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Immigration Offenses Throughout Federal Sentencing: An Analysis of the Impact of Political Affiliation Among Districts

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IMMIGRATION OFFENSES THROUGHOUT FEDERAL SENTENCING: AN ANALYSIS
OF THE IMPACT OF POLITICAL AFFILIATION AMONG DISTRICTS

A Thesis

Presented to

The Graduate Faculty

Central Washington University

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ABSTRACT

IMMIGRATION OFFENSES THROUGHOUT FEDERAL SENTENCING: AN ANALYSIS OF THE IMPACT OF POLITICAL AFFILIATION AMONG DISTRICTS

Robin Melanie Hood

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Immigration has remained one of the most controversial political debates throughout the United States. Research has yet to fully examine the effects of political affiliation of federal districts on sentencing outcomes for specific immigration offenses. To fill the gaps in research, this study compares political affiliation of federal districts among immigration offenses to determine variations in sentencing outcomes. Data included Presidential and House of Representative votes for the 2016 election and Monitoring of Federal Sentencing for the fiscal years of 2015-2016. Analysis includes case processing/legal variables, defendant characteristics, and political affiliation. To analyze political affiliation, a binary logistic regression was used for an in/out decision and a linear regression was used to determine sentence length in months. Following previous research, findings suggest that case processing and legal variables have a stronger influence on sentencing outcomes when compared to defendant characteristics. Results indicated that among illegal re-entry offenses, districts labeled as Republican were less likely to provide defendants with a prison sentence when compared to districts labeled as Democratic. However, districts labeled as Republican on average provided defendants with longer sentences when compared to districts labeled as Democratic.

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CHAPTER I

INTRODUCTION

With rapidly growing immigration cases throughout federal courts, immigration itself has become a widely controversial and political interest throughout the country. There is a dire need for research involving immigration offenses, noncitizens throughout federal prisons, and political affiliation among districts involving immigration cases. Researchers have studied extralegal disparities involving Hispanic ethnicity, immigrant threat hypothesis, and noncitizens throughout federal sentencing to compare the effects of legal variables within sentencing as well.

Uncovering these certain disparities allows for a deeper interpretation of immigration that has developed throughout the media, politics, and the public. Since 9/11, The Department of Homeland Security was set forth to protect the nation from another terrorist attack by strengthening borders, tightening airport security, and enhancing border patrol (Logue, 2009). The fear of immigrants has become engraved throughout the nation and the hatred towards non-citizens has increased. Alongside the fear of immigration, the war on drugs began to bring more attention to noncitizen offenders, which began the rapid growth of immigration offenses throughout federal courts (Hartley & Tillyer, 2012). Harsher narratives were then created for noncitizens and immigration began to spark political debate.

Immigration offenses are the most processed cases throughout federal courts as of 2009, and noncitizen offenders make up a large percentage of the inmates among federal prisons (Hartley & Armendariz, 2011). In the last decade, cases involving immigration and drug trafficking took over 60% of the caseload throughout federal sentencing (Hartley & Tillyer, 2012). Immigration offenses are processed differently than any other offense; the defendant

cannot be granted supervised release, they must be kept in custody until their case is fully processed, and they receive disadvantages throughout court processing that citizens are not burdened with (Hartley & Tillyer, 2012). Case processing variables have shown to be a significant factor for judicial decision-making when determining sentencing outcomes, placing mass incarceration and organizational constraints in high regard. Federal sentencing guidelines ensure defendants equal and fair treatment based on the legal aspects of each case; however, extralegal disparities are a significant factor regarding sentencing outcomes (Ulmer & Parker, 2019). With heightened hostility towards offenders, budget constraints throughout federal prisons, and case processing disadvantages, the question becomes whether judicial decision-making for immigrant cases becomes less about legal variables and more of a focus between organizational constraints, fear of immigrant threat, and political incentives.

Throughout federal sentencing, researchers seek to understand the level of significance in which extralegal variables such as race, sex, ethnicity, and citizenship have on sentencing outcomes. Research has examined extralegal disparities among federal districts; however, researchers have seemed to overlook certain political effects of jurisdictions that obtain more conservative views than in areas known for more liberal perspectives. In recent years, researchers have examined Southwestern border districts to uncover frequent exposure to immigration cases, a higher threat of immigrants, and harsher sentences as deterrence for noncitizen offenders. Non-immigrant destinations were shown to have more lenient sentences than Southwestern bordering districts (Ulmer & Parker, 2019), but little research examined the political affiliation and engraved social norms associated with these districts.

As immigration remains a political concept, district political variation remains unexamined throughout sentencing decisions among immigration offenses. Each district varies in

geographical location throughout the United States, and with different sides of the country comes a variety of political affiliations. Southern states have shown to carry more conservative ideologies than surrounding states where a more liberal ideology is obtained, causing a clash of political ideologies among federal courts (Harteveld et. al., 2017). More conservative ideologies argue for more protection among the southwestern border, anti-immigration policies, and harsher penalties for cases involving immigration (Harteveld et. al., 2017). More conservative states have advocated the campaign against immigration to preserve the economy, diminish noncitizens throughout the country, and support border protection.

Unlike conservative ideologies, liberal ideologies in general seek out more lenient sentences among immigration offenses and wish to spread resources throughout other organizations instead of allocating more resources for border security (Harteveld et. al., 2017). Researchers have found extralegal disparities among federal districts regarding citizenship, ethnicity, and race. Little research has added political ideology among federal districts to examine if political affiliation affects sentencing outcomes (Harteveld et. al., 2017)). To further add to the gaps in sentencing research, this study seeks to compare political affiliation among federal districts to determine sentencing outcomes for immigration offenses.

CHAPTER II

LITERATURE REVIEW

Throughout the last decade, immigration cases have begun to dominate federal district courts although there has been little research focusing solely on these cases. When compared to other federal cases, immigration cases involve predominately Hispanic defendants, fast track programs, and a variety of organizational constraints that differ from citizens (Hartley & Armendariz, 2011). Most of the research on federal sentencing throughout districts involves racial discrimination between black offenders, white offenders, and Hispanic offenders but little research has focused on citizenship status and disparities between noncitizens and citizens (Light, 2014).

Immigration in Federal Districts

As immigration cases have begun to increase rapidly throughout federal sentencing, the shift has brought more focus on disparities among immigrant offenders and case processing disadvantages that citizens are not burdened with. Light et al. (2014) found that citizens get sentenced less harshly than noncitizens throughout federal sentencing and the effects of citizenship status have shown to be the strongest extralegal variables involved within sentencing. Ethnicity may have less of an effect throughout federal sentencing than legal case processing factors, but research consistently shows disparities including more lenient sentences for white defendants and harsher penalties for Hispanic defendants (Steffensmeier & Demuth, 2001). In all cases, white defendants are sentenced less harshly than Hispanic defendants, and black defendants are sentenced in the middle of the two receiving more lenient punishments than Hispanic defendants on average and less lenient than white defendants.

Hostility Toward Immigrants

Noncitizen defendants have shown to receive harsher sanctions when compared to citizens regardless of race, age, or gender (Light et al., 2014). Potential reasoning behind harsher sentencing for immigrant offenders includes a harsher narrative for immigrants throughout the United States, racial threat, and organizational and practical constraints. Noncitizen offenders have received these narratives throughout the media, legislative actions, and the political arena (Logue, 2009). The common rhetoric linked among immigrants has been threats to national security, drug trafficking, illegal entry, and terrorism throughout the nation. There is often a link drawn between immigrants and crime, and legislative actions and political affiliations have created a stereotype for noncitizens throughout America (Logue, 2009).

Legislative officials have also created rhetoric around harsher penalties and higher security measures for noncitizen offenders including that high crime areas often involve defendants that are immigrants (Logue, 2009). Throughout the years, immigrants have been portrayed as a threat to national security which involved an increase in border patrol agents, higher security measures throughout border-connected states, and fences along the border. This harsh narrative of immigrants is carried on throughout federal sentencing and is often seen as a double punishment for noncitizen offenders. Throughout federal courts, noncitizens are seen to have committed double the crime; one crime for their citizenship status and the other for the initial crime at hand (Logue, 2009). Noncitizen offenders must go through the process of punishment for their federal crime, and then also have to worry about their immigration status throughout immigration courts.

