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The Impact of Race, Gender, and Age on the Pretrial Decision

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Tina L. Freiburger¹ and Carly M. Hilinski²

Abstract

There is an abundance of studies that examine judicial discretion in the final sentencing stages; however, few have examined discretion in the early stages of court decisions. Pretrial release is especially concerning as it has been strongly correlated with a final sentence of incarceration and deprives defendants of their freedom. This study examined whether race, gender, and age influence judges' decisions to detain or release a defendant prior to trial. The results indicate that females and younger defendants were less likely to be detained. Race was not significant after economic variables were included. When examining males and females separately, race was significant for females, with Black females being the least likely to be detained. For White females, White males, and Black males, offenders aged 30–39 were more likely to be detained than their younger counterparts. Younger and older White females were not significantly more likely to be detained than their Black female counterparts.

Keywords

pretrial release, racial disparity, sentencing, focal concerns

The majority of sentencing literature has examined the final sentencing decision (i.e., the in/out decision) and the sentence length. Few studies have examined earlier decision-making points in the judicial system, such as the pretrial release outcome. Because of this, advancements in final sentencing literature have not extended to pretrial release research. Most notably, the examination of race, gender, and age interactions has not been examined in the pretrial release research. Using the focal concerns perspective, the current research addresses this gap by examining how race, gender, and age affect defendants' odds of pretrial detention.

Instead of focusing solely on race or gender, current sentencing research has carefully examined how courtroom experiences vary across different race and gender combinations. The development of the focal concerns perspective by Steffensmeier et al. (Steffensmeier, 1980; Steffensmeier, Kramer, & Streifel, 1993; Steffensmeier, Ulmer, & Kramer, 1998) has greatly contributed to this line of sentencing research. The focal concerns perspective is comprised of the three focal concerns of

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blameworthiness, dangerousness, and practical constraints. Blameworthiness is largely determined by the legal factors of offense severity and prior record. Dangerousness is determined by variables such as offense type (e.g., personal, property, or drug), use of a weapon, and education and employment status of the defendant. Practical constraints consist of factors that influence a defendant's ability to serve a period of incarceration, including organizational factors such as jail space and case flow as well as individual factors such as familial responsibilities (e.g., child care duties and marital status).

According to focal concerns theory, it is through these three focal concerns that judges make their sentencing decisions. However, when judges make sentencing decisions, they must often do so with limited information and with limited time and do not have access to all of the information included in each of the three focal concerns. Thus, the demographic characteristics of an offender are often used to shape the three focal concerns. Certain demographic combinations, specifically age, gender, and race, are especially influential, as judges tend to view younger minority males as more dangerous and more blameworthy leading to harsher sentences for these individuals (e.g., Spohn & Beichner, 2000; Steffensmeier & Demuth, 2006; Steffensmeier, Kramer, et al., 1993; Steffensmeier, Ulmer, et al., 1998).

Current research examining these interactions has supported the focal concerns perspective. Specifically, this research has found that both Black and White females are treated more leniently than males (e.g., Freiburger & Hilinski, 2009; Steffensmeier & Demuth, 2006) and that Black males are sentenced more harshly than White males (e.g., Albonetti, 1997; Steffensmeier & Demuth, 2006; Steffensmeier, Ulmer, et al., 1998). Research specifically focusing on the treatment of females, however, has been more mixed, with some studies finding that Black females are treated more leniently than White females (e.g., Bickle & Peterson, 1991; Spohn & Beichner, 2000; Steffensmeier & Demuth, 2006) whereas others have found the opposite (Crawford, 2000; Steffensmeier, Ulmer, et al., 1998).

Prior sentencing studies also have found that age has varying impacts on the sentences of males and females and Black and White defendants (Steffensmeier, Ulmer, et al., 1998). The results here also are mixed, with several studies finding that young Black men are treated most harshly (Spohn & Holleran, 2000; Steffensmeier, Ulmer, et al., 1998) and others finding that middle-aged Black men are treated most harshly (Freiburger & Hilinski, 2009; Harrington & Spohn, 2007). Despite the numerous studies examining the impact of race, gender, and age on sentencing decisions, no studies have been conducted that examined the impact of gender, race, and age interactions on early court decisions. The current research fills this gap by examining how these three factors interact to affect the pretrial release decision.

Literature Review

The pretrial release decision is a crucial point in the judicial system. A common finding in the final sentencing research is that the pretrial release status of a defendant is significantly correlated with their likelihood of incarceration; offenders who are detained have a greater chance of receiving a sentence of incarceration (see Freiburger & Hilinski, 2009; Spohn & Beichner, 2000; Steffensmeier & Demuth, 2006). There is also less scrutiny on the pretrial release decision, which allows judges a great deal of discretion. This has led some researchers to argue that it might actually be subject to more bias in judicial decision making (Hagan, 1974; Steffensmeier, 1980). Pretrial detention can further negatively affect defendants' final sentences by hindering their ability to participate in the preparation of their defense (Foote, 1954). Despite these findings illustrating the importance and significance of the pretrial decision, few studies have been conducted to examine the factors that affect this decision.

