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Examining corporate blameworthiness in relation to federal organizational sentencing for probation and corporate monitors.

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EXAMINING CORPORATE BLAMEWORTHINESS IN RELATION TO FEDERAL ORGANIZATIONAL SENTENCING FOR PROBATION AND CORPORATE MONITORS

By

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DEDICATION

This is for my family: biological, extended, adopted, and academic. Thank you for encouraging me and struggling with me for the many years while I figured out who I wanted to be. I think I know now.

ACKNOWLEDGMENTS

Throughout my academic career, I have been blessed to have had so many amazing mentors. They are not only scholars, but they are wonderful people whose desire was to help me succeed with whatever flight of fancy I was feeling that day. Besides academic skills, they have encouraged me to be authentic, recognize my strengths, and slow down and smell the proverbial roses. It was a privilege to work with these individuals as a student, and it is more of a privilege to be able to now call them colleagues and friends. While my goals are to publish quality research, engage in community-centered research and service, and teach dynamic classes, I care more about continuing the mentorship and relationships with students that my mentors have modeled for me.

This dissertation is for Steve Hurwitz, Liz Victor, Vicki Ingalls, and Phyllis Watts at Tiffin University in Tiffin, Ohio. It is for Jackie Bergdahl, Tracey Steele, and Karen Lahm at Wright State University in Fairborn, Ohio. And it is for Ben Fisher, Kristin Swartz, and George Higgins at the University of Louisville in Louisville, Kentucky. Thank you for believing that I am worth investing in.

ABSTRACT

EXAMINING CORPORATE BLAMEWORTHINESS IN RELATION TO FEDERAL ORGANIZATIONAL SENTENCING FOR PROBATION AND CORPORATE MONITORS

Emily M. Homer

March 26, 2020

Organizations that have benefitted from the commission of federal crimes committed by their employees may be sentenced to federal criminal penalties. Two of these potential penalties include probation and the requirement to implement a corporate monitor. The federal guidelines provide suggestions for sentencing probation that echo the theoretical focal concern of blameworthiness. This research used eight years of United States Sentencing Commission data covering 2011 to 2018 (n = 1,224) to examine if organizations were being sentenced to probation and monitoring consistent with the federal guidelines and focal concern of blameworthiness. The study examined nine potential measures of blameworthiness and two key criminal offenses representing protection of the community. The results revealed no significant findings for blameworthiness for probation but some significance for the type of offense, showing that protection of the community is more predictive of being sentenced to probation than any measure of blameworthiness. For corporate monitoring, the only significant finding was that criminal purpose organizations were more likely to be sentenced to monitoring.

These results are discussed in terms of policy implications, limitations, and future research.

TABLE OF CONTENTS

Contents

LIST OF TABLES

CHAPTER ONE: INTRODUCTION

This dissertation, very broadly, examines corporate crime in the United States. According to Braithwaite and Geis (1982, p. 294), "corporate crime is defined as conduct of a corporation, or of individuals acting on behalf of a corporation, that is proscribed and punishable by law." Essentially, corporate crime can be thought of as criminal activity in which the profits of a crime are used to benefit a corporation. Scholars as far back as Sutherland (1949/1983) in the 1930s and 1940s have examined corporate crime in the U.S., identifying concerns regarding the prevalence of corporate crime. In this study, Sutherland found that 60% of his sample of 70 companies had been convicted in criminal courts and had an average of four convictions each. More recent data demonstrate that corporate crime is still prevalent, as well as illuminate its high cost: between January 2016 and October 2017, members of the Association of Certified Fraud Examiners worldwide recorded 2,690 cases of crimes occurring in the workplace. These crimes totaled over $7 billion in losses, with a median loss of $130,000 per case. Twenty two percent of the cases caused over $1 million in losses (Association of Certified Fraud Examiners, 2018).

A corporation can be thought of as a specific type of an incorporated organization, with organization being the more general term. Organizations, despite not being human, can be charged with crimes and punished. The United States Sentencing Guidelines (USSG) define an organization as "a person other than an individual" (United States Sentencing Commission [USSC], 2018a, p. 510). According to the USSG, organizations

can have a variety of structures and include corporations, partnerships, trusts, non-profit organizations, etc. (USSC, 2018a). Under the federal law, organizations are responsible for the actions of their agents, including their employees (USSC, 2018a). Organizations can benefit financially from criminal activity committed by their employees, for example, through increased revenue, more completed contracts, or less competition. When organizations receive the profits from crime, the best way for prosecutors to attempt to recoup the losses caused by the crime is to criminally charge the respective organizations because the individual actors committing the crime have invested the criminal proceeds back into the organization. If an organization is deemed to deserve punishment for criminal activity because it has profited from the crimes, the organization will be sentenced.

The federal laws provide for two processes by which an organization is sentenced to criminal penalties: a criminal indictment through court, either by a guilty plea or guilty verdict, or an organizational settlement agreement. This dissertation will focus on the first process. For criminal indictments, judges make the sentencing decisions, as suggested by preset and predefined guidelines (USSC, 2018a). Among other penalties, organizations can be sentenced to probation sentences or to implement a third-party corporate monitor to supervise their future activities.

The United States Sentencing Commission (USSC) was created in 1984 partially as a response to a noticeable disparity in federal criminal sentencing for both people and organizations (USSC, n.d.). As part of its efforts to increase uniformity in sentencing, the organization implemented the mandatory United States Sentencing Guidelines (USSG) in 1991. Chapter 8 of the USSG specifically addresses the parameters that judges were

required to use for sentencing organizations upon a guilty plea or conviction, considering factors of the crime and organization (USSC, 2018a). Chapter 8 was previously the authority on how organizations should be sentenced in federal court.

This study is framed by the focal concerns theory of judicial decision-making, the roots of which can be traced to the early work of Steffensmeier (1980) (Steffensmeier, Kramer, & Streifel, 1993), which was later named and elaborated by Steffensmeier, Ulmer, and Kramer (1998). The focal concern perspective is an integrative rather than competing framework, which incorporates insights from various perspectives on court decision-making (Steffensmeier, Painter-Davis, & Ulmer, 2017).

The focal concerns framework has been used to explain from a theoretical perspective why judges sentence some individuals more harshly or leniently than others. Three focal concerns are used to explain sentencing disparities: blameworthiness of the individual, practical constraints and consequences of the sentence, and the need to protect the community from the individual (Steffensmeier, 1980; Steffensmeier et al., 1993; Steffensmeier, Kramer, & Ulmer, 1995). While intended to explain sentencing for individuals, this framework may also be applicable for sentencing organizations.

This dissertation will primarily examine whether the sentencing process suggested in the USSG for sentencing probation is being followed in practice using data from nationwide federal courts. It will also examine whether the sentencing requirement to hire third-party corporate monitors who are responsible for supervising their activities is being sentenced under similar standards. These sentencing outcomes were chosen because it is common that corporate monitoring is sentenced in tandem with probation: imposing a

term of probation allows the court to have extended supervision of the organization to ensure they fulfill their requirement of hiring a corporate monitor.

This dissertation will use the focal concerns framework as a theoretical orientation. The focal concerns framework implies that those that are guilty of committing more severe or extensive crimes will be sentenced to more severe or extensive penalties. If the focal concerns framework behaves as expected, this research will show that organizations that are more blameworthy will be sentenced to longer probation terms and will have a greater likelihood of being sentenced to appoint a corporate monitor.

This research makes a modest contribution to the literature on organizational sentencing in several ways. The study brings a theoretical interpretation to the organizational sentencing discussion that has been rarely applied to organizations by repurposing the focal concerns framework for organizations and empirically examining the usefulness of the focal concerns in explaining corporate sentencing. Additionally, this research is unique in introducing the sentencing of organizations to new audiences. This dissertation exposes criminal justice personnel to sentencing research, which is commonly found in the law literature but rarely in the criminal justice literature. This research also exposes the legal profession to theoretical examinations of sentencing that are often only found in the criminal justice literature (the law literature examining organizational sentencing is largely practical and not theoretical).

In this study, chapter one serves as an introduction to the sentencing process for organizations and the purpose of the dissertation. Chapter two presents the relevant literature discussing the sentencing process of criminal organizations, the sentencing

outcomes of organizational probation and corporate monitoring, and the focal concerns framework. Chapter three discusses the data source, analysis plan, study methods, and defines the variables used to complete this research. Chapter four presents the results for this analysis. Chapter five includes a discussion of the results, study limitations, policy implications, and suggestions for future research.

CHAPTER TWO: LITERATURE REVIEW

Chapter two includes a history of the sentencing of organizations through the U.S. court system and describes how the current sentencing process has evolved. It includes a description of the two related sentencing penalties, probation terms and the requirement to hire third-party corporate monitors, as well as a review of the existing literature on these penalties. Chapter two closes with an in-depth description of the focal concerns framework and how it can be used to explain these two sentencing outcomes.

Organizational Criminal Sentencing in the U.S.

Organizational criminal sentencing through court can be defined as the process by which an organization that has been adjudicated or pled guilty for committing a crime is assessed penalties by a judge. The sentencing process begins with a prosecutor in the appropriate federal District Court (based on location) investigating a criminal accusation levied against an organization to determine if there is enough evidence to charge the organization. According to the Justice Manual, which is intended to guide prosecutors' actions regarding filing charges, organizations should be indicted for wrongdoing because an indictment enables the government to encourage positive corporate culture and to prevent and detect serious crimes among other organizations. After some investigation, if the case appears to be strong enough to merit an indictment, prosecutors will file charge(s) against the organization. Once charges are filed, the organization might be offered the choice to sign a plea agreement admitting guilt to avoid the trial process or proceed to trial if they want to fight the charges (United States Department of Justice,

2015)[1]. The organization may plead guilty at any point during the trial or continue the trial process until a verdict is reached. If, at the end of the trial, the organization is found guilty, the judge is responsible for handing down a sentence that is suggested by the USSG.

The sentencing process for organizations in the United States has varied over time. Prior to 1984, the few organizations that were criminally charged were sentenced in criminal courts by judges who assessed penalties using wide discretion (Alexander, Arlen, & Cohen, 1999a). Organizations were being sentenced to pay less than the amount of money corresponding to the damage their crime caused, which many believed was not appropriate (Nagel & Swenson, 1993). This discretion generated questions in the legal community about the equality and consistency of penalties given to federal violators, as well as the overall likelihood of organizations being charged with criminal violations at all. These questions spawned the desire to create a uniform set of guidelines to ensure more consistency in organizational sentencing (Alexander et al., 1999a; Nagel & Swenson, 1993). The federal Sentencing Reform Act of 1984 was created to provide certainty and fairness in sentencing, limit judicial discretion, reflect an advanced knowledge of human behavior, and incorporate the purposes of sentencing including incapacitation and rehabilitation. The USSC was created in 1984 as an agency to help achieve these purposes (USSC, 2011).

In 1991, the USSC implemented the United States Sentencing Guidelines (USSG) to standardize the penalties that offenders received at sentencing. Additionally, for organizations, the USSG were intended to substantially increase penalties, particularly for

[1] Organizations that agree to plea agreements will also be assessed penalties as part of sentencing, but these are sentenced differently than organizations that plead or are adjudicated guilty.

fines (Alexander et al., 1999a; Alexander, Arlen, & Cohen, 1999b). The USSG also expanded the possible sentencing outcomes to options that were non-monetary, including notices of conviction to crime victims and notices of conviction to the public (Gruner, 1993). It should be noted that the U.S. Supreme Court declared that the federal sentencing guidelines should be considered advisory rather than mandatory in *United States v. Booker*, 543 U.S. 220 (2005) (USSC, 2019). Since then, it is unclear how closely judges have been sentencing to the USSG.

The possible penalties for organizations convicted of crimes and the calculation of those penalties are detailed in Chapter 8 of the USSG. Using these guidelines, judges are advised to consider the circumstances of the cases when sentencing and use the facts of the case directly to determine which penalties are appropriate. Under the law, judges use the guidelines to assess appropriate punishments, which may include fines, community service, restitution, probation, and the requirement to implement a corporate monitor or corporate ethics program, among others (USSC, 2018a). After sentencing, it is the organization's responsibility to complete the terms of the sentence or perhaps face further prosecution and punishment.

Convicting criminal organizations through guilty pleas and verdicts is important because it publicly punishes criminal activity and sends a message to other potential violators that wrongdoing will be punished. The USSG indicate that they are intended to serve several purposes: the guidelines set sanctions that will punish organizations, increase uniformity of punishment, and encourage and incentivize organizations to prevent, detect, and report criminal conduct (USSC, 2018a). Sentencing criminal organizations also sends a message of deterrence to both the organization itself and other

similar organizations that criminal violations will be prosecuted. Ideally, corporate crime will be deterred through criminal prosecutions.

Criminal sentencing through courts is also important because it provides some measure of compensation for those who have been victimized by the organization's criminal activity. The first purpose of Chapter 8 of the USSC reports that the sentencing of organizations should reflect the general principle of remedying the harm caused by the offense and attempting to make victims whole (USSC, 2018a). Criminal sentences often include some form of compensation for victims to achieve this purpose (United States Department of Justice, 2015; USSC, 2018a). Organizations can cause a great amount of harm (to people, animals, the environment, stock markets, governments, and their competition, to name a few) and are often sentenced to remedy the harm through community service or restitution.

Despite the benefits of obtaining a criminal conviction, many organizations may not be criminally charged because of the time and expense that is required to generate the proper amount of evidence required to take a case to court (Baer, 2016; Garrett, 2014). Not being criminally charged obviously means these organizations will not be convicted. Many of the organizations that do go to court may have charges dropped and not reach a verdict. Accordingly, it may be a rare event that organizations are sentenced in court, especially when compared to the number of potential organizations that could be sentenced.

Both before and after the USSG, criminal charges and convictions of organizations are rare. Between 1988 and 1990, prior to the USSG, of more than 40,000 federal criminal cases each year, only 400 involved organizations (USSC, 1994). Even

examining the rates of convicted organizations after the USSG from 1996 to 2000, less than 1% of the 115,400 federal parties sentenced were organizations (Murphy, 2012). It should be noted that not many charged organizations choose trial: according to USSC data, an average of 8% of organizations go to trial. The remainder sign plea agreements to avoid trial (Doyle, 2013; Garrett, 2014; Markoff, 2013). For fiscal year 2017, the USSC noted that 120 of 131 organizations that had been charged with a crime (91.6%) opted to plead guilty to avoid a trial (USSC, 2018b).

Organizations that are charged with federal crimes, regardless of conviction, can suffer both formal and informal consequences. Formal consequences include a criminal charge and the sentencing that accompanies a charge. For some organizations, the sentence may amount to the organization having to declare bankruptcy (although some contend that this rarely happens in practice) (Beasley, Carcello, Hermanson, & Neal, 2010; Markoff, 2013; Paulsen, 2007; Seigel, 2008; Wray & Hur, 2006). Organizations that are convicted of crimes can lose access to government contracts, potentially limiting their profits (Alexander & Yoon-Ho, 2017). Publicly traded organizations accused of fraudulent financial reporting may be required to delist from their stock exchanges (Beasley et al., 2010).

Formal charges can have informal consequences on an organization as well. These can include the loss of status and a damaged reputation, which can in turn lead to loss of customers, shareholders, employees, and revenue (Beasley et al., 2010; Bucy, 2007; Cullen, Cavender, Maakestad, & Benson, 2006). For some organizations, especially wealthy ones, the informal costs of prosecution can be more threatening than the formal costs. For example, when considering criminal charges filed against Ford

Motor Company in the late 1970s, Ford was not concerned about a $30,000 fine because their revenues greatly exceeded that cost. They were more concerned about how criminal charges could lead to a drop in their sales, civil lawsuits, a tarnished corporate image and personal image of the executives, and legislative implications (Cullen et al., 2006).

As previously mentioned, when organizations are sentenced through the federal criminal courts, they can be sentenced to complete a variety of penalties. Two common penalties are probation and the requirement to appoint a third-party corporate monitor. The use of these two specific penalties will be examined in this dissertation. The following sections describe how these penalties are used by judges in the federal court system to penalize organizations.

Sentencing Penalty: Probation

Probation serves the philosophies of punishment, deterrence, and rehabilitation. As it applies to convicted organizations, probation can be defined as a requirement for organizations to be monitored by the court for a period after a criminal conviction. Probation allows for continued judicial control and oversight of the convicted organization (Gruner, 1988). During this time of supervision, the organization may be sentenced to make corporate changes or restructure to remove guilty parties and/or prevent future crime. These changes typically include modifications to the organization's structure and operations (Lofquist, 1993a). According to Gruner (1988), probation acts as a means of mitigating corporate punishment, but also acts as a "flexible vehicle for imposing a wide range of sanctions" (p. 1). In this regard, probation can be used in tandem with other penalties to ensure that the organization is completing the other sentencing requirements.

To successfully complete the probation, the organization is required to complete any corporate or managerial changes and submit any information or documentation required by the government. If the organization successfully completes the probation, no further action is taken. However, if the organization fails to complete the terms, the probation term may be extended, additional provisions may be added, or the probation may be revoked and the organization resentenced (USSC, 2018a).

When to Sentence Probation

The USSG grant authority to judges in imposing or denying probation against an organization, as well as in naming the conditions of the probation, through USSG §8D1.1 (Lavenue, 1992; USSC, 2018a). The USSG encourage the sentencing of probation against convicted organizations (Kennedy, 1998). During the sentencing phase of a trial, the judge will use the USSG and sentence probation accordingly. If the organization does not meet the required criteria, the judge is not required to order probation.

According to the USSG, probation is appropriate to ensure that organizations complete the terms of their sanctions, namely restitution and community service, or to reduce the likelihood of recidivism (USSC, 2018a). The USSG report that organizations should also be sentenced to probation if, at the time of sentencing: (a) the organization had 50 or more employees, (b) was required to have an effective program in place, (c) did not have an effective compliance program in place, (d) had a criminal history of similar conduct within the previous five years, (e) a higher-level personnel within the organization committed a similar act within the previous five years, or (f) the organization's sentence did not include a fine. In the case of a misdemeanor, the term of

probation should be no more than five years. For felonies, the term should be no less than one year but no more than five years (USSC, 2018a).

The USSG also specify both what they call required and recommended features of organizational probation. An organization that is sentenced to probation will be required to not commit any other crimes during the term of probation and to complete other sentencing requirements. Additionally, an organization that is sentenced to probation may be required to: (a) publicize its offense, conviction, sentencing, and the steps that will be taken to prevent future offenses, (b) develop a compliance program and submit information to the court for approval, (c) notify its employees and shareholders specifically of the offense, (d) report its financial status, status of the implementation of compliance programs, relevant civil or administrative penalties or proceedings, and information regarding criminal activity to the probation officer, and (e) submit to a reasonable number of audits of financial books and records (USSC, 2018a).