The hostility towards immigrant offenders in regard to their immigration status could explain the results of more punitive punishments for noncitizen offenders (Light, 2014).

Throughout the years, hostility towards immigration has risen among political parties which in turn has created more protection throughout the border, expanded prosecutions for noncitizen offenders, and included more deportations among noncitizen offenders (Harteveld et al., 2017). Noncitizens often battle heightened hostility throughout the nation, but also must battle legal and practical constraints that citizens do not have to face (Light, 2014). Non-US citizens do not have the right to vote throughout the country, do not have the right to appointed counsel in legal hearings, and are burdened with disadvantages that citizens are not burdened with.

With the growing number of noncitizens throughout federal sentencing, the organizational and practical constraints of federal prisons have been reemphasized and debated. Unlike citizens, immigrant offenders do not have the option of being granted parole or being released on bail once charged with a crime (Hartley & Tillyer, 2012). Under federal law, non-citizens are not entitled to the same options that citizens have including legal representation and being granted bail. Not being eligible for multiple forms of punishment, immigrant offenders cannot be granted bail and must be held until their case has been processed.

To add to the heightened hostility of immigrant offenders, tensions have risen regarding the argument of noncitizen offenders taking up resources, housing and money throughout federal prisons at the expense of citizen taxpayers (Hartley & Armendariz, 2011). With the millions of dollars spent on federal prisons annually, media outlets and political actors argue that immigrant offenders are a primary factor of economic downfalls throughout the United States by providing shelter, food, and housing during pretrial to noncitizens. Attempting to eliminate pretrial detainees' time spent throughout federal prisons, federal districts created fast-track departures to provide noncitizen offenders with reduced sentences or deportation if they plead guilty to the charge, consent to these charges, and waive their rights to a trial (Hartley & Tillyer, 2012). This

government-assisted program has begun to reduce the cost of prosecution, pretrial costs for offenders, and fees associated with cases involving noncitizens. Even though fast-track programs have created more efficiency throughout federal sentencing, many argue that these programs lead to disparities and disadvantages for immigrant offenders. Threatening harsher punishments for immigrant offenders if they do not accept the plea offer to take this fast-track departure and plead guilty to charges begs the question of whether organizational and practical constraints are more influential than blameworthiness and dangerousness of the offender (Hartley & Tillyer, 2012). Research examining departures throughout federal sentencing has shown that offense seriousness and criminal history are the most influential factor when determining sentences, however extralegal variables including race, gender, and citizenship status have also been shown to have an influence (Steffensmeier & Demuth, 2001). As immigration remains a highly concentrated political focus, political affiliation may have an influence on sentencing outcomes as well.

Theoretical Perspectives

Focal Concerns

Theoretical perspectives involving judicial decision-making emphasize the impact and recognition of extralegal factors on federal sentencing. Prior research has indicated that federal judges tend to be guided by a set of focal concerns that help them depict case outcomes (Steffensmeier & Demuth, 2001). Steffensmeier et al. (1998) applies a theory on judicial decision-making that provides the basis for judges' perspectives and case outcomes. This theoretical perspective, known as the focal concern theory, emphasizes the influence of the judge's perspective, influences, and prejudices mixed with effective case processing variables that allow judges to make case decisions. Many studies that involve the examination of legal and extralegal variables tend to be based on Focal Concerns Theory and its three main components:

blameworthiness of the defendant, protecting the community, and organizational concerns (Steffensmeier et al., 1998).

The first focal concern involves the blameworthiness of the defendant and how much evidence is shown against the defendant. Judges seek to understand the seriousness of the offense, the evidence against the defendant, and the defendant's culpability (Steffensmeier et. al., 1998). Judges are seeking blameworthiness of the defendant to choose the suitable punishment for the crime. To determine blameworthiness, a defendant's criminal history and role in the offense is examined. This focal concern follows the idea of retribution as the main form of punishment seeking to find a punishment that would equal the crime committed (Steffensmeier et al., 1998). Most of the research on sentencing has shown that sentence severity and seriousness of the crime is one of the most significant factors throughout sentencing to fully understand the level of blameworthiness of the offender (Steffensmeier et al., 1998).

The second focal concern involves the protection of the community which focuses on the risk that the offender can produce throughout the community if the judge were to provide the offender with an option other than incarceration. To protect the community, the judge looks at the need to incapacitate and remove the defendant from society to create less danger to the community (Steffensmeier & Demuth, 2001). Judges assess future risk propensity from the defendant and determine the likelihood of the defendant to recidivate. When making this assessment, judges focus on information regarding the attributions of the offense involving what type of offense was committed, the level of danger and seriousness of the crime, and background history of the defendant (Steffensmeier & Demuth, 2001). This focal concern tends to follow the rationale of incapacitation as a form of punishment to take the offender out of society's harm (Steffensmeier et al., 1998). Incapacitating offenders tend to take them away from any potential

danger that the individual could bring to the community and diminishing the offender's ability to recidivate. As well as incapacitation as the main form of punishment, this focal concern also follows a deterrence perspective when threatening offenders with a harsh punishment by being taken out of society to stop future criminals from committing the same crime (Steffensmeier et al., 1998).

The third focal concern involves practical and organizational constraints that have shown to have a factor in judicial decision-making (Steffensmeier & Demuth, 2001). Judges evaluate organization and structural constraints which may include if prisons are at max capacity, relationships between courtroom actors, and defendant characteristics such as having dependents or a full-time job. If the defendant has children, then incarceration not only affects the defendant but the defendant's family as well if they were a source of income. Organizational constraints could include jail capacity, resources of the state, and case workload. These three focal concerns lead to disparities throughout judicial decision-making when judges create shortcuts and efficient strategies to diminish their caseload without gaining all the information from the case (Hartley & Tillyer, 2018). When judges make decisions, they tend to look at cases through a concentrated lens to focus on specific legal variables of the case to process the case as efficiently as possible without looking at all the factors of the case. This perspective involves the belief that judges make these concentrated decisions due to efficiency, their experience as a judge and massive caseloads which create opportunities for judges to make decisions based on their stereotypes and most frequently occurring cases (Steffensmeier et al., 1998).

Cumulative Disadvantage

Similar to the focal concern's theory, the cumulative disadvantage framework offers a substitute view on courtroom decisions that involve an explanation of the possible influence of

extralegal factors. The cumulative disadvantage Theory emphasizes the inequality of defendants that increase throughout time by negative perceptions, stereotypes, and interactions throughout the court system (Donnelly & Macdonald, 2019). There are disadvantages of individuals created over time that allow for discrimination and unfair treatment to become present throughout the law and justice system, which emphasize the influence of extralegal factors on courtroom decisions. Donnelly & Macdonald (2019) describe the disadvantages of the lower class, minorities, and lower socioeconomic statuses with a lesser likelihood of making bail, receiving harsher sanctions, and limitations on resources. These cumulative disadvantages are present throughout immigration cases by providing immigrant defendants with fewer rights than citizens of the United States, disadvantages throughout federal sentencing, and limited options for sentencing.

Non-U.S. citizens can be seen as a threat to the United States economy which has created hostility and stereotypes towards immigrant defendants. Stereotypes, demands for harsher punishments, and hostility towards noncitizens create cumulative disadvantages towards immigrant defendants that other criminal defendants are not supplied with. Cumulative disadvantages are present throughout the law and justice system and can be applied to examining the influence of extralegal factors on courtroom decisions (Donnelly & Macdonald, 2019).

Group/Racial Threat

Ulmer and Parker (2019) emphasizes a theoretical perspective on judicial decision-making that involves the concept of directing attention to the size and growth of specific minority populations throughout court communities. Group threat theory believes that majority populations and communities respond to resistance to minority populations to limit their power. The majority populations wish to prevent the development and spread of minority populations to

continue being the majority and the individuals in power (Ulmer & Parker, 2019). This theory projects the concept that majority populations begin to become harsher and more punitive on minority populations to stop the spread of these minority populations throughout their community. When the size of minority populations continues to rise, the majority population feels threatened which creates a position in which they could lose their power (Ulmer & Parker, 2019). The majority may cause as much resistance to these checks on power, so they create harsher punishments to stop the spread of minorities. Relating to immigration, conservative ideologies tend to support anti-immigration policies that actively work to diminish resources for immigrants, stop the spread of immigration and seek harsher punishments for noncitizen offenders (Young et al., 2018).

