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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Dedication

This work is dedicated to my children – Grant, Jonny, and Evie. You all have made me a stronger and better person. I hope that each of you always pursues your dreams even when it is hard because those are the dreams that mean the most. I love you all more than words can express, and I so lucky to be your mom.

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

Approximately 50% of federal criminal defendants received a sentence within the guideline range during the 2019 fiscal year (USSC 2019). Of the remainder, 24% of defendants received a government sponsored sentencing departure, 2% received an upward sentencing departure, and 20% of defendants received a judicially originated sentencing departure (USSC 2019). Judges must consider the sentencing guidelines but can depart for a multitude of reasons including disagreement with the underlying sentencing policy (Kaiser & Spohn, 2018; USSC, 2019). Commonly provided reasons for downward judicial departures are defendant related characteristics, such as the defendant's mental health (Kaiser & Spohn, 2018). However, a robust amount of research finds that, even after accounting for a defendant's prior criminal record and offense-related characteristics, sentencing disparities remain between Black/Hispanic defendants and their White counterparts (Doerner & Demuth, 2010; Holmes et al., 2020; Rehavi & Starr, 2014; Spohn & Holleran, 2000; Steffensmeier et al., 1998; Ulmer, Light & Kramer, 2011).

The theory of focal concerns is often used to examine racial disparities in sentencing. According to this theory, judges, after accounting for legally relevant sentencing factors, may rely on extra-legal characteristics such as race and associated stereotypes during sentencing, where they often lack complete information. (Steffensmeier et al., 1998; Steffensmeier & Demuth, 2000; Steffenmeier & Demuth, 2001). Those defendants with mental illnesses also frequently face societal stigma and stereotype-based perceptions of dangerousness or violence (Bos et al., 2003; Corrigan et al., 2003; Corrigan & Bink, 2005; Feldman & Crandall, 2007). Additionally, persons with mental illnesses may be more likely to have interaction with the

criminal justice system (Lamb & Weinberger 2001; Lamb et al., 2004). Despite a large number of federal prison inmates meeting criteria for mental disorders (Bronson & Berzofsky, 2017), there is an absence of scholarship that examines differences in judicially originated downward sentencing departures for a defendant's mental health based on race and ethnicity.

Addressing the voids in the literature, the current study attempts to examine the effects of race/ethnicity and gender in judicial downward sentencing departures, using data from the United States Sentencing Commission's Monitoring Federal Criminal Sentences for fiscal years 2011-2015. Additionally, this study is among the first to examine whether judicial downward departures for mental health vary by a defendant's race/ethnicity and gender. First, the current study will examine the relationship between a defendant's race and gender and the likelihood of receiving a judicially sponsored downward sentencing departure. Second, this study will examine if the probability of a downward sentencing departure for a mental or emotional condition varies based on the defendant's race or gender. Third, this study will examine if the length of a judicially originated downward sentencing departure for mental or emotional conditions varies based on the defendant's race or gender.

Literature Review

Sentencing Guidelines

In 2005, the United States Supreme Court in *United States v. Booker* transformed sentencing guidelines from mandatory to advisory as the guidelines could violate a defendant's Sixth Amendment right to a jury trial. Under the *Booker* decision, the Supreme Court established that judges could depart from the sentencing guidelines if it was reasonable to do so. Two years later in *Gall v. United States* (2007), the Supreme Court determined that federal judges were not required to presume that the sentencing guidelines were reasonable, but instead should base

reasonableness of the sentence on the judge's individualized assessment of the facts presented to protect the defendant's constitutional rights. Also in 2007 in *United States v. Kimbrough,* the Supreme Court found that it was permissible for federal judges to depart from sentencing guidelines due to a disagreement with the underlying sentencing policy. Taken together, these three Supreme Court decisions have increased judicial discretion in determining a sentence, and now a federal judge may depart from the sentencing guidelines if the judge determines it is reasonable to do based on their assessment of the case or if the judge disagrees with the underlying sentencing policy.

During fiscal year 2019, approximately 51% of federal cases were sentenced within the guideline range (USSC 2019), compared to 2004 when approximately 72% of federal criminal defendants were sentenced within the sentencing guideline range (U.S. Department of Justice, 2006). Of the cases sentenced outside the range of the sentencing guidelines, judges can sentence a defendant more severely using an upward departure. This was infrequent, occurring in slightly over 2% of federal cases during fiscal year 2019 (USSC, 2019). A downward departure from sentencing guidelines occurs with more regularity. There are two separate mechanisms through which a downward departure can occur. The first is prosecutorial or government sponsored, also called a substantial assistance departure, whereas the second is initiated by a federal judge. In 2019, among all federal cases with a downward departure, approximately 24% were substantial assistance departures and the remaining 20% were initiated by a federal judge (USSC 2019).

In the aftermath of the *Booker* and *Gall* decisions, some sentencing scholarship has found that judicial decision-making has not changed significantly, or changes may be related to other sentencing policies such as mandatory minimum sentences (Fischman & Schanzenbach, 2012). Additionally, in a series of three papers published in 2010 and 2011, Ulmer and colleagues found

that there have not been significant changes in judicial sentences after *Booker* at least up until the

fiscal year 2009 (Ulmer & Light, 2010; Ulmer et al., 2011a; Ulmer et al., 2011b). Moreover,

Tiede (2009) found that advisory sentencing guidelines may still be an effective tool at reducing

sentencing disparities if judges stay within the prescribed guideline range. Other scholars have

noted that in the aftermath of *Booker* and *Gall* there may be increased inter-judicial sentencing

disparity in at least one Massachusetts district court (Scott, 2010). Also, after *Booker*, some inter-

district sentencing variation may be occurring within three federal district courts (Wu & Spohn,

2010). The extent to which the United States Supreme Court decisions have altered judicial

discretion in sentencing decisions is uncertain.

Meanwhile, several scholars and two reports from the United States Sentencing

Commission have found that judicial decision-making has changed since the *Booker*, *Gall*, and

Kimbrough decisions (Crow & Lannes, 2014; Holmes et al., 2020; Kaiser & Spohn, 2014; USSC

2010; USSC 2012). For instance, in 2014, Kaiser and Spohn found that judges departed from

sentencing guidelines based on disagreement with sentencing policy. In a different study,

researchers examined government and judicially initiated sentencing departures and found that

among federal criminal defendants from 2014 – 2016, Black male defendants received fewer

sentencing departures than other examined race-gender categories (Holmes et al., 2020). Holmes

and colleagues (2020) also found that Hispanic males were treated similarly to White defendants

in relation to sentencing departures. Another study examining ten years of sentencing data after

the *Booker*, *Gall*, and *Kimbrough* decisions found that the harshness of punishments generally

decreased, but that decrease was moderated by political conservatism, levels of disadvantage,

and the percent of the district court population that is Black (Kim et al., 2016). Taken together,

findings about whether and the extent to which sentencing disparities have increased after the *Booker*, *Gall*, and *Kimbrough* decisions have been mixed.

Judicial Sentencing Departures

Much of the scholarship about sentencing departures to date has focused on the likelihood of a defendant receiving a departure based on their individual characteristics (Holmes & D'Amato, 2020; Johnson, 2003; Kramer & Ulmer, 2002; Mustard, 2001; Ulmer et al., 2011a). These studies tend to find that both legal and extra-legal factors account for the likelihood of receiving a sentencing departure. Relying on Pennsylvania sentencing data, Johnson (2003) found the impact of race and ethnicity was moderated by the method of conviction, trial or plea bargain, finding that extra-legal factors vary depending on how a defendant is convicted and whether a defendant receives a sentencing departure. Additionally, Kramer and Ulmer (2002) found that young Hispanic males were less likely to receive a sentencing departure than White defendants. Meanwhile, Holmes and D'Amato (2020) reported that young Black males are less likely to receive a government-initiated downward departure, and that government sponsored departures were more influenced by extra-legal factors than judicially sponsored sentencing departures. Other scholarship has shown that judicial departures in federal courts vary by the district court, caseload pressures, and mode of conviction (Johnson et al., 2008; Spohn, 2005). The work by Johnson, Ulmer, Kramer (2008) also documented that Blacks and Hispanics were less likely to receive downward departures and received shorter departures when compared to Whites. Lastly, Mustard (2001) found that departures from sentencing guidelines accounted for approximately 55% of Black-White sentencing disparities. Studies examining both state and federal cases have documented that racial disparities exist in sentencing departures and

defendants who belong to minority groups are less likely to receive a departure and also tend to receive shorter sentencing departures.

Judges depart from sentencing guidelines approximately 20% of the time (Kaiser & Spohn, 2018; USSC, 2019). Departures from guidelines are a frequent occurrence in the post-*Booker* sentencing era (Kaiser & Spohn, 2018; USSC 2019). Judges must still consider the sentencing guideline, and if the federal judge decides to depart from the sentencing guidelines, a reason for the departure should be offered (USSC, 2020). After a systematic review of the stated reasons for judicial departures, Kaiser and Spohn (2018) organized the reasons into six themes: philosophy of punishment, defendant-focused reasons, victim-focused reasons, offense-specific reasons, guideline correction of issues, and system contexts (Kaiser & Spohn, 2018).

The most prevalent reason given for a departure by a federal judge was a defendant-oriented reason (Kaiser & Spohn, 2018). Within the theme of defendant-oriented reasons for judicial departures, Kaiser & Spohn articulated subthemes relating to the defendant's age, health, education, employment status, family ties, community ties, life circumstances, substance abuse, or the defendant's mental health. Kaiser and Spohn noted that departures based on the defendant's personal circumstances were primarily used to explain judicially initiated downward sentencing departures. Further examination of defendant-oriented sentencing departure justifications may be warranted given increased judicial discretion after the *Booker*, *Gall*, and *Kimbrough* decisions as judges could decide to depart from the guidelines for sympathetic defendants and to enhance sentences for more blameworthy defendants (Johnson et al., 2008; Nagel & Schulhofer, 1992; Ulmer et al., 2011). However, decisions to depart from the guidelines still should not be based on extra-legal characteristics.