As previously mentioned, organizational probation is strongly tied to the goals of rehabilitation and supervisory prevention, as opposed to deterrence, retribution, and redress (Fisse, 1981). To achieve these goals, organizations that are placed on probation will generally receive a restitution order, with the restitution intended to restore the victims. However, a restitution order does not guarantee that the organization will be sentenced to probation. Organizations on probation must also be assessed a fine, restitution, or community service (Lavenue, 1992). The term of probation is intended to supervise the completion of these sentencing components.

Organizational probation is not identical to an individual probation but has features of both traditional individual probation and supervised release. For example,

organizations that are not assessed fines will be assessed probation under the USSG, in which case probation is a milder punishment compared to the harsher punishment of fines. Organizational probation has many of the same requirements as individual probation, including not committing further crimes, performing community service, notifying victims, etc. However, like supervised release, probation can be required along with other sentences (Thomas, 2015).

Probation sends a message to the offending organization that their long-term compliance with laws and crime-free behavior is expected. It also requires that organizations make changes to prevent future crime. Accordingly, for some organizations, probation is a greater concern or a more severe penalty than fines because probation comes with extended oversight, which could be cumbersome, whereas fines do not (Lofquist, 1993b). Probation requires organizational change to avoid future criminal behavior, compared to financial penalties that may not (Gruner, 1988).

Literature Review: Sentencing Probation

Prior to the implementation of the USSG, the sentencing of organizational probation as a result of a guilty plea was rare and uneven. Organizations that were sentenced to both fines and probation could refuse probation in favor of paying the maximum fine (Kennedy, 1998). In their article examining the use of probation prior to the USSG, Coffee Jr., Gruner, and Stone (1988) found that 44 out of 242 organizations convicted in federal courts (18%) between January 1, 1984, and February 28, 1985, were sentenced to probation. Within the first few years after the USSG, before the USSG became advisory, 169 of 271 convicted organizations (62%) between 1991 and 1996 were sentenced to probation (Green, 1998). Records from the USSC detailing the

percentage of sentencing organizations receiving a term of probation between fiscal year 2006 and fiscal year 2017 showed a low percentage of 61% of organizations in fiscal year 2016 to a high in fiscal year 2013 of 78%. For fiscal year 2017 specifically, of 131 federally convicted organizations, 82 (62.6%) were sentenced to probation (USSC, 2018c).

Some question the usefulness and purpose of organizational probation. Wray (1992) wrote that probation is largely inappropriate for organizations compared to monetary sanctions for several reasons. He argued that probation is less predictable in its deterrent and rehabilitative effects, approaches imprisonment in its ability to incapacitate organizations, and is undermined by a wide berth of prosecutorial discretion. In Wray's (1992) view, corporate probation seems inefficient and redundant when administrative and civil sanctions could service similar purposes. The author argues that the use of corporate probation should be limited to only the most extraordinary situations such as when organizations have already been declared guilty of crimes. Regardless of its criticisms, probation continues to be part of many convicted organizations' sentences.

Sentencing Penalty: Corporate Monitors

The assignment of a corporate monitor as part of sentencing can be thought of as the process of an organization with a history of criminal activity hiring an individual whose responsibility it is to monitor their subsequent activities. This individual, sometimes called an independent compliance consultant, independent monitor, compliance consultant, outside compliance consultant, compliance counselor, or similar (Garrett, 2014), will be referred to as a corporate monitor throughout this paper.

Khanna and Dickinson (2007) described that corporate monitors are people appointed to supervise organizations for a set period as part of an agreement (although it should be noted that monitors can also be appointed as a result of a guilty criminal court plea or conviction, as described previously). The monitor is an independent third-party individual, not affiliated with the government or the organization, who is hired by an organization to oversee the organization's compliance with a criminal sentence (United States Government Accountability Office, 2009). The traditional role of a monitor is an agent (an impartial individual) who acts on behalf of a principal (the government) to ensure compliance of a third party (a convicted organization) (Root, 2014).

When to Sentence Monitors

Compared to other penalties including probation, the USSG are silent regarding when and how an organization should be sentenced to implement a corporate monitor (USSC, 2018a). This leaves a large amount of discretion to judges in assigning this penalty. In their article examining the implementation and use of corporate monitors, Warin, Diamant, and Root (2011) determined that there was no single factor that wholly determined if an organization would be sentenced to a monitor, but two were the most determinative: whether the organization had a high degree of corruption within it and whether the organization had an effective compliance program in place at the time of the offense. Organizations with a greater history of internal corruption and without compliance programs were more likely to be sentenced to implement monitors.

After the decision is made by a judge to implement a monitor, a monitor must be selected. The process of selecting a monitor can vary greatly (Garrett, 2014). In many cases, there is a negotiation of sorts between the government and the sentenced

organization. Both parties must agree on the individual selected to be a monitor. Often one of the parties proposes one or more names of individuals for the monitor and the other party selects from those names. For example, O'Hare (2006) detailed the assignment of a corporate monitor to WorldCom after the Securities and Exchange Commission found that the organization overstated their income by over $9 billion. According to the article (which was based on official documents from the Securities and Exchange Commission and Department of Justice), the Securities and Exchange Commission asked the Department of Justice to order WorldCom to appoint a monitor. Judge Jed S. Rakoff of the Southern District of New York agreed to require the organization to implement a monitor and asked the organization and the Securities and Exchange Commission to propose a name for the monitor within five days. The organization and the Securities and Exchange Commission proposed three names, from which Judge Rakoff selected Richard C. Breeden, a former Chairman of the Securities and Exchange Commission.

Implementing a monitor increases the supervision of convicted organizations, providing an individual on site who is available to investigate past crimes and prevent future ones. This individual can also report issues back to the government so judges or prosecutors can take further action if necessary. In short, corporate monitors act as quasi-probation officers, ensuring the organization completes the terms of its sentence and sometimes assisting with further investigations into known crimes, including interviewing employees at the organization. The monitor is required to make periodic updates to the judge or prosecutor regarding the organization’s willingness to cooperate

and its steps toward completing the sentence. Despite these basic commonalities, the role of monitors is "ill-defined" (Garrett, 2014, p. 176).

What do Monitors do?

The duties of the monitors vary widely, both compared to each other and throughout the monitor's term with an organization. The monitors' responsibilities range in addressing compliance issues solely or may extend to the organization's operations. Root (2016) described that there are several different types of modern-day monitorships. The two most common types of monitorships are enforcement and corporate compliance, but public relations monitorships are also common. Enforcement monitorships involve an individual acting as an agent of the government and ensuring that the organization is following the government's mandated guidelines. The government sets the requirements for the organization's remediation and corporate monitors are responsible for ensuring those requirements are met. Corporate compliance monitorships involve an individual assessing the root causes of an organization's wrongdoing, determining the causes of compliance failure, and making recommendations for improvements to prevent wrongdoing. A public relations monitorship occurs when an organization with a history of misconduct hires someone to remediate the misconduct but also heal the damaged public image caused by the wrongdoing. This monitorship is not overseen by government or regulatory bodies.

Interviews with corporate monitors, who were identified through media research, confirmed that the responsibilities of monitors varied greatly, with many reporting wide-ranging reach with regarding to monitoring (Ford & Hess, 2011; Khanna & Dickinson, 2007). Ford and Hess (2011) identified the range of corporate monitors' responsibilities

through interviews with 20 corporate monitors: many monitors conducted interviews with people from all levels of the organization, sat in meetings to observe corporate culture, examined compliance activities, and interacted with employees. The intention for some monitors was to identify compliance vulnerabilities and address them. Others did not view their responsibilities as fixing corporate culture but pointing out issues in culture that might lead to compliance problems. Some stuck with the technicalities of the work and did not address culture at all. The monitors also varied in their interactions with the government (some with regular meetings, some with only the final report submitted to the government).

An example of a monitor's purposes changing is in the previously mentioned case of WorldCom and its corporate monitor, Richard Breeden. Originally, Breeden's duty was to ensure the organization's compliance with the court's orders, especially related to not destroying evidence of the crime or overpaying employees or affiliates (excessive wages for upper-level management had been identified as a major source of financial problems for the organization). Breeden was authorized to approve all compensation payments to corporate personnel. Over time, his responsibilities expanded, including oversight of payments to WorldCom's advisors, attendance at corporate board meetings, reviewing corporate governance and issuing recommendations for changing the corporate governance, and eventually managing the negotiations for the organization to be bought by Verizon (O'Hare, 2006).

Beyond the supervision capacities that a monitor provides, the implementation of a monitor also acts punishment for the organization. Organizations do not like being supervised. The presence of a monitor can create uncertainty in the organizations and

disrupt business operations, and it also serves as a constant reminder to focus on legal compliance (Ford & Hess, 2009). The extended monitorship prohibits organizations from moving forward because the monitor acts as a reminder of the crimes (Warin et al., 2011). Additionally, monitors can be expensive for organizations (United States Government Accountability Office, 2009; Warin et al., 2011), partially because they are an ongoing cost that the organizations must pay (Khanna & Dickinson, 2007).

Literature Review: Sentencing Monitors

In the legal community, there is some controversy regarding the selection of monitors, largely due to the lack of transparency and inconsistency of the process. The transcription from the committee meeting from the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary (2009) described testimony from several government officials who were concerned about the lack of public transparency regarding the selection of corporate monitors, especially regarding the selection of former government officials as monitors. The Chairman of the Subcommittee on Commerical and Administrative Law, Steve Cohen, expressed the opinion that the selection process of a monitor should be publicized and that a judge should be involved in selecting the monitors to limit political influence. He also expressed a concern regarding the amount of money that organizations pay for their monitors (in one case, $52 million) (Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary, 2009).

An additional question regarding the use of monitors is if they are effective in changing organizations to prevent future criminality. Ford and Hess (2009) examined if corporate monitorships improved corporate behavior and encouraged effective compliance programs. The authors conducted 20 interviews with corporate monitors,

regulators, and compliance consultants in the U.S. and Canada. Their interviews showed skepticism that monitors are effective in reforming corporate culture and monitors may not even be doing their jobs – what they referred to as "low ambition monitorships" (p. 730). This may be because the government and monitor settle with the organization for a significantly lower level of operation than they would have hoped (competing interests between the organization getting a satisfactory report and the monitor conducting a thorough investigation). Monitors may also struggle with keeping a friendly rapport with an organization, either to seem approachable or to increase the likelihood of future monitor appointments.

Despite having guidelines in place to suggest the sentencing of organizations, questions still arise about the likelihood of organizations being sentenced to probation and corporate monitors and whether organizations are being sentenced in line with the expectations for probation outlined in the USSG. Because of the advisory nature of the USSG, penalties for probation and corporate monitoring can have a lot of variation despite court recommendations. This study will examine if the federal sentencing of probation is consistent with the recommendations from the USSG, and if the sentencing of a monitor is consistent with the sentencing of probation, using a theoretical framework. The focal concerns framework may explain how organizations might be sentenced to these penalties, and why the severity of these penalties may vary based on the organization and crime committed. The next section will explain the focal concerns framework and how it may apply to the sentencing of probation and a corporate monitor for convicted organizations.

The Focal Concerns Framework

The focal concerns framework provides context for judicial decision-making and has been used to explain why judges sentence some individuals differently based on their personal characteristics or the facts of the crime. The term "focal concerns" comes from Miller (1958, p. 6), who researched delinquency among lower class individuals. He defined the term as "areas or issues which command widespread and persistent attention and a high degree of emotional involvement" (1958, p. 6). The focal concerns framework explains that judges use three main criteria when reaching sentencing decisions: blameworthiness, practical constraints and consequences, and protection of the community (Steffensmeier et al., 1998). These three areas will be discussed more specifically in the following sections.

The focal concerns framework views humans as rational actors. The theory assumes that the actors who are responsible for decision-making in the criminal justice system make decisions based on intellectual evaluations and not emotion. Because they attempt to gather as much information as possible before making decisions, people (and judges in particular) are rational in their thought patterns regarding sentencing. Judges make value judgments when sentencing in ways that benefit themselves, the community, and the criminal justice system without causing undue consequences. This is reflective of Bentham (1781/1970), who posited that people will pursue pleasurable activities and make choices that are pleasurable rather than painful. Judges will behave rationally and consider how to best avoid negative consequences while still punishing guilty parties.

The focal concerns framework potentially explains why, in the absence of enough information to make decisions, judges and other criminal justice agents will use their

prior experience to make decisions. Stereotypes based on prior experience and precedent allow people to make quick decisions regarding how to handle situations. Describing the work of Simon (1945/1997), Albonetti (1991) discussed that people make decisions based on all the evidence around them, even if it is summarized, because there is a "bounded rationality" involved in decision-making. People seek to create a measure of certainty and rationality by developing patterned responses that reduce uncertainty. Also referencing the work of Simon (1945/1997), Kahneman (2011) refers to a concept called WYSIATI: "what you see is all there is" (p. 86). He describes WYSIATI as "jumping to conclusions on the basis of limited evidence" (p. 86) but that it "facilitates the achievement of coherence and of the cognitive case that causes us to accept a statement as true" (p. 87). WYSIATI, according to Kahneman (2011), enables people to think fast and make sense of partial information, although it might lead to biases of judgment and choice. Examining judicial decision-making specifically, Albonetti (1991) described that judges use stereotypes linking personal characteristics including race and gender to prior sentencing outcomes. These assumptions help produce rationality. As judges gather more information about a case or defendant, they can make more informed choices.

In an examination of the rationality of criminal justice actors, Kramer and Ulmer (2002) interviewed 36 judges and prosecutors in Pennsylvania regarding sentencing decisions in 134 cases of serious violent offenses. Interviews with judges revealed that they used substantively rational considerations when considering their sentencing options. These considerations included their judicial deference to plea agreements, evidence strength, victim-offender relationship, and "de-mandatorizing" ("the facts of the

case supported application of a mandatory minimum, but the prosecutor did not file a motion to apply it," p. 920).

Higgins, Vito, and Grossi (2012) expanded the reach of focal concerns theory to racial profiling. They reported that the focal concerns framework relies on the fact that criminal justice actors make rational choices based on "perceptual shorthand" since they are not able to gather all the information they need to make a fully informed decision regarding traffic searches. Once this shorthand is created, it becomes a pattern that people continue to use. Judges and other criminal justice actors (including police) create mental shortcuts that allow them to make the best decisions they can in a timely fashion based on the information they have in front of them (Ishoy & Dabney, 2018).

One criticism of the focal concerns framework is regarding whether these mental shortcuts and perceptual shorthand are based in accurate assumptions. The public would hope that decisions are made based on case precedence and statistical probabilities rather than other subjective information, but some believe that when decision-makers do not have enough information, they rely on stereotypes of the personal characteristics of the individuals involved. The research by Stemen and Escobar (2018) found that defendants who were young and belonged to an ethnic/racial minority group and had longer criminal histories were less likely to have their cases dismissed, plead guilty to a lesser charge, and more likely to receive a non-custodial sentence. The authors commented that stereotypes of blameworthiness as related to race (with minorities being more blameworthy or dangerous) is reflective of "pernicious unconscious bias" (p. 1187) that remains in the justice system.

The focal concerns framework presumes that people make decisions based on the conclusions they have drawn after using perceptual shorthand and stereotyping to decrease the uncertainty in decision-making. They then make decisions so as to treat the individuals who they deem are more deserving of harsher punishments with more severe, tougher treatment, such as more extensive or lengthier sentencing in the case of judges (Steffensmeier et al., 1998). Early studies used the focal concerns to examine physical characteristics of defendants to identify the groups of people who were often penalized more harshly. These studies identified that that the characteristics that often dictated the harshness of a defendant's punishment included race (Steffensmeier & Demuth, 2000, 2006), age (Steffensmeier et al., 1995), and gender (Steffensmeier & Allan, 1996; Steffensmeier & Demuth, 2006; Steffensmeier et al., 1993). Additionally, the defendant's present offense and criminal history played a prominent role in the harshness of the defendant's sentence (Steffensmeier & Demuth, 2006). Additionally, one study examining the relationship between inequality and criminal punishment found that those individuals who are more socially disadvantaged are more likely to be sentenced to more coercive punishment (Steffensmeier & Demuth, 2000).

Over time, the focal concerns framework has been extended to other criminal justice actors to examine their decision-making processes based on the characteristics of individuals involved. It appears that the focal concerns resonate with various criminal justice actors, including judges, prosecutors, police, parole and probation officers, and corrections officers, although some of the focal concerns may be more salient to some positions than others (Campbell & Fehler-Cabral, 2018; Kaiser, O'Neal, & Spohn, 2017).

The focal concerns framework contains three components that are part of the decision-making process: blameworthiness, practical constraints and consequences, and protection of the community. The next sections of this document will describe each of the three components separately as they have been applied to individuals, summarize the empirical evidence of each of the components as they have been applied to individuals, and then discuss how the framework may be applied to organizations.

Focal Concern: Blameworthiness

Blameworthiness, which is often used interchangeably with the term culpability, can be defined as the degree to which an individual is considered responsible or guilty in the commission of a crime (O'Neal & Spohn, 2017) according to the judge's perceptions (Testa, 2019). Blameworthiness is related to defendant culpability and the idea that the punishment given to someone should fit the crime caused (Steffensmeier et al., 2017). Judges' views of blameworthiness are affected by the severity of the offense, characteristics of a defendant including criminal history and prior victimization, and the offender's role in the offense (Steffensmeier & Demuth, 2001). Using focal concerns, those individuals who are deemed to be more blameworthy in the commission of the crime should be penalized more heavily or extensively than those who are less blameworthy.

Blameworthiness (defined by offense severity and criminal history) has consistently been found to be related to sentencing decisions (Holtfreter, 2013). According to some, it is the focal concern most often tied with law: most legal codes agree that punishment should be proportionate to the crime and should vary depending on the severity of the crime and the individual's responsibility. Blameworthiness is often

measured by examining the severity of the offense (Richardson, 2015). According to both the law and the focal concern framework, the most severe penalty for individuals (the death penalty) is only reserved for the most extreme cases.

According to the focal concerns, those who are more blameworthy should be sentenced to lengthier or more severe penalties, including lengthy prison sentences, heavy fines, life in prison, or the death penalty. Accordingly, those who are less blameworthy in the commission of the crime should be given lesser penalties, which might include restitution, community service, or probation. For example, the leaders who orchestrate bank robberies or gang activities should be punished more harshly compared to other individuals who were less responsible in the commission of the crime. Individuals who committed the crime without doing the planning, or especially those who were aware that a crime was being planned but did not participate, are less blameworthy in the crime and should receive lesser penalties.[2]

The second component of the focal concerns framework considers the practical constrains and consequences of an individual's sentence on the individual, the individual's family, society, and the criminal justice system.

