within the Interactive Data Analyzer, there are features of the program that allow one to compare major crime types, sentence outcomes,

guideline applications, and methodology. For this study, the main focus was to concentrate on the sentencing outcomes of the different states chosen. In this study, there is a need to look for racial disparities in sentencing outcomes data on the United States Sentencing Commission. To test the racial disparities present at the federal district court level, I chose to compare white, black, and Hispanic males in general crime within the states, but also in specific crime types. I chose to examine murder, arson, and fraud/theft/embezzlement, and these were chosen because they not only included the overall crime caseload in each state, but they gave diversity in specific crime types, spanning across multiple types of offenses. This would allow us to see more minor felonies to more serious felonies and how racial disparity was affected at each level. Within each of these sections, there is an option to pick the crime type, but also the state, and the gender and race one desires to look at. For example, one could look at the data for white females in Tennessee that were convicted and sentenced for drug trafficking in the year 2017. Now while this example is unrelated to the actual study I conducted, it is a good example of just how broad and narrow the information can be manipulated to be.

Different factors were used in the data collected for the study on racial disparities in federal sentencing outcomes. There is clear evidence presented in the data for how race and gender can affect the sentence length outcomes. Every one of the six states were examined on the basis of race on top of the different types of crimes. This was crucial to examine since it broke down every variable that would appear from the hypothesis in the data, where every race was accounted for as well as examining the general amount of sentencing data coming from that race, state, and year. The demographics and gender for the data collection were intentionally picked in order to control the gender of the population studied within each state, but then also to examine the differences within each race in each state.

Each state has its own demographics and the percentages of white, black and Hispanic males are different in each state. This was a factor also taken into account when pulling data since there might not be the demographic percentages in one state that are very prominent in another state. New York's demographic split is 55.2% white, 14.8% black, and 19.5% Hispanic. Massachusetts' demographic split is 69.6% white, 7% black, 12.6% Hispanic. Missouri's demographic split is 77% white, 11.4% black, and 4.9% Hispanic. Alabama's demographic split is 64.1% white, 25.8% black, 5.3% Hispanic. Texas's demographic split is 50.1% white, 12.2% black, 39.3% Hispanic. Arizona's demographic split is 60.4% white, 4.7% black, and 30.7% Hispanic. These percentages can help make sense of the data because there are certain crime types that have no sufficient data for certain races. This would be logical since there is less of one demographic in that state than in other states. When there is also greater racial disparity in sentencing outcomes within states that already have low percentages of minorities, this can be a great indicator that there are high levels of implicit bias happening within the federal courts.

Other factors one could manipulate is the federal district court, the circuit court, the age range, citizenship status, and the level of education the defendant has. Additionally, one could manipulate the type of drug that one trafficked or possessed when looking at those specific crime types, as well as the primary guideline followed, and the career offender status and criminal history category.⁷⁵ Within all of this information, there are percentages that will appear after plugging in a certain combination of manipulative factors. Under the section of sentencing outcomes, there are subcategories that breakdown the sentencing outcomes more, such as, plea status, sentence type, sentence length, and fine/restitution amounts. Those percentages that were looked at in the study were under sentence length. They get broken down into distribution of

⁷⁵ "USSC Interactive Data Analyzer Dashboard," Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

sentence length among several time periods in months. When looking at these pie charts of the different distributions, there are percentages, but then also the amount of cases for that category.⁷⁶

As I examined each state, data was taken for every year the Interactive Data Analyzer accounts for, as well as the different crime types for each male race. When taking the data, the way I chose to compare the data between the different races in each state was to take the number of cases in the distribution of sentence length sections in the pie chart percentages.⁷⁷ The percentage taken from how many people were actually imprisoned from the amount sentenced was the comparison that gave the disparities racially in sentencing outcomes. This shows the amount of racial disparities in cases because once you compare the percentages between the male's races, there are differences in the percentages of people who actually served time versus just sentenced to it. The hypothesis was that the more Republican a state is, the more likely there is to see racial disparities in the sentencing outcomes at the federal district level.

In order to look at this, it is critical that one looks at the data percentages from the cases for each state for every year, with the variable of race in play. When race was ultimately going to become the deciding factor to determine disparities in federal criminal sentencing outcomes, there was also the need to be able to connect it back to the overall hypothesis that includes senatorial influence and courtesy. By connecting the racial disparities in federal criminal sentencing during the time period of the previously listed senators, there becomes an understanding that their influence over appointments may have had lasting impact. Each state's senators have the opportunity to influence the president's appointments of federal judges to their

⁷⁶“USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁷⁷ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

states district courts, and at one point in time, under one of the three presidencies that had taken place throughout the time period 2015-2021, those senators had exercised this senatorial courtesy right.

DATA PRESENTATION OF EACH STATE

The data presented for each state has been split into four tables per state by crime type. The crime types being general crime, murder, arson, and one category that encompasses fraud/theft/embezzlement. These categories all contain data percentages of the sentence length breakdowns by number of months. The breakdowns are of the sentencing outcomes for the demographics, categorized into up to twenty four months, twenty four to fifty nine months, sixty to one hundred and nineteen months, and lastly one hundred and twenty months and above. These are the breakdowns that the United States Sentencing Commission uses within the sentencing outcomes tab on the Interactive Data Analyzer Dashboard. These tables will show percentages for the crime type chosen and then also give an actual caseload breakdown as well. For example, it could say that for up to twenty four months there were 30% of the cases sentenced this way, eighteen actual cases. The percentages are enumerated in the tables for the breakdowns as well as split up by race for each crime type during the time period of 2015-2021.

