JUDICIAL DISCRETION & SENTENCING OUTCOMES:

Incorporating Data from the Courtroom

ABSTRACT

Andrew Wiseman
Michael Connelly, Ph.D.

June 2008

WISCONSIN SENTENCING COMMISSION

Judicial Discretion and Sentencing Outcomes:
Incorporating Data from the Courtroom

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This report was prepared under a grant from the National Institute of Justice (Grant No. 2005-IJ-CX-0003). The opinions and perspectives in this report are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice or the Wisconsin Sentencing Commission.

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This research project was designed as a natural experiment to study the impact of various sentencing factors on judicial decisions in Wisconsin. Unlike other projects that have analyzed court case management records, this study examined detailed sentencing guidelines worksheets containing information on approximately 65 different elements related to case characteristics, offender characteristics, risk factors, and other related factors.

These worksheets were first introduced in Wisconsin in 2003 as part of Truth-In-Sentencing (TIS) legislation which replaced the State's conventional indeterminate sentencing system with a new determinate system that separated prison sentences into two parts: confinement and extended supervision. The goal of TIS was to promote absolute certainty in sentence length, which, by and large, it did. And while the new system brought about significant changes in Wisconsin sentencing practices, one thing remained virtually untouched – sentencing decisions continued to be highly discretionary. This is especially apparent with respect to sentencing guidelines worksheets.

Due to the voluntary nature of sentencing guidelines in Wisconsin, judges are neither required to follow the suggested guidelines nor submit completed worksheets. On average, only 20% of possible worksheets are submitted to the Sentencing Commission in a given year. A statistical review of the data revealed both similarities and differences between guidelines worksheet cases and guidelines non-worksheet cases. The most substantial findings were that the worksheet dataset overrepresented cases containing severe offenses that led to higher prison terms, as well as those that occurred in Milwaukee. Yet for the purpose of this study, these differences did not preclude the use of the data as they were all part of the experimental nature of the project.

To accomplish the proposed research, the study included two separate analyses: 1) sentencing factors and 2) conventional number preferences. The first analysis, sentencing factors, examined 2,745 sentencing guidelines worksheets submitted between February 2003 and September 2006. Using multivariate regressions – logit and Tobit models – the study measured the effects of individual sentencing factors on sentence types (logit) and sentence lengths (Tobit). Ultimately the study revealed that few, if any, factors consistently predicted sentencing outcomes. Instead, it showed that sentence types and lengths are highly dependant on the context of the case; not the particular offense, offender characteristics (race, age, and gender), or geographic location.

The second analysis, conventional number preferences, used 23,000 non–probation felony sentencing decisions extracted from the Office of State Courts' Consolidated Court Automation Programs (CCAP) system to examine the extent to which number preferences (i.e., a tendency among judges to consistently impose the same "standard" length) determined the distribution of prison and extended supervision sentence lengths. Findings from this analysis revealed that judges in Wisconsin have especially strong preferences for certain sentence lengths: 1 year; 1 year, 3 months; 1 year, 6 months; 2 years; 2 years, 6 months; 3 years; 4 years; 5 years; 6 years; and 10 years. This held true between different case types such as violent and non-violent crimes, as well as guilty pleas and not-guilty pleas.

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The project was undertaken with several questions in mind, each related to key sentencing factors or demographic variables.

- Do different judicial assessments of offender role and offense severity actually result in different sentences? What factors or combination of factors lead to the assessments reached?
- Are these assessments consistent by judge and within the community of judges?

- What impact does a judicial assessment of the harm caused by the offense have on subsequent sentencing, and are there consistent factors that mitigate or aggravate the impact of harm? Does this vary by offense type or by demographic characteristics?

- What impact does the perceived role of the offender in the offense have on sentencing, and are there consistent factors that mitigate a major role or aggravate a minor role? Does this vary by offense type or by demographic characteristics?

- Is the effect of an offender's association with a gang on judicial assessment and sentencing consistent based on offense, its location in an urban or rural area, or its combination with other factors?

- Does "abuse of a position of trust or authority" have a bigger impact on judicial assessment and sentencing if committed in a violent, property, sex, or drug offense?

- Are particular combinations of factors perceived as suggesting greater or lower risk of future offending (such as age, drug dependence, employment history, mental health treatment, physical health, or ties to family and community) consistently associated with particular sentences? If not, what other factors account for the inconsistencies?

- Does it consistently matter to judicial assessment and sentencing if an offender has a long or short criminal history, and what factors aggravate short criminal histories or mitigate long ones? Do these factors vary by offense? Does it matter if the history shows long gaps between offenses or if the offender was on legal status at the time of the sentenced offense?

- To what extent do factors such as acceptance of responsibility and cooperation with authorities, collateral consequences of the offense for the offender, multiple counts, and restitution paid at great sacrifice affect judicial assessment and sentencing?

- Do the same factors produce different sentences based on county characteristics such as prosecutor tenure, judicial caseload, political partisan indices, etc.?

- To what extent do factors associated with given sentences vary by plea bargain versus sole judicial determination?

MAJOR FINDINGS

Sentencing Factors - Descriptive

Using unsophisticated descriptive statistics, the study revealed several disparities between different categorical groups: men and women; young offenders and seasoned professionals; White, Black, and Hispanic; and Milwaukee and statewide. Chiefly, these were disparities in prison rate and prison sentence length. Less significant (though not *in*significant) were disparities in selection rate, referring to the selection of individual sentencing factors.

Generally, the study found that women received fewer and shorter prison sentences than men; that prison rate and sentence length increased with criminal history (which increases with age); that outcomes varied significantly with geography; and that when prison sentence length favored Black and Hispanic offenders, it often occurred because White offenders received more *non*–prison sentences.

Sentencing Factors - Regressions

Using advanced statistical regressions, the study found that few, if any, factors consistently predicted sentencing outcomes. Instead, it showed that sentence types and lengths are highly dependant on the context of the case; not the particular offense, offender characteristics (race, age, and gender), or geographic location.

Conventional Number Preferences

Findings from this analysis revealed that judges in Wisconsin have especially strong preferences for certain sentence lengths. This held true between different case types such as violent and non-violent crimes, as well as guilty pleas and not-guilty pleas. The data revealed that Wisconsin judges—virtually unbound in their discretion—regularly impose 10 "standard" sentences (see below). These preferred sentence lengths account for most (88%) non–probation felony sentences.

- 1 year
- 1 year, 3 months
- 1 year, 6 months
- 2 years
- 2 years, 6 months
- 3 years
- 4 years
- 5 years
- 6 years
- 10 years

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The current study on judicial decisions and sentencing outcomes would not have been complete without the assistance of others. Special thanks to Brandon Von Feldt and Hy Matz from the La Follette School of Public Policy at the University of Wisconsin. Mr. Von Feldt and Mr. Matz offered their expertise in statistical modeling to conduct the advanced statistical regressions for this study.

In addition, special mention must go to the Wisconsin Department of Corrections (DOC) and the Director of State Courts Office for providing the Commission with the necessary data to conduct the analysis. The ability to merge information from these two data systems was crucial to the success of this project. It allowed the Commission to connect case information (sentence type and length) to offender information (age, race, and gender). Without these significant contributions, this report would not have been possible.

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INTRODUCTION

While the criminal justice process includes many steps that require the exercise of discretion, most of the attention—from policymakers and academics alike—has focused on judges, and on the policy systems (e.g., sentencing guidelines) that define or constrain their exercise of discretion. There is rich literature modeling determinants of sentencing decisions—both whether to incarcerate and for how long—particularly concerning variables such as offender gender (Raeder, 1993), class (Shine & Mauer, 1993) and race (Blumstein, 1982; Blumstein, 1993; Austin & Allen, 2000; Pettit & Western, 2004). Yet, the variables typically used in these models do not accurately capture the nuances of the courtroom and the factors that judges rely on to make their decisions.

Most of the current body of research draws on two sets of variables: (1) defendant characteristics including demographics, criminal history, and social service issues and needs; and (2) details about the case or offense including single or multiple counts, plea agreements versus jury trials, and aggravating or mitigating facts surrounding the case. These variables are typically available from administrative data sources, such as court records, criminal histories, or sentencing guidelines worksheets (in those states that have sentencing commissions and structured guidelines).

However, these variables do not fully capture the flavor of the courtroom: the nuances of interactions with the defendant, the impact of the crime on the victim, or whether a defendant was the leader of an activity or was coerced into participating. Our experience with judges tells us that these are the types of factors from which judges actually take cues in making their decisions.

In Wisconsin, case law emphasizes judicial discretion and individualized sentencing. That is, judges are expected at sentencing to describe the relationship between the sentence given and the goals intended by the sanction(s). To facilitate well-reasoned sentencing decisions, the Wisconsin Sentencing Commission created worksheets that encourage judges to record all relevant sentencing factors in each case, such as prior convictions, offense characteristics, education, work history, and substance abuse. Additionally, each worksheet contains recommended sentence ranges based upon risk and offense severity.

The Commission's data, therefore, provide a unique opportunity to include both objective variables (offense details, offender characteristics, and geographic context) and variables that approximate the subjective factors that judges take into account in reaching their decisions. As such, this research study offers the opportunity to begin to understand how the observable differences in cases and defendants' circumstances actually impact upon the exercise of judicial discretion in the decision-making process—and how they might interact with concrete the case and offender facts to influence sentencing outcomes.

This project was undertaken with several questions in mind, each related to key sentencing factors or demographic variables. We sought to answer these questions within the context of each guidelines offense, since the available penalties and the decision–making process vary with offense type.

- Do different judicial assessments of offender role and offense severity actually result in different sentences? What factors or combination of factors lead to the assessments reached?
- Are these assessments consistent by judge and within the community of judges?
- What impact does a judicial assessment of the harm caused by the offense have on subsequent sentencing, and are there consistent factors that mitigate or aggravate the impact of harm? Does this vary by offense type or by demographic characteristics?
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- Does it consistently matter to judicial assessment and sentencing if an offender has a long or short criminal history, and what factors aggravate short criminal histories or mitigate long ones? Do these factors vary by offense? Does it matter if the history shows long gaps between offenses or if the offender was on legal status at the time of the sentenced offense?
- To what extent do factors such as acceptance of responsibility and cooperation with authorities, collateral consequences of the offense for the offender, multiple counts, and restitution paid at great sacrifice affect judicial assessment and sentencing?
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This project was designed as a natural experiment to study the impact of various sentencing factors on judicial decisions in Wisconsin. Unlike other projects that have analyzed court case management records, this study examined detailed sentencing guidelines worksheets containing information on approximately 65 different elements related to case characteristics, offender characteristics, risk factors, and other related factors. Ultimately, this project attempted to measure how the observable differences in cases actually impacted the exercise of judicial discretion in the decision-making process.

The report that follows includes an analysis on judicial sentencing decisions in the Wisconsin circuit court system. The report begins with background information on the sentencing framework in Wisconsin, as well as the State's sentencing guidelines system. It then provides an extensive literature review on: judicial psychology and the sentencing process; statistical analyses of the sentencing process; and conventional number preferences. Next, the report presents methodological information, including details on the data, limitations, and statistical models. A comprehensive overview of the statistical analysis follows the methodology section. This includes findings from descriptive statistics and multivariate regressions concerning the effects of sentencing factors on sentence types and lengths. In addition, this section includes an analysis of conventional number preferences and their existence among judges in sentencing length decisions. Finally, the report ends with sections on conclusions and future considerations.

BACKGROUND

SENTENCING FRAMEWORK IN WISCONSIN

Until December 31, 1999, Wisconsin had a conventional indeterminate sentencing system — the legislature established maximum penalties, courts made decisions about sentence type and sentence length, and Department of Corrections' (DOC) officials made decisions about parole.[1] Ordinarily, when the court imposed a prison sentence, the offender became eligible for parole after serving one–fourth of the sentence, and was entitled to parole after serving two–thirds.[2] In 1998, Wisconsin joined other states that had abandoned the indeterminate model, and passed Truth in Sentencing (TIS), abolishing parole for crimes committed on after December 31, 1999.[3]

Under TIS, prison sentences are divided into confinement and extended supervision (ES). Specifically, TIS created two rules: (i) the confinement portion must be served in its entirety, and (ii) once released from confinement, each offender must complete mandatory extended community supervision. From a policy perspective, the intent of the legislature was clear: absolute certainty in sentence length.[4] Section 973.01(4), Wis. Stats., contains the relevant statutory language: "A person sentenced to a bifurcated sentence . . . shall serve the confinement in prison portion of the sentence without reduction for good behavior."

Although TIS brought about significant changes in Wisconsin, one thing has not changed: sentencing decisions are still highly discretionary. See McCleary v. State, 49 Wis. 2d 263, 182 N.W.2d 512 (1971); State v. Gallion, 270 Wis. 2d 535, 678 N.W.2d 197 (2004). Indeed, Wisconsin judges have few constraints. For example, Sections 973.01 and 973.09, Wis. Stats, establish the maximum penalties for each felony classification, A through I. Section 973.017(2) instructs the courts to consider available sentencing guidelines, applicable aggravating and mitigating factors, and penalty enhancers, which, when pleaded and proved, increase the maximum penalty for the offense. Beyond that, the legislature has enacted only one rule that directly impacts the decision–making process: "[t]he court shall state the reasons for its sentencing decision . . . in open court and on the record." Section 973.017(10m)(a), Wis. Stats.

For its part, the Wisconsin Supreme Court has consistently held that discretion, properly exercised, contemplates a detailed process of reasoning, not mere decision–making:

> *[A] principal obligation of the judge is to explain the reasons for his actions. His decisions will not be understood by the people and cannot be reviewed by the appellate courts unless the reasons*

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[1] *Michael Hammer. "The Long and Arduous Journey to Truth-in-Sentencing in Wisconsin." Federal Sentencing Reporter, Vol. 15, No. 1, pp. 15-18 (2002).*

[2] *Id.*

[3] *Id.*

[4] *Id.*

> *for the decision can be examined. It is thus apparent that requisite to a prima facie valid sentence is a statement by the trial judge detailing his reasons for the particular sentence imposed. Gallion, 270 Wis. 2d at 543; citing McCleary, 49 Wis. 2d at 280−81.*

And while the Court has specifically rejected the notion that criminal sentencing requires "mathematical precision," Gallion at 562, the Court has explained that discretion places certain obligations on the sentencing judge:

> *Courts are required to specify the objectives of the sentence on the record. These objectives include, but are not limited to, protection of the community, punishment of the defendant, rehabilitation of the defendant, and deterrence.*
>
> *Courts are to describe the facts relevant to these objectives. Courts must explain, in light of the facts of the case, why the particular component parts of the sentence imposed advance the specified objectives.*
>
> *Courts must also identify the factors that were considered in arriving at the sentence and indicate how those factors fit the objectives and influence the decision. In* Harris*, 119 Wis. 2d 612, 350 N.W.2d 633 (1984), we detailed factors that courts may take into account in the exercise of discretion. These factors assist courts in identifying relevant considerations at sentencing. Additionally, the legislature has mandated consideration of applicable mitigating or aggravating factors.*[5]

Besides these remarks about the decision–making process, Gallion also provides specific guidance on sentence length. First, the Court expresses the view that advisory sentencing guidelines should "channel outcomes in the majority of cases."[6] These outcomes, the Court continues, "are preferred to high–consequence conclusions about human nature that seem intuitively correct at the moment." Second, drawing on the notion that the sentence imposed should be the least severe sentence that achieves the core objectives of ensuring public safety, punishing the defendant, and serving his rehabilitative needs, the Court has stated that probation "should be the disposition" unless probation would depreciate the seriousness of the offense. In short, judges should consider probation "the first alternative."[7]

WISCONSIN SENTENCING GUIDELINES

In 1999, corresponding with the introduction of Truth in Sentencing (TIS), the Wisconsin Legislature created a provisional committee – Criminal Penalties Study Committee – to produce temporary sentencing guidelines. After multiple rounds of discussion, the committee created separate worksheets for 11 major offenses. The worksheets were primarily designed for two purposes: (i) to structure the decision-making process for judges; and (ii) based

[5] *Gallion at 557–559*
[6] *Gallion at 555*
[7] *Gallion at 560*

upon risk and offense severity, to recommend penalty ranges for each crime. Below is a list of the 11 guidelines offenses identified by the Committee. (A sample of the worksheet can be found in Appendix A.)

1. Robbery
2. Armed robbery
3. Burglary
4. Forgery
5. First-Degree Sexual Assault
6. Second-Degree Sexual Assault
7. First-Degree Sexual Assault of a Child
8. Second-Degree Sexual Assault of a Child
9. Drug Trafficking – Cocaine (< 1g)
10. Drug Trafficking – THC (200 – 1000g)
11. Theft > $10,000

In 2003, the Wisconsin Sentencing Commission was created for the purpose of developing permanent sentencing guidelines. Two years later, the Commission issued permanent guidelines in the form of revised worksheets, again for the same 11 offenses listed above.

The worksheets are divided into four sections: (1) offense severity, (2) risk factors, (3) sentencing matrix, and (4) other factors (Appendix A). Unlike the original forms, the revised worksheets include separate check–boxes for aggravating and mitigating factors. Using these worksheets, the court must make several decisions: which sentencing factors apply; whether they aggravate or mitigate the crime; whether the offense, itself, is properly described as mitigated, intermediate or aggravated, and the offender, low–, medium– or high–risk; and finally, whether circumstances warrant a "sentence adjustment," meaning a departure from the suggested penalty range. Each section is more fully described below.

Section I – Offense Severity

The judge is directed to consider: (a) the characteristics of the offense; (b) the harm caused by the offense; (c) whether the offender played a minimal role, leadership role, was manipulated or pressured into committed the offense, and/or abused a position of trust; (d) statutory aggravators factors and penalty enhancers; and (e) whether the victim was uniquely vulnerable.

Section II – Risk Assessment

The judge is directed to consider: (a) education and employment history; (b) criminal history, including prior offenses, prior similar offenses, whether the defendant was on probation or parole when the offense was committed, and whether criminal history misrepresents the risk that the

defendant poses; (c) issues related to character and remorse; (d) issues related to alcohol and drug dependency; and (e) family and community ties.

Section III – The Sentencing Matrix

The judge is directed to consult a 9–cell grid where risk and offense severity intersect. Each cell represents a particular level of risk and severity, and each contains a recommended sentence range. In addition to the grid, this section also contains advisory information on permissible penalties and the rate of probation for offenders convicted of this particular crime.

Section IV – Adjustment Factors

Finally, the judge is asked to consider additional factors that may warrant adjustment of the sentence, such as uncharged read–in offenses, sentence recommendations, whether the defendant was charged with multiple counts, and whether the defendant paid restitution voluntarily.

LITERATURE REVIEW

In reviewing the available literature on criminal sentencing, we uncovered two primary research themes: (1) a concern with judicial psychology, meaning the cognitive process through which judges assess crime, criminal history and culpability; and (2) a concern with observed variation in sentencing outcomes, including decisions regarding prison vs. probation, and decisions regarding sentence length. Our research aims to bridge the narrow gap between these related themes by quantifying sentencing factors not previously employed in statistical analysis.

When Frankel published *Criminal Sentences: Law Without Order* (1972), criminal sentencing was unstructured and the judicial thought process not well understood. Although scholars had known since the late-1800s (Galton, 1895) that discretionary sentencing could produce arbitrary results, Frankel (1972: 103) was among the first to recommend that policymakers consciously design sentencing systems to channel judicial thought processes and achieve specific objectives. Ultimately, his concern led many states and the federal government to adopt either mandatory, prescriptive sentencing guidelines, or voluntary, advisory sentencing guidelines.

More recently, scholars have sought to determine: (i) whether prescriptive sentencing systems are effective, generally, in reducing unwanted disparity, preventing crime, and lending structure to previously unstructured systems; and (ii) whether prescriptive sentencing systems are advisable, from a normative perspective (Griffin & Katz, 2002). To answer these questions, academics and policy experts have developed statistical models to explain variations in sentencing outcomes.

JUDICIAL PSYCHOLOGY AND SENTENCING

One line of research, which attempts to explain how judges reach particular decisions, rests upon three general theoretical foundations (Ostrom, Ostrom & Kleiman, 2004): cybernetic theory, which posits that judges find ways to simplify routine, though complex, decisions to make them more efficient and consistent (Simon, 1979; Albonetti, 1991; March & Simon, 1958; Thompson, 1967; Kahneman, Slovic & Tversky, 1982); causal attribution theory, which attempts to explain how we assign socially relevant attributes (Hawkins, 1981; Clegg & Dunkerley, 1980; Steffensmeier, Ulmer & Kramer, 1998); and a social constructs, or social worlds approach, which views trial courts as institutions with their own unique rules and culture (Ulmer, 1997; Meyers & Talarico, 1987; Flemming, Nardulli, & Eisenstein, 1992). These concepts form the basis for our understanding of judicial psychology and the decision–making process.

In *The Highland Park Institute on Sentence Disparity* (1962), Frank Remington and Donald Newman recalled an early investigation of the sentencing process based on simulated criminal cases, including crimes involving complex cultural, psychiatric and medical factors. Though the study was decidedly nonscientific, the authors made several important observations about judicial reasoning, chief among them being that while there was

general agreement on the appropriateness of incarceration for serious crimes like bank robbery and professional forgery, there was also agreement that prison should become neither mandatory nor routine, since young offenders and minor participants, being less blameworthy than career criminals, often make good candidates for probation. Overwhelmingly, judges shared the view that judicial discretion, exercised consistently, was more likely to reduce unwanted disparity than prescriptive sentencing guidelines.

From their study of sentencing practices in Illinois (Chicago) and New York (Brooklyn), Diamond & Zeisel (1975) reached the opposite conclusion, finding that some federal judges really *are* more severe than others, and that moreso than any random fluctuation between longer and shorter sentences for the same/similar crimes, diverse sentencing philosophies were the major factors behind sentence disparity.

Specifically, Diamond & Zeisel (1975) sought to determine whether judicial sentencing councils — sentencing conferences, essentially — influence the penalties that judges ultimately impose. In Chicago, where council participation was voluntary, the authors found that

- *the sentencing judge increased his/her initial, tentative sentence nearly half the time (46%) when council members unanimously recommended a sentence that was more severe;*
- *when the recommendation was not unanimous, and at least one council member agreed with the initial, tentative proposal, the sentencing judge rarely increased the final sentence (only 17% of the time);*
- *when the council unanimously urged lesser penalties, the initial, tentative proposal was usually reduced (74% of the time); and*
- *when some but not all council members urged lesser penalties, the sentencing judge reduced the initial, tentative proposal approximately one time in three (36%), provided no council member recommended a sentence that was more severe.*

The New York pattern was similar, though New York judges were less prone to increase sentence length. This may reflect differences between the jurisdictions and their respective sentencing councils: New York offenders committed more serious crimes, judging from their higher average maximum exposure to prison, and the Chicago council was large and voluntary, unlike its rotating, three–judge counterparts in Brooklyn, meaning (i) there may have been some initial commonality of thought among the Chicago judges, and (ii) they less frequently found themselves in extreme positions, vis–à–vis their colleagues.

Importantly, where the defendant pled guilty, Diamond and Zeisel (1975) found that judges were more inclined to bring before the council cases that would probably warrant incarceration, versus cases that probably would not. In Chicago, the council reviewed most cases (60%) where the offender pled guilty and would likely receive incarceration. In contrast, the council reviewed only one third (35%) of those cases where the offender pled guilty and would probably *not* receive incarceration. When the conviction was jury–determined, the proportion of cases brought before the council was consistently high.

Essentially, Diamond and Zeisel (1975) made three findings: (1) the sentencing judge often departs from his initial, tentative stance toward an ultimate sentence reflecting, in some measure, the consensus view; (2) extreme viewpoints, harsh and lenient, are usually tempered; and (3) despite that tendency toward the mean, the overall effect is, seemingly, toward less severe sentences. Frankel had, several years before, given precisely this justification for increasing the role of sentencing councils. Though the council approach arguably gives judges unfamiliar with the case too much influence over the sentencing process, Frankel (1972) asserted that unfettered discretion was the greater evil, being inconsistent with reason, order and predictability.

Clancy, Bartolomeo, Richardson and Wellford (1981), who conducted the first national disparity study, noted that Diamond and Zeisel (1975) examined only two federal jurisdictions. Still, Clancy et al. obtained similar results: disparities did exist, with differences among individual judges playing an especially strong role in explaining supervised time and fines, overwhelming the variance explained by offense and offender characteristics. The correlation between individual judge and prison time was less compelling, but not insignificant. Its principal determinants were offense and offender characteristics. The authors reasoned that disparity arose not solely from random indecision about which sentence to impose, but also from specific case attributes, and *patterned*, philosophical differences about sentencing.

Notably, Clancy et al. (1981) found that sentencing decisions were generally straightforward and additive, meaning they were not characterized by multiple contingencies. Stated otherwise, judges did not continuously adjust their perception of case–related information as they incorporated other/additional information into their decision.

As previously noted, the sentencing process implicitly begins with certain objectives: punishment, public safety, rehabilitation, etc. These goals intervene between offense/offender characteristics and the final sentence, prompting sanctions often different than those that would have been imposed under other circumstances. The study presented 16 simulated case scenarios. After sentencing the hypothetical offenders, judges were asked to state their principal objectives. Only three cases saw more than 50% express the same goal, general deterrence. On average, general deterrence was the most often cited (33%), followed by special deterrence (23%), incapacitation (18%), rehabilitation (15%) and retribution (11%).

Prison time was strongly influenced by sentencing objectives, with incapacitation yielding longer prison terms, and rehabilitation, also associated with smaller fines and more community supervision, yielding lighter prison sentences. Retribution and deterrence were associated with less supervision and larger fines.

Clancy et al. (1981) also observed that judges had markedly different perceptions of severity. Approximately 40% of the variance in prison time was attributable to the following factors, each describing attributes/characteristics of the judge: overall goal orientation; perception of how well the federal criminal justice system achieved those goals; general perception of the federal sentencing process; perception of the degree to

which sentence disparity represented a problem for the justice system; jurisdiction; and background characteristics, including political ideology, career variables and race.

McFatter (1986) likewise dealt with sentence severity and judge–related factors. McFatter considered the *Judge* main effect, which takes into account differences in the overall harshness or leniency of different judges, and the *Crime* X *Judge* interaction, which reflects idiosyncrasies, principled and unprincipled, in how particular judges view certain crimes. A third *un*systematic form of disparity occurred when the same judge viewed the same crime/offender differently on different occasions. McFatter expressly cautioned that not all disparity was alike. Specifically, he distinguished between systematic disparity arising from highly principled ideological differences among individual judges, and unsystematic disparity, reflecting the somewhat random fluctuations in human judgment. McFatter proposed that some systematic disparity was acceptable, since judges represent diverse communities.

Dhami (2005) and Dhami and Ayton (2001) observed, regarding bail decisions in the United Kingdom, that judges not only disagreed with each other, but sometimes, with their own decisions from earlier cases. This again, in the difference between principled disagreement and random inconsistency, revealed systematic and unsystematic disparity. Dhami (2003) also reported that judges made bail decisions somewhat haphazardly. That study found that judges often based their decisions upon one factor alone.

Guthrie, Rachlinski and Wistrich (2000–2001) asked how frequently cognitive *illusions* — systematic errors in judgment — influence trial outcomes, including sentencing outcomes. The authors tested for *anchoring* (making decisions based on irrelevant starting points); *framing* (treating equivalent gains and losses differently); *hindsight bias* (overestimating the predictability of past events); the *representativeness heuristic* (favoring individuating information over statistical information); and *egocentric bias*. Anchoring was the most important concept for sentencing purposes, since it describes plea bargains, through which prosecutors and defense attorneys control the sentencing process, and sentencing guidelines, which often represent stable, unbiased anchors. The authors concluded that cognitive illusions most certainly influence sentencing outcomes, though anchoring provides an opportunity both for systematic errors and systematic solutions.

STATISTICAL ANALYSIS AND SENTENCING

Ostrom, Ostrom, and Kleiman (2004) analyzed both sentence type and sentence–length decisions for felony offenders from several Michigan counties. Their list of independent variables was extensive, covering six general categories, including: the base–level sentence; offense characteristics (leadership role, weapons, physical injury, intent to cause serious harm); offender characteristics (race, gender, age, employment status, drug use); court characteristics (type and size, local legal culture, county population, political orientation); prior offenses (misdemeanors, felonies, serious felonies, juvenile arrests, current involvement with the criminal justice system); and court processing factors (private defense council, court–appointed council, jury trial versus guilty plea). The authors attributed nonlinear (exponential) growth in sentence length to the simple fact that judges (i) discount the

future when evaluating sentencing options, meaning they perceive the punitiveness of each additional year of incarceration as being less than the year before, and (ii) ordinarily select from the same few standard sentencing options, for example, 12 months, 18 months, 24 months, etc. The authors advanced this notion instead of another hypothesis — that sentence length grows exponentially because offense severity and criminal history have a joint, multiplicative effect on sentence length (Engen and Gainey, 2000).

Steffensmeier, Ulmer and Kramer (1998) examined whether race, gender and age "contextualize" one another, that is, intersect to influence sentencing outcomes. The authors maintain that sentencing involves three primary concerns: blameworthiness, public safety, and practical constraints and consequences (ensuring that cases move through the system, acknowledging prison overcrowding and resources constraints, maintaining working relationships among courtroom actors). Their question was about how judges, who rarely have complete information, address these concerns, and whether race, gender and age influence the penalties they impose.

The authors found that race, gender and age had important independent and interactive effects on sentencing outcomes:

- *The age effect was larger for male offenders than female offenders;*
- *Among male offenders, the race effect varied with age. Race was more important for younger offenders; the race main effect disguised considerable variation among different age groups;*
- *Young, black males received the most severe sentences of any race-age-gender category; and,*
- *There were substantial differences in sentencing outcomes when comparisons were made between the most dissimilar race-age-gender categories; these differences were concealed when the authors input only main effects or race-gender effects.*

Regarding sentencing outcomes and local legal culture, Myers and Talarico (1987) measured the social context of specific courts through urbanization, economic inequality, judicial background and caseload variables. They found that county, court and time all shape the magnitude and direction of differential treatment during sentencing. Flemming, Nardulli and Eisenstein (1992) demonstrated that local values and perceptions, moreso than formal legal differences, determined local legal culture. Ulmer (1997) documented this theory in Pennsylvania, where he found that sentencing outcomes were influenced by the organizational and political features of particular court communities.

Using data on first−time drug offenders sentenced in Washington State from 1985–1995, Engen & Steen (2000) tested several hypotheses concerning the "hydraulic displacement of discretion" (Miethe 1987) — the notion that sentencing guidelines shift discretion to prosecutors, who control charging decisions. Specifically, the authors sought to determine: whether drug sentences had become more severe over time; whether offenders who pled guilty were given lighter sentences; and whether prosecutors had altered their charging practices when various sentencing reforms went into effect. Engen and Steen found that prosecutors may have begun charging conspiracy, rather than delivery, because delivery now carried longer mandatory prison terms; that offenders

who pled guilty were consistently given lighter sentences; and that charging practices and multiple–count convictions were entirely contingent upon guilty pleas.

Engen & Gainey (2000) proposed that most studies of guideline–based sentencing mistakenly assume a linear, additive relationship between the legally relevant sentencing factors and the dependent variable, sentence length. The authors maintain that sentencing guidelines typically increase the sentence more sharply for serious crimes and offenders with extensive criminal records. In other words, the joint influence of criminal history and offense seriousness is not additive, but multiplicative. They contend that the standard ordinary least–squares (OLS) model underestimates the prescribed sentence for low–seriousness and high–seriousness crimes, while overestimating the prescribed sentence for mid–range offenses. Engen & Gainey conclude that the standard OLS model underestimates the explanatory power of criminal history and offense severity, and overstates the importance of extralegal characteristics like race and sex.

Ostrom & Ostrom (2002) and Ostrom, Ostrom & Kleiman (2004) contend that although Engen & Gainey (2000) raise important questions about the relationship between offense severity, criminal history and sentencing, their approach — trying to explain nonlinear growth in sentence severity through the joint influence of criminal history and offense severity — misses the mark. Instead, they maintain that judges contemplate only the most familiar sentences — those that correspond with conventional number preferences: 12 months, 18 months, 24 months, etc. They suggest that this process may illustrate what Kahneman, Slovic and Tversky (1982) have termed the *availability heuristic*, which says that judges recall some sentences more readily than others, though their options are truly quite broad.

Ostrom, Ostrom and Kleiman (2004) also note that the interval between prominent sentences grew larger with increasing sentence severity. Sentences clustered at: six–month intervals when the sentence was less than 36 months; 12–month intervals when the range was 36–120 months; 60–month intervals when the range was 121–360 months; and thereafter, 120–month intervals. These intervals appear, the authors maintain, because judges view the disutility of incarceration (the perceived impact of punishment) as declining with each additional year in prison. Consequently, judges increase sentence length exponentially to obtain the desired level of total disutility.

Scholars have not shied away from observed disparities in the sentencing of minority offenders and persons with low–SES backgrounds. Most of the research on minority over– representation seeks to explain why incarceration rates vary so widely between the different races/ethnicities. Blumstein (1982; 1993) analyzed racial disparity in sentencing by aggregating state–level data. Austin and Allen (2000) also studied racial disparity, limiting their analysis to Pennsylvania inmates in an effort to solve statistical problems that Blumstein faced in aggregated populations. Most recently, Pettit and Western (2004) analyzed the lifetime risk of incarceration based on race, in combination with class and education, using national census data.

Crutchfield, Bridges and Pitchford (1994) argued that Blumstein obscured dramatic and important differences between states by aggregating state–level data. Crutchfield et al. asserted that where crime, arrest and imprisonment rates vary significantly between states, aggregating state–level data to investigate minority over–representation is inappropriate (Crutchfield et al.: 174).

Yates (1997) used multivariate analysis to measure sentence disparity in several states, exploring not only conventional demographic and socioeconomic factors, but the relationship between black political mobilization through ordinary electoral means and political insurgency, and racial disparity. Yates found empirical support for the notion that racial disparity ebbs when African–Americans achieve greater political clout.

Similarly, Yates and Fording (2005) examined the connection between politics and imprisonment using cross–sectional time series models to ascertain, first, whether political circumstances influence state incarceration rates, and second, whether the determinants of state punitiveness are conditioned by the racial group being incarcerated. Essentially, the authors ask the following question: are there differences between Republicans and Democrats that lead them to construct sentencing policies that affect whites and blacks differently? Taking into account various state–level political indicators, including *Republican Legislature*, *Republican Governor*, *Citizen Ideology*, *Judicial Conservatism*, *Black Elected Officials* and *Female Legislators*, Yates and Fording found that:

- *for black and white offenders, criminal involvement, economic deprivation and Republican control of state government (Republican Governor) were positively and significantly associated with imprisonment rate growth;*
- *for black offenders, specifically, the imprisonment rate was strongly influenced by other political factors, including Republican Legislature, Judicial Conservatism, African-American representation (Black Elected Officials), female representation (Female Legislators) and election year politics (Election Year);*
- *for black offenders, the magnitude of the coefficients of the independent variables, notably Republican Governor, Republican Legislature and Judicial Conservatism, were significantly greater; and*
- *although Republican Governor, Republican Legislature and Judicial Conservatism disproportionately amplified black imprisonment rates, this effect was minimized where blacks had greater electoral strength and where there were more black and/or female elected officials.*

Helms and Jacobs (2002) also examined the influence of politics/ideology on sentencing decisions in 337 counties in 7 different states. Because punishment involves deeply felt moral issues, the authors reasoned that political values would likely influence local court decisions about criminal penalties. On the relationship between sentence length and Republican political strength, the authors found that:

- *male offenders were given sentences that were approximately one month longer than the sample mean, except in Republican-majority counties, where their sentences were three months longer;*

- *black male offenders were given sentences that were nearly three months longer than the sample mean, except in Republican-majority counties, where their sentences were 11 months longer;*

- *after accounting the Republican vote, violent crime, unemployment, urbanism, black presence, and an interaction term — Republican vote x black offender — the data showed that Black offenders were punished more severely in conservative areas. Similar results were obtained for male offenders by using Republican vote x male offender.*

Though Helms & Jacobs (2002) found that race and politics did influence sentencing outcomes, with Black offenders receiving longer sentences where the conservative vote was the strongest, they also noted considerable disagreement among scholars on this issue, race and sentencing. Using national census data, Helms and Jacobs (2001) likewise found that deep conservative values and Republican Party strength effectively grew the prison population, with strong links emerging between Black and Hispanic presence, political emphasis on street crime, and the incarceration rate. In fact, Republican Party strength continued to explain imprisonment rates even after citizen ideology was held constant (Helms and Jacobs 2001: 82).

Schazenbach and Tiller (2007) sought to confirm "the widely held belief that political ideology matters in criminal sentencing — specifically, [that] Republican–appointed judges give longer sentences than Democrat appointees with regard to certain crimes." Ultimately, they found "consistent partisan differences in sentencing," in both offense–level adjustments and departures from the federal sentencing guidelines (Schazenbach and Tiller: 26). The authors closed with two recommendations: (1) transparency in sentencing data regarding the identity of the sentencing judge, and (2) as a requirement, political diversity on appellate panels reviewing criminal sentences.

Crawford, Chiricos and Kleck (1998) used logistic regression analysis to study the "habitualization" of Florida offenders who committed violent, property, weapons–related and drug–related crimes. Acknowledging that habitual offender sentences would be racially skewed because eligible offenders were predominantly African–American, the authors found that: (i) persons charged with drug crimes (and those prosecuted where the drug arrest rate was high) were less likely to receive habitual sentences, unless they were Black; (ii) excluding vehicle theft, Black defendants charged with property crimes were consistently disadvantaged by the habitualization decision; and (iii) Black defendants received fewer habitual sentences where the population was more than 16% Black, but they were substantially more likely to receive habitual sentences in counties where the Black population was under–represented.

Ulmer and Kramer (1996) studied quantitative and qualitative data from three Pennsylvania counties — one urban, one rural and one affluent — to determine whether and how race and gender, jurisdiction, offense type, offense severity, plea bargaining and perceived risk affect sentencing decisions. The data included figures from the Pennsylvania Commission on Sentencing (PCS) and responses collected during "semistructured" interviews with judges, prosecutors, court administrators, probation officers and defense attorneys. The authors' key findings were that:

- *plea "rewards" and trial "penalties" were viewed as legitimate means to encourage guilty pleas and discourage trials;*

- *guilty pleas shielded judges from aggravating facts, and were nearly always seen as indicators of remorse and rehabilitative potential;*

- *the affluent county exhibited strong informal norms of cooperation, consensus and conflict minimization, creating intense pressure to plea bargain;*

- *Black-White differences in the urban and affluent counties, especially decisions about downward departures from the mitigated sentencing range, were positively correlated with race-linked discretionary factors like family stability and support, employment history, education and voluntary enrollment in private drug/alcohol treatment programs; and*

- *male-female disparities were substantially related to family status and responsibility for dependent children, which factors often led courts to view female defendants as better candidates for leniency.*

Lovegrove (1997) studied the responses of individual judges to hypothetical cases in Australian and Great Britain, using a decision model that predicted how they would respond to certain cases. Relying upon attribution theory (Albonetti, 1991) Lovegrove theorized that judges employ three primary steps when making sentencing decisions. First, they estimate high and low terms for the particular offense, between which their final sentence will fall. Second, they fix the ceiling — the highest justifiable term, given the aggravating factors. Finally, they reduce the sentence to account for mitigating factors.

After formulating this model, Lovegrove (1997) used three data collection techniques. First, he presented judges with a prepared case study, asked them to impose sentence, and investigated which aspects of the sentence were consistent with his model. Second, he recorded their reactions as they worked through various sentencing issues. And third, he asked them to comment on whether his three stage model — (i) estimate high and low, (ii) fix the ceiling, and (iii) reduce for mitigating factors — accurately described their approach to sentencing. Lovegrove concluded that his model was accurate, but incomplete. He could not explain how judges decide live cases, which always involve more, and more complicated, facts than hypothetical scenarios.

Walker et al. (2004) analyzed nearly 150,000 sentencing decisions from 2000–2002, using data obtained from the Arkansas courts and the Arkansas Sentencing Commission. The authors used logistic regression analysis for decisions regarding probation versus confinement, and ordinary least squares (OLS) for decisions regarding sentence length. The authors examined various factors related to offense type, severity and risk, including race/ethnicity, sex, age, criminal record, whether the crime was violent or drug–related, whether the offender pled guilty, and whether the offender was already under court supervision when the crime was committed. With decisions regarding jail and prison dealt with separately[8], they found that an extensive criminal record and being

[8] *See Holleran & Spohn (2004), "On the Total Incarceration Variable in Sentencing Research." Holleran and Spohn argue that the research community should reconsider its use of a single dependent variable, Total Incarceration, in models that predict sentence length. As they explain, "this approach, which combines qualitatively different sentence types, increases the risk of measurement error. . . . [A] county jail sentence may be the 'typical' sentence for certain combinations of [offe, while a prison sentence may be the 'typical' for more serious offenses and offenders with a history of prior offending" (212-213).*

under supervision when the crime was committed had the greatest impact on the likelihood of prison. Additionally, a variety of legally relevant and extralegal factors had minimal impact.

Most empirical studies of the sentencing process have two shortcomings: they utilize macro–level data, which lacks detail (Mears, 1998) and they may oversimplify the decision–making process, focusing narrowly on criminal history and offense severity. As Tonry (1996) explains, regarding the standard two–dimensional approach, criminal history and offense severity are but the most easily scaled factors, not the only relevant considerations. Our dataset, derived from both administrative sources and detailed sentencing worksheets, captures more completely the specific considerations — aggravating and mitigating — that influence actual sentencing decisions.

CONVENTIONAL NUMBER PREFERENCES

Since the 19th century, scholars have documented strong preferences among judges for particular sentences — terms that correspond with whole numbers, essentially. In 1895, Francis Galton noted,

> *The terms of imprisonment that are most frequently awarded fall into rhythmic series. Beginning with sentences reckoned in months, we see that their maxima of frequency are 3, 6, 9, 12, 15 and 18 months, which are separated from one another by the uniform interval of 3 months . . . a round figure that must commend itself to the judge by its simplicity (175).*

A century later, Ostrom and Ostrom (2002) observed the same thing:

> *Actual sentence length may not be consistent with a continuous "scale of severity." Consider the distribution of prison sentences among 9,586 offenders convicted in the State of Michigan in 1995. Prison sentences range from 1 month to 480 months. Michigan judges are free to assign any term of days, months or years they wish. However, it is clear that a small number of sentences predominate: 12, 18, 20, 24, 30, 36, 48, 60, 72, 84, 96 and 120 months. These 10 terms [sic] account for over 78 percent of sentences issued in 1995 (277).*

Ostrom and Ostrom (2002) contend that conventional number preferences (CNPs) have three major policy implications. First, strong preferences for certain numbers may result in disproportionate sentences for similar offenders who commit the same crimes. Second, inconsistency can become racial disparity if judges consistently impose longer sentences on minorities. And third, number preferences put heavy pressure on available prison space. In addition to summary statistics and regression analysis, we have undertaken a detailed examination of Wisconsin sentencing practices to determine whether, and to what extent, CNPs influence outcomes for Wisconsin offenders.

Ostrom and Ostrom (2002) provide three explanations for conventional number preferences. First, judges likely select what they perceive as the best sentence from several options that are "good enough." Second, judges default to sentences that are easily recalled. The authors suggest this may illustrate what Kahneman, Slovic and Tversky (1982) have termed the "availability" heuristic, which means that judges in discretionary environments tend to impose, time and again, those few sentences that are easily recalled. Finally, judges discount the future when evaluating sentencing options. They cluster sentences at 6–month, 12–month, and 60–month intervals

because they perceive each additional year in confinement as being less punitive than the year(s) before. The Ostroms' findings confirm what Fitzmaurice and Pease (1986) had stated earlier — that judges increase sentence length apace with what they perceive *inexactly* as greater culpability.