Focal Concern: Practical Constraints and Consequences

When judges sentence individuals to criminal penalties, they also consider the consequences of potential punishments. The focal concern of practical constraints refers to those consequences. Practical constraints and consequences consist of both organizational factors affecting the system (considering caseloads of prosecutors and correctional resources) and individual characteristics of the defendant (considering the

[2] A discussion of how blameworthiness might be applicable for organizations is included in the section titled "Focal Concerns: Application to Organizations."

offender's health, personal and familial circumstances, and disruption of social ties) (Vance, Richmond, Oleson, & Bushway, 2017). Practical constraints and consequences also include concerns about the organizational costs incurred by the criminal justice system and potential impact of offender recidivism (Demuth & Steffensmeier, 2004), the legal costs of sentencing to the organization itself, legal restrictions, and resource availability (Johnson, Klahm, & Maddox, 2015), and maintaining relationships with other actors in the justice system (Kaiser et al., 2017). Judges also make sentencing decisions to avoid negative social consequences such as overcrowding in correctional facilities and negative public opinion (Ericson & Eckberg, 2016).

Ignoring the practical constraints and consequences of punishment could cause more problems for the justice system later. While practical constraints are universal, the specific issues are local (Ulmer & Johnson, 2004). According to Morrow, Dario, and Rodriguez (2015), practical constraints are related to the limiting factors of a potential sentence and why a sentence may not be feasible or in the best interest of the system, the defendant, or society. For judges, these practical concerns are largely tied to incarceration (one of the harshest penalties available for individuals) (Kaiser et al., 2017). Judges are less likely to sentence individuals to prison if their individual characteristics denote that they might be less suitable for prison or have an exceptionally difficult transition to prison life. Also, when considering the practical constraints of sentencing, the focal concerns framework argue that judges consider the need to protect the community from the offender.[3]

[3] A discussion of how practical constraints and consequences might be applicable for organizations is included in the section titled "Focal Concerns: Application to Organizations."

Focal Concern: Protection of the Community

In addition to serving the purpose of punishment, a criminal sentence is intended to protect the innocent from experiencing further harm caused by the convicted individual. The need to protect the community from further victimization is another focal concern that judges consider when they are choosing sentencing options. Bushway (2010) reported that the focal concern of protection of the community can be thought of as incapacitating offenders and deterring potential offenders so crime is reduced, and the public is not further victimized. Protection of the community is related to criminal justice actors' anticipation of the future behavior of offenders and their likelihood of committing future crime against their community (Hartley, 2014). Protection of the community emphasizes the goals of incapacitation and general deterrence and an assessment of the offender's dangerousness and risk of recidivism (Demuth & Steffensmeier, 2004). Community protection is usually achieved through incarceration.

According to the focal concerns framework, judges choose penalties that are more severe for the offenders who are violent, harmful, or may otherwise be a threat to the public. By incarcerating or otherwise incapacitating these offenders, the public is more protected from their crimes. The seriousness of a crime is also considered as part of protection of the community. For example, those whose actions injure or kill people, especially if the actions are intentional, should be punished with the most severe penalties so the public is protected from their future crimes. Crimes that are less serious, such as shoplifting or petty theft, should be punished with less severe penalties. Those who have a criminal history may be deemed more likely to continue crime without an intervention, so judges may use sentences of confinement to protect victims.

Protecting the community is a focal concern that is important to all criminal justice actors, be it judges, police, or prosecutors, because it is the responsibility of all these actors to protect the community from harm, increase public safety, and prevent future attacks (Campbell & Fehler-Cabral, 2018). Protection of the community partially assumes that those with higher stakes in the community are less likely to commit future crime, so protection is sometimes related to the offender's social, employment, and familial ties (Romain & Freiburger, 2013), with those with more ties being less likely to be considered a threat to the community because they would want to preserve those ties.[4]

The next section will summarize the existing literature examining each of the three focal concerns.

Focal Concerns Components: Blameworthiness Literature Review

Previous research of the focal concerns has largely found support for blameworthiness playing into the judge's decision regarding sentencing. Regarding race/ethnicity, the research conducted by Steffensmeier and Demuth (2000) using federal court data from 1993 to 1996 showed that race/ethnicity had a small to moderate effect on sentencing outcomes that favored white defendants and penalized Hispanic defendants. Black offenders were sentenced intermediately between the other two groups. Hispanic defendants convicted of drug offenses were the most harshly penalized. Steffensmeier and Demuth (2006) further examined data from 1990 to 1996 to determine the main and interactive effects of gender and race/ethnicity on sentencing. Their results were consistent with prior focal concerns research in that females and whites were

[4] A discussion of how protection of the community might be applicable for organizations is included in the section titled "Focal Concerns: Application to Organizations."

sentenced to more lenient sentences compared to males and minorities. However, race/ethnicity effects influenced male but not female sentences.

Additionally, Freiburger, Marcum, and Pierce (2010) examined the effect of race on the pretrial release decision for drug offenders. The data were collected from presentence investigation reports for drug offenders in one county in Pennsylvania between 2001 and 2003 (N = 312). Their results showed that race was significant in the judges' decisions to release offenders pretrial in that black offenders were less likely to be granted pretrial release. Race was not significant in bail decisions. The authors believed that these results are consistent with black offenders being considered more dangerous and blameworthy.

Examining age in terms of blameworthiness, Burrow and Lowery (2015) examined the blameworthiness of juveniles in relation to the plea-bargaining decision made by judges and prosecutors. Their research examined 241 juveniles in Florida and showed that several focal concerns were important in the plea-bargaining decision, including the type of offense, number of victims, and defendant's age and race. With juveniles, the individuals may be considered less blameworthy because they are too young to be hardened criminals, especially after a first offense. For many, they can also be considered less blameworthy because they may have been influenced by a bad peer group or other individual.

Examining blameworthiness and gender, Holtfreter (2013) used data from known financial crime offenders and incidents from the Association of Certified Fraud Examiners for 2001-2002 to examine women's roles in financial crime commission. Her research found that women's roles in crimes were restricted by their positions in the

organizations' hierarchies, and that women were considered less blameworthy in the commission of the crime because they did not have as high of a position that would make them more culpable. Consistent with the focal concerns, women were not sentenced to as harsh penalties as the men who held the higher positions.

Focal Concerns Components: Practical Constraints Literature Review

The existing literature has also examined the practical constraints and consequences. For individuals, a common factor playing into the decision to incarcerate is the individual's age and gender. Older inmates and women are likely to be more expensive to incarcerate because of their medical needs. These groups are also less likely to be transition to prison life well. Considering age, Morrow et al. (2015) used the focal concerns to examine independent and moderating effects of age and race/ethnicity with juveniles to see if they are sentenced to more lenient penalties because of age concerns or the desire for rehabilitative care. Their research of 9,077 juveniles examined four stages in the juvenile justice process. Their results showed that juveniles were sentenced to harsher treatment at the diversion and detention stages.

The gendered examinations of practical constraints and consequences in sentencing may rely on traditional stereotypes of women as primary caregivers and emotional supporters in the home. In an early examination of sentencing differences based on gender, Steffensmeier (1980) described that sentencing differences between men and women may result in more leniency for women because of practical reasons. Steffensmeier recognized that while men may also have children, the ill effects on families and the mothers if the mothers were incarcerated outweighed the negative effects on families if fathers are incarcerated. Incarcerating mothers would be more severe than

incarcerating fathers. In their study, Koons-Witt, Sevigny, Burrow, and Hester (2014) showed that females were less likely to be incarcerated and, when sentenced, their average sentence lengths were shorter than men. The authors believed that judges were less likely to sentence females to incarceration because they would be separated from their children. Taking maternal figures out of the home will potentially affect both the mothers and their children, causing more burden on the states to take potentially care of the needs of both incarcerated mothers and children who are being raised without their mothers.

The practical constraints focal concern also reflects the effect of sentencing on the overall criminal justice system. For example, judges make sentencing decisions after considering several factors of the facilities available for individuals. There may be less space in prisons or jails for any individuals, perhaps especially for women, that judges must consider when sentencing. Overcrowding is an issue that can affect a judge's choice about whether to incarcerate someone who is less deserving of that harsh of a punishment. The study from Ulmer and Johnson (2004) examined the practical constraints of imprisonment including local jail capacity in relation to offense severity, violent offenses, and individuals' prior records. Their data was sentencing data from 1997 to 1999 in Pennsylvania and focused on the judicial in/out incarceration decision and sentence length. Their results showed that court organizational structure and caseload pressure affected sentencing outcomes.

Focal Concerns Components: Protection of the Community Literature Review

For some offenders, protection of the community is a chief concern, perhaps more important than blameworthiness or practical constraints. As previously mentioned,

protection of the community may be related to the seriousness of the offense. Lin, Grattet, and Petersilia (2010) examined protection of the community considering local political contexts in the parole board revocations of registered sex offenders and serious/violent offenders. Their research examined data from the California Parole Study on 254,468 individuals who were on parole between January 1, 2003, and December 31, 2004, and whether they were re-imprisoned after a parole violation. Their result showed that serious/violent offenders were 9% more likely to be re-incarcerated after a parole violation compared to other types of violators, including sex offenders. They posited that, in some areas, community politics and culture are driving factors in court decisions. In some areas that are minority-dominated, minorities may be punished more harshly. They wrote that their results supported protection of the community against violent offenders (although the finding for sex offenders was not significant).

Age of the offender may also be considered when determining the protection of the community. Morrow, Vickovic, and Fradella (2014) examined the focal concerns of sentencing related to older defendants, as well as the racial and gender interactions of older defendants. The data were sentencing information from the USSC for 95,183 offenders from 2009 and 2010 nationwide. Their results showed that judges afforded more leniency to older defendants, especially older females. Latinos 60 years old and over were treated with more severity in terms of incarceration than either blacks or whites above 60. The authors posited that older offenders are less dangerous and less likely to recidivate, so they are perceived as less of a threat to the community during sentencing.

Further considering protection of the community as it relates to age, Kurlychek and Johnson (2004) examined the judicial decision to transfer juveniles to adult court,

which would make them eligible for adult penalties. The authors wrote that the need to protect the community from the juvenile threat and the lack of potential for rehabilitation for serious juvenile offenders is perhaps more important in the decision to transfer juveniles to adult courts than blameworthiness or practical constraints. There may be a perception that juveniles in adult court and young adults are dangerous and should be punished more harshly.

Racial/ethnic characteristics can also be considered as protection of the community. The study from Logan et al. (2017) examined racial/ethnic disparities in the use of solitary confinement in correctional settings, using solitary confinement as an example of protecting the prison population and staff from serious offenders. Their data was from a self-report survey of inmates from 2004 with 18,185 respondents housed in 287 state prisons and 39 federal prisons. Their research showed that black inmates were more likely to report being punished with solitary confinement, but this effect was negated when factoring in the offenders' social, criminal, and correctional disciplinary histories. They concluded that race was not as important in this decision as the individual's criminal and disciplinary histories and the seriousness of prior offenses. Given the close correctional environment, protection of inmates and staff is of utmost importance in the decision to use solitary confinement.

Additionally, Cassidy and Rydberg (2018) examined focal concerns in relation to criminal history across a variety of offender and offense types to examine the importance of criminal offense in relation to protection of the community. The authors used four years of data (2007-2010) from Pennsylvania (N = 75,676). Their results showed that those with criminal history were more likely to have a severe sentence regardless of

offense type. Violent offenders received the longest sentence length compared to other types of offenders. The authors believed that these results reflected protection of the community from repeat and violent offenders.

However, the results of Stemen, Rengifo, and Amidon (2015) were contrary to most studies finding support for blameworthiness as an important focal concern when sentencing. The researchers qualitatively examined how judges, prosecutors, and public defenders viewed offender blameworthiness in terms of mandatory sentencing laws. Their results showed that the criminal justice actors had "little outward concern" (p. 198) for defendant blameworthiness when sentencing and instead were more concerned with the defendants' treatment needs and the effectiveness of supervision options for defendants. The authors believed that this result showed a judicial shift from a blameworthiness or dangerousness focus to a treatment or rehabilitative focus.

Taken together, all three focal concerns appear to be largely supported in the literature examining individuals. Compared to the abundance of literature examining the decision-making process of the various criminal justice actors regarding people, the applications of focal concerns to the decision-making process regarding organizations remains scarce. However, it stands to reason that the same focal concerns that guide the sentencing of individuals can guide the sentencing of organizations. This next section will describe how the focal concerns might apply when making sentencing decisions regarding organizations.

Focal Concerns: Application to Organizations

When considering the focal concern of blameworthiness, organizations can be blameworthy because they act as moral agents and can act rationally (Rich, 2016). Like

individuals, organizations can also have various degrees of blameworthiness in the commission of crimes. According to Gomez-Jara Diez (2011), not all organizations are equally culpable in the commission of their crimes, and some may be more deserving of punishment than others. Knowledge of the commission of a crime and the perceived permissiveness of allowing the crime to happen should be considered when determining sentencing outcomes. Applying the focal concerns framework and the USSG, organizations that are more blameworthy, have committed more severe offenses, offended in the past, or are a greater risk of further harming the community should be punished more harshly.

As pointed out by Clinard & Yeager (1980/2010), it can be difficult to assess blame for a crime committed within an organization, especially a large organization, because the wrongdoers have some anonymity. Upper level management can hide their personal responsibility. The actions of organizations' leadership before, after, and during the commission of a crime at their organization may be an indicator of the level of blameworthiness of the organization. Some factors that may indicate a level of awareness of the crime and perhaps lessened blameworthiness include if the crime occurred without the knowledge of management; if the offense occurred despite having a meaningful compliance program in place; if the organization reported the offense promptly and voluntarily; and if the organization took reasonable steps to remedy the harm and prevent recurrence (Laufer, 1992). If the crimes took place in organizations in which these were seen, the organization might be viewed as less blameworthy and less deserving of harsh punishment.

Some scholars have found that it is common for organizations to have multiple criminal convictions, which could be thought of as organizations being repeat or career criminals (Clinard & Yeager, 1980/2010; Sutherland, 1949/1983; Wang & Holtfreter, 2012). Additionally, some organizations are aware that wrongdoings are being committed and they might support the crimes. For example, in the case of the Ford Pinto, the manufacturer was aware that the location of the gas tank in the car was a fire hazard. The organization refused to issue a recall for the car or make small mechanical changes that were thought to decrease the likelihood of fire, despite receiving widespread media attention that there was a problem. After a Pinto was involved in a collision that killed three teenagers in 1978, prosecutors in Elkhart County, Indiana, charged Ford with three counts of reckless homicide. This is thought to be the case that changed the legal landscape regarding corporate crime and made organizations vulnerable to criminal charges (Cullen et al., 2006). According to the focal concerns, organizations (like Ford in this example) that are aware of criminality and/or participate in it, especially if they commit repeat violations, are more blameworthy and should be punished more severely.

Obviously, when considering organizations, it is not possible to assign prison or death sentences. However, it is possible for an organization's sentence to penalize the organization so much that it bankrupts the organization and leads to it closing. According to the USSG, one of the additional aims of a sentence for convicted organizations is that those that were created specifically for criminal purposes are to be divested of all their assets (USSC, 2018a). These criminal purpose organizations might have been created to launder illegal money, for example.

Elements of the focal concerns are already incorporated into the way punishments are to be assigned according to the guidelines. While not the focus of this research, the use of fines as a criminal penalty for those convicted is largely based on the blameworthiness of the organization in the commission of the crime. According to the USSG, organizations should pay more in fines if: (a) a high-level individual within the organization participated, condoned, or was ignorant of the offense, (b) the organization tolerated the crime, (c) the organization had a previous criminal conviction, (d) the crime was a violation of probation or other previous judicial order, and (e) the organization obstructed in the investigation of the crime (USSC, 1991, 2018a).

The study from Piquero and Davis (2004) examined the fines of organizations given these factors. Their results showed that, for 1,725 organizations between 1991 and 2001, significantly higher fines were assessed when the organization's management was tolerant of the criminal activity, when the organization was solvent, if the organization was closely held (by definition, a closely held organization is "one where stock is held by a single shareholder or a group of closely-knit shareholders" [Piquero and Davis, 2004, p. 653]), and if the organization was unable to pay the minimum fine. Additionally, organizations were sentenced to lower fines when they pled guilty or accepted responsibility to charges and if multiple organizations were convicted in the same case. These findings show the potential effect of blameworthiness on an organization's sentence for fines, with the former examples showing greater blameworthiness and the corresponding greater fines and the latter examples showing lower blameworthiness and the corresponding lower fines.

When examining the circumstances explained in the USSG that would require an organization to be sentenced to probation, several of the characteristics reflect components of blameworthiness. For example, the USSG cite that probation should be ordered if the organization did not have a corporate compliance program in effect at the time of the offense, if the organization had been involved in similar misconduct within the previous five years, if high-level personnel in the organization were aware of the offense or if high-level personnel had engaged in similar misconduct within the five years prior, or if probation is likely required to reduce future criminality. Additionally, in the case of a felony conviction, organizations are to be sentenced between one and five years. For misdemeanors, the amount is less: probation should last one year or less (USSC, 2018a). These factors could be interpreted as those organizations that are more blameworthy (or those that fail to acknowledge their level of blame) should be sentenced to probation or to longer probation terms, compared to organizations that do not feature some of these components.

As previously mentioned, the USSG do not dictate when an organization should be sentenced to implement a corporate monitor (USSC, 2018a), leaving some to question how judges are determining when monitors should be assigned as a sentence. There is scarce literature on the topic, but the work of Warin et al. (2011) indicated that blameworthiness may also be important in the requirement to implement monitors: organizations with a history of corruption and without effective compliance programs were more likely to be sentenced to implement monitors. Therefore, the focal concerns may give some insight into this process in that those that are more blameworthy should be sentenced to hire a corporate monitor.

The Current Study

Because the USSG and existing literature indicate that blameworthiness may be the focal concern most directly tied to organizational sentencing for probation, this research will focus on blameworthiness as it applies to organizations. The hypotheses for this study reflect how organizational blameworthiness might be interpreted using the focal concerns perspective in relation to sentencing outcomes. Potential measures of blameworthiness have been drawn from the USSG §8D1.1, as previously described. If the focal concerns framework is applicable to organizations similarly to how it has been noted with individuals, those with higher levels of blameworthiness will be sentenced to probation and longer probation terms, as well as having a greater likelihood of being ordered to implement a corporate monitor. Conversely, organizations that appear to be less blameworthy or have shown actions to mitigate their blameworthiness will be sentenced to shorter probation terms and have a decreased likelihood of being ordered to implement a corporate monitor. Knowing the empirical relationship between blameworthiness and these sentencing outcomes will help understand if organizations are being sentenced according to how they should be as described in the USSG and implied with the focal concerns framework.

This study can be considered a partial examination of the focal concerns theory. Blameworthiness will be examined as previously described. Additionally, the focal concern of protection of the community is incorporated into the statistical models using the two most common criminal offenses, because these crimes pose the largest threat to the public. Practical constraints are not examined in this study because the typical measures (including caseloads of prosecutors/jail staff, health/personal characteristics of

defendant, resource availability, legal costs, and correctional overcrowding) are either not included in the dataset or not applicable to organizational defendants.