Race and Pretrial Release

The majority of research examining the effects of race on pretrial release decisions has found that White defendants receive greater leniency at this stage than Black defendants (Demuth, 2003; Katz & Spohn, 1995). Demuth (2003) and Katz and Spohn (1995) found that Black defendants were less likely to be released than White defendants. Although these studies failed to find a significant relationship between race and bail amount for both White and Black defendants, Demuth found that Black defendants were less likely to make bail. Furthermore, Demuth also found that Black defendants were significantly more likely to be ordered to detention (denied bail). No race difference was found, however, for Black and White defendants' odds of receiving a nonfinancial release (release on recognizance (ROR)) rather than bail.

Other studies examining slightly different outcome measures also have produced evidence to suggest White defendants are granted greater leniency in pretrial release. Patterson and Lynch (1991) found that non-White defendants were less likely than White defendants to receive bail amounts that were lower than the amount recommended by bail guidelines. However, they also found that White and non-White defendants were equally likely to receive bail amounts that were more than the amount recommended by bail guidelines. Albonetti (1989) did not find a direct race effect, though she did find that White defendants were less likely to be detained if they had higher levels of educational attainment and a higher income. White defendants' outcomes, however, were more negatively affected by increases in the severity of the offense.

Gender and Pretrial Release

Few studies have been conducted that examine the effect of gender on pretrial release and outcome. Overall, the studies that have examined this relationship have found that females were treated more leniently than male defendants. Daly (1987b) and Kruttschnitt and Green (1984) found that females were less likely to be detained prior to trial. Additional studies have found that females were more likely to be granted a nonfinancial release (Nagel, 1983) and be assigned lower bail amounts (Kruttschnitt, 1984). Unfortunately, no recent studies were located that focused solely on the effect of gender on pretrial release.

Race–Gender–Age Effects and Pretrial Release

Only one study has examined the interactions of race/ethnicity and gender. Demuth and Steffensmeier (2004) analyzed data from felony defendants in 75 of the most populous counties in state courts for the years 1990, 1992, 1994, and 1996. Their results indicated that race and gender significantly affected whether defendants were released prior to trial. More specifically, females were more likely to be released than males and White defendants were more likely to be released than Black and Hispanic defendants. Although females experienced leniency at every decision point (they were less likely to be detained due to failure to make bail or ordered to detention, more likely to secure nonfinancial release, and receive lower bail), the findings for race were more mixed across the different decision points. Blacks were more likely to be detained than White defendants, but Black and White defendants were equally likely to be ordered to detention (not granted bail) and be given a nonfinancial release. Demuth and Steffensmeier (2004) also found that there was no difference in the amount of bail assigned to Black and White offenders. It appeared, therefore, that the race effect was due to Black defendants' failure to post bail.

When race and gender interactions were examined, female defendants were less likely to be detained than their male counterparts across all racial and ethnic groups. The gender gap, however, was the smallest for White defendants (followed by Black defendants and Hispanic defendants).

Using categorical gender/race variables, the results further indicated that White women were the least likely to be detained, followed by Black women, Hispanic women, White men, Black men, and Hispanic men.

We were not able to locate any studies that examined the interactions of race, gender, and age on pretrial release; however, prior sentencing studies have examined the interacting effects of these factors on the final sentencing decisions. The findings of these studies are mixed. Steffensmeier et al. (1998) found that young offenders were more likely to be sentenced to incarceration, with young Black males being treated the harshest. In their examination of sentencing decisions in Chicago, Miami, and Kansas City, Spohn and Holleran (2000) found that offenders aged 20–29 received the harshest sentences. When age and race were examined, they found that young and middle-aged Black males were more likely to be incarcerated than middle-aged White defendants. In Kansas City, young Black and White males had higher odds of incarceration than middle-aged White males.

Harrington and Spohn (2007) found that Black males in the middle age (30–39) category were less likely than White males of all age groups to be sentenced to probation versus jail. When the decision to sentence an offender to prison instead of jail was examined, however, the opposite was found. White males of all ages were more likely than middle-aged Black men to receive a prison sentence. Freiburger and Hilinski (2009) found that being young benefited White males but resulted in harsher sentences for Black males. Older Black males were only granted leniency in the decision to incarcerate in jail rather than prison. For Black females, age was not a significant predictor of sentencing. Young White women, however, were treated more leniently in the decision to sentence to probation or jail.

Previous studies that have examined the influence of race and gender on pretrial release decisions have failed to consider factors that are likely to influence release decisions. When judges make pretrial release decisions, they are typically concerned with the level of risk the offender poses to the community and the likelihood that the offender will return to court for future appearances (Goldkamp & Gottfredson, 1979). Although prior record and offense severity are important factors that judges consider in this stage, other factors such as marital status, education, community ties, and employment also are used to assess these concerns (Goldkamp & Gottfredson, 1979; Nagel, 1983; Petee, 1994; Walker, 1993). In addition, the focal concerns perspective notes these factors as influential to the focal concern of dangerousness (Steffensmeier, Ulmer, et al., 1998). The only previous study that examined race and gender interactions (Demuth & Steffenmeier, 2004) did not assess the impact of these important factors. Additionally, no studies have examined the interactions of race, gender, and age on the pretrial release decision despite the fact that judges are differently influenced by these various combinations. Thus, the current study builds on the previous research by examining the effect of race, gender, and age interactions on pretrial release outcomes while considering other factors (e.g., income, education, and marital status) that have been linked to the pretrial release decision and the focal concerns perspective.