Following the lines of group threat theory, racial threat theory involves the idea that one population is majorly dominating political, social, and economic power throughout the United States and is threatened by the increased amount of minority populations (Feldmeyer & Ulmer, 2011). This theory provides support for the argument of white individuals protecting their power from any potential threats such as increased minority populations, creating more punitive reactions to crime. As minority groups grow, they begin to gain in social power which could lead to an increase in political power as well (Feldmeyer & Ulmer, 2011).

Similar to the group threat perspective, the racial threat perspective believes that minority populations seem to get more punitive punishments than the majority due to high levels of resistance from the majority populations in power (Feldmeyer et al., 2015). Racial threat theory argues that white majorities want to continue being in power throughout the nation, so they create more punitive penalties for minority populations due to the threat of minority populations rising to power. Conservative ideologies seek harsher punishments for noncitizen offenders by

supporting heightened border security, diminishing immigration policies, and creating less resources for noncitizens (Young et al., 2018). To prevent noncitizen populations from rising in population, conservative ideologies seek harsher punishments among noncitizen offenders to attempt to keep them under control while acting as a deterrent for future offenders (Smiley et al., 2017).

Courtroom Workgroup

Eisenstein and Jacob (1977) attempt to theorize determinants of sentencing to a larger scale by seeking to understand the organization and community around certain courtroom workgroups that play a role in courtroom decisions. They emphasize how powerful courtroom actors such as judges, prosecutors, juries, defense counsel, etc. work together by sharing common goals, influencing relationships, engaging in similar tasks, and exhibiting authority relationships to diminish caseloads and determine case outcomes (Eisenstein & Jacob, 1977). All courtroom workgroup members wish to process cases as fast as possible, considering many of these courtroom are overworked and overloaded with cases.

Eisenstein and Jacob (1977) argue that prosecutors, judges, and defense attorneys share common internal-oriented goals such as maintaining group cohesion and reducing uncertainty throughout their caseloads. By maintaining group cohesion, workgroup members are allowed to work their cases as effectively and quickly as possible without delay. Workgroup members seek out these relationships with other group members to keep the peace throughout the courtroom and diminish their caseload as quickly with as little uncertainty as possible (Eisenstein & Jacob, 1977). Prosecutors and defense attorneys tend to work together on cases to create a plea deal for the defendant to diminish their caseload, reduce uncertainty, and work together to gain a sense of justice as quickly as possible. Courtroom workgroups act as an organizational structure within

the court system itself; although their relationship does not stop outside of the courtroom (Eisenstein & Jacob, 1977).

Courtroom actors reflect on their external surroundings, the communities outside of the courtroom, law enforcement, and sponsoring organizations that help shape the characteristics and outcomes of case results and diminishing caseloads (Eisenstein & Jacob, 1977). Eisenstein and Jacob (1977) argue that the courtroom workgroup follows internal goals that facilitate group cohesion while effectively diminishing caseloads instead of following the external goal of doing justice pressured by the public, media, and government agencies. Allowing for internal goals and environmental influences to facilitate courtroom decisions grants room for discrepancies throughout federal sentencing. Previous research has focused directly on local legal culture and political contexts that courtroom actors may be influenced by throughout sentencing (Kim et. al., 2019). Local conservative politics have been shown to be associated with harsher punishments and courtroom actors surrounding conservative contexts may be influenced in their sentencing decisions.

Legal Factors

The most common understanding of judicial decision-making throughout federal sentencing is that legal factors tend to outweigh the extra-legal factors. Throughout the federal sentencing guidelines in the United States, it is written out that a defendant's citizenship status, age, race, gender, and any extralegal characteristics should never be used to determine the length of a sentence or a sentencing outcome (Hartley & Armendariz, 2011).

Similar to prosecutors, judges evaluate the seriousness of the crime, evidence against the defendant, criminal history, and other legal characteristics of the case when making sentencing

decisions. Steffensmeier and Demuth (2001) found that legal variables outweighed extralegal factors when determining how judges base their decisions for federal cases. Offense severity, guideline recommended sentence and prior criminal record were the most significant factors associated with the outcomes of sentencing decisions (Steffensmeier & Demuth, 2001).

Although findings indicated that white defendants were less likely to be incarcerated than any other race compared to the population and that white defendants tended to receive shorter sentences altogether, case processing variables and legal variables have the strongest significance in sentencing for cases (Steffensmeier & Demuth, 2001). Regardless of race, defendants who have lengthier criminal records, engage in more violent crimes and serious crimes, and refused to take a plea leading to trial all receive more punitive sentences than defendants who engage in non-violent crimes, take a plea deal, and have shorter criminal records (Steffensmeier & Demuth, 2001).

Although the race of a defendant has shown to have a level of significance throughout federal sentencing, legal factors and case processing variables have the highest significance level in regard to sentencing decisions. Hartley and Armendariz (2011) found that extralegal factors are less consistent within the effects of significance than legal factors and that legal factors have the highest level of significance throughout sentencing decisions. The offender's pretrial status, upward or downward departure and offense severity were the strongest indicators of sentencing decisions for noncitizens when compared to the ethnicity of the defendant, education of the defendant, and age of the defendant (Hartley & Armendariz, 2011). Although legal factors including sentence severity, the criminal history of the defendant, and evidence against the defendant are the most significant indicators of sentencing outcomes, extralegal factors such as

race and citizenship provide defendants with cumulative disadvantages that are present throughout federal sentencing.

Federal Guidelines

To provide defendants with fair and equal treatment, sentencing guidelines have been shaped over time to ensure impartial regulations within court systems (Hartley & Tillyer, 2012). Without these guidelines, defendants could be subject to receive different sentences for the same crime which would create more room for biases, discrimination, and unfair treatment. The United States Sentencing Commission sought to diminish extralegal factors such as race, gender, age, etc., to reduce judicial discretion and disparities among certain defendants (United States Sentencing Commission, 2016).

To eliminate extralegal disparities, federal guidelines mandated that sentencing outcomes would revolve around criminal history, the evidence against the defendant, offense seriousness, and legal factors of the case. To shape federal sentencing, the Sentencing Reform Act of 1984 created a new set of structures when determining a defendant's sentence under specific federal statutes (Hartley & Armendariz, 2011). This act allows defendants to be sentenced to specific fines, probation, or sentencing options concerning the offense committed to ensure fair treatment among all defendants who commit similar crimes. Judicial discretion is then limited, creating decision-making to fall within the range of sentencing options set forth by federal statutes (Steffensmeier et al., 1998).

Although the Sentencing Reform Act of 1984 put a limit on judicial discretion, the Supreme Court began to slowly allow judges to use more discretion than the sentencing guidelines allow. In *United States v. Booker* and *Gall v. the United States*, the Supreme Court

ruled that instead of limiting judicial discretion throughout federal guidelines, judges were allowed to depart from the set guidelines and use these guidelines as a starting point for sentencing outcomes (Hartley & Tillyer, 2012).

Departing from the sentencing guidelines allows for judicial discretion which then permits room for extralegal disparities among federal sentencing. Judges gained the ability to use their discretion to depart from these guidelines to decide the outcomes of sentencing without strictly following the federal statutes in place and by interpreting statutes (Cooter & Ginsburg, 1996). To determine the correct sentencing outcomes, judges may disagree with a federal statute to provide defendants with a departure from the original sentencing guideline. Judges are provided a certain power over sentencing. They are constrained; however, they are allowed the freedom to interpret statutes (Cooter & Ginsburg, 1996). Critics argue that this level of judicial discretion provides the opportunity to stray away from legal guidelines and opens up the possibility of extralegal disparities.

Extralegal Factors

Research on sentencing has consistently revolved around extralegal factors such as race between white defendants and black defendants, the gender, age, and education compared to legal factors and case processing variables. Criminologists have long fought over the significance and influence of extralegal factors throughout federal sentencing. Extralegal factors often include variables that do not involve an individual's criminal behavior including age, race/ethnicity, socioeconomic status, and gender. Much of sentencing research has had mixed results on extralegal factors and the influence of variables including race, age, and gender (Steffensmeier et al., 1998). Some researchers have uncovered racial discriminations involving legal factors (Feldmeyer & Ulmer, 2011, Ulmer & Parker, 2019, Logue, 2009) and others have

acknowledged that discriminations are present, but legal factors are the predominant indicator of sentencing decisions (Hartley & Armendariz, 2011, Steffensmeier & Demuth, 2001).

