University of Nevada, Reno

Sentencing Disparity in Sexually-Oriented Crime against Juveniles: The Influence of Extralegal Factors

A thesis submitted in partial fulfillment
of the requirements for the degree of

Bachelor of Arts in Criminal Justice with an emphasis in Law and Justice

by

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Abstract

Within the criminal justice system, sentencing disparity has been a common issue. As disparity affects the way in which we view earned and deserved restorative justice, this could allow for unintended negative consequences. Often, the presence of extralegal factors influences the sentencing disparity seen among similarly situated offenders. This thesis examines the effects of age, race, level of education, and marital status on the jail time served and sentence received for those convicted of internet crimes against children, mostly in regard to possession, distribution, and manufacture of child pornography, through the use of secondary data compiled from Northeastern Ohio jurisdictions and presented in the Cleveland State Law Review in 2015.

Keywords: sentencing disparity, extralegal factors, child pornography, violent internet crime

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Introduction

       Within the United States, we are taught to value equality at a young age. Often, the word "fair" is tossed around throughout our formative years, and we learn to hold others accountable. As we age, the idea of "fairness" becomes more complex, and less absolute. Instead, the concept of strict equality of outcome for everyone is replaced by a different type of equality: equality of opportunity. The importance of this idea stays with us in some form throughout the entirety of our lives.

       Based on this concept of fairness and the inherent value of equality, we learn to understand the concept of justice, which allows each of us to more completely grasp equality of opportunity, and the consequences for what might occur. As a means of defining justice, in the *Encyclopedia of Group Processes and Intergroup Relations* authors Michael Hogg and John Levine state that "justice explores judgments about what is fair or unfair within social settings" (Hogg & Levine, 2010, p. 500). Hogg and Levine go on to state that justice as a concept can be broken down into three categories: distributive justice, procedural justice, and retributive justice (Hogg & Levine, 2010). While all three categories of justice are interwoven and contribute aspects to our criminal justice system, retributive justice, defined as "[that justice] which focuses on when and in what way it is fair to punish people for breaking social rules" seems to be the most central form of the concept in our society (Hogg & Levine, 2010, p. 503). This, undoubtedly influences our formative years as we learn to associate fairness with equality and justice with the consequences of deviant behavior.

       The association we feel with justice and rule-breaking can additionally be tied back to the "Just World Hypothesis". Based on the definition in the *Encyclopedia of Social Psychology*, Kathleen Vohs and Roy Baumeister state that this hypothesis "is the belief that, in general, the

social environment is fair, such that people get what they deserve" (Vohs & Baumeister, 2007, p. 513). This concerns the previously discussed influential concepts of equality, fairness, and justice. Due to the way in which the hypothesis describes the justification that occurs when people are victims of retributive justice, it would be logical to think that the victim somehow deserved it. While this hypothesis can be easily applicable to other phenomena within our world, it easily helps us to understand why we are completely comfortable with the notion of punishing those individuals who break social rules and order; we encourage the consequences delivered by the criminal justice system to those who we view as rule-breakers, or criminals.

Essentially, our criminal justice system relies on this enthusiastic concept of justice. With easily accessible laws and regulations, we are legally held to the responsibility of knowing our society's laws. This allows for an equality of opportunity: if everyone is capable of knowing the laws and everyone is capable of following those laws, then, therefore, we are content to know that there will be consequences if a person chooses to break those laws. We assume that those individuals who break the laws do so consciously and with disregard for the fact that they are violating the basic principle of "fairness" instilled within us at such a young age. We desperately cling to the idea that the "fairness" of the situation is what allows our criminal justice system to apply punishments deserving of the crime committed; if we don't believe that person "deserved" what happened, we would protest (Lorca, 2016). We always assume the consequences are in proportion to the crime. This proportionality satisfies our desire for justice, and due to the "Just-World Hypothesis" we are absolutely eager for those who have committed said crime to be appropriately punished. Unfortunately, this notion of deserved justice becomes a problem when discussing the phenomenon of sentencing disparity.

Sentencing disparity, as it is defined in the book *Courts, Law, and Justice* by authors

Christine Martin and William Chambliss, argues that "a definition of disparity is that it is a difference in treatment or outcome that does not necessarily involve discrimination" (Martin & Chambliss, 2011, p. 231). Essentially, this states that disparity occurs among similarly situated offenders. When the phrase "similarly situated" is used here, it is simply to describe the phenomenon of when a person convicted of an offense happens to be found in the same, or similar, circumstances as another individual who also committed the same type of offense. Sentencing disparity, while possibly a legal issue, is also an ethical problem plaguing the criminal justice system. While it is possible to understand that the criminal justice system is operated by humans and therefore it would be reasonable to assume some sort of discrepancy, the issue of sentencing disparity goes beyond what would be considered reasonable human error. Instead, the onset of disparity among sentences given to similarly situated offenders has been repeatedly shown to have been influenced by factors outside of what would be considered legally reasonable; i.e. race/ethnicity, age, marital status, education level, gender, etc. These factors are often called "extralegal" and are outside of the scope of evidence a judge would legally consider during sentencing. This presents an obvious ethical problem.

When we see that an offender received a sentence greater than that of another offender who committed a similar offense, we can assume that the disparity is due to offense severity, the presence of a record of prior offenses, or some other legally important factor that would rationally increase the length or severity of the sentence. However, when considering two identically situated offenses, the only factors that might differ between the two offenses are extralegal. These factors might include facets of the individual's personal demographics, such as gender, education level, marital status, whether or not they have children, the type of clothing that was worn during the crime, etc. While these factors should not play a role in the sentencing

for an offender, in situations wherein a judge might be responsible for determining specific sentencing, those extralegal factors could shape the manner by which the punitive, legal consequences ultimately decided. This violates our basic, ingrained tenet of justice.