Methods

The current study examined the effects of race, gender, and age on the pretrial detention outcomes of felony offenders in an urban county in Michigan. The data analyzed contains information collected from presentence investigation reports completed for all offenders convicted of a personal, drug, property, or public order offense in the county during 2006. The original data set contained 3,316 offenders. We removed defendants who were Hispanic or of another ethnicity ($N = 73$) from the data set because a meaningful analysis was not possible with such a small number of cases; cases that were missing important information pertaining to offense severity level and prior record level ($N = 608$) also were removed from the data set because it is necessary to include these variables in sentencing research.¹ Thus, the final data set contained 2,635 cases.

Table 1. Description of Variables

Independent Variable	Description
Individual characteristics	
Age	Separate dummy variables for ages 15–29, 30–39, and 40+; age 30–39 is the reference category
Race	Black = 1, White = 0
Gender	Male = 1, Female = 0
Marital status	Married = 1, Not married = 0
High school (HS)	HS diploma/GED = 1, No HS diploma/GED = 0
Income over \$75/month	Income over \$75/month = 1, income less than \$75/month = 0
Assets over \$1,500	Assets over \$1,500 = 1, assets < \$1,500 = 0
Case characteristics	
Prior record variable (PRV)	7-category scale (1 = least serious, 7 = most serious ^a)
Offense variable (OV)	6-category scale (1 = least serious, 6 = most serious)
Type of conviction charge	Separate dummy variables for property offense, public order offense, personal offense, and drug offense; personal offense is the reference category
CJS supervision	CJS supervision (probation, parole, incarceration) = 1, No CJS supervision = 0
Dependent variable	
Pretrial detention	Detention = 1, Release = 0

NOTE: CJS = Criminal Justice System supervision

^a None of the cases in the current data set had a prior record score of 7.

Dependent Variable

The dependent variable in the current study was a dichotomized measure of the actual pretrial outcome, with 0 representing defendants released prior to sentencing and 1 representing those detained prior to sentencing. Coding for this variable, and all independent variables, is included in Table 1. Although we agree with prior research that argues that the pretrial release is best assessed through the examination of both the judicial decision and the actual outcome (see arguments by Demuth, 2003 and Demuth & Steffensmeier, 2004), the current data only allows for the assessment of the actual pretrial outcome (whether the defendant was detained or released). This is considered a limitation of the current study; however, the pretrial outcome is the most telling of the decision points. It signifies the actual experience of the defendant by considering the consequences of pretrial detention (e.g., reduced ability to prepare defense and severed social ties due to incarceration). Despite this limitation, the ability to assess race, gender, and age interactions while including other facts relevant to pretrial release contributes substantially to the current literature.

Independent Variables

Several legal variables shown to be relevant in sentencing decisions were included in the analysis. The Michigan Statutory Sentencing Guideline's 6-point offense severity measure was used to control for the seriousness of the crime.² The state guideline 7-point measure of prior record also was used.³ The analysis also controlled for offense type through four separate dummy variables (property, drug, personal, and public order offense), with personal crimes left out as the reference category. A dummy variable also was included for current criminal justice supervision. Those who were on probation, parole, or incarcerated at the time of the bail decision were considered under criminal justice supervision and were coded as 1.⁴

The main extralegal variables of interest (gender, race, and age) also were included in the analysis. Gender was included and coded as 0 for female and 1 for male and race was coded as 0 for White and 1 for Black. Because age was found to have a curvilinear effect on pretrial detention, it was entered into the models as three categorical variables. Similar to prior research (Freiburger & Hilinski, 2009; Harrington & Spohn, 2007), the three age categories created were 15–29, 30–39, and 40+ years, with 30–39 being left out of the analysis as the reference variable.

Several other variables that measured defendants' stability in the community also were included in the models. These variables also were important in assessing the focal concerns perspective as these factors have been theorized by Steffensmeier and colleagues (Steffensmeier, 1980; Steffensmeier, Kramer, et al., 1993; Steffensmeier, Ulmer, et al., 1998) to affect judges' perceptions of dangerousness. None of the defendants in the sample had a college education; therefore, education was entered as a dichotomous variable of high school education or General Education Diploma (GED) coded as 1 or no high school education coded 0. Marital status also was included as a dummy variable; those who were not married were coded as 0 and those who were married were coded as 1. A direct employment measure was not available; however, two income variables were recorded in the presentence investigation (PSI) reports and were included in the analysis. The first assessed whether the defendant had an income of \$75 or more a month (0 = no income above \$75 and 1 = income above \$75). The second variable indicated whether the defendant had assets of \$1,500 or more (0 = no assets totaling \$1,500 and 1 = assets totaling \$1,500 or more).