Race

Hispanic defendants are a virtual constant throughout this study. However, understanding racial disparities and noncitizen disadvantages throughout federal sentencing is crucial when providing a complex analysis of differing political ideologies. Harsher narratives were created among Hispanic and noncitizens which included the rise of political discussion throughout the country. It is important to recognize Hispanic and noncitizen disparities throughout federal sentencing to examine political affiliation of federal districts among immigration offenses.

Feldmeyer and Ulmer (2011) examine racial threat for Hispanics and Blacks across federal sentencing decisions to uncover any racial discriminations in decision making from federal judges. Unlike previous studies on racial threat theory, Hispanic defendants seemed to be sentenced more harshly than white defendants and black defendants when compared to the population and sentencing district (Feldmeyer & Ulmer, 2011). Racial threat theory has predominately emphasized research on black individuals due to the wide variety of studies including racial discriminations specifically for black citizens, but Feldmeyer and Ulmer (2011) uncovered that Hispanic populations seem to be targeted at a higher rate than other defendants and sentenced more harshly.

To add to the research on racial threat hypothesis, Ulmer and Parker (2019) found that Hispanic citizens and Hispanic non-citizens were sentenced more harshly in destinations that were freshly involved with a higher level of immigration cases than destinations that were traditional and used to federally processing Hispanic defendants. To seek out Hispanic

defendants throughout federal sentencing, Ulmer and Parker (2019) examined the effect of sentencing decisions among Hispanic defendants, particularly non-citizens throughout changing immigrant destinations. Several federal sentencing data were used at the individual level and the county level to pull information on legal characteristics, extralegal characteristics, social characteristics, and case types (Ulmer & Parker, 2019).

Ulmer and Parker (2019) were interested in uncovering the effects of Hispanic immigrant threat and sentencing decisions among different immigrant locations. Immigrant locations were sorted into three different subcategories of destination types for years 2000-2002 which included traditional, new, and non-immigrant destinations, and four different categories for 2010-2012 which included traditional, new, emerging, and non-immigrant destinations (Ulmer & Parker, 2019). When all legal factors were controlled for, Hispanic individuals were sentenced the harshest in destinations that were not frequently processing immigration cases (Ulmer & Parker, 2019). Throughout both 2000-2002 and 2010-2012 federal sentencing data, Hispanic non-citizens were seen to be sentenced more severely in destinations labeled as a new and non-immigrant destinations, which provides supports the immigrant threat hypothesis (Ulmer & Parker, 2019).

Steffensmeier and Demuth (2001) found that Hispanics received relatively harsher sentences than any other defendant specifically when compared to black and white defendants. To understand the comparison of sentencing decisions between black, white, and Hispanic defendants, Steffensmeier and Demuth (2001) took Pennsylvania sentencing data and examined sentencing length between these three different ethnicities. Hispanic defendants were hypothesized to receive the harshest sanctions due to social perceptions, threats of immigration, and a cultural dislike for Hispanic defendants concerning the war on drugs and underlying issues

surrounding the United States border. Throughout the analysis, Hispanics were seen to receive harsher treatment than black defendants, which could be explained by the current racial threat hypothesis and lack of acceptance towards noncitizen offenders (Steffensmeier & Demuth, 2001). Compared to black defendants and white defendants, Hispanic defendants received the harshest punishments for cases involving drugs and cases that have no relation to drugs (Steffensmeier & Demuth, 2001). Steffensmeier and Demuth found that there was a greater gap in harsher sentences between Hispanics and black/white defendants than between any other ethnicity of the defendant.

Citizenship Status

Throughout federal sentencing, extralegal factors have affected the demographics of the federal prison population including a higher amount of Hispanic and Black defendants compared to the population at large (Hartley & Tillyer, 2012). Research has also indicated that extralegal factors such as the citizenship status of the defendant have played a factor in sentence length. There is a growing number of immigration cases and cases involving noncitizen defendants throughout federal sentencing districts (Logue, 2009). There is a current negative perception about immigration cases and Hispanic defendants that are noncitizens which could play a factor in the increase of federal defendants that are undocumented (Logue, 2009). Research has shown that citizenship status influences the length of a sentence where noncitizens receive harsher punishments in some instances than defendants who were United States citizens (Hartley & Tillyer, 2012).

To further examine the effects of immigrant threat, Logue (2009) found that immigration status produced certain disparities throughout sentencing between Mexican and Non-Mexican Latinos. Logue investigated the role of national origin and immigration status to compare

noncitizen Latinos sentencing outcomes to citizens (Logue, 2009). Acknowledging the current negative perceptions about immigration and noncitizen offenders, Logue (2009) hypothesized that noncitizens' sentence length will operate differently than citizen sentence length, the national origin will affect sentence length, and the magnitudes of the amount of effect will be greater for illegal immigrants than citizens.

The results indicated that the national origin of a defendant produced differential treatment for Mexicans compared to non-Mexicans, and immigration status was a significant factor within sentencing outcomes (Logue, 2009). Noncitizens were more likely to have greater sentencing penalties throughout federal district courts for both Mexicans Latinos and non-Mexican Latinos supporting the argument that national origin is a significant factor throughout federal sentencing (Logue, 2009). Some research on extralegal influences on judicial decision-making involves the defendant's citizenship status having little effect on sentencing outcomes because there has been little research done focusing on citizenship status solely. Previous research on citizenship status has recognized that immigrant defendants are committing multiple offenses instead of the intentional offense being sentenced due to their undocumented citizenship status (Hartley & Armendariz, 2011).

To add to the limited research on immigration cases throughout federal sentencing, Hartley and Tillyer (2012) sought to compare immigration offenses including trafficking charges, illegal document charges, and illegal entry charges with sentencing outcomes to determine legal and extralegal factors that influence these outcomes. Understanding the many differences throughout case processing variables among immigration offenses, Hartley and Tillyer (2012) used 2008 United Sentencing Commission data to identify specific immigration offenses to understand correlations throughout decision making processes. To see how

immigration offenses were sentenced differently throughout federal districts, a non-border/border district variable was added to the analysis. Border districts included Arizona, Southern California, New Mexico, South Texas, and West Texas (Hartley & Tillyer, 2012). The results indicated that the type of immigration offense had an effect on the length of the sentence, in which trafficking charges received the lengthiest sentences compared to other immigration offenses (Hartley & Tillyer, 2012).

Hartley and Tillyer (2012) also found that defendants sentenced in border districts were shown to receive longer sentences than defendants sentenced in non-border districts among trafficking charges, illegal entry charges, and document charges. These southern border districts frequently see more cases involving immigration than non-border districts and tend to have more experience sentencing immigration offenses. Hartley and Tillyer (2012) sought to understand this finding by explaining the judge's rationale for harsher sentencing through immigrant threat and deterring non-citizens from engaging in these types of crime. Sentencing harsher penalties among illegal immigrants throughout borders who frequently deal with cases involving immigration could act as a deterrence, political agenda, and a threat of immigrant revolution. After legal variables had been accounted for, results indicated that extralegal variables including the race of the defendant and gender of the defendant had a significant influence on sentencing decisions among most federal districts.

Further examining southern border districts, Hartley and Armendariz (2011) examined the effect of citizenship status on judicial decision-making among narcotics offenses in five of the southwestern districts. Examining the effects of the war on drugs and the comparison of narcotic cases throughout federal sentencing, Hartley and Armendariz (2011) sought to uncover racial disparities among noncitizen drug offenders. Reports from The United States Sentencing

Commission had shown that noncitizens frequently received harsher sanctions than noncitizens (Hartley & Armendariz,2011). Results indicated that for most narcotic offenses, noncitizens were shown to receive harsher sentences than citizens throughout southwestern border districts. Similar to research done on noncitizen offenders, Hartley and Armendariz (2011) discussed the recent development of the fear of immigrant threat and stereotypes regarding noncitizen offenders.

