

Sentencing Disparities in Yakima County: The Washington Sentencing Reform Act Revisited

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This study expands upon an earlier exploration of sentencing disparity in the Yakima County, Washington judicial system. The Sentencing Reform Act was adopted in 1981, becoming effective in 1984, to end inequitable sentences imposed on individuals who are convicted of similar offenses. This work adds to the original study by including an investigation of "exceptional" sentences and "offense type" crime. Independent variables are defendants' ethnicity (Hispanic, Native American, and White), age, and gender. The period of investigation includes fiscal years 1986 through 1991. Data was provided to the researchers by the Washington Sentencing Guidelines Commission and was processed using a difference of means test (ANOVA program). The findings suggest that sentencing disparity, while not being widespread, does persist nearly a decade after the Sentencing Reform Act was adopted. Hispanic defendants who had no prior criminal history were apt to receive disproportionately more severe sentences for similar crimes than Native Americans or whites.

INTRODUCTION

An important issue confronting the criminal justice system is sentencing disparity. Sentencing disparity involves inequitable sanctions imposed on individuals who have committed similar offenses. These inequalities in sentencing patterns have allegedly centered around group differences and may reflect an ethnic or racial bias.

Explorations in Ethnic Studies

Numerous studies¹ have explored this issue, sparking considerable controversy. Many of these early works report findings which support the view that sentencing bias against non-whites exist.² Neubauer³ suggests courts in the South strongly discriminated against African Americans—evident from a 70% execution rate of all prisoners since 1930. For cases of rape, 90% of all prisoners executed were Black. Application of the death penalty and racial discrimination was recently reviewed by the United States Supreme Court in *McCleskey v. Kemp* (1987). A 5-4 majority decided Georgia's capital punishment system was constitutional notwithstanding empirical evidence that indicated killers of White people are much more likely to receive the death penalty than killer of Blacks.⁴ Aside from capital punishment cases, Welch, Spohn, and Gruhl find in their comparative study of six local jurisdictions that Black males experience significant inequality at the conviction and sentencing stage of the judicial process, although the level is less than that which one would expect in society at large.⁵

Kempf and Austin⁶ argue that sentencing disparity is neither restricted to the South, nor limited to capital punishment cases. In their analysis of Pennsylvania data for 1977, sentencing disparity was observed in urban, suburban, and rural areas after controlling for prior record, and using tests of statistical significance and measures of association. Results indicated a greater disparity in suburban areas with a small minority population, but within easy commuting distance from a large African American population.⁷

Other researchers have focused on non-Black minority groups. LaFree,⁸ in a study of Hispanics and court processing in El Paso, observes that ethnicity has an indirect effect through bail status. Moreover, being Hispanic is the single best predictor of guilty verdicts in El Paso. Bynum,⁹ in a study of Wisconsin Native American defendants, discovers they are more likely to be sent to prison for offenses for which Whites receive non-prison sanctions. Additionally, when Whites are sent to prison for similar offenses, they are more likely to receive parole than Native Americans.

The racial characteristic of the judge has also been found to impact sentencing disparity. Welch, Combs, and Gruhl¹⁰ in a study of judges and sentencing reveals that while no significant differences were found between White and Black judges when sentencing Black defendants, African American judges were more likely to sentence White defendants to prison than were White judges.¹¹

Sentencing disparity has been observed in Washington. According to a study conducted by the Institute for Public Policy and Management, University of Washington (1986), during the 1980-82 period Blacks were nine times more likely to be imprisoned than

Hood and Lin—Sentencing Disparities in Yakima County

Whites, Hispanics one and one-half times more likely, and Native Americans three times more likely. The study further indicates that minorities are: more likely to be “charged with serious and violent offenses,” “more likely to be detained prior to trial,” “less likely to plead guilty,” and “more likely to be sentenced to prison.”¹²

In an effort to reduce sentencing bias, among other goals, states have been moving away from indeterminate sentencing statutes which provide considerable sentencing discretion to determinate sentencing which supplies guidelines; thus, constraining discretion formerly enjoyed by judges and parole boards. Washington has joined this movement. It adopted the Sentencing Reform Act (SRA) in 1981, and the statute became effective in July, 1984. Two of the stated purposes of the SRA were: (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender’s criminal history, and (2) Be commensurate with the punishment imposed on others committing similar offenses.¹³