METHODOLOGY

SENTENCING FACTORS

This segment of the project utilized multiple sources of justice-related data. Sentencing guidelines worksheets were used as the primary source, while court and corrections records were used as secondary sources. The guidelines worksheets included all forms submitted to the Sentencing Commission between February 2003 and September 2006[9]. These worksheets were then matched to corrections and court records for demographic (race/ethnicity and gender) and sentencing information (type and length), respectively.

Appendix B defines (as necessary) each variable from the worksheet that was incorporated into the analysis. This includes demographic factors, as well as factors related to criminal risk and offense severity. To better understand the context in which variables are entered, the Commission provides *Sentencing Guidelines Notes* — an explanatory document that defines key concepts related to the worksheets (Appendix C). Together, the worksheets and the *Notes* are intended to facilitate clear, consistent sentencing, per *State v. Gallion*, *supra*. The worksheets are not sentence calculators. They contain recommended sentence ranges, but the court may impose any sentence within the statutory limits. Because the worksheets are advisory, compliance is voluntary.

Due to this voluntary nature, submission rates have been lower than expected: 14% overall, and from 5−25% for individual crimes (Appendix D). A statistical review was conducted by the Commission on the comparability between guidelines cases for which worksheets were submitted and those not submitted.[10] The purpose of the project was to better understand what conditions, if any, positively impact a judge's decision to submit a worksheet. Ultimately it was determined that the Commission's dataset overrepresented cases with severe offenses that led to higher prison terms, as well cases that occurred in Milwaukee. Both of these differences are important because they demonstrate that the dataset is not a perfect representation of all guidelines cases occurring in Wisconsin.

With too few worksheets to achieve unbiased results for each offense, this study was only able to analyze data from 7 of the 11 guidelines offenses: robbery, armed robbery, burglary, forgery, first-degree child sexual assault, second-degree child sexual assault, and cocaine trafficking. Although the Commission received over 250 worksheets for cocaine trafficking, our regressions did not converge and were consequently removed from the second part of this analysis.

Still, with this possibility in mind, we experimented with statistical models in which risk and offense severity — the concepts that define our sentencing grids — were treated as proper sentencing factors, just like *PRIOR FELONIES*,

[9] *Worksheets were deemed unusable when they met one or more of the following criteria: 1) submitted for non–guidelines offenses; 2) submitted with missing or mismatched administrative data; and/or 3) sentencing factors were selected indiscriminately (which happened in a very small percentage of cases).*

[10] *This information was taken from a snapshot produced by the Hy Matz at the Wisconsin Sentencing Commission entitled, "Comparability between Cases for which Worksheets are Submitted and those not Submitted."*

GREAT BODILY HARM, etc. Whenever possible, we created distinct independent variables for each grid cell, that is, each point at which risk and offense severity interact. Elsewhere, with fewer observations to work with, we compromised and created distinct variables for each risk and offense severity level. Predictably, when we compared results obtained with and without these variables, we found that certain effects were "diluted" when risk and offense severity were treated as ordinary sentencing factors. Mainly, these were effects associated with *PRIOR FELONIES* and *PRIOR SIMILAR OFFENSES* — factors that contribute significantly to *perceptions* of risk and offense severity.

Descriptive Statistics

Using the data discussed above, this portion of the analysis examined sentencing trends for 7 of the 11 guidelines offenses: robbery, armed robbery, burglary, forgery, cocaine trafficking, first-degree child sexual assault, and second-degree child sexual assault. These offense types were then analyzed according to the four groups below:

- Race/Ethnicity: White, Black, Hispanic
- Metropolitan Area: Milwaukee, Madison, Fox Valley, Rest of State, and other county combinations
- Sex: Male, Female
- Age: < 20, 20−24, 25−29, 30−39, 40+

With descriptive statistics, the goal was to uncover disparities that might suggest differential treatment based upon race/ethnicity, sex, age, and metropolitan area. However, descriptive statistics are poorly suited to questions of causation. Thus, we created multivariate statistical models to estimate changes in the likelihood of a prison sentence and prison sentence length based on specific worksheet factors and demographic variables

Regression Analysis

To better understand the correlation between sentencing factors and sentencing decisions, the current study conducted a multivariate regression analysis examining the effects of individual sentencing factors on sentence types and sentence lengths. Due to the dissimilar nature of these two elements, this research project utilized separate analytical models – logit and Tobit – to examine the types (prison or probation) and lengths (1 to 99 years). Logit models were chosen to analyze the influence of sentencing factors on sentence types, as they are designed to analyze choice between two mutually exclusive options. Conversely, Tobit models are designed to analyze a linear set of variables and were chosen to analyze the influence of sentencing factors on sentence lengths.

To accurately measure these elements, it was necessary to eliminate unsound data. First, worksheets that were unusable or incomplete were removed. This included worksheets submitted: (1) for non–guidelines offenses, (2) with missing or mismatched administrative data, (3) without any sentencing factors checked, or (4) with

indiscriminitely selected sentencing factors. In addition, the sample does not include sentencing factors selected fewer than five times (unless noted).[11]

For each offense, three logit and three Tobit models were created for Milwaukee, Rest of State (ROS), and Statewide. By running separate regressions for Milwaukee and ROS, we could compare the results and determine whether Milwaukee judges were behaving differently. For most crimes, we could perceive substantial differences between Milwaukee and ROS, suggesting that Milwaukee judges have very different concerns. These differences appeared in the variables that were statistically significant in Milwaukee and ROS, and/or differences in their respective coefficients. In our discussion, we present statewide findings where there were insufficient observations to model Milwaukee and ROS separately, or where separate models produced nearly identical results.

CONVENTIONAL NUMBER PREFERENCES

This section of the research study analyzed a different set of justice-related data than the previous one. Instead of voluntary sentencing guidelines worksheets, this portion utilized court data extracted from the Office of State Courts' Consolidated Court Automation Programs (CCAP) system. This included 23,000 non–probation felony sentences (12,000 prison and 11,000 extended supervision) handed down in the Wisconsin circuit court system between February 2003 and September 2005. These sentences were used to ascertain whether judges from the state exhibited any reliance on Convention Number Preferences (CNP). More specifically, these cases were used to examine the extent to which number preferences (i.e., a tendency among judges to consistently impose the same "standard" length) determined the distribution of prison and extended supervision sentence lengths.

Scatterplots were used to identify peaks and valleys of preferred sentencing lengths for both prison and extended supervision. The *Peak Strength* of each sentence length quantified the observed sentencing preferences. It was measured by dividing the frequency with which a particular sentence was imposed (the magnitude of each peak) by the total number of cases, or data points, found within the preceding valley. Essentially, *Peak Strength* measured the number of one–year sentences, two–year sentences, three–year sentences, etc., imposed for *each* sentence within the preceding range. This method of calculating strength of preference reflects an assumption about how Wisconsin judges operate.

[11] *These were reviewed on an offense-by-offense basis.*

SENTENCING FACTORS

Descriptive Statistics

Using data from valid sentencing guidelines worksheets, the following pages present descriptive statistical findings for 7 of the 11 guidelines offenses: robbery, armed robbery, burglary, forgery, cocaine trafficking, first-degree child sexual assault, and second-degree child sexual assault. These figures are derived from the data tables in Appendix E.

As expected, there were disparities between: men and women; young offenders and those with more extensive criminal histories; different race groups; and different jurisdictions. Chiefly, these were disparities in prison rate and prison sentence length. Less significant (though not *in*significant) were disparities in selection rate, referring to the selection of individual sentencing factors. Although selection ordinarily means choice, objective factors such as PRIOR FELONIES, PRIOR MISDEMEANOR*s* and MULTIPLE COUNTS require less thought than subjective factors; the judge simply indicates when they are present.[12] Nevertheless, the primary focus of this project was to examine sentence types and sentence lengths.

Generally, the study found that: women received fewer and shorter prison sentences than men; prison rate and sentence length increased with criminal history (which increases with age); outcomes varied significantly with geography; and when prison sentence length favored Black and Hispanic offenders, often it occurs because White offenders receive more non–prison sentences. Again, an emphasis is placed on the understanding that correlation and causation are different concepts. Disparities are what they are — indicators that leave much unexplained.

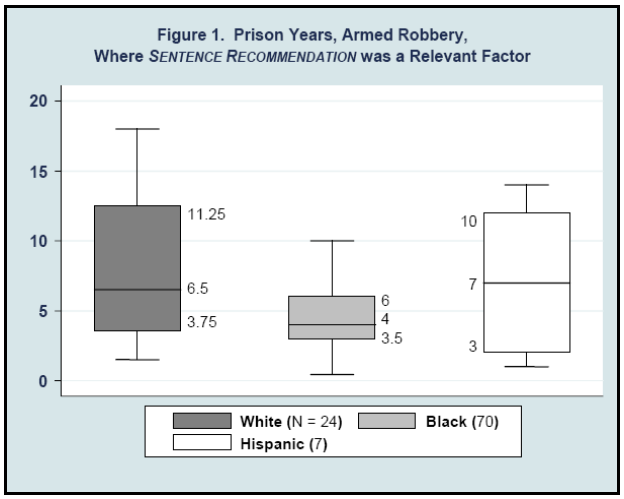
RACE/ETHNICITY

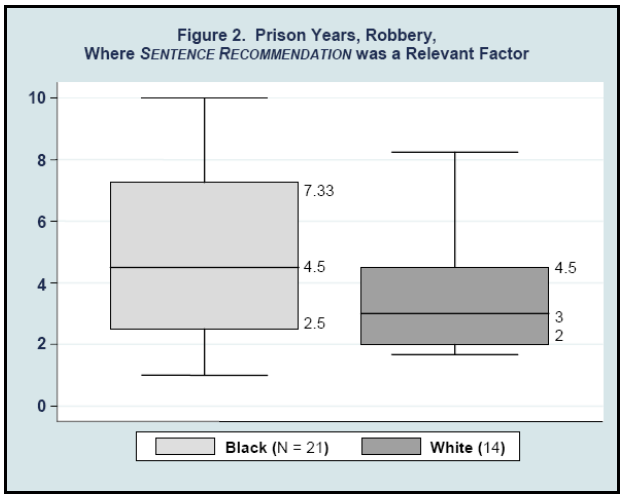
Beginning with race and ethnicity, the study highlights a number of situations that produced significantly different outcomes for White, Black, and Hispanic offenders:

- Median Prison Sentence – SENTENCE RECOMMENDATION (armed *robbery & robbery*)
- Prison Rate – LEGAL STATUS (*burglary*)
- Prison Rate – FREQUENT PRIOR DRUG ABUSE (*forgery*)
- Prison Rate – VULNERABLE OR TARGETED VICTIM (*2nd degree child sexual assault*)
- Selection Rate and Median Prison Sentence – TYPE OF CONTACT: INTERCOURSE (*2nd degree child sexual assault*)

[12] *Had we collected enough data from the revised worksheets, alone, we could have compared selection rates in terms of aggravating factors vs. mitigating factors — a decision that leaves more to the discretion of the court than was the factor present or not?*

Figures 1 and 2 shows the median prison sentence and the interquartile ranges (IRQs) for offenders who committed robbery and armed robbery, where SENTENCE RECOMMENDATION (which refers to *any* recommendation) was a relevant factor. For armed robbery, the median prison sentence for Black offenders was four years — considerably shorter than the median sentence for Whites. For robbery, the situation was reversed; the median prison sentence for Black offenders was 18 months *longer* than the median sentence for Whites. In each case, there were fewer than 10 Hispanic offenders, and for robbery, there were only 2; thus, their omission from Figure 2. We note that neither Black, nor White, nor Hispanic offenders were well represented in Figure 2, and this almost certainly contributed to the disparity in median sentence length.





Figures 3, 4 and 5 highlight significant disparities in selection rate and prison rate. Figure 3 shows that Black defendants who committed forgery were imprisoned more often than White when FREQUENT PRIOR DRUG ABUSE was selected, and Figure 4 shows that White defendants who committed second–degree child sexual assault were imprisoned more often than Black defendants when VULNERABLE or TARGETED VICTIM was selected. Figure 5 shows that Black defendants who committed burglary were imprisoned more often than White *and* Hispanic defendants when LEGAL STATUS was selected. This last comparison is noteworthy because LEGAL STATUS was

selected with nearly the same frequency for each group, indicating that LEGAL STATUS — committing another crime while on probation, parole, etc. — was not a problem specifically for Black defendants, White defendants or Hispanic defendants. Regarding the disparities shown for DRUG ABUSE and forgery, and VULNERABLE VICTIM and second–degree child sexual assault, a likely explanation is that DRUG ABUSE ordinarily was a mitigating factor, and VULNERABLE VICTIM ordinarily an aggravating factor. This would explain the reversal that occurs between Figures 3 and 4, with prison rate initially favoring White offenders, then not.

Figure 3. Effect of Frequent Prior Drug Abuse on Forgery Cases

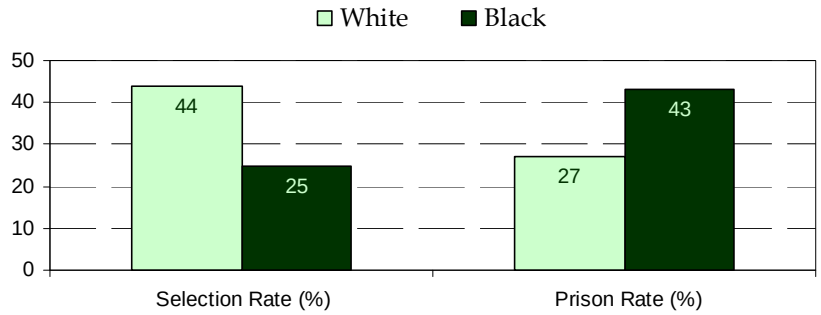
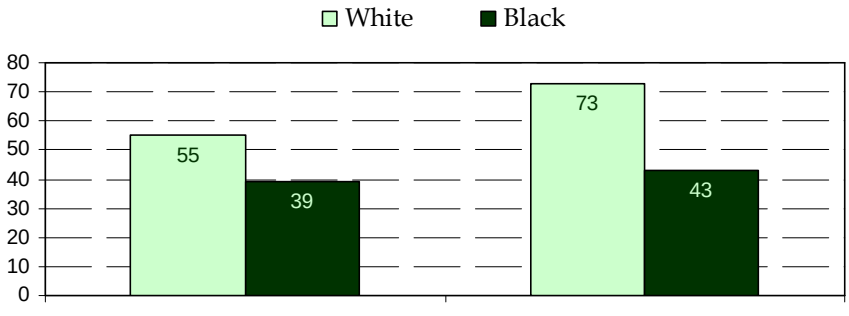
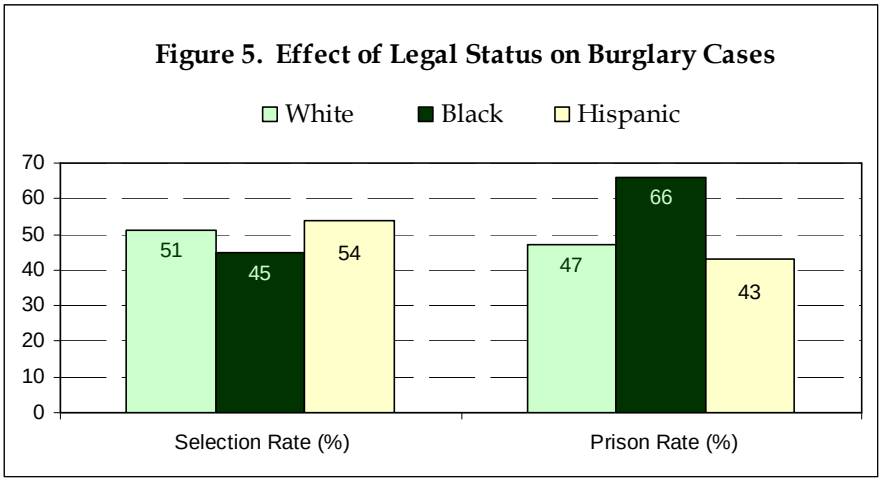
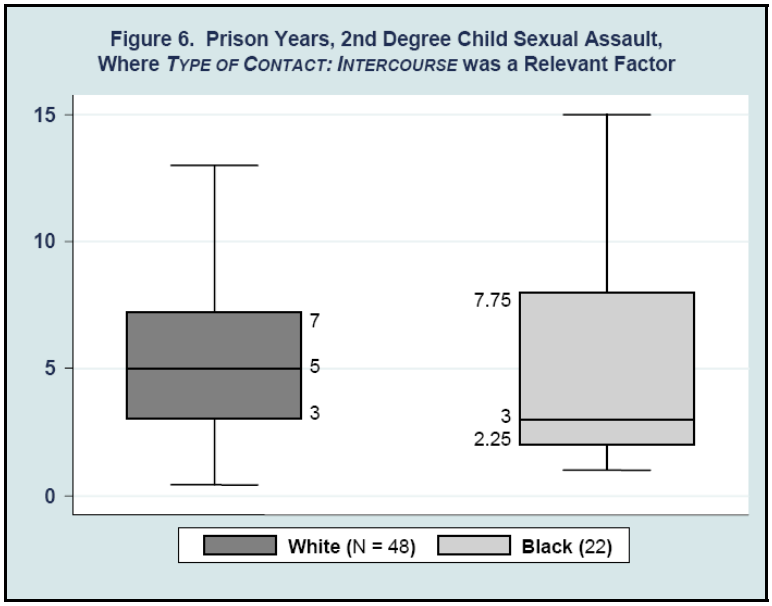


Figure 4. Effect of Vulnerable/Targeted Victim on Second Degree Sexual Assault of a Child





Finally, Figure 6 shows the median prison sentence and IQR for offenders who committed second–degree child sexual assault, where TYPE OF CONTACT: INTERCOURSE was a relevant factor. In this case, while the range of penalties imposed on Black offenders was generally higher than the range imposed on White, the median sentence for Black offenders was considerably shorter, indicating that sentences for Black offenders were grouped near the bottom, while sentences for White offenders were distributed more evenly throughout the relevant range.



GENDER

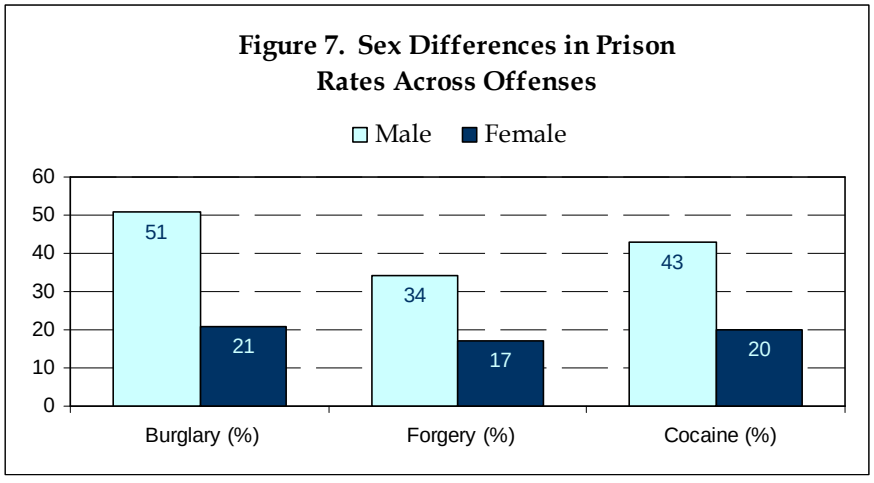
Concerning male and female offenders, the study highlights five situations that produced non–trivial disparities, each involving prison rate. Many disparities were uncovered in sentence lengths, yet nearly all were consistently small. However, they rarely favored male offenders, and that bears repeating. Generally speaking, women received fewer *and shorter* prison sentences than men.

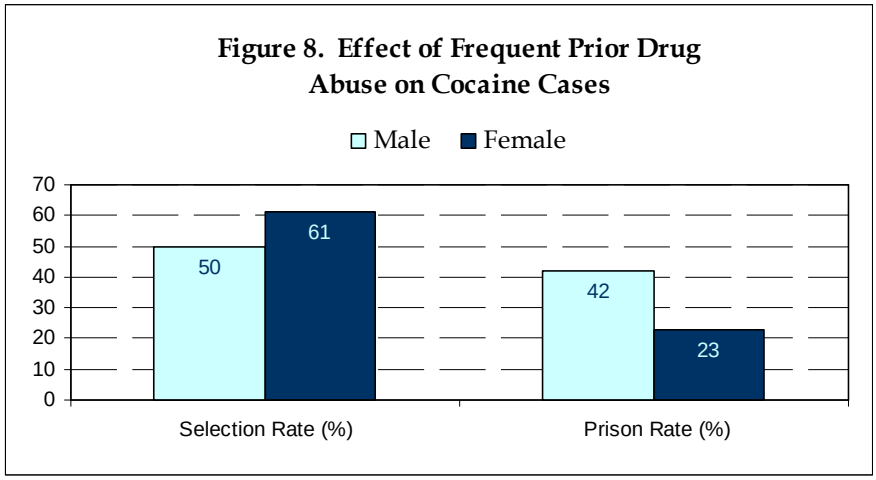
Because we received only 55 worksheets for women who committed armed robbery, robbery, or child sexual assault (first– *or* second–degree), we cannot compare sentences for male and female offenders for those crimes. Consequently, the study can only report on three of the seven offenses: burglary, forgery, and cocaine trafficking.

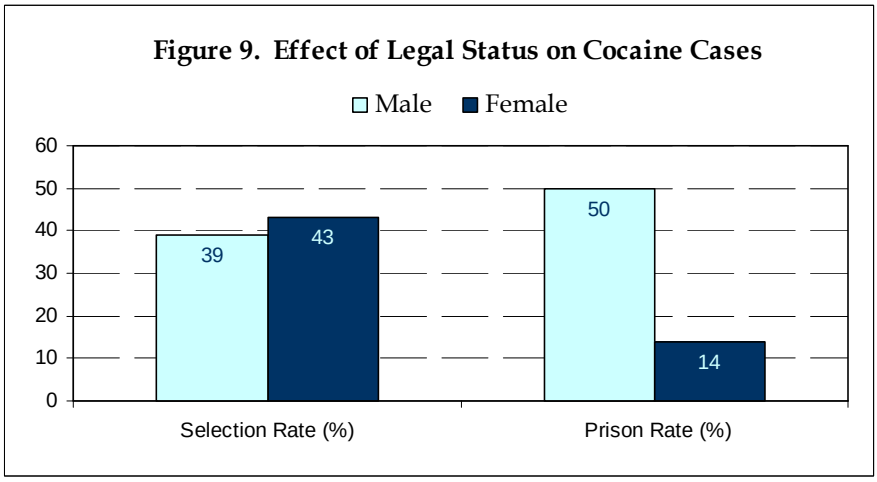
- Prison Rate (*burglary, forgery, cocaine trafficking)*
- Selection & Prison Rate – FREQUENT PRIOR DRUG ABUSE (*cocaine*)
- Selection & Prison Rate – LEGAL STATUS (*cocaine*)

Figures 7, 8 and 9 illustrate the inequalities referenced above. Figure 7 shows how often male and female defendants were imprisoned for burglary, forgery, and cocaine trafficking, while Figures 8 and 9 highlight the disparities associated specifically with cocaine trafficking and LEGAL STATUS and FREQUENT PRIOR DRUG ABUSE. In short, prison rate consistently disfavored men.

Male defendants were sentenced to prison 30% more often than female defendants in burglary cases, 17% more often in forgery cases, and 23% more often in cocaine trafficking cases. Specific to cocaine trafficking, male defendants were sentenced to prison 19% more often when FREQUENT PRIOR DRUG ABUSE was a relevant factor and 36% more often when LEGAL STATUS was a relevant factor. The disparity associated with LEGAL STATUS is perplexing because this factor was selected with the same frequency for men (39%) and women (41%). Strangely, this was the same pattern observed for LEGAL STATUS in combination with race/ethnicity and burglary.







AGE

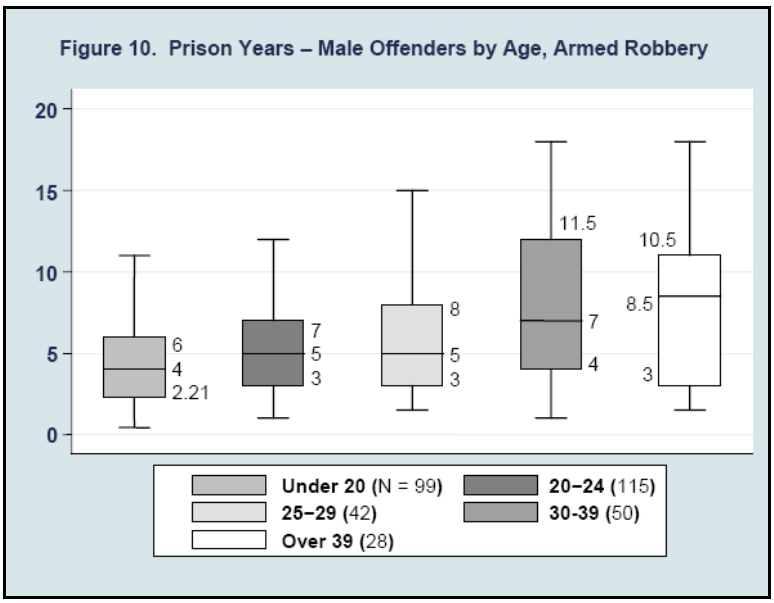
Unlike race and other considerations that are strictly illegitimate sentencing factors, age and geography ("metropolitan area") are genuine sentencing issues. Judges routinely invoke youth and inexperience, and sentencing practices vary geographically because crime varies geographically, along with charging practices and political and cultural norms.

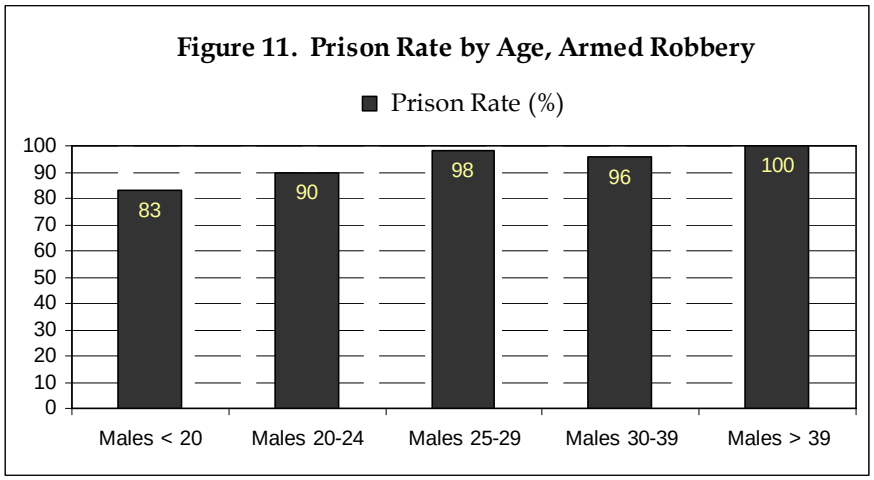
The figures that we present for age actually incorporate sex and age. Offenders were first divided into male and female, then sorted into the relevant categories: under 20, 20−24, 25−29, 30−39, and above 39. This was the best approach, given the observed differences between male and female offenders, generally. Below, we present six illustrations:

- Prison Years – (*armed robbery*)
- Prison Rate – (*armed robbery*)
- Prison Rate (*cocaine*)
- Prison Rate (*2nd degree child sexual assault*);

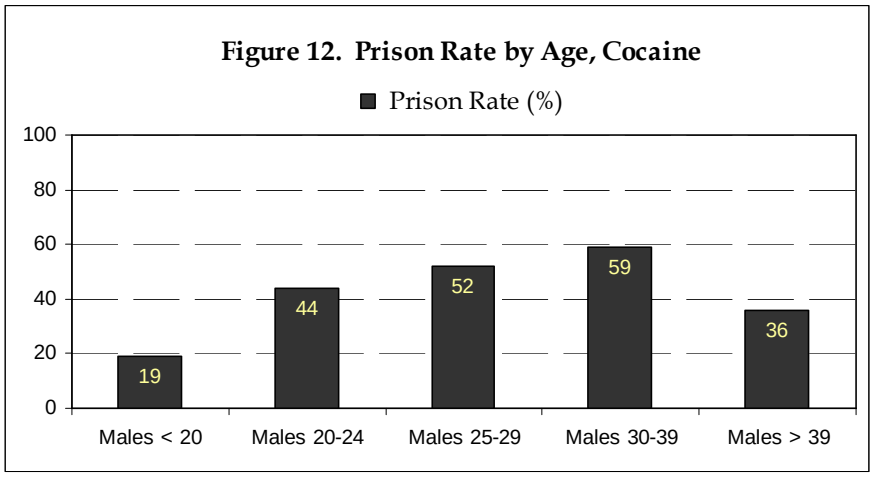
- Selection & Prison Rate – LEGAL STATUS (*forgery*)

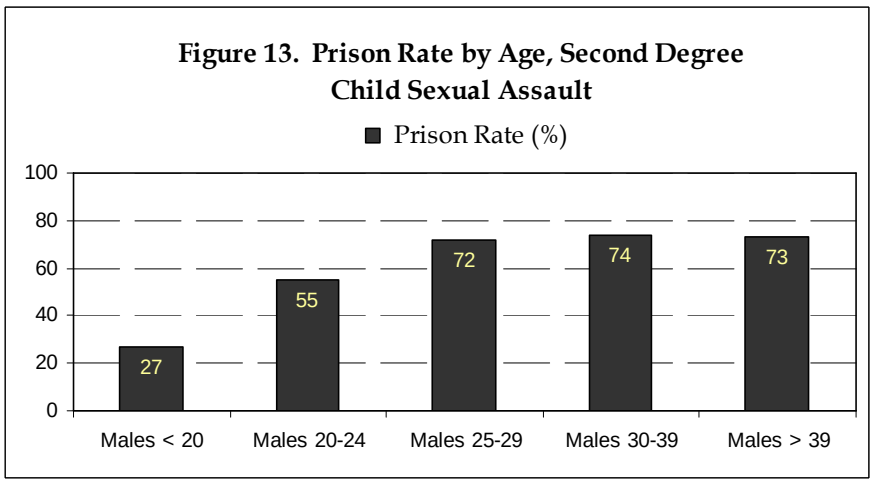
Generally speaking, prison rate and prison sentence length favored younger offenders. Figure 10 shows the median prison sentence and the IRQs for male offenders who committed armed robbery. For the youngest defendants — those under 20 — the median sentence was only 4 years. For those above 39, the median sentence was 8½ years. Figure 11 shows prison rates for the same population, also rising from 83%, for the youngest offenders, to where prison rate effective peaks (98%) for offenders aged 25−29.





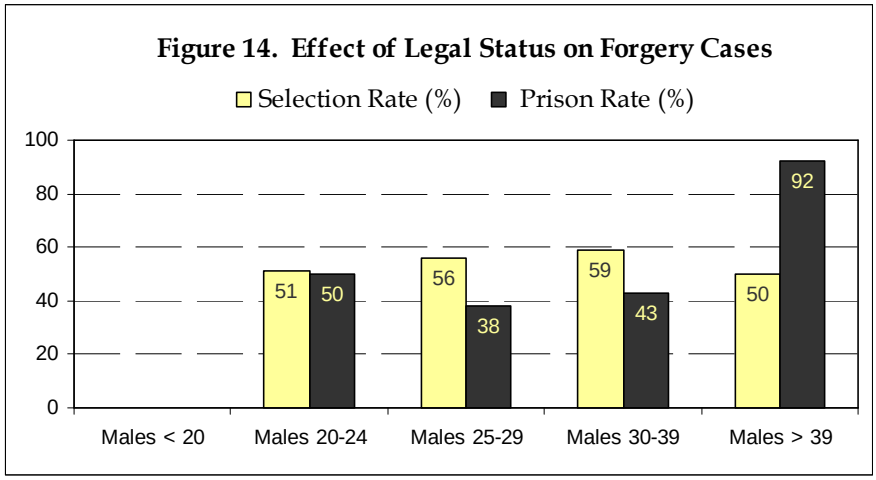
Figures 12 and 13 offer a similar view. They show downward-facing curves for male offenders who committed cocaine trafficking (Fig. 12) or second–degree child sexual assault (Fig. 13). Figures 12 and 13 are virtually identical: a steadily rising curve that peaks at 30−39 years and then begins falling, albeit just barely for the more serious crime, second–degree child sexual assault.

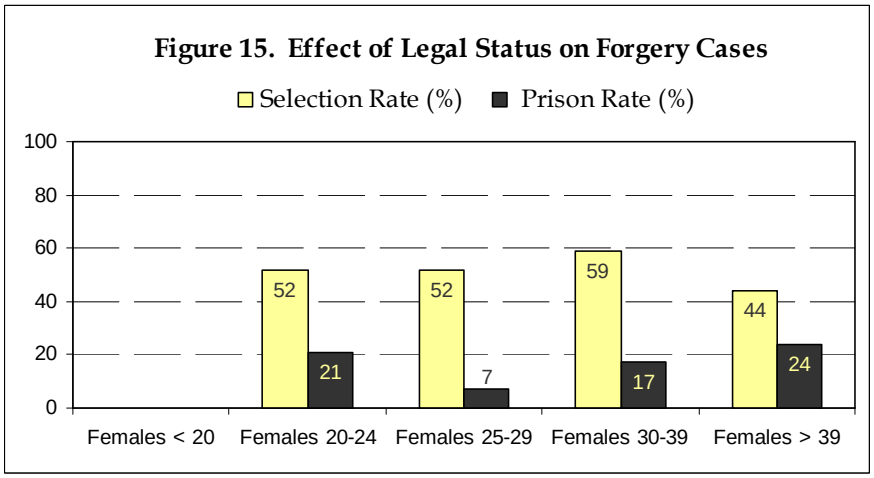




Finally, Figures 14 and 15 show prison rates for offenders who committed forgery, where LEGAL STATUS was a relevant factor. For both men and women, the prison/probation decision favored defendants in their late–20s and 30s, and hurt defendants in their early–20s, 40s, 50s and beyond. Male defendants 20−24 were given prison sentences exactly half the time.

Only those aged 40 and above fared worse. The disparities among female offenders were smaller, but similar, producing the same U–shaped curve. Since criminal history increases with age (barring expungement, one cannot accumulate *fewer* convictions over time) we anticipated that prison rate would increase steadily with age. Instead, judges were fairly harsh with younger defendants, and fairly lenient toward those aged 25−39. Besides age–related disparities, Figures 12 and 13 also reveal large gaps between men and women, generally. For example, 25−29 was the category associated with the lowest prison rate for men and women alike, but the actual rate for men was 38% and the actual rate for women, only 7%. The disparity between men and women above 39 was even greater – 92% for men, 24% for women.



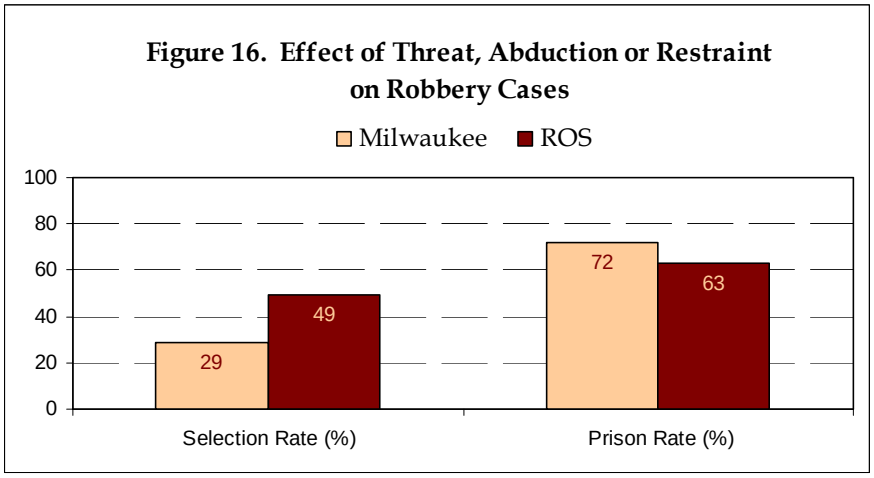


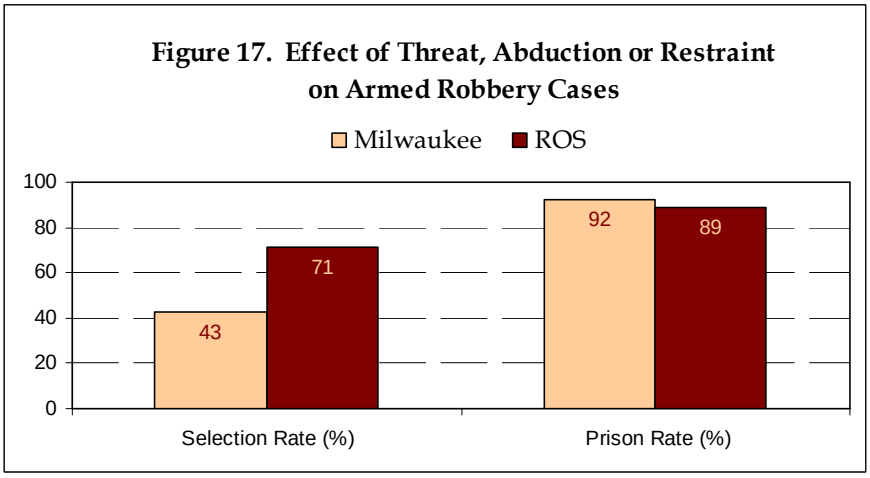
METROPOLITAN AREA

For metropolitan area — the final demographic category — we present six illustrations, each describing significant differences in selection rate and prison rate based upon locality:

- Selection & Prison Rate – THREAT, ABDUCTION, OR RESTRAINT (*robbery & armed robbery*)
- Selection & Prison Rate – SENTENCE RECOMMENDATION (*burglary & forgery*)
- Selection & Prison Rate – FREQUENT PRIOR DRUG ABUSE (*burglary & forgery*)

Figures 16 and 17 describe the relationship between THREAT, ABDUCTION, OR RESTRAINT and imprisonment in Milwaukee County and ROS, for robbery and armed robbery. In both cases — both crimes — THREAT, ABDUCTION, OR RESTRAINT was more often selected outside Milwaukee, but associated with a higher prison rate inside Milwaukee. Here, the differences in selection rate and prison rate suggest that Milwaukee judges are more purposeful, more selective, in deciding whether THREAT, ABDUCTION, OR RESTRAINT applies, checking the appropriate box only when the crime was truly aggravated.



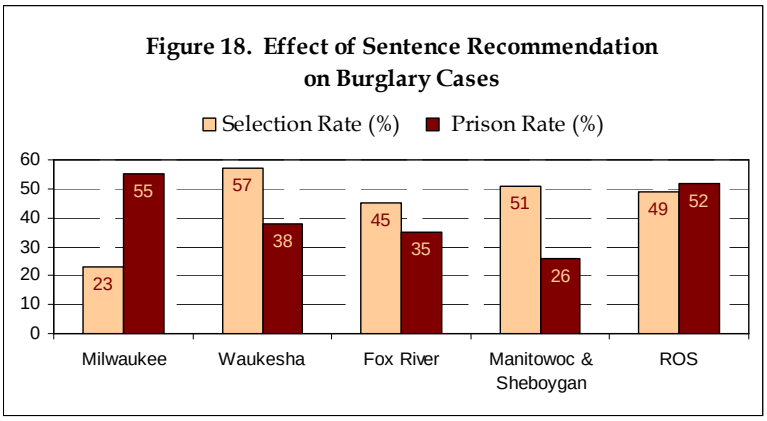


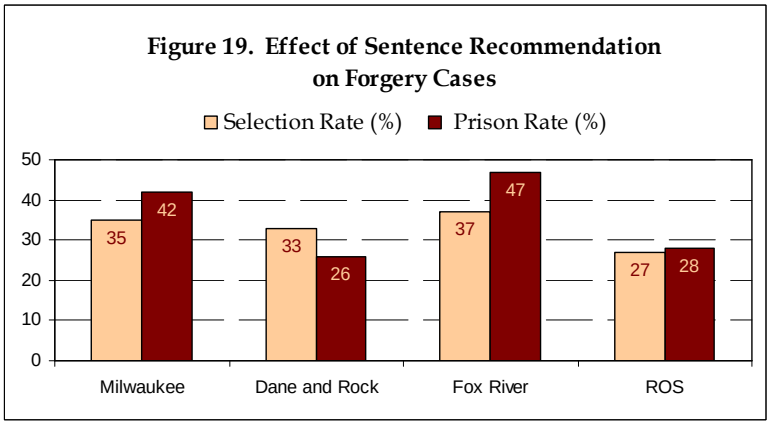
Figures 18 and 19 describe the relationship between SENTENCE RECOMMENDATION and imprisonment for burglary in several metropolitan areas — counties and county groups — and Figures 20 and 21 describe the relationship between FREQUENT PRIOR DRUG ABUSE and imprisonment for another crime, forgery. Only the counties and county groups that supplied 30+ worksheets for burglary and forgery are represented below. Smaller counties, and those that supplied fewer worksheets, are collected together under the banner, ROS.

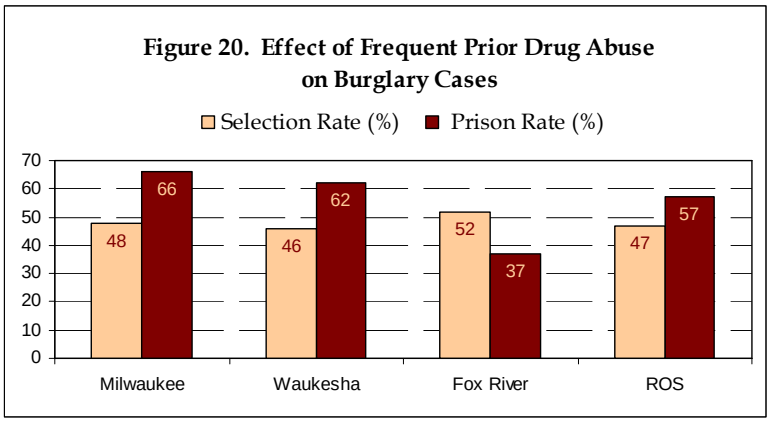
Milwaukee County is the largest jurisdiction in Wisconsin, with 48 judges serving approximately 900,000 residents. Dane and Rock Counties are the second and sixth largest, with 24 judges between them (and Madison and Janesville — the second and tenth largest cities, 40 miles apart). Waukesha County, located between Milwaukee and Madison, has 12 judges. And Manitowoc and Sheboygan Counties, between Milwaukee and the Door County Peninsula, have three and five judges, respectively. This pairing appears only once (Figure 18). Surprisingly, Manitowoc and Sheboygan Counties supplied more worksheets for burglary (37) than many larger jurisdictions. The Fox River Valley, encompassing, for our purposes, Brown, Outagamie, Winnebago, Calumet and Fond du Lac Counties, is the only true geographical region that we examined. This area, which includes

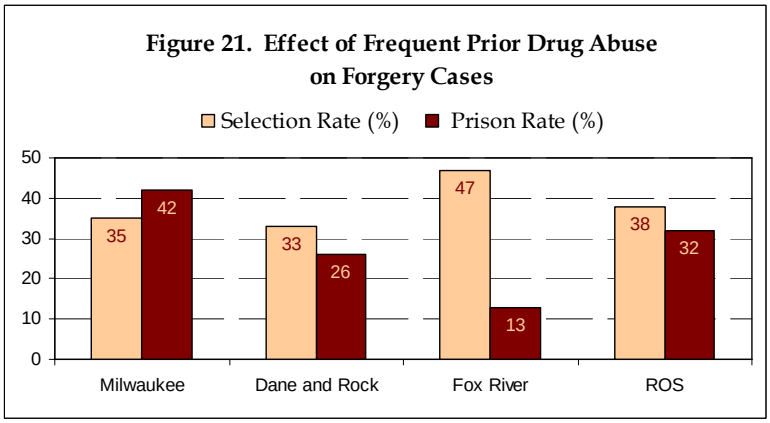
Green Bay, Lake Winnebago and the Fox River industrial corridor, has 27 circuit judges serving more than 650,000 residents.