The Focal Concerns Perspective and Racial Disparities in Sentencing

The focal concerns perspective is a general framework often used to examine disparities within the criminal justice system that had its roots in Darrell Steffensmeier's early research (Steffensmeier, 1980; Steffensmeier, Kramer, & Streifel, 1993) and was more fully expounded on by Steffensmeier et al. in 1998. Under a focal concerns perspective, judges and other official's perceptions of a defendant and the charged offense are considered along with three focal concerns: the offender's blameworthiness, community safety and risk of recidivism, and practical considerations (Steffensmeier & Demuth, 2000; Steffensmeier et al., 1998). All three focal concerns may influence a defendant's criminal sentence (Steffensmeier & Demuth, 2000; Steffensmeier et al., 1998). A defendant's blameworthiness examines the extent of a defendant's culpability for the criminal offense. Meanwhile, community safety relies on an examination of a defendant's likelihood of recidivism and the punishment goal of incapacitation. Practical considerations focus on organizational limits such as prison capacity, caseloads, or a defendant's ability to spend time in prison (Steffensmeier et al., 1998, Steffensmeier, Painter-Davis, & Ulmer, 2017). While most differences in sentencing are accounted for by legal characteristics, such as a defendant's criminal history and the seriousness of the offense, there is empirical evidence to demonstrate that a defendant's race and/or ethnicity impacts sentencing outcomes (Demuth & Steffensmeier, 2004; Everett & Wojtkiewicz, 2002; Steffensmeier & Demuth, 2000; Steffensmeier et al., 1998).

While a defendant's blameworthiness, community safety and the likelihood of recidivism, and practical considerations of the court are legal decision-making factors, Steffensmeier et al. (1998) offered that, while making complex decisions during sentencing hearings, judges also rely on perceptual shorthands when assessing criminal defendants. As they

may lack time and resources to adequately assess each defendant, judges may rely on a defendant's attributes such as race, ethnicity, age, or sex, and associated stereotypes as they make assessments about blameworthiness or the possibility of recidivism (Albonetti, 1991; Doerner & Demuth, 2010; Steffensmeier et al., 1998). A recent study found that higher levels of education protected the offender from harmful stereotypes about race and ethnicity, but did not alter the length of the sentence (Franklin, 2017). The combination of focal concerns, such as a defendant's blameworthiness, assessments of community safety, or practical restraints, along with stereotypical perceptions about a defendant's race and ethnicity during judicial decision-making, may operate to disadvantage minority males (Albonetti, 1991; Steffensmeier et al., 1998).

A robust amount of empirical research tends to find that after accounting for such legally relevant factors as offense seriousness or prior criminal record, Black defendants receive harsher criminal penalties than their similarly situated White counterparts. This relationship exists both in federal (Everett & Wojtkiewicz, 2002; Rehavi & Starr, 2014) and state courts (Bales & Piquero, 2012; Steffensmeier et al., 1998; Steffensmeier, Painter-Davis, & Ulmer, 2017; Spohn & Holleran, 2000). For example, one study found that Black defendants in federal courts had increased odds of imprisonment after the United States Supreme Court decision in *Booker* case (Ulmer et al., 2011a). A different study conducted after the *Booker* decision also suggested that Black males received longer prison sentences than White males with similar charges and prior records (Rehavi & Starr, 2014). These studies highlight sentencing disparities that result in harsher sentences for Black men.

Other research also finds that Hispanic defendants are sentenced more harshly than White defendants in state courts (Brennan & Spohn, 2008; Demuth & Steffensmeier, 2004; Kutateladze

et al., 2014; Steffensmeier & Demuth, 2001) and in federal courts (Everett & Wojtkiewicz, 2002; Steffensmeier & Demuth, 2000). For example, when examining a sample of felony drug cases in North Carolina, Brennan and Spohn (2008) found that Hispanic defendants received harsher sentences than both White offenders and Black offenders. Also, Steffensmeier and Demuth (2000), when examining federal sentencing before the *Booker* decision, found that Hispanics were sentenced more harshly than either White or Black offenders. The scholarship surrounding ethnicity is not altogether clear though. For example, using federal district court sentencing data, Feldmeyer and Ulmer (2011) reported that Hispanic offenders are punished more harshly when they represent a small percentage of a federal district court population and receive more lenient sentences when they represent a large proportion of the district court population. Studies that specifically examine the impact of ethnicity on sentencing outcomes have mixed findings with some studies documenting harsher treatment for Hispanic offenders than White offenders and other studies finding a similar treatment between Hispanic and White offenders.

In addition to sentencing disadvantages experienced by Black defendants and Hispanic defendants, other studies note the impact that race-gender categories have on sentencing outcomes. For instance, Steffensmeier et al. (1998) noted that young, Black males were sentenced more harshly than other groups and called for other scholarship to examine the joint impact of race and gender on sentencing outcomes. In a 2010 study, Doerner and Demuth noted that, when examining the combined impact of race/ethnicity, age, and gender, young Black males received the longest sentences and young Hispanic males had the highest odds of incarceration. Other sentencing scholarship has noted similar differences by race-gender category as well, with one study documenting that Black males received the longest sentences in

federal courts while Hispanic males are more likely to be incarcerated when each group is compared to White male offenders (Doerner, 2015).

When examining race-gender categories and the impact on sentencing outcomes, several studies find that women across all racial and ethnic groups are sentenced more leniently than males (Doerner, 2015; Doerner & Demuth, 2014; Holmes et al., 2020; Steffensmeier & Demuth, 2006). For example, one study that examined race-gender categories found that, all else being equal, Black and Hispanic women benefit from their gender during sentencing (Steffensmeier & Demuth, 2006). A different study found that White females in federal courts were more likely to be incarcerated than either Hispanic females or Black females (Doerner, 2015). A contemporary study that examined both judicial sentencing departures and prosecutorial sentencing departures in federal courts noted that when examining race-gender categories that in general, females were sentencing more leniently by receiving more downward sentencing departures and larger sentencing discounts on those downward departures (Holmes et al., 2020). Altogether, these studies document racial and ethnic disparities in sentencing departures and outcomes, and that race-gender categories may also affect different sentencing outcomes.

Perceptions of Mental Health

Individuals with mental illnesses represent another highly stigmatized group that are often viewed as violent or dangerous (Bos et al., 2003; Corrigan & Bink, 2005). Erving Goffman defined stigma as an "attribute that is deeply discrediting" (Goffman, 1963). For Goffman, stigma is experienced by most people at different times and phases of their life (Goffman, 1963). Stigma can be based on visible characteristics, like race or ethnicity, but can also be based on an invisible trait, such as mental illness (Goffman, 1963). In 2001, Link and Phelan conceptualized stigma as four processes that occur at the same time, including identifying and labeling relevant

differences, linking stereotypes to the labeled differences, separating "us" from "them," and that those labeled then experience discrimination or loss of status. In a policy essay about stigma and public health implications, Link and Phelan (2006) contended that an act of discrimination occurs when an individual who has been stigmatized "realizes a negative label has been applied to them and that other people are likely to view them as less trustworthy and intelligent, and more dangerous and incompetent" (p. 528). Individuals with mental illness belong to a highly stigmatized group (Corrigan & Bink, 2005).

Persons with mental illness face particularly harmful stigma and negative stereotypes of being dangerous, violent, and unpredictable (Bos et al., 2009; Corrigan et al., 2003; Corrigan & Bink, 2005; Feldman & Crandall, 2007; Wahl, 1995). For example, Feldman and Crandall (2007) had study participants examine case histories of individuals of 40 different mental disorders and then asked participants to rank possible reasons for social rejection. The results suggested that one of the three predominant justifications for social rejection of an individual with a mental disorder was rooted in dangerousness. In another study, Corrigan and colleagues (2003) surveyed college students using vignettes to examine the relationship between causal attributions to an individual with mental illness and a respondent's own familiarity with mental illness, perceptions of dangerousness, and personal negative emotional responses. This study revealed that perceptions of dangerousness were rooted in fear of the person with a mental illness. Social rejection and stigmatization are documented problems for those with mental illnesses. In sum, individuals with mental illnesses often experience stigma and negative stereotypes of being violent and dangerous, which may lead to their increased interaction with the criminal justice system.

The Intersection of Mental Health and Incarceration

Those with mental illnesses may be more likely to be arrested or incarcerated (Lamb & Weinberger, 2001). Prevalence rates for people with mental illness in jails and prisons vary widely from a reported 10 to 15% (Lamb & Weinberger, 2001) up to 48% for inmates in Iowa (Lamb et al., 2004). This is higher than the prevalence of mental illness in the general population (Bronson & Berzofsky, 2017). The Bureau of Justice Statistics using federal data from 2012 reported that 44% of federal prisoners and jail inmates had been told by a healthcare professional that they had a mental disorder (Bronson & Berzofsky, 2017). Lamb and colleagues (2001) noted that multiple factors were related to the increasing number of mentally ill persons being incarcerated, including deinstitutionalization of mental hospitals, more rigid standards for civil commitments, lack of community support and treatment options for those with mental illnesses, and belief by law enforcement that the deviant behavior can be effectively managed within the criminal justice system. Lamb and his colleagues (2001) called for a reduction of the criminalization of the mentally ill by ensuring future coordination between mental health professionals and law enforcement officers when responding to situations that involved an individual with a mental illness. A clear trend of increased contact between individuals with mental illnesses and the criminal justice system has emerged and should be examined further.