Results

The individual and case characteristics of the offenders included in the current research are presented in Table 2. The majority of both male and female offenders were 15–29 years of age. Both male and female offenders were more likely to be White, unmarried, and without a high school diploma. Further examination of the descriptive statistics reveals that over half of the females had a monthly income over \$75 but less than 40% of the males earned more than \$75 per month. Across both males and females, only about 15% had assets that were worth \$1,500 or more. Case characteristics reveal that male offenders were charged most often with a personal offense, but female offenders were most often charged with a property offense. Males were also more likely to be under some form of criminal justice supervision at the time of the current offense. Finally, both men and women were more likely to be released prior to trial.

To be sure that none of the independent variables were highly correlated, multicollinearity diagnostics were performed for all independent variables. As presented in Table 3, none of the variables were highly correlated. Variance inflation factor (VIF) and tolerance diagnostics also were examined for each model.⁵ The VIF values were all less than 4 and none of the tolerance statistics were below .2, indicating that multicollinearity was not a concern (Mertler & Vannatta, 2002).

We estimated the effect of race, gender, and age on pretrial release using logistic regression models. First the effects of race, gender, and age were examined separately. The models were then split by gender and race; *z* scores also were calculated to determine whether the independent variables had a significantly different effect on the pretrial outcome for male and female and Black and White defendants. The final models contain categorical variables for gender and race and categorical variables for race, gender, and age combinations.

The logistic regression coefficients for pretrial detention are presented in Table 4. Four models are presented. The first model presented displays the effects of age, race, and gender without the inclusion of any other independent variables. In this model, gender, race, and both age variables are significant. The variable for gender indicates males have a significantly greater likelihood of being detained than females ($b = .909, p < .01$). Black defendants had a significantly greater likelihood of detention than White defendants ($b = .253, p < .01$). The age variables show that young defendants

Table 2. Descriptive Statistics

	Total (n = 2635)		Males (n = 2187)		Females (n = 448)	
	n	Percentage	n	Percentage	n	Percentage
Individual characteristics						
Age 15–29	1,397	53.0	1,184	54.1	213	47.5
Age 30–39	597	22.7	480	21.9	117	26.1
Age 40+	641	24.3	523	23.9	118	26.3
Race						
White	1,421	53.9	1,139	52.1	282	62.9
Black	1,214	46.1	1,048	47.9	166	37.1
Gender						
Male	2,187	83.0	–	–	–	–
Female	448	17.0	–	–	–	–
Marital status						
Married	289	11.0	237	10.8	52	11.6
Not married	2,346	89.0	1,950	89.2	396	88.4
High school (HS)						
HS diploma/GED	1,277	48.5	1,070	48.8	207	46.2
No HS diploma/GED	1,358	51.5	1,117	51.1	241	53.8
Income over \$75/month						
Yes	1,081	41.0	835	38.2	246	54.9
No	1,554	59.0	1,352	61.8	202	45.1
Assets over \$1500						
Yes	382	14.5	314	14.4	68	15.2
No	2,253	85.5	1,873	85.6	380	84.8
Case characteristics						
Prior record						
1	431	16.4	322	14.7	109	24.3
2	369	14.0	278	12.7	91	20.3
3	571	21.7	469	21.4	102	22.8
4	613	23.3	525	24.0	88	19.6
5	370	14.0	323	14.8	47	10.5
6	281	10.7	270	12.3	11	2.5
Offense severity						
1	1,323	50.2	1,081	49.4	242	54.0
2	812	30.8	672	30.7	140	31.3
3	298	11.3	245	11.2	53	11.8
4	98	3.7	88	4.0	10	2.2
5	70	2.7	69	3.2	1	0.2
6	34	1.3	32	1.5	2	0.4
Conviction charge						
Property offense	805	30.6	580	26.5	225	50.2
Public order offense	190	7.2	140	6.4	50	11.2
Personal offense	963	36.5	871	39.8	92	20.5
Drug offense	677	25.7	596	27.3	81	18.1
CJS supervision						
Supervision	912	34.6	774	35.4	138	30.8
No supervision	1,723	65.4	1,413	64.6	310	69.2
Pretrial detention						
Detained	960	36.4	866	39.6	94	21.0
Not detained	1,675	63.6	1,321	60.4	354	79.0