When determining whether an offender should receive a particular sentence, the presence of extralegal factors is often credited with influencing the decision. Those extralegal factors could even be biasing the judge at the unconscious level, allowing sentencing disparity to occur. In cases of minor offenses, this could theoretically be seen as a relative nonissue. However, when considering more serious cases, it would be of great concern to see that, for example, two rapists receiving different sentences because one of them was Caucasian and one was African American. This, again, offends our innate sense of justice. We are not comfortable with the idea that ethnicity could play such an important role within our criminal justice system. Instead, we prefer to believe that people are treated equally. This is, unfortunately, not the case.

As has been shown repeatedly in various research, the presence of extralegal factors affects sentencing disparity (Reitler, Sullivan & Frank, 2013). This creates doubt around the efficacy of the criminal justice system, and that creates distrust within the system. When further comparing severity of crimes and sentencing, it is interesting to see that not all similarly situated offenders receive the same sentence. It is necessary to look specifically at which types of extralegal factors are leading to the greatest disparity, in order to protect our notion of equality and specifically that important notion of equality of opportunity. In order to do this, it is necessary to identify the types of extralegal factors that are influencing specific categories of crimes and then compare those categories to determine if the same types of factors are creating the possibility for disparity amongst all types of crime. Utilizing data gathered from Northeast Ohio jurisdictions on 238 felony offenses by Judge Brendan Sheehan and presented in the

Cleveland State Law Review, this thesis will focus on the possibility of the presence of the influence of extralegal factors on sentencing of offenders convicted of sexually oriented crimes against juveniles, specifically in regard to possession, distribution, and manufacture of child pornography, and the molestation of children. If found that there are specific extralegal factors that influence sentencing disparity significantly with these types of crime, it might then be possible to utilize these data in order to create a profile of a typical offender convicted of such an offense. This could theoretically then allow for greater efficacy of programs designed to reduce recidivism with this specific type of crime, and could therefore also provide correctional agents more information on how to administer programs in order to work with these types of offenders. While, as a society, we are not overly concerned with how sexual offenders and child predators are treated by the criminal justice system, and definitely unconcerned with whether those same individuals are treated justly, this could be an area of interest if a person convicted of this type of crime is given a much lighter sentence than what our sensibilities would determine reasonable. As has been shown for other types of crime, extralegal factors can influence sentencing disparity in both directions, so it would be reasonable to assume that this is the case as well for this category of offenses.

Literature Review

While there has been much more research conducted on sexually oriented crimes against juveniles in recent years, the trend is for child pornography offenses to be often looked at as a singular crime, rather than separating out the varied related offenses based on statutory severity. There has been even less research on those offenses when combined with actual contact offenses that occur in relation to children, such as molestation. Essentially, most research completed is focused on the offense as a whole: grouping together possession, distribution, and production as though they are all the same type of crime. This treatment of separate offenses as one singular type of crime lacks the necessary nuance to understand the situational uniqueness of an offender possibly solely convicted of charges regarding child pornography without any additional contact sexual offenses with a child. This treatment of child pornography related crimes continues to be even more ridiculous when not sufficiently separated from contact sexual offenses due to the fact that numerous research contends that the likelihood of a person convicted of any crime related to child pornography will never go on to commit a contact sexual offense with a juvenile (Babchishin, Hanson, & VanZuylen, 2015).

What this means relative to sentencing disparity, is that there is a gap in the research that could determine whether the extralegal factors which influence sentencing in a contact sexual offense of a child are the same factors which influence sentencing in a non-contact sexually oriented crime against a juvenile. The research available suggests that the most important extralegal factor that could possibly influence sentencing disparity in any type of crime is race/ethnicity (Spohn, Beichner, & Davis-Frenzel, 2001). However, when considering a group of offenders that primarily consists of one specific ethnicity (such as the data that is being utilized in this study) that specific factor is no longer relevant. Instead, it becomes possible that the

greater influence in disparity lies with factors such as marital status, education level, age, etc. These types of factors have the potential to provide insight into the sentencing disparity that is occurring within the criminal justice system.

Justice: Why is it Important?

As stated in the Introduction, the concept of justice that we cling to within our society is wholly responsible for the nature of our contemporary criminal justice system. This system completely relies on this concept of fairness of equality of opportunity for all. Psychologically this makes sense: when someone has a wrong done to them, they expect that they will be restored for the wrong that has occurred. This type of expectation relies on the psychology that supports the various theories of punishment, or justice, and that serve as the foundation for the practice of criminal justice (Lorca, 2016). Of these theories that additionally include deterrence, incapacitation, restoration, and rehabilitation, retribution is considered to be the main driving influence of our criminal justice system (Wenzel, Okimoto, Feather, & Platow, 2016). Retributive justice, as is necessarily the most important concept here, is briefly defined as "the repair of justice through unilateral imposition of punishment" and is concerned with the nature of power between those who caused the wrongdoing and those who suffered from said wrongdoing (Wenzel, Okimoto, Feather, & Platow, 2016). In stark contrast to those theories concerning restoration and rehabilitation, retribution relies completely on the ability of the victim to gain power back from the perpetrator.

When the notion of retributive justice is harmed, it is easy to see that the fabric of our criminal justice system is unwoven; while the previously mentioned theories of punishment are extremely valid, they often fail to take our societal penchant for organized penance into account. Therefore, we crave that type of retributive sentencing and eagerly await the karmic punishment

of those who have harmed us or our sensibilities (Wenzel, Okimoto, Feather, & Platow, 2016). However, given the opportunity for disparity amongst those who would ultimately be considered equally deserving as offenders, the strict sense of earned justice is shaken. Without the necessary inducement toward specific punishment, the act of justice within itself is considered ineffective and useless. Even outside of the innate craving we feel to see those who have committed a crime be punished, the very act of retributive justice as an earned punishment is the glue upon which the entire sentencing system within criminal justice is based (Yaffe, 2016).

