

## **ABSTRACT**

**THESIS:** Judicially Originated Downward Sentencing Departures from a Focal Concerns Perspective: The Effects of a Defendant's Race and Gender on Departures for Mental Health

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This study uses the focal concerns perspective to examine whether judicial downward departures, including those for mental or emotional conditions, vary based on a defendant's race and gender. Although past research demonstrates that sentencing disparities exist, it is still unclear whether sentencing disparities exist among judicial downward departures issued for a defendant's mental health and if that relationship also varies by race/ethnicity and gender. Using data from the United States Sentencing Commission for Fiscal Years 2011 – 2015 (N = 114,524), the sample includes cases where a defendant was sentenced either within the guidelines or received a judicial upward or downward departure. Some analyses were restricted to defendants who received a judicial downward departure for a reason of mental or emotional conditions (N = 2,607). Analyses were carried out using logistic regression and ordinary least squares regression models. Results show that Black and Hispanic defendants were less likely to receive a judicial downward departure, including departures for their mental or emotional conditions. The results also show that women were more likely receive judicial downward departures than males. Further, female defendants in all racial categories were more likely to receive a judicial downward departure for mental health than White male defendants. The findings also show that the length of downward departure for a defendant's mental health did not vary based on a defendant's race. However, White females did receive a larger sentencing

discount on downward departures for mental health than White males. This study makes a unique contribution to the literature by examining judicial departures for a defendant's mental health and finding that a defendant's likelihood of receiving a downward departure does vary based on race/ethnicity and gender. Additionally, this study helps expand the literature on the focal concerns perspective by examining whether the stigmatized status of mental health impacts sentencing outcomes.