Table 2: District Courts of New York General Crime Sentence Lengths 2015-2021⁷⁸

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (4,376)	57.3%	17.6%	13.2%	11.9%
Black males (5,502)	37.2%	21.2%	24.4%	17.1%
Hispanic males (6,431)	48%	20.7%	20.3%	10.9%

Table 3: District Courts of New York Murder Sentence Lengths 2015-2021⁷⁹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (42)	14.3%	11.9%	14.3%	59.5%
Black males (242)	5.8%	7%	17.4%	69.8%
Hispanic males (249)	4.8%	6.4%	23.3%	65.5%

Table 4: District Courts of New York Arson Sentence Lengths 2015-2021⁸⁰

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (14)	50%	21.4%	21.4%	7.1%
Black males (11)	54.4%	9.1%	27.3%	9.1%
Hispanic males (5)	20%	20%	40%	20%

⁷⁸ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁷⁹ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁸⁰ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 5: District Courts of New York Fraud/ Theft/ Embezzlement Sentence Lengths

2015-2021⁸¹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (1,240)	69.3%	19.8%	8.4%	2.6%
Black males (660)	70.5%	21.7%	6.4%	1.5%
Hispanic males (498)	73.9%	19.1%	6.4%	.6%

New York becomes interesting when it comes to analyzing the differences in sentencing lengths between races among males. First, the hypothesis says that an ideologically liberal, Democratic state with Democrat Senators and an ideological score of 72.14 out of 100 would likely produce less racial disparity in its sentencing outcomes of federal criminal cases. New York results indicate that the findings are mixed. When looking at Table 2, general crime in New York shows that white males are sentenced the most to up to twenty four months for their crimes at 57.3%, whereas black males are sentenced up to twenty four months only 37.2% of the time and Hispanic males 48% of the time. While the margin is only 10% of a difference between white males and Hispanic males, the margin of disparity between white males and black males is 20%. This shows great overall racial disparity in New York's sentencing outcomes for lesser sentences.

On the other side of sentencing lengths, New York's general crime percentage for over one hundred and twenty months also shows disparity, although less severe. White males were sentenced to over one hundred twenty months 11.9% of the time, and the disparity comes in

⁸¹ "USSC Interactive Data Analyzer Dashboard," Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

when black males were sentenced to this amount 17.1% of the time. The lowest of the percentages here, however, is the Hispanic male population in New York, where only 10.9% are sentenced to one hundred and twenty months or more.

Table 3, 4, and 5 all depict more specific sentencing length types for murder, arson, and then fraud/theft/embezzlement. In terms of the racial disparity present within these categories, murder is the main category that gives evidence to inequality. White males were given lesser sentence lengths than black and Hispanic males for murder charges in almost all of the categories. Arson and fraud/theft/embezzlement were a bit more mixed, where white males were actually sentenced more to higher sentence lengths. There is clear evidence that New York, within tables 4 and 5, is mixed in proving the hypothesis because while certain specific crime types like these two tables depict no racial disparity, other tables do. In tables 2 and 3 we see this prevalent racial disparity, and it is even more significant that it is seen in the general crime table since that encompasses all of the other tables' data and caseloads.

Overall, while New York can support the hypothesis, more generally it does not support the hypothesis that is being tested in the study. The Senators in place being Democrat may not have had an influence over some of the appointments of judges that are responsible for the caseload and the disparities in them. Even still, this disproves the hypothesis that the more Democratic/ liberal a state is, the less likely it is to see racial disparities in their sentencing outcomes. Where white males were being sentenced to less time, black and Hispanic males were being sentenced to more time.

Table 6: District Courts of Massachusetts General Crime Sentence Lengths 2015-2021⁸²

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (913)	54.35%	19.6%	15%	11.1%
Black males (551)	37.7%	26.9%	23%	12.3%
Hispanic males (1,378)	48.3%	26.2%	16.3%	9.2%

Table 7: District Courts of Massachusetts Murder Sentence Lengths 2015-2021⁸³

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (10)	10%	10%	40%	40%
Black males (0)	N/A	N/A	N/A	N/A
Hispanic males (22)	0%	0%	18.2%	81.8%

Table 8: District Courts of Massachusetts Arson Sentence Lengths 2015-2021⁸⁴

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (0)	N/A	N/A	N/A	N/A
Black males (0)	N/A	N/A	N/A	N/A
Hispanic males (0)	N/A	N/A	N/A	N/A

⁸² “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁸³ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁸⁴ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 9: District Courts of Massachusetts Fraud/ Theft/ Embezzlement Sentence Lengths

2015-2021⁸⁵

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (228)	70.2%	20.6%	8.3%	.9%
Black males (53)	58.5%	30.2%	7.5%	3.8%
Hispanic males (110)	65.5%	33.6%	0%	.9%

In Massachusetts, we see some racial disparity, mainly towards black males, but in some cases as well it is seen in Hispanic males too. Massachusetts is known to not have large percentages of minority populations like its liberal state neighbor New York does, even though their ideological score is higher at a 78.055 out of 100. This would explain why for arson sentence lengths in table 8 there is no sufficient data because there were simply not enough cases. In table 6, the general crime sentence lengths depict white males getting less time than black and Hispanic males for the sentence length of up to twenty four months.

White males in this column got up to twenty four months 54.35% of the time whereas black males got this sentence length 37% of the time and Hispanic males 48.3% of the time. This is a similar issue in the category of over one hundred and twenty months, where white males have a slight favoring over black males in terms of percentages. White males are sentenced generally in Massachusetts to over one hundred and twenty months 11.1% of the time whereas black males are sentenced to the same length 12.3% of the time. However, the lowest percentage is not white males, it is Hispanic males, who in Massachusetts are not as racially disparate as

⁸⁵ "USSC Interactive Data Analyzer Dashboard," Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

black males are. Hispanic males generally are sentenced to over one hundred and twenty months only 9.2% of the time. This proves the hypothesis more so than New York did since there is not much of a difference between the percentages at the higher sentence length percentages as there is for the lowest sentence length percentage.

When comparing this to the more specific crime type tables, table 8 is one to rule out since the United States Sentencing Commission had insufficient data for this crime type during this time period of years. But tables 7 and 9 give us more data. In terms of murder sentence lengths in table 7, it is a little bit harder to examine the possibility of there being disparities racially since there was no sufficient data on black males sentence lengths for murder. However, in terms of white males versus Hispanic males, there is indeed disparity in their sentencing outcomes. White males were sentenced 40% to sixty to one hundred and nineteen months and then also 40% to over one hundred and twenty months, but Hispanic males were sentenced to sixty to one hundred and nineteen months 18.2% of the time and then 81.8% of the time to over one hundred and twenty months. While there is a massive disparity in the over one hundred and twenty months category, there is also a disparity in the sixty to one hundred and nineteen months because white males were getting the lesser time more often than Hispanic males. A limitation to this category is the fact that there is no data for black males so there is no way of predicting what those percentage breakdowns would have looked like.