There is some support that the relationship between mental health and incarceration varies by race as people of color are often misdiagnosed, overly represented in inpatient mental health care facilities, and less likely to use community-based mental health treatment services (Primm et al., 2005; Snowden, 2001). Misdiagnosed or undiagnosed mental illnesses among minorities can result in worse short and long-term mental health outcomes for racial and ethnic minorities (Wang et al., 2005). Furthermore, as mental illness is stigmatized, misdiagnoses can

have a long-lasting impact, including discrimination and loss of status, for the misdiagnosed person (Phelan et al., 2000; van Dorn et al., 2005). Conversely, Perry, Neltner, and Allen (2013), in a study examining 129 pre-trial defendants referred to a psychiatric facility for mental health evaluation, found that Blacks were less likely to be found responsible for their crimes after the psychiatric evaluation than Whites. The relationship was mediated by the severity of the mental illness, but resulted in Black pre-trial detainees receiving treatment and likely would also result in a better legal outcome if the court accepted the results of the psychiatric evaluation (Perry et al. 2013). When examined in totality, those with mental illnesses are more likely to have contact with the criminal justice system, and this relationship likely varies by race.

Current Study and Hypotheses

This study seeks to examine the effects of race/ethnicity and gender on the likelihood of receiving a judicially initiated downward sentencing departure and the length of downward sentencing departures that occur for a defendant's "mental or emotional conditions" in federal courts. The research questions are guided from a focal concerns perspective in that a judge's stereotypical perceptions of a defendant's race/ethnicity, gender, and mental health may affect their judgment of a defendant's blameworthiness, community safety, and practical considerations when deciding to depart from the sentencing guidelines. Judges are thought to rely on perceptual shorthands and related stereotypes when making sentencing decisions about criminal defendants (Steffensmeier et al., 1998). Mental health is a stigmatized status linked to negative stereotypes (Corrigan et al., 2003; Feldman & Crandall, 2007). Under a focal concerns perspective, judges may find that Black and Hispanic defendants with a mental health condition are more of a risk to the community or more blameworthy than a White defendant who also has a mental health condition. Additionally, past literature has suggested that judicial sentencing decisions may vary

based on race-gender categories. This is a particularly relevant inquiry as defendant focused reasons are the most prevalent reason for judicial sentencing departures (Kaiser & Spohn, 2018). While past research has examined racial disparities in various sentencing outcomes, little scholarship has focused specifically on judicially sponsored downward departures for a defendant's mental health.

To further explore racial and gender disparities in judicial sentencing departures, especially among those with mental and emotional conditions, this study examines the following hypotheses:

Hypothesis 1. Federal criminal defendants who belong to a racial or ethnic minority, specifically, Black, Hispanic, or Other, will be less likely to receive a judicially originated downward sentencing departure than defendants who are White.

Hypothesis 2. The effect of race on judicially sponsored downward sentencing departures will be weaker for males than females.

Hypothesis 3. The probability of receiving a judicially originated downward sentencing departure for a mental or emotional condition will be lower for defendants who belong to a racial minority than White defendants.

Hypothesis 4. The likelihood of receiving a judicially originated downward sentencing departure for a mental or emotional condition will be lower for males belonging to a racial minority than females belonging to a racial minority.

Hypothesis 5. Defendants who belong to a racial minority will receive a shorter judicially sponsored downward departure for mental or emotional conditions than White defendants.

Hypothesis 6. The length of a judicial downward departure for a mental or emotional condition will vary based on race-gender categories, specifically that there are greater differences among males than females.

Methods

Data and Sample

This study used data from the United States Sentencing Commission's Monitoring Federal Criminal Sentences for fiscal years 2011 through 2015. The year of 2016 was considered for use in the analysis but no departures based on mental health occurred during that fiscal year and was therefore excluded from the current analysis. The data included all constitutional felony and serious misdemeanor cases received from all 94 federal District Courts collected by the United States Sentencing Commission from October 1, 2011 to September 30, 2015. The full data includes 311,030 total cases. Based on prior sentencing research (Byrne & Turner, 2010; Demuth, 2002, Doerner & Demuth, 2014; Doyle, 2000; Holmes et al., 2020), several types of cases were removed from the sample, including cases by non-U.S. citizens as these defendants face different sentencing outcomes such as deportation (Demuth, 2002; Doerner & Demuth, 2014) and juvenile defendants under the age of 18 (Doyle, 2000). The sample was further restricted to only cases where the federal defendant received a judicially originated upward or downward sentencing departure or was within the sentencing guideline range. This resulted in a restricted sample of 125,075 cases. This restricted sample includes 83,662 cases where the defendant was sentenced within the guideline range or above the range. It also includes 41,413 cases where the defendant received a judicial downward departure. Listwise deletion was used for missing data. The first two sets of analyses had approximately 8% missing data and had 114,524 cases in the analyses. The third set of analyses, only examined the length of downward

sentencing departures for mental or emotional conditions, had approximately 5% missing data with 2,607 cases in the analyses.

Measures

Dependent Variable

The first key dependent variable is the probability of a *judicially initiated downward sentencing departure* or a below the guideline range sentence. This variable was coded as a dummy variable (0 = within guidelines/above guidelines; 1 = downward departure). The second key dependent variable is the likelihood of *a judicially originated downward departure for mental or emotional conditions*. This was also coded as a dummy variable (0 = departure for other reasons; 1 = downward departure for mental and emotional conditions). The third key dependent variable is *the length of the downward departure*. For cases where the criminal defendant received a departure for a reason of "mental or emotional conditions," the length of downward departure is captured as the difference between the adjusted guideline minimum sentence and the number of months of incarceration ordered, following a similar measurement strategy in existing research (Holmes et al., 2020; Johnson et al., 2008). The natural log of sentence length was used to impose a more normal distribution on this measure.

Key Independent Variables

The first key independent variable for all analyses is *race/ethnicity*, coded as a series of mutually exclusive dummy variables with Non-Hispanic Whites as the reference category (Non-Hispanic White; Non-Hispanic Black; Hispanic; Other). Defendants in the Other category include the following racial groups: American Indians, Alaskan Natives, Asian Americans, Pacific Islanders, and multi-racial defendants. *Sex* was coded as a dummy variable where 1

represents females. To examine the effect of race and gender on judicial downward departures, interaction terms were created to represent Black females, Hispanic females, and Other females.

Control Variables

Control variables that represent extra-legal factors will be included in the models. *Age* was coded as the number of years at the time of the offense. Additionally, *educational attainment* was coded as a categorical variable with the following levels: less than high school education, high school graduate, some college, or college graduate.

Other variables included in the models represent legally relevant sentencing factors and were measured similarly to past scholarship (Feldmeyer & Ulmer, 2011; Holmes et al., 2020; Johnson et al., 2008). These control variables include *mode of conviction* (1 = trial; 0 = plea); *multiple convictions counts* (1 = 2 or more counts, 0 = 1 count), and *pre-trial detention* (1 = detained, 0 = other). Additionally, the *type of crime* was coded as a series of dummy variables to capture violent crime, drug offenses, property crime, financial crimes, and firearm offenses. *Final offense level* is included as a continuous control variable that ranges from 1 to 43 to capture the final level of the offense. The final offense level takes into account the base offense level and specific offense characteristics like the use of a weapon, with more serious crimes having higher final offense levels (USSC, 2018). In the analyses for length of downward departures for a defendant's mental or emotional conditions a control variable *for the total number of reasons for downward departures given to a defendant* is used; this variable ranges from 0 to 20. Lastly, past research tends to show that a defendant's *criminal history* may have an additional impact on a sentence (Everett & Wojtkiewicz, 2002; Feldmeyer & Ulmer, 2011; Johnson et al., 2008) and therefore, criminal history was accounted with a dummy variable

where 1 represents criminal history points applied, and 0 represents no criminal history points applied.

Analytic Strategy

　　　Preliminary analyses were conducted. First, the control variables were examined across all dependent variables and the independent variables. These tables can be found in Appendix A. Then, regression analyses were run to examine the percent change for each racial category from a baseline model without controls progressing to a full model with all control variables. Tables showing these analyses can be found in Appendix B.

　　　The analysis took place in four steps. First, descriptive statistics were generated and presented for all of the key dependent variables, key independent variables, and other identified control variables. Next, a logistic regression model was used to examine the probability of receiving a judicially originated downward sentencing departure based on the defendant's race and gender. Then, a logistic regression model was run to examine the relationship between a judicially initiated downward sentencing departure for a defendant's mental health and if it varies based on the defendant's race and gender. Last, the length of the downward departure was examined by using an ordinary least squares regression model to predict the logged length of the downward departure from the prescribed minimum sentence and the number of months of incarceration ordered and whether this relationship varies based on race and gender.

Results

　　　Table 1 reports descriptive statistics for the sample. Federal criminal defendants sentenced between fiscal years 2011 to 2015 were disproportionately male (83%), had an average age of 37 years old, and were largely high school graduates (40.27%). Additionally, most of the federal criminal defendants were White (37.80%). There were smaller subgroups of

Black defendants (34.56%) and Hispanic defendants (21.90%). The smallest racial group was the Other category at 5.74%. The percentages for race and ethnicity are similar to the percentages in the full data, excluding juveniles and noncitizens; those percentages are as follows: White (38.70%), Black (32.73%), Hispanic (23.00%), and Other (5.58%). Examining cases where the defendant was a female, most of the sample was White (42.66%), followed by Black (27.72%), then Hispanic (22.81%), and Other (6.83%).