To achieve neutrality in sentencing patterns, the SRA provides a sentencing grid with ranges of permissible sanctions. The grid is composed of two variables: Seriousness Level and Offender Score. Seriousness Level focuses on the current conviction and ranges from “I” (least serious, e.g., possession of stolen property) to “XIV” (most serious, e.g. aggravated murder). Offender Score is based on criminal history, including the number of current convictions and prior separate convictions which were concurrently served, and ranges from “0” to “9” (first-time offender to repeat offender). Excluding Seriousness Level XIV, which carries a life sentence without parole or the death penalty regardless of Offender Score, the sentencing grid has 130 active cells.

For every felony conviction, the SRA permits two possible sentence lengths dependent upon circumstances. The first is the standard sentence and may include a combination of total confinement (prison), partial confinement (work release), and community service. Under the standard sentence, the combination of these three must equal a total sentence which falls within the prescribed grid range. The second sentencing possibility is the alternative sentence which permits departures from the grid. Alternative sentences involve the First-Time Offender Waiver, Special Sexual Offender Sentencing Alternative, and the Exceptional Sentence. An Exceptional Sentence, which is one that is outside of the grid range, must be justified in writing by the sentencing judge based upon the unique and compelling circumstances included in the case. Of the two possible groups of sanctions, nearly three-quarters (73.6% in fiscal 1987) of all felony cases state-wide fell under the standard sentence. The First-Time Offender Waiver was used in 18.9% of the 1987 cases

Explorations in Ethnic Studies

and the Exceptional Sentence was rarely used at all—only 3.6%, with the remaining cases included in the “Special Sex Offender” category.¹⁴ Thus, while alternative sentence options are available, the vast majority of felon offenders are given standard sentences based on the seriousness of the crime and criminal history.

Within the SRA, however, opportunities for sentencing disparity exist. While few cases in number, the Exceptional Sentence option does allow a judge to exercise discretion in sentencing based upon his/her perception of mitigating factors in an individual case. Moreover, SRA permits up to 30 days of the standard sentence of one year or less to be in the form of community service; thus 8 hours of service for each day of confinement. This, in turn, has an impact on the period of actual jail confinement. Given these condition options which can be imposed, this study seeks to expand on an earlier assessment of Yakima County under the SRA in achieving sentencing neutrality.

THE STUDY

Yakima County was selected as the original site of this exploratory study. With a 1980 population of 172,508, it ranks sixth in Washington. Moreover, Yakima possesses two large ethnic populations. It has the second largest Native American concentration in the state—6,656, and with a population of 25,455 it also has the second largest Hispanic settlement. Together these two minority groups constitute slightly under 20% of Yakima’s total population—thus, a sizeable ethnic contribution to the community’s population base for Washington. State-wide these two groups make up only 4.4% of Washington’s population.¹⁵ Aside from the large ethnic concentration, the county is overwhelmingly rural in character and is economically dependent on agriculture.

Raw data used for this study was collected by the Washington Sentencing Guidelines Commission and provided to the authors through the kind assistance of the Commission’s research director—Dr. David L. Fallen. The Commission supplied Yakima County data for fiscal years 1986 through 1991—a total of 6,784 cases over the time period.

In an earlier study, Hood and Harlan¹⁶ found that sentencing disparity, while not widespread in Yakima County, did persist after the SRA. The impact was most observable on Hispanic defendants who received more harsh sentences in comparison with White or Native American defendants, controlling for the effects of seriousness of crime and defendant criminal history. This earlier work, however, neither explored the use of Exceptional Sentences, nor did it divide the sentencing matrix into particular offense type. The noted harsher

Hood and Lin—Sentencing Disparities in Yakima County

sentences for Hispanic defendants may be a result of the particular offense charged, e.g., drug related crime. The Offense Type is divided into six crime related categories: felony traffic, burglary, drug, sex, escape, and serious traffic (a brief description of each may be found in Appendix A). This study attempts to explore these aspects of sentencing results in Yakima County during the SRA period.