Figures 18−21, below, are provided simply to illustrate the point that different jurisdictions have different approaches to sentencing. For example, Figure 18 shows that SENTENCE RECOMMENDATION was rarely selected in Milwaukee for burglary, and Figure 21 shows that although FREQUENT PRIOR DRUG ABUSE was often selected in the Fox Valley for offenders who committed forgery, Fox Valley judges were not inclined to assign prison sentences for this offense.









Regression Analysis

As noted above, because the worksheets are strictly advisory, actual submissions were insufficient to achieve unbiased results for each guidelines offense. For certain crimes (e.g., first– and second–degree sexual assault) the total number of worksheets received was inadequate to attempt regression analysis, notwithstanding the submission rate. And although the Commission received 250 worksheets for cocaine trafficking, the study's models for this offense consistently failed to converge. Below are the findings for the six offenses that were sufficiently represented in the dataset to permit regression analysis: robbery and armed robbery, burglary, forgery, and first– and second–degree child sexual assault. The complete regression tables can be found in Appendix F.

Prison vs. Probation – Table I highlights the statistically significant determinants of prison/probation decisions. For each offense, the ideal comparison was between Milwaukee and ROS. However, there were not always sufficient observations to directly compare Milwaukee and ROS. Thus, for robbery and armed robbery, the statewide and Milwaukee-specific findings are combined, with the assumption that ROS cases were driving the differences between them. And for second–degree child sexual assault, the study presents statewide findings alongside those for ROS, with the assumption that Milwaukee cases were driving the differences between them. For first–degree child sexual assault, where only the Tobit models converged initially, the prison/probation

question was modeled using only demographic variables and worksheet variables that were statistically significant in relation to the question of prison sentence length.

Prison Sentence Length – Table II lists the statistically significant determinants of sentence length decisions. Again, for each offense, the ideal comparison was between Milwaukee and ROS. Except for cocaine trafficking, the Tobit models nearly always converged. Appendix F contains the full results for both decision types — prison versus probation, as well as prison sentence length. Appendix G lists the factors that predict prison or non-prison sentences perfectly.

ROBBERY

Regarding prison/probation decisions for this offense, the study examined Milwaukee, specifically, and the statewide picture. Again, the ideal comparison would have been Milwaukee and ROS, but for robbery (and armed robbery), the dataset was not sufficiently well developed. Table 1 (below) lists the worksheet and demographic factors that were significant at the 90% and 95% levels for Milwaukee and Milwaukee + ROS (the statewide model).

Table 1. Prison vs. Probation – Statistically Significant Factors

Robbery – Milwaukee	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Black or African-American	0.04	Age sq	0.99
	Other type of harm	689.18	Conduct more serious than offense	80.50
	GBH/extreme emotional harm	73.73	Threat, abduction or restraint	6.25
	Prior similar offense(s)	100.49	Prior misdemeanor(s)	24.23
	Legal status	48.22	Treatment for drugs/alcohol	0.02
	Cooperated with the authorities	0.05		
	Other sentence adjustment factor(s)	0.03		
	DA or defense sentence recommendation	0.03		
Robbery – Statewide	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Leadership role in the offense	7.66	Extreme degree of force	0.20
	Prior misdemeanor(s)	8.30	Concealed or altered appearance	0.12
	Time since most recent conviction	0.05	Prior felony or felonies	6.26
	Treatment for mental/physical health problems	< 0.01	Prior similar offense(s)	7.70
	Cooperated with the authorities	0.13	Criminal history under/overstates risk	809.67
	DA or defense sentence recommendation	0.07		
	Milwaukee	660.50		
	Odds Republican	28.88		
	Judges 7–17	126.32		

In Milwaukee, there were eight variables that were highly significant: BLACK/AFRICAN–AMERICAN; GREAT BODILY HARM (GBH) or EXTREME EMOTIONAL HARM; OTHER TYPE OF HARM; PRIOR SIMILAR OFFENSE(S); COOPERATED WITH THE AUTHORITIES; LEGAL STATUS; SENTENCE RECOMMENDATION; and OTHER SENTENCE ADJUSTMENT FACTOR(S)

Statewide, there were nine variables that were highly significant: LEADERSHIP ROLE IN THE OFFENSE; PRIOR MISDEMEANOR(S); SENTENCE RECOMMENDATION; TIME SINCE MOST RECENT CONVICTION; TREATMENT FOR MENTAL; PHYSICAL HEALTH PROBLEMS; MILWAUKEE; ODDS REPUBLICAN; and JUDGES 7-17

In Milwaukee, ELDERLY VICTIM and MULTIPLE COUNTS predicted success (prison) perfectly, while MINIMAL ROLE IN THE OFFENSE predicted failure (probation) perfectly. Statewide, GANG–RELATED OFFENSE, ELDERLY VICTIM, NATIVE AMERICAN, HABITUAL CRIMINALITY and DEFENDANT WAS MANIPULATED OR PRESSURED predicted success perfectly, and MINIMAL ROLE predicted failure perfectly.

Among the variables referenced above, several were noteworthy because they substantially increased or decreased the likelihood of prison. In the Milwaukee model, BLACK/AFRICAN–AMERICAN, COOPERATED WITH THE AUTHORITIES, SENTENCE RECOMMENDATION, and OTHER SENTENCE ADJUSTMENT FACTOR(S) significantly decreased the likelihood of prison. LEGAL STATUS and GBH OR EXTREME EMOTIONAL HARM moderately increased the likelihood, while PRIOR SIMILAR OFFENSE(S), and especially, OTHER TYPE OF HARM, dramatically increased the likelihood. THREAT, ABDUCTION OR RESTRAINT somewhat increased the odds, but was not highly significant ($p > |z| = .073$)

Statewide, TIME SINCE MOST RECENT CONVICTION, TREATMENT FOR MENTAL OR PHYSICAL HEALTH PROBLEMS, SENTENCE RECOMMENDATION and COOPERATED WITH THE AUTHORITIES significantly decreased the risk, while LEADERSHIP ROLE, PRIOR MISDEMEANOR(S) and ODDS REPUBLICAN moderately increased the risk. JUDGES 7−17 (odds ratio = 126.316) and MILWAUKEE (odds ratio = 660.496) substantially increased the risk. Among the variables that were significant at the 90% level, EXTREME DEGREE OF FORCE actually decreased the risk, and CRIMINAL HISTORY UNDER/OVERSTATES RISK virtually ensured prison (odds ratio = 809.672).

Table 2 contains our findings regarding sentence length. We used the Tobit approach rather than ordinary least squares (OLS) because there was some concern that sentence type (prison vs. probation) and sentence length are not separate decisions, necessarily. If you assume that the decision–making process is strictly compartmentalized, with the *in/out* question being entirely distinct from sentence length, then you can exclude from the dataset cases where the offender received probation (or another non–prison sentence) and model prison sentence length using OLS and the remaining cases. Our concern was that judges might not fully distinguish between sentence type and sentence length. Instead, they might simply ask, how much time does this person deserve? Ranging from none — zero years prison — to whatever maximum sentence the judge would reasonably entertain. If judges view probation as prison years = 0, then the Tobit model would be more appropriate than OLS, since the decision–making process — the process of selecting the right sentence length — specifically contemplates sentences of zero years confinement.

Table 2. Prison Sentence Length – Statistically Significant Factors

Robbery – Milwaukee	p < .05		p < .10	
	Variable	**Coef.**	**Variable**	**Coef.**
	Age	0.85	Extreme degree of force	−1.40
	Age sq	−0.01	Legal status	0.98
	Black or African-American	−1.40	DA or defense sentence recommendation	−1.06
	Threat, abduction or restraint	1.30		
	GBH/extreme emotional harm	2.23		
	Treatment for drugs/alcohol	−3.01		
	Accepts responsibility	−2.01		
	Effect of multiple counts	3.73		
	Other sentence adjustment factor(s)	−2.58		
Robbery – ROS	**p < .05**		**p < .10**	
	Variable	**Coef.**	**Variable**	**Coef.**
	GBH/extreme emotional harm	2.08	No criminal record	−2.04
	Degree of preparation	3.11	Judges 3–6	−1.94
	Employed when offense was committed	2.64		
	Mental or physical health problems	−2.35		
	Cooperated with the authorities	−2.72		
	Read-in offense(s)	2.12		
	Habitual cirminality (repeat offender)	5.78		
	Vulnerable or targeted victim	−2.68		
	Judges 7–17	−2.94		

For sentence–length decisions for this offense, convergence was not a problem, and we could directly compare Milwaukee and ROS. In Milwaukee, there were nine variables that were highly significant: AGE, AGE–SQUARED; BLACK/AFRICAN–AMERICAN; GBH OR EXTREME EMOTIONAL HARM; TREATMENT FOR DRUGS OR ALCOHOL; OTHER SENTENCE ADJUSTMENT FACTOR(S); MULTIPLE COUNTS; ACCEPTS RESPONSIBILITY and THREAT, ABDUCTION OR RESTRAINT. BLACK/AFRICAN–AMERICAN was, perhaps, the only surprise (coef. = −1.404). The negative coefficient indicates that, for this offense, within Milwaukee County, race actually decreases sentence length for Black offenders.

Other notable findings are that TREATMENT FOR DRUGS OR ALCOHOL reduces sentence length considerably (coef. = −3.01) and that MULTIPLE COUNTS increases sentence length considerably (coef. = 3.73). We note that treatment for substance abuse, like many factors that we considered, has several possible meanings. In fact, TREATMENT FOR DRUGS OR ALCOHOL actually stands in for multiple worksheet factors, e.g., prior treatment, not previously treated, and, from the original worksheets, simple lines for "alcohol treatment" and "drug treatment." Thus, TREATMENT FOR DRUGS OR ALCOHOL could mean that the offender had voluntarily entered treatment, that the offender had previously and unsuccessfully attempted treatment, even that the judge viewed success in treatment as probable, and treatment therefore worthwhile. In this case, the magnitude and direction of the coefficient, −3.010, suggests that this factor, whatever its meaning, ordinarily mitigates the seriousness of the offense.

The ROS regression also produced nine variables that were highly significant: GBH OR EXTREME EMOTIONAL HARM; DEGREE OF PREPARATION; MENTAL OR PHYSICAL HEALTH PROBLEMS; READ–IN OFFENSE(S); EMPLOYED WHEN THE OFFENSE WAS COMMITTED; COOPERATED WITH THE AUTHORITIES; VULNERABLE OR TARGETED VICTIM; HABITUAL CRIMINALITY and JUDGES 7−17.

The coefficients were as expected, with factors that ordinarily mitigate the offense having a negative influence on sentence length, and factors that ordinarily aggravate the offense having a positive influence. Notably, although JUDGES 7−17 increased the likelihood of prison, this factor did not increase sentence length. Instead, it decreased sentence length considerably, suggesting that judges from medium–size counties (7−17 judges per county) are more likely to impose prison sentences, but less likely to impose lengthy prison terms. JUDGES 3–6, which nearly reached the 95% threshold ($p > |t| = .052$), also decreased sentence length. However, the magnitude of the coefficient associated with JUDGES 7−17 is larger, indicating that sentences are somewhat shorter in medium–size counties. Whether that happens because medium–size counties are more familiar with crime, because smaller counties tend to be more conservative, because of another reason, or because of no reason, whatsoever, we cannot say.

ARMED ROBBERY

For prison/probation decisions concerning armed robbery, we present statewide findings alongside those for Milwaukee. For decisions regarding prison sentence length, we present the ideal comparison: Milwaukee and ROS. Generally speaking, for this offense, there were fewer demographic factors that were statistically significant, and fewer significant worksheet factors related to harm. Instead, the factors that were consistently significant, for prison/probation decisions and decisions regarding sentence length, were prior criminal record, value of the loss, and role in the offense.

As shown in Table 3, five variables were highly significant factors in prison/probation decisions in Milwaukee: VALUE OF THE LOSS; MENTAL OR PHYSICAL HEALTH PROBLEMS; MINIMAL ROLE IN THE OFFENSE; PRIOR FELONY OR FELONIES; and FREQUENT PRIOR DRUG ABUSE. Of these, PRIOR FELONIES and FREQUENT PRIOR DRUG ABUSE moderately increased the likelihood of prison. MINIMAL ROLE IN THE OFFENSE, MENTAL OR PHYSICAL HEALTH PROBLEMS and VALUE OF THE LOSS greatly reduced the odds. There were seven factors that perfectly predicted prison: CONDUCT MORE SERIOUS THAN OFFENSE OF CONVICTION; OTHER OFFENSE CHARACTERISTIC(S); MULTIPLE COUNTS; TIME SINCE MOST RECENT CONVICTION; OTHER STATUTORY AGGRAVATING FACTOR(S); EMPLOYED WHEN THE OFFENSE WAS COMMITTED; and surprisingly, TREATMENT FOR DRUGS OR ALCOHOL.

Table 3. Prison vs. Probation – Statistically Significant Factors

Armed Robbery – Milwaukee	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Value of the loss	0.10	Other sentence adjustment factor(s)	0.19
	Minimal role in the offense	0.05		
	Prior felony or felonies	39.75		
	Mental or physical health problems	0.10		
	Frequent prior drug abuse	22.03		
Armed Robbery – Statewide	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Value of the loss	0.19	Age	1.50
	Minimal role in the offense	0.17		
	Prior felony or felonies	11.36		
	Frequent prior drug abuse	8.69		
	Read-in offense(s)	9.91		
	Effect of multiple counts	11.60		
	Milwaukee	< 0.01		
	Odds Republican	16.03		
	Judges 3–6	< 0.01		
	Judges 7–17	< 0.01		

In the statewide model, there were 10 factors that were significant at the 95% level: VALUE OF THE LOSS; MINIMAL ROLE IN THE OFFENSE; MULTIPLE COUNTS; READ–IN OFFENSE(S); PRIOR FELONY OR FELONIES; FREQUENT PRIOR DRUG ABUSE; ODDS REPUBLICAN; MILWAUKEE; JUDGES 3−6; and JUDGES 7−17. Only MULTIPLE COUNTS, PRIOR FELONIES and ODDS REPUBLICAN increased the likelihood of prison, and even then, only modestly. The remaining factors, especially MILWAUKEE (odds ratio = 2.87E−07), JUDGES 3−6 (7.40E−09) and JUDGES 7−17 (2.56E−09), dramatically decreased the odds. These findings contradict our findings for robbery, where MILWAUKEE and JUDGES 7−17 substantially increased the odds.

Table 4 contains our findings regarding sentence–length decisions for armed robbery. In Milwaukee, there were nine factors that were highly significant: AGE; PRIOR FELONIES; CONDUCT MORE SERIOUS THAN OFFENSE OF CONVICTION; VALUE OF THE LOSS; MINIMAL ROLE IN THE OFFENSE; DEFENDANT WAS MANIPULATED OR PRESSURED; MENTAL OR PHYSICAL HEALTH PROBLEMS; MULTIPLE COUNTS and SENTENCE RECOMMENDATION. The ROS model produced only three variables that were significant at the 95% level: LEADERSHIP ROLE, OTHER ROLE IN THE OFFENSE, and READ–IN OFFENSE(S).

Table 4. Prison Sentence Length – Statistically Significant Factors

Armed Robbery – Milwaukee	***p < .05***		***p < .10***	
	Variable	***Coef.***	***Variable***	***Coef.***
	Age	0.43	Age sq	−0.01
	Conduct more serious than offense	2.85	Black or African-American	1.22
	Value of the loss	−2.07	Threat, abduction or restraint	0.94
	Minimal role in the offense	−3.49	Read-in offense(s)	1.26
	Was manipulated or pressured	−2.49		
	Prior felony or felonies	2.53		
	Mental or physical health problems	−2.07		
	Effect of multiple counts	1.99		
	DA or defense sentence recommendation	−1.52		
Armed Robbery – ROS	***p < .05***		***p < .10***	
	Variable	***Coef.***	***Variable***	***Coef.***
	Leadership role in the offense	3.49	Male	6.85
	Other role – nonminimal, nonleadership	−4.48	Prior felony or felonies	2.83
	Read-in offense(s)	6.08	Treament for mental/physical health problems	−3.94
			Odds Republican	3.11
			Judges 3−6	−4.22

Among the factors that were highly significant in Milwaukee, none were perplexing. Predictably, MINIMAL ROLE, MENTAL OR PHYSICAL HEALTH PROBLEMS, and DEFENDANT WAS MANIPULATED OR PRESSURED all decreased sentence length, while PRIOR FELONIES, MULTIPLE COUNTS and CONDUCT MORE SERIOUS THAN OFFENSE OF CONVICTION increased sentence length. SENTENCE RECOMMENDATION also decreased sentence length, suggesting that recommendations, when they were relevant sentencing factors, generally were not severe. Among the factors that were significant at the 90% level, BLACK/AFRICAN–AMERICAN increased sentence length slightly.

In the ROS model, the coefficients were generally higher, but almost surely because there were only 64 observations, compared to 286 from Milwaukee. There were few surprises among the factors that were highly significant, but MALE and ODDS REPUBLICAN, both significant at the 90% level, both increased sentence length by an appreciable margin.

BURGLARY

For burglary, the worksheet submission rate was sufficiently high — more than 300 from Milwaukee, more than 500 from ROS — to achieve convergence in every regression: Logit and Tobit, Milwaukee and ROS. Table 5 contains our findings regarding prison/probation decisions for this offense. With the highest number of observations, burglary represents an ideal testing ground for several hypotheses: (i) that prison becomes more likely when the offender takes a central, active role in the offense, and less likely under other circumstances; (ii) that risk, and factors closely associated with risk, are the primary driving forces behind decisions regarding both sentence type and sentence length; and (iii) that race, ethnicity and sex influence the sentencing process, to the disadvantage of men and minorities.

In Table 5, several factors stand out as statistically significant determinants of prison/probation decisions. Along with LEADERSHIP ROLE, PRIOR FELONIES, PRIOR SIMILAR OFFENSES and MULTIPLE COUNTS, MALE, which had the highest odds ratio (9.752), significantly increased the likelihood of prison in Milwaukee. ACCEPTS RESPONSIBILITY,

COOPERATED WITH THE AUTHORITIES and NO CRIMINAL RECORD all reduced the likelihood. Strangely, EMPLOYED WHEN THE OFFENSE WAS COMMITTED — seemingly a mitigating factor — actually increased the likelihood considerably. This suggests that when this factor was selected, it was because the offender was *not* employed. Although we cannot say why particular factors were selected in any given case, this, we believe, was a persistent problem — judges selecting, with the intent of saying exactly the opposite, factors that we would characterize as clearly mitigating or clearly aggravating.

Table 5. Prison vs. Probation – Statistically Significant Factors

Burglary – Milwaukee	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Age	1.29	Premises – commercial location	0.12
	Age sq	1.00	Premises – residential location	0.13
	Male	9.75	GBH/extreme emotional harm	5.24
	Conduct more serious than offense	0.12	Abused position of trust	0.12
	Premises – nonresidential, noncommercial	0.08	DA or defense sentence recommendation	0.52
	Leadership role in the offense	3.52		
	Employed when offense was committed	7.90		
	No criminal record	0.16		
	Prior felony or felonies	4.59		
	Prior similar offense(s)	2.35		
	Accepts responsibility	0.41		
	Cooperated with the authorities	0.42		
	Effect of multiple counts	3.24		
Burglary – ROS	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Male	3.69	Asian or Asian-American	8.88
	Native American	0.22	Other type of harm	2.57
	Premises – residential location	3.33	Employed when offense was committed	0.52
	Premises – nonresidential, noncommercial	3.36	Accepts responsibility	0.63
	Minimal role in the offense	0.07		
	Prior felony or felonies	1.95		
	Prior similar offense(s)	2.77		
	Read-in offense(s)	1.99		
	Habitual criminality (repeat offender)	4.88		
	Judges 3–6	0.51		

The results for ROS confirm that sex works against male offenders, and that ethnicity colors the sentencing process. For instance, NATIVE AMERICAN, which was highly significant, appeared to reduce the likelihood of prison, while ASIAN OR ASIAN–AMERICAN, which was significant at the 90% level, seemed to greatly increase the likelihood. Additionally, Table 5 confirms that PRIOR FELONIES, PRIOR SIMILAR OFFENSES, and HABITUAL CRIMINALITY — factors that virtually define recidivism — are key elements in the decision to imprison. Finally, the ROS model brought out an interesting contrast between Milwaukee and ROS regarding the premises on which the crime occurred. In Milwaukee, each factor – COMMERCIAL PREMISES, RESIDENTIAL PREMISES and OTHER PREMISES – made a prison sentence less probable. In the ROS model, RESIDENTIAL PREMISES and OTHER PREMISES increased the probability significantly.

Table 6 contains our findings on burglary and sentence–length decisions. In Milwaukee, there were six highly significant variables that appeared to increase sentence length: AGE, MALE, LEADERSHIP ROLE, PRIOR FELONIES, EMPLOYED WHEN THE OFFENSE WAS COMMITTED, and MULTIPLE COUNTS. There were three highly significant

variables that appeared to decrease sentence length: NO CRIMINAL RECORD, ACCEPTS RESPONSIBILITY, and SENTENCE RECOMMENDATION.

Table 6. Prison Sentence Length – Statistically Significant Factors

Burglary – Milwaukee	p < .05		p < .10	
	Variable	Coef.	Variable	Coef.
	Age	0.48	Premises – nonresidential, noncommercial	−1.89
	Age sq	−0.01	Cooperated with the authorities	−0.85
	Male	3.52		
	Leadership role in the offense	1.48		
	Employed when offense was committed	2.11		
	No criminal record	−3.42		
	Prior felony or felonies	1.67		
	Accepts responsibility	−1.34		
	Effect of multiple counts	2.26		
	DA or defense sentence recommendation	−1.02		
Burglary – ROS	**p < .05**		**p < .10**	
	Variable	Coef.	Variable	Coef.
	Male	1.86	Other type of harm	1.09
	Native American	−1.91	Dangerous weapon (penalty enhancer)	1.90
	Conduct more serious than offense	2.80	Employed when offense was committed	−0.84
	Premises – residential	1.81	Mental or physical health problems	0.73
	Premises – nonresidential, noncommercial	1.34		
	Minimal role in the offense	−2.86		
	Prior felony or felonies	0.89		
	Prior similar offense(s)	1.10		
	Treatment for mental/physical health problems	−1.25		
	Frequent prior drug abuse	0.63		
	Accepts responsibility	−0.72		
	Read-in offense(s)	0.95		
	Habitual criminality (repeat offender)	1.06		
	Odds Republican	0.94		
	Judges 3–6	−1.02		

MALE (odds ratio = 3.52) had the largest positive influence, and NO CRIMINAL RECORD (−3.42) had the largest negative influence. Again, EMPLOYED WHEN THE OFFENSE WAS COMMITTED produced unexpected results, increasing sentence length by 2+ years. In the ROS model, MALE; PRIOR FELONIES; PRIOR SIMILAR OFFENSES; CONDUCT MORE SERIOUS THAN THE OFFENSE OF CONVICTION; RESIDENTIAL PREMISES; OTHER PREMISES (NONCOMMERCIAL, NONRESIDENTIAL); HABITUAL CRIMINALITY; FREQUENT PRIOR DRUG ABUSE; and ODDS REPUBLICAN appeared to increase sentence length. The variables that appeared to decrease sentencing length were entirely different from those in Milwaukee: NATIVE AMERICAN; MINIMAL ROLE IN THE OFFENSE; TREATMENT FOR MENTAL OR PHYSICAL HEALTH PROBLEMS; ACCEPTS RESPONSIBILITY; and JUDGES 3−6. CONDUCT MORE SERIOUS THAN OFFENSE OF CONVICTION (odds ratio = 2.80) had the largest positive influence on sentence length, and MINIMAL ROLE IN THE OFFENSE (−2.86) had the largest negative influence. Among variables that were significant at the 90% level, OTHER PREMISES (nonresidential, noncommercial) appeared to decrease sentence length in Milwaukee, and EMPLOYED WHEN THE OFFENSE WAS COMMITTED, which had gone against our expectations in previous cases, appeared to decrease sentence length in the ROS model.

FORGERY

Like burglary, forgery provided a wealth of usable worksheets — more than 500, in fact, permitting a direct comparison of Milwaukee and ROS in both our logit and Tobit models. Table 7 summarizes our findings on the question of prison vs. probation, and Table 8 summarizes our findings regarding prison sentence length.

Table 7. Prison vs. Probation – Statistically Significant Factors

	$p < .05$		$p < .10$	
Forgery – Milwaukee	***Variable***	***Odds***	***Variable***	***Odds***
	Prior felony or felonies	4.12	Value of the loss	2.78
	Prior similar offense(s)	5.08		
	Legal status	3.86		
	Frequent prior drug abuse	3.41		
	Effect of multiple counts	4.32		
Forgery – ROS	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Male	3.04		
	Employed when offense was committed	0.30		
	Prior felony or felonies	4.43		
	Criminal history under/overstates risk	7.23		

Table 8. Prison Sentence Length – Statistically Significant Factors

	$p < .05$		$p < .10$	
Forgery – Milwaukee	***Variable***	***Coef.***	***Variable***	***Coef.***
	Hispanic	3.77	Value of the loss	1.15
	Employed when offense was committed	3.20	Abused position of trust	1.54
	Prior felony or felonies	2.56	Time since most recent conviction	−2.72
	Prior similar offense(s)	2.17	Other sentence adjustment factor(s)	1.48
	Legal status	1.74		
	Frequent prior drug abuse	2.23		
	Accepts responsibility	−1.54		
	Effect of multiple counts	1.85		
Forgery – ROS	$p < .05$		$p < .10$	
	Variable	***Coef.***	***Variable***	***Coef.***
	Male	1.26	Value of the loss	−0.683
	Employed when offense was committed	−1.17	Cooperated with the authorities	−1.122
	Prior felony or felonies	1.60		
	Prior similar offense(s)	0.91		
	Criminal history under/overstates risk	2.31		
	Judges 7–17	1.14		

Regarding the prison/probation question, there were five variables that were highly significant in Milwaukee — PRIOR FELONIES; PRIOR SIMILAR OFFENSES; MULTIPLE COUNTS; LEGAL STATUS; and FREQUENT PRIOR DRUG ABUSE — and four that were highly significant elsewhere: MALE, PRIOR FELONIES, EMPLOYED WHEN THE OFFENSE WAS COMMITTED; and CRIMINAL HISTORY UNDER /OVERSTATES RISK. Not one factor decreased the likelihood of prison.

Regarding prison sentence length, there were eight variables that were highly significant in Milwaukee, and six that were highly significant in the ROS model. In Milwaukee, HISPANIC had the largest positive influence on sentence length, followed by EMPLOYED WHEN THE OFFENSE WAS COMMITTED; PRIOR FELONIES; PRIOR SIMILAR OFFENSES; and FREQUENT PRIOR DRUG ABUSE. ACCEPTS RESPONSIBILITY was the only variable with a negative

coefficient. In the ROS model, CRIMINAL HISTORY UNDER/OVERSTATES RISK had the largest positive effect, then PRIOR FELONIES, MALE, and JUDGES 7−17. EMPLOYED WHEN THE OFFENSE WAS COMMITTED was the only factor that had a negative influence.

FIRST- AND SECOND-DEGREE CHILD SEXUAL ASSAULT

We anticipated that first– and second–degree child sexual assault, being crimes that bear little resemblance to robbery, burglary and forgery, would raise an entirely different set of concerns related to sentencing. This was true, to an extent. Certain variables, for example, TYPE OF CONTACT: INTERCOURSE and PRIOR ABUSE OF THE VICTIM, are specific to sexual assault. Others, namely, ABUSED POSITION OF TRUST and DEFENDANT WAS MANIPULATED OR PRESSURED, are appearing as highly significant variables for only the first or second time.

Tables 9 and 10 contain our findings regarding sentence type and sentence length for first–degree child sexual assault. For this offense, to overcome problems with convergence, we modeled the prison/probation question using only those factors that were significant at the 90% level or higher in Tobit regressions. This decision was based on the assumption that judges are likely influenced by many of the same factors, whether the question involves sentence type or sentence length. We present the results of this "experiment" below. In Milwaukee, only AGE OF THE VICTIM and READ–IN OFFENSES were significant, and then, only at the 90% level. In the ROS model, only AGE and AGE–SQUARED, ODDS REPUBLICAN and THREAT, ABDUCTION OR RESTRAINT were significant, all at the 95% level.

Table 9. Prison vs. Probation – Statistically Significant Factors

1st Deg. Child Sexual Assault – Milwaukee	*p < .05*		*p < .10*	
	Variable	***Odds***	***Variable***	***Odds***
			Age of the victim	67.58
			Read-in offense(s)	43.50
1st Deg. Child Sexual Assault – ROS	***p < .05***		***p < .10***	
	Variable	***Odds***	***Variable***	***Odds***
	Age	1.48		
	Age sq	1.00		
	Threat, abduction or restraint	0.07		
	Odds Republican	16.05		

Table 10 summarizes our findings regarding prison sentence length. There were only four highly significant variables that were common to Milwaukee and ROS: AGE–SQUARED, ABUSED POSITION OF TRUST, NO CRIMINAL RECORD and PRIOR MISDEMEANORS. Of those four, only AGE–SQUARED appeared to have the same or approximately the same effect in both models. However, given the direction and magnitude of the coefficients reported below — quite absurd, in some cases — it does not appear that we obtained reliable results for this offense, notwithstanding the fact that our Tobit models converged.

Table 10. Prison Sentence Length – Statistically Significant Factors

1st Deg. Child Sexual Assault – Milwaukee	p < .05		p < .10	
	Variable	Coef.	Variable	Coef.
	Age	-2.42		
	Age sq	0.04		
	Sexual intercourse	-8.88		
	Age of the victim	11.99		
	GBH/extreme emotional harm	21.44		
	Abused position of trust	-12.01		
	No criminal record	7.33		
	Prior misdemeanor(s)	18.31		
	Mental or physical health problems	11.40		
	Frequent prior drug abuse	4.21		
	Accepts responsibility	-8.47		
	Cooperated with the authorities	5.87		
	Read-in offense(s)	8.40		

1st Deg. Child Sexual Assault – ROS	p < .05		p < .10	
	Variable	Coef.	Variable	Coef.
	Age sq	-0.01	Age	0.70
	Threat, abduction or restraint	-7.50	Prior abuse of the victim	3.95
	Responsible for the victim's welfare	-4.18	Other offense characteristic(s)	7.72
	Leadership role in the offense	-8.79	Prior felony or felonies	4.91
	Was manipulated or pressured	-7.40		
	Abused position of trust	4.66		
	No criminal record	-5.07		
	Prior misdemeanor(s)	-4.60		
	Treatment for mental/physical health problems	-9.60		
	Other sentence adjustment factor(s)	-10.27		
	Odds Republican	12.86		
	Judges 3-6	-5.69		

Tables 11 and 12 summarize our findings for second–degree child sexual assault. For this offense, we created logit regressions for ROS and Milwaukee + ROS (the statewide picture), and Tobit regressions for ROS and Milwaukee, specifically. Table 11 shows that there were eight variables that were highly significant predictors of sentence type for ROS: SEXUAL CONTACT; AGE; AGE OF THE VICTIM; NO CRIMINAL RECORD; PRIOR FELONIES; ABUSED POSITION OF TRUST; LEGAL STATUS; and OTHER SENTENCE ADJUSTMENT FACTOR(S). Only three variables decreased the likelihood of prison: SEXUAL CONTACT, NO CRIMINAL RECORD and OTHER SENTENCE ADJUSTMENT FACTOR(S). Among those that increased the likelihood, PRIOR FELONIES and ABUSED POSITION OF TRUST had the greatest effect. In the statewide model, again there were eight variables that were highly significant: AGE; HISPANIC; PRIOR FELONIES; PRIOR SIMILAR OFFENSES; TREATMENT FOR MENTAL OR PHYSICAL HEALTH PROBLEMS; ACCEPTS RESPONSIBILITY; SENTENCE RECOMMENDATION; and COOPERATED WITH THE AUTHORITIES. Only COOPERATED reduced the likelihood of prison. Among the seven that increased the likelihood, HISPANIC had the greatest impact, followed by PRIOR SIMILAR OFFENSES, TREATMENT FOR MENTAL OR PHYSICAL HEALTH PROBLEMS, and ACCEPTS RESPONSIBILITY. Ordinarily, we would not characterize the acceptance of responsibility as an aggravating factor, but this may be another case where judges selected a factor because it applied in the negative — because the offender did *not* accept responsibility.

Table 11. Prison vs. Probation – Statistically Significant Factors

2nd Deg. Child Sexual Assault – ROS	p < .05		p < .10	
	Variable	Odds	Variable	Odds
	Age	1.52	Age sq	1.00
	Sexual contact (not intercourse)	0.05	Conduct more serious than offense	0.07
	Age of the victim	6.09	Accepts responsibility	3.72
	Abused position of trust	11.94	Cooperated with the authorities	0.28
	No criminal record	0.09	Effect of multiple counts	8.19
	Prior felony or felonies	17.24		
	Legal status	4.77		
	Other sentence adjustment factor(s)	0.06		

2nd Deg. Child Sexual Assault – Statewide	p < .05		p < .10	
	Variable	Odds	Variable	Odds
	Age	1.40	Age sq	1.00
	Hispanic	6.98	Sexual contact (not intercourse)	0.26
	Prior felony or felonies	2.98	GBH/extreme emotional harm	5.01
	Prior similar offense(s)	5.40	Other type of harm	4.97
	Treatment for mental/physical health problems	4.38	No criminal record	0.33
	Accepts responsibility	3.54	Effect of multiple counts	5.57
	Cooperated with the authorities	0.23		
	DA or defense sentence recommendation	2.48		

Finally, Table 12 lists the variables that were highly significant predictors of sentence length for ROS and Milwaukee, specifically. In Milwaukee, there seven factors that were significant at the 95% level: HISPANIC; PRIOR ABUSE OF THE VICTIM; PRIOR SIMILAR OFFENSES; AGE OF THE VICTIM; TREATMENT FOR DRUGS OR ALCOHOL; ACCEPTS RESPONSIBILITY; and SENTENCE RECOMMENDATION. Again, ACCEPTS RESPONSIBILITY was associated with a large positive coefficient. More troubling were the large coefficients for HISPANIC (16.23) and BLACK/AFRICAN–AMERICAN (9.56), which was significant at the 90% level. In fact, HISPANIC had the largest coefficient of any variable that was significant. And BLACK/AFRICAN–AMERICAN clearly race worked to the disadvantage of Black defendants.

In the ROS model, there were eleven factors that were highly significant, including HISPANIC; MALE; SEXUAL CONTACT; PRIOR FELONIES, PRIOR SIMILAR OFFENSES; OTHER SENTENCE ADJUSTMENT FACTOR(S); ACCEPTS RESPONSIBILITY; and ODDS REPUBLICAN. MALE and HISPANIC had the largest coefficients — larger even than PRIOR FELONIES and PRIOR SIMILAR OFFENSES. SEXUAL CONTACT, OTHER SENTENCE ADJUSTMENT FACTOR(S), COOPERATED WITH THE AUTHORITIES, and, strangely, CONDUCT MORE SERIOUS THAN OFFENSE OF CONVICTION, were the only variables that were statistically significant that appeared to reduce sentence length.

Table 12. Prison Sentence Length – Statistically Significant Factors

2nd Deg. Child Sexual Assault – Milwaukee	p < .05		p < .10	
	Variable	Coef.	Variable	Coef.
	Hispanic	16.23	Black or African-American	9.56
	Prior abuse of the victim	9.47	Responsible for the victim's welfare	0.07
	Age of the victim	−6.68	Employed when offense was committed	0.07
	Prior similar offense(s)	5.61	Mental or physical health problems	0.06
	Treatment for drugs/alcohol	−7.52		
	Accepts responsibility	10.94		
	DA or defense sentence recommendation	6.54		
2nd Deg. Child Sexual Assault – ROS	**p < .05**		**p < .10**	
	Variable	Coef.	Variable	Coef.
	Male	5.79	Conduct more serious than offense	−2.59
	Hispanic	3.47	No criminal record	−1.94
	Sexual contact (not intercourse)	−3.72		
	Abused position of trust	3.31		
	Prior felony or felonies	2.99		
	Prior similar offense(s)	3.27		
	Accepts responsibility	2.58		
	Cooperated with the authorities	−1.85		
	Effect of multiple counts	2.96		
	Other sentence adjustment factor(s)	−3.74		
	Odds Republican	2.91		

CONVENTIONAL NUMBER PREFERENCES

Using 23,000 non–probation felony sentencing decisions (12,000 prison sentences and 11,000 extended supervision sentences), this segment of the study confirmed that Wisconsin judges consistently utilize conventional number preferences. The data revealed that Wisconsin judges—virtually unbound in their discretion—regularly impose 10 "standard" sentences:

- 1 year
- 1 year, 3 months
- 1 year, 6 months
- 2 years
- 2 years, 6 months
- 3 years
- 4 years
- 5 years
- 6 years
- 10 years

These preferred sentence lengths account for most (88%) non–probation felony sentences. Figure 22 displays the frequency with which judges select these “standard” sentences for confinement and extended supervision. Well–defined peaks and valleys indicate that Wisconsin judges rarely abandon convention. Table 13 provides related information, including *Peak Strength*, which quantifies the observed sentencing preferences.

Figure 22. Most Frequent Prison & Extended Supervision Sentences

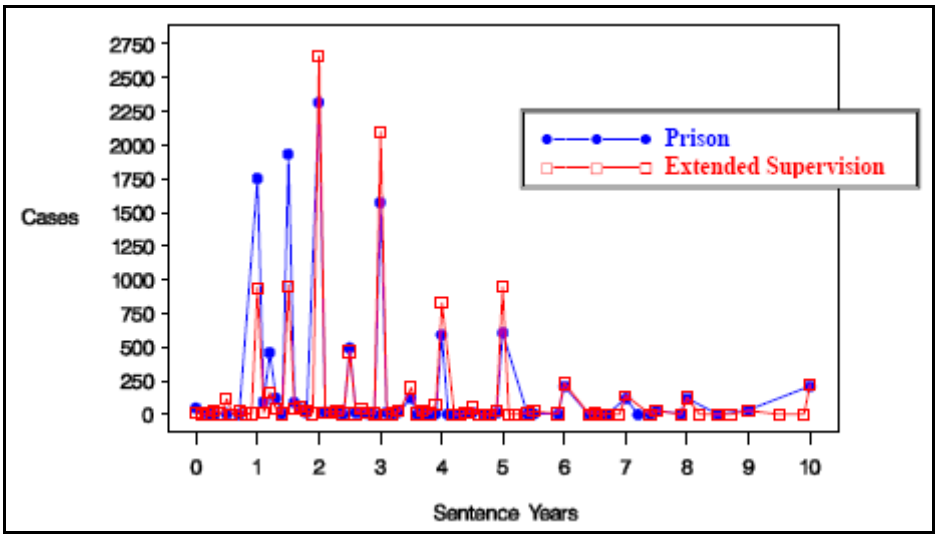


Table 13. Most Frequent Prison & Extended Supervision Sentences

Most Frequent Sentences						
	Prison			*Extended Supervision (ES)*		
	Sentences Accounted For			*Sentences Accounted For*		
Peaks	10390 Cases	89.43%		Peaks	9783 Cases	87.75%
Other	1228 Cases	10.57%		Other	1366 Cases	12.25%
Total	11618 Cases	100%		Total	11149 Cases	100%
Preferred Sentences, Percent of Sentences Explained						
Peak	*Count*	*Percent of Total*	*Peak Strength*	*Count*	*Percent of Total*	*Peak Strength*
1.0 yrs	1753	15.09	27.39	940	8.43	4.33
1.25 yrs	461	3.97	4.85	162	1.45	14.73
1.5 yrs	1934	16.65	14.87	958	8.59	20.83
2.0 yrs	2317	19.94	16.09	2661	23.87	20.31
2.5 yrs	495	4.26	7.86	466	4.18	7.40
3.0 yrs	1575	13.56	42.57	2100	18.84	30.00
4.0 yrs	592	5.10	3.31	828	7.43	2.37
5.0 yrs	608	5.23	11.69	948	8.50	8.70
6.0 yrs	209	1.80	14.93	230	2.06	5.36
7.0 yrs	119	1.02	13.22	141	1.26	4.41
8.0 yrs	118	1.02	3.28	126	1.13	4.06
10.0 yrs	209	1.80	5.97	223	2.00	5.31
Cumulative		*89.44%*			*87.74%*	

To measure *Peak Strength*, we divided the frequency with which a particular sentence was imposed (the magnitude of each peak) by the total number of cases, or data points, found within the preceding valley. This method of calculating strength of preference reflects an assumption about how Wisconsin judges operate. In

1971, the Wisconsin Supreme Court declared that judges should assign "the minimum amount of custody or confinement which is consistent with the protection of the public, the gravity of the offense and the rehabilitative needs of the defendant." *McCleary*, 49 Wis. 2d at 276, 182 N.W.2d at 519. Given this long–standing emphasis on assigning the minimum necessary sentence in each case, we assume that judges normally weigh penalties that are less severe before selecting alternatives that are more severe. One cannot dismiss the possibility that some judges will disregard *McCleary* and *Gallion*, *supra*, and proceed from starting points that are clearly excessive, but we believe most judges, operating within the basic framework established by these cases, will gradually increase the sentence, not decrease the sentence, until they achieve an appropriate disposition.

In Table 13, the essential fields are *Peak Strength*, which measures the strength of the preference for each "preferred" sentence, vis–à–vis all lesser sentences found within the preceding range, and *Percent of Total*. Essentially, *Peak Strength* measures the number of one–year sentences, two–year sentences, three–year sentences, etc., imposed for *each* sentence within the preceding range. Readers will note that the table includes two terms — seven years and eight years — that were not previously listed among the "preferred" sentencing options. These were excluded from the "preferred" options, but included in the table, because each, though it forms a visible peak, represents only 1% of the 12,000 prison sentences and 11,000 ES sentences assigned from 2003−2004.

Table 13 shows that Wisconsin judges imposed: 19 one–year prison terms for every sentence from 0−12 months; 16 two–year terms for every sentence from 18−24 months; and 41 three–year terms for every sentence from 30−36 months. The same pattern emerges for extended supervision. Truth in Sentencing, the Wisconsin law that dismantled the parole system, expressly provides that revocation of extended supervision means a return to confinement — for any period not exceeding the remainder of the original sentence.[13] We can reasonably assume that some offenders, potentially many, will receive additional prison time upon revocation of their extended supervision. Because the first TIS offenders are just now being released from confinement, we can only speculate about the possible impacts of revocation, but lengthy ES terms, which have been common thus far[14], only increase the likelihood that persons released to extended supervision will reenter the prison system, each having already served his/her entire designated term of confinement.

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[13] *Wis. Stats. Section 302.113(9)(am):*

"If a person released to extended supervision under this section violates a condition of extended supervision, the reviewing authority may revoke the extended supervision of the person. If the extended supervision of the person is revoked, the person shall be returned to the circuit court for the county in which the person was convicted of the offense for which he or she was on extended supervision, and the court shall order the person to be returned to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence. The time remaining on the bifurcated sentence is the total length of the bifurcated sentences, less time served by the person in confinement under the sentence before release to extended supervision . . . and less all time served in confinement for previous revocations of extended supervision under the sentence . . ." (emphasis added)

Wis. Stats. Section 302.113(9)(b):

"A person who is returned to prison after revocation of extended supervision shall be incarcerated for the entire period of time specified by the court under par. (am). . . ."