The nine measures of blameworthiness examined in this study include sentencing criteria mentioned in the USSG or implied by the focal concerns. Three of these criteria are specifically related to the sentencing of probation (criminal or civil history, managerial tolerance for the crime, and whether the organization had a compliance program in effect at the time of the crime), and several of the others are related to other penalties including monetary fines. This section will describe how each of the measures of blameworthiness in this study can be applied to organizational sentencing.

Several measures can be indicators of increased organizational blameworthiness. Like the focal concerns studies examining the sentencing of individuals (see, for example, Holtfreter, 2013), those that have a criminal history are often in the category of being more blameworthy. This is a comparable situation with organizations, as they have the ability to commit repeated crimes and many of them do (Clinard and Yeager, 1980; Sutherland 1949/1983; Wang & Holtfreter, 2012). Accordingly, organizations with a history of criminal or civil violations should be considered more blameworthy than those organizations that do not have a history of criminal or civil violations because they have previously been punished for similar violations and have not been deterred.

Management involvement in the commission of a crime may be an indicator of higher blameworthiness on the part of the organization. The research from the Association of Certified Fraud Examiners (2018) illustrated that management may be active in many cases of reported corporate crime, and that those at higher levels of the organization are able to create greater losses. Their study found that management was

responsible for 34% of the reported crimes and owner/executives were responsible for 19% of the crimes in their sample of 2,690 cases. Specifically examining corruption, the most common category of crimes reported, 70% of the reported corruption cases in 2016 were committed by a manager or owner/executive, compared to employee or other official. The amount of loss over all types of cases caused by owner/executives was $850,000, compared to $150,000 for managers and $50,000 for employees. Managers and owner/executives were able to perpetuate crimes for longer periods than employees (e.g., 24 months on average for owners, 18 months on average for managers, and 12 months on average for employees). In another study of 347 organizations involved in fraudulent financial reporting between 1998 and 2007, the convicted organization's CEO or CFO was involved in 89% of cases (Beasley et al., 2010). Clearly, increased managerial tolerance can be related to more blameworthiness.

According to the USSC, criminal purpose organizations are those that were "established and operated primarily for criminal purpose or by criminal means" (USSC, 2017, p. 329). An example given is "organizations established as a front for a scheme to commit fraud or organizations in the business of hazardous waste disposal but with no legitimate means of disposing the hazardous waste" (USSC, 2017, p. 329). Criminal purpose organizations may be the most blameworthy of all because they were knowingly created to provide avenues for crime.

The culpability score is a single digit value that begins with 5 and is increased or decreased based on multiple factors of the organization and crime. Several of these factors are examined independently in this analysis, including prior history, obstruction of justice, self-reporting of wrongdoing, and the existence of an effective compliance

program at the time of the offense. The organization's culpability score is used to calculate the organization's ultimate fine for the crime (USSC, 2018a). Higher culpability scores indicate greater culpability and should result in higher fines.

The number of counts of conviction represents the number of different counts that an organization has been convicted of. Blameworthiness increases as the counts of conviction increase because organizations have been found guilty of an increasing number of offenses. Organizations that have committed obstruction of justice can be thought of as more blameworthy because they were aware of the commission of a crime and elected to impede the proper investigation of the crime. In some ways, these organizations are guilty of both the original crime and also of obstruction of justice. When noted, prior history, obstruction of justice, and managerial tolerance can result in an increased culpability score, potentially resulting in a higher fine (USSG, 2018a).

On the reverse side, organizations can decrease their blameworthiness in a number of ways. Having a corporate compliance program at the time can be considered to decrease blameworthiness because the organization attempted to prevent crime, even if the compliance program was not wholly successful. Accepting responsibility and self-reporting crime also decrease blameworthiness because the organizations are admitting to the criminal activity rather than avoiding or concealing it. When noted, some of these measures of blameworthiness (accepting responsibility for the crime, self-reporting, and having a compliance program) can result in a lower culpability score and monetary fine (USSG, 2018a).

Following the USSG and focal concerns framework, I make the following hypotheses:

1. Organizations with higher levels of blameworthiness, as defined by having a criminal or civil history, the number of counts of conviction, the commission of obstruction of justice, being identified as a criminal purpose organization, having a higher culpability score, and a higher managerial tolerance for the crime, will be sentenced to longer probation terms.
2. Organizations with higher levels of blameworthiness, as defined by having a criminal or civil history, the number of counts of conviction, the commission of obstruction of justice, being identified as a criminal purpose organization, having a higher culpability score, and a higher managerial tolerance for the crime, will be more likely to be sentenced to implement a corporate monitor.
3. Organizations that have shown a measure to mitigate their blameworthiness, as defined by self-reporting to the crime, accepting responsibility, or having a compliance program in place at the time of the crime, will be sentenced to shorter probation terms.
4. Organizations that have shown a measure to mitigate their blameworthiness, as defined by self-reporting to the crime, accepting responsibility, or having a compliance program in place at the time of the crime, will be less likely to be sentenced to implement a corporate monitor.

CHAPTER THREE: RESEARCH METHODS

Conducting Secondary Research

This dissertation will use a secondary data analysis technique to examine existing data of organizational sentencing. Glaser (1963) defined secondary analysis as the study of problems using existing data that was not collected for the current research purposes. Secondary analysis can involve using old data with new techniques to better answer research questions or using old data to answer new questions (Glass, 1976). Secondary analysis can use a variety of sources and be qualitative or quantitative (Smith, 2008).

According to Elder Jr., Pavalko, and Clipp (1993), secondary (or content) analysis begins with the researcher specifying a problem to be examined and then searching for existing data that would address the problem. After a prospective data source has been identified, the researcher should prepare a research proposal addressing how the existing dataset will address the problem and why it is advantageous to use the existing source. After making the case for the use of the data, the initial analysis can begin to see if the data serve the intended purpose. If the initial analysis supports the use of the dataset, the appropriate statistical or methodological analyses may be run to attempt to respond to the problem. If the original dataset is not sufficient, it may be necessary to seek an alternative data source to address the problem (Elder Jr. et al., 1993).

Some of the new techniques that can be used on existing data include incorporating updated statistical processes, research methodologies, theoretical frameworks, or different researchers (Shultz, Hoffman, & Reiter-Palmon, 2005; Smith,

2008). Researchers can also create longitudinal data from existing data by supplementing archival data with new data (Shultz et al., 2005). Ventresca and Mohr (2002) described the benefits of conducting secondary research and how the method can be used to study organizations. Archival research is unique in that it provides access to information from the past that might not otherwise be available, allowing for more longitudinal comparisons. Archived and historical documents can be used in a wide variety of ways, making the information versatile. Archival research may also be used to complement other research strategies, including field and survey methods, to develop more rigorous methods.

Using existing data allows researchers the access to more data than most can compile on their own. Much archival analysis is conducted using public-use databases, often compiled by government agencies. These databases are often large and of good quality because they may have been created by many researchers over an extended period (Vogt, Gardner, & Haeffele, 2012) and quality-checked throughout the process. Data archives can contain rich detail that would be time-consuming and difficult for an individual to gather (Lee & Peterson, 1997).

This dissertation will be a quantitative examination of secondary data previously compiled by employees of the USSC to show sentencing outcomes for organizations convicted through guilty verdicts and pleas. The data are publicly available online (details on this will be described later). The use of secondary data for this project is necessary for its completion. Time and budget constraints, as well as a need to get the most accurate data, prohibited the collection of original data for this project. Using secondary data helped address these concerns.

Using archival data is important for this study because collecting original data are not feasible in the amount of time available. The chief benefit of using secondary data is that the data have already been compiled by multiple researchers. The datasets are time-consuming to produce because of the time and attention that is required to read and interpret each source of information accurately. Additionally, obtaining the multiple court documents, from which the data are drawn, can be difficult for members of the public, but the researchers compiling each dataset have fewer restrictions and more access to data than the public. The databases also need to be continually updated as cases are concluded, which is a complicated and time-consuming task.

For this project specifically, the use of secondary data saves money. The legal documents utilized for data collection are not always publicly available or available online. Especially for older cases, a manual check at the relevant district court office may be required to locate the desired documentation, which would require additional time and money (and potentially not result in finding the documentation). When available online, the legal documentation costs a fee of $.10 a page, plus an additional fee for the electronic search itself. Clearly the costs to obtain the documentation alone can add up in complicated cases with many pages and types of documents. The use of secondary data means that the desired documentation has already been collected, and the costs to obtain the documentation have already been paid by the original agency.

Another benefit of using secondary data in this study specifically is that the data have been fact-checked by multiple trained researchers who work for the USSC. Gathering the data as a primary source could likely result in many errors in documentation because of the complexity of the documentation, so it is logical for people

who are familiar with the legal terminology and court documentation to review the documents and build the datasets. The data utilized in this study are compiled and checked for accuracy by teams of data analysts. The researchers doing the original data collection have triangulated the information in their datasets using multiple sources of data. Using teams who are familiar with the documentation helps ensure accuracy in the data. Creating an original dataset is likely to result in an unknown figure of missing or incorrect data that could potentially bias the results, but using existing data that have been reviewed by people familiar with the data helps limit potential biases.

One concern when using secondary data is that any errors in the original reporting will be transferred to subsequent analyses, potentially without later researchers being aware of the errors (see the discussion of limitations in the Conclusion). Schwartz (1996) identified that one of the pitfalls with using secondary data is the researcher must remember that the data were recorded in the past for a different purpose and are being reexamined. The current researcher must obtain the original data, keeping in mind that it went through an "imprecise process" in its original collection and therefore might not be wholly accurate for the new purposes. The secondary researcher must undertake a careful analysis of the information and try to use the most official and reliable original sources possible.

Alexander, Arlen, and Cohen (2000) specifically examined early versions of the USSC sentencing data to determine their reliability by creating their own data independently from the USSC focusing on convicted public organizations between 1988 and 1996. They located 34 cases in which public organizations were sentenced in the range, while the USSC data only included 13 cases. The authors noted that the USSC

shifted their researching techniques from active to passive monitoring around 1991 when the USSG were implemented. After this time, the USSC relied more heavily on the courts to report sentencing information and discontinued follow-up with courts to ensure all the court documentation was received. This change in data collection potentially explained the missing cases. Since publication of the article, the authors noted that the USSC made improvements to its data collection methods to improve the reliability of its data.

Despite its limitations, archival and secondary data techniques are regularly used in social sciences research. Kleck, Tark, and Bellows (2006) examined the 375 articles and research notes published in the top seven criminal justice journals in 2001 and 2002 (*Criminology*, *Journal of Criminal Law and Criminology*, *Justice Quarterly*, *Journal of Research in Crime and Delinquency*, *Crime and Delinquency*, *Journal of Criminal Justice*, and *Journal of Quantitative Criminology*) to identify the research methods utilized in each article or research note. Their analysis showed that 31.8% of the 375 articles across all seven journals utilized an archival method. This helps show that secondary research is still a common technique in criminal justice research and can be appropriate for social sciences research.

Data Source

This study uses multiple waves of a dataset titled "Organizations Convicted in Federal Criminal Courts", which is compiled by representatives from the USSC. The purpose of the data is to present sentencing data for organizations that were sentenced in nationwide federal criminal courts for each fiscal year, in accordance with the Sentencing Reform Act of 1984. The datasets are intended to help potentially identify and address sentencing disparities, in accordance with the mission of the USSC (USSC, n.d.). Only

organizations that are adjudicated as guilty, pled guilty, or agreed to a plea agreement with the government in lieu of a trial are included in these datasets. For this study, the research combined eight fiscal years of data to cover the time period of October 1, 2010 to September 30, 2018, to increase the sample size. The sample size of this combined dataset is 1,224.

To build its datasets, data analysts employed by the USSC review court documents and gather data reflecting characteristics of the convicted organizations, court, and crime(s). These federal documents include judgment and conviction orders, pre-sentencing reports, statements of reasons, plea agreements, and indictment/information documents. To maintain confidentiality, the data do not include information that could be potentially used to identify the organizations or any of their employees, including the organization's name. The district court where each case was decided was only included in data sets prior to 2014. Each yearly dataset is available online via the Inter-University Consortium for Political and Social Research and the USSC websites (USSC, 2017).

Since the data are used to examine sentencing, the USSC data are very specific regarding the offenses, penalties for the offenses, and how the penalties were derived. The dataset has a corresponding codebook for each fiscal year (USSC, 2017), describing the coding and frequencies of each of the variables as well as the source of information for each. These codebooks were largely used to guide the following sections of this study describing the variables.

Dependent Variables

A dependent variable is defined as the variable that is caused by another factor or depends on something else (Babbie, 2016). It represents the consequence of the change in

the independent variable (Vito, Kunselman, & Tewksbury, 2014). As previously described, the dependent variables are two potential sentencing outcomes for organizations convicted of crimes: probation terms and the requirement to implement a corporate monitor. This study examines how these two sentencing outcomes vary based on the blameworthiness of the organization in the commission of the crime.

Existing empirical research measuring these sentencing outcomes is scarce. The current research measures a probation sentence as the length of time in months that an organization was sentenced to complete after conviction (Green, 1998) or as a dichotomous variable indicating whether the organization was sentenced to probation (Coffee Jr. et al., 1988; USSC, 2018b, 2018c). The existing studies that examine the sentencing of monitors use it as a dichotomous measure: whether the monitor was part of sentencing or not (Garrett, 2014; Warin et al., 2011). These measures of the dependent variables are important because they are the best measures (and probably the only ones). The measures in the existing literature are consistent with the measures used in this study.

In the dataset, *probation* was measured as "total probation ordered in months" (USSC, 2017, p. 384). The variable was coded as a continuous count variable but bounded between 0 months to 60 months. The skewness was .230 and the kurtosis was -1.379, showing that the data was normally distributed. The variable used for an *organization being sentenced to implement a corporate monitor* is defined as "court ordered organization to hire monitor" (USSC, 2017, p. 384) as reported in the sentencing documentation or plea agreement. This variable was dichotomously coded as 0 = *no* and 1 = *yes*.

Theoretical Constructs

Babbie (2016) defined a construct as something people create based on their conception of an item. Constructs are not observable, directly or indirectly, because they do not exist in real life. The major theoretical construct for this study is blameworthiness as it is drawn from the focal concerns. Multiple potential measures of blameworthiness are captured within the dataset. The measures of blameworthiness will be used as independent variables and described in the following section.

Independent Variables

An independent variable is defined as the variable that is hypothesized to lead to a change in the other variable (the dependent variable) (Bachman & Schutt, 2017). The independent variable in this study is blameworthiness, which is also a theoretical construct based on the focal concerns framework. For this study, a total of nine potential measures of blameworthiness were drawn from the existing literature and the USSG, as will be described below.

Few empirical articles have empirically examined blameworthiness of organizations or indicated how blameworthiness might be applied to organizations. Galvin (2015) did not directly measure blameworthiness of organizations, but she described how increased blameworthiness might be measured: organizational tolerance of crime, involvement of upper level personnel in the crime, and the organization's industry, identifying that organizations including banks in which the public has put trust or those that are responsible for ensuring public health or safety would be more blameworthy than other types of organizations. Clinard and Yeager (1980/2010) also identified characteristics of organizational violations that might be considered more serious:

repeated violations, the presence of criminal intent, extent of the violation, size of monetary loss, refusal to recall defective products, refusal to honor agreements, and the length of time the violation took place. Organizations in which these factors were severe might be considered to be more blameworthy.

More recently, Homer and Higgins (2019; forthcoming-a; forthcoming-b) used four potential measures of organizational blameworthiness that were also derived from the USSC data: an organization's base fine, the number of counts of conviction, culpability score, and history of prior criminal or civil charges or pending cases. The current study will use some of the same indicators of blameworthiness as the Homer and Higgins studies.

The first independent variable relates blameworthiness to crime prevention. The USSG allow for a reduced financial penalty and lower chance of probation *if an organization had an effective compliance program in place at the time of the crime*. In the USSC data, this variable is defined as "probation officer indicated org [organization] had compliance prog [program] in effect at time of off [offense]" (USSC, 2017, p. 331). This variable was dummy coded as 0 = *no* and 1 = *yes*. The codebook reports that this variable should be coded as "yes" if the organization was given a reduction in points on their culpability score because they had an effective compliance program in effect at the time of offense (culpability scores will be described later in this section). The organization should also be coded as yes if the organization's pre-sentencing report indicated they had a code of conduct or had made efforts toward compliance. The field was coded as missing if there was no discussion of a compliance program in the legal documentation or if no reduction was awarded.

The variable for *managerial tolerance* in the USSC data is defined as "managerial tolerance culpability factor score" (USSC, 2017, p. 431). The codebook reported that this is related to whether the organization's management was knowledgeable about the criminal activity, considering the number of employees in the organization. The USSG indicates that organizations that have 5,000 or more employees and which the management "participated in, condoned, or was willfully ignorant of the offense" (USSC, 2017, p. 432) can have up to 5 points added to their culpability score. Higher managerial tolerance of criminal activity in an organization can be interpreted as more blameworthiness.

The variable for managerial tolerance was originally an ordinal variable coded as 0 = *No adjustment*, 1 = *10 or more employees and person in substantial authority participated condoned willfully ignorant*, 2 = *50 or more employees and person in substantial authority participated condoned willfully ignorant*, 3 = *200 or more employees and person in substantial authority participated condoned willfully ignorant*, 4 = *1000 or more employees and person in substantial authority participated condoned willfully ignorant*, and 5 = *5000 or more employees and person in substantial authority participated condoned willfully ignorant* (USSC, 2017, p. 432). This variable was recoded as a dummy variable to indicate 0 = *No adjustment* and 1 = *Some adjustment.*

The variable representing *criminal history* is defined as "organization had history of misconduct or pending charges" (USSC, 2017, p. 346). The description noted that this would include any previous criminal or civil adjudications. This variable was dummy coded as 0 = *no* and 1 = *yes*. Based on the existing literature, focal concerns framework,

and USSG, those organizations with a history of criminal or civil charges should be punished to longer probation terms and to implement a corporate monitor.

The variable representing *acceptance of responsibility* is defined as "acceptance of responsibility [for the crime]" (USSC, 2017, p. 8). According to the USSG, organizations may receive an adjustment in the form of a credit of 1, 2, or 5 points in their culpability score if they accepted responsibility for criminal conduct, depending on the degree of acceptance. This variable was originally a nominal variable to reflect this degree of acceptance and measured as -5 = *Organization self-disclosed,* -2 = *Fully cooperated in investigation,* -1 = *Clearly demonstrated acceptance of responsibility,* 0 = *Adjustment not applied*. This variable was recoded as 0 = *Adjustment not applied,* 1 = *Adjustment applied.*

The USSC data include a variable related to the *purpose of the organization* as a vehicle for criminal activity. The variable is defined as "organization identified as a criminal purpose organization" (USSC, 2017, p. 329). This variable was dummy coded as 0 = *no* and 1 = *yes*.