In terms of table 9, the fraud/ theft/ embezzlement category, there is more inclusive data than the other two specific crime type tables give us since there are three crimes bundled into one category. Within this category, we can see that 70.2% of white males get up to twenty four months, 58.5% of black males get the same sentence and Hispanic males get that sentence length 65.5% of the time. This does show that black males are less likely to get a lower sentence than

their white and Hispanic male counterparts. There is zero disparity present between white and Hispanic males in the over one hundred and twenty months because both demographics are sentenced to this length .9% of the time. Black males however, are sentenced to over one hundred and twenty months 3.8% of the time for fraud/ theft/ embezzlement. While this is a disparity between white, Hispanic and black males, it is not nearly as significant as other crime type categories are for Massachusetts federal district courts.

In general, Massachusetts seems to create a bit of disparity in its federal criminal sentencing, where there is evidence in the sentence length disparities that white males tend to have higher percentages in the lesser sentence length categories, but lower percentages in the greater sentence length categories. In terms of black males, for the data available for this race in general crime and fraud/ theft/ embezzlement, there is clear data that there is implicit racial bias towards them more so than even the other minority, Hispanic males. Overall, Massachusetts tends to disprove the hypothesis that the more liberal a state is, the less likely there will be racial disparities in the sentencing outcomes of their federal district courts. The one court that Massachusetts has tends to show that even with the smaller caseload, there is still racial disparity slightly present.

Table 10: District Courts of Missouri General Crime Sentence Lengths 2015-2021⁸⁶

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (4,169)	28.7%	20.3%	26.1%	24.9%
Black males (4,891)	26.6%	31.7%	27.2%	14.5%
Hispanic males (715)	45.6%	18.7%	18.9%	16.8%

Table 11: District Courts of Missouri Murder Sentence Lengths 2015-2021⁸⁷

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (12)	0%	0%	33.3%	66.7%
Black males (34)	0%	0%	8.8%	91.2%
Hispanic males (3)	33.3%	0%	33.3%	33.3%

⁸⁶ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁸⁷ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 12: District Courts of Missouri Arson Sentence Lengths 2015-2021⁸⁸

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (10)	20%	10%	70%	0%
Black males (9)	22.2%	22.2%	33.3%	22.2%
Hispanic males (1)	100%	0%	0%	0%

Table 13: District Courts of Missouri Fraud/ Theft/ Embezzlement Sentence Lengths
2015-2021⁸⁹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (424)	75%	15.6%	7.8%	1.7%
Black males (318)	63.5%	25.5%	9.1%	1.9%
Hispanic males (45)	75.6%	24.4%	0%	0%

Missouri is a state that produces very interesting data within the general crime type category and the more specific crime type categories. In terms of general crime, the percentage breakdowns actually tend to show a slight racial disparity against white males versus the hypothesized question that predicts the more conservative a state is the more likely the racial disparity will be against black and Hispanic males. In terms of the general crime percentages in

⁸⁸ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁸⁹ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

table 10, for the category of up to twenty four months, 28.7% of white males, 26.6% of black males, and 45.6% of Hispanic males are sentenced to this time length. But in terms of the highest sentence length which is one hundred and twenty months or more, 24.9% of white males, 14.5% of black males, and 16.8% of Hispanic males are sentenced to this length. This shows that white males receive the highest sentence length more often than their black and Hispanic male counterparts. This is a 10% difference in the sentencing outcomes between white and black males in Missouri, which differs from what the hypothesis had predicted. Then the data becomes slightly varied in this respect when it comes to more specific crime types, since there is more of the expected racial disparity in the federal criminal sentencing, especially in murder charges within table 11.

In table 11, there is evidence that racial disparity has taken place during this time period. This is an interesting data set since there is no percentage of white or black males sentenced to the up to twenty four months category but Hispanic males are sentenced to that length 33.3% of the time and no one is sentenced to the twenty four to fifty nine months section. Yet, in the case of white males, they are sentenced to sixty to one hundred and nineteen months 33.3% of the time and then over one hundred and twenty months 66.7% of the time. But, black males are sentenced to the former 8.8% of the time and the latter 91.2% of the time. This is clearly demonstrating the issues within a high profile crime like murder where there is a severe racial disparity in the degree of sentencing lengths given to black males versus white males. This data table exemplifies the most racial disparity in Missouri's data in total displays. In terms of table 12, there is also evidence that sentence lengths for arson in Missouri produce racial disparities. Black males are sentenced 22.2% in every categorical breakdown beside sixty to one hundred and nineteen months where they are sentenced 33.3% of the time. This seems like relatively low

numbers until compared with white males and there being 0% for over one hundred and twenty months when black males are sentenced to this time frame 22.2% of the time. Hispanic males in table 12 are sentenced to the least amount of time out of all three racial demographics, where 100% of the time for arson they get sentenced to up to twenty four months.

Overall, Missouri exhibits interesting patterns from the caseload that they produce and how they sentence these crime types. This can be seen as a state that, while conservative during this time period and having an ideological score of 44.66 out of 100, does not always have strong racial disparity. There is definitive evidence that, yes, there is racial disparity present within the data tables for each crime and the general crime overall, but it does not necessarily define the hypothesis that the more Republican a state is and its senators are, the more likely it is to see racial disparities in sentencing outcomes. In turn, Missouri exhibits racial disparity in their sentencing, but even for a conservative state, there is less than predicted to be, but that is also because of the senatorial influence that the state had encountered during the time frame of 2015-2021.