VIOLENT AND NONVIOLENT OFFENSES, GUILTY PLEAS, AND THE TRIAL PENALTY

CNPs also emerged when we examined violent and nonviolent offenses, cases where the offender pled guilty[15], and penalties imposed after the defendant was formally tried and convicted. Figures 23 – 26 and Tables 14 – 16, show that "preferred" sentences explained 66%−92% of all decisions regarding prison time, and 82−88% of all decisions regarding ES. The results that we obtained for sentences that were imposed after the defendant was tried and convicted were somewhat irregular, with only 66% of prison sentences falling in line with conventional number preferences, but that was expected, since criminal trials are quite rare.

Figure 23. Most Frequent Prison & Extended Supervision Sentences for Violent Crimes

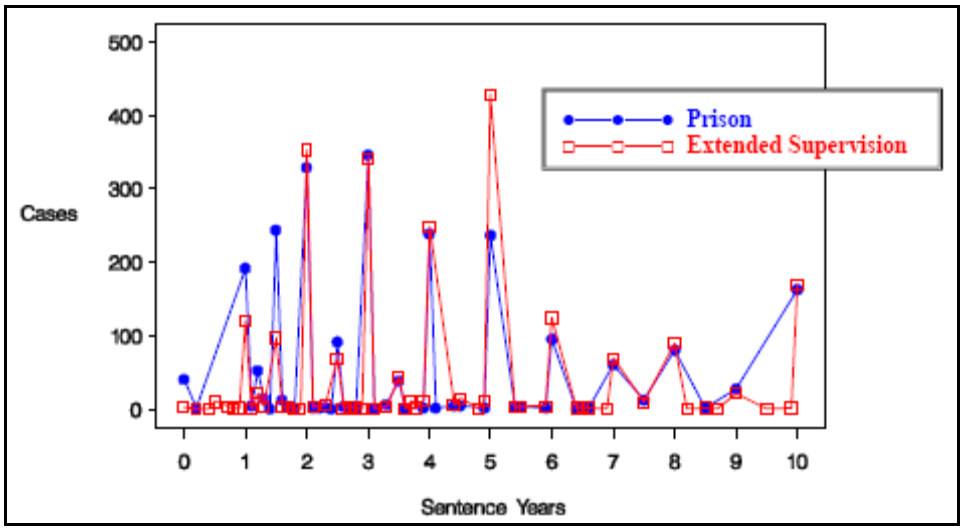
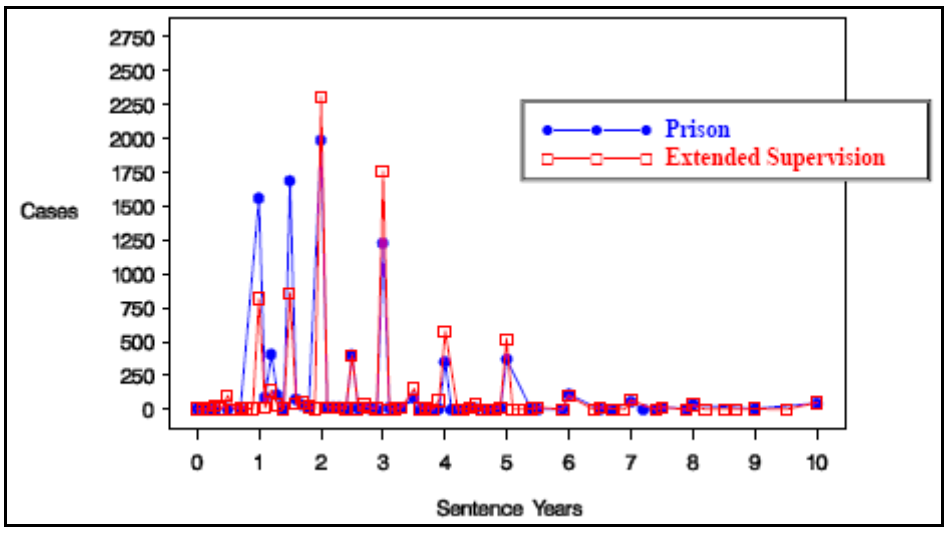


Figure 24. Most Frequent Prison & Extended Supervision Sentences for Non-Violent Crimes



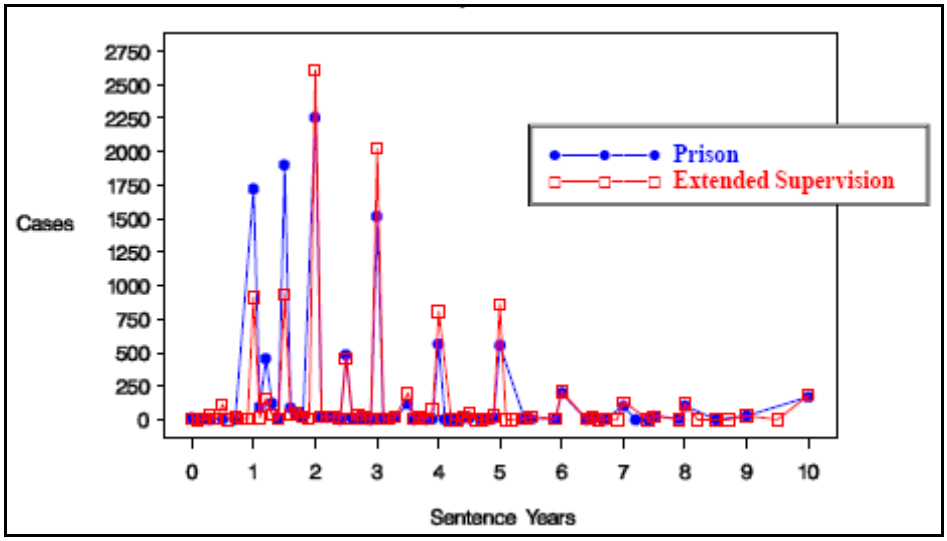
[14] *See Appendix F, Sentencing by Severity Class and Prior Offenses (2003–2004). The median felony–level ES term, not including sex and drug–related crimes, was 111% of the median prison sentence. For sex offenses, the median ES term was 140% of the median prison term. For drug offenses, the median ES term was 144% of the median prison term.*

Table 14. Most Frequent Prison & Extended Supervision Sentences by Crime Type

Most Frequent Sentences — Violent and Nonviolent Crimes												
	Violent Crimes						Nonviolent Crimes					
	Prison			Extended Supervision (ES)			Prison			Extended Supervision (ES)		
	Sentences Accounted For			Sentences Accounted For			Sentences Accounted For			Sentences Accounted For		
	Peaks	2133 Cases	79.41%	Peaks	2114 Cases	81.81%	Peaks	8257 Cases	92.44%	Peaks	7507 Cases	87.42%
	Other	553 Cases	20.59%	Other	470 Cases	18.19%	Other	675 Cases	7.56%	Other	1080 Cases	12.58%
	Total	2686 Cases	100%	Total	2584 Cases	100%	Total	8932 Cases	100%	Total	8587 Cases	100%
Preferred Sentences, Percent of Sentences Explained												
Peak	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*
1.0 yrs	192	7.15	4.47	121	4.68	5.04	1561	17.48	74.33	819	9.54	4.24
1.25 yrs	53	1.97	10.60	—	—	—	408	4.57	4.53	—	—	—
1.5 yrs	244	9.08	15.25	97	3.75	3.59	1690	18.92	14.82	861	10.03	4.48
2.0 yrs	329	12.25	17.32	353	13.66	39.22	1988	22.26	15.90	2308	26.88	18.92
2.5 yrs	92	3.43	11.50	70	2.71	7.00	403	4.51	7.33	396	4.61	7.47
3.0 yrs	346	12.88	43.25	342	13.24	42.75	1229	13.76	42.38	1758	20.47	28.35
4.0 yrs	239	8.90	4.78	249	9.64	3.32	353	3.95	2.74	579	6.74	2.11
5.0 yrs	237	8.82	16.93	428	16.56	12.23	371	4.15	9.76	520	6.06	7.03
6.0 yrs	96	3.57	10.67	125	4.84	10.42	113	1.27	22.6	105	1.23	3.39
7.0 yrs	61	2.27	10.17	70	2.71	8.75	58	0.65	19.33	71	0.83	2.96
8.0 yrs	81	3.02	6.23	90	3.48	9.00	37	0.41	1.61	36	0.42	1.71
10.0 yrs	163	6.07	5.43	169	6.54	5.83	46	0.52	9.20	54	0.63	4.15
Cumulative		*79.41%*			*81.81%*			*92.45%*			*87.43%*	

Note: The symbol "—" has been entered where the actual number of sentences was insufficient to establish a well-defined "peak."

Figure 25. Most Frequent Prison & Extended Supervision Sentences for Guilty Pleas



[15] *For our purposes, this includes defendants who entered guilty pleas, no contest pleas and Alford pleas, whereby the defendant pleads guilty while effectively maintaining his/her innocence.*

Figure 26. Most Frequent Prison & Extended Supervision Sentences for Not Guilty Pleas

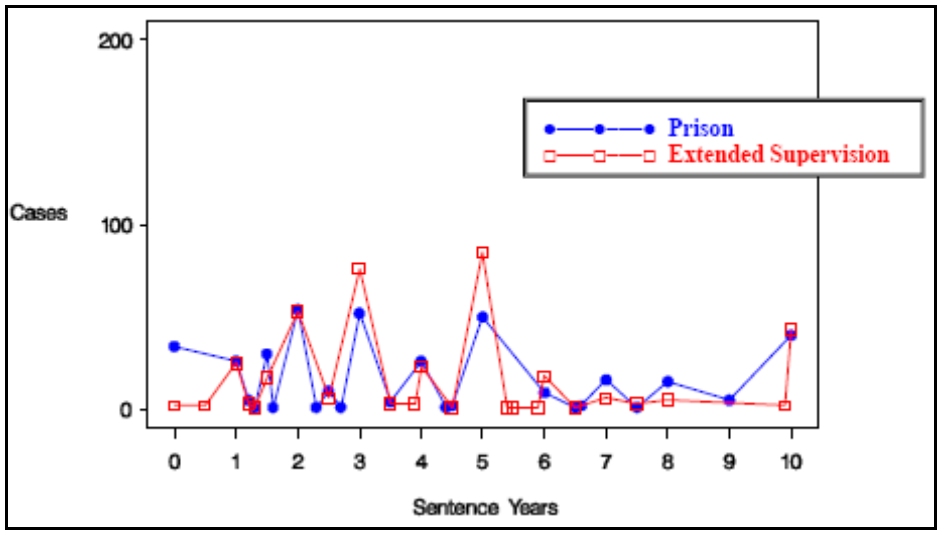


Table 15. Most Frequent Prison & Extended Supervision Sentences by Plea Type

Most Frequent Sentences — Guilty Pleas vs. Not Guilty Pleas

	Guilty Pleas				Not Guilty Pleas			
	Prison		*Extended Supervision (ES)*		*Prison*		*Extended Supervision (ES)*	
	Sentences Accounted For		*Sentences Accounted For*		*Sentences Accounted For*		*Sentences Accounted For*	
Peaks	10043 Cases	90.15%	9423 Cases	87.82%	309 Cases	66.03%	340 Cases	82.73%
Other	1097 Cases	9.85%	1307 Cases	12.18%	159 Cases	33.97%	71 Cases	17.27%
Total	11140 Cases	100%	10730 Cases	100%	468 Cases	100%	411 Cases	100%

Preferred Sentences, Percent of Sentences Explained

Peak	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*	*Count*	*% of Total*	*Peak Strength*
1.0 yrs	1724	15.48	59.45	915	8.53	4.30	26	5.56	0.76	25	6.08	6.25
1.25 yrs	456	4.09	4.80	159	1.48	14.45	—	—	—	—	—	—
1.5 yrs	1903	17.08	14.10	941	8.77	20.91	30	6.41	5.00	17	4.14	4.25
2.0 yrs	2258	20.27	15.79	2608	24.31	19.91	54	11.54	54.00	53	12.90	9999
2.5 yrs	484	4.34	7.81	460	4.29	7.30	—	—	—	—	—	—
3.0 yrs	1520	13.64	42.22	2024	18.86	28.91	52	11.11	4.33	76	18.49	12.67
4.0 yrs	566	5.08	3.25	805	7.50	2.35	26	5.56	6.50	23	5.60	3.83
5.0 yrs	557	5.00	11.37	863	8.04	8.54	50	10.68	16.67	85	20.68	85.00
6.0 yrs	200	1.80	14.29	212	1.98	5.30	—	—	—	18	4.38	6.00
7.0 yrs	103	0.92	17.17	135	1.26	4.35	16	3.42	1.3	—	—	—
8.0 yrs	103	0.92	2.94	121	1.13	4.32	15	3.21	15.00	—	—	—
10.0 yrs	169	1.52	5.63	180	1.68	4.50	40	8.55	8.00	43	10.46	2.53
Cumulative		*90.14%*			*87.83%*			*66.04%*			*82.73%*	

Note: The symbol "—" has been entered where the actual number of sentences was insufficient to establish a well-defined "peak." The authors chose "9999" as an arbitrary placeholder, where the "valley" preceding the "peak" in question had zero (0) cases.

Significantly, our analysis revealed important differences between the sentencing of violent offenders vs. nonviolent offenders, and defendants who pled guilty, compared to those who were sentenced after a trial. Though each situation produced the same pattern of peaks, sentences for violent offenders were distributed more uniformly than those for nonviolent offenders, and defendants who pled guilty were more frequently given short

sentences, meaning terms ≤ two years. Indeed, where the offender pled guilty, 61% of prison sentences and 47% of ES sentences were ≤ two years. Where the offender did *not* plead guilty, those numbers fell dramatically, from 61% to 32%, and from 47% to 25%.

The reasons for these findings are well explained by a Pennsylvania sentencing study. Using data collected from three counties — one urban, one rural and one affluent — Ulmer and Kramer (1996) investigated whether and how factors like race, sex, jurisdiction, offense severity and plea bargaining affect sentence severity. They reached the following conclusions:

- plea "rewards" and trial "penalties" are seen as legitimate means to encourage guilty pleas and discourage frivolous trials;
- guilty pleas were nearly always seen as indicators of remorse and rehabilitative potential;
- guilty pleas often shielded judges from aggravating facts; and
- the affluent county exhibited strong informal norms of cooperation, consensus and conflict minimization, creating intense pressure to plea bargain.

Our findings likewise suggest that there is reason to plead guilty, rather than pursuing a trial. Whether the observed trial penalty reflects hostility toward defendants who contest the charges against them, benevolence toward those who accept responsibility for their crimes, or plea bargaining, which produces negotiated sentences, we cannot say.

The Honorable Thomas H. Barland, former Chair of the Wisconsin Criminal Penalties Study Committee, has suggested that plea agreements are usually made with an eye toward what the sentencing judge will/will not accept (Barland, personal communication, October 19, 2005). This tendency among prosecutors and defense attorneys is thought to reduce the incidence of aberrant sentences. However, prosecutors and defense attorneys may be more susceptible to CNPs than judges. Certainly, they are not less. As Judge Barland said, “My experience has been that all of these participants in the [sentencing] process tend to think in 6 to 12 month increments, expressed in years, plus months within a year . . . 6−12 month increments, then multiples of five once the [months] get too high.”

RACE AND CNP

Finally, we considered the possibility that CNPs may disproportionately affect Black and Hispanic defendants. Tables 16 and 17 show that Wisconsin judges use the same “preferred” sentences for White, Black, and Hispanic offenders. However, participation rates doubtless affect the frequency with which judges dispense low–, medium– and high–severity sentences to each racial/ethnic group. We have attempted to minimize any such distortion by reporting not the frequency with which different penalties were imposed on each group, but the percentage of White, Black and Hispanic offenders who received them.

Table 16. Most Frequent Prison Sentences by Race/Ethnicity

Most Frequent Prison Sentences									
	White			Black			Hispanic		
	Sentences Accounted For			Sentences Accounted For			Sentences Accounted For		
	Peaks	4389 Cases	90.40%	Peaks	4644 Cases	88.80%	Peaks	739 Cases	86.84%
	Other	466 Cases	9.60%	Other	586 Cases	11.20%	Other	112 Cases	13.16%
	Total	4855 Cases	100%	Total	5230 Cases	100%	Total	851 Cases	100%
Preferred Sentences, Percent of Sentences Explained									
Peak	*Count*	*Percent of Total*	*Peak Strength*	*Count*	*Percent of Total*	*Peak Strength*	*Count*	*Percent of Total*	*Peak Strength*
1.0 yrs	671	13.82%	18.14	881	16.85%	41.95	110	12.93%	22.00
1.25 yrs	137	2.82%	6.23	278	5.32%	4.56	30	3.53%	3.75
1.5 yrs	755	15.55%	25.17	940	17.97%	10.33	146	17.04%	18.13
2.0 yrs	981	20.21%	22.81	1052	20.11%	12.99	151	17.74%	16.78
2.5 yrs	203	4.18%	9.67	223	4.26%	6.56	33	3.88%	6.60
3.0 yrs	791	16.29%	56.50	585	11.19%	29.25	91	10.69%	91.00
4.0 yrs	250	5.15%	3.79	249	4.76%	3.15	61	7.17%	2.35
5.0 yrs	287	5.91%	10.63	210	4.02%	13.13	52	6.11%	8.67
6.0 yrs	100	2.06%	16.67	79	1.51%	13.17	19	2.23%	9.50
7.0 yrs	66	1.36%	13.20	37	0.71%	12.33	8	0.94%	8.00
8.0 yrs	56	1.15%	2.95	37	0.71%	2.64	12	1.41%	12.00
10.0 yrs	92	1.89%	4.84	73	1.40%	6.64	27	3.17%	13.50
Cumulative		*90.39%*			*88.81%*			*86.84%*	

Table 17. Most Frequent Extended Supervision Sentences by Race/Ethnicity

Most Frequent Extended Supervision (ES) Sentences									
	White			Black			Hispanic		
	Sentences Accounted For			Sentences Accounted For			Sentences Accounted For		
	Peaks	3934 Cases	86.50%	Peaks	4550 Cases	88.18%	Peaks	706 Cases	85.68%
	Other	614 Cases	13.50%	Other	610 Cases	11.82%	Other	118 Cases	14.32%
	Total	4548 Cases	100%	Total	5160 Cases	100%	Total	824 Cases	100%
Preferred Sentences, Percent of Sentences Explained									
Peak	*Count*	*Percent of Total*	*Peak Strength*	*Count*	*Percent of Total*	*Peak Strength*	*Count*	*Percent of Total*	*Peak Strength*
1.0 yrs	337	7.41%	4.27	490	9.50%	4.41	54	6.55%	3.18
1.25 yrs	—	—	—	116	2.25%	10.55	—	—	—
1.5 yrs	326	7.17%	8.36	528	10.23%	13.54	65	7.89%	6.5
2.0 yrs	1027	22.58%	33.13	1310	25.39%	14.40	169	20.51%	28.17
2.5 yrs	176	3.87%	6.52	226	4.38%	7.79	38	4.61%	7.6
3.0 yrs	976	21.46%	33.66	863	16.72%	28.77	150	18.20%	21.43
4.0 yrs	374	8.22%	2.51	330	6.40%	2.31	74	8.98%	2.64
5.0 yrs	388	8.53%	6.93	402	7.79%	9.57	95	11.53%	8.64
6.0 yrs	88	1.93%	4.4	99	1.92%	6.19	31	3.76%	7.75
7.0 yrs	82	1.80%	4.82	46	0.89%	6.57	—	—	—
8.0 yrs	53	1.17%	3.31	53	1.03%	4.82	15	1.82%	1.5
10.0 yrs	107	2.35%	5.35	87	1.69%	5.80	15	1.82%	3.75
Cumulative		*86.49%*			*88.19%*			*85.67 %*	

Note: The symbol "—" has been entered where the actual number of sentences was insufficient to establish a well-defined "peak."

Our analysis produced several notable findings regarding the sentencing of White, Black and Hispanic offenders:

- CNPs explained most sentencing decisions (72−94%) for White, Black and Hispanic offenders, taking into account both violent and nonviolent crimes.

- Hispanic offenders who committed violent crimes were given four–, five–, six–, eight– and ten–year prison terms in greater proportion than White or Black defendants.

- Among those who committed nonviolent crimes, White offenders received 41 one–year prison terms for every sentence from 0−12 months. In contrast, Hispanic offenders received 94 one–year prison terms for every sentence from 0−12 months, and Black offenders received 194 one–year prison terms for every sentence from 0−12 months.

- Black and White offenders who committed violent crimes received prison terms from 18 months to 10 years in nearly equal proportion.

We make no findings, whatsoever, regarding the relationship between race/ethnicity and sentence *length*. Moreover, we strongly caution against putting too much weight into ratios like those reported above, which are easily misinterpreted.

CONCLUSIONS

SENTENCING FACTORS

The purpose of this research project was to study the impact of various objective and subjective factors on sentencing decisions in Wisconsin. To understand how certain factors affect decisions regarding sentence type (prison vs. probation) and sentence length, the study developed statistical models for six major offenses: robbery, armed robbery, burglary, forgery, first-degree child sexual assault, and second-degree child sexual assault. In the process, several limitations were unveiled: low worksheet return rates; worksheets that were completed incorrectly; and regressions that did not converge, often because we were dealing with a small number of observations. Some of these issues limited the scope of the project, but overall, the study obtained some interesting results.

By comparing Milwaukee and Rest of State (ROS), we could determine whether Milwaukee judges had different concerns, perhaps even a different sentencing philosophy, than their counterparts from other jurisdictions. Differences appeared in the variables that were statistically significant inside and outside Milwaukee, and in the direction and magnitude of their effects. Often, there were large differences between Milwaukee and ROS, indicating that Milwaukee — the largest and most diverse metropolitan area in Wisconsin — operates differently than any other region. Beyond the geographical comparison, we found major differences based on offense type *and* decision type, referring to prison/probation decisions and sentence–length decisions. Again, differences appeared in the variables that were statistically significant in any given context, and the direction and magnitude of their effects.

Findings to the study questions are summarized below.

Characteristics of the Offense

At various times, VALUE OF THE LOSS; TYPE OF PREMISES (BURGLARY ONLY); AGE OF THE VICTIM; VULNERABLE OR TARGETED VICTIM; PRIOR ABUSE OF THE VICTIM; SEXUAL CONTACT; INTERCOURSE; ABUSED POSITION OF TRUST; CONDUCT WAS MORE SERIOUS THAN THE OFFENSE OF CONVICTION; and OTHER OFFENSE CHARACTERISTIC(S) were statistically significant factors.

VALUE OF THE LOSS was a highly significant factor in sentence–type decisions for armed robbery, and sentence–length decisions for armed robbery in Milwaukee, specifically. For this offense, VALUE OF THE LOSS consistently reduced both the likelihood of prison and prison sentence length. However, VALUE OF THE LOSS also factored significantly in prison/probation decisions for Milwaukee forgeries, and here, VALUE OF THE LOSS clearly raised the likelihood of prison.

TYPE OF PREMISES, which had three variants — commercial, residential and other properties — produced unexpected results. In Milwaukee, each variable, when it was statistically significant, appeared to reduce both the likelihood of prison and prison sentence length. In the ROS models, the commercial variant was not statistically significant, but RESIDENTIAL and OTHER were both highly significant, and both associated with positive coefficients and odds ratios well above one, indicating that ROS judges viewed TYPE OF PREMISES: RESIDENTIAL and TYPE OF PREMISES: OTHER as aggravating factors.

VULNERABLE OR TARGETED VICTIM, PRIOR ABUSE OF THE VICTIM, ABUSED POSITION OF TRUST, and AGE OF THE VICTIM each represent issues/concerns related to victimization. In our analysis, VULNERABLE OR TARGETED VICTIM was significant only once: in relation to prison sentence length for robberies committed in ROS. Strangely, it appeared to reduce sentence length. PRIOR ABUSE OF THE VICTIM was twice significant: first–degree child sexual assault (ROS cases), and second–degree child sexual (Milwaukee cases), each time associated with a substantial increase in prison sentence length. ABUSED POSITION OF TRUST and AGE OF THE VICTIM were each significant multiple times, increasing the likelihood of prison and/or prison sentence length except in limited situations that we would describe as aberrant.

SEXUAL CONTACT was significant on three occasions: prison/probation decisions for second–degree child sexual assault (ROS and Statewide cases), and sentence–length decisions for the same offense (ROS cases alone). Each time, SEXUAL CONTACT was a mitigating factor, reducing both the likelihood of prison and prison sentence length. SEXUAL INTERCOURSE was significant only once: sentence–length decisions for first–degree child sexual assault (Milwaukee), where it was associated with a sharp *decrease* in prison sentence length. However, it would appear that our models for this offense were quite flawed.

CONDUCT WAS MORE SERIOUS THAN THE OFFENSE OF CONVICTION and OTHER OFFENSE CHARACTERISTIC(S) were problematic because of their ambiguity. Consequently, neither lends itself to easy explanation. OTHER OFFENSE CHARACTERISTIC(S) ordinarily counted against the defendant, and although CONDUCT was widely significant, it never had the same effect. Notably, when either factor was selected for armed robbery in Milwaukee, the offender always received a prison sentence.

Harm Caused by the Offense

GREAT BODILY HARM (GBH) OR EXTREME EMOTIONAL HARM, EXTREME DEGREE OF FORCE, and THREAT, ABDUCTION OR RESTRAINT were significant in several decision areas: prison/probation decisions for robbery (Milwaukee), first–degree child sexual assault (ROS), and second–degree child sexual assault (Statewide), and sentence–length decisions for robbery (Milwaukee and ROS), armed robbery (Milwaukee), and first–degree child sexual assault (Milwaukee and ROS). The effect was consistently aggravating. However, THREAT, ABDUCTION, OR RESTRAINT did appear to reduce sentence length considerably in one instance: first–degree child sexual assault (ROS).

Neither PREGNANCY *or* TRANSMISSION OF DISEASE, nor ECONOMIC HARM, nor OTHER TYPE OF HARM were statistically significant, though OTHER TYPE OF HARM did perfectly predict a prison sentence for armed robbery.

Demographic Factors

Besides factors related to criminal history, demographic factors were the most frequently statistically significant. For race/ethnicity, we included variables for BLACK OR AFRICAN–AMERICAN, NATIVE AMERICAN, ASIAN, and HISPANIC. *White* was the point of reference in each model.

HISPANIC was a statistically significant factor in prison/probation decisions for second–degree child sexual assault (Statewide), and sentence–length decisions for forgery (Milwaukee) and second–degree child sexual assault (Milwaukee and ROS). Hispanic appeared to consistently increase both the likelihood of prison and prison sentence length.

BLACK OR AFRICAN–AMERICAN was a statistically significant factor in prison/probation decisions for robbery (Milwaukee), and sentence–length decisions for robbery (Milwaukee), armed robbery (Milwaukee) and second–degree child sexual assault (Milwaukee). The effect was varied, appearing to reduce the likelihood of prison for robbery, and to increase prison sentence length for second degree child sexual assault.

NATIVE AMERICAN was a significant factor in prison/probation and sentence–length decisions for burglary (ROS). In each case, NATIVE AMERICAN appeared to benefit the defendant. Additionally, NATIVE AMERICAN perfectly predicted a prison sentence for robbery (Milwaukee) and probation for forgery (ROS). ASIAN was a significant factor only in prison/probation decisions for burglary (ROS), where it appeared to increase the likelihood of prison.

In Wisconsin, population dictates court size. The least populous counties have only one judge, while the most populous — Waukesha, Dane and Milwaukee — have 77 judges between them. There were four variants of JUDGES PER COUNTY: 1-2, 3-6, 7-17, and in our statewide models, *Milwaukee County*.

JUDGES 3-6 was a statistically significant factor in prison/probation decisions for armed robbery (Statewide) and burglary (ROS), and sentence–length decisions for armed robbery (ROS), burglary (ROS), and first–degree child sexual assault (ROS). In each case, JUDGES 3-6 appeared to reduce both the likelihood of prison and prison sentence length. JUDGES 7-17 was a significant factor in prison/probation decisions for robbery (Statewide) and armed robbery (Statewide), and sentence– length decisions for robbery (ROS) and forgery (ROS). Depending upon the context, JUDGES 7-17 either had a strong aggravating or strong mitigating influence on the outcome.

Finally, we considered the influence of AGE, AGE–SQUARED and whether the offender was male. When they were statistically significant, AGE and AGE–SQUARED typically had very little impact. In contrast, when MALE was statistically significant, the impact was usually quite large, for both sentence–type and sentence–length decisions. Consistently, and often substantially, *Male* increased both the likelihood of prison and sentence length.

Role in the Offense

There were three variants of this factor: MINIMAL ROLE IN THE OFFENSE, LEADERSHIP ROLE and OTHER ROLE. Additionally, we considered whether the defendant was manipulated or pressured into committing or participating in the crime.

OTHER ROLE was never statistically significant, but LEADERSHIP ROLE and MINIMAL ROLE were. LEADERSHIP ROLE increased the likelihood of prison for robbery (Statewide) and burglary (Milwaukee), and increased sentence length for armed robbery (ROS) and burglary (Milwaukee). And MINIMAL ROLE, in addition to having a strong mitigating influence on decisions regarding sentence type and sentence length for armed robbery (Milwaukee) and burglary (ROS), perfectly predicted a probation sentence for robbery (Statewide) and forgery (Milwaukee).

DEFENDANT WAS MANIPULATED OR PRESSURED was a highly significant factor in sentence–length decisions for armed robbery (Milwaukee), where it had a strong mitigating effect. Additionally, when this factor was selected for forgery in Milwaukee, the outcome was always probation.

Risk Factors

Besides prior offenses, our models included variables for drug abuse, employment status, education, and mental and physical illness. FREQUENT PRIOR DRUG ABUSE was a significant factor in prison/probation decisions for armed robbery (Milwaukee and Statewide) and forgery (Milwaukee), and sentence–length decisions for burglary (ROS) and forgery (Milwaukee). This factor was consistently aggravating in its effect. TREATMENT FOR DRUGS OR ALCOHOL, which was a significant factor in sentence–length decisions for robbery (Milwaukee) and second–degree child sexual assault (Milwaukee), was clearly mitigating in both cases.

"Employment status" actually describes three variables: EMPLOYED WHEN THE OFFENSE WAS COMMITTED, LENGTHY OR FREQUENT PERIODS OF UNEMPLOYMENT, and SAME EMPLOYER FOR AN EXTENDED PERIOD OF TIME. SAME EMPLOYER was rarely selected, and LENGTHY OR FREQUENT PERIODS OF UNEMPLOYMENT was never statistically significant, but EMPLOYED WHEN THE OFFENSE WAS COMMITTED was significant in multiple decision areas: prison/probation decisions for burglary (Milwaukee and ROS) and forgery (ROS), and sentence–length decisions for robbery (ROS), burglary (Milwaukee and ROS), forgery (Milwaukee and ROS), and second–degree child sexual assault (Milwaukee). Because this factor could mean that the offender was or was *not* employed, its effect was inconstant, ranging from mitigating to strongly aggravating.

Finally, MENTAL OR PHYSICAL HEALTH PROBLEMS and TREATMENT FOR MENTAL OR PHYSICAL HEALTH PROBLEMS were significant in several decision areas, including prison/probation decisions for robbery (Statewide), armed robbery (Milwaukee), and second–degree child sexual assault (Statewide), and sentence–length decisions for robbery (Milwaukee and ROS), armed robbery (Milwaukee and ROS), burglary (ROS), and second–degree child sexual assault (Milwaukee). Except for second–degree child sexual assault (Statewide), where TREATMENT FOR MENTAL

OR PHYSICAL HEALTH PROBLEMS appeared to make prison a more likely outcome than probation, these factors had a mitigating influence, as one might have suspected.

Criminal History

PRIOR FELONIES and PRIOR SIMILAR OFFENSES were among the most frequently statistically significant factors in our analysis. Excluding robbery and first–degree child sexual assault, PRIOR FELONIES was usually highly significant, and consistently had an aggravating effect on sentencing outcomes. PRIOR SIMILAR OFFENSES was also widely significant, and likewise had an aggravating effect, usually of the same magnitude, or approximately the same magnitude.

PRIOR MISDEMEANORS was rarely significant, but when it was —decisions regarding prison vs. probation for robbery (Milwaukee and Statewide) — the effect was to make prison a more likely outcome than probation. Not equal to PRIOR FELONIES or PRIOR SIMILAR OFFENSES, the effect was still aggravating, and still quite large. This was something of a surprise, given the ease with which this factor could have been selected because the defendant had prior misdemeanors *only*.

NO CRIMINAL RECORD, which was a significant factor in prison/probation decisions for burglary (Milwaukee) and second–degree child sexual assault (ROS and Statewide), and sentence–length decisions for robbery (ROS), burglary (Milwaukee) and second–degree child sexual assault (ROS), had the mitigating effect that we anticipated, making probation a more likely outcome than prison, and reducing prison sentence length.

LEGAL STATUS, which indicates that the defendant was on probation or parole when the crime was committed, was a significant factor only in prison/probation decisions for robbery (Milwaukee), forgery (Milwaukee) and second–degree child sexual assault (ROS), and sentence–length decisions for robbery (Milwaukee) and forgery (Milwaukee). With some variance in its effect, LEGAL STATUS was clearly an aggravating factor whenever it was statistically significant.

TIME SINCE MOST RECENT CONVICTION (or period of incarceration) was significant only twice: decisions regarding prison vs. probation for robbery (the Statewide model), and sentence–length decisions for forgery (the Milwaukee model). Both times, this factor was a mitigating factor. CRIMINAL HISTORY UNDER OR OVERSTATES RISK — another ambiguous factor — was statistically significant three times: prison/probation decisions for robbery (Statewide), and prison/probation and sentence–length decisions for forgery (ROS). Interestingly, this factor was an aggravating factor whenever it was significant.

Other Sentence Adjustment Factors

SENTENCE RECOMMENDATION, MULTIPLE COUNTS and READ–IN OFFENSE(S) were the most often selected and most often statistically significant factors under this heading. Where SENTENCE RECOMMENDATION was statistically significant, it reduced the likelihood of prison and prison sentence length in every instance but two:

prison/probation decisions for second–degree child sexual assault (Statewide), and sentence–length decisions for second–degree child sexual assault (Milwaukee). Where MULTIPLE COUNTS and READ–IN OFFENSE(S) were significant, they consistently had large aggravating effects on the likelihood of prison and prison sentence length. Additionally, MULTIPLE COUNTS perfectly predicted a prison sentence for robbery (Milwaukee).

Aggravating Factors

Unlike penalty enhancers, which must be pleaded and proved as if they were elements of the crime, statutory aggravating factors are just that — factors the legislature has formally identified as aggravating factors. They do not trigger penalty "enhancements."

The only penalty enhancers that were statistically significant were DANGEROUS WEAPON, which was a significant factor in sentence–length decisions for burglary (ROS), and HABITUAL CRIMINAL (REPEAT OFFENDER), which was a significant factor in prison/probation decisions for burglary (ROS), and sentence–length decisions for robbery (ROS) and burglary (ROS). We anticipated that each would have an aggravating effect, often quite large, and indeed, when they were significant, that was precisely the effect that each had.

Political Orientation

Finally, since judges are elected in Wisconsin, we considered the possibility that politics might color the sentencing process. ODDS REPUBLICAN represents the likelihood, based on county–by–county vote totals from the 2004 Presidential Election, that an offender was sentenced by a conservative circuit court judge. ODDS REPUBLICAN was a statistically significant factor in prison/probation decisions for robbery (Statewide), armed robbery (Statewide) and first–degree child sexual assault (ROS), and sentence–length decisions for armed robbery (ROS), burglary (ROS), first–degree child sexual assault (ROS), and second–degree child sexual assault (ROS). Whenever it was significant, this factor increased considerably both the likelihood of prison and prison sentence length.

CONVENTIONAL NUMBER PREFERENCES

Wisconsin court data confirm that judges rely heavily on CNPs; assigning 12−, 15−, 18−, 24−, 30−, 36−, 48−, 60−, 72− and 120−month sentences with far greater frequency that terms that fall anywhere in between. The data also reveal that judges have especially strong preferences for certain numbers. With some variation, similar patterns emerged when violent and nonviolent crimes were compared, and cases in which the defendant pled guilty, versus cases in which the defendant pled not guilty.

For the Wisconsin Department of Corrections, which, according to most estimates, spends $25,000−30,000 per inmate, per year, these patterns have serious implications. Moreover, every prison sentence in Wisconsin is without the possibility of parole, and each carries an extended, revocable period of community supervision ("extended supervision"). Reasonably, we can assume that some offenders, potentially many, will be returned to

confinement upon revocation of their extended supervision. Each will cost the state an additional $25,000−30,000 per year.

FUTURE CONSIDERATIONS

SENTENCING FACTORS

Perhaps, the only fact that comes through with perfect clarity is that context is everything. From one offense to the next, and from one jurisdiction to the next, the variables that predict sentence type and sentence length, the direction and magnitude of their respective coefficients, even the race, age, sex and residency of the offenders. In a purely discretionary system, it would seem that there are as many sentencing models as there are judges. This is one of the strengths of a discretionary system — infinite adaptability — but from an analytical standpoint, also a weakness. Below are items to consider for future research projects aimed at mapping out the relationship between sentencing inputs and sentencing outcomes:

1. As a data collection tool, voluntary sentencing worksheets are not entirely reliable. A self–selection bias permeates the dataset, and always there exists the possibility that judges, with their selection of relevant sentencing factors, are simply ratifying a plea agreement or lending structure and formality to an intuitive decision. Perhaps a better approach would be to canvas and code sentencing transcripts, and combine that information with demographic data obtained from reliable administrative sources. Nevertheless, this study has shown that sentencing decisions are influenced by considerations far more nuanced than the generic "criminal history" and "offense severity." Future research could replicate this study in states with better control over worksheet submission and concreteness of the variables.

2. Perhaps the best use of the Wisconsin Sentencing Worksheets, in particular, is to assist the prosecution and the defense in communicating their respective positions to the sentencing judge, much as the Department of Corrections, through its probation and parole officers, makes sentencing recommendations in the form of Pre-Sentence Investigation Reports (PSI). Our recommendation would be that the Pre-sentence Investigation Report, the sentencing worksheets, as completed by the advocates, and basic information on sentences for the offense in question — prison rate, probation rate, and minimum, median and maximum sentence length — be made available to the sentencing judge not for his or her completion, but as reference tools.

3. Using data from this and other studies, researchers could compare the success rates of judges, probation and parole agents, and perhaps even attorneys in predicting recidivism. If risk instruments such as the PSI and LSI–R are more successful in determining whether certain offenders will re–offend, information gained from these tools can be incorporated into judicial training, and might warrant replacing unstructured risk assessment with formal, validated tools to improve placement, treatment and punishment of individual offenders.

4. Demographic variables are among the most regularly and highly significant, but this study reveals far more complexity in sentencing decisions than can be attributed to demographic variables alone. Studies of this

type provide a mechanism for looking in greater depth at judicial reasoning, including factors that may lessen or intensify the actual impact of race, ethnicity, sex, etc. Future studies could supplement administrative data with information derived from sentencing transcripts to identify the particular goals or justifications for the sentence imposed — rehabilitation, punishment, etc. As always, the goal is a more complete picture of the sentencing process.

5. This study indicates that sentencing and related issues, such as race– and sex–based disparities, have a "macro–micro" dimension not fully appreciated before. Initially, this study detailed many of the macro–level variables that influence sentencing outcomes. To the extent those variables are determinative, it might appear that "micro"analysis would be irrelevant. But this study also demonstrates that micro–level factors also have a significant impact on outcomes. Clearly, more research is needed on macro– and micro–level factors, and the possible bridges between them.

CONVENTIONAL NUMBER PREFERENCES

1. Evidence–based sentencing is becoming a more popular concept, that is, more states are trying to determine what works in regard to recidivism and public safety, through improved evaluation of correctional programs (Weise, 2005). On what grounds have judges determined that a 60−month sentence is better than 55 months, however the term "better" is defined? When costs per offender are high, small differences in sentence length can yield significant cost savings. Practically speaking, if judges thought in multiples of 5 and 10 months, instead of 6 and 12, bedspace needs might be quite different, with no demonstrable difference in public safety. That this assertion cannot be disproven is proof enough of the need to make more explicit the connection between sentence length and public safety.

2. The discussion above has particular relevance to the use of mandatory minimum sentences, which consistently use the CNPs referenced above. If the numbers chosen as the basis for these sentences are chosen simply because of their familiarity, then the same questions of appropriateness and effectiveness arise.

3. CNPS have implications for structured sentencing systems, as well. When judges with broad discretion consistently assign the same few sentences, this lends support to the notion that their thought process is already structured, and it becomes harder to argue that judicial discretion is significantly inhibited by legislated sentencing guidelines. We should acknowledge that judges use structured sentencing, whether they have guidelines or not. The question is not whether guidelines are necessarily preferable to discretionary systems, but who does the structuring, and why?

4. Guidelines architects who are actively trying to change current sentencing patterns will need to consciously build guidelines that disrupt the "default settings." Guidelines that place multiple CNPs inside the same cell,

or that utilize novel ranges, e.g., 49−59 months, could inhibit easy assignment of preferred numbers. One test that could illustrate the significance of CNPs would be to compare sentencing patterns in two guideline systems: one where the guidelines reinforce “peak” sentences, and another where they discourage thinking in 6−month, 12−month and 24−month units. Conceivably, this could also indicate whether "gaming" takes place to arrive at sentences that are essentially predetermined.

5. Clearly, the sentencing process is not limited to judges. CNPs represent “common currency” among prosecutors, defense attorneys, judges and probation/parole agents, speeding cognition and allowing the parties to plea-bargain with a manageable number of alternatives. Future study of the sentencing process should account for the influence of prosecutors, defense attorneys and probation and parole agents. In fact, future studies could begin to analyze both differences in the bargaining patterns of the prosecution and the defense, and differences in the extent to which judges defer to sentence recommendations offered by either party.

6. That judges gravitate to familiar numbers does not mean they take their responsibilities lightly. They must still choose among numerous sentencing options, and justify their choices by reference to applicable aggravating and mitigating factors. Our goal in this section was not to criticize judicial discretion or question its place in our justice system, but rather, to illuminate a practice that minimizes the degree to which sentences actually are tailored to particular crimes and offenders. This could have substantial effects on correctional resources in any jurisdiction, and it illustrates the need for more and better data on the important links between judicial discretion and positive public outcomes.

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APPENDIX A

Sentencing Guidelines Worksheets

CCAP Case Number: _____ Sentencing Date: _____

County: _____ Offender Age: _____

Robbery, Wis. Stat. § 943.32(1)

THIS WORKSHEET APPLIES TO SENTENCING HEARINGS HELD ON/AFTER 7/1/2005
FOR *TIS–II* OFFENSES ONLY (offenses committed on/after 2/1/2003)

Where several options are presented—e.g. "Minimal role / Leadership role"—circle one and check *Mitigating* or *Aggravating*.
ONLY CHECK *Mitigating* OR *Aggravating* FOR THOSE FACTORS THAT APPLY.