Table 1 – Descriptive Statistics for the Sample of Federal Felony and Serious Misdemeanor Offenses, Fiscal Years 2011-2015

	Mean or %	S.D.	Min	Max
Dependent Variables				
Judicial Downward Departure (N = 114,524)	33.11	--	0.00	1.00
Judicial Downward Departure for Mental or Emotional Condition (N = 114,524)	2.18	--	0.00	1.00
Logged Length of Judicial Downward Departure for Mental or Emotional Conditions in Months (N = 2,607)	3.00	1.06	-1.17	9.19
Independent Variables of Interest				
White	37.80	--	0.00	1.00
Black	34.56	--	0.00	1.00
Hispanic	21.90	--	0.00	1.00
Other	5.74	--	0.00	1.00
Defendant's Sex				
Male	82.79	--	0.00	1.00
Female	17.21	--	0.00	1.00
Interaction Terms				
White*Female	42.66	--	0.00	1.00
Black*Female	27.72	--	0.00	1.00
Hispanic*Female	22.81	--	0.00	1.00
Other*Female	6.83	--	0.00	1.00
Control Variables				
Number of Counts				
1 Count	78.05	--	0.00	1.00
2+ Counts	21.95	--	0.00	1.00
Pretrial Detention				
Bail, Released on Own Recognizance, Other	37.76	--	0.00	1.00
Detained	62.24	--	0.00	1.00
Criminal History Applied				
No, Criminal History Applied	16.40	--	0.00	1.00
Yes, Criminal History Applied	83.60	--	0.00	1.00
Mode of Conviction				
Plea	94.23	--	0.00	1.00
Trial	5.77	--	0.00	1.00

Offense Type				
Violent Crime	5.23	--	0.00	1.00
Property Crime	3.61	--	0.00	1.00
Firearms Offense	18.76	--	0.00	1.00
Drug Offense	32.25	--	0.00	1.00
Financial Offense	22.09	--	0.00	1.00
Final Offense Level	19.33	9.34	1.00	43.00
Total Number of Reasons Given for Departure	1.47	2.43	0.00	20.00
Defendant's Level of Education				
Less than High School	28.53	--	0.00	1.00
High School Graduate	40.27	--	0.00	1.00
Some College	23.09	--	0.00	1.00
College Graduate	8.10	--	0.00	1.00
Defendant's Age at Offense	37.13	12.13	18.00	92.00

Most criminal defendants were charged with one criminal count (78.05%) and were detained during the pretrial phase (62.24%). Additionally, 94.23% of federal criminal defendants were convicted via a plea, and 83.60% had prior criminal history applied to their case. Most federal criminal defendants were convicted of a drug offense (32.25%) or a financial offense (22.09%) with other defendants convicted of firearms offenses (18.76%). Relatively fewer federal defendants were charged with violent offenses (5.23%) and property offenses (3.61%). Also, the mean for the final offense level assessed by the court was 19.33. Lastly, the mean for number of reasons provided by the judge for a downward departure received by a defendant was 1.47 reasons.

Table 2 shows multivariate models predicting the likelihood of a federal criminal defendant receiving a judicially sponsored downward departure. The first model examines the likelihood of defendants receiving a downward departure. Results show that both Black and Hispanic defendants were less likely to receive a judicially originated downward departure, holding all else constant. Specifically, Black defendants had 17% lower odds of a downward sentencing departure than White defendants. Meanwhile, Hispanic defendants had 23% lower odds of a downward sentencing departure than White defendants. Notably for defendants in the

other racial group, the results were not statistically significant. When examining defendant's characteristics, age was not statistically significant, but having some college or being a college graduate increased a defendant's likelihood of a downward departure when compared to those who did not graduate from high school. Nearly all of the characteristics about a defendant's case such as being charged with more than two counts, being detained during the pretrial process, criminal history, and type of offense were significant. The only exceptions were that firearms offenses and financial crimes were not statistically significant.

Table 2 – Logistic Regression Analysis of the Likelihood of a Judicial Downward Departure for Fiscal Years 2011 – 2015 (N = 114,524)

| | Likelihood of Judicial Downward Departure | | | | | |
| | Model 1 | | | Model 2 | | |
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Black	-.19 ***	.02	.83	-.22 ***	.02	.80
Hispanic	-.27 ***	.02	.77	-.32 ***	.02	.73
Other	.00	.03	1.00	.04	.03	1.04
Black*Female	--	--	--	.17 ***	.04	1.19
Hispanic*Female	--	--	--	.26 ***	.05	1.30
Other*Female	--	--	--	-.15 *	.07	.86
Female	.29 ***	.02	1.34	.19 ***	.03	1.21
Defendant's Age at Offense	.00	.00	1.00	.00	.00	1.00
Defendant's Education						
High School	.03 *	.02	1.03	.03	.02	1.03
Some College	.12 ***	.02	1.13	.12 ***	.02	1.13
College	.17 ***	.03	1.19	.17 ***	.03	1.18
2+ Criminal Counts	-.05 **	.02	.95	-.05 **	.02	.95
Pretrial Detention	-1.06 ***	.02	.35	-1.06 ***	.02	.35
Criminal History Applied	-.27 ***	.02	.77	-.27 ***	.02	.77
Mode of Conviction: Trial	-.13 ***	.03	.88	-.13 ***	.03	.88
Violent Crime	-.38 ***	.04	.69	-.38 ***	.04	.69
Property Crime	-.28 ***	.03	.76	-.27 ***	.04	.77
Firearms Offense	-.04	.02	.97	-.02	.02	.98
Drug Offense	.07 **	.02	1.07	.08 ***	.02	1.09
Financial Crime	.03	.02	1.03	.04	.02	1.04
Final Offense Level	.07 ***	.00	1.07	.07 ***	.00	1.07
Constant	-1.06 ***	.04	.35	-1.05 ***	.04	.35

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

Model 2 is similar to Model 1 but examines the likelihood of receiving a judicially sponsored downward sentencing departure through the race-gender categories of Black females,

Hispanic females, and Other females. White females had 21% higher odds of receiving a

downward departure than White males. Additionally, the results also show that both Black and

Hispanic females are more likely to receive judicial downward departures than White males.

Specifically, Black females have 19% higher odds of receiving a judicial downward sentencing

departure than White males. Meanwhile, Hispanic females have 30% higher odds of receiving a

judicially sponsored downward sentencing departure than White males. Interestingly, females

belonging to the other racial group did not appear to benefit in the same manner as other females

in different racial groups. Females in the other category had 14% lower odds of receiving a

judicial sentencing departure than White males at the .05 significance level, holding all else

constant. As with Model 1, in Model 2, defendants with some college or who are college

graduates are more likely to receive judicial downward sentencing departures than defendants

who did not complete high school. Also, most variables related to the case, such as final offense

level, criminal history, and number of counts, are statistically significant with the exception of

firearms offenses and financial crimes.

In Table 3, Model 1 shows that Black, Hispanic, and Other federal defendants are all less

likely to receive a judicial downward departure for mental or emotional conditions when each

group is compared to White federal criminal defendants. Black defendants had 38% lower odds

of a judicial downward departure for mental health than White defendants. Meanwhile, Hispanic

defendants had 36% lower odds of a judicial downward departure for mental health than White

defendants, and defendants belong to the Other category had 49% lower odds when compared to

White defendants. A defendant's pretrial detention is related to a lower likelihood of a judicial

downward departure for mental or emotional conditions, as are all types of offenses, except

property crime which is not significant. Notably, some control variables often associated with

criminal sentencing were not significant in this model, such as the number of criminal counts,

criminal history applied to sentencing, and the mode of conviction.

Table 3 – Logistic Regression for Judicial Downward Sentencing Departure for Defendant's
Mental or Emotional Conditions, Fiscal Years 2011 - 2015 (N = 114,524)

| | Judicial Downward Departure for Mental or Emotional Conditions | | | | | |
| | Model 1 | | | Model 2 | | |
	b	S.E.	Odds Ratio	b	S.E.	Odds Ratio
Black	-.48 ***	.05	.62	-.58 ***	.06	.56
Hispanic	-.45 ***	.06	.64	-.52 ***	.07	.59
Other	-.66 ***	.10	.56	-.81***	.12	.45
Black*Female	--	--	--	.38 **	.11	1.45
Hispanic*Female	--	--	--	.24 *	.12	1.27
Other*Female	--	--	--	.48 *	.21	1.62
Female	.77 ***	.05	2.16	.61 ***	.07	1.84
Defendant's Age at Offense	-.00	.00	.10	-.00	.00	.10
Defendant's Education						
High School	-.15 **	.05	.86	-.15 **	.05	.86
Some College	-.13 *	.06	.88	-.14 *	.06	.87
College	-.23 **	.08	.79	-.25 **	.08	.78
2+ Criminal Counts	.05	.05	1.06	.05	.05	1.06
Pretrial Detention	-.46 ***	.05	.63	-.45 ***	.05	.64
Criminal History Applied	-.08	.05	.92	-.08	.05	.92
Mode of Conviction: Trial	-.62	.10	.54	-.62 ***	.10	.54
Violent Crime	.55 ***	.08	1.73	.56 ***	.08	1.76
Property Crime	-.14	.12	.87	-.12	.12	.89
Firearms Offense	-.14 *	.07	.87	-.11	.07	.90
Drug Offense	-.53 ***	.06	.59	-.50 ***	.06	.61
Financial Crime	-.48 ***	.06	.62	-.47 ***	.07	.63
Final Offense Level	.05 ***	.00	1.05	.46 ***	.00	1.05
Constant	-3.91 ***	.12	.02	- 3.88 ***	.12	.02

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

In Model 2 in Table 3, female defendants across all racial categories were more likely to

receive a judicial downward departure for mental health. In particular, White females were 84%

more likely to receive a judicial downward departure for mental health than White male

defendants. Additionally, Black females were 45% more likely to receive a downward departure

for mental health than White males. Hispanic females had 27% higher odds of a downward

departure for mental health than White males holding all else constant at the .05 significance

level. Lastly, females in the other racial and ethnic category had 62% higher odds of receiving a

downward departure for mental health than White males, significant at the .05 level. Again in

this model, some control variables often associated with criminal sentencing, like multiple

criminal counts and criminal history, were not statistically significant.