Table 14: District Courts of Alabama General Crime Sentence Lengths 2015-2021⁹⁰

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (1,781)	38.5%	23.9%	19.8%	17.9%
Black males (2,765)	29.9%	29.2%	24.4%	16.5%
Hispanic males (938)	63.4%	12.3%	11.2%	13.1%

Table 15: District Courts of Alabama Murder Sentence Lengths 2015-2021⁹¹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (0)	N/A	N/A	N/A	N/A
Black males (5)	0%	0%	20%	80%
Hispanic males (0)	N/A	N/A	N/A	N/A

⁹⁰ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁹¹ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 16: District Courts of Alabama Arson Sentence Lengths 2015-2021⁹²

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (0)	N/A	N/A	N/A	N/A
Black males (2)	50%	0%	50%	0%
Hispanic males (0)	N/A	N/A	N/A	N/A

Table 17: District Courts of Alabama Fraud/ Theft/ Embezzlement Sentence Lengths
2015-2021⁹³

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (210)	77.1%	18.6%	3.3%	1%
Black males (232)	66.4%	24.1%	6%	3.4%
Hispanic males (39)	87.2%	12.8%	0%	0%

Alabama is a state that is Republican and that leans more ideologically conservative with an ideological score of 36.595. When hypothesizing about states like Alabama, the prediction was that there would be severe racial disparity that is clear and present within the data. In reality, the data presents itself in an interesting way, where yes, there is racial disparity present, but not with the severity that the hypothesis predicted. To start, Alabama in table 14 depicts the general

⁹² “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁹³ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

crime of white, black, and Hispanic males. Within this table the breakdown of up to twenty four months shows disparity in that white males get sentenced to this 38.5% of the time, whereas black males get sentenced to the same time frame 29.9% of the time, which is almost a 10% difference in the lowest possible sentence. Hispanic males are the outliers in this category where 63.4% of the time they get up to twenty four months as their sentence.

While white males when compared to black males continuously get served less time as the sentence length increases, the category of up to one hundred and twenty months shifts a little. White males get sentenced to over one hundred and twenty months 17.9% of the time whereas black males only get sentenced to this 16.5% of the time, a little over 1% less than white males. This is where Alabama becomes deceiving since it seems like for three categories there was clear racial disparity against black males, but for the longest sentence length category, the opposite occurred, even if it was only a little over 1% of a difference.

In tables 15 and 16, there is no sufficient data for white males nor for Hispanic males, and yet, there was sufficient data for black males in both table 15 and 16, already depicting the fact that black males were tried and sentenced at the federal level in these categories when their white and Hispanic male counterparts were not. This, in turn, is a racial disparity in itself that black males are being tried and sentenced at higher court levels for murder and arson than white males and Hispanic males. In table 15, black males were sentenced to sixty to one hundred and nineteen months 20% of the time, and then over one hundred and twenty months 80% of the time, clearly showing that not only are they being sentenced at the federal level, but they are also receiving the highest amount possible in the sentencing outcomes 80% of the time. In table 16, the same thing has happened, where there is only sufficient data for black males but not white males nor Hispanic males, we see similar, yet different, data for black males., black males got

sentenced to up to twenty four months 50% of the time and the other 50% was in the sixty or one hundred and nineteen months category. This shows that while arson is a lesser offense than murder, there are still long sentence lengths given to black males half of the time.

Overall, there is clear evidence that there is racial disparity within the federal criminal sentencing for black males in Alabama when compared to white and Hispanic males. In table 17, we see more evidence in each category that point to the fact that black males are sentenced less to lower sentence lengths and more to higher sentence lengths. Even in the over one hundred and twenty category, black males are sentenced to this 3.4% of the time and white males at only 1%. A slight disparity, but still one nonetheless. In the up to twenty four months category, 66.4% of black males get this for fraud/theft/embezzlement, and white males get this time frame 77.1% of the time. This is a much larger disparity being almost 11% of a difference between the two demographics. In sum, Alabama definitely supports the hypothesis, just not in as severe of a way that was predicted. There is evidence though that the more conservative a state is the more likely there is to be disparity in the federal sentencing at the district court level. It also does show that senators have influence over the federal judges since all but one senator have been Republican during this time period.

Table 18: District Courts of Texas General Crime Sentence Lengths 2015-2021⁹⁴

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (7,090)	31.4%	20%	21.9%	26.7%
Black males (5,841)	27.9%	25.9%	24.4%	21.8%
Hispanic males (88,143)	73.1%	15.5%	6.5%	4.9%

⁹⁴ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 19: District Courts of Texas Murder Sentence Lengths 2015-2021⁹⁵

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (14)	0%	0%	21.4%	78.6%
Black males (14)	0%	0%	7.1%	92.9%
Hispanic males (74)	1.4%	1.4%	2.7%	94.6%

Table 20: District Courts of Texas Arson Sentence Lengths 2015-2021⁹⁶

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (5)	40%	20%	40%	0%
Black males (7)	28.6%	42.9%	14.3%	14.3%
Hispanic males (5)	0%	0%	80%	20%

⁹⁵ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁹⁶ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 21: District Courts of Texas Fraud/ Theft/ Embezzlement Sentence Lengths 2015-2021⁹⁷

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (772)	55.8%	23.3%	15.3%	5.6%
Black males (704)	56.4%	24.7%	14.6%	4.3%
Hispanic males (1,255)	85.7%	9.1%	3.7%	1.5%

Texas is a state that, while there is a 12.2% black population, there is also a 39.3% Hispanic population, which makes sense when looking at the geographic location and the last few decades with immigration at the border and the politics surrounding this issue. Texas, therefore, has a much bigger Hispanic population than most other states. In terms of how that affects the data, besides caseload, we would expect there to be sufficient data for the Hispanic males category, which there is. In terms of general crime in table 18, white males are sentenced to up to twenty four months 31.4% of the time, whereas it is only 27.9% for black males and 73.1% for Hispanic males. Hispanic males in general are getting way less time served than black males and even white males, where their percentage for the lowest sentence length is almost 40% more than white males.