When controlling for the seriousness of crime, past criminal history, and offense type, 18 useable cells were produced. Cells which contained less than five cases were excluded from the analysis. Three independent variables were selected for study. The independent variables included ethnicity (White, Native American, Hispanic), gender (female, male), and age (18-24, 25-30, 31-36, 37 and over). The dependent variable for the study was total confinement. Total confinement involves the sum of prison/jail sentence in months and authorized work release in months. Unfortunately, the Sentencing Guidelines Commission currently combines these two factors of the sentencing range.

Mindful of contemporary research in this area,¹⁷ the authors wanted to control for the possible impact of extralegal variables, e.g., socioeconomic status of the defendant. Limitations in the available data prevented such a line of inquiry. The data provided by the Sentencing Guidelines Commission did include, however, the verdict method used to arrive at conviction. As Table 1 indicates, the vast majority of felony convictions for the 1986-91 period were resolved through plea bargaining, without regard to ethnic group, gender, or age.

To assess observed deviations in sentencing means for each independent variable, a difference of means test¹⁸ (ANOVA program) was used for each of the 18 relevant cells. If sentencing neutrality has been achieved under the SRA, one would expect to observe no significant difference between various groups of felons when controlling for seriousness of crime, past criminal history, and offense type.

Explorations in Ethnic Studies

Table 1

**FREQUENCY OF VERDICT METHOD BY ETHNIC GROUP,
GENDER, AND AGE FOR YAKIMA COUNTY, 1986-91^a**

Variable	Bench Trial		Jury Trial		Guilty Plea		Unknown	
	%	(N)	%	(N)	%	(N)	%	(N)
Ethnicity								
White	1.4	(55)	2.9	(112)	95.6	(3646)	0.1	(02)
Native Am.	1.8	(06)	1.2	(04)	96.9	(316)	0.0	(00)
Hispanic	4.1	(92)	3.5	(80)	92.1	(2078)	0.3	(07)
Gender								
Female	0.4	(04)	1.4	(13)	97.9	(933)	0.3	(03)
Male	2.6	(153)	3.4	(197)	93.8	(5422)	0.1	(08)
Age								
18-24	2.1	(35)	2.1	(36)	95.7	(1627)	0.1	(02)
25-30	2.6	(61)	2.8	(65)	94.5	(2217)	0.1	(04)
31-36	2.5	(35)	3.4	(48)	94.1	(1341)	0.1	(01)
37 and over	2.1	(28)	4.7	(62)	92.8	(1218)	0.3	(04)

^aPercentages may not sum to 100% due to rounding-off error.

FINDINGS

Of the 18 cells investigated, only six indicated that the difference of means for total confinement was significant for at least one of the three independent variables. These six cells included offense categories for burglary, drugs, and sexual crimes. The results can be found in Table 2. For four of the six relevant cells, major differences in total confinement are observed along ethnic lines covering all three offense types. Gender is significant in one drug cell. In one of the two sexual offense cells age difference is significant.

In each of the ethnic relevant cells, Hispanic defendants received harsher periods of total confinement. For the offense of Burglary, Hispanics received a period of incarceration which was nearly 1.5 times that of their White counterparts. The disparity for drug offenses is greater. Hispanics convicted of drug offenses received periods of incarceration slightly more than twice as long on average than their White counterparts. The greatest variation can be found, however, in the area of sexual offenses. While only one of the two sex-related cells indicated that ethnicity was important, in that cell Hispanic defendants received periods of confinement which were nearly 3.5 times that of whites.

Hood and Lin—Sentencing Disparities in Yakima County

Table 2

DIFFERENCE OF MEANS TEST INVOLVING TOTAL CONFINEMENT TIME ORDERED FOR ETHNIC, GENDER, AND AGE RELEVANT CELLS^a

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance ^d Level
	Burglary:				
II,0	Ethnicity				
	White	.888	197	.720	
	Native American	.888	26	.486	
	Hispanic	1.163	117	.563	.006
	Gender				
	Female	.744	19	.768	
	Male	1.036	329	.852	.137
	Age				
	18-24	.854	120	.611	
	25-30	1.134	134	1.107	
	31-36	1.072	53	.662	
	37 or over	.976	49	.607	.133
	Drugs:				
III,0	Ethnicity				
	White	1.430	58	3.596	
	Hispanic	4.785	23	9.400	.046*
	Gender				
	Female	2.491	15	6.332	
	Male	2.463	74	5.608	.513
	Age				
	18-24	4.567	19	9.775	
	25-30	1.725	31	3.132	
	31-36	2.627	14	6.475	
	37 or over	1.675	26	2.702	.446
VI,0	Ethnicity				
	White	9.879	60	4.430	
	Hispanic	12.033	118	4.806	.018*
	Gender				
	Female	8.507	16	5.402	
	Male	11.531	165	4.660	.113
	Age				
	18-24	12.251	45	4.372	
	25-30	11.036	64	5.080	
	31-36	9.864	40	4.417	
	37 or over	12.080	32	4.947	.228