Gender

Previous research on gender has shown that women tend to have more lenient sentences than their male counterparts (Kim et al., 2019). Traditional perspectives on the gender differences in sentences often support the idea that gender disparities result from chivalry, views of women as victims, and better candidates for reform than men (Kim et al., 2019). Women at times are viewed as the victim more than their male counterparts and judges will be more likely to provide women with the chance to reform for their crimes (Kim et al., 2019) In general, women tend to commit less crimes than men. Women tend to commit drug crimes, sex crimes, and nonviolent crimes whereas men are more likely to engage in violent crimes (Kim et al., 2019). Gender disparities have often been related to judge's discretion and focal concerns as judges may be guided by protecting women's children and families.

Researchers have acknowledged gender stereotypes as a possible result in leniency towards female defendants. The number of dependents has been shown to be significant in more cases involving female defendants compared to their male counterparts (Kim et al., 2019). Stereotypes involving women tend to be that women are the primary caregiver of the family and removing a woman from a family's home could be detrimental to dependents. Previous research

has indicated that judges sentence females more leniently when they have children and dependents who would struggle in her absence (Kim et al., 2019).

Age

Young offenders have been shown to receive harsher sanctions compared to their older counterparts (Mueller-Johnson & Dhimi, 2009). Previous research has shown that there is a leniency effect for older offenders. Older offenders are more likely to be placed on probation, be granted bail, and more likely to not receive a prison sentence than younger offenders (Mueller-Johnson & Dhimi, 2009). Judges may recognize that older offenders have planted roots throughout the community in which they are less likely to flee town or become a danger to society.

Research has shown that age is often a normal distribution showing that criminal behavior typically tends to increase throughout late childhood, peaks throughout young adult life, and then begins to decrease near the early thirties (Mueller-Johnson, 2009). Steffensmeier et. al. (1998) found that offenders who were aged between 20-29 years old had the highest odds of receiving a prison sentence and offenders aged over 60 years old tend to have the lowest chances of receiving a prison sentence. Sentencing guidelines do not specifically address age as a factor when determining sentencing, however research has shown that jurisdictions do put age into consideration when considering punishment.

Education

Previous research on educational obtainment have found that offenders with lower levels of education and lower levels of income tend to receive harsher sentence outcomes (Mustard, 2001). Individuals with higher education have been shown to have an increased variety of

resources and thus a higher income. Offenders with higher levels of education are more likely to be able to pay their bail which increases the chances of more favorable outcomes (Mustard, 2001). Offenders with lower education tend to have less resources, less income, and are more likely to be unemployed than offenders with higher education. Research has shown that individuals without a high school degree tend to have harsher sentences than individuals with a high school or college degree, regardless of race (Mustard, 2001). Educational attainment and socioeconomic status although not mentioned throughout federal guidelines can be put into consideration when determining sentence outcomes.

Throughout federal sentencing, researchers have examined the effects of extralegal factors to uncover patterns of racial disparities, discriminations, and prejudices throughout the criminal justice system. Extralegal factors such as race, age, gender, education, and citizenship status all have an influence on sentencing outcomes. However, the majority of researchers have found that although extralegal factors are present, legal factors including criminal record, the severity of the case, and evidence against the defendant have the stronger impact on case outcomes.

Political Affiliation

As mentioned, immigration remains one of the most controversial political debates throughout the media, political campaigns, and the public (Harteveld et. al., 2017). Many researchers have examined sentencing decisions throughout different federal districts to understand the variation among case outcomes. Hartley and Tillyer (2012) examined southwestern border districts to compare sentencing outcomes between bordering districts and non-bordering districts among immigration cases. As stated, the results indicated that

southwestern border districts were shown to impose harsher sentences than non-border districts among all immigration offenses examined.

Similar to Hartley and Tillyer (2012), Ulmer and Parker (2019) separated districts into traditional, new, emerging, and non-immigrant destinations to uncover sentencing disparities throughout different federal districts that may be used to immigrant offenses or are new to immigrant offenses. These sentencing outcomes among immigration offenses throughout federal districts have been explained by immigrant threat theory, deterrence from non-citizens engaging in the same types of crime, and specific dislike for non-citizens. One aspect of sentencing research that is often overlooked is political ideology within districts. Federal districts vary in environments, political ideologies, and social status which allows courtroom workgroups to vary as well. Regarding immigration, conservative ideologies tend to seek out harsher sanctions among immigration offenses, tightened security at the southwestern border, and strongly campaign against policies involving immigration (Harteveld et al., 2017).

After the terrorist attack in 2001, there was a rapid growth of agencies, tactics, and security measures that involved heightened protection throughout the border, tighter airport security, and more resources allocated among border protection. Throughout the public eye, noncitizens began to be seen as a danger and a threat to the economy and security of the United States (Smiley et al., 2017). Conservative affiliations began to campaign against immigration policies to protect citizens from harm and seek out harsher sanctions in cases involving immigration throughout federal courts. Conservative parties have backed up anti-immigration policies due to threats of safety while associating immigrants with crimes (Smiley et al., 2017).

On the other side of the political spectrum, liberal ideologies tend to seek out more resources for non-citizens, allocate resources away from border security, and pursue more lenient

punishments for immigration offenses. Instead of campaigning against immigration, liberal parties support a multiculturalist society where immigration adds a benefit to the economy and profits society (Harteveld et al., 2017). Immigration policies have become one of the most controversial and political disputes among the nation due to clashing ideologies and differences in political agendas (Smiley et al., 2017). A better understanding of the effect political affiliation obtains throughout sentencing decisions would be needed to examine sentencing outcomes for immigration cases among districts with political affiliations.

CHAPTER III

METHODS

This study seeks to compare political affiliation among federal districts to determine sentencing outcomes for immigration offenses. Outcomes of federal sentencing may not strictly follow guidelines and immigration cases may be processed differently (Hartley & Tillyer, 2012). Research has examined Hispanic defendants and the negative labels evoked concerning threats on national security, illegal immigration, harm to the public, and crime throughout the southwestern border.

Current Study

As immigration rises throughout federal districts, political debates, and policy changes, there becomes a dire need for more research involving public views on immigration, immigration offenses throughout federal courts, and the impacts of political affiliation among sentencing outcomes for immigration offenses. This study builds on research surrounding immigration offenses by adding in political affiliation among districts to understand if there is an effect on sentencing outcomes for these specific cases. Previous research has examined disparities between noncitizens, Hispanic defendants, and district variation to find that citizenship has a significant effect on sentencing outcomes, Hispanic defendants have been sentenced more harshly than white or black defendants and district variation has a significant effect on sentencing outcomes (Hartley & Armendariz, 2011).

Political ideology has remained unexamined throughout federal sentencing for immigration offenses, although immigration remains one of the most controversial political debates among society. Federal districts vary among surrounding affiliations and ideologies,

creating fluctuation across the political spectrum. To understand the effects of political affiliation, this study seeks to examine federal districts to see if there is variation in sentencing outcomes based on ideologies and perceptions of immigration by conservative or liberal affiliations.

To examine immigration offenses, data was drawn from the United States Sentencing Commission for the fiscal year 2015-2016 to identify legal, extralegal, case processing, and district level variables. Different types of immigration cases were examined to determine the most reoccurring immigration offense along with the most amount of cases throughout federal districts to prepare for analysis. Illegal re-entry was the most reoccurring immigration offense, creating the most variation in districts sentenced. To examine the effect of political variation in sentencing outcomes, illegal re-entry was selected to represent immigration offenses among cases throughout federal districts.

Binary logistic and linear regression analyses were used to examine the in/out decision of incarceration versus parole as well as sentence length in months. Understanding the impacts of political affiliation among sentencing outcomes throughout federal districts will benefit case processing of immigration offenses as well as bring attention to various extralegal disparities throughout federal sentencing.

Hypothesis

Based on surrounding research, it is hypothesized that cases in districts associated with more Republican affiliations will be more likely to provide defendants with a term of incarceration versus probation when compared to districts with Democratic affiliations. Similar to Hypothesis 1, it is also hypothesized that Republican affiliations will provide longer sentences

when compared to Democratic districts among illegal re-entry with negative surrounding beliefs of immigration, the threat of noncitizens, and support of heightened security among bordering states to prevent illegal immigration.

Hypothesis 1: Federal districts labeled as Republican will be more likely to provide defendants with a term of incarceration rather than release/probation when compared to federal districts labeled as Democratic.

Hypothesis 2: Federal districts labeled Republican will provide longer sentences for immigration offenses involving illegal re-entry when compared to federal districts that are labeled as a Democratic affiliation.