In table 19, however, we see a switch in the ways in which Hispanic males are treated for more specific crime types, in this case, murder. In terms of the breakdowns, up to twenty four months, white and black males are not sentenced to this but 1.4% of Hispanic males are. Same exact percentages go for twenty four to fifty nine months. In the sixty to one hundred and nineteen months category, 21.4% of white males are sentenced to this length, but only 7.1% of

⁹⁷ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

black males are and even smaller only 2.7% of Hispanic males are sentenced to this length. Which means that the highest sentence of over one hundred and twenty months only 78.6% of white males get this sentence, whereas 92.9% of black males do and 94.6% of Hispanic males get this. This table completely shifts the narrative that the general crime table paints since there is more specific data for murder and how that plays out in Texas, where white males only get the highest sentence possible for murder 78.6% of the time. This shows extreme racial disparity since there is an almost 20% difference in the percentages for each racial demographic in the highest sentence length category.

In terms of table 20, there is also this disparity seen in the over one hundred and twenty months category for arson, where white males get this sentence 0% of the time, yet black males get it 14.3% of the time and hispanic males 20%. And in the sixty to one hundred and nineteen category, there is even more disparity, especially within the hispanic male category. White males receive this sentence 40% of the time, black males 14.3% and hispanic males receive this 80% of the time. A 40% disparity between white and hispanic males for arson. Black males get less time more often than hispanic males where in the twenty four to fifty nine months category, 42.9% of them receive this sentence length, and white males get that category 20% of the time. And table 21, for the most part, has pretty even percentages, where most of the categories between the races are within a percent or two from one another, showing no real signs of disparity in sentencing for fraud/theft/embezzlement. The only outlier in this crime type is hispanic males show significantly smaller percentages for the twenty four to fifty nine and sixty to one hundred and nineteen months categories.

Overall, this data is supportive of the hypothesis that the more Republican/conservative a state is, the more likely there will be racial disparities in their federal criminal sentencing. In

turn, this is shown to stem from the senatorial influence in judicial appointments for federal judges since there have always been Republicans as the senators for the state of Texas, on top of it being a Republican state and having an ideological score of 41.725. The data shows that there is clear disparity, especially in more serious criminal offenses like murder. In sum, Texas definitely exhibits behavior in its sentencing outcomes at the federal level since there is evidence to show that white males become favored more than black males in most categories.

Table 22: District Courts of Arizona General Crime Sentence Lengths 2015-2021⁹⁸

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (1,443)	70.8%	15.1%	9.1%	5%
Black males (454)	67%	17.8%	11%	4.2%
Hispanic males (28,742)	85.9%	11.7%	1.8%	.6%

Table 23: District Courts of Arizona Murder Sentence Lengths 2015-2021⁹⁹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (2)	0%	0%	0%	100%
Black males (1)	0%	0%	0%	100%
Hispanic males (9)	0%	0%	0%	100%

⁹⁸ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

⁹⁹ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

Table 24: District Courts of Arizona Arson Sentence Lengths 2015-2021¹⁰⁰

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (1)	100%	0%	0%	0%
Black males (1)	0%	0%	100%	0%
Hispanic males (2)	0%	100%	0%	0%

Table 25: District Courts of Arizona Fraud/ Theft/ Embezzlement Sentence Lengths
2015-2021¹⁰¹

	Up to 24 months	24-59 months	60-119 months	120+ months
White males (167)	81.4%	12%	4.8%	1.8%
Black males (34)	67.6%	23.5%	5.9%	2.9%
Hispanic males (675)	98.4%	1.3%	.3%	0%

Arizona is the final state in the study, and the only swing state in the mix of states examined. At the end of the time frame, there are two Democratic senators in power, and the state is already one that swings between conservative and liberal, so the predictions on racial disparity can become varied, even though there is a history of Republican senators in Arizona, as well as the state itself voting conservative in elections. This state also has an ideological score of

¹⁰⁰ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

¹⁰¹ “USSC Interactive Data Analyzer Dashboard,” Oracle Analytics, accessed February 21, 2023, <https://ida.ussc.gov/analytics/saw.dll?Dashboard>.

43.38 out of 100 which indicates it is a conservative state. In the sentence length outcomes of the general crime type in table 22, Arizona shows some racial disparity, but not as much as a Republican state would have. White males in the up to twenty four months category are sentenced to this 70.8% of the time, whereas black males get 67% for this sentence length, and Hispanic males get the lowest sentence length the most, with a percentage of 85.9%. This is interesting because when it is compared to over one hundred and twenty months, because white males are sentenced to this length 5% of the time, black males, 4.2%, and Hispanic males .6%, showing that white males actually do get this sentence the most in the general crime type category. But this changes as we look at the different categories, where there is variance in the more specific crime type categories seen in tables 23, 24, and 25.

In table 23, the data presented is the clearest and the fairest data that the entire study shows, where for murder sentence lengths, white, black and Hispanic males all are charged 100% of the time with over one hundred and twenty months. This is the fairest and best representation of a justice system operating in a fair manner, where all three demographics are being sentenced in the same manner with zero disparity present. This, however, changes when we move to table 24, where arson sentence lengths are very varied. White males are sentenced to up to twenty four months 100% of the time, yet Hispanic males are sentenced 100% of the time to twenty four to fifty nine months, and even worse 100% of black males are sentenced to sixty to one hundred and nineteen months. This is a more extreme end of the disparities we have seen where there is no variation even within the racial categories, yet there is extreme disparity in the sentence lengths each race receives. For black males to 100% of the time get higher sentences than white and Hispanic males, that means that there is some sort of disparity present when one is sentenced for the criminal offense of arson. Additionally, there is also something to say for the fact that

there is the smallest sentence length given to white males 100% of the time, in a state where there is a significant percentage of people who identify as Hispanic.

In table 25, we start to see more variance again, where fraud/theft/embezzlement crime types all get roped into one category according to the United States Sentencing Commission. White males got sentenced 81.4% of the time to up to twenty four months, whereas black males got this sentence length 67.6% of the time, 14% difference between these two races for the lowest sentence length. Hispanic males here had the highest percentage, getting sentenced to up to twenty four months 98.4% of the time. On the opposite side of it at over one hundred and twenty months, white and black males are much closer in range, where white males got this sentence length 1.8% of the time and black males 2.9% of the time, only a little over 1% difference. Again though, Hispanic males got the lowest percentage for the highest sentence length at 0%. This means that in the fraud/theft/embezzlement category, Hispanic males are treated more favorably than white males and black males.