Table 4 – Ordinary Least Squares Regression for Logged Length of Judicial Downward
Sentencing Departure for Defendant's Mental or Emotional Condition in Months, Fiscal Years
2011 - 2015 (N = 2,607)

	Logged Length of Judicial Downward Departure for Defendant's Mental or Emotional Condition in Months			
	Model 1		Model 2	
	b	S.E.	b	S.E.
Black	.04	.04	.06	.04
Hispanic	.03	.04	.07	.05
Other	.08	.07	.05	.09
Black*Female	--	--	-.08	.08
Hispanic*Female	--	--	-.10	.09
Other*Female	--	--	.09	.15
Female	.06	.04	.10 *	.05
Defendant's Age at Offense	.00*	.00	.00 *	.00
Defendant's Education				
High School Graduate	-.05	.04	-.05	.04
Some College	-.05	.04	-.05	.04
College Graduate	-.10	.06	-.09	.06
2+ Criminal Counts	.00	.04	.00	.03
Pretrial Detention	-.26 ***	.03	-.26 ***	.03
Criminal History Applied	.00	.04	.00	.04
Mode of Conviction: Trial	.16 *	.07	.16 *	.07
Violent Crime	-.13 *	.06	-.14 *	.06
Property Crime	-.09	.09	-.10	.09
Firearms Offense	-.09	.05	-.10 *	.05
Drug Offense	-.04	.04	-.04	.04
Financial Crime	-.13 **	.05	-.14 **	.05
Final Offense Level	.09 ***	.00	.09 ***	.00
Number of Reasons given for Departure	.02 ***	.01	.02 ***	.01
Constant	.90 ***	.90	.89 ***	.09

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

Analyses in Table 4 were restricted to only those defendants who received a judicial

downward departure for a mental or emotional condition. In Table 4, Model 1 federal criminal

defendants who were Black, Hispanic, or in the Other group each had a respective .04, .03, and

.08 unit increase in logged downward departure length for only mental or emotional conditions,

when compared to White federal criminal defendants. However, none of these relationships were

statistically significant for the length of the downward departure. Defendants who were detained during the pretrial phase did have a statistically significant .26 unit decrease in the logged length of the downward departure. Additionally, the final offense level and the number of reasons provided by the federal judge for a downward departure were also statistically significant at the .001 level.

In Model 2, White female defendants had a .10 month increase in logged length of downward departure for mental or emotional conditions when compared to White defendants holding all else constant, significant at the .05 level. Essentially, female defendants received a larger sentencing discount on downward departures for mental health than males. No other race-gender category was statistically significant. Model 2 mirrors Model 1 in that defendants who were detained during the pretrial process had a .26 unit decrease in departure length. Additionally, the final offense level and number of reasons given by the judge for sentencing departures were also statistically significant at the .001 level.

Discussion

This study used the focal concerns theory to examine whether judicially sponsored downward departures varied by a defendant's race, gender, and the interaction between the two. Past research tends to demonstrate that both racial and gender disparities exist in sentencing outcomes (Doerner & Demuth, 2014; Steffensmeier et al., 1998; Steffensmeier & Demuth, 2001). Extending previous research, this study examined whether disparities based on race or race-gender categories existed in a judicial downward departures for a defendant's mental health. To the author's knowledge, this is the first study to examine whether judicial downward departures for a defendant's mental or emotional conditions vary by race/ethnicity and gender. Previous research has suggested that the most prevalent reason given for judicial downward

departure was a defendant specific reason (Kaiser & Spohn, 2018). Within federal prisons, approximately 44% of inmates had been told they had a mental disorder by a healthcare professional (Bronson & Berzofsky, 2017). Given that federal prisons are housing a large number of inmates who have been told by a healthcare professional that they have a mental disorder, closer examination of judicial downward departures for a defendant's mental or emotional conditions may help explore the relationship, and may help determine if the relationship varies based on the defendant's race or race-gender category.

Using the United States Sentencing Commission data for fiscal years 2011 - 2015, this study tested several specific hypotheses. There was partial support for *Hypothesis 1* as both Black and Hispanic defendants were less likely to receive a judicial downward departure than White defendants. However, results for defendants in the Other category were not statistically significant. The findings that Black defendants are less likely to receive a downward departure are similar to other studies (Holmes & D'Amato, 2020; Kramer & Ulmer, 2002; Mustard, 2001). The literature has mixed findings about the disadvantages in sentencing and downward departures experienced by Hispanic defendants. Some studies find that Hispanic defendants are treated similarly to White defendants (Holmes et al., 2020). However, other studies find that Hispanic defendants face sentencing disparities in both state and federal courts (Brennan & Spohn, 2008; Demuth & Steffensmeier, 2004; Everett & Wojtkiewicz, 2002; Kutateladze et al., 2014; Steffensmeier & Demuth, 2000). This study contributes to the literature by finding that Hispanic defendants are less likely to receive a judicial downward departure than White defendants. Also, as with other studies in the literature that find evidence of racial disparities in sentencing outcomes, Black and Hispanic defendants were less likely to receive a judicial downward departure than White defendants even after accounting for legally relevant case

factors like prior criminal history, number of criminal counts, pretrial detention, and type of case. To further understand the differences between Blacks and Hispanics, supplementary analyses were conducted. The results indicated that Black defendants were more likely than Hispanic defendants to receive a downward departure (results not shown and available upon request). Consistent with focal concerns perspective after accounting for legally relevant case factors, judges may rely on stereotypes about the defendant's race or ethnicity when making sentencing decisions about downward departures that disadvantage defendants of color. This study suggested that Hispanic defendants were the most disadvantaged racial/ethnic group with respect to judicially sponsored downward departures.

There was partial support for *Hypothesis 2* that the effect of race on judicial downward departures would be weaker for males than females. In particular, White females, Black females, and Hispanic females were all more likely to receive a downward departure than White males. Interestingly, Hispanic females had the highest odds of receiving a judicial downward departure when compared to White males. However, females in the Other category were less likely to receive a downward departure than White males. The literature generally finds that women are treated more leniently than men during the sentencing process (Doerner, 2015; Holmes et al., 2020; Steffensmeier & Demuth, 2006), including being more likely to receive downward departures regardless of their race or ethnicity (Holmes et al., 2020). The findings here largely mirror the literature that women are sentenced more leniently, and thus are more likely to receive a judicial downward departure. The findings of this study are also consistent with focal concerns theory. As judges may rely on stereotypes when making sentencing decisions, female offenders may benefit from positive stereotypes associated with their gender irrespective of their race or ethnicity.

Moreover, this study also examined whether judicial downward departures for a defendant's mental or emotional conditions varied based on race and race-gender categories. There was support for *Hypothesis 3* that defendants belonging to a racial minority would be less likely to be given judicial downward departures specifically for a mental or emotional condition. Given that under focal concerns theory, judges may resort to stereotypes about a defendant's race or ethnicity when making sentencing decisions, it is important to consider that judges may also rely on negative stereotypes about mental health, particularly the stereotypes that individuals with mental illnesses are dangerous, violent, or unpredictable (Bos et al., 2009; Corrigan et al., 2003; Corrigan & Bink, 2005; Feldman & Crandall, 2007; Wahl, 1995). When negative perceptions about mental health are combined with negative stereotypes defendants of color may already face, these groups could be particularly disadvantaged. In this study, male defendants belonging to a racial or ethnic minority were less likely to receive a judicial downward departure for mental health. There are a large number of federal inmates with mental disorders (Broson & Berzofsky, 2017), therefore, examining judicial downward departures for defendants with mental or emotional conditions may ultimately help reduce the number of inmates in federal prisons with mental disorders and reduce possible unequal treatment of this subset of defendants based on their race or ethnicity.

Additionally, there was support for *Hypothesis 4* that males would be less likely to receive a judicial downward departure for mental health than females. Across all race-gender categories, women were more likely to receive judicial downward departures specifically for mental or emotional conditions. White females, in particular, were the most likely to benefit and the most likely to receive a judicial downward departure. The results here tend to match the available literature that women, regardless of their race or ethnicity, receive better sentencing

outcomes when compared to men (Doerner, 2015; Holmes et al., 2020; Steffensmeier & Demuth, 2006). In particular, federal judges may be less likely to attach negative stereotypes surrounding mental health, such as violence, to female offenders. If federal judges are attaching fewer negative stereotypes to female defendants, this may help explain why female defendants across all racial and ethnic backgrounds were more likely to receive a downward departure for a mental or emotional condition than male defendants.

When examining the length of the sentencing departure for defendants who received a judicial downward departure for mental or emotional conditions, there was no support for the *Hypothesis 5* that defendants who were either Black, Hispanic, or Other would receive a shorter departure length than White defendants. These findings were contrary to the literature. Holmes, Feldmeyer, and Kulig (2020) found that Black defendants received shorter downward departures than White defendants. Additionally, there was only limited support for the *Hypothesis 6* that females would receive longer downward sentencing departures for their mental or emotional conditions than males. Only White women benefitted by receiving longer departures for their mental or emotional conditions. Black women, Hispanic women, and Other women did not benefit with longer sentencing departures for their mental or emotional conditions. A possible explanation for these findings is that while defendants of color are less likely to receive a downward departure for mental health, once the judge makes the determination to depart from the guidelines for this reason, defendants are treated similarly.

This study significantly contributes to the criminal justice literature by identifying racial and gender gaps in judicial downward sentencing departures and extending this body of work to focus on a subset of defendants with mental and emotional conditions. Despite these major contributions, this study still has a few limitations. One limitation is that the sample is restricted

to judicial departures and within guideline sentences, there is no analysis of prosecutorial substantial assistance departures. Prosecutors do wield discretion that may impact case outcomes and result in disparities. Additionally, there is no information on earlier case processing decisions like charging decisions that other research has shown can impact case outcomes (Brady & Reyns, 2020; Nagel & Schulhofer, 1992). Another limitation is the measure of mental health. The data lacks a separate measure of mental health. Judges may depart from the sentencing guidelines and provide mental health as the only reason or one of many reasons to explain the sentencing departure; however, it is not a standalone measure in the data. Furthermore, there is no information in the data about the type or severity of the defendant's mental or emotional conditions. An additional limitation for this study is a lack of social class measures, such as income or employment status, in the data. A defendant's social class may affect their sentencing outcome, including an opportunity to receive a judicial downward departure. With these limitations in mind, future research may be needed to more fully examine the role mental health may have on sentencing outcomes.

Future research should investigate the relationship between sentencing and mental health, including whether specific mental disorders or severity of a mental health condition play a role in sentencing decisions. Under a focal concerns perspective, judges may rely on gaps in information by using perceptual shorthands or stereotypes (Steffensmeier et al., 1998). Mental illnesses are stigmatized (Bos et al., 2003; Corrigan & Bink, 2005), and further exploration of the intersection between sentencing decisions and mental illness is needed to more fully explore the role that a defendant's mental health conditions may have on sentencing outcomes. Additionally, future research in this area should explore whether a prosecutor's use of substantial assistance

departures for a defendant's mental health conditions also varies based on the defendant's race, ethnicity, or gender.