Explorations in Ethnic Studies

Table 2, Continued

Cell ^b	Variable	Mean ^c	N	Standard Deviation	Significance ^d Level	
VIII,0	Ethnicity					
	White	19.372	23	9.817		
	Hispanic	22.682	88	6.282	.828	
	Gender					
	Female	13.128	16	9.662		
	Male	22.990	101	6.144	.000*	
	Age					
	18-24	20.499	41	3.615		
	25-30	23.136	37	7.761		
	31-36	20.737	19	9.363		
37 or over	23.071	18	10.084	.251		
Sexual Crimes:						
V,0	Ethnicity					
	White	2.650	23	3.589		
	Hispanic	6.750	11	2.775	.697	
	Gender ^e					
	Age ^f					
	18-24	6.672	8	3.192		
	31-36	6.773	5	4.075		
	37 or over	1.409	17	2.763	.023*	
	VI,0	Ethnicity				
		White	2.995	38	4.760	
Hispanic		10.390	11	4.954		
Gender ^e						
Age ^f						
18-24		5.257	13	5.965		
31-36		4.704	13	5.874		
37 or over		3.972	21	5.590	.678	

^aRelevant cells included only those in which one of the independent variables was significant. Values for variable with less than five cases per cell were ignored.

^bCells were defined by seriousness of current offense, "I" through "XIV", and by offender score based on criminal history, "0" through "9". The designation "I,0" refers to least serious crime level with no prior criminal history.

^cSentence mean given in months.

^dA probability of .05 was used as the level of significance—designated by "*."

^eDue to a limited number of "female" cases, the variable, "gender" was removed from the analysis.

^fDue to a limited number of specific age value cases, the value was removed from the analysis.

Hood and Lin—Sentencing Disparities in Yakima County

Unfortunately, results for Native Americans are inconclusive. Because of their fewer numbers, they were excluded in five of the six relevant cells. The only cell which had sufficient cases—burglary—suggests that Native Americans received sentences that were similar to White defendants; sentences which were less oppressive than their Hispanic counterparts.

While ethnic differences in total confinement are observed in four of the six relevant cells, the variation may be due to the intervening effects of the other two independent variables. That is, Hispanics may receive longer total confinement sentences because they tend to be younger, or perhaps are more likely to be male. In one of the cells (VIII,O), gender was a significant indicator of sentencing; age was an important indicator of sentence in another (V,O). To test this possibility, multiple classification analysis was applied to the relevant cells for significant independent variables. Given two or more interrelated factors, this procedure explores the net effect of each variable when the differences in the other factors are controlled. In other words, it investigates the unique contribution ethnic heritage has on total confinement independent of age and gender. Table 3 contains the results of the multiple classification analysis for total confinement.

Explorations in Ethnic Studies

Table 3

MULTIPLE CLASSIFICATION ANALYSIS OF RELEVANT INDEPENDENT VARIABLES FOR TOTAL CONFINEMENT TIME ORDERED^a

Cell ^b	Grand Mean ^c	Variable	N	Adjusted Independent Effect ^d
		Burglary:		
II,0	1.00	Ethnicity		
		White	195	-.09
		Native American	25	.06
		Hispanic	117	.16
		Drugs:		
III,0	2.61	Ethnicity		
		White	58	-.90
		Hispanic	23	2.26
VI,0	11.31	Ethnicity		
		White	60	-1.20
		Hispanic	118	.61
VIII,0	22.00	Gender		
		Female	13	-8.14
		Male	98	1.08
		Sexual Crimes:		
V,0	3.71	Age		
		18-24	8	2.65
		31-36	5	2.85
		37 and over	17	-2.09
VI,0	4.67	Ethnicity		
		White	34	-1.87
		Hispanic	11	5.79

^aOnly those independent variables from Table 2 which had significance levels of .05 or less were included.