Table 3. Correlation Matrix

Variable	1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.
1. 15-29	1																
2. 30-39	-.575**	1															
3. 40+	-.602**	-.307**	1														
4. Race	.016	.002	-.020	1													
5. Sex	.050*	-.037	-.021	.082**	1												
6. Married	-.217**	.097**	.158**	-.091**	-.009	1											
7. High school	-.193**	.099**	-.128**	-.063	.020	.048*	1										
8. Income	-.082**	-.011	.106**	-.096**	-.128**	.107**	.090**	1									
9. Assets	-.172**	.078**	.123**	-.210**	-.009	.280**	.136**	.218**	1								
10. Prior record	.232**	.129**	.144**	.239**	.168**	-.076**	.040*	-.217**	-.190**	1							
11. Offense variable	-.046*	-.023	-.031	-.111**	.071**	.065**	.006	-.028	.014	-.044*	1						
12. Property	.025	-.013	-.017	-.116**	-.193**	-.003	.018	.016	-.020	-.047*	-.131**	1					
13. Public	-.087**	.031	.071**	-.081**	-.069**	.015	.020	.054**	.006	.004	-.110**	-.185**	1				
14. Personal	.047*	-.006	-.049	-.021	.113**	.014	-.039*	-.073**	-.007	-.044*	.453**	.376**	-.158**	1			
15. Drug	-.009	.001	.009	.230**	.079**	-.017	-.014	.000	-.005	.101**	-.288**	-.390**	-.333**	-.333**	1		
16. Supervision	.014	.056**	-.070**	.049*	.036	-.036	.002	-.171**	-.089**	.421**	-.034	.044*	-.027	-.053**	.025	1	
17. Pretrial detention	-.057	.082**	-.014	.071**	.145	-.074**	-.051**	-.309**	-.191**	.387**	.114**	-.072**	.025	.154**	-.039*	.290**	1

* $p < .05$.

** $p < .01$.

Table 4. Logistic Regression Estimates

Variable	Model 1			Model 2			Model 3			Full Model		
	B	SE	Exp(B)	B	SE	Exp(B)	B	SE	Exp(B)	B	SE	Exp(B)
Offender characteristics												
Age 15-29	-.467**	.102	.627	-.664**	.110	.515	-.341**	.122	.711	-.422**	.125	.656
Age 40+	-.371**	.119	.690	-.254*	.128	.776	-.259*	.139	.772	-.253**	.139	.776
Race (Black = 1)	.253**	.083	1.288	.010	.089	1.010	-.172	.102	.842	-.184	.102	.832
Gender (male = 1)	.909**	.125	2.482	.832**	.132	2.297	.533**	.146	1.705	.565**	.147	1.760
Marital status										-.270	.175	.764
High school										-.287**	.099	.750
Income over \$75				-.1292**	.097	.275	-.1.087**	.104	.337	-.1.072**	.104	.342
Assets over \$1,500				-.1.255**	.164	.285	-.1.056**	.176	.348	-.970**	.179	.379
Case characteristics												
Prior record							.456**	.039	1.578	.461**	.039	1.585
Offense severity							.194**	.048	1.214	.202**	.049	1.224
Property offense							-.542**	.126	.582	-.531**	.126	.588
Public order offense							-.276	.201	.758	-.266	.202	.588
Drug offense							-.530**	.134	.589	-.527**	.135	.590
CJS supervision							.733**	.103	2.082	.745**	.104	2.107
Constant			.328		.151	.773		.246	.119		.249	.134
Nagelkerke R ²	.046			.193			.344			.348		
Cox and Snell R ²	.034			.141			.251			.254		

Significance: * $p < .05$.** $p < .01$.

Table 5. Female and Male Split Models

Variable	Females			Males			Z score
	B	SE	Exp(B)	B	SE	Exp(B)	
Offender characteristics							
Age 15–29	–.072	.358	.931	–.461**	.135	.631	1.02
Age 40+	–.198	.377	.820	–.243	.151	.784	0.11
Race (Black = 1)	–.979**	.331	.376	–.090	.110	.913	2.55*
Marital status	–.854	.576	.426	–.191	.187	.826	1.09
High school	.137	.302	1.146	–.310**	.106	.733	1.40
Income over \$75	–.898**	.296	.407	–1.072**	.112	.342	0.55
Assets over \$1500	–.737	.589	.479	–.981**	.190	.375	0.39
Case characteristics							
Prior record	.716**	.139	2.047	.435**	.041	1.545	1.94
Offense severity	–.234	.206	.791	.234**	.051	1.264	2.21*
Property offense	–1.531**	.392	.216	–.379	.135	.685	2.78*
Public order offense	–.223	.485	.800	–.553*	.237	.576	0.61
Drug offense	–1.556**	.512	.211	–.452**	.140	.636	2.08*
CJS supervision	.955*	.313	2.598	.723**	.111	2.061	0.70
Constant	–1.811*	.728	.163	–1.465	.241	.231	
Nagelkerke R ²	.423			.308			
Cox and Snell R ²	.272			.229			

* $p < .05$.** $p < .01$.

($b = -.467, p < .01$) and older defendants ($b = -.371, p < .01$) were less likely to be detained than offenders 30–39. Model 2 shows the coefficients after the income variables are controlled. Although the gender ($b = .832, p < .01$) and age (15–29 $b = -.664, p < .01$; 40-above $b = -.254, p < .05$) variables remain significant, race is no longer significant ($b = .010, p = .910$). When the legal variables are added in Model 3, the gender, age, and income variables remain significant. Race, however, is not significant. Therefore, it appears that the initial effect of race was due in part to differences in the financial capabilities of Black and White defendants.