Sentencing Disparity

If a suspected offender of any crime is proven beyond a reasonable doubt to have committed the crime, it is easy to allow that person to serve the agreed upon punishment. In fact, it is encouraged by the public that the person be subjected to the type of retributive justice mentioned above. However, when the convicted offender is being sentenced based upon characteristics outside of those which we consider to be legally relevant, a problem arises. Sentencing disparity, understood here as "the differences in average nominal prison sentence lengths" has become a hot-button issue within the criminal justice system over the past decade and when it occurs it violates our sense of earned retributive punishment (Anderson, Kling, & Stith, 1999, p. 271). Although the influx of federally mandated prison sentencing guidelines were established to deter judges from administering sentences that are blatantly a product of extralegal factors, there are still those within the system are who suffering from this type of discrimination. Easily violating our societal notion of justice, this abuse of power and prejudice has become, unfortunately, ubiquitous (Scott, 2010).

Sexually Oriented Crimes against Adults and Sentencing Disparity

Although the data in use here specifically addresses sentencing disparities in crimes committed that involve juveniles, it is useful to examine how sentencing disparity has also been present within other crimes. While there are obvious differences between crimes oriented against juveniles and those crimes oriented against adults, when considering crimes of a sexual nature, it would be prudent to address the similarities present when considering various extralegal factors in this category of crime. Factors such as race, class, and gender have been shown to consistently have an impact on the sentencing lengths of those convicted, and it is reasonable to assume that there would be similar patterns surrounding various other types of extralegal factors in other sexually oriented crimes (Frohmann, 1997).

In addition to the presence of extralegal factors influencing sentence length and causing significant sentencing disparity, it is possible as well that crimes involving a victim of sexually deviant behavior are also discriminated against more thoroughly. Often prosecutors are hesitant to be involved with sexually oriented crimes against adults due to the same extralegal factors creating uncertainty in a case that have also been shown to influence sentencing disparity (Holleran, Beichner, & Spohn, 2008). While various policies such as rape shield laws have been put into place since the latter part of the twentieth century, sometimes prosecutors have been shown to treat cases differently based on the presence of extralegal factors that could theoretically complicate said cases and their chances of gaining a conviction (Spohn, Beichner, & Davis-Frenzel, 2001). Essentially, with the presence of extralegal factors continuing to make an impact upon this category of crime against adults, it would be reasonable to assume that similar types of extralegal factors could be influencing sentencing disparity among those convicted of sexually oriented crimes against juveniles.

Child Pornography

Along with our societal notions of retributive justice and harm, it is believed that the act of producing, distributing, or possessing child pornography damages the victim as well as offends our sensibilities. Although this type of crime can be extremely complex, the way in which we sentence offenders when they have committed crimes relating to this type of offense is somewhat unequal. However, it has been shown that those who have been convicted of child pornography are still unlikely to commit a contact sexual offense with a child (Clevenger, Navarro, & Jasinski, 2014). This is interesting as it follows in direct contrast to what we often believe is the logical next step if such an offender is allowed to continue offending. Nonetheless, the data suggests that those convicted of possession and distribution of child pornography are unlikely to graduate toward more extreme contact sexual offenses (Seto, Reeves, & Jung, 2010).

Ultimately, when we combine our sincere appreciation for retributive justice and the need for predators and sexual offenders who commit crimes such as these to receive their deserved punishment, the concept of sentencing disparity in these situations could possibly become alarming. Why would anyone feel comfortable with the idea that an offender convicted of possession of child pornography could be sentenced to time in prison, while another identically situated offender be simultaneously given a lesser sentence of probation and community service? Or alternatively, what if the appropriate sentence is probation and an offender is sentenced to serve time in prison instead? Due to the fact that this category of crimes is not only considered to be harmful, but heinous based on the involvement of children, it is unsettling to consider the possibility that the presence of extralegal factors could allow for an offender to walk away without serving an appropriate sentence.

Recidivism

The entire goal of the criminal justice system is to allow for those convicted to be rehabilitated and eventually rejoin society. Therefore, it would be prudent to suggest that the goal of determining whether there are extralegal factors causing significant disparity in sentencing are influencing the recidivism rates of this crime. Recidivism, here being understood as the likelihood that a convicted offender will reoffend, is an important measurement of whether those specific extralegal factors might affect sentencing (Budd & Desmond, 2013). If it is at all possible that there are extralegal factors that are contributing significantly to the disparity among similarly situated offenders, it could be possible to create a working profile of this type of offender. Creating a profile could then be useful in helping to prevent recidivism through the use of targeted programming (Schweitzer, Labrecque, & Smith, 2015). Recidivism is an important measure for determining the efficacy of our criminal justice system at rehabilitating those convicted of crime. The data in this study could ultimately help to reduce recidivism rates through the aforementioned procedures if it is shown that there is significant influence on sentencing lengths from various extralegal factors.

Hypotheses

Based on research presented within the *Sexually Oriented Crimes against Adults and Sentencing Disparity* section of the literature review, it is hypothesized that the extralegal factors of age and race will affect the length of sentencing and jail time served (Spohn, Beichner, & Davis-Frenzel, 2001). It is further hypothesized that additional extralegal factors such as level of education and marital status will also affect the length in sentencing and jail time served. For the purposes of this study jail time served is separated from sentence length here as the number of days in jail reflects the time served before charging and the sentence length reflects the time served after charging.

Specific hypotheses:

Jail Time Served

H1. Age at time of arrest will be negatively associated with amount of jail time served.

H2. Minority races, such as African American and Hispanic, will serve longer jail times than will non-minority offenders.

H3. Increases in education level will be associated with shorter jail time.

H4. Married offenders will serve shorter jail time.

Sentence Length

H5. Age at time of arrest will be negatively associated with sentencing length.