^bCells were defined by seriousness of current offense, "I" through "XIV", and by offender score based on criminal history, "0" through "9".

^cSentence mean given in months.

^dThe adjusted independent effect provides the actual impact of each value controlling for the impact of the other independent variables; thus, it controls for the possible interrelationship of "ethnicity," "gender," and "age."

Hood and Lin—Sentencing Disparities in Yakima County

The adjusted effects for significant independent variables in Table 3 confirm the results observed in Table 2. In the first cell, all defendants serve an average of 1.00 month (Grand Mean) in total confinement for committing a Burglary Level II crime with no previous criminal history. Whites receive a total confinement sentence, however, which is .09 months (3 days) less than their Native American and Hispanic counterparts. Hispanics serve 6 days more than the average total confinement, or 9 days more than Whites. Among these two groups, Hispanics receive longer total confinement periods than Whites in all ethnic-relevant cells. It must be remembered that this situation occurs for defendants guilty of the same seriousness level crime, similar criminal record, and offense type, while controlling for gender and age effects.

A possible explanation for this phenomenon may rest with use of the Exceptional Sentence option. As indicated in Table 4, use of the Exceptional Sentence in Yakima County differs among ethnic groups. Non-Hispanic groups are more likely to receive Exceptional Sentences. Of White defendants who receive such sentences, there is a 49.2% chance that the sentence will be reduced below the range set by the SRA. When Exceptional Sentences are given to Hispanic defendants in Yakima County, however, the overall pattern suggests an increased sentence beyond the SRA range in nearly two-thirds of the cases.

Table 4

EXCEPTIONAL SENTENCE OPTION USE BY ETHNIC GROUP

	Total	Decreased Sentence	Increased Sentence
	% (N)	% (N)	% (N)
Hispanic	2.2 (50)	36.0 (18)	64.0 (32)
White	3.3 (126)	49.2 (62)	50.8 (64)
Native American	3.1 (10)	40.0 (4)	60.0 (6)

Explorations in Ethnic Studies

Furthermore, there is no discernible pattern in sentencing judges' explanation for use of the Exceptional Sentence option. The reason most often cited—in 37.5% of the cases—for applying a more stringent sentence for Hispanic defendants was “drug offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use.” This may furnish a possible explanation for the more oppressive sentences Hispanics receive in drug-related crimes, but fails to supply answers for similar situations involving burglary and sexual crimes.

CONCLUSIONS

An earlier study of SRA sentencing patters in Yakima County found that, while disparity was not a widespread problem, it did persist.¹⁹ It concluded that Hispanic defendants were more likely, within the sentencing ranges, to receive punishments which were more severe than Whites or Native Americans, i.e., longer periods of total confinement.

Subsequent explanations for this observation have revolved around the offense type—namely, Hispanics in Yakima County are more involved in particular crimes which, by the nature of the crime, leads to more extensive jail/prison time. Hispanic defendants as a group are more apt to be charged with a drug-related crime.

Table 5

CRIME OFFENSE TYPE BY ETHNIC GROUP

	Burglary % (N)	Drug % (N)	Sex % (N)
White	68.2 (682)	38.2 (205)	74.1 (117)
Native American	5.6 (56)	2.0 (11)	2.5 (4)
Hispanic	26.2 (262)	59.8 (321)	23.4 (37)

As Table 5 indicates, nearly six out of every ten individuals convicted of a drug-related crime in Yakima County are Hispanic. This study indicates, however, that Hispanic defendants tend to receive more severe sentences in each of the offense types listed in Table 5, not just those which are drug-related. It must be remembered that this situation exists when controlling for seriousness level of

Hood and Lin—Sentencing Disparities in Yakima County

crime and previous criminal history. Moreover, Hispanics as a group are less likely to receive an Exceptional Sentence than are White or Native American defendants. When an Hispanic defendant receives such a sentence option in Yakima County, the defendant's sentence tends to be greater than provided by the SRA standard range.

The stated purpose of the SRA is to reduce the impact "of extra-legal factors such as local politics and attitudes, age, gender, race, pretrial incarceration, employment, education, or variation in judicial leniency. . . ."20 With the expanded data, the findings of this study confirm our earlier conclusion that disparity was not a widespread problem, though Hispanic defendants continue to experience inequalities in Yakima County for certain categories of crime.