Data

To examine immigration cases throughout federal sentencing, data was drawn from the United States Sentencing Commission (USSC) reports on Monitoring of Federal Criminal Sentences fiscal year 2015-2016. The United States Sentencing Commission establishes policies for federal courts to guide the type of punishment appropriate for specific federal crimes and collects data for research purposes for courts, policymakers, and the research community (United States Sentencing Commission, 2016).

This report includes 67,742 cases and 488 different extralegal characteristics, legal variables, district variables, and case processing variables involved throughout federal sentencing. Monitoring of Federal Criminal Sentences for the years 2015-2016 was selected as being the most recent report generated. As immigration cases remain rapidly growing yearly throughout federal sentencing, this 2015-2016 report included 20,051 out of 67,742 cases involving immigration. All non-immigration cases were excluded leaving 20,051 offenses.

Among immigration offenses, illegal re-entry was chosen due to the high number of this specific offense.

To measure illegal re-entry, United States Codes were examined to determine the specific statute for illegal re-entry throughout federal sentencing. This specific statute was under Title 8 U.S. code 1326¹ and involved re-entry of removed aliens. 8 U.S. code 1326 has multiple subsections throughout the code that were also included in the analysis to increase the sample size and number of cases to examine, including 81326(A), 81326(A1), 81326(A2), 81326(B), 81326(B1), 81326(B2), 81326(B3), and 81326(B4). Section A of U.S. Code 1326 includes, in general, any alien who has “been denied admission, excluded, deported, or removed or has departed the united stated while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States unless...shall be fined under title 18” (United States Codes, 2020) Section B of U.S. Code includes specific criminal penalties for reentry of certain removed aliens (United States Codes, 2020). To solely examine the effects of illegal re-entry throughout sentencing outcomes, cases involving multiple offenses were excluded from analysis, and single charges of only illegal re-entry were examined. The sample remained at 16,226 cases.

Next, federal districts including Guam, District of Columbia, Virgin Islands, and Mariana Islands were excluded from analysis due to a limited number of cases. This yielded 16,219 cases. For the in/out decision, cases remained at 16,219 cases. For sentence length, the zero category was excluded from analysis after no prison sentence was given. After excluding cases where no prison sentence was given, cases remained at 11,220 for the linear regression model.

¹ Title 8 of United States Codes includes the section Aliens and Nationality, which examines federal statutes regarding immigration offenses throughout federal sentencing. Chapter 12 of Title 8 was examined, as section 1101-1537 includes Immigration and Nationality statutes.

Additionally, it was discovered that cases were dropped due to missing data on key independent variables which left cases at 10,665²

Dependent Variable

To examine variations in sentencing outcomes, the dependent variable followed a two-step decision process: First, there was a decision whether or not the defendant would receive a prison sentence. Second, the length of the sentence provided (Steffensmeier & Demuth, 2001). The first dependent variable is recognized throughout previous research as the “in and out decision” and is dichotomous throughout the analysis (Steffensmeier & Demuth, 2001). The in and out decision remains being the decision of whether to incarcerate an offender versus providing them with a form of alternate confinement. Following previous research, the analysis is only including terms of imprisonment and excludes alternative confinement such as parole, home detention, and intermittent confinement (Ulmer et al., 2011). Although extralegal disparities in alternative confinement have their own importance, Ulmer et al. (2011) argue that alternative confinement is drastically different than time in prison and should not be compared or analyzed as equivalent. The in and out decision will be explained in *Table 3*, as well as the importance of analyzing a prison term separately.

The second dependent variable is the length of the sentence in months. The length of the sentence ranged between 1 month through 120 months as the highest prison sentence granted for illegal re-entry was 120 months. For illegal re-entry, the majority of cases do not surpass a 120-month sentence. Specifically, for immigration offenses, there is little variation throughout the decision to incarcerate defendants due to the inability of releasing defendants. As with this,

² Key independent variables with missing data included: The number of dependents, guideline minimum sentence, criminal history score, and gender.

practical and organizational structures of sentencing outcomes for immigration offenses have shown to differ from other federal offenses. (Ulmer & Parker, 2019). As sentence length has been shown to be positively skewed and for purposes of regression analyses, previous research indicates that the natural log should be used in order to reduce standard errors (Ulmer et al., 2011). Hence, the actual sentence length value used in analysis is the natural log value for the number of months the individual was sentenced. The untransformed sentence length is shown among descriptive statistics however the effects of the log transformation are discussed throughout the results.

Independent Variables

The primary interest remains political affiliation within districts to examine sentencing outcomes for offenses involving illegal re-entry. To analyze the data, the key individual-level variables of interest are political affiliation of districts and illegal re-entry as an immigration offense. Independent variables included extralegal, legal, and case processing variables to examine federal sentencing outcomes. As the majority of immigration offenses included Hispanic defendants, race became a constant throughout the analysis. *Table 1* shows the description of variables as well as how each variable was measured.

Extralegal Variables

Extralegal variables included the defendant's gender, age, number of dependents the defendant has, level of education obtained, and country of citizenship. The defendant's gender was dichotomous and placed into categories of male and female (male=1, female=0). The age of the defendant was a continuous number ranging from 18-78. The number of dependents was on a metric scale ranging from 0-23 dependents. Education attainment was ordinal and placed into

Table 1

Description of variables

Variable	Definition
Dependent Variable	
Sentence Length In and Out	120 months prison sentence=1 parole=0
Case Processing/ Legal Variables	
Plea/Trial	trial=0 guilty plea=1
Criminal History	no=0 yes=1
Criminal History Score Guideline Recommended Minimum Sentence	1-6 logged months
Defendant Characteristics	
Gender	female=0 male=1
Age	continuous (18-78)
Number of Dependents	scale 0-23
Educational Obtainment	less than h.s. h.s. some college college
Country of Citizenship	Mexico South America Central America Caribbean Sea Nation other
District Level	
Political Affiliation	DorR R %

groups of less than high school, high school education, some college, and then college graduate (less than high school being the reference group).

The defendant's country of citizenship was ordinal as well and put into five categories: Mexico, South America, Central America, Caribbean Sea Nations and Other. Mexico was the reference group, as a huge portion of illegal re-entry cases involved a defendant's country of citizenship from Mexico. South American countries included 12 countries: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Guyana, Paraguay, Peru, Suriname, Uruguay, and Venezuela. Central American countries included 7 countries: Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. Caribbean Sea Nations included Antigua and Barbuda, Bahamas, Barbados, Cuba, Dominica, Dominican Republic, Grenada, Haiti, Saint Kitts and Nevis, Jamaica, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. The other category included every country other than Mexico, South America, Central America, and Caribbean Sea Nations.

Legal Variables

Case processing controls included whether the case was convicted by trial or plea (1=trial and 0=guilty plea). Following previous sentencing research, the presumptive minimum sentence was the reference category for all the legal variables included (Hartley & Tillyer, 2012). For legally relevant factors, previous criminal history was controlled for (0=no criminal history, 1=yes previous criminal history). Criminal history was added into analysis for the binary logistic regression for the in and out variable, however it was excluded from the linear regression on sentence length as the entire sample had some criminal history. To account for the defendant's criminal history score, the criminal history score category was controlled separately as it could be a consideration through judicial sentencing (Hartley & Tillyer, 2012).

Research has shown that criminal history has a significant effect on sentencing outcomes throughout federal sentencing when the presumptive sentence is accounted for (Ulmer & Parker, 2019). In the United States Sentencing Codebook, criminal history score ranges from 1-6, with 1 being less severe and 6 being the most severe criminal history (Feldmeyer & Ulmer, 2011). Along with the criminal history score, the guideline minimum sentence was controlled for, to reflect what the presumptive sentence was specifically for each case included. Following previous research, this measure was included to control for these mandatory minimum requirements that aid the recommended sentencing guidelines included in the United States Sentencing codebook (Feldmeyer & Ulmer, 2011).

Political Affiliation

Political affiliation was assessed within two different measures: the percent Republican within districts and the Democratic or Republican controlled court districts. Both measures were analyzed to visualize which measure had the most strength throughout the regression analysis.

Percent Republican

Data was drawn from county level data on the presidential vote for the 2016 election. Within each county of the United States, election results explained both Democratic votes and Republican votes. For the 2016 Presidential election, the Democratic presidential nominee was Hillary Clinton and the Republican nominee was Donald Trump.

