

Study identifies racial bias in US court sentencing decisions

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Petty criminals who are black are more likely to be jailed than their white counterparts and serve longer sentences for low severity crimes, according to new research.

Dr Todd Hartman, from the University of Sheffield's Methods Institute, and Rhys Hester, of the University of Minnesota, explored if, how and when race factors in criminal [sentencing](#) by analysing more than 17,000 decisions from South Carolina in the USA.

Their study, published in the *Journal of Quantitative Criminology* today (Monday 29 February 2016), highlights inequalities in incarceration rates and sentence lengths for minority offenders.

The research tested the "liberation hypothesis", which concerns how much flexibility judges have when sentencing, depending on the relevant case facts.

The theory stipulates that when the case facts are unambiguous and the evidence clearly favours one side - for example, for the most serious crimes and repeat criminal offenders - judges will have little choice but to impose severe punishment regardless of extra-legal factors like race.

However, in more ambiguous contexts, judges are "liberated" from the constraints of extreme criminality. In these instances there is room for judges to exercise discretion, and the door is opened for extra-legal characteristics such as race to influence sentencing decisions.

The researchers chose to study data from South Carolina, where there are no [sentencing guidelines](#) and decision-makers have greater discretion when sentencing offenders.

Using a class of event count models, they found the "black penalty" varied significantly depending upon an offender's criminal history.

Black people with lower levels of criminal history were more likely than white people to be jailed, with the likelihood of incarceration increasing by as much as 43 per cent for those with no past criminal history to ten per cent for those with moderate criminal history. However, when offenders had a substantial criminal record, this had a constraining effect that neutralised the impact of race.

Black offenders of low severity crimes received slightly longer sentences than white offenders, but high severity black offenders received shorter average sentences than white offenders.

Dr Todd Hartman said: "Much of the recent media focus in the U.S. has been on racial disparities in law enforcement, most notably with coverage of police shootings, excessive force, and unlawful deaths. Of course, this is just part of the story, as contact with law enforcement is only the first stage of the criminal justice system.

"Whether intentional or not, the fact that race appears to influence incarceration and criminal sentencing decisions is troubling. It is particularly concerning that this pattern of disparity appears to be affecting African American offenders with limited criminal histories or for less severe crimes.

"We hope that our quantitative modelling approach will be helpful to researchers studying [criminal sentencing](#), as well as raise awareness of this potential bias in sentencing decisions."

More information: Rhys Hester et al. Conditional Race Disparities in Criminal Sentencing: A Test of the Liberation Hypothesis From a Non-Guidelines State, *Journal of Quantitative Criminology* (2016). [DOI: 10.1007/s10940-016-9283-z](https://doi.org/10.1007/s10940-016-9283-z)

Provided by University of Sheffield

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