The focus of this study has been on the effects of legislation designed to promote sentencing neutrality after court processing, i.e., after the question of guilt has been determined. In light of the findings that the sentencing inequalities were experienced primarily by those Hispanics who had no prior criminal history (Burglary—II,O; Drugs—III,O, VI, O, VII,O; Sexual Crimes—V,O, VI,O), and that over 90% of all the cases were the result of a guilty plea, the continuing problem of sentencing disparity might reflect some subtle form of institutional bias21 as a dysfunction of judicial discretion. At the same time, it might also reflect the defendants' individual differences in their manipulative skills during the prosecutory stage in plea bargaining. Since judicial discretion is an integral part of the judicial process, from policing to prosecution and sentencing, and manipulative skills will always vary from one individual to another, it is a foregone conclusion that a certain degree of sentencing disparity is inevitable, and that there are certain limitations in the promotion of sentencing neutrality through legislation.

NOTES

¹For an interesting review of problems found in the sentencing disparity literature see: Gary Kleck, "Life Support for Ailing Hypotheses: Modes of Summarizing the Evidence for Racial Discrimination in Sentencing," *Law and Human Behavior* 9 (October 1985): 271-285.

²M. E. Wolfgang, A. Kelly, and H. C. Nolde, "Comparisons of the Executed and Commuted Among Admissions to Death Row," *Journal of Criminal Law, Criminology, and Police Science* 53 (Summer 1962): 301-311; also see, H. A. Bedau, "Death Sentences in New Jersey." *Rutgers Law Review* 19 (1964): 1-55.

³E. Neubauer. *American Courts and the Criminal Justice System* (Monterey: Brooks/Cole, 1984), 370-71.

Explorations in Ethnic Studies

⁴*McCleskey v. Kemp*, 107 S.Ct. 1756 (1987); also see *Furman v. Georgia*, 408 U.S. 238 (1972).

⁵Susan Welch, Cassia Spohn, and John Gruhl, "Convicting and Sentencing Differences Among Black, Hispanic, and White Males in Six Localities," *Justice Quarterly* 2 (March 1985): 67-80.

⁶Kimberly L. Kempf and Roy L. Austin, "Older and More Recent Evidence on Racial Discrimination in Sentencing," *Journal of Quantitative Criminology* 2 (March 1986): 29-48.

⁷For additional insight into urban/rural court sentencing and issues of disparity, see: Margaret Platt Jendrek, "Sentence Length: Interactions with Race and Court," *Journal of Criminal Justice* 12 (1984): 567-578.

⁸G. D. LaFree, "Official Reactions to Hispanic Defendants in the Southwest," *Journal of Research Crime and Delinquency* 22 (August 1985): 213-237.

⁹T. Bynum, "Parole Decision Making and Native Americans," in *Race, Crime, and Criminal Justice*, eds. R. L. McNeely and C. E. Pope (Newbury Park: Sage, 1981), 75-87.

¹⁰Susan Welch, Michael Combs, and John Gruhl, "Do Black Judges Make a Difference?" *American Journal of Political Science* 32 (February 1988): 126-136.

¹¹Many other factors with ethnic disparity overtones may impact the sentencing decision, e.g., pre-trial investigations and jury selection. For more information see: Stephanie Nickerson and Clara Mayo, "Racism in the Courtroom," in *Prejudice, Discrimination, and Racism*, eds. John F. Dovidio and Samuel L. Gaertner (Orlando: Academic Press, 1986), 255-278; and, Peter B. Pope, "How Unreliable Factfinding Can Undermine Sentencing Guidelines," *The Yale Law Journal* 95 (1986): 1258-1282.

¹²Institute for Public Policy and Management. *Racial and Ethnic Disparities in Imprisonment* (Seattle: University of Washington, 1986), ii.

¹³D. G. Lovell. *Sentencing Reform and the Treatment of Offenders* (Seattle: The Washington Council on Crime and Delinquency, 1985), 13-21.

Hood and Lin—Sentencing Disparities in Yakima County

¹⁴David L. Fallen. *Sentencing Practices Under the Sentencing Reform Act* (Olympia: Sentencing Guidelines Commission, 1987), 31.