This study makes a unique contribution to the literature by examining whether sentencing disparities extend to judicial downward departures for a defendant's mental or emotional conditions. By focusing on race and ethnicity, this study also adds to a large body of research that finds that both Black and Hispanic defendants are disadvantaged by receiving worse sentencing outcomes with Hispanics being the most disadvantaged. In particular, Black and Hispanic defendants were less likely to receive a judicial downward sentencing departure than White defendants. Additionally, this study supports the prior literature that race-gender categories have an important effect on sentencing outcomes, including receipt of downward judicial departures, as males were less likely to receive judicial downward departures, including those for mental health. Meanwhile, female defendants, irrespective of their race or ethnicity, tended to benefit from their gender and were more likely to receive judicial downward departures. This finding also extended to female defendants who received downward departures for mental health.

Furthermore, this study helps expand focal concerns theory by examining a different stigmatized status, mental illness, and the related sentencing outcome of judicial downward departures for a defendant's mental or emotional conditions. The focal concerns perspective is often used to examine judicial decision-making given that judges may rely on both legal and extralegal sentencing factors during sentencing. Legal sentencing factors may include a defendant's blameworthiness or their risk to community safety. Extralegal sentencing factors could include stereotypes about a defendant's race/ethnicity or gender. Additionally, a judge's reliance on stereotypes during the sentencing process could also include their perceptions that a

defendant with a mental illness might be prone to violent or dangerous behavior. With the rising

prevalence of inmates with mental illnesses in prisons, further examination of the relationships

between race, gender, and mental health is warranted. The results show that White, Black, and

Hispanic females all benefit from their gender for downward sentencing departure decisions that

originate with the judge, including by being more likely to receive a downward departure for a

mental or emotional condition. Additionally, the findings suggest that Black males, Hispanic

males, and Other males are all less likely to receive a judicial downward departure for mental

health conditions than White offenders.

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Table A1 – Dependent Variable of Judicial Downward Departure across All Control Variables Examining the Mean or Percent and the Frequency (Sample N = 125,075)

| | Judicial Downward Departure | | | | | |
| | No, Downward Departure | | Yes, Downward Departure | | Total | |
Number of Counts	% or Mean	F	% or Mean	F	%	F
1 Count	67.94	66,328	32.06	31,298	100.00	97,626
2+ Counts	63.15	17,334	36.85	10,115	100.00	27,449
Pretrial Detention						
Not Detained	53.62	10,319	46.38	20,588	100.00	44,391
Detained	72.53	53,073	27.47	20,105	100.00	73,178
Defendant's Criminal History						
No, criminal history applied	52.54	10,319	47.46	9,321	100.00	19,640
Yes, criminal history applied	68.14	68,209	31.86	31,891	100.00	100,100
Mode of Conviction						
Plea	67.41	79,444	32.59	38,403	100.00	117,852
Trial	58.38	4,215	41.62	3,005	100.00	7,220
Violent Crime						
Non-Violent Crime	66.49	78,807	33.42	40,289	100.00	120,555
Violent Crime	74.20	4,855	25.80	1,688	100.00	6,543
Property Crime						
Non-Property Crime	66.58	80,266	33.42	40,289	100.00	120,555
Property Crime	75.13	3,396	24.87	1,124	100.00	4,520
Firearms Offense						
Non-Firearm Offense	65.26	66,313	34.74	35,293	100.00	101,606
Firearm Offense	73.92	17,349	26.08	6,120	100.00	23,469
Drug Offense						
Non-Drug Offense	68.47	58,021	31.53	26,713	100.00	84,734
Drug Offense	63.56	25,641	36.44	14,700	100.00	40,341
Financial Crime						
Non-Financial Crime	68.69	66,938	31.31	30,510	100.00	97,448
Financial Crime	60.53	16,724	39.47	10,903	100.00	27,627
Final Offense Level						
1 – 10	87.78	21,723	12.22	3,023	100.00	24,746
11 – 16	60.69	14,621	39.31	9,472	100.00	24,093
17 – 21	62.90	15,240	37.10	8,989	100.00	24,229
22 – 28	64.56	16,732	35.44	9,183	100.00	25,918
29+	55.82	13,542	44.18	10,717	100.00	24,259
Defendant's Level of Education						
Less than High School	70.18	23,446	29.82	9,964	100.00	33,410
High School Graduate	66.92	31,559	33.08	15,599	100.00	47,158
Some College	60.62	16,392	39.38	10,650	100.00	27,042
College Graduate	52.10	4,490	47.90	4,451	100.00	9,481
Defendant's Age						
18 – 25	70.43	15,867	29.57	6,663	100.00	22,530
26 – 31	69.53	18,010	30.47	7,892	100.00	25,902
32 – 39	67.91	20,514	32.08	9,689	100.00	30,203
40 – 49	66.04	16,430	33.96	8,450	100.00	24,880
50+	58.97	12,528	41.03	8,715	100.00	21,243
Defendant's Sex						
Male	67.71	69,214	32.39	33,014	100.00	102,228

Female	60.90	12,937	39.10	8,307	100.00	21,244
Interaction Terms						
Black*female	59.49	3,314	40.51	2,257	100.00	5,571
Hispanic*female	59.36	2,721	40.64	1,863	100.00	4,584
Other*female	63.58	873	36.42	500	100.00	1,373

Table A2 – Dependent Variable: Judicial Downward Departure for Mental and Emotional Conditions across All Control Variables with Means and Frequencies (Sample N=125,075)

	Judicial Downward Departure for Mental or Emotional Conditions					
	No, Mental Health Downward Departure		Yes, Mental Health Downward Departure		Total	
Number of Counts	% or Mean	F	% or Mean	F	%	F
1 Count	97.90	95,573	2.10	2,053	100.00	97,626
2+ Counts	97.55	26,777	2.45	672	100.00	27,449
Pretrial Detention						
Not Detained	97.28	43,184	2.72	1,207	100.00	44,391
Detained	97.99	71,707	2.01	1,471	100.00	73,178
Defendant's Criminal History						
No, criminal history applied	97.07	19,065	2.93	575	100.00	19,640
Yes, criminal history applied	97.86	97,959	2.14	2,141	100.00	100,100
Mode of Conviction						
Plea	97.80	115,255	2.20	2,597	100.00	117,852
Trial	98.23	7,092	1.77	128	100.00	7,220
Violent Crime						
Non-Violent Crime	97.95	116,099	2.05	2,433	100.00	118,532
Violent Crime	95.54	6,251	4.46	292	100.00	6,543
Property Crime						
Non-Property Crime	97.82	117,926	2.18	2,629	100.00	120,555
Property Crime	97.88	4,424	2.12	96	100.00	4,520
Firearms Offense						
Non-Firearm Offense	97.75	99,320	2.25	2,286	100.00	101,606
Firearm Offense	98.13	23,030	1.87	439	100.00	23,469
Drug Offense						
Non-Drug Offense	97.67	82,762	2.33	1,972	100.00	84,732
Drug Offense	98.13	39,588	1.87	753	100.00	40,341
Financial Crime						
Non-Financial Crime	97.77	95,278	2.23	2,173	100.00	97,448
Financial Crime	98.00	27,075	2.00	552	100.00	27,627
Final Offense Level						
1 – 10	99.31	24,576	0.69	170	100.00	24,746
11 – 16	97.61	23,516	2.39	577	100.00	24,093
17 – 21	97.48	23,619	2.52	610	100.00	24,229
22 – 28	97.51	25,273	2.49	645	100.00	25,918
29+	97.02	23,537	2.98	722	100.00	24,259
Defendant's Level of Education						
Less than High School	97.86	32,694	2.14	716	100.00	33,410
High School Graduate	97.82	46,131	2.18	1,027	100.00	47,158
Some College	97.44	26,350	2.56	692	100.00	27,042
College Graduate	97.47	9,241	2.53	240	100.00	9,481
Defendant's Age						

18 – 25	97.68	22,007	2.32	523	100.00	22,530
26 – 31	98.04	25,395	1.96	507	100.00	25,902
32 – 39	98.12	29,634	1.88	569	100.00	30,203
40 – 49	97.95	34,370	2.05	510	100.00	24,880
50+	97.10	20,627	2.90	616	100.00	21,243
Defendant's Sex						
Male	98.05	100,230	1.95	1,998	100.00	102,228
Female	96.58	20,518	3.42	726	100.00	21,244
Interaction Terms						
Black*female	96.80	5,393	3.20	178	100.00	5,571
Hispanic*female	96.82	4,438	3.18	146	100.00	4,584
Other*female	96.65	1,327	3.35	46	100.00	1,373

Table A3 – Dependent Variable: Logged Length of Judicial Downward Departure for Mental or Emotional Conditions across All Control Variables (N = 2,690)

	Logged Length of Judicial Downward Departure for Mental or Emotional Conditions in Months (N = 2,690)		
	Logged Length for Mental Health Downward Departure in Months		
Number of Counts	F	Mean	S.D.
1 Count	2,029	2.937	.982
2+ Counts	661	3.199	1.252
Pretrial Detention			
Not Detained	1,198	2.895	.915
Detained	1,446	3.103	1.144
Defendant's Criminal History			
No, criminal history applied	570	3.107	.944
Yes, criminal history applied	2,112	2.976	1.087
Mode of Conviction			
Plea	2,564	2.965	1.016
Trial	126	3.741	1.554
Violent Crime			
Non-Violent Crime	2,406	3.012	1.068
Violent Crime	284	2.911	.984
Property Crime			
Non-Property Crime	2,596	3.029	1.052
Property Crime	94	2.245	1.003
Firearms Offense			
Non-Firearm Offense	2,257	3.037	1.087
Firearm Offense	433	2.816	.887
Drug Offense			
Non-Drug Offense	1,944	2.929	1.064
Drug Offense	746	3.191	1.026
Financial Crime			
Non-Financial Crime	2,144	3.109	1.070
Financial Crime	546	2.581	.905
Final Offense Level			
1 – 10	164	1.781	.672
11 – 16	565	2.309	.521
17 – 21	605	2.681	.683