Overall, Arizona had a mixed bag when it came to the senators that were in and out of office during the 2015-2021 time period, and the sentence outcomes reflect this. This neither supports nor disproves the hypothesis that the more conservative a state is the more likely there is to be racial disparity in the sentencing outcomes at the federal level. It does not disprove nor support because this is truly a swing state and was especially a swing state during the time period examined in this study. Arizona not only shows disparity in some instances, but it also shows the utmost fairness in other categories, making the findings from the United States Sentencing Commission truly diverse.

STATE DATA COMPARISON

In this section, the data tables being compared have percentages of the data from the states in the titles. These percentages are an average taken from each sentence length percentage for each demographic in every crime type studied. The states are grouped in a data table by partisanship during the time period of 2015-2021. This information, presented in table 1, is how the comparison of ideologically liberal and ideologically conservative states match up when looking at the ideological score of the states and their partisanship during this time period. Arizona is the only state that during this time period is truly turning purple and then becoming fully purple in terms of partisanship, hence why it is the only state not averaged into a table. These data tables cover all crime types so that there is a complete and thorough comparison of the states to see if liberal or conservative states have racial disparities in their federal district courts.

Table 26: District Courts of New York and Massachusetts General Crime Sentence Lengths
2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	55.825%	18.6%	14.1%	11.5%
Black males	37.45%	24.05%	23.7%	14.7%
Hispanic males	48.15%	23.45%	18.3%	10.05%

Table 27: District Courts of Alabama, Texas, and Missouri General Crime Sentence Lengths
2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	32.8%	21.4%	22.6%%	23.16%
Black males	28.13%	28.93%	25.3%	17.6%
Hispanic males	60.7%	15.5%	12.2%	11.6%

Table 28: District Courts of Arizona General Crime Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	70.8%	15.1%	9.1%	5%
Black males	67%	17.8%	11%	4.2%
Hispanic males	85.9%	11.7%	1.8%	.6%

In the general crime category, there are significant enough differences between all three tables and between each demographic. In the New York and Massachusetts table, we see white males getting the highest percentage for the lowest sentence length of up to twenty four months, and black males getting the highest percentage in the highest sentence length of over one hundred and twenty months. Hispanic males had the lowest percentage for the highest sentence length category, and the second highest percentage for the lowest sentence length category. In the table for Alabama, Texas and Missouri, we see that Hispanic males are actually treated the most favorably, where they have the highest percentage for the lowest sentence length of up to twenty four months, and they have the lowest percentage in the over one hundred and twenty months. White males actually have the highest percentage out of the three races in the highest sentence

length category of over one hundred and twenty months. Black males are consistent in the percentages for every category, but there is consistency in the fact that there is around 20-30% of black males being sentenced to every crime type.

Despite the percentages being different numbers, there is still a resounding understanding that in the over one hundred and twenty months category, white males always have the highest percentage out of the three races. Within that though, the percentages in the over hundred and twenty months category are higher for every racial demographic within the ideologically conservative states table, which includes Alabama, Texas and Missouri. On the other side of the sentence lengths, there is also the up to twenty four months where we can see the disparities as well. In this case, white males have the highest percentage in the ideologically liberal district courts data table.

The data for Arizona is a bit different in that their district courts for general crime are pretty favorable in giving every demographic lesser sentences, where we see white males have 70.8%, black males 67%, and Hispanic males have 85.9% in the up to twenty four months category. This is reflective on the other end of the sentence lengths where there is a very small percentage of every race that gets over one hundred and twenty months as their sentence length. White males get this sentence 5% of the time, black males 4.2% of the time, and Hispanic males .6% of the time. This compared to the other two tables, tables 26 and 27, show that Arizona actually has the least amount of racial disparity, even when compared next to the liberal states.

Table 29: District Courts of New York and Massachusetts Murder Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	12.15%	10.95%	27.15%	49.75%
Black males	5.8%	7.1%	17.4%	69.8%
Hispanic males	4.8%	6.4%	20.75%	73.65%

Table 30: District Courts of Alabama, Texas, and Missouri Murder Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	0%	0%	27.35%	72.65%
Black males	0%	0%	11.96%	88.03%
Hispanic males	17.35%	1.4%	12%	63.95%

Table 31: District Courts of Arizona Murder Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	0%	0%	0%	100%
Black males	0%	0%	0%	100%
Hispanic males	0%	0%	0%	100%

In table 29, New York and Massachusetts are averaged out for the crime type of murder, where see the majority percentages in the over one hundred and twenty months category. White males were sentenced to this length of time 49.75%, black males 69.8% of the time, and Hispanic males 73.65% of the time. This is the only category in which black males have a higher percentage than white males, the rest of the categories white males have the percentage out of the

three races. Hispanic males only begin to have the second highest or the highest percentage out of the three races when it hits the sixty to one hundred and nineteen months category and then the over one hundred and twenty months category.

In table 30, Alabama, Texas and Missouri all were averaged together for the crime type of murder. In the first two categories, up to twenty four months and twenty four to fifty nine months, there are no percentages for white nor black males, but there is for Hispanic males, which shows that in these states, Hispanic males are the only ones being given lesser sentences for their crimes. Once in the sixty to one hundred and nineteen months category, we see white males have the highest percentage at 27.35%. In the over one hundred and twenty months category, white males have the second highest percentage, where black males have the highest and Hispanic males the lowest percentages. Hispanic males have the lowest percentage for this category of over one hundred and twenty months and black males have the highest.

In comparison to the ideologically liberal states, the ideologically conservative states have higher percentages in the highest sentence length category for both white and black males, showing these two races get sentenced more often for harsher sentence lengths. This demonstrates that there are large consequences for crimes like murder in the more ideologically conservative states. There is also another comparison to be made between these two tables and it is with Arizona, where regardless of race in Arizona, for murder 100% of every demographic got over one hundred and twenty months for murder. This was a state that had every demographic sentenced to the same category of the highest sentence length for the crime of murder, which in turn shows no racial disparity, but at the same time there is also a question of how strict these sentence outcomes are in Arizona. If this is the way in which Arizona operates in comparison to

states like New York, Massachusetts, Alabama, Texas, and Missouri, then there is less room for lesser sentencing, but there is also zero racial disparity.