OFFENSE SEVERITY	*Mitigating*	*Aggravating*
Characteristics of the Offense		
Value of loss: $ ☐	☐	☐
Motivated by need for basic necessities	☐	☐
Motivated by greed	☐	☐
Conduct more serious than the offense of conviction	☐	☐
Other, ***specify:***	☐	☐
Degree of Preparation		
None or spontaneous	☐	☐
Some preparation	☐	☐
Extensive preparation	☐	☐
Type of Harm		
Threat / Abduction / Restraint	☐	☐
Great bodily harm / extreme emotional harm	☐	☐
Extreme degree of force	☐	☐
Aggravating Factors, Wis. Stat. § 973.017 ☐ **N/A**		
Concealed or altered appearance	☐	☐
Gang related offense	☐	☐
Elderly victim	☐	☐
Bulletproof clothing	☐	☐
Crime committed to influence governmental policy	☐	☐
Other, ***specify:***	☐	☐
Penalty Enhancers, Wis. Stat. § 939 ☐ **N/A**		
Repeat Offender (§ 939.62) ☐ Pleaded and proved	☐	☐
Dangerous weapon (§ 939.63) ☐ Pleaded and proved	☐	☐
Hate crime (§ 939.645) ☐ Pleaded and proved	☐	☐
Role in Offense		
Minimal / Leader	☐	☐
Manipulated or Pressured	☐	☐
Abused position of trust / authority	☐	☐
Other, ***specify:***	☐	☐
Vulnerable Victim		
Cognitively deficient	☐	☐
Mentally ill	☐	☐
Youthful victim, ***provide age:*** ☐	☐	☐
Otherwise vulnerable, ***specify:***	☐	☐

RISK FACTORS	*Mitigating*	*Aggravating*
Education		
Grade completed, ***circle one:*** **–9 9 10 11 12 12+**	☐	☐
Degree obtained: ☐ None ☐ GED/HSED ☐ HS ☐ College ☐ Currently enrolled	☐	☐
Employment History		
Usually employed	☐	☐
Same employer for extended period of time	☐	☐
Employed when offense was committed or at time of sentencing	☐	☐
Lengthy or frequent periods of unemployment	☐	☐

Send to: Wisconsin Sentencing Commission
Post Office Box 7856
Madison, Wisconsin 53707-7856

Criminal Record		
Criminal record not a factor, ***check here*** ☐		
No criminal record	☐	☐
Prior misdemeanor(s), total number: [ ] – assaultive misdemeanors: [ ]	☐	☐
Prior felony or felonies, total number: [ ] – assaultive felonies: [ ]	☐	☐
Prior offense(s) similar to current offense	☐	☐
Previously placed on community supervision	☐	☐
Criminal history understates / overstates risk	☐	☐
On legal status / not on legal status when crime was committed	☐	☐
Time since most recent conviction / incarceration: [ ] mos / yrs	☐	☐
Mental and Physical Health		
Mental health problem(s) / physical health problem(s)	☐	☐
Treatment for health problems	☐	☐
Alcohol and Drug Abuse		
Under the influence when the offense was committed	☐	☐
Frequent prior abuse	☐	☐
☐ Prior treatment ☐ Never treated for alcohol/drug abuse	☐	☐
Social Factors		
Married or long-term relationship	☐	☐
Resides with or supports children	☐	☐
Family support or other support network	☐	☐
Defendant suffered prior abuse	☐	☐
Attitude		
Remorse	☐	☐
Accepts responsibility	☐	☐
Detailed rehabilitative plan in progress	☐	☐
Cooperated with authorities / prosecution	☐	☐
Other, ***specify:***	☐	☐

Percent of all offenders given probation for this offense in previous five (5) years: 17.7%

Penalty Classification: Class E Felony

Permissible penalties:

- Probation
- Fine – maximum $50,000
- Maximum imprisonment – 15 years
  - Initial confinement – maximum 10 years
  - Extended supervision – maximum 5 years

	RISK FACTORS		
OFFENSE SEVERITY	***Lesser***	***Medium***	***High***
Mitigated	☐ Probation to 1½ years confinement	☐ Probation to 3 years confinement	☐ 2–5 years confinement
Intermediate	☐ Probation to 3 years confinement	☐ 2–5 years confinement	☐ 3–7½ years confinement
Aggravated	☐ 2–5 years confinement	☐ 3–7½ years confinement	☐ 7–10 years confinement

Other Factors that May Warrant Adjustment of the Sentence	***Mitigating***	***Aggravating***
PSI Recommendation	☐	☐
Read-in offense(s)	☐	☐
Effect of multiple counts	☐	☐
Victim statement	☐	☐
Restitution paid before sentencing	☐	☐
DA recommendation	☐	☐
Defense attorney recommendation	☐	☐
Other, ***specify:***	☐	☐

Send to: Wisconsin Sentencing Commission
Post Office Box 7856
Madison, Wisconsin 53707-7856

CCAP Case Number: _____ **Sentencing Date:** _____

County: _____ **Offender Age:** _____

Robbery, Wis. Stat. § 943.32

☐ (1)(a) ☐ (1)(b)

THIS WORKSHEET ONLY APPLIES TO:
Sentencing Hearings Held On or After 7/1/2005, for TIS–II Offenses (Offenses Committed On or After 2/1/2003).

NOTE A: Where several options are presented, circle one and check *Mitigating* or *Aggravating*. [EX. Minimal / (Leader)]

NOTE B: Only check *Mitigating* or *Aggravating* for those factors that apply. Otherwise, leave the boxes unchecked.

OFFENSE SEVERITY	Mitigating	Aggravating
Characteristics of the Offense		
Value of Loss: $[ ]	☐	☐
Motivated by Need for Basic Necessities	☐	☐
Motivated by Greed	☐	☐
Conduct More Serious than Offense of Conviction	☐	☐
Other, specify:	☐	☐
Degree of Preparation		
None or Spontaneous / Some / Extensive	☐	☐
Type of Harm		
Threat / Abduction / Restraint	☐	☐
Great Bodily Harm / Extreme Emotional Harm	☐	☐
Extreme Degree of Force	☐	☐
Aggravating Factors, Wis. Stat. § 973.017 ☐ N/A		
Concealed or Altered Appearance	☐	☐
Gang-Related Offense	☐	☐
Elderly Victim	☐	☐
Bulletproof Clothing	☐	☐
Crime Committed to Influence Governmental Policy	☐	☐
Other, specify:	☐	☐
Penalty Enhancers, Wis. Stat. § 939 ☐ N/A		
Repeat Offender (§ 939.62) ☐ Pleaded and Proved	☐	☐
Dangerous Weapon (§ 939.63) ☐ Pleaded and Proved	☐	☐
Hate Crime (§ 939.645) ☐ Pleaded and Proved	☐	☐
Role in Offense		
Minimal / Leader	☐	☐
Defendant was Manipulated or Pressured	☐	☐
Abused Position of Trust / Authority	☐	☐
Other, specify:	☐	☐
Vulnerable Victim		
Mentally Ill	☐	☐
Cognitively Deficient	☐	☐
Youthful Victim, provide age: [ ]	☐	☐
Otherwise Vulnerable, specify:	☐	☐

RISK FACTORS	Mitigating	Aggravating
Education		
Grade Completed, *circle one:* –9 9 10 11 12 12+	☐	☐
Degree Obtained: ☐ None ☐ GED/HSED ☐ High School ☐ College ☐ Currently Enrolled	☐	☐
Employment History		
Usually Employed	☐	☐
Same Employer for Extended Period of Time	☐	☐
Employed When Offense was Committed or at Time of Sentencing	☐	☐
Lengthy or Frequent Periods of Unemployment	☐	☐

Criminal Record		
Criminal Record Not a Factor, check here ☐		
No Criminal Record	☐	☐
Prior Misdemeanor(s), total number ____ Assaultive Misdemeanors, total number ____	☐	☐
Prior felony or felonies, total number ____ Assaultive Felonies, total number ____	☐	☐
Prior Offense(s) Similar to Current Offense	☐	☐
Previously Placed on Community Supervision	☐	☐
Criminal History Understates / Overstates Risk	☐	☐
On Legal Status / Not on Legal Status when Crime was Committed	☐	☐
Time Since Most Recent Conviction / Incarceration: ____ months / yrs	☐	☐
Mental and Physical Health		
Mental Health Problem(s) / Physical Health Problem(s)	☐	☐
Treatment for Health Problems	☐	☐
Alcohol and Drug Abuse		
Under the Influence When the Offense was Committed	☐	☐
Frequent Prior Abuse	☐	☐
☐ Prior Treatment ☐ Never Treated For Alcohol/Drug Abuse	☐	☐
Social Factors		
Married or Long-Term Relationship	☐	☐
Resides With or Supports Children	☐	☐
Family Support or Other Support Network	☐	☐
Defendant Suffered Prior Abuse	☐	☐
Attitude		
Remorse	☐	☐
Accepts Responsibility	☐	☐
Detailed Rehabilitative Plan in Progress	☐	☐
Cooperated with Authorities / Prosecution	☐	☐
Other, specify:	☐	☐

OFFENSE INFORMATION

Percent of Offenders Given Probation for the Offense since 2/2003 (TIS II effective date):	***Penalty Classification Level:***	***Permissible Penalties:***
46%	Class E Felony	Probation Fine ─ Maximum $50,000 Maximum Imprisonment ─ 15 Years • Initial Confinement ─ Maximum 10 Years • Extended Supervision ─ Maximum 5 Years

RECOMMENDED SENTENCE RANGE

	RISK FACTORS		
OFFENSE SEVERITY	Lesser	Medium	High
Mitigated	____ Prob. – 1½ yrs confinement	____ Prob. – 3 yrs confinement	____ 2 – 5 yrs confinement
Intermediate	____ Prob. – 3 yrs confinement	____ 2 – 5 yrs confinement	____ 3 – 7½ yrs confinement
Aggravated	____ 2 – 5 yrs confinement	____ 3 – 7½ yrs confinement	____ 7 – 10 yrs confinement

OTHER FACTORS THAT MAY WARRANT SENTENCE ADJUSTMENT	Mitigating	Aggravating
PSI Recommendation	☐	☐
Read-In Offense(s)	☐	☐
Effect of Multiple Counts	☐	☐
Victim Statement	☐	☐
Restitution Paid Before Sentencing	☐	☐
District Attorney (DA) Recommendation	☐	☐
Defense Attorney Recommendation	☐	☐
Other, specify:	☐	☐

SEND TO: Wisconsin Sentencing Commission, P.O. Box 7856, Madison, WI 53707-7856

APPENDIX B

Definitions – Independent Variables

Definitions – Independent Variables (Wisconsin Sentencing Worksheets)

FACTORS RELATED TO OFFENSE SEVERITY

General Characteristics of the Offense Value of the loss [specify monetary amount] Motivation – greed Motivation – basic necessities Conduct more serious than offense of conviction Type of weapon used [specify] **Factors Specific to Burglary** Premises: residential property Premises: commercial property Premises: other property Burglary intended to facilitate another crime Offender voluntarily abandoned intended crime **Factors Specific to Possession/PID Cocaine or THC** Amount (weight) of drugs within offender's possession [specify] Large amount of cash within offender's possession Dealing for profit Possession to accommodate another persion Fortified drug house Proximity to weapons and/or other drugs Crime committed in exchange for sexual activity Extreme negative impact on community Vulnerability of intended recipient [specify] Other [specify] **Factors Specific to Sexual Assault of a Child** Type of sexual contact: sexual intercourse Type of sexual contact: contact not including intercourse Prior abuse of the victim Preexisting relationship between the victim and the offender Age of the victim Age of the offender Other [specify]	**Notes:**
Degree of Preparation	Although the revised Sentencing Guidelines Worksheets distinguish between some preparation, spontaneous acts, and extensive preparation, the old worksheets made no such distinction.
Method of Access to Property [**Forgery**] Borrowed with permission Took without permission Obtained through another offense – burglary, robbery, etc. Other [specify]	
Type of Harm Threat, abduction or restraint Great bodily harm (GBH) or extreme emotional harm Extreme degree of force Other type of harm [specify]	
Statutory Aggravating Factors – see generally, Wis. Stat. § 973.017 Concealed or altered appearance Gang–related offense Elderly victim Bulletproof vest/clothing	

Penalty Enhancers – see generally, Wis. Stat. Chapter 939 Repeat offender (habitual criminality), Wis. Stat. § 939.62 Dangerous weapon, Wis. Stat. § 939.63 Hate crime, Wis. Stat. § 939.645	
Role in the Offense Minimal role Leadership role Other role in the offense Abused position of trust/authority Offender was manipulated/pressured into committing the offense	
Vulnerable Victim Vulnerable victim/targeted victim	For statistical purposes, we have combined several highly specific factors under one banner. Those factors, each describing the victim, include being unconscious, under the influence, cognitively deficient, mentally unstable, or otherwise particularly vulnerable.
FACTORS RELATED TO CRIMINAL RISK	
Education Grade completed [options: –9 through 12+] Degree obtained [options: None, GED/HSED, High School, College]	
Employment History Employed when offense was committed Frequent/lengthy periods of unemployment	
Criminal Record No criminal record Criminal record not a factor Prior misdemeanors Prior felonies Prior similar offenses Previously placed on community supervision Criminal history understates/overstates risk [specify] Legal status when crime was committed Time since most recent conviction or period of incarceration	Legal status when crime was committed. Refers to the offender's status when the crime was committed – whether he was on probation, parole or extended supervision (ES); an escapee; an absconder; subject to juvenile supervision; or currently serving a sentence.
Mental and Physical Health Defendant suffers from mental/physical health problems Treatment for mental/physical health problems	
Alcohol and Drug Abuse Under the influence when crime was committed Frequent prior drug abuse Treatment for substance abuse	
Social Factors Married or long–term relationship Resides with or supports children Family support or other support network Defendant suffered prior abuse	
Attitude Shows remorse Accepts responsibility Detailed rehabilitative plan in progress Cooperated with authorities/prosecution	

ADDITIONAL FACTORS	
Offense Level [1–3] (representing *Mitigated* , *Intermediate* , *Aggravated*) Risk Level [1–3] (representing *Lesser* , *Medium* , *High*)	Whenever possible, we used variables for individual cells in the sentencing matrices, rather than separate risk and offense levels. Each cell corresponds to a particular risk level (lesser, medium, high) and offense level (mitigated, intermediate, aggravated).
Other Factors That May Warrant Adjustment of the Sentence Presentence investigation (PSI) recommendation Read–in offense(s) Effect of multiple counts Victim statement Restitution paid before sentencing DA/defense attorney sentence recommendation Other adjustment factor(s) [specify]	Read–in offenses. Refers to uncharged crimes and/or charges that were dismissed pursuant to a plea agreement, which are read into the record at sentencing. Typically, the prosecutor will grant immunity from prosecution for these additional crimes, provided the defendant agrees that the court may take them into consideration when deciding the sentence for the offense of conviction. See ***Austin v. State*** , 49 Wis. 2d 727, 183 N.W.2d 56 (1971); ***State v. Gallion*** , 270 Wis. 2d 535, 678 N.W.2d 197 (2004). DA/defense attorney sentence recommendation. Indicates that the prosecutor and/or defense counsel made a sentence recommendation that influenced the outcome. While not directly related to the offense, this factor can increase sentence length (aggravating influence) or decrease sentence length (mitigating influence).
DEMOGRAPHIC FACTORS	
Age Age^2 Female Black Hispanic Pled Not Guilty Odds Republican Upcoming judicial election (w/in one year) Judges per county, 1–2 Judges per county, 3–6 Judges per county, 7–17 Milwaukee County	Odds Republican. Refers to the likelihood that the sentencing judge has conservative credentials, based on returns from the 2004 presidential election. Upcoming judicial election. Indicates that the sentencing judge will stand for re–election within one year. Judges per county, Milwaukee County. Because judges are allocated based on population, we use judges–per–county in place of county population or county size. Milwaukee County stands alone; with 40+ circuit judges (trial judges), Milwaukee County far exceeds the next largest county, Dane County, which has 17 circuit judges.

APPENDIX C

Sentencing Guidelines Notes

Wisconsin Sentencing Guidelines Notes

Table of Contents

Introduction

The Sentencing Guidelines Worksheets (the Worksheets) and the Sentencing Guidelines Notes (the Notes) describe factors frequently considered at sentencing. They are not intended to preclude consideration of additional or alternative factors. Since **the Guidelines are advisory, and are not intended to replace the traditional exercise of discretion**, the sentencing court need not address each factor for each crime. However, the court should weigh all relevant factors. When the court determines that certain factors are not applicable, the court should leave the appropriate ***Mitigating*** and ***Aggravating*** boxes unchecked.

The Guidelines apply to the following offenses, if committed on/after February 1st, 2003:

- **first degree sexual assault**
  Wis. Stat. 940.225(1)(a)–(c)
- **second degree sexual assault**
  Wis. Stat. 940.225(2)(a)–(d), (f)–(i)
- **first degree sexual assault of a child**
  Wis. Stat. 948.02(1)
- **second degree sexual assault of a child**
  Wis. Stat. 948.02(2)
- **armed robbery**
  Wis. Stat. 943.32(2)
- **robbery**
  Wis. Stat 943.32(1)(a), (b)
- **burglary**
  Wis. Stat. 943.10(1m)(a)–(f)
- **delivery or possession with intent to deliver cocaine ─ one gram or less**
  Wis. Stats. 961.41(1)(cm)1g, (1m)(cm)1g
- **delivery or possession with intent to deliver THC ─ 200 to 1000 grams**
  Wis. Stats. 961.41(1)(h)2, (1m)(h)2
- **theft ─ more than $10,000**
  Wis. Stat. 943.20(1)(a)–(e), (3)(c)
- **forgery and forgery uttering**
  Wis. Stats. 943.38(1)(a)–(d), (2)

Each worksheet is divided into four principal sections: (1) Offense Severity, (2) Risk Factors, (3) the Specific Offense Chart and (4) Other factors that may warrant adjustment of the sentence.

Many factors that are appropriately considered at sentencing are primarily associated with **Offense Severity** (the vertical axis of the sentencing chart) or **Future Risk** (the horizontal axis of the sentencing chart). Offense Severity pertains to the character of the specific offense—mitigated, intermediate or aggravated. Future Risk addresses the risk posed by the defendant—lesser, medium or high.

1 Offense Severity

Offense severity reflects the need for punishment. Whether the offense should be treated as mitigated, intermediate or aggravated depends on various factors, including the characteristics of the offense and its actual or intended impact upon the victim(s) and/or the community

1A Factors affecting the severity of the specific offense

First degree sexual assault, Wis. Stat. 940.225(1)

First degree sexual assault includes conduct ranging from sexual contact to intercourse. The court should examine the nature of the conduct to determine the severity of the assault. The court also may consider:

- great bodily harm
- other forms of harm—
  including extreme emotional harm
- pregnancy
- transmission of disease
- whether multiple acts were involved
- whether the victim was threatened, abducted or restrained
- the location of the assault
- the kind of weapon used, and the manner of its use
- extreme degradation of the victim

The court should examine information available at sentencing in connection with short and long-term psychological and bodily harm. No single factor, through its presence or absence, necessarily makes the offense more or less severe. A dangerous weapon may raise the offense severity level unless the weapon forms an element of the crime, in which case this factor may not increase the offense severity level without further analysis.

Second degree sexual assault, Wis. Stat. 940.225(2)

Many factors related to first degree sexual assault are appropriately considered in connection with the second degree offense. However, the crimes have different elements, and this difference must guide the manner in which these factors are weighed.

First degree sexual assault of a child, Wis. Stat. 948.02(1)

Without further analysis, the sentencing court may not increase the offense severity level just because the victim was under 13 when the offense was committed—this fact is an element of the crime. However, the court is not precluded from considering factors associated with age. Ordinarily, young children are more dependent than older children and are especially vulnerable, but age alone is not the truest measure of vulnerability.

In some child sexual assault cases, there are reliable indicators that the victim suffered prolonged sexual abuse over time. Under these circumstances, the court may consider the duration of the abuse and the relationship between the defendant and the victim. However, where the victim knew the offender, the court should not conclude that the offense was necessarily less severe. Reports of health care providers, family members and others who know the victim well may provide valuable insight when assessing harm to the victim.

Second degree sexual assault of a child, Wis. Stat. 948.02(2)

The only distinction between second and first degree child sexual assault is the age of the victim. Generally, the sentencing court may consider the offense severity factors associated with the first degree offense. For second degree child sexual assault, the court also may consider whether the victim acted voluntarily, though legal consent was impossible; whether the victim and the defendant were adolescents engaging in voluntary sexual activity; and the fact that pregnancy has long-term consequences for the victim and the community.

Armed robbery, Wis. Stat. 943.32(2)

The court should consider the character of the specific offense—the particular weapon(s) used and the manner of their use, the duration and location of the robbery, and the value of the property taken, although often this factor is less consequential than the traumatic impact of the crime. Generally, aggravated robberies involve loaded firearms, illegal weapons, weapons that are actually fired, disguises and/or significant force.

Robbery, Wis. Stat. 943.32(1)

Offense severity is directly related to the degree and nature of the force used and the duration and location of the robbery. Additionally, the sentencing court may consider the value of the property taken. Mitigated robberies typically involve minimal threat of force, short duration and no injury. Intermediate robberies may involve some greater degree/threat of force. Aggravated robberies may involve weapons, disguises and some even greater degree of force/injury.

Burglary, Wis. Stat. 943.10(1)

The court should consider factors including individual harm, whether the property taken or damaged was particularly valuable, and whether the burgled premises were damaged. Additionally, the court may consider the type of premises—home entry ordinarily being more serious than burglary of commercial structures—and the crime intended upon entry. Although burglaries of garages and commercial structures are often deemed less serious than residential burglaries, they may cause substantial harm if the premises were vandalized, the business was prevented from operating, or there were other economic consequences.

Burglaries in which the offender confronts the occupant(s) of the premises may cause significant trauma. The court may consider the nature and circumstances of the confrontation, and whether the confrontation was intended or reasonably anticipated. The court also may consider whether the defendant ultimately abandoned the crime.

Delivery or possession with intent to deliver cocaine — one gram or less, Wis Stats 961.41(1)(cm), (1m)(cm)
Delivery or possession with intent to deliver THC — 200 to 500 grams, Wis Stats 961.41(1)(h), (1m)(h)

A mitigated offense is generally delivery or possession with intent to deliver (PWID) without any indication that the offender was dealing for profit. An intermediate offense is generally delivery or PWID for profit, though the profit margin may be small. An aggravated offense is generally delivery or PWID near schools, other places where children are targeted, and/or in close proximity to weapons. Gang association and/or involvement with a drug distribution network is clearly related to offense severity. Additionally, the sentencing court should consider the impact of the offense upon the community.

Theft of more than $10,000, Wis. Stat. 943.20(3)(c)

The sentencing court may consider not only the value of the property taken, but its impact upon the victim and the relationship between the victim and the defendant. The court also may consider how the defendant obtained the property, the degree of planning necessary to execute the offense, and though only one conviction may have been obtained, whether the offense was continuing. Additional considerations may include motive and how the defendant used the stolen property.

Forgery, Wis. Stat. 943.38(1), and Uttering, Wis. Stat. 943.38(2)

The sentencing court should consult the previous paragraph regarding theft—the factors relevant to that offense are similar to those that may affect the severity of these crimes. In connection with culpability and planning, specifically, the court may consider the sophistication necessary to commit the crime and whether the offender actually produced forged checks/documents or was merely recruited to pass them. The court also may consider than an offense motivated by common needs like rent may differ from one motivated by greed/addiction.

1B Considering harm caused by the offense

To the extent that vulnerability and/or trauma have not been fully considered, the court should evaluate these factors taking into account any harm suffered by the victim, including physical, emotional and financial harm. The court also may consider whether the community has been affected.

1C Statutory aggravating factors and penalty enhancers

Statutory aggravating factors

Generally, any statutory aggravating factor will increase the offense severity level.

Offense committed in association with a gang

Facts demonstrating that the crime was gang-related may raise the offense severity level because gang-relatedness will likely increase the traumatic impact upon the victim and the community. However, the crime does not automatically become more severe just because the defendant was affiliated with gang members. The crime itself must have been gang-related.

Pleaded and proved penalty enhancers

When pleaded and proved, penalty enhancers may increase the maximum penalty in each sentencing chart cell. The complete list of penalty enhancers for the offenses to which the Guidelines apply includes:

- Domestic abuse, Wis. Stat. 939.621
- Repeat offender, Wis. Stat. 939.62
- Repeat of serious sex crime, Wis. Stat. 939.623
- Repeat drug offender, Wis. Stat. 961.48
- Dangerous weapon, Wis. Stat. 939.63

- Hate crime, Wis. Stat. 939.645
- Violent crime in school zone, Wis. Stat. 939.632
- Distribution of controlled substance to person(s) under 18, Wis. Stat. 961.46
- Distribution or possession with intent to distribute controlled substance near certain public places, including public housing projects, parks, correctional facilities and youth centers, Wis. Stat. 961.49

Uncharged or dismissed penalty enhancers

Where an uncharged/dismissed penalty enhancer fits the crime, the court may consider this factor, even though the penalty enhancer was neither pleaded nor proven. However, where the defendant disputes its applicability, the court should treat any uncharged/dismissed penalty enhancer with caution. Generally, this factor will increase the offense severity level, just like statutory aggravating factors.

Use of a dangerous weapon

As with penalty enhancers that are neither pleaded nor proved, the court should consider with great care whether the offender used any dangerous weapons to commit or facilitate the offense. Although there may have been insufficient evidence to charge or prove the dangerous weapon enhancer, the court may conclude that the weapon is highly relevant to offense severity. Under those circumstances, the court should leave the *pleaded and proved* box **unchecked**. In determining how much weight to give this factor, the court should carefully consider the connection between the weapon and the offense, the type of weapon and its specific use.

1D Role of the defendant in the offense

Generally, if the defendant led/organized the offense or abused any position of trust/authority, this will increase offense severity. Conversely, if the defendant was only minimally involved, or was pressured or manipulated, this will decrease offense severity. This determination should be made within the context of **all other factors** bearing upon the offense severity level.

1E Other factors related to offense severity

The sentencing court may consider whether the defendant used any special skill or license to commit the crime. This factor may increase the offense severity level. Additionally, the court may consider whether the underlying conduct reflects conduct more serious than the offense of conviction.

2 Risk Factors

The second part of the worksheet contains factors that are useful in thinking about future risk and the need to incapacitate the defendant to safeguard public safety. To gauge future risk, the court may consider the character of the offense itself. For example, the crime may have been mischievous or thrill-seeking, with no purpose other than to cause damage. In contrast, the offender who commits burglary for the underlying purpose of committing sexual assault may pose significant risk, though not necessarily to commit burglary. In this situation, an examination of the risk factors pertaining to sex offenses would be appropriate.

2A Age, education and employment history

Except for sex offenses, adolescents and young adults commit most crimes. An offender who is 30–40 years old and has prior conviction(s) may pose significant risk, because his conduct has not improved with age. Education and employment that enables the defendant to support himself and his family is generally an indication of reduced risk to re-offend. Employment history also may be relevant when setting conditions of probation or extended supervision.

The Worksheets give the sentencing court an opportunity to indicate the highest educational grade level completed by the defendant, any degrees obtained, and whether these factors—grade level completed and degree(s) obtained—are mitigating or aggravating. The boxes for degree(s) obtained are not mutually exclusive.

2B Criminal history

Criminal history should be treated objectively. This section provides space for the sentencing court to indicate whether certain criminal history factors are present. If criminal history does *not* factor into the sentencing process, the court should check the appropriate box and skip the remaining criminal history factors. **The court should *not* check this box where the defendant has no prior convictions and this fact mitigates the seriousness of his/her conduct**. Assuming that criminal history does factor into the sentencing process, the court should determine which criminal history factors apply and whether they are mitigating or aggravating:

- *No criminal record* ─ Does not necessarily mean that the defendant poses less risk, but this factor strongly suggests less risk.
- *Prior misdemeanor(s)* ─ In addition to indicating whether the court views prior misdemeanors as mitigating/aggravating factors, the court should specify the total number of prior misdemeanors and the number of assaultive misdemeanors.
- *Prior felony or felonies* ─ In addition to indicating whether the court views any prior felonies as mitigating/aggravating factors, the court should specify the total number of prior felonies and the number of assaultive felonies.
- *Prior offense(s) similar to the current offense* ─ The court should examine criminal history within the context of the present offense to determine whether prior convictions are reliable predictors of future risk.
- *Defendant was previously placed on community supervision*
- *Criminal history understates or overstates risk* ─ The court may consider whether the defendant has availed himself of rehabilitative resources, continued with his/her education, obtained an educational degree, established stable employment, etc. Conversely, the court may consider whether the defendant poses greater risk than his/her criminal history would suggest.
- *Time since most recent conviction or period of incarceration* ─ As prior convictions become more distant from the present offense, they become less reliable indicators of risk. Sexual offenses are significant exceptions. They must be carefully reviewed, no matter how old the conviction/offender. This factor provides the court with an opportunity to indicate whether the passage of time is calculated from the most recent conviction or period of incarceration, whether little time has passed or many years, and whether this factor is mitigating or aggravating.
- *On legal status / not on legal status when crime was committed* ─ The commission of any crime while the defendant was on legal status generally means that community supervision was insufficient to control the risk of recidivism. *Legal status* means that when the offense was committed, the defendant was either:

    1. on probation (felony or violent misdemeanor)
    2. on parole
    3. on extended community supervision
    4. subject to juvenile supervision in connection with an act that would ordinarily constitute an adult crime
    5. an escapee
    6. an absconder
    7. currently serving a sentence
    8. juvenile under secure corrections disposition

For purposes of the Guidelines, *conviction* means criminal convictions **and** delinquency adjudications for acts that would ordinarily constitute adult crimes. Similarly, any reference to *felony* or *misdemeanor* includes crimes so classified by statute and delinquency adjudications for acts that would ordinarily constitute adult felonies or misdemeanors. *Assaultive* crimes are those crimes (or juvenile acts that would ordinarily constitute adult crimes) that involve the use or threat of force in the context of person-to-person confrontations or child sexual assault.

2C Mental and physical health; alcohol and drug abuse

Alcohol and drug dependence are positively correlated with many crimes. The defendant may pose significant risk unless his/her addiction has been dealt with effectively. Conversely, involvement in treatment may indicate that the defendant poses less risk, particularly if the underlying drug/alcohol problem was previously unaddressed. Previous *unsuccessful* courses of treatment, and the current degree of motivation or willingness to cooperate with treatment, may reflect upon future risk.

Regarding mental health problems, commitment to treatment and medication may indicate lesser risk. However, long–term mental illness, particularly when coupled with poor medication compliance and violent conduct, may reveal greater risk. The court also may consider whether physical health factors affect the risk of recidivism.

2D Social factors; attitude

The court may consider whether the defendant has strong and stable ties to family and community—these may mitigate the seriousness of his/her conduct. The court also may consider character issues in determining whether the offense of conviction was anomalous. Generally, the court should look for the following factors:

- Demonstrated history of good conduct
- Remorse
- Acceptance of responsibility
- Cooperation with the police and/or the prosecution
- Detailed rehabilitative plan in progress

Other factors pertaining to risk

Although these factors are not referenced in the worksheets, the sentencing court may consider the following:

- *Performance on bail* — Performance on bail may indicate that the defendant can/cannot be adequately supervised in the community. The court also may consider whether the offense for which the defendant is being sentenced was committed while on bail. However, even under these circumstances, the court should determine whether the bail violation necessarily increases the risk evaluation.

- *Prior Acts* — The court may consider wrongful conduct, including conduct that did not result in conviction. However, the court should bear in mind that such conduct may be insufficiently reliable to predict future risk. With respect to prior arrests, the court should evaluate the number and reason for the arrests. The court may view misconduct for which the offender was arrested as more serious than previous undetected misconduct. Prior acts may include previous read-in offenses that indicate future risk.

- *Multiple convictions for closely related crimes* — The court should determine whether multiple prior convictions resulted from one course of conduct; they may overstate future risk. However, the court should not disregard prior convictions just because they were closely related in time.

General concepts of risk — Lesser risk

Generally, lesser risk is strongly suggested where the defendant, when he/she committed the present offense:

- had no legal status and no criminal history;
- had no legal status and prior convictions for nonviolent misdemeanors only; or
- had no legal status and only one nonviolent felony conviction

General concepts of risk — Medium risk

Generally, medium risk is strongly suggested where the present offense is a non-violent felony and:

- the defendant was on legal status when he/she committed the crime;
- the defendant has one prior conviction for the same/similar offense;
- the defendant has two or three violent misdemeanor convictions;
- the defendant has two or three nonviolent felony convictions; or
- the defendant has one violent felony conviction

General concepts of risk — High risk

Generally, high risk is strongly suggested where the present offense is a violent felony and:

- the defendant was on legal status when he/she committed the crime;
- the defendant has two or more prior convictions for the same/similar offense;
- the defendant has two or more violent felony convictions; or
- the defendant has four violent misdemeanor convictions

3 Specific Offense Chart

The design of the sentencing chart was not intended to suggest that the total number of offenders should be distributed equally among the cells. The distribution will vary by offense. The cell that represents aggravated offense severity and high risk accommodates the highest possible sentence for the worst-case offender.

Though probation might seem appropriate, considerations of retribution or deterrence not fully accommodated by the preceding sections may lead the sentencing court to order confinement. In these circumstances, the court should state its reasons for deviating from the sentencing range indicated in the sentencing chart.

4 Additional factors that may warrant adjustment of the sentence

The following factors, not always related to offense severity or risk, may warrant adjustment of the sentence:

- *PSI Recommendation*
- *Victim statement*
- *Attorney recommendations* ─ The court may give weight to attorney recommendations, especially when the reasons for the recommendation are set forth at sentencing and the court finds them well-founded
- *Collateral consequences* ─ The court may consider whether collateral punishment, for example, job loss, public humiliation, and/or long-lasting financial consequences, mitigates the sentence.
- *Effect of multiple counts* ─ Upward adjustment may be required where sentences are imposed concurrently; downward adjustment may be required where sentences are imposed consecutively.
- *Habitual criminality* ─ Where an allegation of habitual criminality has been established, the sentencing court may determine, consistent with the habitual criminality statute (Wis. Stat. 939.62) or the drug repeater statute (Wis. Stat. 961.48), that punishment exceeding the maximum indicated penalty is required.
- *Read-in offenses* ─ The court may deviate upwards, or may set different conditions for probation/supervision.
- *Restitution paid at great sacrifice* ─ When restitution is paid before sentencing, the court may give favorable consideration. However, restitution paid at minimal sacrifice means less than restitution paid at great sacrifice.

Imposition of sentence

When the court orders imprisonment, or imposes and stays imprisonment, the court must order extended supervision of at least ¼ the term of confinement. The length and conditions of extended supervision, should the court determine that any special conditions are required, must be determined as part of the sentence.

The length of extended supervision should be sufficient to protect the community and may serve to punish the defendant. Other considerations—for example, rehabilitation, restitution, non-correctional treatment/counseling and reintegrating the defendant into society—may influence this decision.

The sentencing court should not automatically impose the maximum term of extended supervision. However, with certain offenses like child sexual assault, longer terms of extended supervision are often deemed necessary.

APPENDIX D

Worksheet Submission Rates

WORKSHEET SUBMISSIONS by OFFENSE
February, 2003 – September, 2006

OFFENSE	% of Total	No. Worksheets Rec'd / Total Offenses †
1st Degree Sexual Assault	0.4%	11 / 63 (17.5%)
1st Degree Sexual Assault of Child	4.9 %	130 / 500 (26.0%)
2nd Degree Sexual Assault	1.2 %	31 / 479 (6.5%)
2nd Degree Sexual Assault of Child	7.5 %	197 / 1439 (13.7%)
Armed Robbery	13.4 %	350 / 1368 (25.6%)
Burglary	31.9 %	833 / 5621 (14.8%)
Forgery & Forgery Uttering	19.2 %	501 / 4318 (11.6%)
Possession/PID cocaine (<=1g)	9.6 %	251 / 2313 (10.9%)
Possession/PID THC (200–1000g)	2.7 %	71 / 819 (8.7%)
Robbery	7.3 %	190 / 1047 (18.1%)
Theft >$10,000	1.7 %	45 / 518 (8.7%)
Total / Average	100 %	14.1 %

† *In parentheses, we provide the rate of receipt of completed,* ***usable*** *worksheets for each guidelines offense. Worksheets were deemed unusable for regression analysis when the judge selected all or nearly all of the available sentencing factors (including statutory aggravating factors and penalty enhancers) regardless of whether they could have applied; when the CCAP case number was unknown; and/or when a worksheet was submitted for a non-guideline offense.*

Among all Wisconsin trial judges, more than 40% (111 of 265) never submitted a single worksheet. Only 3% submitted a worksheet more than half the time. The mean return rate was 11%, and the median, 3%. Among the 154 judges who completed at least one worksheet, the mean return rate was 19%, and the median, 14%.

APPENDIX E

Descriptive Statistics

Descriptive Statistics
Race & Ethnicity

White Offenders

Offense	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Robbery ***60 Cases*** ***34 Prison, 26 Probation*** ***57% Prison***	Accepts responsibility	58%	19	16	3.00	3.00	4.00	54%
	Frequent prior drug abuse	58%	26	9	3.00	4.00	5.00	74%
	Sentence recommendation	47%	14	14	3.00	3.00	4.00	50%
	Legal status	42%	15	10	3.00	4.00	4.00	60%
	Prior misdemeanors	38%	19	4	3.00	3.00	3.17	83%
	Threat, abduction or restraint	37%	13	9	3.00	4.00	4.00	59%
	Cooperated with the authorities	33%	12	8	3.00	3.25	4.00	60%
	Mental/physical health problems (def.)	32%	13	6	3.00	4.00	4.00	68%
	Prior felonies	30%	16	2	3.00	4.00	6.00	89%
	Leadership role in the offense	28%	12	5	3.50	3.00	5.00	71%
Armed Robbery ***71 Cases*** ***66 Prison, 5 Probation*** ***93% Prison***	Frequent prior drug abuse	68%	45	3	6.00	6.00	4.00	94%
	Accepts responsibility	59%	39	3	5.00	6.00	4.00	93%
	Threat, abduction or restraint	55%	36	3	6.00	7.25	5.00	92%
	Legal status	49%	35	0	6.00	6.00	––	100%
	Concealed/altered appearance	42%	30	0	5.00	7.25	––	100%
	Prior misdemeanors	38%	27	0	5.00	5.00	––	100%
	Sentence recommendation	38%	24	3	6.50	8.00	5.00	89%
	Cooperated with the authorities	37%	25	1	6.00	5.00	4.00	96%
	Effect of multiple counts	31%	22	0	7.00	7.50	––	100%
	Read-in offenses	31%	22	0	8.50	8.00	––	100%
	Prior felonies	31%	21	1	7.00	7.00	5.00	95%
Burglary ***530 Cases*** ***242 Prison, 284 Prob, 3 Jail*** ***46% Prison***	Legal status	51%	126	142	3.00	4.00	4.00	47%
	Frequent prior drug abuse	50%	139	124	3.00	4.00	4.00	53%
	Accepts responsibility	48%	99	150	3.00	4.00	4.00	40%
	Location – residential	47%	126	119	3.00	4.00	4.00	51%
	Sentence recommendation	44%	108	124	3.00	4.00	4.00	47%
	Read-in offenses	42%	118	104	3.00	4.00	4.50	53%
	Prior misdemeanors	41%	106	109	3.00	4.00	4.00	49%
	Prior felonies	37%	125	67	3.00	4.00	4.00	65%
	Effect of multiple counts	36%	115	77	3.00	4.00	5.00	60%
	Prior similar offenses	35%	127	58	3.00	4.00	4.00	69%
Forgery ***290 Cases*** ***71 Prison, 217 Prob, 2 Jail*** ***24% Prison***	Value of the loss	67%	47	144	1.50	2.75	3.00	25%
	Legal status	52%	42	107	2.00	2.00	3.00	28%
	Accepts responsibility	47%	27	107	2.00	2.00	3.00	20%
	Read-in offenses	47%	33	102	2.00	2.00	3.00	24%
	Frequent prior drug abuse	44%	35	93	2.00	2.50	3.00	27%
	Sentence recommendation	40%	29	88	2.00	2.75	3.00	25%
	Prior misdemeanors	38%	30	79	1.79	3.00	3.00	28%
	Prior felonies	38%	42	65	2.00	2.63	3.00	39%
	Degree of preparation	36%	34	70	2.00	3.00	3.00	33%
	Effect of multiple counts	30%	28	58	2.00	2.00	3.00	33%
Cocaine, PID Cocaine ***19 Cases*** ***7 Prison, 12 Probation*** ***37% Prison***	*Insufficient Data*							
1st Degree Child Sexual Assault ***101 Cases*** ***78 Prison, 23 Probation*** ***77% Prison***	Abused position of trust/authority	64%	55	10	9.00	10.00	10.00	85%
	Vulnerable victim or targeted victim	60%	51	10	9.50	10.00	11.00	84%
	Sentence recommendation	54%	42	13	10.00	10.00	10.00	76%
	Sexual contact (not intercourse)	50%	39	12	8.00	10.00	10.00	76%
	Accepts responsibility	48%	37	11	9.00	10.00	10.00	77%
	Age of the victim	45%	33	12	10.00	10.00	11.00	73%
	Legal status	40%	30	10	9.50	10.00	10.00	75%
	Mental/physical health problems (def.)	35%	29	6	8.00	10.00	12.50	83%
	Read-in offenses	32%	27	5	10.00	10.00	15.00	84%
	Prior misdemeanors	29%	22	7	9.00	10.00	10.00	76%
2nd Degree Child Sexual Assault ***146 Cases*** ***88 Prison, 57 Prob, 1 Jail*** ***60% Prison***	Age of the victim	69%	64	37	5.00	6.00	5.00	63%
	Vulnerable victim or targeted victim	55%	59	22	5.00	6.00	5.00	73%
	Type of contact – intercourse	54%	48	30	5.00	5.00	5.00	62%
	Accepts responsibility	53%	48	28	5.00	6.00	5.00	63%
	Sentence recommendation	48%	47	22	5.00	7.00	5.50	68%
	Legal status	47%	45	22	5.00	7.00	5.00	67%
	Abused position of trust/authority	40%	45	13	6.00	7.00	8.00	78%
	Cooperated with authorities	35%	27	23	5.00	6.00	5.00	54%
	Frequent prior drug abuse	35%	34	17	5.00	5.50	7.00	67%
	Prior misdemeanors	32%	34	11	5.00	7.00	7.00	76%