First, to identify each federal court district, geographic boundaries from the U.S. Marshalls Service and the United States Codes were taken. These boundaries were then used to determine each state's federal district court jurisdiction system. The U.S. Marshall Service and the United States Code provide an organizational structure of federal court district jurisdiction

within each state. Some states are organized into separate court jurisdictions based on population sizes and density generated throughout the census reports. The Marshall service provided a list of each county within federal court jurisdiction for each state.

Next, county level data on the 2016 presidential election was aggregated into federal court jurisdictions. The sum of votes for the Republican candidate and Democratic candidate were taken along with the percentage of votes for each candidate³. Next, each county was then aggregated into their specific federal court jurisdiction based on their location. Federal court jurisdictions follow county lines, so each county was placed into a federal court jurisdiction. Federal districts including the Virgin Islands, Guam, Mariana Islands, and District of Columbia were excluded from analysis similar to previous research regarding the lack of the number of cases within these districts. Lastly, in circumstances where a state had cities that were also counted as counties, the city votes were allocated into the county in which they were located⁴

Democratic or Republican Controlled Court Districts

First, data from the 2016 House of Representative election was taken. There is a total of 435 House jurisdictions in the United States. One representative is elected for each district. Congressional districts vary among states due to the population size of each state and each district remains as equal as possible in population size to all remaining districts throughout the state. Appointing district seats throughout each state is based on the census population report that is generated to determine population density and size.

³ County election results were taken from *MIT Election Data*.

⁴ Virginia was the only state that had a city recognized as a county as well (ex. Fairfax), in which the votes for the city were allocated into the county in which they were located to acknowledge their representation

Second, House of Representative data on the 2016 election was aggregated into federal court jurisdiction. Each house seat was collected via election results to determine the number of votes Republican and Democratic⁵. There are 94 federal court districts where cases are processed and sentenced, creating more federal court districts than states. To account for each federal court district, data was drawn from the U.S. Marshalls Service and the United States Codes to determine each state's federal district court jurisdiction system. The number of congressional districts throughout court jurisdictions were examined to compare the total number of votes Republican and Democrat among each federal district.

Lastly, the sum of votes for Republican (R) or Democratic (D) were compared to determine the larger number of votes and then categorized (D=0, R=1). In some instances, congressional districts crossed over between two federal court jurisdictions, in which both congressional districts were added into the Republican and Democratic sum to account for both affiliations within the location.⁶

⁵ Data on the House of Representatives for the 2016 election was used from *The Cook Political Report* and *Ballotpedia*.

⁶ For example, in Washington State, there are two federal court jurisdictions: Eastern Washington and Western Washington. There is one congressional district (district three) that falls between both court jurisdictions. To account for both jurisdictions, district three is added into the total for both Western Washington and Eastern Washington to recognize the political affiliation of both geographical areas. This technique was only needed for the Democratic or Republican controlled district variable.

CHAPTER IV

RESULTS

Binary logistic regression was used to determine the in/out decision whereas a linear regression for sentence length. *Table 2* shows the descriptive statistics of each variable including the minimum, maximum, mean and standard deviation. *Table 3* and *Table 4* show the binary logistic regression of the in/out decision of the zero category of parole and alternate confinement. Both *Table 3* and *4* analyze the two political affiliation variables separately: *Table 3* analyzes the percent Republican variable and *Table 4* analyzes the Democratic or Republican controlled variable. *Table 5* and *Table 6* then displays a linear regression of the natural log of sentence length for both percent Republican and Democratic or Republican Controlled.

Descriptive Statistics

Dependent Variables

Table 2 includes the descriptive statistics of each variable used throughout the study. This study has two dependent variables: the in and out decision and sentence length in months. The in and out decision was dichotomous, with parole being 0 and a prison term being the max of 1. The mean of the in and out decision was .69 (Sd=.46). 69.2% of the defendants in the sample received a prison sentence versus the 30.8% of the sample that received parole or probation. The minimum sentence length was a one-month sentence after the zero category and any days less than a month were excluded from analysis. The maximum sentence length was 120 months (m=12.79, Sd=15.69). An average sentence was 12.79 months.

Table 2

Descriptive Statistics

Variables	Min	Illegal Re-entry (N= 16,219)		
		Max	Mean	SD
<i>Dependent variable</i>				
Sentence length	1	120	12.79	15.69
Sentence length (natural log)	1	4.79	2.46	1.11
In & out decision	0	1	.69	.46
<i>Case Processing/Legal variables</i>				
Trial	0	1	.002	.05
Presumptive minimum (log)	0	4.62	2.08	1.46
Criminal history score	1	6	2.57	1.41
<i>Defendant Characteristics</i>				
Female	0	1	.039	.19
Age	18	78	35.86	9.21
Dependents	0	23	2.2	1.84
Educational obtainment				
Less than high school (ref)	0	1	.76	.43
High school graduate	0	1	.10	.30
Some college	0	1	.02	.15
College graduate	0	1	.004	.06
Country of Citizenship				
Mexico (ref)	0	1	.79	.41
South America	0	1	.01	.11
Central America	0	1	.16	.36
Caribbean Sea Nation	0	1	.02	.15
Other	0	1	.01	.074
<i>District level</i>				
Political affiliation				
Republican %	20.68	75.71	48.74	6.08
DorR	0	1	.66	.473

Independent Variables

Independent variables included extralegal variables, legal variables, and political affiliation. Legal variables included the decision of trial/plea, criminal history score, and the guideline recommended sentence. Extralegal variables included gender, age, number of dependents, educational attainment and country of citizenship. Political affiliation was put into two measures including the percent of Republican votes and the Democratic or Republican controlled court district.

Case Processing/Legal Variables

The decision of whether defendants chose plea or trial was dichotomous with 0 being a plea bargain and 1 being trial. The majority of the defendants chose a plea bargain (98%) with a mean of .002 (2%) choosing to go to trial (Sd=.05). For immigration cases in general, criminal history could be the reasoning behind why the defendant's current offense is a federal felony (Hartley & Tillyer, 2012). The criminal history score was analyzed separately and put into 6 categories with 1 being the least amount of criminal history and 6 being the highest amount of criminal history. The mean for criminal history score was 2.57 (Sd.=1.41). The guideline minimum recommended sentence had a minimum of 0 and a maximum of 4.26. The average guideline minimum sentence length was 2.08 months (Sd.=1.46). The natural log of the guideline recommended sentence was taken in order to correct for skewness.

Defendant Characteristics

Race was a virtual constant as the majority of the defendants were Hispanic. For gender, 95.8% of the sample are men and only 3.9% are female (m=.039, Sd=.19). Gender was dichotomous with men being 0 and female being 1. Age was continuous and ranged between 18

to 78 years old with the average age of the defendant being 35.86 years old (Sd.=9.21). The number of dependents the defendant has was metric and had a minimum of 0 and a maximum of 23 dependents. The average number of dependents a defendant had was 2.2 (Sd.=1.84).

Educational obtainment was put into four categories: less than high school (the reference group), high school graduate, some college, and college graduate. 76% of defendants had less than a high school education (Sd.=.43), 10% of the defendants in the sample had a high school degree (Sd.=.30), 2% (.02) of the defendants in the sample had completed some college (Sd.=.15) and less than .04% of the defendants had earned a college degree.

Country of citizenship was put into five categories: Mexico (the reference group), South America, Central America, Caribbean Sea Nations, and Other. 79% of the defendants had citizenship in Mexico (Sd.=.41), 16% of defendants had a country of citizenship in Central America (Sd=.36), 2.2% of defendants had a country of citizenship from a Caribbean Sea Nations (Sd.=.15), 1.1% of defendants had a country of citizenship from South America (Sd.=.12), and .05% of defendants had a country of citizenship from a country categorized as Other (Sd=.073).

Political Affiliation

Political affiliation was assessed using the percent Republican and the Democratic or Republican controlled court districts. The minimum value for percent republican was 20.68 and the maximum value was 75.71. The mean for percent republican was 48.74 (Sd=6.08). The Democratic or Republican controlled districts was dichotomous with Democratic as 0 and Republican as 1. The mean for Democratic or Republican controlled was .66 (Sd=.473).