The full model also is presented in Table 4 and contains all of the independent variables. As shown in the table, males were significantly more likely to remain detained than females ($b = .565, p < .01$); however, the coefficient for race was not significant. Young defendants ($b = -.422, p < .01$) and older defendants ($b = -.253, p < .01$) were less likely to be detained than defendants in the middle age category. Completing high school or obtaining a GED further resulted in a lower likelihood of being detained ($b = -.287, p < .01$). Both income variables also were significant, indicating that defendants with an income over \$75 a month ($b = -1.072, p < .01$) and assets exceeding \$1,500 ($b = -.970, p < .01$) were less likely to be detained.

In an attempt to garner a better understanding of the differences in the detention status of male and female defendants, we estimated split models to determine whether the same factors influenced the pretrial status of both groups. The z scores also were calculated (using the formula⁶ by Paternoster, Brame, Mazerolle, & Piquero, 1998) to determine whether the coefficients had significantly different impacts on pretrial detention for males and females. The results of this analysis are presented in Table 5. Examination of the female model shows that race was significant in the pretrial status for females with Black female defendants having a reduced odds of being detained compared to White females ($b = -.979, p < .01$). Race did not, however, significantly affect the pretrial release status of males. The z score for race also was significant, indicating that the effect of race was significantly stronger for females than males. The coefficients for age indicate that young males were significantly less likely to be detained

Table 6. Black and White Split Models

Variable	Black			White			Z score
	B	SE	Exp(B)	B	SE	Exp(B)	
Offender characteristics							
Age 15–29	–.442*	.188	.643	–.445**	.172	.641	0.01
Age 40+	–.240	.201	.787	–.237	.195	.789	0.01
Gender (Male = 1)	.971**	.256	2.640	.307	.183	1.359	2.11*
Marital status	–.350	.267	.705	–.166	.234	.847	0.52
High school	–.297*	.144	.743	–.294*	.138	.745	0.02
Income over \$75	–.873**	.152	.418	–1.257**	.145	.284	1.83
Assets over \$1,500	–.960**	.361	.383	–.924**	.210	.397	0.09
Case characteristics							
Prior record	.417**	.058	1.264	.520**	.054	1.683	1.30
Offense severity	.234**	.075	.533	.180**	.065	1.198	0.54
Property offense	–.628**	.197	.623	–.474**	.167	.623	0.60
Public order offense	–.473**	.178	.523	–.762**	.222	.467	1.02
Drug offense	–.647	.350	2.675	–.086	.252	.918	1.30
CJS Supervision	.984**	.147	1.517	.454**	.149	1.575	2.53*
Constant	–2.558**	.396	.077	–1.781**	.328	.169	
Nagelkerke R ²	.334			.366			
Cox and Snell R ²	.247			.264			

Significance: * $p < .05$.** $p < .01$.

than males aged 30–39. Neither the age coefficient for females nor the z score for females was significant. Thus, the impact of age was not significantly different for males and females.

Further examination of the split models indicates that males ($b = .435, p < .01$) and females ($b = .716, p < .01$) had an increased odds of detention with each increase in prior record severity. The z score reveals that prior record did not have a significantly greater impact on the pretrial release of males than females; however, it came very close to reaching significance ($z = 1.94$). Severity of offense, conversely, was significant for males ($b = .234, p < .01$) but not for females. The z score reveals that the difference was significant for males and females, with offense severity more strongly affecting males' pretrial detention status. Committing a property crime (compared to committing a personal crime) resulted in a decreased likelihood of being detained for females ($b = -1.531, p < .01$) but not for males. The z score was significant, indicating that the differing effect was significant. The coefficient for drug offense was significant for both males ($b = -.452, p < .01$) and females ($b = -1.556, p < .01$). The z score also was significant, suggesting that committing a drug offense had a stronger impact for females than for males.

In the race split models, presented in Table 6, the z scores indicate that gender and criminal justice supervision were the only factors that had a significantly different impact for Black and White defendants. The z score was significant for gender showing a stronger effect for Black defendants ($b = .971, p < .01$) than for White defendants. Criminal justice supervision also had a stronger effect on pretrial detention for Black defendants ($b = .984, p < .01$) than for White defendants ($b = .454, p < .01$). The effects of age did not vary significantly by race; both young Black ($b = -.442, p < .05$) and young White defendants ($b = -.445, p < .01$) had equally significant decreased odds of incarceration.

We also created race and gender categorical variables to compare the treatment of Black females, White females, Black males, and White males and are presented in Table 7. With Black males left out as the reference group, the results indicate that Black females were significantly less likely to be detained ($b = -1.004, p < .01$) compared to Black males. The coefficients for White males and

Table 7. Logistic Regression Estimates Using Race \times Gender and Race \times Gender \times Age Interaction Terms

Variables	B	SE	Exp(B)
Race \times Gender			
Black male ^a			
White male	.101	.109	1.107
Black female	-1.004**	.253	-.098
White female	-.224	.184	.799
Race \times Gender \times Age			
Black male 30-39 ^a			
Black female 15-29	-1.096**	.409	.334
Black female 30-39	-1.432**	.444	.239
Black female 40+	-1.281**	.471	.278
White female 15-29	-.764**	.295	.466
White female 30-39	-.091**	.334	.913
White female 40+	-.570	.364	.566
Black male 15-29	-.455*	.187	.635
Black male 40+	-.342	.213	.710
White male 15-29	-.377*	.192	.686
White male 30-39	.044	.223	1.045
White male 40+	-.124	.219	.883

^a Reference variable.