Descriptive Statistics
Race & Ethnicity

African American Offenders

Offense	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Robbery ***123 Cases*** ***81 Prison, 42 Probation*** ***66% Prison***	Accepts responsibility	55%	43	23	3.00	4.00	3.00	65%
	Legal status	46%	41	14	3.00	4.00	4.00	75%
	Prior felonies	41%	42	7	3.00	5.00	3.50	86%
	Threat, abduction or restraint	37%	33	13	4.00	5.00	4.00	72%
	Prior misdemeanors	35%	32	9	3.00	4.50	3.50	78%
	Sentence recommendation	34%	21	21	4.50	5.00	4.00	50%
	Frequent prior drug abuse	34%	31	9	3.00	5.00	5.00	78%
	GBH/extreme emotional harm	33%	27	12	3.00	4.00	3.25	69%
	Value of the loss	30%	20	16	3.00	5.00	3.00	56%
	Prior similar offenses	27%	29	3	4.00	5.00	3.50	91%
Armed Robbery ***272 Cases*** ***242 Prison, 30 Probation*** ***89% Prison***	Accepts responsibility	64%	151	21	5.00	5.00	4.00	88%
	Threat, abduction or restraint	49%	121	13	5.00	5.00	5.00	90%
	Legal status	47%	120	8	5.00	5.00	5.00	94%
	Prior felonies	42%	109	3	6.00	5.00	5.00	97%
	Frequent prior drug abuse	39%	101	5	5.00	5.00	4.00	95%
	Prior misdemeanors	35%	89	5	5.00	5.00	5.00	95%
	Value of the loss	34%	78	15	4.25	5.00	4.00	84%
	Cooperated with the authorities	30%	70	10	4.25	5.00	4.50	88%
	Sentence recommendation	29%	70	10	4.00	5.00	4.00	88%
	Degree of preparation	27%	64	10	4.50	5.00	3.00	86%
	Concealed/altered appearance	21%	64	3	5.00	5.00	5.00	95%
Burglary ***269 Cases*** ***164 Prison, 104 Prob, 1 Jail*** ***61% Prison***	Accepts responsibility	57%	88	65	2.00	3.25	3.00	58%
	Prior felonies	56%	108	42	2.50	4.00	4.00	72%
	Location – residential	51%	77	58	2.50	3.00	3.00	57%
	Legal status	45%	81	41	2.50	3.00	3.00	66%
	Frequent prior drug abuse	45%	87	35	2.00	3.50	4.00	71%
	Prior misdemeanors	43%	69	46	2.00	4.00	3.25	60%
	Prior similar offenses	36%	70	27	2.50	3.50	4.00	72%
	Sentence recommendation	29%	48	30	2.83	4.00	3.25	62%
	Location – commercial	26%	46	24	2.00	3.50	3.00	66%
	Cooperated with the authorities	26%	35	34	2.00	3.50	3.00	51%
Forgery ***206 Cases*** ***61 Prison, 141 Prob, 4 Jail*** ***30% Prison***	Value of the loss	68%	41	96	1.08	2.33	3.00	30%
	Legal status	55%	44	68	1.50	2.00	3.00	39%
	Accepts responsibility	52%	24	80	1.50	2.17	3.00	23%
	Prior felonies	44%	42	45	1.50	2.00	3.00	48%
	Prior misdemeanors	41%	31	51	1.50	3.00	3.00	38%
	Sentence recommendation	37%	23	51	1.50	2.00	3.00	31%
	Degree of preparation	37%	22	53	1.50	3.00	3.00	29%
	Read-in offenses	31%	25	37	1.50	2.00	3.00	40%
	Frequent prior drug abuse	25%	22	29	1.50	2.25	3.00	43%
	Effect of multiple counts	23%	21	25	1.50	2.00	3.00	42%
Cocaine, PID Cocaine ***269 Cases*** ***109 Prison, 159 Probation*** ***41% Prison***	Accepts responsibility	68%	74	107	1.50	3.00	3.00	41%
	Dealing for profit	67%	72	105	1.58	3.00	3.00	41%
	Large amount of cash	51%	46	88	1.50	3.00	3.00	34%
	Frequent prior drug abuse	51%	53	80	1.50	3.00	3.00	40%
	Mental/physical health problems (def.)	40%	34	71	1.50	3.00	3.00	32%
	Legal status	40%	51	55	1.50	3.00	3.00	48%
	Prior felonies	40%	58	47	1.71	3.00	3.00	55%
	Extreme negative community impact	39%	45	59	2.00	2.00	3.00	43%
	Prior similar offenses	35%	50	41	1.58	3.00	3.00	55%
	Prior misdemeanors	35%	39	51	1.50	3.00	3.00	43%
1st Degree Child Sexual Assault ***32 Cases*** ***23 Prison, 9 Probation*** ***72% Prison***	Accepts responsibility	63%	14	6	8.17	10.00	3.00	70%
	Abused position of trust/authority	63%	17	3	10.00	10.00	6.00	85%
	Vulnerable victim or targeted victim	56%	13	5	10.00	10.00	5.00	72%
	Sexual contact (not intercourse)	50%	12	4	7.00	8.00	5.00	75%
	Sentence recommendation	47%	11	4	10.00	10.00	3.50	73%
	Legal status	44%	12	2	5.50	7.00	4.50	86%
	Age of the victim	34%	10	1	8.17	9.00	3.00	91%
	Cooperated with authorities	28%	8	1	9.17	10.00	6.00	89%
	Prior felonies	28%	8	1	10.00	10.00	6.00	89%
	Prior misdemeanors	28%	7	2	10.00	10.00	5.00	78%
	Prior similar offenses	28%	9	0	6.00	8.00	––	100%
2nd Degree Child Sexual Assault ***56 Cases*** ***31 Prison, 25 Probation*** ***55% Prison***	Type of contact – intercourse	71%	22	18	3.00	6.00	4.00	55%
	Age of the victim	61%	18	16	3.00	5.50	5.00	53%
	Accepts responsibility	59%	21	12	5.00	6.00	4.00	64%
	Legal status	54%	15	14	4.00	6.00	5.00	52%
	Vulnerable victim or targeted victim	39%	9	12	6.00	6.00	4.00	43%
	Sentence recommendation	38%	11	10	4.00	6.00	5.00	52%
	Frequent prior drug abuse	30%	13	4	3.00	5.00	3.50	76%
	Prior felonies	30%	11	6	4.00	6.00	5.50	65%
	Prior misdemeanors	30%	10	7	3.50	6.00	5.00	59%
	Cooperated with the authorities	25%	7	7	12.00	10.00	3.00	50%

Descriptive Statistics
Race & Ethnicity

Hispanic Offenders								
Offense	***Factors Most Frequently Checked, Selection Rate***		***# Prison***	***# Probation***	***Median Prison / ES***		***Median Probation***	***Prison Rate***
Robbery ***14 Cases*** ***13 Prison, 1 Probation*** ***93% Prison***	*Insufficient Data*							
Armed Robbery ***44 Cases*** ***37 Prison, 7 Probation*** ***84% Prison***	Accepts responsibility	55%	19	5	4.50	5.00	5.00	79%
	Frequent prior drug abuse	45%	18	2	5.50	5.50	6.00	90%
	Legal status	43%	16	3	6.00	6.00	6.00	84%
	Cooperated with the authorities	39%	14	3	4.75	5.00	5.00	82%
	Threat, abduction or restraint	32%	14	0	6.00	6.00	15.00	100%
	Prior felonies	27%	10	2	6.00	6.00	6.00	83%
	Effect of multiple counts	25%	10	1	6.00	6.00	6.00	91%
	Prior misdemeanors	25%	8	3	5.00	4.50	4.00	73%
	Sentence recommendation	23%	7	3	7.00	6.00	4.00	70%
	Other role (nonleadership, nonminimal)	23%	10	0	6.00	6.00	––	100%
Burglary ***49 Cases*** ***22 Prison, 27 Probation*** ***45% Prison***	Accepts responsibility	61%	14	16	2.00	3.00	3.00	47%
	Legal status	57%	12	16	1.50	2.88	4.00	43%
	Frequent prior drug abuse	45%	14	8	2.13	3.00	3.75	64%
	Location – residential	45%	13	9	2.00	3.33	4.00	59%
	Prior misdemeanors	43%	12	9	2.00	3.17	4.00	57%
	Prior felonies	37%	14	4	2.00	3.17	3.50	78%
	Cooperated with authorities	33%	5	11	2.00	3.00	4.00	31%
	Sentence recommendation	29%	5	9	2.00	3.00	3.00	36%
	Read-in offenses	27%	8	5	2.13	3.00	4.00	62%
	Prior similar offenses	24%	9	3	2.00	3.00	5.00	75%
	Location – nonresidential, noncommercial	24%	4	8	1.38	2.13	4.00	33%
Forgery ***25 Cases*** ***6 Prison, 18 Prob, 1 Jail*** ***24% Prison***	*Insufficient Data*							
Cocaine, PID Cocaine ***19 Cases*** ***5 Prison, 14 Probation*** ***26% Prison***	*Insufficient Data*							
1st Degree Child Sexual Assault ***17 Cases*** ***12 Prison, 5 Probation*** ***71% Prison***	*Insufficient Data*							
2nd Degree Child Sexual Assault ***26 Cases*** ***20 Prison, 6 Probation*** ***77% Prison***	*Insufficient Data*							

Descriptive Statistics
Sex

Male Offenders

Offense	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Robbery ***184 Cases*** ***123 Prison, 61 Probation*** ***67% Prison***	Accepts responsibility	54%	64	35	2.50	4.00	3.50	65%
	Legal status	48%	67	22	3.00	4.00	4.00	75%
	Frequent prior drug abuse	41%	61	15	3.00	4.50	5.00	80%
	Prior felonies	39%	63	9	3.00	5.00	4.00	88%
	Sentence recommendation	38%	37	33	4.00	4.00	4.00	53%
	Prior misdemeanors	37%	57	11	3.00	4.00	3.50	84%
	Threat, abduction or restraint	34%	43	19	4.00	5.00	4.00	69%
	GBH/extreme emotional harm	30%	39	17	4.00	4.00	3.00	70%
	Value of the loss	26%	30	17	3.00	5.00	3.00	64%
	Prior similar offenses	22%	37	4	4.00	5.00	3.75	90%
Armed Robbery ***371 Cases*** ***334 Prison, 37 Probation*** ***90% Prison***	Accepts responsibility	62%	202	29	5.00	5.00	4.00	87%
	Threat, abduction or restraint	49%	166	15	5.00	6.00	5.00	92%
	Legal status	48%	166	11	5.00	5.00	5.00	94%
	Frequent prior drug abuse	45%	159	8	5.00	6.00	5.00	95%
	Prior felonies	39%	140	6	6.00	6.00	5.50	96%
	Prior misdemeanors	34%	117	9	5.00	5.00	5.00	93%
	Cooperated with the authorities	32%	107	12	5.00	5.00	5.00	90%
	Sentence recommendation	32%	101	16	5.00	6.00	4.00	86%
	Value of the loss	30%	95	18	4.33	6.00	4.00	84%
	Degree of preparation	26%	85	13	4.00	5.50	3.00	87%
Burglary ***846 Cases*** ***431 Prison, 410 Prob, 4 Jail*** ***51% Prison***	Accepts responsibility	51%	204	227	2.50	4.00	3.50	47%
	Legal status	50%	221	202	2.50	3.50	4.00	52%
	Location – residential	47%	220	178	3.00	4.00	3.00	55%
	Frequent prior drug abuse	46%	241	149	3.00	4.00	4.00	62%
	Prior felonies	43%	249	110	3.00	4.00	4.00	69%
	Prior misdemeanors	41%	188	157	2.50	4.00	4.00	54%
	Sentence recommendation	39%	162	166	3.00	4.00	4.00	49%
	Prior similar offenses	35%	209	87	3.00	4.00	4.00	71%
	Read-in offenses	34%	161	123	3.00	4.00	4.00	57%
	Location – commercial	31%	123	141	2.00	3.50	4.00	47%
Forgery, Forgery Uttering ***283 Cases*** ***97 Prison, 182 Prob, 4 Jail*** ***34% Prison***	Value of the loss	68%	67	123	1.50	3.00	3.00	35%
	Legal status	53%	69	80	1.50	2.50	3.00	46%
	Prior felonies	43%	61	58	1.58	2.50	3.00	51%
	Accepts responsibility	43%	33	86	2.00	2.50	3.00	28%
	Frequent prior drug abuse	42%	43	75	2.00	2.50	3.00	36%
	Read-in offenses	39%	37	72	2.00	2.00	3.00	34%
	Prior misdemeanors	39%	42	65	1.79	3.00	3.00	39%
	Sentence recommendation	39%	34	73	1.50	2.88	3.00	32%
	Degree of preparation	35%	42	58	2.00	3.00	3.00	42%
	Effect of multiple counts	29%	39	44	1.58	2.00	3.50	47%
Cocaine, PWID Cocaine ***258 Cases*** ***110 Prison, 148 Probation*** ***43% Prison***	Accepts responsibility	68%	74	101	1.50	2.50	3.00	42%
	Dealing for profit	67%	74	98	2.00	3.00	3.00	43%
	Frequent prior drug abuse	50%	54	75	1.92	3.00	3.00	42%
	Large amount of cash	50%	42	86	1.71	3.00	3.00	33%
	Prior felonies	39%	53	48	2.00	3.00	3.00	52%
	Legal status	39%	50	51	1.50	3.00	3.00	50%
	Extreme negative community impact	38%	45	54	2.00	2.00	3.00	45%
	Mental/physical health problems (def.)	38%	33	66	1.75	3.00	3.00	33%
	Prior similar offenses	34%	45	42	1.67	3.00	3.00	52%
	Employed when offense was committed	33%	27	59	1.50	3.00	3.00	31%
1st Degree Child Sexual Assault ***150 Cases*** ***113 Prison, 37 Probation*** ***75% Prison***	Abused position of trust/authority	63%	78	16	9.25	10.00	8.50	83%
	Vulnerable victim or targeted victim	57%	69	17	10.00	10.00	7.00	80%
	Accepts responsibility	52%	59	19	8.00	10.00	6.00	76%
	Sentence recommendation	51%	58	19	9.25	10.00	7.00	75%
	Sexual contact (not intercourse)	49%	55	18	8.00	10.00	8.50	75%
	Age of the victim	43%	48	16	9.17	10.00	10.00	75%
	Legal status	40%	44	16	6.00	10.00	7.00	73%
	Read-in offenses	30%	38	7	10.00	10.00	15.00	84%
	Mental/physical health problems (def.)	30%	37	8	9.50	10.00	12.50	82%
	Prior misdemeanors	29%	33	10	9.50	10.00	6.00	77%
2nd Degree Child Sexual Assault ***233 Cases*** ***145 Prison, 87 Prob, 1 Jail*** ***62% Prison***	Age of the victim	68%	101	56	5.00	6.00	5.00	64%
	Type of contact – intercourse	59%	87	50	5.00	6.00	5.00	64%
	Accepts responsibility	55%	85	41	5.00	6.00	5.00	67%
	Vulnerable victim or targeted victim	51%	82	36	5.25	6.50	5.00	69%
	Legal status	49%	73	40	5.00	7.00	5.00	65%
	Sentence recommendation	48%	75	35	5.00	7.00	5.00	68%
	Abused position of trust/authority	34%	62	18	6.50	7.00	6.50	78%
	Frequent prior drug abuse	33%	56	22	5.00	6.00	6.00	72%
	Cooperated with the authorities	33%	45	30	5.00	7.00	5.00	60%
	Prior misdemeanors	31%	53	19	5.50	6.00	5.00	74%

Descriptive Statistics
Sex

Female Offenders								
Offense	***Factors Most Frequently Checked, Selection Rate***		***# Prison***	***# Probation***	***Median Prison / ES***		***Median Probation***	***Prison Rate***
Robbery ***20 Cases*** ***11 Prison, 9 Probation*** ***55% Prison***	*Insufficient Data*							
Armed Robbery ***25 Cases*** ***19 Prison, 6 Probation*** ***76% Prison***	*Insufficient Data*							
Burglary ***53 Cases*** ***11 Prison, 42 probation*** ***21% Prison***	Frequent prior drug abuse	58%	7	24	2.00	3.00	4.00	23%
	Location – residential	53%	5	23	2.00	2.00	4.00	18%
	Accepts responsibility	45%	2	22	1.33	2.67	4.00	8%
	Legal status	40%	5	16	1.50	2.00	4.00	24%
	Prior misdemeanors	40%	6	15	1.75	3.25	4.00	29%
	Sentence recommendation	36%	6	13	2.00	3.75	4.00	32%
	Prior felonies	36%	7	12	2.00	2.00	3.00	37%
	Cooperated with the authorities	30%	1	15	1.17	1.83	4.00	6%
	Leadership role in the offense	25%	2	11	2.50	3.50	4.00	15%
	Read-in offenses	23%	2	10	3.00	4.50	6.00	17%
Forgery, Forgery Uttering ***263 Cases*** ***46 Prison, 214 Prob, 3 Jail*** ***17% Prison***	Value of the loss	64%	29	137	1.50	2.00	3.00	17%
	Accepts responsibility	62%	23	117	1.50	2.33	3.00	16%
	Legal status	54%	22	118	1.50	2.00	3.00	16%
	Sentence recommendation	43%	24	89	1.75	2.50	3.00	21%
	Read-in offenses	41%	24	82	1.75	2.25	3.00	23%
	Prior misdemeanors	40%	24	80	1.75	3.00	3.00	23%
	Degree of preparation	36%	17	77	1.50	2.00	3.00	18%
	Prior felonies	35%	29	63	2.00	2.33	3.00	32%
	Frequent prior drug abuse	32%	21	61	1.50	2.50	3.00	26%
	Prior similar offenses	29%	24	50	1.75	2.75	3.00	32%
Cocaine, PWID Cocaine ***49 Cases*** ***10 Prison, 39 Probation*** ***20% Prison***	Accepts responsibility	65%	5	27	1.25	3.00	3.00	16%
	Frequent prior drug abuse	61%	7	23	2.00	3.00	3.00	23%
	Dealing for profit	61%	8	22	1.38	3.00	3.00	27%
	Large amount of cash	49%	7	17	1.50	3.00	2.50	29%
	Prior misdemeanors	47%	5	18	1.67	3.00	3.00	22%
	Mental/physical health problems (def.)	43%	4	17	1.13	3.00	3.00	19%
	Legal status	43%	3	18	1.00	3.00	3.00	14%
	Cooperated with the authorities	41%	2	18	1.25	2.50	3.00	10%
	Time since most recent conviction	35%	6	11	1.38	3.00	3.00	35%
	Treatment for health problems	31%	1	14	1.00	2.00	2.50	7%
2nd Degree Child Sexual Assault ***7 Cases*** ***3 Prison, 4 Probation*** ***43% Prison***	*INSUFFICIENT DATA*							

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Robbery	***Milwaukee County* *149 Cases* *100 Prison, 49 Probation* *67% Prison***	Accepts responsibility	60%	58	32	3.00	4.00	3.00	64%
		Legal status	43%	51	13	3.00	4.00	3.00	77%
		Frequent prior drug abuse	38%	46	11	3.00	4.00	4.00	81%
		Prior misdemeanors	38%	47	10	3.00	4.00	3.42	82%
		Prior felonies	38%	49	7	3.00	5.00	4.00	88%
		Sentence recommendation	31%	21	25	4.00	5.00	3.00	46%
		Value of the loss	30%	26	19	3.00	5.00	3.00	58%
		GBH/extreme emotional harm	29%	32	11	3.00	4.00	3.00	74%
		Threat, abduction or restraint	29%	31	12	4.00	5.00	3.50	72%
		Mental/physical health problems (def.)	20%	25	5	3.00	4.00	3.50	83%
	ROS* *55 Cases* *34 Prison, 21 Probation* *62% Prison	Legal status	58%	21	11	3.50	4.00	7.00	66%
		Sentence recommendation	55%	18	12	3.25	4.00	4.50	60%
		Frequent prior drug abuse	49%	20	7	3.25	4.25	7.00	74%
		Threat, abduction or restraint	49%	17	10	3.50	4.00	4.50	63%
		Accepts responsibility	38%	12	9	2.75	4.50	4.00	57%
		Prior felonies	35%	17	2	3.00	4.00	5.00	89%
		Leadership role in the offense	33%	12	6	3.00	3.50	6.00	67%
		GBH/extreme emotional harm	33%	11	7	4.00	4.00	3.50	61%
		Prior misdemeanors	31%	14	3	3.00	3.25	3.00	82%
		Read-in offenses	29%	11	5	3.00	3.00	5.00	69%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Armed Robbery	***Milwaukee County*** ***318 Cases*** ***284 Prison, 34 Probation*** ***89% Prison***	Accepts responsibility	65%	180	26	5.00	5.00	4.00	87%
		Legal status	47%	141	8	5.00	5.00	4.50	95%
		Threat, abduction or restraint	43%	127	11	5.00	5.00	4.00	92%
		Frequent prior drug abuse	42%	127	5	5.00	5.00	4.00	96%
		Prior felonies	38%	118	2	6.00	5.00	4.00	98%
		Prior misdemeanors	35%	103	7	5.00	5.00	4.00	94%
		Value of the loss	34%	91	18	4.00	5.00	4.00	83%
		Cooperated with the authorities	31%	87	12	4.50	5.00	4.00	88%
		Sentence recommendation	27%	74	13	4.00	5.00	4.00	85%
		Degree of preparation	27%	74	11	4.00	5.00	3.00	87%
	ROS ***78 Cases*** ***69 Prison, 9 Probation*** ***88% Prison***	Threat, abduction or restraint	71%	49	6	5.00	6.00	6.00	89%
		Frequent prior drug abuse	58%	40	5	5.00	6.00	6.00	89%
		Legal status	49%	34	4	5.00	6.00	6.50	89%
		Accepts responsibility	46%	32	4	5.00	6.00	7.00	89%
		Sentence recommendation	44%	30	4	6.00	8.00	5.00	88%
		Concealed/altered appearance	42%	33	– –	5.00	7.50	– –	100%
		Read-in offenses	37%	27	2	6.00	8.00	10.50	93%
		Prior felonies	37%	25	4	6.00	7.50	6.00	86%
		Cooperated with the authorities	35%	25	2	5.00	6.00	7.00	93%
		Prior misdemeanors	31%	22	2	5.50	6.00	11.00	92%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Selected, Selection Rate*		*No. Prison*	*No. Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Burglary	***Milwaukee County*** ***358 Cases*** ***202 Prison, 153 Prob, 2 Jail*** ***56% Prison***	Accepts responsibility	63%	119	103	2.00	4.00	3.00	54%
		Legal status	52%	108	77	2.50	3.00	3.00	58%
		Location – residential	52%	99	85	2.50	3.50	3.00	54%
		Prior felonies	49%	131	45	2.50	4.00	3.00	74%
		Frequent prior drug abuse	48%	112	57	2.00	3.50	4.00	66%
		Prior misdemeanors	47%	101	66	2.00	4.00	3.00	60%
		Prior similar offenses	33%	88	29	2.00	3.50	3.50	75%
		Location – commercial	28%	62	39	2.00	3.25	3.00	61%
		Cooperated with the authorities	27%	44	53	2.00	4.00	3.00	45%
		Sentence recommendation	23%	45	37	2.00	4.00	3.00	55%
	Waukesha County ***46 Cases*** ***21 Prison, 25 Probation*** ***46% Prison***	Sentence recommendation	57%	10	16	3.00	4.50	5.00	38%
		Accepts responsibility	57%	11	15	3.00	4.00	4.00	42%
		Read-in offenses	50%	11	12	3.00	4.00	5.00	48%
		Frequent prior drug abuse	46%	13	8	3.00	5.00	4.50	62%
		Location – residential	43%	12	8	3.75	5.00	4.00	60%
		Legal status	41%	7	12	2.50	5.00	4.50	37%
		Location – commercial	30%	5	9	3.00	2.00	4.00	36%
		Cooperated with the authorities	28%	4	9	4.25	4.50	4.00	31%
		Prior misdemeanors	28%	6	7	2.50	3.50	5.00	46%
		Prior felonies	24%	8	3	4.00	4.50	4.00	73%
	Fox River Valley ***82 Cases*** ***26 Prison, 56 Probation*** ***32% Prison***	Legal status	57%	15	32	3.00	3.00	3.00	32%
		Frequent prior drug abuse	52%	16	27	3.25	3.00	4.00	37%
		Sentence recommendation	45%	13	24	3.00	4.00	3.00	35%
		Read-in offenses	45%	18	19	2.25	3.00	4.00	49%
		Accepts responsibility	44%	11	25	3.00	3.00	3.00	31%
		Location – commercial	40%	11	22	2.50	3.00	4.00	33%
		Prior misdemeanors	38%	8	23	3.25	3.00	3.00	26%
		Effect of multiple counts	37%	19	11	2.50	3.00	5.00	63%
		Prior felonies	35%	17	12	3.00	3.00	4.50	59%
		Location – residential	34%	9	19	3.00	3.00	4.00	32%
	Manitowoc and Sheboygan Counties ***37 Cases*** ***14 Prison, 23 Probation*** ***38% Prison***	Accepts responsibility	59%	8	14	2.00	3.50	4.25	36%
		Location – residential	59%	10	12	2.00	3.00	3.50	45%
		Sentence recommendation	51%	5	14	3.00	4.50	5.00	26%
		Prior misdemeanors	51%	9	10	1.50	3.00	4.75	47%
		Cooperated with the authorities	46%	7	10	1.50	3.00	4.75	41%
		Prior felonies	46%	8	9	1.75	2.50	5.00	47%
		Read-in offenses	46%	8	9	2.00	4.50	4.00	47%
		Legal status	41%	8	7	1.75	3.50	4.00	53%
		Prior similar offenses	41%	8	7	1.75	3.50	3.00	53%
		Effect of multiple counts	39%	8	6	2.00	2.50	6.25	57%
	ROS ***376 Cases*** ***179 Prison, 195 Prob, 2 Jail*** ***48% Prison***	Sentence recommendation	49%	95	88	3.00	4.00	4.00	52%
		Legal status	48%	88	90	3.00	4.00	4.00	49%
		Read-in offenses	47%	98	79	3.00	4.00	5.00	55%
		Frequent prior drug abuse	47%	101	76	3.00	4.00	4.00	57%
		Location – residential	46%	95	77	3.00	4.00	4.00	55%
		Effect of multiple counts	40%	86	65	3.00	4.00	5.00	57%
		Accepts responsibility	40%	57	92	2.50	4.00	4.00	38%
		Prior felonies	39%	92	53	3.00	4.00	4.00	63%
		Prior similar offenses	39%	99	45	3.00	4.00	5.00	69%
		Prior misdemeanors	36%	70	66	3.00	4.00	4.00	71%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Forgery	***Milwaukee County*** ***218 Cases*** ***62 Prison, 150 Prob, 6 Jail*** ***28% Prison***	Value of the loss	74%	43	112	1.50	3.00	3.00	28%
		Accepts responsibility	66%	37	101	1.50	2.00	3.00	27%
		Legal status	50%	42	66	1.75	2.50	3.00	39%
		Prior misdemeanors	39%	29	55	2.00	3.00	3.00	35%
		Prior felonies	36%	36	40	2.00	2.00	3.00	47%
		Frequent prior drug abuse	35%	31	43	1.50	2.50	3.00	42%
		Degree of preparation	31%	21	45	1.50	2.00	3.00	32%
		Read-in offenses	30%	22	43	1.79	2.50	3.00	34%
		Sentence recommendation	27%	16	42	1.50	3.00	3.00	28%
		Cooperated with authorities	26%	15	41	1.50	2.00	3.00	27%
	Dane and Rock Counties ***81 Cases*** ***26 Prison, 55 Probation*** ***32% Prison***	Legal status	70%	23	34	1.00	2.00	4.00	40%
		Value of the loss	64%	17	35	1.00	1.00	4.00	33%
		Prior felonies	52%	19	23	1.00	2.00	4.00	45%
		Prior misdemeanors	40%	11	21	1.00	1.50	3.00	34%
		Sentence recommendation	37%	14	16	1.00	2.00	5.00	47%
		Read-in offenses	35%	11	17	1.00	2.00	5.00	39%
		Effect of multiple counts	33%	11	16	1.00	2.00	5.00	41%
		Frequent prior drug abuse	33%	7	20	1.00	2.00	5.00	26%
		Prior similar offenses	33%	14	13	1.00	2.00	4.00	52%
		Degree of preparation	25%	4	16	1.25	2.50	4.00	20%
	Fox River Valley ***66 Cases*** ***10 Prison, 56 Probation*** ***15% Prison***	Value of the loss	64%	9	33	2.00	3.00	3.00	21%
		Read-in offenses	48%	3	29	2.00	3.00	3.00	9%
		Legal status	48%	4	28	1.63	3.50	3.00	13%
		Frequent prior drug abuse	47%	4	27	2.00	2.50	3.00	13%
		Degree of preparation	42%	8	20	1.75	3.00	3.00	29%
		Effect of multiple counts	39%	6	20	2.00	3.00	3.00	23%
		Sentence recommendation	36%	3	21	2.00	2.00	3.00	13%
		Prior misdemeanors	36%	4	20	1.75	2.50	3.00	17%
		Accepts responsibility	33%	2	20	1.63	3.00	3.00	9%
		Abused position of trust/authority	30%	2	18	2.25	3.00	3.00	10%
	ROS ***181 Cases*** ***45 Prison, 135 Prob, 1 Jail*** ***25% Prison***	Sentence recommendation	60%	25	83	2.00	3.00	3.00	23%
		Value of the loss	59%	27	80	2.00	3.00	3.00	25%
		Legal status	51%	22	70	2.00	3.00	3.00	24%
		Read-in offenses	50%	25	65	2.00	2.00	3.00	28%
		Accepts responsibility	44%	15	65	2.67	3.00	3.00	19%
		Degree of preparation	44%	26	54	2.00	3.00	3.00	33%
		Prior felonies	41%	29	45	2.00	3.00	3.00	39%
		Prior misdemeanors	39%	22	49	2.00	3.00	3.00	31%
		Frequent prior drug abuse	38%	22	46	2.00	3.00	3.00	32%
		Prior similar offenses	32%	20	38	2.34	3.00	3.00	34%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Cocaine ***PID Cocaine***	***Milwaukee County*** ***272 Cases*** ***106 Prison, 165 Probation*** ***39% Prison***	Accepts responsibility	69%	71	115	1.50	2.50	3.00	38%
		Dealing for profit	67%	72	110	1.67	3.00	3.00	40%
		Large amount of cash	54%	45	100	1.50	3.00	3.00	31%
		Frequent prior drug abuse	52%	54	86	1.58	3.00	3.00	39%
		Mental/physical health problems (def.)	43%	36	82	1.58	3.00	3.00	31%
		Legal status	40%	48	61	1.50	3.00	3.00	44%
		Extreme negative community impact	40%	46	61	2.00	2.00	3.00	43%
		Prior felonies	38%	54	49	1.67	3.00	3.00	52%
		Prior misdemeanors	36%	38	58	1.50	3.00	3.00	40%
		Cooperated with authorities	35%	28	67	1.50	3.00	3.00	29%
	ROS ***35 Cases*** ***14 Prison, 21 Probation*** ***40% Prison***	Accepts responsibility	60%	8	13	2.00	3.50	3.00	38%
		Dealing for profit	57%	10	10	2.00	2.75	4.00	50%
		Frequent prior drug abuse	54%	7	12	2.00	2.00	4.50	37%
		Sentence recommendation	51%	6	12	2.00	2.75	3.00	33%
		Effect of multiple counts	37%	8	5	2.00	2.00	5.00	62%
		Legal status	37%	5	8	2.00	4.00	3.00	38%
		Prior misdemeanors	34%	7	5	2.00	3.00	3.00	58%
		Prior felonies	31%	4	7	2.00	4.00	3.00	36%
		Read-in offenses	31%	6	5	2.00	2.25	4.00	55%
		Cooperated with authorities	29%	4	6	2.00	4.50	3.50	40%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
1st Degree Child Sexual Assault	***Milwaukee County*** ***45 Cases*** ***34 Prison, 11 Probation*** ***76% Prison***	Abused position of trust/authority	62%	23	5	6.00	6.50	6.00	82%
		Accepts responsibility	60%	22	5	7.00	9.00	3.00	81%
		Sexual contact (not intercourse)	53%	20	4	7.00	8.00	6.00	83%
		Sentence recommendation	44%	14	6	7.00	9.00	4.50	70%
		Legal status	44%	15	5	5.00	6.00	5.00	75%
		Vulnerable victim or targeted victim	42%	13	6	10.00	10.00	5.50	68%
		Age of the victim	36%	14	2	6.00	7.33	6.00	88%
		Frequent prior drug abuse	29%	10	3	4.75	6.00	6.00	77%
		Effect of multiple counts	27%	11	1	10.00	10.00	2.00	92%
		Cooperated with authorities	27%	11	1	6.00	8.00	6.00	92%
	ROS ***108 Cases*** ***82 Prison, 26 Probation*** ***76% Prison***	Vulnerable victim or targeted victim	64%	58	11	9.25	10.00	12.00	84%
		Abused position of trust/authority	64%	58	11	9.75	10.00	10.00	84%
		Sentence recommendation	55%	46	13	9.75	10.00	12.00	78%
		Accepts responsibility	49%	39	14	8.00	10.00	6.00	74%
		Age of the victim	46%	36	14	10.00	10.00	11.00	72%
		Sexual contact (not intercourse)	45%	35	14	8.00	10.00	12.50	71%
		Legal status	39%	31	11	8.33	10.00	10.00	74%
		Mental/physical health problems (def.)	34%	30	7	8.92	10.00	15.00	81%
		Read-in offenses	33%	30	6	10.00	10.00	15.00	83%
		Prior misdemeanors	31%	25	8	9.00	10.00	8.00	86%

Descriptive Statistics
Regional – Geographical

Metropolitan Area and *Offense*

Offense	*Metro Area*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
2nd Degree Child Sexual Assault	***Milwaukee County*** ***61 Cases*** ***34 Prison, 27 Probation*** ***55% Prison***	Accepts responsibility	64%	24	15	6.00	6.00	4.00	62%
		Type of contact – sexual intercourse	64%	23	16	6.00	6.00	4.00	59%
		Age of the victim	62%	20	18	6.00	5.00	5.00	53%
		Legal status	48%	16	13	5.25	6.00	4.50	55%
		Sentence recommendation	43%	16	10	6.50	6.00	4.50	62%
		Vulnerable victim or targeted victim	43%	14	12	6.50	6.00	4.00	54%
		Frequent prior drug abuse	39%	20	3	4.75	6.00	4.25	83%
		Abused position of trust/authority	33%	12	8	7.00	7.00	4.75	60%
		Cooperated with the authorities	31%	11	8	10.00	8.00	3.00	58%
		Prior misdemeanors	31%	13	6	6.00	6.00	5.00	68%
	Fox River Valley ***31 Cases*** ***21 Prison, 10 Probation*** ***68% Prison***	Age of the victim	68%	17	4	7.00	5.00	4.25	81%
		Type of contact – sexual intercourse	68%	15	6	5.00	5.00	3.25	71%
		Accepts responsibility	52%	14	2	7.00	5.00	6.00	88%
		Legal status	52%	12	4	7.00	5.25	4.00	75%
		Vulnerable victim or targeted victim	42%	11	2	7.00	5.00	4.25	85%
		Prior felonies	32%	9	1	7.00	5.00	5.00	90%
		Prior misdemeanors	32%	8	2	10.50	7.00	4.00	80%
		Cooperated with the authorities	29%	7	2	7.00	8.00	6.00	78%
		Abused position of trust/authority	29%	8	1	8.50	5.00	5.00	89%
		Three factors tied	***26%***						
	ROS ***148 Cases*** ***93 Prison, 54 Prob, 1 Jail*** ***63% Prison***	Age of the victim	71%	67	37	5.00	7.00	5.00	64%
		Vulnerable victim or targeted victim	55%	60	22	5.00	7.00	5.00	73%
		Type of contact – sexual intercourse	55%	51	29	4.00	7.00	5.00	64%
		Sentence recommendation	54%	55	24	5.00	7.00	5.50	70%
		Accepts responsibility	51%	48	27	5.00	7.00	5.00	64%
		Abused position of trust/authority	36%	43	10	6.00	8.00	8.50	81%
		Cooperated with the authorities	34%	28	22	5.00	6.50	5.00	56%
		Frequent prior drug abuse	33%	32	17	5.00	6.50	6.00	65%
		Prior misdemeanors	31%	34	11	5.00	7.00	6.00	76%
		Read-in offenses	29%	30	13	5.00	5.50	5.00	70%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Robbery	***Male <20*** ***49 Cases*** ***21 Prison, 28 Probation*** ***43% Prison***	Accepts responsibility	53%	9	17	2.00	3.00	3.00	35%
		Legal status	47%	12	6	2.00	3.25	3.50	67%
		Sentence recommendation	47%	4	19	2.50	2.50	3.00	17%
		GBH/extreme emotional harm	35%	6	11	1.83	3.17	3.00	35%
		No criminal record	31%	2	13	2.00	2.00	3.00	13%
		Other role (nonleadership, nonminimal)	24%	5	7	1.00	4.00	3.00	42%
		Value of the loss	24%	3	9	4.00	4.00	3.00	25%
		Threat, abduction or restraint	22%	5	6	1.50	3.50	3.50	45%
	Male 20–24 ***54 Cases*** ***35 Prison, 19 Probation*** ***65% Prison***	Accepts responsibility	56%	18	12	2.50	3.00	4.00	60%
		Legal status	52%	17	11	3.00	3.17	4.00	61%
		Sentence recommendation	37%	12	8	3.00	3.50	4.00	60%
		GBH/extreme emotional harm	37%	15	5	3.00	4.00	4.00	75%
		Prior misdemeanors	35%	15	4	2.00	3.00	3.33	79%
		Frequent prior drug abuse	31%	9	8	3.00	4.00	6.00	53%
		Cooperated with the authorities	28%	7	8	3.00	5.00	4.00	47%
		Threat, abduction or restraint	28%	9	6	2.50	4.00	4.50	60%
	Male 25–29 ***21 Cases*** ***17 Prison, 4 Probation*** ***81% Prison***	*Insufficient Data*							
	Male 30–39 ***37 Cases*** ***32 Prison, 5 Probation*** ***86% Prison***	Prior felonies	70%	26	0	3.00	5.00	––	100%
		Frequent prior drug abuse	65%	22	2	3.25	5.00	5.50	92%
		Legal status	57%	18	3	3.50	5.00	4.00	86%
		Accepts responsibility	51%	18	1	3.00	5.00	3.00	95%
		Prior misdemeanors	49%	18	0	2.75	4.00	––	100%
		Prior similar offenses	43%	16	0	4.25	5.00	––	100%
		Sentence recommendation	38%	13	1	5.00	5.00	4.00	93%
		Threat, abduction or restraint	38%	11	3	4.50	5.00	5.00	79%
	Male >39 ***23 Cases*** ***18 Prison, 5 Probation*** ***78% Prison***	*Insufficient Data*							

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*	*# Prison*	*# Probation*	*Median Prison / ES*	*Median Probation*	*Prison Rate*
Robbery	***Female <20*** ***4 Cases*** ***0 Prison, 4 Probation*** ***0% Prison***	*Insufficient Data*					
	Female 20 –24 ***8 Cases*** ***5 Prison, 3 Probation*** ***63% Prison***	*Insufficient Data*					
	Female 25 –29 ***O Cases*** ***–– Prison, –– Probation*** ***–– % Prison***	*Insufficient Data*					
	Female 30 –39 ***5 Cases*** ***3 Prison, 2 Probation*** ***60% Prison***	*Insufficient Data*					
	Female >39 ***3 Case*** ***3 Prison, 0 Probation*** ***100% Prison***	*Insufficient Data*					

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Armed Robbery	***Male <20*** ***120 Cases*** ***99 Prison, 21 Probation*** ***83% Prison***	Accepts responsibility	60%	56	16	4.00	5.00	4.75	78%
		Threat, abduction or restraint	46%	47	8	5.00	5.00	7.00	85%
		Legal status	43%	45	7	4.00	5.00	5.00	87%
		Frequent prior drug abuse	38%	41	4	4.00	5.00	4.00	91%
		Value of the loss	38%	33	12	4.00	5.00	4.00	73%
		Sentence recommendation	30%	27	9	3.50	5.00	4.00	75%
		Prior felonies	28%	32	2	5.00	5.00	6.00	94%
		No criminal record	28%	23	11	4.00	5.00	4.50	68%
	Male 20–24 ***128 Cases*** ***115 Prison, 13 Probation*** ***90% Prison***	Accepts responsibility	66%	74	11	5.00	5.00	4.00	87%
		Legal status	51%	61	4	5.00	5.00	5.50	94%
		Threat, abduction or restraint	48%	57	5	5.00	6.00	4.00	92%
		Frequent prior drug abuse	41%	49	3	5.00	5.00	6.00	94%
		Sentence recommendation	38%	43	5	5.00	6.00	3.50	90%
		Cooperated with the authorities	34%	38	6	5.00	5.00	3.50	86%
		Prior felonies	31%	37	3	6.00	6.00	6.00	93%
		Prior misdemeanors	30%	36	3	5.00	4.00	5.00	92%
	Male 25–29 ***43 Cases*** ***42 Prison, 1 Probation*** ***98% Prison***	Accepts responsibility	65%	28	0	4.50	5.00	––	100%
		Prior felonies	58%	24	1	6.00	5.00	5.00	96%
		Prior misdemeanors	47%	20	0	5.50	5.00	––	100%
		Threat, abduction or restraint	47%	19	1	6.00	6.00	5.00	95%
		Cooperated with the authorities	44%	19	0	4.00	5.00	––	100%
		Legal status	42%	19	0	5.50	5.00	––	100%
		Frequent prior drug abuse	40%	16	1	5.50	5.00	5.00	94%
		Degree of preparation	35%	15	0	4.00	5.00	––	100%
	Male 30–39 ***52 Cases*** ***50 Prison, 2 Probation*** ***96% Prison***	Frequent prior drug abuse	63%	33	0	7.00	6.00	––	100%
		Prior felonies	60%	31	0	8.00	6.00	––	100%
		Accepts responsibility	58%	28	2	5.50	6.00	4.00	93%
		Legal status	54%	28	0	7.50	6.00	––	100%
		Threat, abduction or restraint	52%	26	1	9.50	6.00	5.00	96%
		Prior misdemeanors	46%	24	0	7.50	6.00	––	100%
		Prior similar offenses	37%	19	0	8.00	6.00	––	100%
		Cooperated with the authorities	33%	16	1	5.50	5.50	3.00	94%
	Male >39 ***28 Cases*** ***28 Prison, 0 Probation*** ***100% Prison***	Frequent prior drug abuse	71%	20	0	9.00	7.00	––	100%
		Threat, abduction or restraint	61%	17	0	9.00	8.00	––	100%
		Accepts responsibility	57%	16	0	8.50	8.00	––	100%
		Prior felonies	57%	16	0	10.00	7.50	––	100%
		Legal status	50%	14	0	10.00	8.00	––	100%
		Prior misdemeanors	39%	11	0	5.00	8.00	––	100%
		Sentence recommendation	36%	10	0	10.50	9.00	––	100%
		Prior similar offenses	36%	10	0	10.00	9.00	––	100%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*	*# Prison*	*# Probation*	*Median Prison / ES*	*Median Probation*	*Prison Rate*
Armed Robbery	***Female <20*** ***3 Cases*** ***2 Prison, 1 Probation*** ***67% Prison***	*Insufficient Data*					
	Female 20 –24 ***13 Cases*** ***10 Prison, 3 Probation*** ***77% Prison***	*Insufficient Data*					
	Female 25 –29 ***1 Cases*** ***1 Prison, 0 Probation*** ***100% Prison***	*Insufficient Data*					
	Female 30 –39 ***2 Case*** ***2 Prison, 0 Probation*** ***100% Prison***	*Insufficient Data*					
	Female >39 ***6 Cases*** ***4 Prison, 2 Probation*** ***67% Prison***	*Insufficient Data*					