22 – 28	638	3.065	.746
29+	718	4.039	1.060
Number of Reasons for Departure			
1	125	2.659	.986
2 – 3	551	2.796	1.022
4 – 5	684	2.967	1.031
6+	1,330	3.137	1.076
Defendant's Level of Education			
Less than High School	708	2.955	1.072
High School Graduate	1,011	3.072	1.044
Some College	684	2.952	1.000
College Graduate	239	3.039	1.191
Defendant's Age			
18 – 25	516	3.054	.972
26 – 31	501	3.070	1.153
32 – 39	563	3.052	1.142
40 – 49	505	2.894	2.894
50+	605	2.943	1.003
Defendant's Sex			
Male	1,968	3.091	1.094
Female	721	2.760	.919
Interaction Terms			
Black*female	176	2.675	.924
Hispanic*female	145	2.741	.806
Other*female	46	2.776	.513

Table A4 – Independent Variables of Interest across all Control Variables (N = 125,075)

	Independent Variable of Interest: Defendant's Race/Ethnicity							
	White		Black		Hispanic		Other	
	%	F	%	F	%	F	%	F
Number of Counts								
1 Count	77.25	34,932	73.77	30,488	82.07	21,493	81.81	5,616
2+ Counts	22.75	10,287	26.23	10,843	17.93	4, 696	18.19	1,249
Pretrial Detention								
Not Detained	46.97	20,727	30.86	12,548	31.87	8,179	42.32	2,831
Detained	53.03	23,403	69.17	28,112	68.13	17,485	57.68	3,858
Defendant's Criminal History								
No, criminal history applied	21.60	9,654	7.28	2,988	20.94	5,422	20.49	1,392
Yes, criminal history applied	78.40	35,034	92.72	38,035	79.06	20,467	79.51	5,400
Mode of Conviction								
Plea	94.16	42,579	92.67	38,302	95.82	25,094	94.44	6,483
Trial	5.84	2,640	7.33	3,029	4.18	1,095	5.56	382
Violent Crime								
Non-Violent Crime	94.73	42,836	96.11	39,724	97.75	25,599	72.95	5,008
Violent Crime	5.27	2,383	3.89	1,607	2.25	590	27.05	1,857
Property Crime								
Non-Property Crime	95.85	43,342	97.08	40,123	98.03	25,674	94.07	6,458
Property Crime	4.15	1,877	2.92	1,208	1.97	515	5.93	407

Firearms Offense								
Non-Firearm Offense	85.99	38,885	70.63	29,192	83.68	21,915	90.71	6,227
Firearm Offense	14.01	6,334	29.37	12,139	16.32	4,274	9.29	638
Drug Offense								
Non-Drug Offense	75.13	33,971	65.86	27,220	50.85	13,317	81.60	5,602
Drug Offense	24.87	11,248	34.14	14,111	49.15	12,872	18.40	1,263
Financial Crime								
Non-Financial Crime	71.83	32,480	78.20	32,319	85.79	22,468	78.19	5,368
Financial Crime	28.17	12,739	21.80	9,012	14.21	3,721	21.81	1,497
Final Offense Level								
1 – 10	19.04	8,540	14.64	5,952	14.32	3,688	24.59	1,666
11 – 16	21.22	9,517	19.01	7,731	19.69	5,072	24.29	1,646
17 – 21	18.19	8,158	23.19	9,429	19.38	4,991	23.54	1,595
22 – 28	20.24	9,078	22.36	9,093	25.88	6,665	15.14	1,026
29+	21.32	9,564	20.80	8,457	20.73	5,339	12.44	843
Number of Reasons for Departure								
0	55.28	24,999	63.77	26,355	62.43	16,349	59.32	4,072
1	9.05	4,093	8.41	3,474	10.77	2,821	9.61	660
2 – 3	12.35	5,584	10.37	4,286	11.38	2,981	10.27	705
4 – 5	11.48	5190	9.02	3,726	8.66	2,267	9.13	627
6+	11.84	5,353	8.44	3,490	6.76	1,771	11.67	801
Defendant's Level of Education								
Less than High School	16.60	7,332	32.87	13,130	42.51	10,880	27.64	1,845
High School Graduate	41.76	18,449	40.81	16,524	36.97	9,462	39.85	2,660
Some College	27.97	12,355	21.92	8,877	16.92	4,331	21.69	1,448
College Graduate	13.68	6,042	4.39	1,779	3.59	920	10.82	722
Defendant's Age								
18 – 25	10.26	4,637	19.01	7,855	26.13	6,840	21.49	1,475
26 – 31	16.06	7,260	24.45	10,105	23.21	6,076	20.17	1,385
32 – 39	21.65	9,786	27.94	11,547	24.54	6,425	22.16	1,521
40 – 49	24.10	10,897	18.22	7,529	16.72	4,376	18.85	1,294
50+	27.94	12,631	10.39	4,292	9.39	2,459	17.33	1,190
Defendant's Sex								
Male	81.04	36,646	86.52	35,760	82.50	21,605	80.00	5,491
Female	18.96	8,571	13.48	5,571	17.50	4,584	20.00	1,373
Interaction Terms								
Black*female	-	-	100.0	5,571	-	-	-	-
Hispanic*female	-	-	-	-	100.0	4,584	-	-
Other*female	-	-	-	-	-	-	100.0	1,373

APPENDIX B

Tables Examining Percent Change for Race Categories for Table 2 – Models One and Two

Table B1: Sentencing Departure and Percent Change by Control Variable for Black Defendants

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.391	.014	--------
Number of Counts	-.397	.014	-1.50
Pretrial Detention	-.277	.015	29.20
Criminal History Applied	-.308	.015	21.20
Mode of Conviction	-.397	.014	-1.50
Violent Crime	-.397	.014	-1.50
Property Crime	-.395	.014	-1.00
Firearms Crimes	-.328	.015	16.10
Drug Crimes	-.415	.014	-6.10
Financial Crimes	-.373	.014	4.60
Final Offense Severity	-.405	.014	-3.60
Education	-.317	.015	18.30
Age	-.318	.015	18.70
Sex	-.374	.014	4.30

Table B2: Sentencing Departure and Percent Change by Control Variable for Hispanic Defendants

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.348	.016	--------
Number of Counts	-.341	.016	2.00
Pretrial Detention	-.243	.017	30.20
Criminal History Applied	-.352	.017	-1.10
Mode of Conviction	-.343	.016	1.30
Violent Crime	-.362	.016	-4.00
Property Crime	-.356	.016	-2.30
Firearms Crimes	-.340	.016	2.30
Drug Crimes	-.410	.017	-17.80
Financial Crimes	-.308	.017	11.50
Final Offense Severity	-.377	.017	-8.30
Education	-.239	.017	31.30
Age	-.261	.017	25.00
Sex	-.345	.016	0.90

Table B3: Sentencing Departure and Percent Change by Control Variable for Other Defendants

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.280	.027	--------
Number of Counts	-.273	.027	2.50
Pretrial Detention	-.256	.028	8.60
Criminal History Applied	-.282	.028	-0.70
Mode of Conviction	-.279	.027	0.40
Violent Crime	-.185	.028	33.90
Property Crime	-.274	.027	2.10
Firearms Crimes	-.301	.027	-7.50
Drug Crimes	-.264	.027	5.70
Financial Crimes	-.262	.027	6.40
Final Offense Severity	-.181	.028	35.40
Education	-.234	.028	16.40
Age	-.227	.028	18.90
Sex	-.284	.027	-1.40

Table B4: Final Model with all Control Variables Percent Change by Black Coefficient

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.391	.014	--------
Black	-.186	.016	52.40
Number of Counts	-.047	.031	88.00
Pretrial Detention	-1.059	.016	-170.80
Criminal History Applied	-.266	.019	-68.00
Mode of Conviction	-.127	.028	67.50
Violent Crime	-.376	.035	3.80
Property Crime	-.281	.042	28.10
Firearms Crimes	-.036	.024	90.80
Drug Crimes	0.068	.021	117.40
Financial Crimes	0.029	.022	107.40
Final Offense Severity	0.065	.001	116.60
Education			
High School	0.029	.017	107.40
Some College	0.121	.019	130.90
College Graduate	0.172	.028	144.00
Age	.0001	.001	100.03
Sex	-.290	.018	25.80

Table B5: Final Model with all Control Variables Percent Change by Hispanic Coefficient

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.348	.016	-------
Hispanic	-.266	.019	23.60
Number of Counts	-.047	.031	86.50
Pretrial Detention	-1.059	.016	-204.30
Criminal History Applied	-.266	.019	23.60
Mode of Conviction	-.127	.028	63.50
Violent Crime	-.376	.035	-8.00
Property Crime	-.281	.042	19.30
Firearms Crimes	-.036	.024	89.70
Drug Crimes	0.068	.021	119.50
Financial Crimes	0.029	.022	108.30
Final Offense Severity	0.065	.001	118.70
Education			
High School	0.029	.017	108.30
Some College	0.121	.019	134.80
College Graduate	0.172	.028	149.40
Age	.0001	.001	100.03
Sex	-.290	.018	16.70

Table B6: Final Model with all Control Variables Percent Change by Other Coefficient

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.280	.027	--------
Other	.002	.031	100.70
Number of Counts	-.047	.031	83.20
Pretrial Detention	-1.059	.016	-278.20
Criminal History Applied	-.266	.019	5.00
Mode of Conviction	-.127	.028	54.60
Violent Crime	-.376	.035	-34.30
Property Crime	-.281	.042	-0.40
Firearms Crimes	-.036	.024	87.10
Drug Crimes	0.068	.021	124.30
Financial Crimes	0.029	.022	110.40
Final Offense Severity	0.065	.001	123.20
Education			
High School	0.029	.017	110.40
Some College	0.121	.019	143.20
College Graduate	0.172	.028	161.40
Age	.0001	.001	100.04
Sex	-.290	.018	-3.60