The variable representing the *culpability score* is defined as "total culpability score as reported on SOR [Statement of Reasons]" (USSC, 2017, p. 331). This was coded as a continuous count variable but bounded between 0 and 12.

The variable representing the *number of counts* for the organization's current criminal charge is defined as "number of counts of conviction" (USSC, 2017, p. 371). This was coded as a continuous count variable.

According to the USSG, organizations receive a 3-point increase in their culpability score if they are found to have attempted to obstruct the courts in the

investigation of a crime (USSC, 2018a). The variable is defined as "obstruction of justice culpability factor" (USSC, 2017, p. 378) and was described as an indicator of whether the organization willfully obstructed justice during the investigation, prosecution, or sentencing of the crime. This was originally dummy coded as 0 = *not received* and 3 = *obstructed justice*. This was recoded to be a 0 = *not received* and 1 = *obstructed justice.*

The variable for *self-reporting the crime* is defined as "organization self-reported before authorities began investigation" (USSC, 2017, p. 396). According to the USSG, organizations may receive a credit of 1, 2, or 5 points in their culpability score if they disclosed criminal activity to the authorities within a reasonable amount of time or cooperated in the investigation (USSC, 2018a). This variable was dummy coded as 0 = *no* and 1 = *yes*.

In addition to the independent variables measuring blameworthiness, a number of control variables were also included in this study.

Control Variables

A control variable is one that might affect the relationship between dependent and independent variables. To limit the effect of this variable on the other variables, the control variables can be eliminated, held constant, or manipulated using other statistical techniques (Sproull, 2002). For many studies with individuals as subjects, the control variables represent demographics. Accordingly, this study will use control variables that are largely descriptive of the organizations. These variables were largely chosen because existing literature has identified that these variables might affect organizational sentencing.

The USSC data include a variable for the year defined as "*year of sentencing*" (USSC, 2017, p. 396). Year of sentencing was included as a control variable since the number of organizations that are sentenced each year can vary based on factors including the political climate, government caseload, length of time required to complete each trial, etc. This variable was coded as a dichotomous variable for each fiscal year of data. For each year of data incorporated into the dataset, one category indicated the first portion of the fiscal year (October 1 to December 31) and a second category indicated the second portion of the year (January 1 to September 30). For example, for fiscal year 2012, cases that were sentenced between October 1, 2011, and December 31, 2011, were coded as 2011. Cases that were sentenced between January 1, 2012, and September 30, 2012, were coded as 2012. This created a range of values for the year of sentencing between 2010 to 2018. For ease of calculations, these values were sequentially recoded as 1-9 (1 = 2010, 2 = 2011, 3 = 2012, etc.).

The *number of employees* in an organization is also used as a control variable. This variable is defined as "number of persons employed by organization" (USSC, 2017, p. 330). Organizational size was included as a variable because some have cited that larger organizations tend to commit more crimes (Clinard & Yeager, 1980/2010). Additionally, the number of employees is part of the calculation of managerial tolerance (USSC, 2018a). According to the USSG, this number is to reflect full-time, part-time, hourly, and seasonal workers as well as contractors. If an organization had undergone a significant downsizing, this number was intended to reflect the number of employees at the time of offense. For the year 2011, this was a continuous count variable. For the years 2012 to 2018, this variable was coded as ordinal: 1 = *<50 Employees*, 2 = *50-99*

Employees, 3 = *100-499 Employees*, 4 = *500-999 Employees*, 5 = ≥ *1,000 Employees*. For consistency reasons, the data from 2011 were similarly recoded to match the later years.

The organization's *primary offense* is also included as a control variable because some offenses might be considered more harmful than others, and some organizations can be more blameworthy in the commission of some types of offenses. The variable is defined as "primary offense type" and described as "primary offense type for the case generated from the count of conviction with the highest statutory fine maximum" (USSC, 2017, p. 382). This was originally coded as a nominal variable with 29 potential choices for type of crime. The variable was recoded as two dichotomous variables representing the two offenses in the sample that were the most common: environmental crimes (compromised of wildlife, hazardous material discharge, water discharge, and air discharge, n = 334) and fraud (n = 268). While blameworthiness is the focus of this study, these offense variables represent the focal concern of protection of the community. Because these are the two most common offenses, these are the greatest threat to communities.

The variable representing an organization's *financial status* was defined as "financial status of organization at time of sentencing" (USSC, 2017, p. 332). According to the USSG codebook, this variable was used to identify if the organization was operating at the time of sentencing or if it was in financial jeopardy. This was originally a nominal variable coded as 0 = *Defunct/dormant/not operating/out of business*, 1 = *Solvent and operating*, 2 = *Bankrupt (Ch 7 proceeding)*, 3 = *Business reorganization (Ch 11 proceeding)*, 4 = *Evidence of substantial financial stress*, and 7 = *Other*. For ease of calculations, this variable was recoded as a dichotomous variable to be 0 = *insolvent*

(containing defunct/dormant/not operating/out of business, bankrupt, business reorganization, evidence of substantial financial stress, and other*)* and 1 = *solvent*.

Regarding the *geographic location* for each organization, the variable was defined in the USSC data as "organization place of incorporation" (USSC, 2017, p. 347). This was dummy coded as 0 = *inside U.S.* and 1 = *outside U.S.* but coded as missing if the organization was not incorporated.

An additional variable related to organization type refers to whether the organization was *openly traded* (which is often thought of as being publicly traded). In the USSC data, the variable is defined as "ownership structure of the organization" (USSC, 2017, p. 381). This was a nominal variable originally coded as 0 = *Closely-held or private corporation*, 1 = *Openly-traded corporation*, 2 = *Non-profit organization*, 3 = *Government organization (public entity or public-service)*, 4 = *Partnership*, 5 = *Sole proprietorship*, 6 = *Association*, 7 = *Other*, 8 = *LLC*, 77 = *Other*. For ease of calculation, this was recoded as a dichotomous variable to be 0 = *Not openly-traded organization* (containing all other types of organizations) and 1 = *Openly-traded corporation*.

Before conducting any analyses, an analysis plan was developed.

Data Analysis Plan

The data analysis for this project proceeded in a series of steps: 1) univariate statistics, 2) bivariate statistics, and 3) multivariate statistics. All statistical analyses described below were conducted using IBM SPSS Statistics 25 and/or Stata version 16.

Step One: Univariate Statistics

Univariate statistics can be thought of as methods of determining the spread of the data. The univariate statistics used in this analysis include the mean, standard deviation,

median, skewness, and kurtosis. The emphasis is on the mean for continuous measures and the percentage for binary measures. In this study, the combined univariate statistics give an overall picture of the typical organization in the sample.

The mean is defined as a measure of central tendency that represents the average value of the data (Marshall & Jonker, 2010). It is a single number that represents the middle of the dataset. The mean is calculated by adding all the numbers in the dataset and dividing by the total number of values. It is the most common measure of central tendency and can be a good representation of the data (Manikandan, 2011). The mean can be thought of as a balance point in the distribution because it balances the distance between scores and moves when the distribution changes. Therefore, the mean will always be located between the highest and lowest score (Gravetter & Wallnau, 2017). The mean is typically used to describe variables that are measured as continuous and are normally distributed (Privitera, 2018).

The mean is important to use when making a generalization from a sample to a population, and it is more stable than the median when comparing multiple samples (Vito & Latessa, 1989). It is appropriate for use in this study to give a representation of the data. The mean is a relatively easy method of data reduction that is representative of the midpoint of the data and includes every data point in its calculation. Because it uses every data point, there is minimal loss of data (Soderstrom, 2008).

If a variable is not normally distributed, the mean may not be as accurate of a representative of the data as the median. The median score of a dataset is a summary statistic that divides the distribution in half. The most severe scores (outliers) are ignored when calculating the median (Mertler & Vannatta, 2010). Prior to calculating the median,

all the scores within the dataset must be ordered in size to produce an accurate result (Sproull, 2002). The median is important to this study because continuous variables including probation may have a large spread with outliers. The median might be a better choice to summarize the spread of the probation variable compared to the mean.

The standard deviation is a measure of dispersion that is calculated using the average of a deviation of scores and the square root of the variance (Gau, 2019). Standard deviations make the data more interpretable (Weisburd & Britt, 2014). The standard deviation is a measure of variability in a sample that is valid regardless of the distribution of the data. Standard deviation does not tend to change much if the sample size is increased (Altman & Bland, 2005). The standard deviation is an index of how closely the points in a dataset cluster around the mean value of the dataset, telling the distribution of the individual scores. Calculating the standard deviation is done by first by adding the squared values for the difference between each value and the sample mean, dividing this number by the sample size minus one, and taking the square root of that value (Streiner, 1996). If observations are more spread, the standard deviation is said to be larger and there will be more variability in the values (Barde & Barde, 2012).

Skewness and kurtosis are indicators of the shape of the data relative to the normal curve (Decarlo, 1997). These are important to examine because the subsequent statistics used will change if the sample distribution is not normal. In most research, the distribution is not normal, so the statistics should be adjusted accordingly to get the most accurate representation from the data (Levin & Fox, 2006). Kurtosis is also important because it will need to be considered when analyzing the data. Adjustments may need to

be made to correct either highly skewed or kurtotic data to make it more normal, so researchers must examine these values or their results may be inaccurate.

Skewness refers to a departure from symmetry (Decarlo, 1997). For a distribution to have no skew, it must be relatively scale-free and symmetrical. Skewness reflects extreme scores within a distribution (Kerr, Hall, & Kozub, 2002/2003). With skewed data, the distribution of the data is asymmetrical with regard to its mean (Kline, 2005). A distribution is skewed when one side of the distribution is different from the other. There is no point in the distribution where it can be divided into equal halves (Walker & Maddan, 2013).

Skewness is based on the sum of the cubed deviations about the mean. Its calculation includes the sample size, the standard deviation, the sample means, and the values. The value of the skew may be positive, negative, or zero. The more severe the skew, the further the value is from zero (Weinberg & Abramowitz, 2008).

Ruppert (1987) described that there is no consensus in the literature of what kurtosis means or what it measures. The author described that kurtosis is a measure of deviation from normality and argued that accurate definitions of kurtosis should include mentions of both peakedness at the center of a distribution and tail weight. DeCarlo (1997) echoes that kurtosis is poorly understood. His definition is that kurtosis provides summary information about the shape of a distribution and refers to the shape considering the heaviness of its tails and height of its peak. Mathematically defined, kurtosis is the ratio of the average of the fourth power of the deviations from the mean to the square of the variance (Chissom, 1970).

In their critical review, Balanda and MacGillivray (1988) summarized the major points of determining kurtosis. They described kurtosis as a "vague concept" that can be formalized in many ways and is often operationally defined by describing the general shape of a distribution, often compared to a normal distribution. Kurtotic distributions are abnormal and asymmetrical: some are flat-topped (platykurtic) or more sharply peaked (leptokurtic). According to Oja (1981), the concept of kurtosis grew when people realized that the normal curve did not often give an adequate representation of the data. Researchers began to model data based on the observed standardized third and fourth moments in order to determine normality. There is some controversy in the literature about what marks kurtosis, whether it is the sharpness or peakedness of the distribution, the tails, the number of modal values, or some combination of those factors. Despite some controversy regarding how skewness and kurtosis can be defined, data should be examined for skewness and kurtosis problems and adjustments made if necessary.

The results of this univariate analysis are included in the next chapter under Step One Results: Univariate Statistics. After the completion of univariate statistics and the analysis of the results, this researcher conducted bivariate statistical analyses.

Step Two: Bivariate Statistics

Bivariate calculations measure the relationship between two variables (Prematunga, 2012). The correlation is the most common measure of association between two variables (Gibbons, 1993). Different types of correlations may be used depending on the level of measurement of the variables (Corder & Foreman, 2009), making it a multipurpose tool for bivariate analyses. Correlations are important for this study to demonstrate how a change in one variable may affect another variable.

Correlations show the strength and/or direction of the relationship or an association of two variables (Chen & Popovich, 2002; Panik, 2012). Correlations also demonstrate how one variable changes with respect to another (Corder & Foreman, 2009). Correlations are not able to determine causal relationships, so there is no designation of an independent or dependent variable. If a correlational relationship is seen, then a decrease in one variable will change the other in a predictable way. If there is no relationship, a correlation will show no predictable pattern between the variables (Chen & Popovich, 2002).

Prior to calculation, the two data sets must be paired and ranked. The formula for correlation considers the number of rank pairs and the difference between a ranked pair (Corder & Foreman, 2009). Correlations are calculated using the ratio of the covariance between the variables to the product of their standard deviations (Gibbons, 1993). The correlation calculation generates a correlation coefficient representing the strength of the relationship between two variables between -1 and +1 (Corder & Foreman, 2009; Howell, 2017). If the sign is negative, there is an inverse (or negative) relationship between the variables, and a positive sign indicates a positive relationship between the variables. The closer the coefficient is to -1 or +1, the more significant the relationship (Howell, 2017).

This study largely uses polychoric correlations, which are appropriate for ordinal data as well as binary (Song and Lee, 2003). These correlations were conducted in Stata using the polychoric syntax by Stas Kolenikov because this tool maintains the ordinal nature of the data but also uses polyserial correlations as appropriate (Kolenikov, 2016). Additionally, a point biserial correlation was conducted specifically to examine the correlation between the dependent variables, the length of a probation sentence and the

likelihood of an organization being required to implement a corporate monitor. This variation of the correlation was chosen because the variables are continuous and dichotomous, respectively, which is required for a point biserial correlation (Anderson, n.d.). The results of these bivariate analyses are included in the next chapter under Step Two Results: Bivariate Statistics.

Step Three: Multivariate Statistics

Multivariate regression will be used in this project to examine the hypotheses. Regression is defined as a way to describe the relationship between a response variable and one or more explanatory variables (more than one for multivariate statistics) (Hosmer & Lemeshow, 2000). Regression shows the increase or decrease in the predicted probability of the dependent variable (representing an event or characteristic) because of a one unit change in the independent variable (Pampel, 2000). Regression fits a straight line through the logarithm of the points of a dataset, which represent the odds of an occurrence (Pagano, 1996). The results of multiple regression assess the likelihood of falling into one of the categories of the dependent variable given the combination of predictor independent variables (Harlow, 2005).

The type of regression used depends largely on the level of measurement of the dependent variable, but the dispersion of the data should also be considered. Binary logistic regression is the type of regression that should be used if the dependent variable is categorical in nature because the use of linear regression in that situation will violate the assumptions of the use of the test (Davis & Offord, 1997). Logistic regression is a standard method of analysis when the outcome variable has two values because it is the

best-fitting and simplest method, as well as providing a meaningful interpretation (Hosmer & Lemeshow, 2000).

If the level of measurement of the dependent variable is continuous and the data are unbounded, ordinary least squares regression is the appropriate form of regression. It is the most common linear model analysis in the social sciences (Pohlmann & Leitner, 2003). However, if the data are bounded, another form of regression may be more appropriate. Britt, Rocque, and Zimmerman (2018) examined the use of ordinary least squares regression, Poisson, and negative binomial regression models with bounded count data. Their analysis revealed that ordinary least squares regression and Poisson are potentially problematic because they do not recognize that there is an upper bound to the data and therefore can produce non-sensical predictive scores. Their research found that binomial regression models are appropriate for bounded count data because they produce more sensical and accurate results and have a more straightforward interpretation.

A series of ten negative binomial regression calculations were used for the analyses involving probation. Negative binomial regression was chosen because probation is measured as a bounded continuous variable representing the length of the probation sentence in months and univariate statistics show that the data are normally distributed. Each of the nine independent variables will be a separate calculation with the probation variable as the dependent variable and the full set of control variables. Additionally, a tenth model will be examined including all the measures of blameworthiness as well as the control variables.

Similarly, a series of ten logistic regression calculations were computed for the requirement to implement a corporate monitor. Logistic regression was chosen because

this is a binary variable. The series of nine regression calculations were also computed for this dependent variable with each independent variable and the full set of controls. An additional tenth model examined all the measures of blameworthiness as well as the control variables.

The following table explains the analysis plan for this research.

Analytic Plan		
Step One		
Nature of Analysis	Hypothesis or Proposition Tested	Procedure
Univariate statistics	What are the characteristics of the average organization in the sample?	Descriptive statistics
Step Two		
Nature of Analysis	Hypothesis or Proposition Tested	Procedure
Bivariate statistics	What is the strength and direction of the relationships between the variables in the dataset?	Correlations
Step Three		
Nature of Analysis	Hypothesis or Proposition Tested	Procedure
Multivariate statistics	Organizations with higher levels of blameworthiness, as defined by having a criminal or civil history, the number of counts of conviction, the commission of obstruction of justice, being identified as a criminal purpose organization, having a higher culpability score, and a higher managerial tolerance for the crime, will be sentenced to longer probation terms.	Negative binomial regression
	Organizations with higher levels of blameworthiness, as defined by having a criminal or civil history, the number of counts of conviction, the commission of obstruction of justice, being identified as a criminal purpose organization, having a higher culpability score, and a higher managerial tolerance for the crime, will be more likely to be sentenced to implement a corporate monitor.	Logistic regression
	Organizations that have shown a measure to mitigate their blameworthiness, as defined by self-reporting to the crime, accepting responsibility, or having a compliance program in place at the time of the crime, will be sentenced to shorter probation terms.	Negative binomial regression
	Organizations that have shown a measure to mitigate their blameworthiness, as defined by self-reporting to the crime, accepting responsibility, or having a compliance program in place at the time of the crime, will be less likely to be sentenced to implement a corporate monitor.	Logistic regression

The next chapter of this dissertation will discuss the results for each of the steps in the data analysis process.

CHAPTER FOUR: RESULTS

Step One Results: Univariate Statistics

The full descriptive statistics of the variables in the dataset are included in Table 1. Additional details regarding the dependent variables are included in Tables 2 through 5.

Examining the dependent variables, the average length of total probation ordered in months was 26.96 (the median value was 24.00 months). Eight percent of organizations were required to hire a corporate monitor.

Examining the independent variables, 11% of organizations had a compliance program in effect at the time of the offense, 24% of the sample had a history of misconduct, and 54% of the organizations had a noted managerial tolerance. The results showed that 86% of organization did not receive an adjustment because of acceptance of responsibility, 4% were identified as a criminal purpose organization, 16% of organizations were identified as having obstructed justice, and 5% of organizations self-reported to authorities before investigations began. The average culpability score of organizations in the sample was a 4.66 (the median value was 4.00). The average number of counts of conviction for the original variable was 2.45 (the median value was 1.00), and the average score after correcting the variable for skewness was 0.16.