H6. Minority races, such as African American and Hispanic, will receive longer sentences than will Caucasian offenders.

H7. Increases in education level will be associated with shorter sentences.

H8. Married offenders will receive shorter sentences.

Methodology

  The data for this study came from jurisdictions in Northeast Ohio on 238 felony offenses concerning violent internet crimes against children that occurred between 2008 and 2012. These data were gathered by Judge Brendan Sheehan, with assistance provided by Dr. Matthew C. Leone and Lindsay Raskin (Sheehan, 2015). Through the use of Pre-Sentence Investigation Reports, data were gathered concerning demographic information about the group of offenders who had committed these specific felony offenses. As defined in the *Encyclopedia of Community Corrections,* pre-sentence investigation reports are documents prepared by probation officers that give detailed information regarding the offender's history and assist judges in decisions concerning criminal sentencing (Barton-Bellessa, 2012). The data gathered on the offenders provided information detailing gender, age at the time of arrest, race/ethnicity, education level, employment status, marital status, drug and/or alcohol abuse, presence of a prior criminal record, the state in which the offender lived at the time the crime was committed, and the percentage of those required to register with the National Sex Offender Registry. Additionally, the data provided information concerning the presence or lack of a pre-trial plea agreement, the average number of months of incarceration/probation/jail time served, the judges who reviewed each offender's case, and the prosecutors that worked on each offender's case. The majority of the data gathered came from the Ohio Internet Crimes against Children Taskforce and affiliate organizations. While the data gathered here is only concerning public information regarding offender charges, sentence type, and other similar characteristics, the data gathered for the original study also explained where the pornographic material was found (via multiple technological formats such as CDs, DVDs, computer hard drives, VHS tapes, etc.).

For the purposes of this study, the data set was reduced to roughly 93 cases from the original 238. This was due to the specific interest in data that were fully completed and specifically dealt with sexually oriented crimes against juveniles—some of the other data involved crimes such as enticement or obscenity. By imposing these restrictions the dataset was reduced to 93 cases which more accurately represented the types of crimes for which the extralegal factors and the above hypotheses are related. After reviewing the extralegal factors that have been influential in other sexual assault cases (such as age and race) the hypotheses were formed. The results were obtained using Pearson's Chi-Square, Correlations, and Linear Regression Models run through the use of the statistical program SPSS.

Results

Demographic Data

The dataset consists of 93 individual felony cases concerning pornographic internet crimes against children from October 17, 2008- April 11, 2012. Of those 93 cases, 97.85% were male offenders and 2.15% were female offenders. The offenders ranged in age from 18 to 71, with an average age of 36 at the time of referral. Of those who responded, 79.6% were Caucasian, 14.0% Black, 2.1% Hispanic, and 1.1% were Asian. Of those who responded, 61.3% an incomplete high school or complete high school education while 32.3% had some college or complete college education with the possible addition of graduate school. Additionally, 49.5% of offenders were employed full time at the time of arrest, while 48.4% were not employed, and roughly 21.5% of offenders were married. Within this group of offenders, 33.3% admitted to drug abuse and 34.4% admitted to alcohol abuse. Additionally, the data indicates that 60.2% of the offenders had a criminal record prior to this arrest, with 17.2% already on probation or parole concurrent with the time of arrest. Lastly, the data indicates that 36.6% of these offenders lived in a separate state from their victims, while 1.1% lived in a separate country and 93.5% of offenders lived in Ohio, while 6.5% lived in another state. Sentencing began on June 12, 2009 and continued until January 28, 2013 with 92.5% of offenders required to register on the National Sex Offender Registry.

Table 1

Referring Agency		
	Frequency	Percent
Bay Village PD	2	2.2
Bedford PD	1	1.1
Cleveland PD	6	6.5
Cuyahoga County SO	1	1.1
Euclid PD	2	2.2
Independence PD	1	1.1
Ohio ICAC	76	81.7
Parma PD	3	3.2
Warrensville Heights	1	1.1
Total	93	100.0

Of the agencies who provided the Pre-Sentence Investigation Reports that contained all of this

data, 81.7% was provided by the Ohio Internet Crimes against Children Taskforce. All agencies

provided data from Northeast Ohio jurisdictions. Only 6.5% of offenders in this data set were

repeat referrals.

Table 2

First Count Felony Charged		
	Frequency	Percent
Not Relevant (NR)	1	1.1
Child Abuse/Neglect - Non Sexual	1	1.1
Child Sexual Assault/Molestation/Abuse	6	6.5
CP - Distribution	72	77.4
CP - Manufacturing	2	2.2
CP - Possession	11	11.8
Total	93	100.0

All 93 offenders were ultimately charged. Of the charges received, 100% of the offenders were charged with multiple counts of different crimes. The vast majority, 77.4%, were charged with Distribution of Child Pornography. This table reflects the breakdown first charge that was received by the offenders.

Table 3

Second Count Felony Charged		
	Frequency	Percent
Not Relevant (NR)	11	11.8
Child Abuse/Neglect - Non Sexual	1	1.1
CP - Distribution	3	3.2
CP - Possession	74	79.6
Enticement	1	1.1
Traveler	3	3.2
Total	93	100.0

Of the offenders suspected of a second felony, 88.2% were charged. In this case, 79.6% of the offenders charged with a second felony were also charged with Possession of Child Pornography, and 86% of offenders were charged with multiple counts of a second felony.

Table 4

Third Count Felony Charged		
	Frequency	Percent
Not Relevant(NR)	89	95.7
Child Abuse/Neglect - Non Sexual	2	2.2
CP - Possession	1	1.1
Enticement	1	1.1
Total	93	100.0

Lastly, only 4.3% of offenders in these data were charged with a third felony, and only 1.1% of

offenders were charged with multiple counts of a third felony.