Table 3 Tables Examining Percent Change for Race Categories for Mental Health Departures for Models One and Two

Table B7: Sentencing Departure and Percent Change by Control Variable for Black Defendants

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.597	.04	--------
Number of Counts	-.601	.04	-0.60
Pretrial Detention	-.587	.05	1.70
Criminal History Applied	-.563	.05	5.70
Mode of Conviction	-.594	.04	0.50
Violent Crime	-.569	.04	4.70
Property Crime	-.597	.04	0.00
Firearms Crimes	-.577	.04	3.40
Drug Crimes	-.585	.04	2.20
Financial Crimes	-.607	.04	-1.70
Final Offense Severity	-.582	.04	2.50
Education	-.619	.05	-3.70
Age	-.582	.05	2.50
Sex	-.582	.05	2.50

Table B8: Sentencing Departure and Percent Change by Control Variable for Hispanic Defendants

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.497	.05	--------
Number of Counts	-.491	.05	1.20
Pretrial Detention	-.492	.05	1.00
Criminal History Applied	-.494	.05	0.60
Mode of Conviction	-.501	.05	-0.80
Violent Crime	-.448	.05	9.90
Property Crime	-.497	.05	0.00
Firearms Crimes	-.496	.05	0.20
Drug Crimes	-.458	.05	7.80
Financial Crimes	-.521	.05	-4.80
Final Offense Severity	-.492	.05	1.00
Education	-.518	.05	-4.20
Age	-.479	.05	3.60
Sex	-.479	.05	3.60

Table B9: Sentencing Departure and Percent Change by Control Variable for Other Defendants

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.425	.08	--------
Number of Counts	-.419	.08	1.40
Pretrial Detention	-.493	.09	-16.00
Criminal History Applied	-.428	.09	-0.70
Mode of Conviction	-.427	.09	-0.50
Violent Crime	-.613	.08	-44.20
Property Crime	-.425	.08	0.00
Firearms Crimes	-.438	.08	-3.10
Drug Crimes	-.449	.08	-5.60
Financial Crimes	-.431	.08	-1.40
Final Offense Severity	-.307	.002	27.80
Education	-.468	.09	-10.10
Age	-.416	.08	2.10
Sex	-.416	.08	2.10

Table B10: Final Model with all Control Variables Percent Change by Black Coefficient

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.597	.04	--------
Black	-.449	.05	24.80
Number of Counts	.052	.05	108.70
Pretrial Detention	-.457	.05	23.50
Criminal History Applied	-.082	.05	86.30
Mode of Conviction	-.629	.10	-5.40
Violent Crime	.535	.08	189.60
Property Crime	-.145	.12	75.70
Firearms Crimes	-.140	.07	76.50
Drug Crimes	-.531	.06	11.10
Financial Crimes	-.489	.07	18.10
Final Offense Severity	.047	.003	107.90
Education			
High School	-.140	.05	76.50
Some College	-.123	.06	79.40
College Graduate	-.225	.08	60.30
Age	.00006	.002	100.01
Sex	-.773	.05	-29.50

Table B11: Final Model with all Control Variables Percent Change by Hispanic Coefficient

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.497	.05	-------
Hispanic	-.415	.06	16.50
Number of Counts	.052	.05	110.40
Pretrial Detention	-.457	.05	8.00
Criminal History Applied	-.082	.05	83.50
Mode of Conviction	-.629	.10	-26.60
Violent Crime	.535	.08	-7.60
Property Crime	-.145	.12	70.80
Firearms Crimes	-.140	.07	71.80
Drug Crimes	-.531	.06	-6.80
Financial Crimes	-.489	.07	1.60
Final Offense Severity	.047	.003	109.50
Education			
High School	-.140	.05	71.80
Some College	-.123	.06	75.30
College Graduate	-.225	.08	54.70
Age	.00006	.002	100.01
Sex	-.773	.05	-55.50

Table B12: Final Model with all Control Variables Percent Change by Other Coefficient

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.425	.08	--------
Other	-.581	.10	-36.70
Number of Counts	.052	.05	112.20
Pretrial Detention	-.457	.05	-7.50
Criminal History Applied	-.082	.05	80.70
Mode of Conviction	-.629	.10	-48.00
Violent Crime	.535	.08	-25.90
Property Crime	-.145	.12	65.90
Firearms Crimes	-.140	.07	67.10
Drug Crimes	-.531	.06	-24.90
Financial Crimes	-.489	.07	-15.10
Final Offense Severity	.047	.003	111.10
Education			
High School	-.140	.05	67.10
Some College	-.123	.06	71.10
College Graduate	-.225	.08	47.10
Age	.00006	.002	100.01
Sex	-.773	.05	-81.90

Tables examining percent change for race categories for length of mental health departures in months.

Table B13: Sentencing Departure and Percent Change by Control Variable for Black Defendants

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.171	.05	--------
Number of Counts	-.175	.05	-2.30
Pretrial Detention	-.199	.05	-16.40
Criminal History Applied	-.160	.05	6.40
Mode of Conviction	-.175	.04	-2.30
Violent Crime	-.171	.05	0.00
Property Crime	-.162	.05	5.30
Firearms Crimes	-.149	.05	12.90
Drug Crimes	-.190	.04	-11.10
Financial Crimes	-.177	.04	-3.50
Final Offense Severity	-.036	.03	78.90
Number of Reasons for Departure	-.151	.04	11.70
Education	-.172	.05	-0.60
Age	-.179	.05	-4.70
Sex	-.167	.05	2.30

Table B14: Sentencing Departure and Percent Change by Control Variable for Hispanic Defendants

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.116	.05	--------
Number of Counts	-.108	.05	6.90
Pretrial Detention	-.138	.05	-19.00
Criminal History Applied	-.123	.05	-6.00
Mode of Conviction	-.097	.05	16.40
Violent Crime	-.121	.05	-4.30
Property Crime	-.114	.05	1.70
Firearms Crimes	-.114	.05	1.70
Drug Crimes	-.187	.05	-61.20
Financial Crimes	-.182	.05	-56.90
Final Offense Severity	-.003	.04	97.40
Number of Reasons for Departure	-.074	.05	36.20
Education	-.115	.06	0.90
Age	-.134	.05	-15.50
Sex	-.096	.05	17.20

Table B15: Sentencing Departure and Percent Change by Control Variable for Other Defendants

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.178	.08	--------
Number of Counts	-.159	.08	10.70
Pretrial Detention	-.200	.08	-12.40
Criminal History Applied	-.190	.09	-6.70
Mode of Conviction	-.176	.08	1.10
Violent Crime	-.161	.08	9.60
Property Crime	-.172	.08	3.40
Firearms Crimes	-.196	.08	-10.10
Drug Crimes	-.145	.08	18.50
Financial Crimes	-.173	.08	2.80
Final Offense Severity	.028	.06	115.70
Number of Reasons for Departure	-.184	.08	-3.40
Education	-.146	.09	18.00
Age	-.178	.08	0.00
Sex	-.138	.08	22.50

Table B16: Final Model with all Control Variables Percent Change by Black Coefficient

Control Variable	Coefficient Black	Standard Error	% Change from None
None	-.171	.05	--------
Black	.012	.03	107.00
Number of Counts	.001	.03	100.60
Pretrial Detention	-.257	.03	-50.30
Criminal History Applied	.001	.04	100.60
Mode of Conviction	.164	.07	195.90
Violent Crime	-.120	.06	29.80
Property Crime	-.090	.09	47.40
Firearms Crimes	-.091	.05	46.80
Drug Crimes	-.032	.04	81.30
Financial Crimes	-.126	.05	26.30
Final Offense Severity	.094	.002	155.00
Number of Reasons for Departure	.020	.005	111.70
Education			
High School	-.056	.04	67.30
Some College	-.058	.04	66.10
College Graduate	-.104	.06	39.20
Age	.002	.001	101.20
Sex	-.061	.09	64.30

Table B17: Final Model with all Control Variables Percent Change by Hispanic Coefficient

Control Variable	Coefficient Hispanic	Standard Error	% Change from None
None	-.116	.05	-------
Hispanic	.005	.04	95.70
Number of Counts	.001	.03	100.90
Pretrial Detention	-.257	.03	-121.60
Criminal History Applied	.001	.04	100.90
Mode of Conviction	.164	.07	-41.40
Violent Crime	-.120	.06	-3.40
Property Crime	-.090	.09	22.40
Firearms Crimes	-.091	.05	21.60
Drug Crimes	-.032	.04	72.40
Financial Crimes	-.126	.05	-8.60
Final Offense Severity	.094	.002	181.00
Number of Reasons for Departure	.020	.005	117.20
Education			
High School	-.056	.04	51.70
Some College	-.058	.04	50.00
College Graduate	-.104	.06	10.30
Age	.002	.001	101.70
Sex	-.061	.09	47.40

Table B18: Final Model with all Control Variables Percent Change by Other Coefficient

Control Variable	Coefficient Other	Standard Error	% Change from None
None	-.178	.08	--------
Other	.019	.06	110.70
Number of Counts	.001	.03	100.60
Pretrial Detention	-.257	.03	-44.30
Criminal History Applied	.001	.04	100.60
Mode of Conviction	.164	.07	7.90
Violent Crime	-.120	.06	32.60
Property Crime	-.090	.09	49.40
Firearms Crimes	-.091	.05	48.90
Drug Crimes	-.032	.04	82.00
Financial Crimes	-.126	.05	29.20
Final Offense Severity	.094	.002	152.80
Number of Reasons for Departure	.020	.005	111.20
Education			
High School	-.056	.04	68.50
Some College	-.058	.04	67.10
College Graduate	-.104	.06	45.20
Age	.002	.001	101.10
Sex	-.061	.09	65.70