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Burglary	***Male <20*** ***192 Cases*** ***43 Prison, 148 Prob, 1 Jail*** ***22% Prison***	Accepts responsibility	56%	24	83	2.00	3.50	3.00	22%
		Location – residential	52%	27	72	2.00	3.00	3.00	27%
		Legal status	48%	20	72	2.00	3.00	3.00	22%
		Sentence recommendation	38%	13	58	2.00	4.00	3.00	18%
		Read-in offenses	34%	19	47	3.00	3.00	4.00	29%
		Prior misdemeanors	32%	19	42	2.00	4.00	3.00	31%
		Effect of multiple counts	30%	18	38	2.25	4.00	4.00	32%
		Cooperated with authorities	30%	10	47	2.00	4.00	3.00	18%
	Male 20–24 ***278 Cases*** ***133 Prison, 142 Prob, 3 Jail*** ***48% Prison***	Legal status	54%	76	71	2.50	3.00	4.00	52%
		Location – residential	48%	77	56	3.00	4.00	3.25	58%
		Accepts responsibility	47%	50	79	2.00	3.00	3.00	39%
		Frequent prior drug abuse	47%	80	50	2.75	4.00	4.00	62%
		Sentence recommendation	44%	66	56	2.75	4.00	4.00	54%
		Read-in offenses	42%	70	47	3.00	4.00	5.00	60%
		Prior misdemeanors	39%	55	53	2.50	3.00	4.00	51%
		Effect of multiple counts	35%	67	30	3.00	4.00	5.00	69%
	Male 25–29 ***88 Cases*** ***44 Prison, 44 Probation*** ***50% Prison***	Legal status	54%	21	22	3.00	4.00	4.00	49%
		Location – residential	48%	23	20	3.00	4.00	4.50	53%
		Accepts responsibility	47%	23	23	3.00	4.00	4.00	50%
		Frequent prior drug abuse	47%	19	22	3.00	4.00	4.00	46%
		Sentence recommendation	44%	13	22	2.50	4.00	4.50	37%
		Read-in offenses	42%	13	10	3.50	5.00	4.50	57%
		Prior misdemeanors	39%	23	21	3.00	4.00	3.00	52%
		Effect of multiple counts	35%	13	11	4.00	5.00	5.00	54%
	Male 30–39 ***144 Cases*** ***97 Prison, 47 Probation*** ***67% Prison***	Frequent prior drug abuse	58%	59	24	3.00	4.00	4.00	71%
		Prior felonies	56%	64	17	3.00	4.00	3.00	79%
		Accepts responsibility	51%	51	22	2.25	4.00	4.00	70%
		Legal status	49%	46	25	3.00	4.00	4.00	65%
		Location – residential	49%	51	20	3.00	4.00	4.00	72%
		Prior misdemeanors	47%	42	26	2.75	4.00	4.00	62%
		Prior similar offenses	40%	45	13	3.00	4.00	3.00	78%
		Sentence recommendation	33%	28	20	2.00	4.00	4.00	58%
	Male >39 ***144 Cases*** ***114 Prison, 29 Prob, 1 Jail*** ***79% Prison***	Prior felonies	61%	76	11	3.00	4.00	4.00	87%
		Prior similar offenses	58%	74	10	3.00	4.00	4.00	88%
		Frequent prior drug abuse	56%	64	15	3.00	3.50	4.00	81%
		Accepts responsibility	53%	56	20	3.00	3.75	3.00	74%
		Legal status	49%	58	12	2.50	3.00	3.00	83%
		Prior misdemeanors	45%	49	15	2.50	3.00	3.00	77%
		Location – residential	37%	42	10	3.00	3.75	3.00	81%
		Sentence recommendation	36%	42	10	3.00	5.00	3.00	81%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*	*# Prison*	*# Probation*	*Median Prison / ES*	*Median Probation*	*Prison Rate*
Burglary	***Female <20*** ***7 Cases*** ***0 Prison, 7 Probation*** ***0% Prison***	*Insufficient Data*					
	Female 20 –24 ***15 Cases*** ***4 Prison, 11 Probation*** ***27% Prison***	*Insufficient Data*					
	Female 25 –29 ***8 Cases*** ***2 Prison, 6 Probation*** ***25% Prison***	*Insufficient Data*					
	Female 30 –39 ***13 Cases*** ***2 Prison, 11 Probation*** ***15% Prison***	*Insufficient Data*					
	Female >39 ***3 Prison, 7 Probation*** ***30% Prison***	*Insufficient Data*					

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Forgery	***Male <20* *13 Cases* *3 Prison, 10 Probation* *23% Prison***	*Insufficient Data*							
	Male 20–24* *79 Cases* *26 Prison, 52 Prob, 1 Jail* *33% Prison	Value of the loss	75%	20	38	2.00	2.00	3.00	34%
		Accepts responsibility	52%	12	28	2.00	2.00	3.00	30%
		Legal status	51%	20	20	2.00	2.00	3.00	50%
		Prior felonies	46%	18	17	2.00	2.00	3.00	51%
		Sentence recommendation	39%	7	24	2.00	3.00	3.00	23%
		Degree of preparation	37%	14	15	2.00	2.00	3.00	48%
		Prior misdemeanors	35%	10	18	2.00	2.75	3.00	36%
		Read-in offenses	34%	8	19	2.00	2.00	3.00	30%
	Male 25–29* *39 Cases* *9 Prison, 29 Prob, 1 Jail* *23% Prison	Value of the loss	64%	6	19	1.75	3.00	3.00	24%
		Legal status	56%	8	13	1.63	3.00	3.00	38%
		Prior misdemeanors	54%	6	15	1.75	2.88	3.00	29%
		Accepts reponsibility	49%	7	12	2.00	3.00	3.00	37%
		Sentence recommendation	46%	3	14	1.50	2.75	3.00	18%
		Frequent prior drug abuse	41%	3	13	2.00	3.00	3.00	19%
		Read-in offenses	36%	2	12	3.50	4.00	3.00	14%
		Degree of preparation	33%	4	9	3.00	3.00	3.00	31%
	Male 30–39* *86 Cases* *33 Prison, 52 Prob, 1 Jail* *38% Prison	Value of the loss	65%	25	30	1.50	3.00	3.00	45%
		Legal status	59%	22	29	1.58	3.00	3.00	43%
		Frequent prior drug abuse	52%	18	27	2.00	3.00	3.00	40%
		Prior felonies	50%	22	20	1.62	3.00	3.00	52%
		Prior misdemeanors	42%	15	20	2.00	3.00	3.00	43%
		Sentence recommendation	37%	11	20	5.00	5.00	3.00	35%
		Accepts reponsibility	36%	5	25	1.00	3.00	3.00	17%
		Degree of preparation	36%	13	18	2.00	3.00	3.00	42%
	Male >39* *66 Cases* *26 Prison, 39 Prob, 1 Jail* *39% Prison	Value of the loss	70%	16	29	1.00	2.38	3.00	36%
		Legal status	50%	11	1	1.00	2.00	3.00	92%
		Read-in offenses	47%	14	17	1.50	2.00	3.00	45%
		Prior felonies	47%	16	14	1.75	2.00	3.00	53%
		Accepts reponsibility	39%	7	18	2.00	2.00	3.00	28%
		Frequent prior drug abuse	39%	11	14	1.50	2.00	3.00	44%
		Degree of preparation	39%	11	15	1.25	3.00	3.00	42%
		Prior similar offenses	36%	17	7	1.50	2.00	4.00	71%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Forgery	***Female <20*** ***9 Cases*** ***0 Prison, 9 Probation*** ***0% Prison***	*Insufficient Data*							
	Female 20 –24 ***56 Cases*** ***10 Prison, 46 Probation*** ***18% Prison***	Value of the loss	63%	5	30	1.50	2.50	3.00	14%
		Accepts reponsibility	57%	3	29	2.00	2.00	3.00	9%
		Sentence recommendation	52%	10	19	1.50	2.75	3.00	34%
		Legal status	52%	6	23	1.75	2.00	3.00	21%
		Degree of preparation	50%	4	24	1.25	2.50	3.00	14%
		Prior felonies	45%	7	10	2.00	3.00	3.00	41%
		Read-in offenses	38%	7	14	1.50	3.00	3.00	33%
		Cooperated with the authorities	32%	2	16	1.75	2.25	3.00	11%
	Female 25 –29 ***56 Cases*** ***6 Prison, 50 Probation*** ***11% Prison***	Value of the loss	63%	6	29	1.87	2.67	3.00	17%
		Accepts reponsibility	61%	6	28	2.00	2.00	3.00	18%
		Legal status	52%	2	27	1.83	1.67	3.00	7%
		Read-in offenses	48%	3	24	3.00	3.00	3.00	11%
		Sentence recommendation	46%	5	21	2.67	3.00	3.00	19%
		Prior felonies	38%	3	13	3.00	3.00	3.00	19%
		Effect of multiple counts	32%	4	14	2.04	2.50	3.00	22%
		Cooperated with the authorities	32%	3	15	3.00	3.00	3.00	17%
	Female 30 –39 ***94 Cases*** ***17 Prison, 74 Prob, 3 Jail*** ***18% Prison***	Value of the loss	72%	11	54	1.50	2.00	3.00	17%
		Legal status	59%	9	45	2.00	3.00	3.00	17%
		Accepts reponsibility	51%	9	37	1.87	2.67	3.00	20%
		Prior felonies	45%	12	30	2.00	3.00	3.00	29%
		Prior misdemeanors	44%	11	30	2.67	3.00	3.00	27%
		Sentence recommendation	37%	5	30	1.50	2.50	3.00	14%
		Frequent prior drug abuse	37%	8	25	1.75	2.75	3.00	24%
		Degree of preparation	36%	5	28	1.50	2.00	3.00	15%
	Female >39 ***48 Cases*** ***13 Prison, 35 Probation*** ***27% Prison***	Value of the loss	54%	7	19	1.00	2.00	3.00	27%
		Read-in offenses	48%	7	16	2.00	2.00	3.00	30%
		Accepts reponsibility	46%	5	17	1.50	3.00	3.00	23%
		Legal status	44%	5	16	1.25	2.00	3.00	24%
		Sentence recommendation	40%	4	15	2.00	2.00	3.00	21%
		Frequent prior drug abuse	40%	4	15	1.25	2.00	3.00	21%
		Prior felonies	35%	7	10	1.25	2.00	3.00	41%
		Mental/physical health problems (def.)	31%	3	12	2.00	2.00	3.00	20%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
Cocaine ***PID Cocaine***	***Male <20*** ***36 Cases*** ***7 Prison, 29 Probation*** ***19% Prison***	Accepts responsibility	61%	3	19	1.50	2.50	3.00	14%
		Dealing for profit	57%	3	19	2.00	2.00	3.00	14%
		Extreme negative community impact	47%	4	13	2.00	2.25	3.00	24%
		Large amount of cash	42%	1	14	2.00	2.00	3.00	7%
		No criminal record	36%	0	13	––	––	3.00	0%
		Sentence recommendation	33%	4	8	1.75	2.75	3.50	33%
		Mental/physical health problems (def.)	33%	3	9	2.00	3.00	3.00	25%
		Frequent prior drug abuse	31%	3	8	3.00	4.00	3.00	27%
	Male 20–24 ***78 Cases*** ***34 Prison, 44 Probation*** ***44% Prison***	Dealing for profit	65%	24	27	2.00	2.50	3.00	47%
		Accepts responsibility	63%	21	28	1.50	2.00	3.00	43%
		Large amount of cash	53%	15	26	1.67	2.00	3.00	37%
		Frequent prior drug abuse	49%	16	22	1.75	2.50	3.00	42%
		Mental/physical health problems (def.)	42%	11	22	1.67	2.50	3.00	33%
		Extreme negative community impact	40%	15	16	1.50	2.00	3.00	48%
		Legal status	38%	15	15	1.50	3.00	3.00	50%
		Employed when offense was committed	38%	11	19	1.50	3.00	3.00	37%
	Male 25–29 ***50 Cases*** ***26 Prison, 24 Probation*** ***52% Prison***	Dealing for profit	72%	20	16	1.92	3.00	3.00	56%
		Accepts responsibility	72%	19	17	1.67	3.00	3.00	53%
		Prior similar offenses	54%	15	12	1.50	3.00	3.00	56%
		Prior felonies	52%	15	11	2.00	3.00	3.00	58%
		Large amount of cash	50%	9	16	1.83	3.00	3.00	36%
		Frequent prior drug abuse	50%	12	13	1.92	3.00	3.00	48%
		Legal status	50%	14	11	1.67	3.00	3.00	56%
		Extreme negative community impact	38%	11	8	2.00	3.00	3.00	58%
	Male 30–39 ***41 Cases*** ***24 Prison, 17 Probation*** ***59% Prison***	Accepts responsibility	78%	20	12	1.63	2.75	3.00	63%
		Dealing for profit	71%	16	13	1.50	3.00	3.00	55%
		Prior felonies	54%	13	9	1.50	3.00	3.00	59%
		Legal status	51%	14	7	1.63	3.00	3.00	67%
		Prior similar offenses	49%	11	9	1.50	2.50	3.00	55%
		Frequent prior drug abuse	46%	11	8	1.50	3.00	3.00	58%
		Large amount of cash	46%	8	10	1.50	3.00	3.00	47%
		Time since most recent conviction	41%	10	7	1.50	3.00	3.00	59%
	Male >39 ***53 Cases*** ***19 Prison, 34 Probation*** ***36% Prison***	Accepts responsibility	70%	11	25	1.50	2.50	3.00	31%
		Frequent prior drug abuse	70%	12	24	1.75	2.50	3.00	33%
		Dealing for profit	66%	11	23	2.00	3.00	3.00	32%
		Large amount of cash	55%	8	20	2.00	3.00	3.00	29%
		Prior felonies	51%	10	16	1.75	2.25	3.00	38%
		Cooperated with the authorities	45%	5	18	1.50	2.00	3.00	22%
		Prior misdemeanors	45%	8	15	1.33	2.75	3.00	35%
		Mental/physical health problems (def.)	43%	6	17	1.75	2.50	3.00	26%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*	*# Prison*	*# Probation*	*Median Prison / ES*	*Median Probation*	*Prison Rate*
Cocaine ***PID Cocaine***	***Female <20*** ***1 Cases*** ***0 Prison, 2 Probation*** ***0% Prison***	*Insufficient Data*					
	Female 20 –24 ***8 Cases*** ***2 Prison, 6 Probation*** ***25% Prison***	*Insufficient Data*					
	Female 25 –29 ***8 Cases*** ***2 Prison, 6 Probation*** ***25% Prison***	*Insufficient Data*					
	Female 30 –39 ***13 Cases*** ***3 Prison, 10 Probation*** ***23% Prison***	*Insufficient Data*					
	Female >39 ***19 Cases*** ***3 Prison, 16 Probation*** ***16% Prison***	*Insufficient Data*					

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
1st Degree ***Child Sexual Assault***	***Male <20*** ***15 Cases*** ***7 Prison, 8 Probation*** ***47% Prison***	*Insufficient Data*							
	Male 20–24 ***22 Cases*** ***12 Prison, 10 Probation*** ***55% Prison***	*Insufficient Data*							
	Male 25–29 ***19 Cases*** ***17 Prison, 2 Probation*** ***89% Prison***	*Insufficient Data*							
	Male 30–39 ***46 Cases*** ***38 Prison, 8 Probation*** ***83% Prison***	Abused position of trust/authority	70%	26	6	6.00	10.00	8.50	81%
		Vulnerable victim or targeted victim	61%	22	6	7.00	10.00	8.50	79%
		Sentence recommendation	54%	19	6	6.00	12.00	8.00	76%
		Accepts responsibility	52%	20	4	5.50	10.00	9.50	83%
		Legal status	50%	21	9	5.00	10.00	8.50	70%
		Sexual contact (not intercourse)	48%	18	4	4.25	10.00	6.00	82%
		Age of the victim	46%	18	3	4.75	10.00	10.00	86%
		Prior misdemeanors	30%	11	3	5.00	7.00	6.00	79%
		Mental/physical health problems (def.)	30%	13	1	6.00	10.00	10.00	93%
	Male >39 ***48 Cases*** ***39 Prison, 9 Probation*** ***81% Prison***	Abused position of trust/authority	73%	29	6	10.00	10.00	8.50	83%
		Sexual contact (not intercourse)	63%	22	8	10.00	10.00	12.50	73%
		Vulnerable victim or targeted victim	56%	24	3	10.00	10.00	7.00	89%
		Sentence recommendation	54%	21	5	10.00	10.00	10.00	81%
		Accepts responsibility	48%	20	3	10.00	10.00	10.00	87%
		Age of the victim	44%	16	5	10.50	10.00	15.00	76%
		Read-in offenses	35%	15	2	10.00	10.00	17.50	88%
		Legal status	33%	10	6	10.00	9.00	12.50	63%

Descriptive Statistics
Age

Age, Sex and Offense

Offense	Age Range	Factors Most Frequently Checked, Selection Rate	# Prison	# Probation	Median Prison / ES	Median Probation	Prison Rate
1st Degree Child Sexual Assault	Female <20 0 Cases -- Prison, -- Probation -- % Prison	Insufficient Data					
	Female 20–24 0 Cases -- Prison, -- Probation -- % Prison	Insufficient Data					
	Female 25–29 1 Case 1 Prison, 0 Probation 100% Prison	Insufficient Data					
	Female 30–39 2 Cases 2 Prison, 0 Probation 100% Prison	Insufficient Data					
	Female >39 1 Case 0 Prison, 1 Probation 0% Prison	Insufficient Data					

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*		*# Prison*	*# Probation*	*Median Prison / ES*		*Median Probation*	*Prison Rate*
2nd Degree ***Child Sexual Assault***	***Male <20*** ***30 Cases*** ***8 Prison, 21 Prob, 1 Jail*** ***27% Prison***	Type of contact – intercourse	83%	8	16	3.00	5.50	5.00	33%
		Age of the victim	73%	5	16	3.00	5.00	5.00	23%
		Accepts responsibility	60%	4	13	3.50	6.50	5.00	24%
		Sentence recommendation	50%	4	10	3.50	5.50	5.00	29%
		Legal status	47%	4	9	3.50	7.00	5.00	31%
		Vulnerable victim or targeted victim	37%	2	9	3.00	5.00	5.00	18%
		Cooperated with the authorities	33%	1	8	7.00	8.00	5.00	11%
		Prior misdemeanors	27%	3	4	4.00	7.00	7.50	43%
	Male 20–24 ***64 Cases*** ***35 Prison, 29 Probation*** ***55% Prison***	Type of contact – intercourse	67%	25	18	4.00	6.00	5.00	58%
		Age of the victim	63%	22	18	4.00	6.00	5.00	55%
		Legal status	50%	20	12	4.50	6.00	5.00	63%
		Vulnerable victim or targeted victim	50%	20	12	4.50	6.00	4.00	63%
		Accepts responsibility	47%	18	12	5.00	6.00	5.00	60%
		Sentence recommendation	36%	16	7	4.50	7.00	5.00	70%
		Frequent prior drug abuse	30%	14	5	4.50	6.00	5.00	74%
		Cooperated with the authorities	28%	8	10	4.50	5.25	5.00	44%
	Male 25–29 ***32 Cases*** ***23 Prison, 9 Probation*** ***72% Prison***	Age of the victim	75%	17	7	4.50	8.00	5.00	71%
		Type of contact – intercourse	69%	15	7	4.00	7.00	4.00	68%
		Accepts responsibility	59%	14	5	4.00	7.50	5.00	74%
		Vulnerable victim or targeted victim	56%	14	4	4.25	7.50	4.50	78%
		Sentence recommendation	50%	14	2	4.50	9.50	4.00	88%
		Prior misdemeanors	47%	11	4	6.00	7.00	5.00	73%
		Legal status	44%	12	2	5.50	10.00	3.50	86%
		Prior felonies	41%	11	2	5.00	5.00	5.00	85%
	Male 30–39 ***58 Cases*** ***43 Prison, 15 Probation*** ***74% Prison***	Age of the victim	67%	30	9	6.50	6.50	5.00	77%
		Accepts responsibility	62%	31	5	6.00	7.00	5.00	86%
		Legal status	52%	21	9	5.00	6.00	5.00	70%
		Vulnerable victim or targeted victim	50%	24	5	6.50	8.50	5.00	83%
		Type of contact – intercourse	50%	23	6	7.00	6.00	5.50	79%
		Abused position of trust/authority	47%	24	3	6.50	8.00	9.00	89%
		Sentence recommendation	45%	19	7	5.00	8.00	5.00	73%
		Frequent prior drug abuse	40%	18	5	6.50	6.00	6.00	78%
	Male >39 ***49 Cases*** ***36 Prison, 13 Probation*** ***73% Prison***	Age of the victim	67%	27	6	5.00	6.00	6.50	82%
		Abused position of trust/authority	63%	26	5	7.00	7.00	8.00	84%
		Sentence recommendation	63%	22	9	5.00	6.50	6.00	71%
		Vulnerable victim or targeted victim	57%	22	6	6.50	5.00	5.50	79%
		Accepts responsibility	49%	18	6	5.00	5.50	7.00	75%
		Legal status	49%	16	8	7.00	6.00	8.00	67%
		Frequent prior drug abuse	41%	16	4	5.50	6.00	8.00	80%
		Sexual contact (not intercourse)	41%	10	10	5.00	7.00	7.00	50%

Descriptive Statistics
Age

Age, Sex and *Offense*

Offense	*Age Range*	*Factors Most Frequently Checked, Selection Rate*	*# Prison*	*# Probation*	*Median Prison / ES*	*Median Probation*	*Prison Rate*
2nd Degree ***Child Sexual Assault***	***Female <20*** ***0 Cases*** ***-- Prison, -- Probation*** ***-- % Prison***	*INSUFFICIENT DATA*					
	Female 20 –24 ***2 Cases*** ***0 Prison, 2 Probation*** ***0% Prison***	*INSUFFICIENT DATA*					
	Female 25 –29 ***1 Case*** ***1 Prison, 0 Probation*** ***100% Prison***	*INSUFFICIENT DATA*					
	Female 30 –39 ***3 Case*** ***2 Prison, 1 Probation*** ***67% Prison***	*INSUFFICIENT DATA*					
	Female >39 ***1 Case*** ***0 Prison, 1 Probation*** ***0% Prison***	*INSUFFICIENT DATA*					

APPENDIX F

Statistical Regressions

PART I

Logit Regressions

Table I. Prison vs. Probation – Statistically Significant Factors

Robbery – Milwaukee

p < .05		*p < .10*	
Variable	***Odds***	***Variable***	***Odds***
Black or African-American	0.04	Age sq	0.99
Other type of harm	689.18	Conduct more serious than offense	80.50
GBH/extreme emotional harm	73.73	Threat, abduction or restraint	6.25
Prior similar offense(s)	100.49	Prior misdemeanor(s)	24.23
Legal status	48.22	Treatment for drugs/alcohol	0.02
Cooperated with the authorities	0.05		
Other sentence adjustment factor(s)	0.03		
DA or defense sentence recommendation	0.03		

Robbery – Statewide

p < .05		*p < .10*	
Variable	***Odds***	***Variable***	***Odds***
Leadership role in the offense	7.66	Extreme degree of force	0.20
Prior misdemeanor(s)	8.30	Concealed or altered appearance	0.12
Time since most recent conviction	0.05	Prior felony or felonies	6.26
Treatment for mental/physical health problems	< 0.01	Prior similar offense(s)	7.70
Cooperated with the authorities	0.13	Criminal history under/overstates risk	809.67
DA or defense sentence recommendation	0.07		
Milwaukee	660.50		
Odds Republican	28.88		
Judges 7−17	126.32		

Armed Robbery – Milwaukee

p < .05		*p < .10*	
Variable	***Odds***	***Variable***	***Odds***
Value of the loss	0.10	Other sentence adjustment factor(s)	0.19
Minimal role in the offense	0.05		
Prior felony or felonies	39.75		
Mental or physical health problems	0.10		
Frequent prior drug abuse	22.03		

Armed Robbery – Statewide

p < .05		*p < .10*	
Variable	***Odds***	***Variable***	***Odds***
Value of the loss	0.19	Age	1.50
Minimal role in the offense	0.17		
Prior felony or felonies	11.36		
Frequent prior drug abuse	8.69		
Read-in offense(s)	9.91		
Effect of multiple counts	11.60		
Milwaukee	< 0.01		
Odds Republican	16.03		
Judges 3−6	< 0.01		
Judges 7−17	< 0.01		

Burglary – Milwaukee

p < .05		*p < .10*	
Variable	***Odds***	***Variable***	***Odds***
Age	1.29	Premises – commercial location	0.12
Age sq	1.00	Premises – residential location	0.13
Male	9.75	GBH/extreme emotional harm	5.24
Conduct more serious than offense	0.12	Abused position of trust	0.12
Premises – nonresidential, noncommercial	0.08	DA or defense sentence recommendation	0.52
Leadership role in the offense	3.52		
Employed when offense was committed	7.90		
No criminal record	0.16		
Prior felony or felonies	4.59		
Prior similar offense(s)	2.35		
Accepts responsibility	0.41		
Cooperated with the authorities	0.42		
Effect of multiple counts	3.24		

Table I. Prison vs. Probation – Statistically Significant Factors

	$p < .05$		$p < .10$	
Burglary – ROS	***Variable***	***Odds***	***Variable***	***Odds***
	Male	3.69	Asian or Asian-American	8.88
	Native American	0.22	Other type of harm	2.57
	Premises – residential location	3.33	Employed when offense was committed	0.52
	Premises – nonresidential, noncommercial	3.36	Accepts responsibility	0.63
	Minimal role in the offense	0.07		
	Prior felony or felonies	1.95		
	Prior similar offense(s)	2.77		
	Read-in offense(s)	1.99		
	Habitual criminality (repeat offender)	4.88		
	Judges 3−6	0.51		
Forgery – Milwaukee	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Prior felony or felonies	4.12	Value of the loss	2.78
	Prior similar offense(s)	5.08		
	Legal status	3.86		
	Frequent prior drug abuse	3.41		
	Effect of multiple counts	4.32		
Forgery – ROS	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Male	3.04		
	Employed when offense was committed	0.30		
	Prior felony or felonies	4.43		
	Criminal history under/overstates risk	7.23		
1st Deg. Child Sexual Assault – Milwaukee	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
			Age of the victim	67.58
			Read-in offense(s)	43.50
1st Deg. Child Sexual Assault – ROS	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Age	1.48		
	Age sq	1.00		
	Threat, abduction or restraint	0.07		
	Odds Republican	16.05		
2nd Deg. Child Sexual Assault – ROS	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Age	1.52	Age sq	1.00
	Sexual contact (not intercourse)	0.05	Conduct more serious than offense	0.07
	Age of the victim	6.09	Accepts responsibility	3.72
	Abused position of trust	11.94	Cooperated with the authorities	0.28
	No criminal record	0.09	Effet of multiple counts	8.19
	Prior felony or felonies	17.24		
	Legal status	4.77		
	Other sentence adjustment factor(s)	0.06		
2nd Deg. Child Sexual Assault – Statewide	$p < .05$		$p < .10$	
	Variable	***Odds***	***Variable***	***Odds***
	Age	1.40	Age sq	1.00
	Hispanic	6.98	Sexual contact (not intercourse)	0.26
	Prior felony or felonies	2.98	GBH/extreme emotional harm	5.01
	Prior similar offense(s)	5.40	Other type of harm	4.97
	Treatment for mental/physical health problems	4.38	No criminal record	0.33
	Accepts responsibility	3.54	Effect of multiple counts	5.57
	Cooperated with the authorities	0.23		
	DA or defense sentence recommendation	2.48		

Robbery – Milwaukee
Logit Regression

Observations	111
LR Chi2(29)	83.020
Psuedo R2	0.572
Log likelihood	-31.045

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.691	0.697	0.202
age sq	0.989	0.006	0.101
male	0.743	1.068	0.836
black	0.039	0.050	0.011
conduct more serious than offense	80.500	199.254	0.076
value of the loss	0.182	0.222	0.163
other type of harm	689.180	1798.064	0.012
threat, abduction or restraint	6.252	6.396	0.073
GBH/extreme emotional harm	73.733	142.676	0.026
extreme degree of force	0.171	0.250	0.227
concealed appearance	1.474	2.520	0.820
leadership role in the offense	1.078	1.367	0.953
other role – nonminimal, nonleader	0.192	0.233	0.175
degree of preparation	0.137	0.199	0.172
no criminal record	0.096	0.139	0.105
prior misdemeanor(s)	24.231	40.146	0.054
prior felony or felonies	1.160	1.276	0.893
prior similar offense(s)	100.485	186.491	0.013
legal status	48.220	66.439	0.005
time since most recent conviction	3.116	5.233	0.499
mental/physical health problems	2.017	2.880	0.623
frequent prior drug abuse	2.178	2.625	0.519
treatment for drugs/alcohol	0.023	0.050	0.082
accepts responsibility	0.391	0.437	0.401
cooperated with the authorities	0.052	0.073	0.037
read-in offense(s)	0.060	0.132	0.201
other sentence adjustment factor(s)	0.025	0.046	0.044
vulnerable/targeted victim	0.098	0.152	0.135
DA/defense sentence recommendation	0.030	0.034	0.002

obs. summary	***minimal role in the offense*** predicts failure perfectly; 5 observations not used
	elderly victim predicts success perfectly; 6 observations not used
	effect of multiple counts predicts success perfectly; 16 observations not used

Robbery – Statewide
Logit Regression

Observations	153
LR Chi2(29)	98.980
Psuedo R2	0.498
Log likelihood	-49.847

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.172	0.323	0.564
age sq	0.997	0.004	0.445
male	0.845	0.878	0.871
black	0.518	0.374	0.363
conduct more serious than offense	6.738	13.814	0.352
value of the loss	1.328	1.376	0.784
other type of harm	4.233	7.091	0.389
threat, abduction or restraint	1.641	1.199	0.498
GBH/extreme emotional harm	3.335	2.814	0.154
extreme degree of force	0.197	0.174	0.066
concealed appearance	0.120	0.146	0.081
leadership role in the offense	7.661	7.683	0.042
abused position of trust/authority	1.912	4.066	0.761
other role in the offense	0.588	0.565	0.581
degree of preparation	0.302	0.293	0.217
employed when offense committed	4.487	7.010	0.337
no criminal record	0.697	0.704	0.721
prior misdemeanor(s)	8.304	7.518	0.019
prior felony or felonies	6.259	6.131	0.061
prior similar offense(s)	7.699	8.321	0.059
crim history under/overstates risk	809.672	2816.534	0.054
legal status	3.060	2.638	0.194
time since most recent conviction	0.051	0.070	0.031
mental/physical health problems	1.093	0.988	0.921
treatment for health problems	0.001	0.002	0.015
frequent prior drug abuse	3.151	2.523	0.152
treatment for drugs/alcohol	1.594	2.177	0.733
accepts responsibility	0.587	0.523	0.550
cooperated with the authorities	0.134	0.131	0.040
read-in offense(s)	4.343	4.868	0.190
effect of multiple counts	3.126	3.376	0.291
other sentence adjustment factor(s)	0.600	0.642	0.633
vulnerable/targeted victim	1.846	2.049	0.581
DA/defense sentence recommendation	0.073	0.064	0.003
Milwaukee	660.496	1503.914	0.004
odds republican	28.879	45.001	0.031
judges 3–6	18.032	36.584	0.154
judges 7–17	126.316	297.484	0.040

obs. summary	***gang-related offense*** predicts success perfectly; 3 observations not used
	minimal role in the offense predicts failure perfectly; 9 observations not used
	native american predicts success perfectly; 6 observations not used
	elderly victim predicts success perfectly; 9 observations not used
	manipulated/pressured predicts success perfectly; 2 observations not used
	habitual criminal predicts success perfectly; 8 observations not used

Armed Robbery – Milwaukee
Logit Regression

Observations	164
LR Chi2(27)	73.870
Psuedo R2	0.465
Log likelihood	-42.571

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	0.399	0.488	0.453
age sq	1.022	0.028	0.411
male	0.522	0.711	0.633
black	3.763	3.596	0.166
value of the loss	0.104	0.105	0.025
threat, abduction or restraint	0.983	0.716	0.982
GBH/extreme emotional harm	4.588	7.244	0.335
extreme degree of force	1.077	1.095	0.942
concealed appearance	4.395	4.610	0.158
minimal role in the offense	0.052	0.057	0.006
leadership role in the offense	6.301	9.830	0.238
was manipulated/pressured	0.237	0.261	0.191
other role – nonminimal, nonleader	0.608	0.617	0.624
degree of preparation	1.091	1.416	0.946
no criminal record	0.367	0.318	0.248
prior misdemeanor(s)	2.264	2.241	0.409
prior felony or felonies	39.748	56.086	0.009
prior similar offense(s)	0.472	1.042	0.734
crim history under/overstates risk	0.148	0.341	0.408
legal status	1.868	1.417	0.410
mental/physical health problems	0.100	0.118	0.051
treatment for health problems	0.000	0.079	0.976
frequent prior drug abuse	22.026	24.027	0.005
accepts responsibility	0.471	0.455	0.435
cooperated with the authorities	0.543	0.478	0.488
read-in offense(s)	1.913	2.668	0.642
other sentence adjustment factor(s)	0.185	0.168	0.063

obs. summary	***conduct more serious than offense*** predicts success perfectly; 14 observations not used
	other offense characteristic(s) predicts success perfectly; 10 observations not used
	gang-related offense predicts failure perfectly; 1 observation not used
	other statutory aggravating factor(s) predicts success perfectly; 2 observations not used
	employed when offense was committed predicts success perfectly; 23 observations not used
	time since most recent conviction predicts success perfectly; 18 observations not used
	treatment for drugs/alcohol predicts success perfectly; 18 observations not used
	effect of multiple counts predicts success perfectly; 36 observations not used

Armed Robbery – Statewide
Logit Regression

Observations	238
LR Chi2(37)	90.040
Psuedo R2	0.412
Log likelihood	-64.150

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.496	0.336	0.073
age sq	0.996	0.003	0.154
male	2.283	2.200	0.392
black	2.841	2.735	0.278
hispanic	1.303	1.451	0.812
value of the loss	0.187	0.143	0.028
threat, abduction or restraint	0.721	0.403	0.558
GBH/extreme emotional harm	1.469	1.703	0.740
extreme degree of force	0.987	0.835	0.988
concealed appearance	4.522	4.208	0.105
minimal role in the offense	0.172	0.128	0.018
leadership role in the offense	3.159	3.363	0.280
was manipulated/pressured	1.120	1.203	0.916
other role – nonminimal, nonleader	1.083	0.848	0.919
degree of preparation	1.749	1.631	0.549
employed when offense committed	2.218	2.719	0.516
no criminal record	1.020	0.714	0.977
prior misdemeanor(s)	1.324	0.904	0.681
prior felony or felonies	11.357	9.816	0.005
prior similar offense(s)	0.802	0.931	0.849
crim history under/overstates risk	1.086	1.618	0.956
legal status	1.856	1.104	0.298
time since most recent conviction	0.502	0.728	0.635
mental/physical health problems	0.346	0.293	0.210
treatment for health problems	0.176	0.265	0.249
frequent prior drug abuse	8.685	6.497	0.004
treatment for drugs/alcohol	1.348	1.528	0.792
accepts responsibility	0.453	0.329	0.276
cooperated with the authorities	0.945	0.617	0.931
read-in offense(s)	9.906	11.642	0.051
effect of multiple counts	11.599	14.463	0.049
other sentence adjustment factor(s)	0.386	0.277	0.184
vulnerable/targeted victim	0.142	0.186	0.136
Milwaukee	2.87E-07	1.14E-06	0.000
odds republican	16.027	21.192	0.036
judges 3−6	7.40E-09	3.45E-08	0.000
judges 7−17	2.56E-09	1.21E-08	0.000

obs. summary	***conduct more serious than offense*** predicts success perfectly; 18 observations not used
	other offense characteristic(s) predicts success perfectly; 13 observations not used
	asian/asian-american predicts failure perfectly; 1 observation not used
	other type of harm predicts success perfectly; 5 observations not used
	gang-related offense predicts failure perfectly; 2 observations not used
	elderly victim predicts success perfectly; 3 observations not used
	other statutory aggravating factor(s) predicts success perfectly; 2 observation not used
	dangerous weapon predicts success perfectly; 2 observations not used
	abused position of trust predicts success perfectly; 3 observations not used
	restitution paid before sentencing predicts success perfectly; 2 observations not used
	habitual criminal (repeat offender) predicts success perfectly; 6 observations not used

Burglary – Milwaukee
Logit Regression

Observations	329
LR Chi2(36)	154.610
Psuedo R2	0.342
Log likelihood	-148.654

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.290	0.132	0.013
age sq	0.997	0.002	0.042
male	9.752	8.873	0.012
black	1.327	0.494	0.448
asian/asian-american	1.087	1.449	0.950
hispanic	1.230	0.642	0.692
conduct more serious than offense	0.118	0.119	0.034
premises – commercial location	0.122	0.135	0.058
premises – residential location	0.134	0.146	0.065
premises – other location	0.080	0.092	0.028
other crime intended	0.597	0.312	0.324
GBH/extreme emotional harm	5.235	4.481	0.053
other type of harm	0.832	0.616	0.803
minimal role in the offense	0.515	0.562	0.543
leadership role in the offense	3.523	2.083	0.033
abused position of trust	0.120	0.135	0.060
other role – nonminimal, nonleader	0.987	0.430	0.976
employed when offense was committed	7.900	5.900	0.006
no criminal record	0.155	0.111	0.009
prior misdemeanor(s)	0.561	0.193	0.093
prior felony or felonies	4.587	1.657	0.000
prior similar offense(s)	2.346	0.874	0.022
crim history under/overstates risk	1.205	1.327	0.865
legal status	1.411	0.449	0.279
time since most recent conviction	0.559	0.318	0.307
mental/physical health problems	0.993	0.516	0.989
treatment for health problems	0.460	0.352	0.310
frequent prior drug abuse	1.435	0.482	0.282
treatment for drugs/alcohol	0.900	0.410	0.817
accepts responsibility	0.412	0.154	0.017
cooperated with the authorities	0.415	0.153	0.017
read-in offense(s)	1.753	0.968	0.309
effect of multiple counts	3.240	1.534	0.013
other sentence adjustment factor(s)	2.069	1.019	0.140
vulnerable/targeted victim	5.745	6.778	0.138
DA/defense sentence recommendation	0.517	0.195	0.081
obs. summary	***other offense characteristic(s)*** predicts success perfectly; 6 observations not used		

Burglary – ROS
Logit Regression

Observations	501
LR Chi2(49)	216.650
Psuedo R2	0.314
Log likelihood	-237.092

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.058	0.118	0.611
age sq	1.000	0.002	0.964
male	3.692	2.043	0.018
black	0.886	0.404	0.792
native american	0.223	0.138	0.015
asian/asian-american	8.883	10.322	0.060
hispanic	3.058	2.700	0.205
conduct more serious than offense	4.003	3.830	0.147
premises – commercial location	1.413	0.625	0.435
premises – residential location	3.333	1.451	0.006
premises – other location	3.360	1.702	0.017
other crime intended	0.702	0.235	0.290
voluntarily abandoned burglary	2.401	2.437	0.388
other offense characteristic(s)	0.229	0.297	0.255
GBH/extreme emotional harm	0.408	0.277	0.186
other type of harm	2.566	1.323	0.067
gang-related offense	3.262	4.632	0.405
altered/concealed appearance	0.755	0.622	0.733
other statutory aggravating factor(s)	3.419	2.719	0.122
dangerous weapon	1.348	1.129	0.722
minimal role in the offense	0.070	0.070	0.008
leadership role in the offense	1.337	0.356	0.275
was manipulated/pressured	0.416	0.287	0.204
abused position of trust	0.656	0.387	0.475
other role – nonminimal, nonleader	0.909	0.418	0.835
employed when offense was committed	0.517	0.194	0.080
no criminal record	0.794	0.365	0.616
prior misdemeanor(s)	0.840	0.226	0.517
prior felony or felonies	1.946	0.517	0.012
prior similar offense(s)	2.771	0.799	0.000
crim history under/overstates risk	0.941	0.472	0.904
legal status	0.957	0.242	0.861
time since most recent conviction	1.067	0.414	0.868
mental/physical health problems	1.445	0.560	0.342
treatment for health problems	0.469	0.246	0.150
frequent prior drug abuse	1.310	0.346	0.307
treatment for drugs/alcohol	1.052	0.329	0.872
accepts responsibility	0.629	0.178	0.100
cooperated with the authorities	0.689	0.216	0.236
read-in offense(s)	1.990	0.556	0.014
effect of multiple counts	1.410	0.402	0.229
restitution paid before sentencing	0.741	0.448	0.620
other sentence adjustment factor(s)	0.861	0.372	0.728
habitual criminal (repeat offender)	4.877	2.458	0.002
vulnerable/targeted victim	1.570	0.896	0.429
DA/defense sentence recommendation	0.941	0.236	0.809
odds republican	1.501	0.475	0.199
judges 3−6	0.513	0.164	0.037
judges 7−17	0.823	0.290	0.580

Forgery – Milwaukee
Logit Regression

Observations	192
LR Chi2(32)	74.870
Psuedo R2	0.306
Log likelihood	-84.777

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	0.867	0.144	0.393
age sq	1.002	0.002	0.329
male	2.042	0.931	0.118
black	1.355	0.711	0.562
native american	2.240	3.085	0.558
hispanic	1.015	1.093	0.989
value of the loss	2.776	1.562	0.070
other offense characteristic(s)	5.267	6.141	0.154
GBH/extreme emotional harm	0.978	1.736	0.990
leadership role in the offense	1.465	1.008	0.579
abused position of trust	2.462	1.633	0.174
other role – nonminimal, nonleader	0.530	0.411	0.412
degree of preparation	1.395	0.627	0.458
employed when offense was committed	1.739	1.380	0.485
no criminal record	0.412	0.345	0.290
prior misdemeanor(s)	0.672	0.318	0.401
prior felony or felonies	4.119	1.964	0.003
prior similar offense(s)	5.079	2.542	0.001
legal status	3.858	1.907	0.006
time since most recent conviction	0.787	0.696	0.786
mental/physical health problems	0.359	0.268	0.170
treatment for health problems	0.291	0.411	0.382
frequent prior drug abuse	3.409	1.807	0.021
treatment for drugs/alcohol	1.048	0.732	0.946
accepts responsibility	0.800	0.432	0.680
cooperated with the authorities	0.719	0.393	0.547
read-in offense(s)	0.707	0.364	0.500
effect of multiple counts	4.322	2.371	0.008
restitution paid before sentencing	0.162	0.236	0.212
other sentence adjustment factor(s)	2.793	1.831	0.117
vulnerable/targeted victim	0.627	0.438	0.504
DA/defense sentence recommendation	0.601	0.319	0.337

obs. summary	***minimal role in the offense*** predicts failure perfectly; 8 observations not used
	was manipulated/pressured predicts failure perfectly; 4 observation not used

Forgery – ROS
Logit Regression

Observations	265
LR Chi2(38)	92.230
Psuedo R2	0.289
Log likelihood	-113.587

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	0.849	0.131	0.288
age sq	1.004	0.002	0.120
male	3.038	1.183	0.004
black	1.696	0.797	0.261
hispanic	0.743	0.862	0.798
conduct more serious than offense	0.487	0.557	0.529
value of the loss	0.606	0.240	0.206
other offense characteristic(s)	0.787	0.773	0.807
GBH/extreme emotional harm	3.454	4.803	0.373
other type of harm	2.842	2.775	0.285
minimal role in the offense	0.198	0.292	0.272
leadership role in the offense	0.589	0.339	0.358
was manipulated/pressured	2.169	2.129	0.430
abused position of trust	0.573	0.264	0.227
other role – nonminimal, nonleader	0.933	0.694	0.925
degree of preparation	1.326	0.636	0.557
employed when offense was committed	0.298	0.152	0.017
prior misdemeanor(s)	0.551	0.225	0.145
prior felony or felonies	4.428	1.883	0.000
prior similar offense(s)	1.803	0.758	0.161
crim history under/overstates risk	7.234	6.989	0.041
legal status	1.322	0.547	0.499
time since most recent conviction	0.812	0.485	0.727
mental/physical health problems	1.102	0.653	0.869
treatment for health problems	0.652	0.628	0.657
frequent prior drug abuse	1.646	0.732	0.263
treatment for drugs/alcohol	0.741	0.416	0.594
accepts responsibility	0.505	0.277	0.213
cooperated with the authorities	0.381	0.259	0.156
read-in offense(s)	0.814	0.342	0.625
effect of multiple counts	1.785	0.783	0.187
restitution paid before sentencing	1.070	0.916	0.937
other sentence adjustment factor(s)	0.464	0.366	0.331
vulnerable/targeted victim	0.785	0.494	0.701
DA/defense sentence recommendation	1.420	0.569	0.382
odds republican	1.151	0.484	0.738
judges 3–6	2.074	1.355	0.264
judges 7–17	2.128	1.203	0.182
obs. summary	***native american*** predicts failure perfectly; 11 observations not used		
	no criminal record predicts failure perfectly; 25 observation not used		

1st Degree Child Sexual Assault – Milwaukee
Logit Regression

Observations	40
LR Chi2(15)	20.360
Pseudo R2	0.433
Log likelihood	-13.345

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	0.885	0.381	0.777
age squared	1.003	0.006	0.660
black	3.389	7.474	0.580
hispanic	0.655	1.479	0.851
age of the victim	67.581	148.889	0.056
sexual contact (not intercourse)	10.222	20.496	0.246
GBH/extreme emotional harm	4.616	8.647	0.414
abused position of trust	0.152	0.298	0.337
no criminal record	6.460	12.628	0.340
prior misdemeanor(s)	9.361	19.539	0.284
mental/physical health problems	90.990	263.358	0.119
frequent drug/alcohol abuse	0.708	1.360	0.858
accepts responsibility	1.386	2.158	0.834
cooperated with the authorities	20.151	40.650	0.137
read-in offense(s)	43.496	94.413	0.082