Of those who were charged, 96.8% reached a pre-trial plea agreement, which led to the incarceration of 66.7% of the 93 offenders. The average length of incarceration was 67.5 months, or 5.625 years, with the incarceration sentence ranging from 1 month to 336 months. Probation was ordered in roughly 34.4% of offender's cases with the average length of time being roughly 37.7 months, or 3.14 years. The length of ordered probation ranged from 6 months to 60 months. Of the judges who ultimately determined the above sentences, Judge Mason, Judge Gallagher, and Judge Sheehan saw the relatively more of these offender's cases—while most judges only reviewed 1 or 2 cases, Judge Mason reviewed 7 cases, Judge Gallagher reviewed 6 cases, and Judge Sheehan also reviewed 6 cases. Additionally, ten prosecutors argued on behalf of the state in these proceedings, with Prosecutor Canonico arguing more than 50% of all cases here seen. Ultimately, the mean number of days spent in jail by an offender was 18 with a range of 0 days to 250 days, which does suggest an outlier present within the data.

The analyses performed that focus on sentence length (H5-H8) are separated into months of incarceration and months of probation due to the fact that within this dataset incarceration and probation are mutually exclusive. This would suggest that a sentence with more months of probation would be preferable to a sentence with any number of months of incarceration in prison. Additionally, not all hypotheses with nominal data are appropriate to analyze using correlational analysis. Therefore, only H1, H3, H5, and H7 will be analyzed using correlational analysis.

Correlational Analysis by Hypothesis

H1. Age at time of arrest will be negatively associated with amount of jail time served.

Table 5: Correlational Analysis Jail Time by Age

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	-.023	.093	-.216	.829[c]
Ordinal by Ordinal	Spearman Correlation	-.111	.102	-1.038	.302[c]
N of Valid Cases		89			

In this analysis, it is clear that there is no significant correlation between the variables of jail time and age. However, it is suggested that there is a very slight negative, if insignificant, correlation between the variables with the value of -.023. This negative correlation would mean that as age increases, jail time decreases.

H3. Increases in education level will be associated with shorter jail time.

Table 6: Correlational Analysis Jail Time by Education

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	-.075	.078	-.684	.496[c]
Ordinal by Ordinal	Spearman Correlation	-.076	.122	-.688	.494[c]
N of Valid Cases		84			

In this analysis, it can be seen that there is no significant correlation between the variables of jail time and level of education. However, it is suggested that there is a negative, if insignificant, correlation between the variables presented here with a value of -.075. This negative correlation would suggest that as an offender's level of education increases, the number of days served in jail decreases.

H5. Age at time of arrest will be negatively associated with sentencing length.

Table 7: Correlational Analysis Months of Incarceration by Age

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	.113	.148	.891	.377[c]
Ordinal by Ordinal	Spearman Correlation	.072	.125	.560	.578[c]
N of Valid Cases		63			

In this analysis, it is clear that there is no significant correlation between the variables of number of months of incarceration and age. However, it is suggested that there is a positive, if insignificant, correlation between the variables presented here with a value of .113. This positive correlation would suggest that as an offender's age rises, so does the number of months of incarceration.

Table 8: Correlational Analysis Months of Probation by Age

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	-.281	.168	-1.606	.119[c]
Ordinal by Ordinal	Spearman Correlation	-.333	.163	-1.937	.062[c]
N of Valid Cases		32			

In this analysis, it can be seen that there is no significant correlation between the variables of number of months of probation and age. However, it is suggested that there is a negative, if insignificant, correlation between the variables presented here with a value of -.281. This negative correlation would suggest that as an offender's age rises, the months of probation sentenced decreases.

H7. Increases in education level will be associated with shorter sentences.

Table 9: Correlational Analysis Months of Incarceration by Education

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	.165	.147	1.238	.221[c]
Ordinal by Ordinal	Spearman Correlation	.102	.139	.761	.450[c]
N of Valid Cases		57			

In this analysis, it is clear that there is no significant correlation between the variables of number

of months of incarceration and level of education. However, it is suggested that there is a

positive, if insignificant, correlation between the variables presented here with a value of .165.

This positive correlation would suggest that as an offender's level of education rises, so does the

number of months that s/he is sentenced to be incarcerated.

Table 10: Correlational Analysis Months of Probation by Education

Symmetric Measures		Value	Asymptotic Standardized Error[a]	Approximate T[b]	Approximate Significance
Interval by Interval	Pearson's R	.331	.134	1.888	.069[c]
Ordinal by Ordinal	Spearman Correlation	.299	.159	1.686	.102[c]
N of Valid Cases		31			

In this analysis, it can be seen that there is no significant correlation between the variables of

number of months of probation and level of education. However, it is suggested that there is a

positive, if insignificant, correlation between the variables presented here with a value of .331.

This positive correlation would suggest that as an offender's level of education rises, so does the

number of months that s/he is sentenced to be on probation.

Chi-Square Analysis by Hypothesis

H1. Age at time of arrest will be negatively associated with amount of jail time served.

Table 11: Chi-Square Analysis Jail Time by Age

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	63.241[a]	63	.468
Likelihood Ratio	62.585	63	.491
Linear-by-Linear Association	.047	1	.828
N of Valid Cases	89		

In this analysis, it is clear that there is no significant statistical relationship between the variables jail time and age. The value presented here is .468. Therefore, there is no reason to believe that the amount of jail time served is affected by the age of the offender.

H2. Minority races, such as African American and Hispanic, will serve longer jail times than will Caucasian offenders.

Table 12: Chi-Square Analysis Jail Time by Race

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	21.012[a]	21	.458
Likelihood Ratio	21.958	21	.402
Linear-by-Linear Association	.524	1	.469
N of Valid Cases	89		

In this analysis, it can be seen that there is no significant statistical relationship between the variables jail time and race. The value presented here is .458. Therefore, there is no reason to believe that the amount of jail time served is affected by the race of the offender.