Table 32: District Courts of New York and Massachusetts Arson Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	50%	21.4%	24.1%	7.1%
Black males	54.4%	9.1%	27.3%	9.1%
Hispanic males	20%	20%	40%	20%

Table 33: District Courts of Alabama, Texas, and Missouri Arson Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	30%	15%	55%	0%
Black males	33.6%	32.55%	48.8%	18.25%
Hispanic males	0%	0%	80%	20%

Table 34: District Courts of Arizona Arson Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	100%	0%	0%	0%
Black males	0%	0%	100%	0%
Hispanic males	0%	100%	0%	0%

For the crime type of arson in table 32 at the federal district court level, New York and Massachusetts show less significant levels of racial disparity, although averaged together, these

percentages still depict disparity nonetheless. In the lowest sentence length category, up to twenty four months, white males get sentenced to this length 50% of the time, whereas black males actually have the highest percentage for the lowest sentence length at 54.4%. Hispanic males in this category only get this sentence length 20% of the time, making this demographic the one who is most affected by racial disparities. On the opposite end of the table, we see a slight disparity of two percent from where white males get over one hundred and twenty months 7.1% of the time and black males 9.1% of the time. Hispanic males once again are targeted the most seriously for this crime type and are sentenced to over one hundred and twenty months for arson 20% of the time. Table 32 shows that there is disparity slightly for black males as the sentence lengths increase, but the major disparity occurs in the Hispanic male category.

In table 33, the ideologically conservative states of Alabama, Texas, and Missouri depict racial disparity as well, where we see it most present in the over one hundred and twenty months category, as well as in the sixty to one hundred and nine months category. In the over one hundred and twenty months category we see that there is no percentage at all for white males, which means that zero percent of the cases were sentenced to the highest category. In contrast, black males are sentenced to this length 18.25% of the time and Hispanic males are sentenced 20% of the time to this sentence length. Also, the highest percentages are found in the sixty to one hundred and nineteen months, where white males are sentenced to this length 55% of the time, black males 48.8%, yet for Hispanic males 80%. This is a massive disparity for Hispanic males since there is more than half of their caseload in one of the highest sentence length categories, and then they have 20% when white males have zero percent in the highest sentence length category.

In comparison, the more ideologically conservative states have higher disparities in their sentencing lengths for each race than the ideologically liberal states do. The higher the sentence length was, the more disparity was present for black males when compared to white males. In terms of comparing these two groupings of states to Arizona, Arizona did things differently when it came to sentencing. In Arizona, we still see sentencing disparities, however once again each demographic had 100% of its cases in one category. White males were sentenced 100% of the time to up to twenty four months, Hispanic males were sentenced to twenty four to fifty nine months 100% of the time, and black males 100% of the time were sentenced to sixty to one hundred and nineteen months. Black males 100% of the time got the highest sentence length for the criminal offense of arson. This compared to other states is interesting because while 100% of every race got one sentence length category, there was still severe disparity since this was the case and black males were sentenced the harshest. Yet, they did not have any race in the highest category unlike the ideologically liberal and also conservative datasets.

Table 35: District Courts of New York and Massachusetts Fraud/ Theft/ Embezzlement Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	69.75%	20.2%	8.35%	1.75%
Black males	64.5%	25.95%	6.95%	2.65%
Hispanic males	69.7%	26.33%	6.4%	.75%

Table 36: District Courts of Fraud/ Theft/ Embezzlement Alabama, Texas, and Missouri
Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	69.3%	19.16%	8.8%	2.76%
Black males	62.1%	24.76%	9.9%	3.2%
Hispanic males	82.83%	15.4%	3.7%	1.5%

Table 37: District Courts of Arizona Fraud/ Theft/ Embezzlement Sentence Lengths 2015-2021

	Up to 24 months	24-59 months	60-119 months	120+ months
White males	81.4%	12%	4.8%	1.8%
Black males	67.6%	23.5%	5.9%	2.9%
Hispanic males	98.4%	1.3%	.3%	0%

In the final crime type category, fraud/theft/embezzlement, table 35 displays the sentence length percentages for New York and Massachusetts, the ideologically liberal states. For the up to twenty four months category, 69.75% of white males get this sentence, 64.5% of black males get this, and 69.7% of Hispanic males get this sentence. Other than the 5% difference for black males, these are virtually the same percentages across the demographics. In terms of the next two categories, every demographic's percentages are within 6% of one another, some disparities even smaller than one percent. Black males have the highest percentage for the over one hundred and twenty months category but only by less than 1%, where they have 2.65% and white males have 1.75%. Overall, this crime type is where we see the least amount of racial disparity for the ideologically liberal states, New York and Massachusetts.

In table 36, where we see the ideologically conservative states, there is a little bit more racial disparity present when looking at the fraud/theft/embezzlement crime type. Alabama, Texas and Missouri in the up to twenty four months category, we see that while both black and white males have their percentages in the sixties, there is a 20% increase for Hispanic males. 82.83% of Hispanic males get the lowest sentence, whereas white males get 69.3% and black males only get 62.1%. The disparity continues in the twenty four to fifty nine months category, where white males get this percentage 19.16% of the time, Hispanic males even smaller at 15.4% of the time, but black males get this sentence 24.76% of the time. This is a larger disparity than can be seen in this month category in table 35. In the over one hundred and twenty months category, we also see that overall there is a slight increase in the amount of people sentenced to this length from the percentages in the ideologically liberal states in table 35.

In comparison to tables 35 and 36, Arizona in table 37 shows that there can be lesser sentence lengths given for some crimes in Arizona federal district courts. In Arizona we see larger percentages again for the up to twenty four months category, where Hispanic males have the highest percentage seen yet at 98.4% of the cases getting the lowest sentence length category. White males get the lowest sentence length 81.4% of the time and black males have the smallest percentage of only 67.6% of the time. In comparison, the next category over, we see that black males get twenty four to fifty nine months 23.5% of the time, whereas white males only get this 12% of the time and Hispanic males 1.3% of the time. This is a drastic disparity between the races, showing that black males have been sentenced for longer lengths for fraud/theft/embezzlement. Overall, we can see that this in comparison to the other two tables shows that white and Hispanic males get less time more often, but black males are pretty much stagnant.