When reviewing the control variables, 18% of organizations were incorporated inside of the U.S. and 59% were solvent and operating at the time of sentencing. Six percent of organizations were openly-traded. Twenty seven percent of organizations in

the sample had been convicted of an environmental crime, and 22% had been convicted of a fraud crime. The average year of sentencing was 2013.90 with the largest group of organizations sentenced in 2012 (n = 197, 16.09%). The average score for the number of employees was 1.78, representing companies sized between 50-99 and 100-499. The results showed that the largest percent of companies (n = 538, 69.69%) had fewer than 50 employees.

Table 1. Descriptive Statistics for Sample (n = 1,224)

Variable	Mean	Std. Dev.	Skewness	Kurtosis
Total probation ordered in months	26.96	22.95	0.00	0.00
Organization ordered to hire monitor	0.08	0.27	0.00	0.00
Compliance program in effect	0.11	0.32	0.00	0.00
History of misconduct	0.24	0.43	0.00	0.00
Managerial tolerance	0.54	0.50	0.15	0.00
Acceptance of responsibility	0.86	0.35	-2.06	2.26
Criminal purpose organization	0.04	0.20	4.64	19.55
Culpability score	4.66	1.85	0.72	1.13
Number of counts (original value)	2.45	7.60	14.2	244.26
Number of counts (natural log)	0.16	0.31	0.00	0.00
Obstruction of justice	0.16	0.67	4.06	14.6
Organization self-reported	0.05	0.13	7.76	58.28
Organization place of incorporation	0.18	0.38	0.00	0.00
Organizational operating status	0.59	0.49	0.00	0.00
Ownership structure of the organization	0.06	0.24	0.00	0.00
Environmental crime	0.27	0.45	0.00	0.00
Fraud crime	0.22	0.41	0.00	0.29

	n	%
Year of Sentencing		
2010	34	2.78
2011	178	14.54
2012	197	16.09
2013	151	12.34
2014	172	14.05
2015	160	13.07
2016	135	11.03
2017	124	10.13
2018	73	5.96
Number of Employees		
<50	538	69.69
50-99	60	7.77
100-499	68	8.81
500-999	17	2.2
>= 1,000	89	11.53

Using the values of 3 and 10 for skewness and kurtosis normality proposed by Kline (2005), most of the variables fell within the acceptable range. However, normality

problems were noted for criminal purpose organization, number of counts, obstruction of justice, and organization self-reported. Three of these measures are binary (criminal purpose organization, obstruction of justice, and organization self-reported) and therefore, by definition, not normally distributed (Mertler & Vannatta, 2010; Muthén, 1990). Accordingly, these variables were not corrected for normality. However, the number of counts is a continuous variable, so the natural log 10 was calculated for the variable to correct for normality. This corrected value was used in subsequent calculations.

Surprisingly, given the 29% zeros in the probation measure, the measure is not skewed or kurtotic. The exact dispersion of the probation variable is given in Table 2.

Table 2. Frequency of Probation Variable (n = 1,224)

Total Probation (in Months)	Frequency	Percent	Cumulative Percent
0	355	29	29
1	4	0.33	29.33
6	1	0.08	29.41
7	1	0.08	29.49
12	140	11.44	40.93
18	8	0.65	41.58
20	2	0.16	41.75
22	1	0.08	41.83
24	155	12.66	54.49
30	1	0.08	54.58
36	234	19.12	73.69
42	3	0.25	73.94
48	29	2.37	76.31
60	290	23.69	100

Table 3 offers the average length of probation sentence per year.

Table 3. Average length in months of probation sentence per year (n = 1,224)

Year	Average length of sentence	Total number of organizations sentenced
2010	16.76	34
2011	27.92	178
2012	26.45	197
2013	26.46	151
2014	28.71	172
2015	27.46	160
2016	24.86	135
2017	25.6	124
2018	32.71	73

Table 4 offers the number of organizations ordered to at least one month of probation per year.

Table 4. Number of organizations ordered to at least one month of probation per year (n = 869)

Year	Number of organizations sentenced to probation	Total number of organizations sentenced
2010	14	34
2011	133	178
2012	146	197
2013	112	151
2014	125	172
2015	115	160
2016	88	135
2017	76	124
2018	60	73

Table 5 offers the number of organizations sentenced to implement a corporate monitor per year.

Table 5. Number of organizations sentenced to corporate monitoring (n = 96)

Year	Number of organizations sentenced to monitoring	Total number of organizations sentenced
2010	5	34
2011	9	178
2012	14	197
2013	8	151
2014	7	172
2015	26	160
2016	12	135
2017	10	124
2018	5	73

Step Two Results: Bivariate Statistics

As previously mentioned, the bivariate statistics used in this study will be correlations. First, a polychoric correlation was conducted including measures in the study using the tool from Kolenikov (2016). The full results are available in Table 6.

The results of the correlation show many significant relationships between variables. Examining whether the organization was sentenced to implement a corporate monitor, moderate links were found between managerial tolerance (r = 0.30, $p < 0.05$) and fraud crime (r = -0.24, $p < 0.05$). The link between monitoring and managerial tolerance was positive, whereas the link between monitoring and fraud crime was negative. Moderate and positive links were found between criminal purpose organization (r = 0.51, $p < 0.05$) and organization self-report (r = 0.53, $p < 0.05$).

For the probation sentence, a weak negative link was noted for ownership structure and probation (r = -0.29, $p < 0.05$) and a weak positive link was noted for fraud crime and probation (r = 0.22, $p < 0.05$). Moderate negative links were found for organization self-reporting (r = -0.46, $p < 0.05$) and place of incorporation (r = -0.40, $p < 0.05$).

Regarding whether the organization had a compliance program in effect at the time of the offense, weak positive links were found between this variable and managerial tolerance ($r = 0.26$, $p < 0.05$), culpability score ($r = 0.21$, $p < 0.05$), and operating status ($r = 0.27$, $p < 0.05$). Moderate positive links were found between organization self-reporting ($r = 0.56$, $p < 0.05$), place of incorporation ($r = 0.42$, $p < 0.05$), and year of sentencing ($r = 0.37$, $p < 0.05$). Strong and positive links were found between number of employees ($r = 0.65$, $p < 0.05$) and ownership structure ($r = 0.69$, $p < 0.05$).

For organizations that a history of misconduct, weak positive links were found between managerial tolerance ($r = 0.31$, $p < 0.05$), culpability score ($r = 0.29$, $p < 0.05$), place of incorporation ($r = 0.23$, $p < 0.05$), number of employees ($r = 0.29$, $p < 0.05$), ownership structure ($r = 0.25$, $p < 0.05$), and environmental crime ($r = 0.23$, $p < 0.05$). A moderate positive link was found between history of misconduct and organization self-reporting ($r = 0.36$, $p < 0.05$).

A weak positive link was found between managerial tolerance and organization self-reporting ($r = 0.26$, $p < 0.05$). Moderate positive links were found between managerial tolerance and obstruction of justice ($r = 0.27$, $p < 0.05$), organization self-reporting ($r = 0.26$, $p < 0.05$), and operating status ($r = 0.31$, $p < 0.05$). Strong positive links were found between managerial tolerance and culpability score ($r = 0.79$, $p < 0.05$), place of incorporation ($r = 0.57$, $p < 0.05$), number of employees ($r = 0.70$, $p < 0.05$).

For organizations that accepted responsibility, a weak negative link was found with culpability score ($r = -0.28$, $p < 0.05$). Moderate negative links were found between organizations that accepted responsibility and the number of counts ($r = -0.38$, $p < 0.05$), obstruction of justice ($r = -0.39$, $p < 0.05$), and environmental crime ($r = -0.30$, $p < 0.05$).

Additionally, a moderate positive link was found between organizations that accepted responsibility and place of incorporation, ($r = 0.39$, $p < 0.05$).

A moderate positive link was found between criminal purpose organizations and obstruction of justice ($r = 0.29$, $p < 0.05$). A strong positive tie was found between criminal purpose organizations and those that self-reported ($r = 0.64$, $p < 0.05$).

Considering culpability score, moderate positive links were found between culpability score and place of investigation ($r = 0.49$, $p < 0.05$), number of employees ($r = 0.58$, $p < 0.05$), and ownership structure of the organization ($r = 0.54$, $p < 0.05$). A strong positive link was found between culpability score and obstruction of justice ($r = 0.73$, $p < 0.05$).

A weak positive link was found between the number of counts of conviction and obstruction of justice ($r = 0.23$, $p < 0.05$).

For organizations that self-reported, moderate positive links were found between operating status ($r = 0.29$, $p < 0.05$), the number of employees ($r = 0.45$, $p < 0.05$), and ownership structure ($r = 0.38$, $p < 0.05$). A strong positive link was found between organizations that self-report and place of incorporation ($r = 0.60$, $p < 0.05$).

A moderate link was found between place of incorporation and operating status ($r = 0.41$, $p < 0.05$). Strong links were noted between place of incorporation and number of employees ($r = 0.80$, $p < 0.05$) and ownership structure ($r = 0.68$, $p < 0.05$). The results also showed a moderate link between the organization's place of incorporation and being a fraud crime, but this relationship was negative ($r = -0.52$, $p < 0.05$).

There was a moderate positive link between the number of employees and operating status, as well as a strong positive link between the number of employees ($r = 0.40$, $p < 0.05$) and ownership structure ($r = 0.92$, $p < 0.05$).

A moderate link was found between fraud crime and operating status ($r = -0.40$, $p < 0.05$) and fraud crime and ownership structure ($r = 0.27$, $p < 0.05$). Both of these links were negative.

Table 6. Correlation Matrix

	1	2	3	4	5	6	7	8	9	10	11
1. Corporate Monitor	1.00										
2. Probation Sentence	0.18	1.00									
3. Compliance program in effect	0.05	-0.15	1.00								
4. History of misconduct	0.15	0.15	0.30	1.00							
5. Managerial tolerance	0.30*	-0.08	0.26*	0.31*	1.00						
6. Acceptance of responsibility	0.02	-0.07	-0.05	-0.15	0.10	1.00					
7. Criminal purpose organization	0.51*	-0.06	-0.09	-0.03	0.07	-0.16	1.00				
8. Culpability score	0.14	0.00	0.21*	0.29*	0.79*	-0.28*	0.04	1.00			
9. Number of counts	0.06	0.00	0.01	0.18	0.11	-0.38*	0.12	0.25*	1.00		
10. Obstruction of justice	0.13	0.14	-0.04	0.12	0.27*	-0.39*	0.29*	0.73*	0.23*	1.00	
11. Organization self-reported	0.53*	-0.46*	0.56*	0.36*	0.26*	.	0.64*	-0.05	0.02	.	1.00
12. Place of incorporation	-0.01	-0.40*	0.42*	0.23*	0.57*	0.39*	0.15	0.49*	-0.08	0.01	0.60*
13. Year of sentencing	0.06	0.08	0.37*	0.11	0.05	0.07	-0.12	0.04	-0.07	-0.02	-0.21*
14. Number of employees	0.18	-0.18	0.65*	0.29*	0.70*	0.07	0.01	0.58*	0.01	-0.01	0.45*
15. Operating status	0.16	0.03	0.27*	0.17	0.31*	0.05	0.02	0.18	-0.08	0.06	0.29*
16. Ownership structure	0.02	-0.29*	0.69*	0.25*	0.43*	0.03	0.15	0.54*	-0.07	0.04	0.38*
17. Environmental crime	-0.02	-0.02	-0.18	0.23*	-0.10	-0.30*	0.11	-0.07	0.01	0.18	.
18. Fraud crime	-0.24*	0.22*	-0.14	0.11	-0.09	-0.20	-0.19	-0.06	0.17	0.06	0.02

*Note. * $p < .05$*

	12	13	14	15	16	17	18
12. Place of incorporation	1.00						
13. Year of sentencing	0.15	1.00					
14. Number of employees	0.80*	0.02	1.00				
15. Operating status	0.41*	-0.10	0.40*	1.00			
16. Ownership structure	0.68*	-0.07	0.92*	.	1.00		
17. Environmental crime	-0.13	-0.19	0.06	0.20	0.06	1.00	
18. Fraud crime	-0.52*	0.07	-0.20	-0.40	-0.27	.	1.00

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

Secondly, a point biserial correlation was used to examine the correlation between the two dependent variables. The results showed that the link between probation and the corporate monitoring is weak and positive but significant (r = 0.17, p = 0.0001).

Step Three Results: Multivariate Statistics for Probation

As previously mentioned, negative binomial regression was used for the probation analyses. Tolerance values were also calculated for each model. Tables 7 through 16 show the results for the ten negative binomial models used for probation.

Table 7. Negative binomial regression of compliance program in effect and probation (n = 701)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Compliance program	-0.12	0.89	0.16	-0.71	0.48	-0.44	0.20	0.78
Place of incorporation	-0.19	0.83	0.17	-1.10	0.27	-0.52	0.15	0.80
Year of sentencing	0.03	1.03	0.02	1.63	0.10	-0.01	0.08	0.96
Number of employees	-0.06	0.94	0.05	-1.17	0.24	-0.15	0.04	0.58
Operating status	0.20	1.23	0.10	2.04	0.04*	0.01	0.40	0.84
Ownership structure	-0.28	0.75	0.25	-1.12	0.26	-0.78	0.21	0.74
Environmental crime	0.28	1.32	0.12	2.36	0.02*	0.05	0.51	0.85
Fraud crime	0.26	1.30	0.11	2.34	0.02*	0.04	0.48	0.82
Pseudo r^2 = 0.00								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 7, three control variables were significant: operating status, environmental crime, and fraud crime.

Table 8. Negative binomial regression of history of misconduct and probation (n = 702)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
History of misconduct	0.17	1.18	0.11	1.50	0.13	-0.05	0.38	0.91
Place of incorporation	-0.12	0.89	0.17	-0.71	0.48	-0.46	0.21	0.81
Year of sentencing	0.03	1.03	0.02	1.40	0.16	-0.01	0.07	0.98
Number of employees	-0.08	0.93	0.05	-1.53	0.13	-0.17	0.02	0.62
Operating status	0.17	1.18	0.10	1.68	0.09	-0.03	0.36	0.84
Ownership structure	-0.23	0.80	0.25	-0.90	0.37	-0.72	0.27	0.76
Environmental crime	0.24	1.27	0.12	2.00	0.05*	0.00	0.47	0.84
Fraud crime	0.22	1.25	0.11	1.98	0.05*	0.00	0.44	0.82
Pseudo r^2 = 0.00								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 8, two control variables were significant: environmental crime and fraud crime.

Table 9. Negative binomial regression of managerial tolerance and probation (n = 429)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Managerial tolerance	-0.03	0.97	0.14	-0.19	0.85	-0.30	0.24	0.83
Place of incorporation	-0.72	0.49	0.24	-2.95	0.00***	-1.19	-0.24	0.61
Year of sentencing	0.06	1.06	0.03	2.08	0.04*	0.00	0.11	0.97
Number of employees	-0.08	0.92	0.07	-1.15	0.25	-0.23	0.06	0.49
Operating status	0.16	1.17	0.13	1.19	0.24	-0.10	0.41	0.87
Ownership structure	-0.15	0.86	0.37	-0.40	0.69	-0.88	0.58	0.71
Environmental crime	0.20	1.23	0.30	0.68	0.50	-0.38	0.79	0.96
Fraud crime	0.22	1.24	0.14	1.60	0.11	-0.05	0.48	0.88
Pseudo r^2 = 0.00								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 9, two control variables were significant: place of incorporation and year of sentencing.

Table 10. Negative binomial regression of acceptance of responsibility and probation (*n* = 433)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Acceptance of responsibility	-0.09	0.91	0.18	-0.50	0.62	-0.45	0.27	0.95
Place of incorporation	-0.71	0.49	0.24	-2.91	0.00***	-1.19	-0.23	0.59
Year of sentencing	0.06	1.06	0.03	2.16	0.03*	0.01	0.11	0.95
Number of employees	-0.09	0.92	0.07	-1.28	0.20	-0.22	0.05	0.54
Operating status	0.15	1.16	0.13	1.16	0.25	-0.10	0.41	0.86
Ownership structure	-0.14	0.87	0.37	-0.39	0.70	-0.87	0.58	0.71
Environmental crime	0.22	1.24	0.29	0.74	0.46	-0.36	0.80	0.92
Fraud crime	0.22	1.25	0.14	1.63	0.10	-0.04	0.49	0.86
Pseudo $r^2 = 0.01$								

*Note. * p < .05, ** p < .01, *** p < .001*

In Table 10, two control variables were significant: place of incorporation and year of sentencing.

Table 11. Negative binomial regression of criminal purpose organization and probation (*n* = 729)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Criminal purpose org.	-0.21	0.81	0.24	-0.89	0.38	-0.68	0.26	0.99
Place of incorporation	-0.20	0.82	0.16	-1.20	0.23	-0.52	0.13	0.76
Year of sentencing	0.03	1.04	0.02	1.68	0.09	-0.01	0.08	0.98
Number of employees	-0.06	0.94	0.05	-1.27	0.20	-0.15	0.03	0.62
Operating status	0.18	1.19	0.10	1.75	0.08	-0.02	0.38	0.83
Ownership structure	-0.38	0.68	0.24	-1.58	0.11	-0.85	0.09	0.76
Environmental crime	0.28	1.32	0.12	2.36	0.02*	0.05	0.51	0.85
Fraud crime	0.26	1.30	0.11	2.29	0.02*	0.04	0.48	0.82
Pseudo $r^2 = 0.00$								

*Note. * p < .05, ** p < .01, *** p < .001*

In Table 11 two control variables were significant: environmental crime and fraud crime.

Table 12. Negative binomial regression of culpability score and probation (n = 435)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Culpability score	0.04	1.04	0.04	1.14	0.26	-0.03	0.12	0.69
Place of incorporation	-0.70	0.50	0.24	-2.88	0.00***	-1.17	-0.22	0.60
Year of sentencing	0.05	1.06	0.03	2.01	0.05*	0.00	0.11	0.96
Number of employees	-0.12	0.89	0.07	-1.67	0.10	-0.26	0.02	0.45
Operating status	0.16	1.17	0.13	1.19	0.24	-0.10	0.41	0.85
Ownership structure	-0.15	0.86	0.37	-0.41	0.68	-0.87	0.57	0.71
Environmental crime	0.24	1.27	0.30	0.82	0.41	-0.34	0.82	0.95
Fraud crime	0.22	1.24	0.14	1.60	0.11	-0.05	0.48	0.86
Pseudo r^2 = 0.01								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 12, two control variables were significant: place of incorporation and year of sentencing.