H3. Increases in education level will be associated with shorter jail time.

Table 13: Chi-Square Analysis Jail Time by Education

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	98.005[a]	76	.046
Likelihood Ratio	71.448	76	.626
Linear-by-Linear Association	.471	1	.493
N of Valid Cases	84		

In this analysis, Pearson's Chi-Square suggests a significant statistical relationship between the

variables jail time and education. The value presented here is .046—statistically significant.

Therefore, there is reason to believe that the amount of jail time served is affected by an

offender's level of education.

H4. Married offenders will serve shorter jail time.

Table 14: Chi-Square Analysis Jail Time by Marital Status

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	15.377[a]	21	.804
Likelihood Ratio	17.429	21	.685
Linear-by-Linear Association	2.484	1	.115
N of Valid Cases	89		

In this analysis, it is clear that there is no significant statistical relationship between the variables

jail time and marital status. The value presented here is .804. Therefore, there is no reason to

believe that the amount of jail time served is affected by the presence or lack of a marital

relationship.

H5. Age at time of arrest will be negatively associated with sentencing length.

Table 15: Chi-Square Analysis Months of Incarceration by Age

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	525.498[a]	558	.835
Likelihood Ratio	220.718	558	1.000
Linear-by-Linear Association	.796	1	.372
N of Valid Cases	63		

In this analysis, it can be seen that there is no significant statistical relationship between the

variables number of months of incarceration and age. The value presented here is .835.

Therefore, there is no reason to believe that the amount of time sentenced to be incarcerated is

affected by the age of the offender.

Table 16: Chi-Square Analysis Months of Probation by Age

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	115.556[a]	110	.340
Likelihood Ratio	71.612	110	.998
Linear-by-Linear Association	2.454	1	.117
N of Valid Cases	32		

In this analysis, it is clear that there is no significant statistical relationship between the variables

number of months of probation and age. The value presented here is .340. Therefore, there is no

reason to believe that the amount of time sentenced to be on probation is affected by the age of

the offender.

H6. Minority races, such as African American and Hispanic, will receive longer sentences than will Caucasian offenders.

Table 17: Chi-Square Analysis Months of Incarceration by Race

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	11.974[a]	18	.849
Likelihood Ratio	14.723	18	.681
Linear-by-Linear Association	3.117	1	.077
N of Valid Cases	63		

In this analysis, it can be seen that there is no significant statistical relationship between the variables number of months of incarceration and race within this sample. The value presented here is .849. Therefore, there is no reason to believe that the amount of time sentenced to be incarcerated is affected by the offender's race.

Table 18: Chi-Square Analysis Months of Probation by Race

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	7.202[a]	5	.206
Likelihood Ratio	8.985	5	.110
Linear-by-Linear Association	2.461	1	.117
N of Valid Cases	32		

In this analysis, it is clear that there is no significant statistical relationship between the variables number of months of probation and race within this sample. The value presented here is .206. Therefore, there is no reason to believe that the amount of time sentenced to be on probation is affected by the offender's race.

H7. Increases in education level will be associated with shorter sentences.

Table 19: Chi-Square Analysis Months of Incarceration by Education

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	75.154[a]	68	.258
Likelihood Ratio	63.463	68	.633
Linear-by-Linear Association	1.519	1	.218
N of Valid Cases	57		

In this analysis, it can be seen that there is no significant statistical relationship between the

variables number of months of incarceration and level of education. The value presented here is

.258. Therefore, there is no reason to believe that the amount of time sentenced to be

incarcerated is affected by the level of education of the offender.

Table 20: Chi-Square Analysis Months of Probation by Education

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	25.240[a]	20	.192
Likelihood Ratio	17.340	20	.631
Linear-by-Linear Association	3.283	1	.070
N of Valid Cases	31		

In this analysis, it is clear that there is no significant statistical relationship between the variables

number of months of probation and level of education. The value presented here is .192.

Therefore, there is no reason to believe that the amount of time sentenced to be on probation is

affected by the level of education of the offender.

H8. Married offenders will receive shorter sentences.

Table 21: Chi-Square Analysis Months of Incarceration by Marital Status

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	24.756[a]	18	.132
Likelihood Ratio	27.194	18	.075
Linear-by-Linear Association	.511	1	.475
N of Valid Cases	63		

In this analysis, it can be seen that there is no significant statistical relationship between the

variables number of months of incarceration and marital status. The value presented here is .132.

Therefore, there is no reason to believe that the amount of time sentenced to be incarcerated is

affected by the offender's marital status.

Table 22: Chi-Square Analysis Months of Probation by Marital Status

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	3.556[a]	5	.615
Likelihood Ratio	3.247	5	.662
Linear-by-Linear Association	.075	1	.785
N of Valid Cases	32		

In this analysis, it is clear that there is no significant statistical relationship between the variables

number of months of probation and marital status. The value presented here is .615. Therefore,

there is no reason to believe that the amount of time sentenced to be on probation is affected by

the marital status of the offender.

Multivariate Regression Analysis by Hypothesis Category

H1-H4: Jail Time by Age, Race, Education, and Marital Status

Table 23: Regression Correlations Jail Time

Correlations		Jail Days
Pearson Correlation	Jail Days	1.000
	Education	-.075
	Race	.071
	Married	-.169
	Age at time of referral	-.006
Sig. (1-tailed)	Jail Days	
	Education	.248
	Race	.260
	Married	.062
	Age at time of referral	.479

Table 24: Regression ANOVA Jail Time

ANOVA[a]						
Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	8380.731	4	2095.183	.892	.473[b]
	Residual	185590.221	79	2349.243		
	Total	193970.952	83			

Table 25: Regression Coefficients Jail Time

Coefficients[a]		Unstandardized Coefficients		Standardized Coefficients		
Model		B	Std. Error	Beta	t	Sig.
1	(Constant)	9.753	22.829		.427	.670
	Education	-1.990	5.358	-.042	-.371	.711
	Race	10.206	13.627	.083	.749	.456
	Married	-24.498	14.731	-.205	-1.663	.100
	Age at time of referral	.278	.416	.081	.669	.505

Concerning the above multivariate analyses, it is clear that there is no significant relationship

present between jail time and the variables concerning the offender's age at the time of referral,

race, level of education, and marital status. This is shown when considering the ANOVA value

of significance that is .473 in Table 24. However, when looking at Table 23, it is interesting to note that the relationship between jail time and marital status is approaching significance with a value of .062. Ultimately, the Unstandardized Beta Coefficients in Table 25 suggest that the trends for level of education compared to amount of jail time served and the presence of a marital relationship as compared to jail time served match the hypotheses predictions.