Limitations

While the study covers a plethora of factors, as well as datasets, there are always limitations to a study. There are multiple limitations to this study varying from the number of states examined, the year range examined and studied, the historical, ideological and partisan context of the states earlier than 2015, the types of crimes examined, and the appointment of the judges serving during this time frame. This hypothesis created multiple areas of exploration, whether it was through the appointment of federal judges, senatorial courtesy and its influence on the appointment process, or even the racial disparity hypothesized to occur in some states but not others. Most of these factors had their own variables that would either give explanation or leave room for more exploration, which in turn would create limitations in the study.

The first limitation of this study is the number of states examined. I looked at a comprehensive mix of states, where they varied in region, partisanship, ideological score, and amount of district courts and judges. This can still be viewed as a limitation of the study since not all of the fifty states were examined and therefore, there was not a full study of the country and its district courts. This could have been fixed by doing a more varied list and adding more states to the study, but there was also the opportunity to do the entire country and examine each state at the general crime level, as well as all other specific crime types. The next limitation is the time frame. This time frame was picked purely because of the range that the United States Sentencing Commission's Interactive Data Analyzer Dashboard gives. It goes back only to 2015 and as of now is only updated to 2021. Therefore, this was the data that I pulled from since there was no other way to look at the data for each race and gender as well as the specific crime types on the United States Sentencing Commission's website databases. Therefore, this is a limitation of the study because there is no other way to historically examine the sentencing outcomes at the

federal district court level at different years without looking further into the databases available and using general sentencing outcome numbers.

Another limitation of the study is that there is no historical context to the states and how their partisanship has changed over time to develop into what it was during the time frame of 2015-2021. Without this historical context, there is no background on how a state may have acted prior to 2015, and give a deeper understanding for why there may or may not be racial disparity present in their sentencing outcomes. This context would have possibly given more of a comprehensive understanding to how and why the sentencing outcomes were the way they were which is why this can be classified as a limitation to the study. The types of crimes were picked out of variance in seriousness for the offense, as well as using the general crime data for a control in the study. But these crimes of murder, arson, and fraud/theft/embezzlement were not the only crime types that could have been studied. There were plenty of other crime types that could have been chosen, like drug trafficking, kidnapping, money laundering and many more. Therefore, the crime types limit the study in the sense that it only depicts disparities present in those categories, where there could have been more severe or less severe evidence of disparity in other crime types.

Lastly, there was no exploration of the senators before the 2015-2021 time frame who influenced the appointment of these judges that served during this time period of 2015-2021. Therefore, there is no context to what partisan affiliation the senators were when exerting senatorial courtesy, nor was there any context to who was president at the time of their judicial appointment and confirmation. Therefore, we have no context to how these appointments influenced the racial disparities in the sentencing outcomes. For example there could have been a very ideologically liberal judge appointed prior to the 2015-2021 time frame that influenced the

sentencing outcomes in Alabama, making racial disparities appear less severe in the areas studied. It is also worth noting another limitation is that there is no way to separate the influence of partisanship from the context of the judge's audiences and local context, which is state ideology. There is no way to separate this because there is no way to determine which is influencing and which is being influenced in this work. Overall, all of these limitations could improve the study as a whole and therefore improve the hypothesis, making them limitations to the study.

CONCLUSION

This study was conducted for the purpose of testing the hypothesis presented throughout the thesis. This hypothesis is that the ideological preferences of a state will determine what judges will be appointed and the ideology of that judge. One more level to this is that the more Republican the Senator that influences the appointment of the judge, the more likely the judge will be ideologically conservative and there will be racial disparities in their decision-making. This hypothesis, as we have seen through the study of the datasets and analysis of the disparities in the selected states, demonstrated a larger problem that is present within all states that were studied. The broader understanding is that regardless of the ideological score and partisanship affiliation of the states studied, there was disparity in all states one way or another. Even if some states had more racial disparity than others, all at least had a noticeable amount of disparity.

This is important in the broader understanding of the United States and its federal district court system because where there is involvement of the justice system in the United States, there is also injustice. This hypothesis was important to explore since there are many instances where minorities in this country are consistently treated harsher in a court of law, and not even just at

the federal district court level. The federal judiciary is supposed to be an unbiased body under the law and yet there are multiple instances where there have been cases of black males and females in this country being tried for the same crime as a white peer and the black person is sentenced harsher than the white person. This hypothesis explored this issue at the federal level in hopes of getting to the root of the problem which is the appointment of the federal judges in the first place. What the hypothesis found was that while, yes ideologically conservative states had racial disparities, so did ideologically liberal states. This means that the appointment of judges all over the country can produce the effects of racial disparity, not just in conservative states because of conservative senators. The president at the time of the judicial appointment has a great impact on which judge serves and can influence the ideology behind the sentencing outcomes based on the ideological preferences of the judges. There is also impact from past senators outside of the time frame examined that could have had an effect over the judges serving during 2015-2021.

All of this is to say that there is a nationwide issue of racial disparity in the federal district court sentencing outcomes. The purpose of this study was to uncover where there was racial disparity and to pinpoint the ways in which the disparity is created, where we can see that there is influence coming from senators in each state. Senators have had an influence who could be appointed by the president as federal district court judge in their state. If this judge gets selected by the president at the time, then the senator had influence over this appointment process. The implications of this study is that there is clear evidence pointing to the fact that there is racial disparity present within the federal district courts, but present within all states examined, not just in the hypothesized conservative states. This is important because there is more racial disparity than initially thought to be present at the federal level in more areas than anticipated. Overall,

this hypothesis was answered with the fact that racial disparity is a much more widespread issue than originally understood and the root of the issue stems into the other branches of the federal government, making this a full government issue. The legislature is involved through senatorial courtesy and the executive pays its part when appointing the judges that make these decisions in a court of law. The judges therefore have heavy influence over the sentencing outcomes of different crime types and how each person's case will ultimately be decided at the federal district court level.

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