* $p < .05$.

** $p < .01$.

White females, however, did not reach statistical significance. When Black females were left out as the reference variable (coefficients not shown but available from the first author upon request), all coefficients were significant (White female $b = .780$, $p < .01$; Black male $b = .1004$, $p < .01$; White male $b = 1.105$, $p < .01$). Therefore, it appears that Black females were the least likely to be detained, followed by White females, Black males, and White males. When comparing defendants in the other groups to each other (leaving out White females and White males), none of the groups had a significantly different odds of detention.

When categorical variables for gender, race, and age were examined with 30-39 year-old Black males left out as the reference variable (coefficients presented in Table 7), the results indicate that Black females in all age categories (15-29 $b = -1.096$, $p < .01$; 30-39 $b = -1.432$, $p < .01$; 40 and over $b = -1.281$, $p < .01$) were less likely to be detained. For White females, only those in the young ($b = -.764$, $p < .01$) and middle age group ($b = -.091$, $p < .01$) were significantly less likely to be detained compared to middle-aged Black men. For male offenders, only young Black ($b = -.455$, $p < .05$) and young White males ($b = -.377$, $p < .05$) were significantly less likely to be incarcerated than middle-aged Black men.

The coefficients were reanalyzed in several different models with a different age/gender/race group left out each time, allowing for comprehensive comparisons of all groups (coefficients not shown but are available from the first author upon request). The results suggested that those in the 30-39 year age category were significantly more likely to be detained than their younger counterparts (15-29) for all groups except Black females. In fact, Black females in the middle age category were the least likely to be detained, followed by older Black females and young Black females (none of the differences between these groups were significant). White females 30-39 also were less likely to be detained than Black males 30-39; however, no difference was found for White males and females of the same age group. The only other significant difference found between the age/race/gender categories was that White males in the middle age category were more likely to be detained than older White females.

Discussion

The current study attempted to further the understanding of the effects of race, gender, and age on pretrial release outcomes. Given the logic of the focal concerns perspective (Steffensmeier, 1980; Steffensmeier, Kramer, et al., 1993; Steffensmeier, Ulmer, et al., 1998), it is not surprising that gender and age directly affect pretrial outcomes as females and young defendants are often viewed as less blameworthy and dangerous. The findings for race, however, were more complex. A strong race effect was found prior to entering the economic variables into the model, with Black defendants less likely to be released pretrial than Whites. Once these variables were included, however, race was no longer significant. In fact, the sign of the coefficient changed, suggesting Whites were actually more likely to be detained. Therefore, it appears that Black defendants are more likely to be detained because they do not have the financial means necessary to secure release. This indicates that Black disadvantage in the court system may not be as simple as racial bias, but instead stems from inequality and general disadvantage in society. This is especially noteworthy because prior studies on pretrial release have not included these variables (e.g., Demuth & Steffenmeiser, 2004).

The effect of race was significant, however, when examining the sentences of men and women separately. Consistent with prior research conducted by Demuth and Steffensmeier (2004), the results also indicated that the gender gap was the smallest for White defendants. Unlike Demuth and Steffensmeier, however, White females were not most likely to be released pretrial. Instead, Black females were the least likely to be detained. This finding held across Black females of every age group. The odds of release for White women, however, were not significantly different than that of White and Black males. Although Black females were less likely to be detained than White females, the age/race/gender analysis showed that this finding was only applicable to White females aged 30–39. Younger and older White females were not significantly more likely to be detained than their Black female counterparts. When compared to males (both Black and White), however, Black females of all age groups were the least likely to be detained.

Although these findings seem inconsistent with the focal concerns perspective, it is possible that this inconsistency is actually due to the absence of practical constraint factors. Steffensmeier and colleagues (Steffensmeier, 1980; Steffensmeier, Kramer, et al., 1993; Steffensmeier, Ulmer, et al., 1998) suggest that defendants whose incarceration poses a greater practical constraint (e.g., leaving behind dependent children that will require care, need correctional facilities that are not available) will be granted leniency. It is possible, therefore, that the inclusion of family responsibility variables might account for the increased odds of Black females being released. Daly (1987a) suggests that judges are concerned with the social costs of incarcerating defendants who perform vital familial responsibilities. This is especially pertinent, given that more Black women in the criminal justice system are often single parents to dependent children (U.S. Bureau of the Census, 2000). Furthermore, prior research on the effect of gender on pretrial release has shown that the inclusion of these controls reduce the gender gap (Daly, 1987b; Kruttschnitt & Green, 1984). Unfortunately, the data used for the current study had a great deal of missing data for the measure of dependent children, making it impossible to assess this possibility.