H5-H8: Months of Incarceration by Age, Race, Education, and Marital Status

Table 26: Regression Correlations Months of Incarceration

	Correlations	
		Incarceration
Pearson Correlation	# Of Months	1.000
	Education	.165
	Race	.195
	Married	.131
	Age at time of referral	.107
Sig. (1-tailed)	# Of Months	
	Education	.110
	Race	.073
	Married	.166
	Age at time of referral	.215

Table 27: Regression ANOVA Months of Incarceration

		ANOVA[a]				
Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	20784.150	4	5196.037	1.093	.370[b]
	Residual	247260.833	52	4755.016		
	Total	268044.982	56			

Table 28: Regression Coefficients Months of Incarceration

		Coefficients^a				
		Unstandardized Coefficients		Standardized Coefficients		
Model		B	Std. Error	Beta	t	Sig.
1	(Constant)	3.828	41.057		.093	.926
	Education	11.120	8.962	.172	1.241	.220
	Race	33.073	22.803	.197	1.450	.153
	Married	5.375	27.936	.031	.192	.848
	Age at time of referral	.328	.785	.065	.418	.677

Concerning the above multivariate analyses, it is clear that there is no significant relationship

present between the number of months of incarceration and variables concerning the offender's

age, race, level of education, and marital status. This is shown when considering the ANOVA

value of significance in Table 27 that is .370. Ultimately, the Unstandardized Beta Coefficients

in Table 28 suggest that the trends for hypotheses predictions were not matched.

H5-H8: Months of Probation by Age, Race, Education, and Marital Status

Table 29: Regression Correlations Months of Probation

Correlations		
		Probation
Pearson Correlation	# Of Months Probation	1.000
	Education	.331
	Race	.296
	Married	-.051
	Age at time of referral	-.281
Sig. (1-tailed)	# Of Months Probation	
	Education	.035
	Race	.053
	Married	.393
	Age at time of referral	.063

Table 30: Regression ANOVA Months of Probation

ANOVA[a]						
Model		Sum of Squares	df	Mean Square	F	Sig.
1	Regression	2371.739	4	592.935	2.426	.073[b]
	Residual	6354.197	26	244.392		
	Total	8725.935	30			

Table 31: Regression Coefficients Months of Probation

Coefficients[a]						
		Unstandardized Coefficients		Standardized Coefficients		
Model		B	Std. Error	Beta	t	Sig.
1	(Constant)	25.376	12.502		2.030	.053
	Education	6.979	3.163	.377	2.206	.036
	Race	10.393	7.862	.228	1.322	.198
	Married	-2.278	7.296	-.054	-.312	.757
	Age at time of referral	-.329	.212	-.274	-1.549	.133

Table 32: Regression Coefficients Months of Probation W/O Age

Coefficients[a]						
		Unstandardized Coefficients		Standardized Coefficients		
Model		B	Std. Error	Beta	t	Sig.
1	(Constant)	13.307	10.027		1.327	.196
	Education	6.335	3.216	.342	1.970	.059
	Race	13.296	7.830	.291	1.698	.101
	Married	-4.225	7.371	-.100	-.573	.571

The last set of multivariate analyses is interesting, as it suggests a significant statistical

relationship between the level of education and the number of months of probation, as well as a

significant relationship between race and the number of months of probation. It also suggests that

the relationship between age and number of months of probation may be approaching

significance. These values are found in Table 29 with the education relationship value being

.035, the race relationship value being .053, and the age value being .063. When considering that

the variable of race within this sample is inherently flawed due to underrepresentation of

minority groups, the relationship shown here is not very relevant. However, considering the

significant relationship present between level of education and probation, it would suggest that

the greater level of education an offender has, could mean that they serve more probation than those offenders with lower levels of education. Upon removing age as a variable and rerunning the multivariate analyses, it was interesting to see that some of the variability in the education variable was based on the effect of the age variable. When removing the age variable, the significance of the relationship between level of education and number of months of probation dropped from .036 to .059 as can be seen in Table 31 and Table 32. Therefore, it would seem that the impact in the relationship concerning education was influenced by the age variable. Ultimately, the Unstandardized Beta Coefficients in Table 31 suggests that the trend for marital status as compared to months of probation and age as compared to months of probation match the hypotheses predictions.

Summary Statistics Table

Table 33: Summary Statistics Table

Summary Statistics Table		
Hypothesis	Analysis	Conclusion
H1 (Jail x Age)	Insignificant but trending in the right direction	Partially supported
H2 (Jail x Race)	Insignificant	Not supported
H3 (Jail x Education)	Significant*	Supported
H4 (Jail x Marital Status)	Approaching significance	Partially supported
H5 (Incarceration x Age)	Insignificant	Not supported
H6 (Incarceration x Race)	Insignificant	Not supported
H7 (Incarceration x Education)	Insignificant	Not supported
H8 (Incarceration x Marital Status)	Insignificant	Not supported
H5 (Probation x Age)	Approaching significance	Partially supported
H6 (Probation x Race)	Insignificant	Not supported
H7 (Probation x Education)	Significant**	Supported
H8 (Probation x Marital Status)	Insignificant but trending in the right direction	Partially supported

This table shows which hypotheses were supported or partially supported based on the reasoning

presented in the above results discussion. The results are additionally discussed in the following

Discussion and Limitations section.