Table 13. Negative binomial regression of number of counts and probation (n = 730)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Number of counts	0.18	1.20	0.15	1.22	0.22	-0.11	0.48	0.94
Place of incorporation	-0.21	0.81	0.17	-1.28	0.20	-0.54	0.11	0.76
Year of sentencing	0.04	1.04	0.02	1.73	0.08	0.00	0.08	0.97
Number of employees	-0.06	0.94	0.05	-1.36	0.17	-0.16	0.03	0.62
Operating status	0.18	1.20	0.10	1.79	0.07	-0.02	0.38	0.83
Ownership structure	-0.35	0.70	0.24	-1.47	0.14	-0.83	0.12	0.76
Environmental crime	0.26	1.30	0.12	2.16	0.03*	0.02	0.50	0.84
Fraud crime	0.24	1.28	0.11	2.14	0.03*	0.02	0.47	0.81
Pseudo r^2 = 0.00								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 13, two control variables were significant: environmental crime and fraud crime.

Table 14. Negative binomial regression of obstruction of justice and probation (n = 425)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Obstruction of justice	0.16	1.17	0.27	0.59	0.56	-0.37	0.68	0.99
Place of incorporation	-0.76	0.47	0.25	-3.06	0.00***	-1.25	-0.27	0.68
Year of sentencing	0.06	1.06	0.03	2.02	0.04*	0.00	0.11	0.96
Number of employees	-0.08	0.92	0.07	-1.20	0.23	-0.22	0.05	0.53
Operating status	0.14	1.15	0.13	1.09	0.28	-0.12	0.40	0.86
Ownership structure	-0.13	0.88	0.37	-0.35	0.73	-0.86	0.60	0.71
Environmental crime	0.11	1.11	0.31	0.34	0.73	-0.50	0.71	0.96
Fraud crime	0.21	1.23	0.14	1.53	0.13	-0.06	0.48	0.87
Pseudo r^2 = 0.01								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 14, two control variables were significant: place of incorporation and year of sentencing.

Table 15. Negative binomial regression of organization self-reported and probation (n = 688)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Organization self-reported	-0.70	0.50	0.43	-1.65	0.10	-1.54	0.13	0.96
Place of incorporation	-0.17	0.84	0.17	-1.00	0.32	-0.51	0.16	0.81
Year of sentencing	0.03	1.03	0.02	1.59	0.11	-0.01	0.07	0.98
Number of employees	-0.05	0.95	0.05	-1.08	0.28	-0.15	0.04	0.64
Operating status	0.19	1.21	0.10	1.84	0.07	-0.01	0.39	0.84
Ownership structure	-0.30	0.74	0.26	-1.15	0.25	-0.80	0.21	0.76
Environmental crime	0.28	1.33	0.12	2.33	0.02*	0.04	0.52	0.85
Fraud crime	0.26	1.30	0.12	2.25	0.02*	0.03	0.49	0.81
Pseudo r^2 = 0.00								

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 15, two control variables were significant: fraud crime and environmental crime.

Table 16. Negative binomial regression all blameworthiness variables and probation (*n* = 395)

	Coef.	IRR	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Compliance program in effect	-0.44	0.65	0.80	-0.55	0.58	-2.00	1.12	0.71
History of misconduct	0.28	1.33	0.49	0.58	0.56	-0.68	1.25	0.86
Managerial tolerance	0.52	1.69	0.64	0.82	0.41	-0.73	1.78	0.54
Acceptance of responsibility	0.37	1.45	0.81	0.46	0.65	-1.22	1.95	0.73
Criminal purpose organization	1.38	3.99	0.72	1.92	0.06	-0.03	2.80	0.92
Culpability score	0.18	1.20	0.23	0.78	0.43	-0.27	0.64	0.27
Number of counts	0.50	1.65	0.68	0.74	0.46	-0.83	1.84	0.77
Obstruction of justice	-0.60	0.55	1.14	-0.53	0.60	-2.82	1.63	0.60
Organization self-reported	1.68	5.38	1.15	1.46	0.14	-0.58	3.94	0.85
Place of incorporation	-1.18	0.31	0.92	-1.29	0.20	-2.97	0.61	0.58
Year of sentencing	0.14	1.15	0.10	1.48	0.14	-0.05	0.33	0.89
Number of employees	0.04	1.04	0.27	0.14	0.89	-0.48	0.56	0.36
Operating status	0.29	1.33	0.48	0.60	0.55	-0.66	1.23	0.83
Ownership structure	-0.32	0.72	1.22	-0.26	0.79	-2.71	2.07	0.67
Environmental crime	-0.25	0.78	1.05	-0.24	0.81	-2.31	1.81	0.90
Fraud crime	-0.82	0.44	0.56	-1.45	0.15	-1.92	0.29	0.82
Pseudo $r^2 = 0.11$								

*Note. * p < .05, ** p < .01, *** p < .001*

Table 16 revealed no statistically significant findings.

Step Three Results: Multivariate Statistics for Corporate Monitoring

As previously described, logistic regression was used for the corporate monitoring measure. Tolerance values were also calculated. Tables 17 through 26 show the results for the logistic regression models used for corporate monitoring.

Table 17. Logistic regression of compliance program in effect and corporate monitoring (*n* = 701)

	Coef.	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Compliance program in effect	-0.26	0.47	-0.55	0.58	-1.18	0.66	0.78
Place of incorporation	0.10	0.47	0.22	0.83	-0.82	1.03	0.80
Year of sentencing	0.07	0.06	1.18	0.24	-0.05	0.20	0.96
Number of employees	0.20	0.13	1.47	0.14	-0.06	0.46	0.58
Operating status	0.58	0.35	1.68	0.09	-0.10	1.26	0.85
Ownership structure	-0.59	0.70	-0.85	0.39	-1.96	0.77	0.75
Environmental crime	0.41	0.32	1.28	0.20	-0.22	1.04	0.86
Fraud crime	-0.84	0.47	-1.77	0.08	-1.76	0.09	0.83
Pseudo r^2 = .055							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 17 revealed no statistically significant findings.

Table 18. Logistic regression of history of misconduct and corporate monitoring (*n* = 702)

	Coef.	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
History of misconduct	0.02	0.34	0.07	0.95	-0.64	0.68	0.92
Place of incorporation	0.12	0.46	0.25	0.80	-0.79	1.03	0.81
Year of sentencing	0.06	0.06	0.93	0.35	-0.06	0.18	0.98
Number of employees	0.18	0.13	1.40	0.16	-0.07	0.43	0.62
Operating status	0.56	0.35	1.62	0.11	-0.12	1.24	0.84
Ownership structure	-0.70	0.69	-1.01	0.31	-2.05	0.65	0.75
Environmental crime	0.37	0.32	1.16	0.25	-0.26	1.01	0.85
Fraud crime	-0.83	0.47	-1.75	0.08	-1.75	0.10	0.82
Pseudo r^2 = 0.05							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 18 revealed no statistically significant findings.

Table 19. Logistic regression of managerial tolerance and corporate monitoring (n = 429)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Managerial tolerance	0.93	0.55	1.70	0.09	-0.14	2.00	0.82
Place of incorporation	-0.80	0.82	-0.98	0.33	-2.40	0.80	0.61
Year of sentencing	0.10	0.09	1.11	0.27	-0.08	0.27	0.97
Number of employees	0.19	0.20	0.94	0.35	-0.21	0.59	0.49
Operating status	0.30	0.48	0.63	0.53	-0.63	1.23	0.86
Ownership structure	-0.84	1.16	-0.72	0.47	-3.12	1.44	0.71
Environmental crime	-0.29	1.07	-0.27	0.79	-2.39	1.81	0.96
Fraud crime	-0.93	0.54	-1.72	0.09	-1.99	0.13	0.88
Pseudo r^2 = 0.06							

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

Table 19 revealed no statistically significant findings.

Table 20. Logistic regression of acceptance of responsibility and corporate monitoring (n = 433)

	Coef.	Std. Err.	z	P>z	[95% Conf. Interval]		Tol.
Acceptance of responsibility	-0.31	0.59	-0.52	0.60	-1.47	0.86	0.94
Place of incorporation	-0.77	0.81	-0.95	0.34	-2.36	0.82	0.60
Year of sentencing	0.09	0.09	1.02	0.31	-0.08	0.26	0.96
Number of employees	0.29	0.19	1.48	0.14	-0.09	0.67	0.54
Operating status	0.27	0.46	0.59	0.56	-0.62	1.16	0.88
Ownership structure	-0.94	1.16	-0.81	0.42	-3.21	1.34	0.71
Environmental crime	0.17	0.82	0.21	0.83	-1.43	1.78	0.92
Fraud crime	-0.98	0.54	-1.82	0.07	-2.04	0.08	0.87
Pseudo r^2 = 0.04							

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

Table 20 revealed no statistically significant findings.

Table 21. Logistic regression of criminal purpose organization and corporate monitoring (n = 729)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Criminal purpose org.	1.38	0.54	2.56	0.01**	0.32	2.43	0.98
Place of incorporation	0.11	0.46	0.24	0.81	-0.78	1.01	0.76
Year of sentencing	0.08	0.06	1.22	0.22	-0.05	0.20	0.99
Number of employees	0.20	0.12	1.60	0.11	-0.04	0.44	0.62
Operating status	0.61	0.35	1.74	0.08	-0.08	1.29	0.84
Ownership structure	-0.84	0.68	-1.23	0.22	-2.18	0.50	0.76
Environmental crime	0.45	0.32	1.39	0.16	-0.18	1.08	0.86
Fraud crime	-0.86	0.47	-1.82	0.07	-1.79	0.07	0.83
Pseudo r^2 = 0.07							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 21 showed a significant finding for the criminal purpose organizations. For organizations that had been identified as having a criminal purpose, there was 1.38 log odds increase in the likelihood to be sentenced to implement a corporate monitor (b = 1.38, p = 0.01).

Table 22. Logistic regression of culpability score and corporate monitoring (n = 435)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Culpability score	0.20	0.12	1.60	0.11	-0.04	0.43	0.69
Place of incorporation	-0.87	0.83	-1.04	0.30	-2.49	0.76	0.31
Year of sentencing	0.09	0.09	1.04	0.30	-0.08	0.26	0.97
Number of employees	0.14	0.22	0.62	0.53	-0.29	0.56	0.45
Operating status	0.40	0.47	0.84	0.40	-0.53	1.33	0.86
Ownership structure	-0.92	1.16	-0.79	0.43	-3.18	1.35	0.71
Environmental crime	-0.48	1.07	-0.45	0.65	-2.57	1.61	0.96
Fraud crime	-0.93	0.54	-1.72	0.09	-1.98	0.13	0.88
Pseudo r^2 = 0.06							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 22 revealed no statistically significant findings.

Table 23. Logistic regression of number of counts and corporate monitoring (n = 730)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Number of counts	0.74	0.40	1.88	0.06	-0.03	1.52	0.94
Place of incorporation	0.03	0.45	0.06	0.95	-0.86	0.91	0.76
Year of sentencing	0.09	0.06	1.38	0.17	-0.04	0.21	0.97
Number of employees	0.18	0.12	1.44	0.15	-0.06	0.41	0.62
Operating status	0.58	0.35	1.66	0.10	-0.10	1.25	0.83
Ownership structure	-0.78	0.68	-1.15	0.25	-2.12	0.55	0.76
Environmental crime	0.26	0.33	0.79	0.43	-0.39	0.90	0.84
Fraud crime	-0.99	0.48	-2.06	0.04*	-1.93	-0.05	0.81
Pseudo r^2 = 0.06							

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

In Table 23, fraud crime was significant.

Table 24. Logistic regression of obstruction of justice and corporate monitoring (n = 425)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Obstruction of justice	0.89	0.67	1.32	0.19	-0.43	2.20	0.99
Place of incorporation	-0.83	0.83	-1.00	0.32	-2.45	0.80	0.58
Year of sentencing	0.10	0.09	1.11	0.27	-0.07	0.27	0.96
Number of employees	0.29	0.20	1.49	0.14	-0.09	0.68	0.53
Operating status	0.39	0.47	0.83	0.41	-0.53	1.32	0.86
Ownership structure	-0.94	1.16	-0.81	0.42	-3.22	1.34	0.71
Environmental crime	-0.42	1.07	-0.40	0.69	-2.52	1.67	0.96
Fraud crime	-0.92	0.54	-1.71	0.09	-1.98	0.13	0.86
Pseudo r^2 = 0.05							

*Note. * $p < .05$, ** $p < .01$, *** $p < .001$*

Table 24 revealed no statistically significant findings.

Table 25. Logistic regression of organization self-reported and corporate monitoring (*n* = 688)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Organization self-reported	1.43	0.76	1.90	0.06	-0.05	2.92	0.96
Place of incorporation	0.14	0.47	0.29	0.77	-0.78	1.05	0.81
Year of sentencing	0.07	0.06	1.05	0.30	-0.06	0.19	0.98
Number of employees	0.15	0.13	1.18	0.24	-0.10	0.40	0.63
Operating status	0.53	0.35	1.51	0.13	-0.16	1.21	0.84
Ownership structure	-0.79	0.71	-1.12	0.26	-2.18	0.59	0.76
Environmental crime	0.38	0.32	1.16	0.25	-0.26	1.01	0.85
Fraud crime	-0.84	0.47	-1.78	0.08	-1.77	0.09	0.81
Pseudo $r^2 = 0.06$							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 25 revealed no statistically significant findings.

Table 26. Logistic regression of all blameworthiness variables and corporate monitoring (*n* = 395)

	Coef.	Std. Err.	z	P>z	[95% Conf.	Interval]	Tol.
Compliance program in effect	-0.55	0.85	-0.64	0.52	-2.22	1.12	0.70
History of misconduct	0.31	0.53	0.60	0.55	-0.72	1.34	0.87
Managerial tolerance	0.61	0.67	0.92	0.36	-0.69	1.92	0.55
Acceptance of responsibility	0.43	0.87	0.49	0.62	-1.27	2.12	0.73
Criminal purpose organization	1.80	0.82	2.19	0.03*	0.19	3.41	0.90
Culpability score	0.17	0.25	0.70	0.49	-0.31	0.66	0.28
Number of counts	0.56	0.71	0.78	0.43	-0.84	1.95	0.77
Obstruction of justice	-0.51	1.24	-0.41	0.68	-2.93	1.91	0.60
Organization self-reported	2.44	1.42	1.73	0.08	-0.33	5.22	0.84
Place of incorporation	-1.46	1.00	-1.47	0.14	-3.42	0.49	0.59
Year of sentencing	0.16	0.10	1.54	0.12	-0.04	0.36	0.88
Number of employees	0.08	0.28	0.27	0.79	-0.48	0.63	0.36
Operating status	0.31	0.51	0.61	0.55	-0.69	1.30	0.84
Ownership structure	-0.40	1.29	-0.31	0.75	-2.93	2.12	0.67
Environmental crime	-0.30	1.09	-0.28	0.78	-2.45	1.84	0.90
Fraud crime	-0.93	0.58	-1.58	0.11	-2.07	0.22	0.83
Pseudo $r^2 = 0.13$							

*Note. * p < .05, ** p < .01, *** p < .001*

Table 26 contained all the measures of blameworthiness as well as the full set of control variables. One item was significant: criminal purpose organization. For organizations that had been identified as having a criminal purpose, there was 1.80 log odds increase in the likelihood to be sentenced to implement a corporate monitor ($b = 1.80$, $p = 0.03$).

To summarize the results, the multiple negative binomial regression models examining probation revealed no statistically significant findings for the nine proposed measures of blameworthiness. However, the offense type variables, fraud and environmental crime, were statistically significant findings in five of the 10 models. When examining corporate monitoring, whether the organization was designated as a criminal purpose organization was the only statistically significant predictor.

The next chapter will further discuss the results and provide concluding thoughts for this study.

CHAPTER FIVE: CONCLUSION

Determining why some organizations are sentenced to harsher or more lenient penalties based on blameworthiness helps both practitioners and the public understand overall sentencing patterns. The results of this study show that nine potential measures of blameworthiness are not significant in predicting the length of time that an organization was sentenced to probation. However, it should be noted that in five of the 10 regressions, environmental crime and fraud crime were significant. These measures are being used as a proxy of protection of the community. Having a criminal conviction of an environmental crime or fraud appears to be more predictive of being sentenced to probation than any measure of blameworthiness. Perhaps probation is being used as a tool to protect the community rather than to punish blameworthy organizations.

Considering whether the organization was going to be sentenced to implement a corporate monitor, only one of the nine measures of blameworthiness was significant: the likelihood of being sentenced to monitoring increased for criminal purpose organizations. None of the remaining regressions had any significant findings. According to the USSG, criminal purpose organizations are specifically identified because they are intended to be divested of their assets upon conviction (USSC, 2018a). Criminal purpose organizations may be more likely to be sentenced to monitoring because the monitor can make sure that the organization is truly unable to conduct future business.

Because the USSG outline that probation should be sentenced under certain circumstances, three of which were examined in this study (criminal or civil history,

managerial tolerance for the crime, and whether the organization that had a corporate compliance program), these hypotheses should be supported if the judges are sentencing according to the USSG. The results do not show any significant findings for the three described situations, as well as six other criteria included elsewhere in the USSG or implied by the focal concerns. This lack of significant findings suggests that judges are using criteria other than what is outlined in the USSG when sentencing probation. It is possible that other measures of blameworthiness that were not examined in this study are more directly related to probation sentencing.

The lack of significant findings for corporate monitoring is not particularly surprising. Because the requirements for monitoring are not outlined in the USSG, judges are given full discretion in using it as a sentencing penalty, potentially leading to much variation. Additionally, as previously discussed, little empirical research has been conducted on the correlates of corporate monitoring sentencing (but see Warrin et al., 2011). Therefore, this study is largely exploring new territory with regarding the sentencing of monitorship.

These findings mean that there is still much to learn about the process of organizational sentencing. This research makes a modest contribution to the organizational sentencing literature by identifying a lack of overall pattern in sentencing outcomes for probation and the requirement to implement a corporate monitor with regard to these potential measures of blameworthiness. The study contributes to the theoretical literature by repurposing the blameworthiness focal concern and empirically examining the usefulness of the focal concerns in explaining corporate sentencing. It also

brings an empirical application to the discussion of monitoring specifically, which is largely absent in the discussion of monitoring in the legal literature.

Policy Implications

The results of this study examining probation have helped determine how well judges have followed the probation guidelines of the USSG. The results have shown that judges are not punishing organizations that exhibit these specific blameworthiness characteristics with longer probation terms. If the government truly intends to have organizations sentenced in a more consistent manner, these findings indicate that the USSG should be re-examined. It is possible that the policy should be revised or eliminated, or judges should be better educated in how to sentence probation according to policy. Additionally, if the government is seeking more consistent and predictable results regarding the sentencing of corporate monitoring, these results do not show predictability regarding blameworthiness in monitoring. It should be reiterated that mandatory sentencing guidelines were declared unconstitutional under *United States vs. Booker*. These results imply that, if the goal is for more uniform sentencing for probation and monitoring, some form of guidelines may need to be made mandatory.