¹⁵Office of Financial Management. *1988 Population Trends for Washington State* (Olympia: Forecasting Division, 1988), Table 11, 52.

¹⁶David L. Hood and Jon R. Harlan, "Ethnic Disparities in Sentencing and the Washington Sentencing Reform Act: The Case of Yakima County," *Explorations in Ethnic Studies* 14 (January 1991): 43-55.

¹⁷Cassia Spohn, John Gruhl, and Susan Welch, "The Effects of Race on Sentencing: A Re-examination of an Unsettled Question," *Law and Society Review* 16 (Winter 1981-82): 178-185; see also, David B. Griswold, "Deviation From Sentencing Guidelines: The Issue of Unwarranted Disparity," *Journal of Criminal Justice* 15 (1987): 317-329.

¹⁸An analyses of variance test was used because of the level of measurement used in the study. The independent variables "Ethnicity" and "Gender" are nominal measurements; "Age" is given as an ordinal measurement. The dependent variable "Total Confinement" is interval. Regression analysis assumes all variables are interval measurements.

¹⁹Hood and Harlan.

²⁰Fallen, 6.

²¹Marjorie S. Zatz, "The Changing Forms of Racial/Ethnic Biases in Sentencing," *Journal of Research in Crime and Delinquency* 24 (February 1987): 69-92.

Appendix A: OFFENSE TYPE DESCRIPTIONS

Felony Traffic Offense— Vehicular Homicide, vehicular assault, attempting to elude pursuing police vehicle, or felony hit-and-run injury accident.

Burglary— Burglary in the first or second degree, or residential burglary.

Drug Offense— Any violation of the Uniform Controlled Substance Act except simple possession or forged prescription.

Explorations in Ethnic Studies

Sex Offense—	Encompasses rape in the first, second, and third degrees; statutory rape in the first, second, and third degrees; indecent liberties; communication with a minor; incest in the first or second degrees; rape of a child in the first, second, or third degree; child molestation in the first, second, or third degree; sexual misconduct in the first degree; and any felony with a finding of sexual motivation.
Escape Offense—	Escape in the first or second degree; willful failure to return from furlough; willful failure to return from work release; or willful failure to comply with any limitations on the inmate’s movements while in community custody.
Serious Traffic Offense—	Driving while intoxicated; actual physical control while intoxicated; reckless driving, or hit-and-run an attended vehicle.

Source: “SRA Data Base Code Book,” Sentencing Guidelines Commission, 1991, 7.

Appendix B: WASHINGTON SENTENCING GRID^a

Seriousness Level	Offender Score ^b									
	0	1	2	3	4	5	6	7	8	9 ^c
XIV	Life Sentence Without Parole/Death Penalty									
XIII	240-320	250-333	261-347	271-361	281-374	291-388	312-416	338-450	370-493	411-548
XII	123-164	134-178	144-192	154-205	165-219	175-233	195-260	216-288	257-342	298-397
XI	062-082	069-092	077-102	085-113	093-123	100-135	129-171	139-185	159-212	180-240
X	051-068	057-075	062-082	067-089	072-096	077-102	098-130	108-144	129-171	149-198
IX	031-041	036-048	041-054	046-061	051-068	057-075	077-102	087-116	108-144	129-171
VIII	021-027	026-034	031-041	036-048	041-054	046-061	067-089	077-102	087-116	108-144
VII	015-020	021-027	026-034	031-041	036-048	041-054	057-075	067-089	077-102	087-116
VI	012-014	015-020	021-027	026-034	031-041	036-048	046-061	057-075	067-089	077-102
V	006-012	012-014	013-017	015-020	022-029	033-043	041-054	051-068	062-082	072-096
IV	003-009	006-012	012-014	013-017	015-020	022-029	035-043	043-057	053-070	063-084
III	001-003	003-008	004-012	009-012	012-016	017-022	022-029	033-043	043-057	051-068
II	000-003	002-006	003-009	004-012	012-014	014-018	017-022	022-029	033-043	022-029
I	000-002	000-003	002-005	002-006	003-008	004-012	012-014	014-018	017-022	022-029

^aSource: David L. Fallen, *Sentencing Practices Under the Sentencing Reform Act* (Olympia: Sentencing Guidelines Commission, 1987): 85.

^bAll indicated ranges are given in months.

^cColumn indicates an offender score of 9 or more.