The gender split models also show that judges give less consideration to legal factors for females than for men. This might indicate that judges find males with more serious offenses as posing a greater risk to society. Therefore, it is possible that legal factors play less of a role in shaping the focal concerns associated with early court decisions for women as they do for men. This finding indicates a need for additional studies that closely examine the different factors that affect males' and females' sentencing decisions. It is possible that judges' focal concerns for males and females are influenced by different factors. The inconsistencies across research studies also questions the ability to generalize these findings and signify a need for future research that examines the impact of race, gender, and age on sentencing decisions in other jurisdictions.

Overall, the current study has made an important contribution to the literature examining the factors affecting the pretrial decision. Most notably, it is the only study to date that has examined the

effect of race, gender, and age interactions on the pretrial release outcome of defendants while also considering extralegal factors, including income, educational attainment, and marital status. The current study is limited, however, in its examination of only one jurisdiction. Although this is not uncommon in the sentencing literature, it does pose as a limitation as findings may vary across location. This study also is limited in its ability to measure the focal concern of practical constraint. It is likely that individual practical constraints (e.g., familial responsibility) as well as organization constraints (e.g., available jail space) could have an effect on pretrial detention. Additionally, these constraints may have varying effects by race, gender, and age of the defendant.

Future research should assess the impacts of race after controlling for economic factors on a more comprehensive set of dependent variables (e.g., ROR or bail, bail amount, ability to make bail). This is especially important given the finding that the race effect was eliminated once economic variables were included in the analysis. In addition, Demuth (2003) found that Black defendants were less likely to post bail than White defendants. If a more comprehensive dependent variable is assessed, it can be determined whether the Black disadvantage is due to a difference in bail amounts. In other words, are Black defendants receiving higher bail amounts or are Blacks simply more often than Whites in situations where they cannot afford to pay bail? The ability to examine a dependent variable of this nature would greatly contribute to the understanding of the effect of race on the pretrial release.

Notes

1. Significance tests performed to determine whether any differences existed between the cases excluded from the data set due to missing data and the cases included in the final analysis indicated that there were some significant differences between the two groups (presented below). Two age groups, ages 15–29 and 40+ were significantly different across the two groups; race also was significantly different across the two groups. An examination of the remaining independent variables reveals that cases excluded due to missing information were less likely to have a high school diploma or GED, less likely to have a monthly income of \$75 or more, and less likely to have assets of more than \$1,500. They were also less likely to be under criminal justice system supervision and the time of their arrest and more likely to be detained prior to trial. Although the missing data poses a limitation to the research, it is not unique to this study; most sentencing literature is limited in the amount of usable data. For instance, Harrington and Spohn (2007) were only able to use 59% of the cases in their original data set and Freiburger and Hilinski (2009) were only able to use 62.4% of the cases in their original data set. In the current study, nearly 80% of the cases in the original data set were able to be included in the final analysis.

Independent Variable	Pearson Chi-Square
Age 15–29	15.357**
Age 30–39	1.333
Age 40+	12.249**
Race	4.437*
Gender	.156
Marital status	1.105
High school	20.071**
Income	11.720**
Assets	25.536**
Property offense	.909
Public order offense	.558
Personal offense	.130
Drug offense	1.128
CJS supervision	113.839**

* $p < .05$. ** $p < .01$.

2. The Michigan Statutory Sentencing Guidelines assigns an offense variable (OV) to each offense. There are 19 possible offense variables that can be scored, including aggravated use of a weapon, physical or psychological injury to the victim, victim asportation or captivity, and criminal sexual penetration; the sentencing guidelines stipulate which variables will be scored based on the crime group of the current offense (e.g., crimes against a person, crimes against property, and crimes involving a controlled substance). Based on the crime group, each relevant variable is scored and then combined to create a total offense variable that ranges from 1 (least serious) to 6 (most serious; Michigan Judicial Institute, 2007). This offense variable (coded 1–6) was included in each model to control for the severity of the offense.
3. The prior record variable is a composite score based on factors such as prior adult felony and misdemeanor convictions, prior juvenile felony and misdemeanor adjudications, and the offender's relationship with the criminal justice system at the time of the current offense (i.e., whether the offender is a probationer or parolee). For each of the seven prior record variables, a numerical score is assigned. The sum of these seven scores determines the offender's prior record level, which ranges from A (least serious) to F (most serious; Michigan Judicial Institute, 2007). This variable was recoded and included in the models (coded 1–6) to control for prior record.
4. Although it is likely that those who are incarcerated are more likely to be detained pretrial than those on probation or parole, only seven offenders in the sample were actually incarcerated in jail or in prison. Due to the small number, it was impossible to meaningfully assess this difference; therefore, they were combined with those on probation and parole.
5. The variance inflation factor (VIF) and tolerance diagnostics are not presented here but are available from the first author upon request.
6. $\frac{b_1 - b_2}{\sqrt{(se_1)^2 + (se_2)^2}}$

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