1st Degree Child Sexual Assault – ROS
Logit Regression

Observations	90
LR Chi2(19)	45.250
Pseudo R2	0.434
Log likelihood	-29.568

Variable	*Odds Ratio*	*Standard Error*	*P > |z|*
age	1.483	0.232	0.012
age squared	0.996	0.002	0.018
black	0.943	1.459	0.969
hispanic	2.017	2.381	0.552
prior abuse of the victim	5.236	5.976	0.147
age of the victim	0.357	0.287	0.200
threat, abduction or restraint	0.072	0.077	0.014
GBH/extreme emotional harm	0.684	0.867	0.765
responsible for the victim's welfare	3.159	3.565	0.308
leadership role in the offense	2.089	2.319	0.507
was manipulated.pressured	13.816	29.380	0.217
abused position of trust	3.182	2.655	0.165
employed when offense committed	1.360	1.445	0.772
no criminal record	0.232	0.226	0.134
prior misdemeanor(s)	0.652	0.652	0.669
prior felony or felonies	1.419	1.559	0.750
treatment for mental or physical health	0.221	0.238	0.162
other sentence adjustment factor(s)	0.293	0.270	0.183
odds republican	16.053	16.855	0.008

2nd Degree Child Sexual Assault – ROS
Logit Regression

Observations	143
LR Chi2(42)	84.280
Pseudo R2	0.440
Log likelihood	-53.594

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	1.521	0.314	0.042
age squared	0.995	0.003	0.081
male	19.030	38.553	0.146
black	2.357	2.486	0.416
native american	0.480	0.949	0.711
hispanic	1.884	2.130	0.575
conduct more serious than offense	0.065	0.102	0.083
sexual contact (not intercourse)	0.049	0.059	0.013
sexual intercourse	0.396	0.341	0.282
prior sexual abuse	0.206	0.270	0.229
age of the victim	6.806	5.489	0.017
other offense characteristic(s)	2.942	3.829	0.407
threat, abduction or restraint	0.865	1.407	0.929
GBH/extreme emotional harm	0.985	1.396	0.992
pregnancy	2.116	2.944	0.590
other type of harm	2.457	2.873	0.442
responsible for the victim's welfare	8.721	21.313	0.375
leadership role in the offense	0.907	0.891	0.920
was manipulated/pressured	1.706	2.407	0.705
abused position of trust	11.940	12.448	0.017
other role – nonminimal, nonleader	0.701	0.868	0.774
employed when offense committed	2.332	1.947	0.311
no criminal record	0.087	0.082	0.009
prior misdemeanor(s)	1.475	1.317	0.663
prior felony or felonies	17.242	17.300	0.005
prior similar offense(s)	4.303	4.193	0.134
legal status	4.766	3.440	0.030
time since most recent conviction	0.261	0.342	0.305
mental/physical health problems	0.469	0.393	0.367
treatment for health problems	1.968	1.870	0.476
frequent drug/alcohol abuse	0.483	0.349	0.314
treatment for drugs/alcohol	0.686	0.749	0.730
accepts responsibility	3.722	2.690	0.069
cooperated with the authorities	0.282	0.202	0.078
read-in offense(s)	0.687	0.734	0.725
effect of multiple counts	8.189	10.150	0.090
other sentence adjustment factor(s)	0.063	0.089	0.049
vulnerable or targeted victim	0.741	0.617	0.719
DA/defense sentence recommendation	2.266	1.556	0.234
odds republican	1.902	1.510	0.418
judges 3−6	0.355	0.265	0.165
judges 7−17	0.848	0.816	0.864
obs. summary	***other statutory aggravating factor(s)*** predicts success perfectly; 5 observations not used		
	crim history under/overstates risk predicts success perfectly; 10 observations not used		

2nd Degree Child Sexual Assault – Statewide
Logit Regression

Observations	185
LR Chi2(43)	87.030
Pseudo R2	0.348
Log likelihood	-81.384

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	1.402	0.217	0.029
age squared	0.996	0.002	0.056
male	8.518	13.892	0.189
black	1.097	0.889	0.909
native american	0.608	0.899	0.737
hispanic	6.980	6.612	0.040
conduct more serious than offense	1.114	0.986	0.903
sexual contact (not intercourse)	0.261	0.192	0.068
sexual intercourse	0.662	0.432	0.527
prior sexual abuse	0.897	0.691	0.888
age of the victim	1.521	0.746	0.392
other offense characteristic(s)	0.840	0.818	0.858
threat, abduction or restraint	0.872	0.930	0.898
GBH/extreme emotional harm	5.013	4.775	0.091
pregnancy	1.771	1.665	0.543
other type of harm	4.966	4.517	0.078
responsible for the victim's welfare	3.096	4.586	0.445
leadership role in the offense	1.686	1.156	0.446
was manipulated/pressured	1.026	0.913	0.977
abused position of trust	2.179	1.393	0.223
other role – nonminimal, nonleader	0.546	0.532	0.535
employed when offense committed	0.910	0.562	0.879
no criminal record	0.334	0.219	0.094
prior misdemeanor(s)	1.149	0.709	0.822
prior felony or felonies	2.982	1.660	0.050
prior similar offense(s)	5.398	4.281	0.034
legal status	1.809	0.863	0.215
time since most recent conviction	0.530	0.418	0.421
mental/physical health problems	0.983	0.592	0.977
treatment for health problems	4.379	3.240	0.046
frequent drug/alcohol abuse	1.087	0.576	0.876
treatment for drugs/alcohol	0.527	0.376	0.370
accepts responsibility	3.541	1.863	0.016
cooperated with the authorities	0.228	0.126	0.008
read-in offense(s)	0.995	0.676	0.994
effect of multiple counts	5.571	5.122	0.062
other sentence adjustment factor(s)	0.184	0.191	0.103
vulnerable or targeted victim	1.028	0.548	0.959
DA/defense sentence recommendation	2.480	1.118	0.044
Milwaukee	0.743	0.643	0.731
odds republican	1.062	0.718	0.929
judges 3–6	0.625	0.411	0.474
judges 7–17	0.953	0.798	0.954

obs. summary	***sexually transmitted disease*** predicts success perfectly; 6 observations not used
	other statutory aggravating factor(s) predicts success perfectly; 4 observations not used
	crim history under/overstates risk predicts success perfectly; 9 observations not used

PART II

Tobit Regressions

Table II. Prison Sentence Length – Statistically Significant Factors

Robbery – Milwaukee

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Age	0.85	Extreme degree of force	−1.40
Age sq	−0.01	Legal status	0.98
Black or African-American	−1.40	DA or defense sentence recommendation	−1.06
Threat, abduction or restraint	1.30		
GBH/extreme emotional harm	2.23		
Treatment for drugs/alcohol	−3.01		
Accepts responsibility	−2.01		
Effect of multiple counts	3.73		
Other sentence adjustment factor(s)	−2.58		

Robbery – ROS

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
GBH/extreme emotional harm	2.08	No criminal record	−2.04
Degree of preparation	3.11	Judges 3−6	−1.94
Employed when offense was committed	2.64		
Mental or physical health problems	−2.35		
Cooperated with the authorities	−2.72		
Read-in offense(s)	2.12		
Habitual cirminality (repeat offender)	5.78		
Vulnerable or targeted victim	−2.68		
Judges 7−17	−2.94		

Armed Robbery – Milwaukee

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Age	0.43	Age sq	−0.01
Conduct more serious than offense	2.85	Black or African-American	1.22
Value of the loss	−2.07	Threat, abduction or restraint	0.94
Minimal role in the offense	−3.49	Read-in offense(s)	1.26
Was manipulated or pressured	−2.49		
Prior felony or felonies	2.53		
Mental or physical health problems	−2.07		
Effect of multiple counts	1.99		
DA or defense sentence recommendation	−1.52		

Armed Robbery – ROS

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Leadership role in the offense	3.49	Male	6.85
Other role – nonminimal, nonleadership	−4.48	Prior felony or felonies	2.83
Read-in offense(s)	6.08	Treament for mental/physical health problems	−3.94
		Odds Republican	3.11
		Judges 3−6	−4.22

Burglary – Milwaukee

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Age	0.48	Premises – nonresidential, noncommercial	−1.89
Age sq	−0.01	Cooperated with the authorities	−0.85
Male	3.52		
Leadership role in the offense	1.48		
Employed when offense was committed	2.11		
No criminal record	−3.42		
Prior felony or felonies	1.67		
Accepts responsibility	−1.34		
Effect of multiple counts	2.26		
DA or defense sentence recommendation	−1.02		

Table II. Prison Sentence Length – Statistically Significant Factors

Burglary – ROS

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Male	1.86	Other type of harm	1.09
Native American	−1.91	Dangerous weapon (penalty enhancer)	1.90
Conduct more serious than offense	2.80	Employed when offense was committed	−0.84
Premises – residential	1.81	Mental or physical health problems	0.73
Premises – nonresidential, noncommercial	1.34		
Minimal role in the offense	−2.86		
Prior felony or felonies	0.89		
Prior similar offense(s)	1.10		
Treatment for mental/physical health problems	−1.25		
Frequent prior drug abuse	0.63		
Accepts responsibility	−0.72		
Read-in offense(s)	0.95		
Habitual criminality (repeat offender)	1.06		
Odds Republican	0.94		
Judges 3−6	−1.02		

Forgery – Milwaukee

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Hispanic	3.77	Value of the loss	1.15
Employed when offense was committed	3.20	Abused position of trust	1.54
Prior felony or felonies	2.56	Time since most recent conviction	−2.72
Prior similar offense(s)	2.17	Other sentence adjustment factor(s)	1.48
Legal status	1.74		
Frequent prior drug abuse	2.23		
Accepts responsibility	−1.54		
Effect of multiple counts	1.85		

Forgery – ROS

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Male	1.26	Value of the loss	−0.683
Employed when offense was committed	−1.17	Cooperated with the authorities	−1.122
Prior felony or felonies	1.60		
Prior similar offense(s)	0.91		
Criminal history under/overstates risk	2.31		
Judges 7−17	1.14		

1st Deg. Child Sexual Assault – Milwaukee

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Age	−2.42		
Age sq	0.04		
Sexual intercourse	−8.88		
Age of the victim	11.99		
GBH/extreme emotional harm	21.44		
Abused position of trust	−12.01		
No criminal record	7.33		
Prior misdemeanor(s)	18.31		
Mental or physical health problems	11.40		
Frequent prior drug abuse	4.21		
Accepts responsibility	−8.47		
Cooperated with the authorities	5.87		
Read-in offense(s)	8.40		

1st Deg. Child Sexual Assault – ROS

p < .05		*p < .10*	
Variable	***Coef.***	***Variable***	***Coef.***
Age sq	−0.01	Age	0.70
Threat, abduction or restraint	−7.50	Prior abuse of the victim	3.95
Responsible for the victim's welfare	−4.18	Other offense characteristic(s)	7.72
Leadership role in the offense	−8.79	Prior felony or felonies	4.91
Was manipulated or pressured	−7.40		
Abused position of trust	4.66		
No criminal record	−5.07		
Prior misdemeanor(s)	−4.60		
Treatment for mental/physical health problems	−9.60		
Other sentence adjustment factor(s)	−10.27		
Odds Republican	12.86		
Judges 3−6	−5.69		

Table II. Prison Sentence Length – Statistically Significant Factors

2nd Deg. Child Sexual Assault – Milwaukee	***p < .05***		***p < .10***	
	Variable	***Coef.***	***Variable***	***Coef.***
	Hispanic	16.23	Black or African-American	9.56
	Prior abuse of the victim	9.47	Responsible for the victim's welfare	0.07
	Age of the victim	−6.68	Employed when offense was committed	0.07
	Prior similar offense(s)	5.61	Mental or physical health problems	0.06
	Treatment for drugs/alcohol	−7.52		
	Accepts responsibility	10.94		
	DA or defense sentence recommendation	6.54		

2nd Deg. Child Sexual Assault – ROS	***p < .05***		***p < .10***	
	Variable	***Coef.***	***Variable***	***Coef.***
	Male	5.79	Conduct more serious than offense	−2.59
	Hispanic	3.47	No criminal record	−1.94
	Sexual contact (not intercourse)	−3.72		
	Abused position of trust	3.31		
	Prior felony or felonies	2.99		
	Prior similar offense(s)	3.27		
	Accepts responsibility	2.58		
	Cooperated with the authorities	−1.85		
	Effect of multiple counts	2.96		
	Other sentence adjustment factor(s)	−3.74		
	Odds Republican	2.91		

Robbery – Milwaukee
Tobit Regression

Observations	138
LR Chi2(31)	123.670
Pseudo R2	0.206
Log likelihood	-239.110

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.852	0.225	0.000
age squared	-0.012	0.003	0.001
male	0.559	0.942	0.554
black	-1.404	0.582	0.018
conduct more serious than offense	1.670	1.068	0.121
value of the loss	-0.885	0.821	0.284
other type of harm	1.248	1.062	0.242
threat, abduction or restraint	1.298	0.590	0.030
GBH/extreme emotional harm	2.228	0.674	0.001
extreme degree of force	-1.404	0.732	0.058
elderly victim	0.794	1.273	0.534
concealed appearance	1.425	1.146	0.216
leadership role in the offense	0.864	0.851	0.312
other role in the offense	0.376	0.840	0.655
degree of preparation	0.283	0.746	0.705
no criminal record	-1.063	1.011	0.295
prior misdemeanor(s)	-0.474	0.637	0.458
prior felony or felonies	0.496	0.616	0.422
prior similar offense(s)	1.002	0.719	0.166
legal status	0.984	0.545	0.074
time since most recent conviction	1.551	0.958	0.108
mental/physical health problems	-0.566	0.684	0.410
frequent prior drug abuse	-0.172	0.651	0.793
treatment for drugs/alcohol	-3.010	1.170	0.011
accepts responsibility	-2.009	0.627	0.002
cooperated with the authorities	0.202	0.755	0.790
read-in offense(s)	0.972	1.034	0.349
effect of multiple counts	3.725	0.768	0.000
other sentence adjustment factor	-2.580	0.843	0.003
vulnerable/targeted victim	-0.452	0.760	0.554
DA/defense sentence recommendation	-1.060	0.602	0.081
constant	-11.581	3.576	0.002
/sigma	2.469	0.187	
obs. summary	45 left-censored observations at prison years <=0		
	93 uncensored observations		
	0 right-censored observations		

Robbery – ROS
Tobit Regression

Observations	52
LR Chi2(32)	70.690
Pseudo R2	0.324
Log likelihood	-73.653

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.146	0.330	0.662
age squared	0.000	0.005	0.934
black	1.373	1.385	0.333
value of the loss	2.177	1.585	0.185
threat, abduction or restraint	0.586	1.040	0.579
GBH/extreme emotional harm	2.075	0.996	0.050
extreme degree of force	1.883	1.410	0.197
concealed appearance	1.530	1.302	0.254
leadership role in the offense	-0.247	0.953	0.798
other role in the offense	-2.785	1.881	0.154
degree of preparation	3.112	1.091	0.010
employed when offense committed	2.643	1.121	0.029
no criminal record	-2.044	1.178	0.098
prior misdemeanor(s)	0.162	1.013	0.874
prior felony or felonies	0.789	0.999	0.439
prior similar offense(s)	1.171	0.973	0.243
legal status	-0.245	0.837	0.772
time since most recent conviction	-1.880	1.380	0.188
mental/physical health problems	-2.351	1.111	0.047
prior treatment for health problems	-0.910	1.790	0.617
frequent prior drug abuse	0.902	0.945	0.351
treatment for drugs/alcohol	-0.201	1.025	0.846
accepts responsibility	-0.674	0.943	0.483
cooperated with the authorities	-2.722	1.087	0.021
read-in offense(s)	2.119	0.825	0.018
effect of multiple counts	-0.807	0.914	0.387
habitual criminal (repeat offender)	5.779	1.316	0.000
vulnerable/targeted victim	-2.679	1.263	0.047
DA/defense sentence recommendation	-1.019	0.843	0.241
odds republican	0.658	0.875	0.461
judges 3−6	-1.940	0.939	0.052
judges 7−17	-2.943	1.296	0.034
constant	-3.561	4.970	0.482
/sigma	1.576	0.205	
obs. summary	18 left-censored observations at prison years <=0		
	34 uncensored observations		
	0 right-censored observations		

Armed Robbery – Milwaukee
Tobit Regression

Observations	286
LR Chi2(37)	158.990
Pseudo R2	0.099
Log likelihood	-725.691

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.429	0.177	0.016
age squared	-0.005	0.003	0.058
male	1.184	1.129	0.295
black	1.220	0.627	0.053
conduct more serious than offense	2.848	1.185	0.017
value of the loss	-2.074	0.807	0.011
other type of harm	1.978	1.457	0.176
threat, abduction or restraint	0.937	0.534	0.080
GBH/extreme emotional harm	0.340	0.846	0.688
extreme degree of force	0.941	0.722	0.194
gang-related offense	-0.597	2.976	0.841
concealed appearance	0.947	0.664	0.155
other statutory aggravating factor(s)	-0.116	2.083	0.956
minimal role in the offense	-3.489	0.999	0.001
leadership role in the offense	-0.130	0.798	0.870
was manipulated/pressured	-2.492	1.120	0.027
other role in the offense	-0.564	0.696	0.418
degree of preparation	1.116	0.791	0.160
employed when offense committed	0.370	0.911	0.685
no criminal record	-1.221	0.745	0.102
prior misdemeanor(s)	-0.723	0.584	0.217
prior felony or felonies	2.531	0.615	0.000
prior similar offense(s)	1.289	0.792	0.105
criminal history under/overstates risk	0.702	1.268	0.580
legal status	0.923	0.569	0.106
time since most recent conviction	1.205	0.950	0.206
mental/physical health problems	-2.073	0.730	0.005
prior treatment for health problems	2.281	1.592	0.153
frequent prior drug abuse	0.360	0.560	0.521
treatment for drugs/alcohol	-0.670	0.933	0.474
accepts responsibility	-0.755	0.642	0.241
cooperated with the authorities	-0.362	0.617	0.558
read-in offense(s)	1.257	0.712	0.079
effect of multiple counts	1.989	0.652	0.003
other sentence adjustment factor	-0.029	0.765	0.970
vulnerable/targeted victim	1.219	1.248	0.330
DA/defense sentence recommendation	-1.519	0.616	0.014
constant	-4.869	3.015	0.108
sigma	3.838	0.172	
obs. summary	32 left-censored observations at prison years <=0		
	254 uncensored observations		
	0 right-censored observations		

Armed Robbery – ROS
Tobit Regression

Observations	64
LR Chi2(37)	66.640
Pseudo R2	0.173
Log likelihood	-159.565

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.195	0.545	0.723
age squared	-0.001	0.008	0.888
male	6.851	3.396	0.054
black	-0.570	1.697	0.739
value of the loss	1.803	2.212	0.422
threat, abduction or restraint	-2.494	1.930	0.207
GBH/extreme emotional harm	-1.551	2.208	0.488
extreme degree of force	1.595	1.634	0.338
concealed appearance	2.580	1.720	0.145
other statutory aggravating factor(s)	4.703	5.855	0.429
dangerous weapon	-0.102	3.925	0.979
leadership role in the offense	3.489	1.671	0.046
was manipulated/pressured	-2.918	2.187	0.193
other role in the offense	-4.476	2.091	0.041
degree of preparation	-2.417	2.015	0.241
employed when offense committed	-0.362	2.038	0.860
no criminal record	3.525	2.280	0.134
prior misdemeanor(s)	2.370	1.599	0.150
prior felony or felonies	2.826	1.644	0.097
prior similar offense(s)	2.128	1.667	0.213
legal status	-0.157	1.468	0.916
time since most recent conviction	-0.613	2.600	0.815
mental/physical health problems	-0.021	1.631	0.990
prior treatment for health problems	-3.940	1.951	0.053
frequent prior drug abuse	0.428	1.487	0.776
treatment for drugs/alcohol	0.323	1.480	0.829
accepts responsibility	1.069	1.950	0.588
cooperated with the authorities	-0.099	2.147	0.964
read-in offense(s)	6.075	1.680	0.001
effect of multiple counts	-0.350	1.597	0.828
other sentence adjustment factor(s)	1.850	2.151	0.397
habitual criminality (repeat offender)	-1.930	2.734	0.486
vulnerable/targeted victim	-1.798	5.323	0.738
DA/defense sentence recommendation	-2.596	1.673	0.133
odds republican	3.108	1.527	0.052
judges 3−6	-4.215	2.322	0.081
judges 7−17	-3.022	2.575	0.251
constant	-8.379	8.241	0.318
sigma	3.652	0.347	
obs. summary	7 left-censored observations at prison years <=0		
	57 uncensored observations		
	0 right-censored observations		

Burglary – Milwaukee
Tobit Regression

Observations	335
LR Chi2(37)	148.810
Pseudo R2	0.119
Log likelihood	-550.838

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.481	0.139	0.001
age squared	-0.006	0.002	0.003
male	3.522	1.296	0.007
black	-0.348	0.516	0.500
asian	-1.425	2.260	0.529
hispanic	-0.504	0.770	0.514
conduct more serious than offense	-1.120	1.259	0.375
commercial location	-1.485	1.059	0.162
residential location	-1.528	1.034	0.141
other location	-1.888	1.123	0.094
other crime intended	-0.081	0.668	0.903
other offense characteristic(s)	1.120	1.595	0.483
GBH/extreme emotional harm	1.324	1.128	0.242
other type of harm	-0.128	1.012	0.899
minimal role in the offense	-0.505	1.554	0.745
leadership role in the offense	1.477	0.743	0.048
abused position of trust	-1.401	1.591	0.379
other role – nonminimal, nonleader	0.633	0.596	0.289
employed when offense committed	2.109	0.821	0.011
no criminal record	-3.417	1.127	0.003
prior misdemeanor(s)	-0.728	0.450	0.107
prior felony or felonies	1.672	0.481	0.001
prior similar offense(s)	0.429	0.464	0.355
criminal history under/overstates risk	-0.084	1.319	0.949
legal status	0.078	0.420	0.853
time since most recent conviction	-1.013	0.815	0.215
mental/physical health problems	-0.239	0.633	0.707
treatment for health problems	-0.609	1.036	0.557
frequent drug/alcohol abuse	-0.021	0.448	0.963
treatment for drugs/alcohol	0.168	0.585	0.774
accepts responsibility	-1.338	0.478	0.005
cooperated with the authorities	-0.850	0.502	0.091
read-in offense(s)	0.325	0.651	0.618
effect of multiple counts	2.260	0.563	0.000
other sentence adjustment factor(s)	0.504	0.616	0.414
vulnerable or targeted victim	1.246	1.456	0.393
DA/defense sentence recommendation	-1.023	0.501	0.042
constant	-9.596	2.808	0.001
/sigma	3.074	0.168	

obs. summary	148 left-censored observations at prison years <=0
	187 uncensored observations
	0 right-censored observations

Burglary – ROS
Tobit Regression

Observations	501
LR Chi2(49)	250.820
Pseudo R2	0.157
Log likelihood	-674.946

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.216	0.134	0.106
age squared	-0.002	0.002	0.332
male	1.857	0.675	0.006
black	-0.267	0.537	0.619
american indian	-1.908	0.765	0.013
asian	1.573	1.224	0.199
hispanic	0.582	1.004	0.563
conduct more serious than offense	2.798	1.053	0.008
commercial location	0.726	0.535	0.175
residential location	1.806	0.526	0.001
other location	1.343	0.604	0.027
other crime intended	-0.364	0.425	0.393
abandoned intended crime	0.336	1.370	0.806
other offense characteristic(s)	-2.094	1.753	0.233
GBH/extreme emotional harm	-0.635	0.854	0.458
other type of harm	1.087	0.644	0.092
gang-related offense	0.204	1.881	0.914
concealed/altered appearance	0.095	1.033	0.927
other statutory aggravating factor(s)	1.135	0.869	0.192
dangerous weapon	1.902	1.058	0.073
minimal role in the offense	-2.858	1.096	0.009
leadership role in the offense	0.339	0.316	0.284
was manipulated/pressured	-1.450	0.900	0.108
abused position of trust	-0.616	0.743	0.408
other role – nonminimal, nonleader	0.131	0.574	0.819
employed when offense committed	-0.838	0.456	0.067
no criminal record	-0.951	0.623	0.127
prior misdemeanor(s)	-0.464	0.324	0.153
prior felony or felonies	0.887	0.325	0.007
prior similar offense(s)	1.104	0.355	0.002
criminal history under/overstates risk	0.552	0.591	0.351
legal status	-0.223	0.302	0.461
time since most recent conviction	-0.020	0.462	0.965
mental/physical health problems	0.734	0.437	0.094
treatment for health problems	-1.246	0.617	0.044
frequent drug/alcohol abuse	0.630	0.322	0.051
treatment for drugs/alcohol	-0.057	0.373	0.878
accepts responsibility	-0.719	0.345	0.038
cooperated with the authorities	-0.517	0.380	0.174
read-in offense(s)	0.947	0.333	0.005
effect of multiple counts	0.433	0.350	0.216
restitution paid before sentencing	-0.046	0.736	0.950
other sentence adjustment factor(s)	-0.136	0.522	0.795
habitual criminal (repeat offender)	1.059	0.455	0.020
vulnerable or targeted victim	0.608	0.694	0.381
DA/defense sentence recommendation	-0.075	0.309	0.808
odds republican	0.939	0.389	0.016
judges 3−6	-1.023	0.390	0.009
judges 7−17	-0.451	0.427	0.292
constant	-8.627	2.140	0.000
/sigma	2.604	0.135	
obs. summary	274 left-censored observations at prison years <=0		
	227 uncensored observations		
	0 right-censored observations		

Forgery – Milwaukee
Tobit Regression

Observations	204
LR Chi2(31)	90.850
Pseudo R2	0.201
Log likelihood	-180.130

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	-0.158	0.229	0.491
age squared	0.002	0.003	0.496
male	0.866	0.604	0.153
black	1.112	0.711	0.120
native american	1.910	1.854	0.304
hispanic	3.765	1.288	0.004
value of the loss	1.154	0.694	0.098
other offense characteristic(s)	0.130	1.447	0.929
GBH/extreme emotional harm	0.469	1.967	0.812
leadership role in the offense	0.453	0.936	0.629
abused position of trust	1.538	0.922	0.097
other role – nonminimal, nonleader	-0.695	1.041	0.506
degree of preparation	0.551	0.626	0.380
employed when offense committed	3.196	1.026	0.002
no criminal record	0.445	1.109	0.689
prior misdemeanor(s)	-0.224	0.624	0.720
prior felony or felonies	2.557	0.625	0.000
prior similar offense(s)	2.169	0.648	0.001
legal status	1.742	0.659	0.009
time since most recent conviction	-2.717	1.438	0.060
mental/physical health problems	-1.349	0.975	0.168
treatment for health problems	-1.132	1.789	0.528
frequent drug/alcohol abuse	2.229	0.711	0.002
treatment for drugs/alcohol	-0.420	0.928	0.652
accepts responsibility	-1.538	0.724	0.035
cooperated with the authorities	-0.434	0.735	0.556
read-in offense(s)	-0.166	0.700	0.812
effect of multiple counts	1.850	0.777	0.018
other sentence adjustment factor(s)	1.482	0.850	0.083
vulnerable or targeted victim	0.426	0.987	0.667
DA/defense sentence recommendation	-0.733	0.720	0.310
constant	-4.421	3.918	0.261
/sigma	2.582	0.260	

obs. summary	146 left-censored observations at prison years <=0
	58 uncensored observations
	0 right-censored observations

Forgery – ROS
Tobit Regression

Observations	301
LR Chi2(38)	92.200
Pseudo R2	0.165
Log likelihood	-233.768

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	-0.019	0.135	0.888
age squared	0.001	0.002	0.561
male	1.256	0.385	0.001
black	0.170	0.448	0.705
hispanic	-0.495	1.039	0.634
conduct more serious than offense	-0.504	0.992	0.611
value of the loss	-0.683	0.392	0.083
other offense characteristic(s)	-0.692	1.017	0.497
GBH/extreme emotional harm	1.173	1.306	0.370
other type of harm	0.702	0.907	0.439
minimal role in the offense	-1.608	1.367	0.240
leadership role in the offense	-0.373	0.526	0.479
was manipulated/pressured	0.932	0.902	0.302
abused position of trust	-0.449	0.451	0.320
other role – nonminimal, nonleader	0.195	0.733	0.791
degree of preparation	0.528	0.444	0.236
employed when offense committed	-1.168	0.522	0.026
prior misdemeanor(s)	-0.573	0.413	0.167
prior felony or felonies	1.603	0.424	0.000
prior similar offense(s)	0.906	0.389	0.021
criminal history under/overstates risk	2.314	0.916	0.012
legal status	-0.098	0.411	0.812
time since most recent conviction	-0.186	0.579	0.748
mental/physical health problems	0.348	0.559	0.534
treatment for health problems	-0.565	0.881	0.522
frequent drug/alcohol abuse	0.581	0.423	0.171
treatment for drugs/alcohol	-0.628	0.531	0.238
accepts responsibility	-0.537	0.529	0.311
cooperated with the authorities	-1.122	0.670	0.095
read-in offense(s0	0.032	0.393	0.935
effect of multiple counts	0.434	0.409	0.289
restitution paid before sentencing	0.684	0.862	0.428
other sentence adjustment factor(s)	-0.745	0.750	0.321
vulnerable or targeted victim	-0.268	0.608	0.660
DA/defense sentence recommendation	-0.022	0.374	0.954
odds republican	0.304	0.420	0.470
judges 3−6	0.772	0.625	0.218
judges 7−17	1.143	0.554	0.040
constant	-4.070	2.395	0.090
/sigma	2.003	0.191	
obs. summary	225 left-censored observations at prison years <=0		
	76 uncensored observations		
	0 right-censored observations		

1st Degree Child Sexual Assault – Milwaukee
Tobit Regression

Observations	40
LR Chi2(27)	60.790
Pseudo R2	0.269
Log likelihood	-82.456

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	-2.424	0.747	0.006
age squared	0.035	0.011	0.005
black	-0.289	2.782	0.919
hispanic	-4.103	3.221	0.225
conduct more serious than offense	-1.441	4.972	0.776
sexual contact (not intercourse)	1.596	2.532	0.540
sexual intercourse	-8.875	3.247	0.017
prior sexual abuse	3.352	2.542	0.210
age of the victim	11.994	3.329	0.003
threat, abduction or restraint	3.277	4.020	0.430
GBH/extreme emotional harm	21.437	4.483	0.000
responsible for the victim's welfare	2.079	4.467	0.649
abused position of trust	-12.011	2.466	0.000
employed when offense committed	0.056	3.240	0.987
no criminal record	7.333	2.792	0.021
prior misdemeanor(s)	18.307	3.632	0.000
prior felony or felonies	2.701	4.868	0.588
prior similar offense(s)	0.953	3.091	0.763
legal status	2.474	2.413	0.324
mental/physical health problems	11.404	2.617	0.001
frequent drug/alcohol abuse	4.205	1.868	0.042
accepts responsibility	-8.469	2.468	0.004
cooperated with the authorities	5.870	2.323	0.025
read-in offense(s)	8.400	3.374	0.027
effect of multiple counts	4.340	2.535	0.111
vulnerable or targeted victim	-3.622	2.669	0.198
DA/defense sentence recommendation	-2.601	1.728	0.156
constant	32.153	10.560	0.009
/sigma	3.368	0.464	

obs. summary	11 left-censored observations at prison years <=0
	29 uncensored observations
	0 right-censored observations

1st Degree Child Sexual Assault – ROS
Tobit Regression

Observations	90
LR Chi2(39)	96.390
Pseudo R2	0.177
Log likelihood	-224.478

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.697	0.349	0.051
age squared	-0.009	0.004	0.031
black	5.161	3.868	0.188
hispanic	0.343	3.358	0.919
conduct more serious than offense	3.401	3.536	0.341
sexual contact (not intercourse)	-1.011	2.061	0.626
sexual intercourse	2.267	2.440	0.357
prior sexual abuse	3.949	2.187	0.077
age of the victim	2.453	2.000	0.226
other offense characteristic(s)	7.716	4.154	0.069
threat, abduction or restraint	-7.501	3.265	0.026
GBH/extreme emotional harm	-3.762	2.871	0.196
other type of harm	-2.295	3.559	0.522
responsible for the victim's welfare	-4.814	2.119	0.027
leadership role in the offense	-8.790	2.339	0.000
was manipulated/pressured	-7.397	3.528	0.041
abused position of trust	4.656	2.252	0.044
employed when offense committed	2.294	2.082	0.276
no criminal record	-5.065	2.455	0.044
prior misdemeanor(s)	-4.596	2.187	0.041
prior felony or felonies	4.913	2.468	0.052
prior similar offense(s)	3.184	2.461	0.202
criminal history under/overstates risk	4.641	3.826	0.231
legal status	-2.533	1.918	0.193
time since most recent conviction	0.471	2.303	0.839
mental/physical health problems	3.052	2.131	0.158
treatment for health problems	-9.597	3.009	0.002
frequent drug/alcohol abuse	-1.175	2.244	0.603
treatment for drugs/alcohol	-2.499	2.601	0.341
accepts responsibility	-3.246	1.996	0.110
cooperated with the authorities	-0.744	2.570	0.773
read-in offense(s)	-0.800	2.235	0.722
effect of multiple counts	2.152	2.656	0.422
other sentence adjustment factor(s)	-10.274	2.857	0.001
vulnerable or targeted victim	2.998	2.267	0.192
DA/defense sentence recommendation	2.784	1.732	0.114
odds respublican	12.855	2.112	0.000
judges 3−6	-5.688	2.651	0.037
judges 7−17	-3.320	2.174	0.133
constant	-19.197	8.475	0.028
/sigma	5.883	0.533	
obs. summary	24 left-censored observations at prison years <=0		
	66 uncensored observations		
	0 right-censored observations		

2nd Degree Child Sexual Assault – Milwaukee
Tobit Regression

Observations	46
LR Chi2(29)	54.040
Pseudo R2	0.258
Log likelihood	-77.623

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.254	0.763	0.743
age squared	0.001	0.012	0.946
black	9.559	5.048	0.075
hispanic	16.234	5.383	0.008
conduct more serious than offense	-0.123	2.718	0.964
sexual contact (not intercourse)	0.054	3.029	0.986
sexual intercourse	1.219	2.399	0.618
prior sexual abuse	9.469	3.025	0.006
age of the victim	-6.683	2.145	0.006
GBH/extreme emotional harm	-2.655	3.112	0.405
pregnancy	1.203	3.582	0.741
responsible for the victim's welfare	10.424	5.402	0.070
leadership role in the offense	-2.519	2.501	0.328
abused position of trust	-2.309	2.556	0.379
employed when offense committed	-4.054	2.087	0.069
no criminal record	3.076	2.822	0.291
prior misdemeanor(s)	-3.408	2.273	0.152
prior felony or felonies	-0.053	2.185	0.981
prior similar offense(s)	5.606	2.468	0.036
legal status	-2.278	2.225	0.320
time since most recent conviction	3.103	2.972	0.311
mental/physical health problems	-7.815	3.906	0.062
treatment for health problems	5.129	4.175	0.236
frequent drug/alcohol abuse	4.486	3.072	0.162
treatment for drugs/alcohol	-7.518	3.012	0.023
accepts responsibility	10.937	2.714	0.001
cooperated with the authorities	-0.636	2.128	0.769
vulnerable or targeted victim	-1.303	2.449	0.602
DA/defense sentence recommendation	6.539	2.232	0.009
constant	-18.636	12.115	0.142
/sigma	3.057	0.449	

obs. summary	19 left-censored observations at prison years <=0
	27 uncensored observations
	0 right-censored observations

2nd Degree Child Sexual Assault – ROS
Tobit Regression

Observations	156
LR Chi2(44)	139.520
Pseudo R2	0.188
Log likelihood	-302.235

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.353	0.252	0.165
age squared	-0.004	0.003	0.303
male	5.793	2.785	0.040
black	1.590	1.453	0.276
native american	2.184	1.658	0.190
hispanic	3.465	1.515	0.024
conduct more serious than offense	-2.590	1.430	0.073
sexual contact (not intercourse)	-3.715	1.249	0.004
sexual intercourse	-1.228	1.009	0.226
prior sexual abuse	1.155	1.127	0.308
age of the victim	1.001	0.930	0.284
other offense characteristic(s)	0.943	1.573	0.550
threat, abduction or restraint	-0.070	1.659	0.966
GBH/extreme emotional harm	1.254	1.456	0.391
pregnancy	-1.127	1.399	0.422
other type of harm	0.542	1.278	0.673
responsible for the victim's welfare	0.709	1.919	0.713
other statutory aggravating factor(s)	2.005	2.020	0.323
leadership role in the offense	0.036	1.108	0.974
was manipulated/pressured	0.367	1.410	0.795
abused position of trust	3.305	0.995	0.001
other role – nonminimal, nonleader	-2.211	1.581	0.165
employed when offense committed	0.618	1.037	0.552
no criminal record	-1.939	1.157	0.096
prior misdemeanor(s)	-0.658	0.984	0.505
prior felony or felonies	2.988	0.964	0.002
prior similar offense(s)	3.273	0.994	0.001
criminal history under/overstates risk	2.208	1.615	0.174
legal status	0.316	0.782	0.687
time since most recent conviction	0.536	1.159	0.644
mental/physical health problems	-0.617	0.981	0.531
treatment for health problems	1.700	1.145	0.140
frequent drug/alcohol abuse	0.046	0.947	0.961
treatment for drugs/alcohol	-0.493	1.269	0.699
accepts responsibility	2.578	0.941	0.007
cooperated with the authorities	-1.848	0.901	0.043
read-in offense(s)	-1.774	1.082	0.104
effect of multiple counts	2.961	1.227	0.017
other sentence adjustment factor(s)	-3.740	1.629	0.024
vulnerable or targeted victim	0.678	0.871	0.438
DA/defense sentence recommendation	-0.887	0.763	0.248
odds republican	2.193	0.956	0.024
judges 3–6	0.228	0.976	0.816
judges 7–17	-0.036	1.158	0.976
constant	-15.946	5.608	0.005
/sigma	3.657	0.275	
obs. summary	57 left-censored observations at prison years <=0		
	99 uncensored observations		
	0 right-censored observations		

2nd Degree Child Sexual Assault – Statewide
Tobit Regression

Observations	202
LR Chi2(46)	150.480
Pseudo R2	0.158
Log likelihood	-401.627

Variable	*Coefficient*	*Standard Error*	*P > |t|*
age	0.454	0.221	0.042
age squared	-0.005	0.003	0.106
male	4.220	2.345	0.074
black	1.055	1.195	0.379
native american	2.115	1.657	0.204
hispanic	5.240	1.355	0.000
conduct more serious than offense	-1.223	1.226	0.320
sexual contact (not intercourse)	-3.231	1.131	0.005
sexual intercourse	-1.110	0.970	0.254
prior sexual abuse	2.017	1.022	0.050
age of the victim	0.240	0.818	0.769
other offense characteristic(s)	0.524	1.473	0.723
threat, abduction or restraint	-0.914	1.540	0.554
GBH/extreme emotional harm	2.112	1.227	0.087
pregnancy	-0.346	1.306	0.792
sexually transmitted disease	1.068	2.731	0.696
other type of harm	1.201	1.266	0.345
responsible for the victim's welfare	-0.535	1.652	0.746
other statutory aggravating factor(s)	2.475	2.158	0.253
leadership role in the offense	0.477	0.987	0.629
was manipulated/pressured	-0.367	1.324	0.782
abused position of trust	2.591	0.955	0.007
other role – nonminimal, nonleader	-2.183	1.536	0.157
employed when offense committed	-0.239	0.941	0.800
no criminal record	-0.948	1.087	0.385
prior misdemeanor(s)	-0.693	0.910	0.447
prior felony or felonies	1.963	0.834	0.020
prior similar offense(s)	3.479	0.978	0.000
criminal history under/overstates risk	2.664	1.451	0.068
legal status	-0.209	0.723	0.773
time since most recent conviction	0.551	1.024	0.591
mental/physical health problems	-0.180	0.948	0.850
treatment for health problems	1.744	1.067	0.104
frequent drug/alcohol abuse	0.449	0.837	0.593
treatment for drugs/alcohol	-0.772	1.056	0.466
accepts responsibility	2.098	0.800	0.010
cooperated with the authorities	-1.819	0.831	0.030
read-in offense(s)	-1.274	1.008	0.208
effect of multiple counts	2.707	1.104	0.015
other sentence adjustment factor(s)	-3.330	1.573	0.036
vulnerable or targeted victim	0.274	0.819	0.738
DA/defense sentence recommendation	0.358	0.722	0.620
Milwaukee	1.496	1.311	0.255
odds republican	2.515	1.003	0.013
judges 3–6	0.032	1.020	0.975
judges 7–17	0.199	1.178	0.866
constant	-16.199	4.866	0.001
/sigma	4.028	0.270	

obs. summary	76 left-censored observations at prison years <=0
	126 uncensored observations
	0 right-censored observations

APPENDIX G

Logit – Perfect Predictions

Prison vs. Probation – Factors that Predict Success or Failure Perfectly

Robbery – Milwaukee

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
Elderly Victim	6	Minimal Role in the Offense	5
Effect of Multiple Counts	16		

Robbery – Statewide

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
Gang-related offense	3	Minimal Role in the Offense	9
Native American	6		
Elderly Victim	9		
Defendant was Manipulated	2		
Habitual Criminal (Repeat Offender)	8		

Armed Robbery – Milwaukee

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
Conduct More Serious than Offense	14	Gang-related Offense	1
Other Offense Characteristic(s)	10		
Other Statutory Aggravating Factor	2		
Enployed When Offense Committed	23		
Time Since Most Recent Conviction	18		
Treatment for Drugs or Alcohol	18		
Effect of Multiple Counts	36		

Armed Robbery – Statewide

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
Conduct More Serious than Offense	18	Asian or Asian-American	1
Other Offense Characteristic(s)	13	Gang-related Offense	2
Other Type of Harm	5		
Elderly Victim	3		
Other Statutory Aggravating Factor	2		
Dangerous Weapon	2		
Abused Position of Trust	3		
Restitution Paid Before Sentencing	2		
Habitual Criminal (Repeat Offender)	6		

Burglary – Milwaukee

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
Other Offense Characteristic(s)	6		

Burglary – ROS

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***

Forgery – Milwaukee

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
		Minimal Role in the Offense	8
		Defendant was Manipulated	4

Forgery – ROS

Success – Prison		***Failure – Probation***	
Variable	***Obs.***	***Variable***	***Obs.***
		Native American	11
		No Criminal Record	25

Prison vs. Probation – Factors that Predict Success or Failure Perfectly

1st Deg. Child Sexual Assault – Milwaukee	***Success – Prison***		***Failure – Probation***	
	Variable	***Obs.***	***Variable***	***Obs.***

1st Deg. Child Sexual Assault – ROS	***Success – Prison***		***Failure – Probation***	
	Variable	***Obs.***	***Variable***	***Obs.***

2nd Deg. Child Sexual Assault – ROS	***Success – Prison***		***Failure – Probation***	
	Variable	***Obs.***	***Variable***	***Obs.***
	Other Statutory Aggravating Factor	5		
	Crim History Under/Overstates Risk	10		

2nd Deg. Child Sexual Assault – Statewide	***Success – Prison***		***Failure – Probation***	
	Variable	***Obs.***	***Variable***	***Obs.***
	Sexually Transmitted Disease	6		
	Other Statutory Aggravating Factor	4		
	Crim History Under/Overstates Risk	9		