*This relationship was the only significant relationship found through the use of Chi-Square
Analysis (See Table 13).
**This relationship was found to be significant through the use of Multivariate Regression
Analysis (See Table 29, Table 30, Table 31, and Table 32).

Discussion and Limitations

This study examined the impact of age, race, level of education, and marital status as extralegal factors on the length of time served within the justice system, splitting the tests between that time served before sentencing and that time served post sentencing. The study focused on data gathered by Judge Brendan Sheehan and published in the Cleveland State Law Review originally in 2015. The study utilized data gathered from October 2008 to November 2012 on violent internet crimes against children. Through the use of Correlation analysis, Chi-Square analysis, and Multivariate Regression analysis, it was interesting to find correlations existing between level of education and time served in jail, as well as level of education and number of months spent in probation. Although these correlations were found within the data, none of the relationships were significant upon multivariate regression testing.

While the relationships tested within this study were not significant, it is worth noting that there was an insignificant, but negative correlation between age and amount of jail time served (Table 5), and an insignificant, but negative correlation between level of education and amount of jail time served (Table 6). These insignificant correlations are important as the trends show that they match the hypotheses presented directly following the literature review. Additionally, Table 8 suggests an insignificant but negative correlation between age and number of months sentenced to be on probation as well. Ultimately, the only significant relationship found within the Chi-Square analysis was between level of education and number of days spent in jail (Table 13). When combined with the negative correlation found in Table 6, it would serve to suggest that the more education an offender has received, the fewer number of days they would spend in jail. However, while this relationship proved significant upon Chi-Square analysis, when examining this relationship through the lens of Multivariate Regression analysis,

the relationship proved to be insignificant (see Table 23 and Table 24). When considering the

relationships through the use of Multivariate Regression analysis, the only relationship that

seemed slightly significant, although highly influenced by age, was that found between number

of months of probation and level of education. In contrast to the negative correlative relationship

between level of education and jail time, Table 31 shows a positive correlative relationship that

would ultimately suggest that if an offender had a higher level of education, they could expect a

sentence that included a higher number of months of probation. This is supportive of the

hypothesis suggesting that an offender with a higher level of education would receive a shorter

sentence—the presence of a sentence of probation is a "lower" level sentence than receiving a

sentence of incarceration. Therefore, considering that in this study probation and incarceration

are mutually exclusive sentences, more probation is equivalent to less time in prison. Ultimately,

H1, H3, H4, H5, H7, and H8 were partially supported by the data through looking at correlative

trends and the use of Unstandardized Beta Coefficients.

Even as various correlative trends were found through the use of analysis, the study was

not without its limitations. Of these, the biggest limitation was the sample size used within the

data. Although the 93 cases allowed a glimpse into trends concerning data about offenders

convicted of various sexually-oriented internet crimes against children, it was not a large enough

sample size to allow for a smaller margin of error. In order to gain more objective perspective,

the sample size would need to be larger. The next limitation in this study deals with

underrepresentation of minority groups. Although there was representation of Black, Hispanic,

and Asian individuals, 79.6% were Caucasian, which skewed the dataset. Additionally, there was

underrepresentation of females within the study, as only 2 of the 93 cases concerned female

offenders. Furthermore, the use of repeated testing throughout this study allows for the

possibility of family-wise error within the data. And lastly, the use of secondary data in order to perform these analyses for the purposes of this study is a limitation. Whenever secondary data is used, it is impossible for the researchers to ask questions of the participants or understand the motive for including certain characteristics in the surveyed group. While the limitations present did influence the results of the data, the presence of partially supported hypotheses is ultimately useful for the purposes of this study.

Given that there was insignificance found within all of the analyses for this study, it would be useful in understanding a possibility as to the driving factors behind the sentencing disparity for these specific types of crime. Although it would be great to find a significant driving influence for one specific type of extralegal factor over another, this likely will not ever be the case for these crimes. This is due to the fact that, while researchers might find information concerning length of sentence, type of crime, race, age, gender, and even the number of images confiscated, it is impossible to know what is actually on the images confiscated by law enforcement at the time of arrest. Given the nature of possession, distribution, and manufacture of child pornography, each of these crimes comes attached with the ultimate possession of pornographic images of children. While the number of images is what researchers see in order to explain one distribution versus another, it is likely that the final decision regarding sentencing has to do with the content of the images. It is likely that images portraying a child under the age of five in a violent situation elicits a more disgusted and punitive response than images of a child of sixteen in a nonviolent but still pornographic situation ever would. This, outside of the other extralegal factors that may play a role in sentencing disparity, and is likely the reason for gaps in understanding concerning sentence length amongst similarly situated offenders.

Frankly, although we crave that earned justice from giving an offender a sentence for

which they deserved, it is likely impossible for us to know why that sentence was deserved without the missing piece of the sentencing puzzle: the content of the images. For this, it would seem highly appropriate that, in place of allowing child pornography possession, distribution, and manufacturing to be lumped into similar categories of offenses, only broken down into various degrees of felonies based on number of images, for these crimes to be stratified based on content of images, or ultimately severity of offense. If sexual assault crimes have begun to be stratified based on actual severity of the crime and not just the blatant fact that it occurred, it would be common sense to argue that sexually-oriented crimes against juveniles, especially those concerning violent internet crime, should also be stratified based on severity. Although this study ultimately did not find significance within relationships of extralegal factors to sentencing length, it did allow for the introduction of conversation surrounding more effective methods of sentencing for those offenders convicted of sexually-oriented crimes against juveniles, specifically in regards to violent internet crime.

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