Limitations

The chief limitation of this study is that the data are not intended to be a test of the focal concerns framework, so the chosen measures may not be the best measures of each theoretical construct. The data do not include potential measures that might be more direct measures of blameworthiness or crime severity, such as if the crime was a felony or misdemeanor, the number of victims, the duration of the crime, etc. Additionally, the data are limited in not being able to capture the full focal concerns perspective including

practical constraints, although the study has been able to incorporate the other two focal concerns.

Defining concepts such as “severity” and “blameworthiness” in terms of the amount of harm caused by organizations can be difficult. Given the nature of the federal offenses, it is not possible to rank the offenses in terms of severity. For example, it is impossible to compare an organization that was convicted of immigration violations to another that was convicted of illegal toxic waste dumping to another organization that defrauded investors of millions of dollars. Further complicating the measurement issues, the USSC appears to use “fraud” as a catch all, potentially including a single case of mail fraud and a multimillion-dollar case of health care fraud in the same category.

According to the USSG, the amount of restitution that an organization is sentenced to pay should be equivalent to the “full amount of the victim’s loss” (USSC, 2018a, p. 514). Theoretically, this measure could be used as a proxy for the amount of harm caused by the organization because nearly all organizations created an amount of loss that might be monetized for sentencing purposes. After further investigation, this assumption is problematic. The article from Alexander et al. (1999a) examined the amount of fine and non-fine penalties (including restitution) given to public organizations specifically and how they changed before and after the implementation of the USSG. The researchers examined sentencing of organizations from 1988 to 1996 using USSC data. Their results located several cases for which the amount of restitution was not equivalent to the amount of harm caused. The researchers wrote that the calculation of restitution is a somewhat subjective measure, especially compared to the structured tables that are intended to be used for calculating fines and probation under the USSG.

Examining the data sets used in this research, only the data from 2011 offer the specific amount of restitution ordered for each organization (the remaining years have ordinal measures for restitution values with the lowest category being $0-$99,999 ordered). Of the 169 organizations convicted in fiscal year 2011, 108 (67.5%) were not required to pay any amount of restitution. This calls into question the thought that a restitution order can proxy harm because it seems as if judges, at least in 2011, did not sentence restitution according to harm caused. The results of this study would likely change if there was a dataset available that was intended to test the focal concerns framework for organizations and if the measures were more consistent with the framework.

Relatedly, an additional limitation in the data set that influences the measure of probation is that the data set does not include a variable explaining whether the organization being sentenced has been convicted of a misdemeanor or felony. This may be because some of the organizations were sentenced to more than one charge, and there may be a mix of misdemeanor and felony convictions. However, the USSG dictate that organizations sentenced to a felony should be sentenced to longer probation terms than organizations sentenced to misdemeanors (one year or less for misdemeanors versus one year to five for felonies). The fact that the data do not include the level of charge means that this is not an outcome that can be assessed to see if judges are sentencing as the USSG dictate.

It should be reiterated that these data only include organizations sentenced in federal courts. These organizations may be categorically different from the organizations that are sentenced using corporate agreements, penalized in civil courts, or sanctioned by

administrative/regulatory agencies. Some existing research suggests that there are differences in the types of organizations that are sentenced in courts compared to those that sign agreements in terms of their demographics (Garrett, 2007, 2011; Markoff, 2013). This data does not allow us to draw conclusions regarding federal sentencing across these different options.

Like all analyses using secondary data, any errors committed during the original collection of the data would be passed on to this research. In the past, researchers including Alexander et al. (2000) have found major errors and inconsistencies in the coding of the early USSC data specifically (luckily their research did show improvements in the data coding after this assessment, however). Data that were incorrectly coded, misidentified, or not located by the USSC researchers would be incorrect or missing in this data set.

Future Research

The initial contributions of this study could be expanded with additional research, potentially qualitative work, to compare with the quantitative results. Qualitative research could be conducted with judges or other criminal justice officials for their opinions on the blameworthiness of organizations and the applicability of focal concerns to organizations. Qualitative research could also examine how judges make decisions for the sentencing of monitoring specifically, since this is a particularly understudied area. Interviews or focus groups could also be conducted with prosecutors and judges, both active and retired, for their thoughts and experience with these particular sentencing penalties. These groups, especially those that have been in their positions for a while, may be able to describe how the sentencing of monitors and probation may have changed over time.

Also to increase knowledge of monitoring, research could be conducted similarly to the work from the United States Government Accountability Office (2009). This study involved interviews with corporate monitors to determine their job duties. It appears to be a unique piece of research examining this group. An updated version of this study could shed more light on the current roles of monitors and their selection, increasing the transparency of the sentencing process for monitors.

As previously mentioned, the method of sanctioning organizations (guilty pleas or trials vs. corporate agreements vs. administrative proceedings) will likely produce a different variation of sanctions. Future research could examine the patterns of probation sentences and monitor requirements in other sanctioning situations to compare to the patterns in the USSC data. This could help further illuminate how these sentencing penalties change and potentially find significant factors predicting the use of these sentencing penalties.

Additional statistical analyses could also be conducted on this dataset to further examine the relationships between the variables, including mediation analyses.

The major takeaway from this research is that organizational sentencing is a complex phenomenon that might be more easily understood using a theoretical perspective. The focal concerns framework, and specifically its blameworthiness component, can help to contextualize how organizational sentencing is happening in practice. This research adds to the view of the ways that organizations might be sentenced to probation and corporate monitors, while also suggesting new avenues for continued research. This research adds empirical evidence to both the law and criminal

justice literature, combining sentencing outcomes and criminological theory into a form that increases the body of knowledge in both areas.

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APPENDIX I: MEASURES

The following variables were included in this analysis:

Variable	Label	Coding	Coding description
PROBATN	Total probation ordered in months		Continuous variable
PROBMON	Court ordered organization to hire monitor	0	No
		1	Yes
COMPLYPR	Probation officer indicated org had compliance prog in effect at time of off	0	No
		1	Yes
TOLERATE	Managerial tolerance culpability factor score	0	No adjustment
		1	Some adjustment noted
HSMISCND	Organization had history of misconduct or pending charges	0	No
		1	Yes
ACCEPT	acceptance of responsibility	0	Adjustment applied
		1	Adjustment not applied
CRIMPURP	organization identified as a criminal purpose organization	0	No
		1	Yes
FCULPSCO	total culpability score as reported on SOR		Continuous variable
COUNTS	number of counts		Continuous variable
OBSTRUCT	obstruction of justice culpability factor	0	Not received
		1	Obstructed justice

SELFREP	organization self-reported before authorities began investigation	0	No
		1	Yes
SENTYR	Year of sentencing	1	2010
		2	2011
		3	2012
		4	2013
		5	2014
		6	2015
		7	2016
		8	2017
		9	2018
EMPLOYNM	Number of persons employed by organization	1	<50 Employees
		2	50-99 Employees
		3	100-499 Employees
		4	500-999 Employees
		5	>= 1,000 Employees
fraud	Fraud crime	0	No
		1	Yes
environ	Environmental crime	0	No
		1	Yes
FINSTDS	Financial status of organization at time of sentencing	0	Insolvent
		1	Solvent and operating
INCORLOC	Organization place of incorporation	0	Inside U.S.
		1	Outside U.S.
OWNSTRCT	Ownership structure of the organization	0	Not openly-traded corporation
		1	Openly-traded corporation

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Criminal Sentencing of White Collar and Corporate Crimes; Theoretical Explanations of White Collar and Corporate Crimes; Effective Teaching Practices in Criminal Justice

PEER-REVIEWED PUBLICATIONS

Homer, E. M., & Higgins, G. E. (forthcoming). Community service sentencing for corporations. *Criminal Justice Policy Review*. doi: 10.1177/0887403420903379

Homer, E. M., & Higgins, G. E. (forthcoming). Corporation blameworthiness and federal criminal fines. Manuscript accepted for publication by *Journal of Financial Crime.*

Homer, E. M. (2020). Testing the fraud triangle: A systematic review. *Journal of Financial Crime.* 27(1), 172-187. doi: 10.1108/JFC-12-2018-0136

Fisher, B. W., Higgins, E. M., & **Homer, E. M.** (2019). School crime and punishment and the implementation of security cameras: Findings from a national longitudinal study. *Justice Quarterly*. doi: 10.1080/07418825.2018.1518476

Homer, E. M., & Fisher, B. W. (2019). Police in schools and student arrest rates across the United States: Examining differences by race, ethnicity, and gender. *Journal of School Violence, 19*(2). doi: 10.1080/15388220.2019.1604377

Homer, E. M., & Higgins, G. E. (2019). An examination of blameworthiness on the federal sentencing of organizations to implement corporate compliance programs. *Social Science Journal*. doi: 10.1016/j.soscij.2019.09.003

WORK SUBMITTED FOR PUBLICATION

Homer, E. M., Fisher, B. W., & Mowen, T. J. (Revise and resubmit March 2020). Examining the moderating role of social bonds in the relationship between school victimization and educational attainment. *Victims & Offenders*.

NON-PEER REVIEWED PUBLICATION

Homer, E. M. (2018, November/December). Graduate school as an introduction to lifelong learning in criminology and criminal justice. *The Criminologist* (the newsletter of American Society of Criminology) *43*(6), 44-46.

RESEARCH EXPERIENCE

University of Louisville; Louisville, KY 40292
Graduate Assistant to Dr. George E. Higgins August 2019 – present

- Assists with research and writing publications

University of Louisville; Louisville, KY 40292
Graduate Assistant to Dr. Benjamin W. Fisher August 2017 – July 2019

- Assisted with researching and writing 7 publications related to school crime and safety
- Redacted interview transcripts, wrote technical reports and summaries, and created policy briefs for the National Institute of Justice Comprehensive School Safety Initiative grant: *Understanding the adoption, function, and consequences of school resource officer use in understudied settings* (Curran, Fisher, & Kupchik, 2017-2019).
- Recoded and sorted data for meta-analysis research using Microsoft Excel

Crossroads Church; Cincinnati, OH 45208
Volunteer Researcher October 2014 – February 2015

- Collaborated with a team of social service professionals and journalists by gathering and summarizing information and statistics regarding the prevalence of human trafficking of children in the United States

University of Cincinnati Corrections Institute (UCCI); Cincinnati, OH 45221
Coder for EPICS program February 2010 – August 2010

- Listened to audio taped conversations of meetings between probation officers and clients to determine the degree of the individuals' accordance with the principles of the Effective Practices in Community Supervision (EPICS) program
- Accurately coded the results of audio taped sessions into written documentation reflecting the individuals' compliance with the program
- Efficiently entered multiple sources of data into SPSS and Excel databases

COURSES TAUGHT AS INSTRUCTOR OF RECORD

[g] = graduate-level; [o] = online

Course Title	Institution	Date(s)
White-Collar Crime [g (partial term online)]	University of Louisville	Spring 2020
Intro to Criminal Justice	University of Louisville	Fall 2019
Research Design [o]	University of Louisville	Summer 2019
Juvenile Delinquency	Wright State University	Spring 2016
Intro to Sociology [o]	Wright State University	Spring 2016
Penology	Wright State University	Fall 2015
Intro to Criminology (2 sections)	Brown Mackie College	July 2015
Social Psychology	Tiffin University	Fall 2011
Intro to Sociology (10 sections) [o]	Tiffin University	Spring 2008 – Fall 2011
Intro to Sociology	Tiffin University	Fall 2008

COURSES CO-TAUGHT AS A TEACHING ASSISTANT

[g] = graduate-level; [o] = online

Course Title	Institution	Date(s)
Research Design	University of Louisville	Spring 2019
Basic Research Methods [g, o]	University of Cincinnati	Spring 2010
White-Collar Crime [g, o]	University of Cincinnati	Spring 2010
Law and Social Control [g, o]	University of Cincinnati	Spring 2010
Philosophy of Corrections [g, o]	University of Cincinnati	Fall 2009
Juvenile Justice [g, o]	University of Cincinnati	Fall 2009
Seminar in Criminal Justice [g, o]	University of Cincinnati	Fall 2009
Seminar in Criminology [g, o]	University of Cincinnati	Fall 2009
Advanced Research Methods [g, o]	University of Cincinnati	Fall 2009
Research Methods	Wright State University	Spring 2008
Intro to Sociology (9 sections)	Wright State University	Fall 2007 – Spring 2008

PROFESSIONAL EXPERIENCE

The Kreller Business Information Group; Cincinnati, OH 45202
Training and Development Coordinator/Researcher May 2013 – October 2014

The Kreller Business Information Group; Cincinnati, OH 45202
Due Diligence Investigator/Researcher August 2010 – May 2013

CROSSWAEH Community Based Corrections Facility; Tiffin, OH 44883
Resident Supervisor September 2008 – August 2009

PROFESSIONAL SKILL SUMMARY

- Proficient in online learning systems: e-College, Blackboard, and WebCT
- Extensive experience using Microsoft Word, Excel, Outlook, and PowerPoint; Clarivate Analytics Endnote
- Moderate experience using Microsoft Publisher, SPSS, Stata, ArcGIS

AWARDS

- September 2019: Honorable Mention, Midwest Criminal Justice Association Annual Student Writing Competition
- April 2019: Academy of Criminal Justice Sciences Doctoral Summit Fellow
- April 2018: School of Interdisciplinary and Graduate Studies Certificate of Frequent PLAN Participation (Professional Development, Life Skills, Academic Development, and Networking), University of Louisville
- August 2017 to present: Graduate Assistantship, University of Louisville
- August 2009 to May 2010: Graduate Assistantship, University of Cincinnati
- August 2007 to August 2008: Graduate Assistantship, Wright State University

PROFESSIONAL SERVICE

- April 2019 to present: Secretary of the Student Subcommittee of the American Society of Criminology Division of White Collar and Corporate Crime. Created flyers and newsletters for the Student Subcommittee and Division.
- September 2018 and September 2019: Volunteer at the Registration Table for the Midwestern Criminal Justice Association 2018 and 2019 Annual Meetings – Chicago, IL
- Journal Peer Reviewer: *Journal of Qualitative Criminal Justice & Criminology*, *Crime & Delinquency*, *Journal of Business Ethics*, and *Crime, Law & Social Change*

PROFESSIONAL DEVELOPMENT

- Spring 2020: Cardinal Core Curriculum Assessment Workshop. Assessed faculty assignments and student writing samples for adherence to university standards for classes designated as Social and Behavioral courses

- Spring 2020: Creating a Positive Classroom Community (University of Louisville Professional Development, Life Skills, Academic Development, and Networking [PLAN] workshop)
- Spring 2020: The Case for Active Learning (University of Louisville Criminal Justice Department workshop)
- Fall 2019: Presenting Professionally (University of Louisville Cooperative Consortium for Transdisciplinary Social Justice Research workshop)
- Fall 2019: Developing and Refining Your Elevator Pitch (PLAN workshop)
- Fall 2019: Conference Do's and Don'ts (Criminal Justice Department workshop)
- Fall 2019 – Spring 2020: University of Louisville Inclusive Teaching Circle. University group discussing creating inclusive and equitable teaching
- Summer 2019: Teaching Toolbox (PLAN workshop)
- Summer 2019: Organizing and Writing Large-Scale Writing Projects such as a Dissertation or Thesis (PLAN workshop)
- Summer 2019: Career Colloquium (PLAN workshop)
- Summer 2019: Delphi U. Forty hour intensive training for instructors. Covered Quality Matters certification, basic course design (including building learning objectives, best practices, and backward design), developing online content using tools including SoftChalk, Panopto, and Perusall, advanced assignment and assessment techniques in Blackboard, academic security and integrity, and copywriting.
- Spring 2019: Preparing for What's Next (Criminal Justice Department workshop)
- Fall 2018: What is a Teaching Philosophy Statement and How Do I Develop One? (PLAN workshop)
- Summer 2018: IRB from the Inside (PLAN workshop)
- Fall 2017: Community-Engaged Research Panel (Criminal Justice Department workshop)
- Fall 2017: Power Literature Searching (PLAN workshop)
- Fall 2017: Planning your Professional Development (PLAN workshop)
- Fall 2017: Peer Review Process: From the Editor's Perspective (Criminal Justice Department workshop)
- Fall 2017: Workshopping the CV (PLAN workshop)
- Fall 2017: How to get the Most out of Conferences (Criminal Justice Department workshop)
- Fall 2017: Conceptualizing and Planning Your Research for the Beginning Graduate Student Researcher (PLAN workshop)

CONFERENCE PRESENTATIONS

- **Homer, E. M.**, & Higgins, G. E. "Burnout as related to workplace safety compliance among healthcare workers: A general strain theory approach." American Society of Criminology Annual Conference, San Francisco, CA, November 2019.
- Plumlee, B. T., Fisher, B. W., Curran, F. C., Viano, S., Coffey, B. S., & **Homer, E. M.** "A qualitative analysis of how stakeholders conceptualize school safety."

American Society of Criminology Annual Conference, San Francisco, CA, November 2019.

- **Homer, E. M.** "Examining the effect of government memoranda on the signing of organizational agreements." Midwest Criminal Justice Association Annual Conference, Chicago, IL, September 2019.
- **Homer, E. M.** "(Hopefully) reducing offender recidivism through cognitive-behavioral therapy: A meta-analytic examination of the effectiveness of Thinking for a Change." Annual Criminal Justice Student Conference, Louisville, KY, April 2019.
- **Homer, E. M.** "Disorganized organizations: An application of Social Disorganization Theory to corporate recidivism." Academy of Criminal Justice Sciences Annual Conference, Baltimore, MD, March 2019.
- **Homer, E. M.**, & Higgins, G. E. "A focal concerns examination of corporate criminal sentencing." American Society of Criminology Annual Conference, Atlanta, GA, November 2018.
- **Homer, E. M.** "Testing the fraud triangle: A systematic review." Midwest Criminal Justice Association Annual Conference, Chicago, IL, September 2018.
- **Homer, E. M.** "A preliminary focal concerns examination of corporate fines." Annual Criminal Justice Student Conference, Louisville, KY, April 2018.
- **Homer, E. M.**, & Fisher, B. W. "School demographics, arrest rates, and placement in juvenile facilities." Academy of Criminal Justice Sciences Annual Conference, New Orleans, LA, February 2018.

INVITED PRESENTATIONS

- **Homer, E. M.** "Examining how burnout is related to workplace safety compliance among healthcare workers." University of Louisville Graduate Network in Arts and Sciences Scholarship Symposium, Louisville, KY, November 2019.
- **Homer, E. M.** "Are certain student groups more likely to be arrested?" University of Louisville GRADtalks Brown Bag Series, Louisville, KY, April 2018.

PROFESSIONAL MEMBERSHIPS

- Academy of Criminal Justice Sciences – Division of Teaching and Learning
- American Society of Criminology – Division of White Collar and Corporate Crime
- Association of Certified Fraud Examiners
- Midwest Criminal Justice Association