Binary Logistic Regression: In and Out Decision

Previous research has included the in/out decision to examine the differences in receiving a prison sentence versus receiving parole. The in and out decision was dichotomous with 0 being parole and 1 being a prison sentence. A binary logistic regression was analyzed. Out of 16,266 cases, 11,220 (69.2%) received a prison sentence over one month and 4,999 (30.8%) of the defendants received parole or probation.

When explaining the factors that impact the in/out decision, four variables are statistically significant: criminal points, guideline minimum, country of citizenship, and political affiliation. Prior research has shown that case processing variables exert a significant influence on sentencing outcomes and these results provide support for previous findings.

Model 1: In/out: % Republican

Table 3 included a binary logistic regression of the percent Republican variable. The model summary explained the -2 Log likelihood, Cox & Snell R Square, and the Nagelkerke R Square. In the % Republican model, the Cox & Snell R square was .275 and the -2 Log likelihood was 11793.612^a. The Cox & Snell explains the difference between the log likelihood for the binary logistic model compared to the log likelihood for a baseline model (SPSS, 2016). The Nagelkerke R Square is a version of the Cox & Snell R Square that is adjusted to fit the full range scale of 0 to 1 (SPSS, 2016). Nagelkerke R Square value was .404.

Case Processing/Legal Variables

Following previous research on the in/out decision, the guideline recommended sentence was statistically significant as well as the criminal history score category. For a single point increase in the guideline minimum sentence, defendants had a 104% increase in the odds of

Table 3

Model 1: Binary Logistic Regression In and Out Decision: % Republican

Variables	B	S.E.	Wald	Sig.	Exp(b)	
Case Processing						
Trial	.674	.725	.863	.353	1.962	
Crim. Points	.513	.029	310.660	*.001	1.670	
Guideline Min.	.714	.024	891.611	*.001	2.043	
Def. Characteristics						
Female	-1.57	.110	2.053	.152	.855	
Age	.005	.003	3.164	0.75	1.005	
Dependents	.001	.013	.005	.943	1.001	
<i>Educational Obtain.</i>						
High School Grad	-.008	.077	.011	.916	.992	
Some College	-.170	.153	1.238	.266	.843	
College Graduate	-.577	.317	3.081	.079	.573	
<i>Country of Citizenship</i>						
South America	-.032	.214	.022	.881	.969	
Central America	.041	.063	.431	.511	1.042	
Caribbean Sea N.	-.832	.203	16.707	*.001	.435	
Other	-1.123	.288	15.181	*.001	.325	
Political Affiliation						
Partisanship: % R		-.067	.004	239.111	*.001	.935

incarceration ($b=.714$, $p<.001$). For a single point increase in criminal history, defendants had a 67% increased likelihood of the odds of incarceration ($b=.513$, $p<.001$). Settling in a plea or going to trial was not significant ($p<.353$).

Defendant Characteristics

For defendant characteristics only country of citizenship was statistically significant. Defendant's gender was not statistically significant ($p<.152$). Age was also not statistically significant ($p<.075$). The number of dependents a defendant had was not statistically significant ($p<.943$). Being a high school graduate was not statistically significant ($p<.916$). Some college education was also not statistically significant ($p<.266$). Last of all, having a college degree was not statistically significant ($p<.079$).

Defendants who had citizenship in Caribbean Sea Nations and a country of other were statistically significant. Defendants who had citizenship in a Caribbean Sea Nation were 129.8% less likely to receive a prison sentence than defendants who had citizenship in Mexico ($b=-.832$, $p<.001$). Defendants who had citizenship in a country other than Mexico, South America, Central America, or Caribbean Sea Nations were 207.7% less likely to receive a prison sentence compared to defendants with citizenship from Mexico ($b=-1.123$, $p<.001$). Defendants who had citizenship in South America were not statistically significant ($p<.881$). Citizenship in Central America was not statistically significant as well ($p<.511$).

Political Affiliation

For *Table 3*, the Republican percent variable was statistically significant. The model indicated that the percentage of Republican votes for Trump in the 2016 election did impact the odds of incarceration. However, interestingly enough, Republican percent districts were 7.9%

less likely to provide defendants with a prison sentence when compared to Democratic percent districts ($b=-.077$, $p<.001$). As it is hypothesized that Republican districts should increase the odds of incarceration, this is an important finding.

Model 2: In/Out: Democratic or Republican Controlled Court Districts

Table 4 included a binary logistic regression on the Democratic or Republican controlled court district. As well as *Table 3*, the model summary explained the -2 Log likelihood, Cox & Snell R Square, and the Nagelkerke R Square. For *Table 4*, the Democratic or Republican controlled court districts were analyzed. The -2 Log likelihood was 12093.746^a with a Cox & Snell R Square of .267. The Nagelkerke R Square value was .391.

Case Processing/Legal Variables

Table 4 shows that the guideline recommended sentence was statistically significant as well as the criminal history score category. For a single point increase in the guideline minimum, defendants had a 105.9% increase in the odds of incarceration ($b=.722$, $p<.001$). Additionally, for a single point increase in criminal history, defendants had 60.8% increased odds of incarceration ($b=.475$, $p<.001$). Settling in a plea or going to trial was not statistically significant ($p<.273$).

Defendant Characteristics

In *Table 4*, the only defendant characteristics that were statistically significant was country of citizenship. The defendant's gender was not statistically significant ($p<.330$). Age was also not statistically significant ($p<.071$). The number of dependents a defendant had was not statistically significant as well ($p<.631$). The defendant's educational obtainment was not statistically significant. The high school graduate category was not statistically significant

Table 4

Model 2: Binary Logistic Regression In and Out Decision: DorR Controlled

Variables	B	S.E.	Wald	Sig.	Exp(b)
Case Processing					
Trial	.781	.713	1.202	.273	2.184
Crim. Points	.475	.029	274.185	*.001	1.608
Guideline Min.	.722	.025	860.602	*.001	2.059
Def. Characteristics					
Female	-.106	.109	.948	.330	.900
Age	.005	.003	3.253	.071	1.005
Dependents	.006	.013	.230	.631	1.006
<i>Educational Obtain.</i>					
High School Grad	-.018	.076	.053	.818	.983
Some College	-.131	.149	.769	.381	.877
College Graduate	-.449	.313	2.061	.151	.638
<i>Country of Citizenship</i>					
South America	.020	.201	.010	.921	1.020
Central America	.021	.062	.113	.737	1.021
Caribbean Sea N.	-.748	.157	22.574	*.001	.473
Other	-.980	.286	11.742	*.001	.375
Political Affiliation					
Partisanship: DorR	-.267	.056	23.019	*.001	.765

($p < .818$). Some college education was also not statistically significant ($p < .381$). Last of all, having a college degree was not statistically significant ($p < .151$).

Similar to *Table 3*, defendants who had citizenship in Caribbean Sea Nations and a country other than Mexico, South America, Central America, or Caribbean Sea Nations were statistically significant. Defendants who had citizenship in a Caribbean Sea Nation were 114.2% less likely to receive a prison sentence than defendants who had citizenship in Mexico ($b = -.748$, $p < .001$). Defendants who had citizenship in a country other than Mexico, South America, Central America, or Caribbean Sea Nations were 166.7% less likely to receive a prison sentence compared to defendants with citizenship from Mexico ($b = -.980$, $p < .001$). The South America category was not statistically significant ($p < .921$). Country of citizenship in Central America was not statistically significant ($p < .737$).

Political Affiliation

For *Table 4*, the Democratic or Republican controlled court district variable was taken without the % Republican variable. Republican percent was statistically significant. Similar to *Table 3*, the model indicated that the percentage of Republican votes for Trump in 2016 did impact the odds of incarceration. The relationship was negative as well in that there was a 30.7% decrease in the odds of incarceration for Republican controlled districts when compared to Democratic percentage districts ($b = -.267$, $p < .001$). As it was hypothesized that Republican districts should increase the odds of incarceration, this is an interesting finding. The Democratic or Republican controlled variable had a stronger impact than the percent Republican variable, which is an interesting find as well.

Linear Regression: Sentence Length

A linear regression was analyzed to examine variation in sentence length in months. Analysis included a linear regression model for both model 1 of the percent republican and model 2 of the Democratic or Republican controlled court districts. When explaining what factors influence sentence length in months eight variables were statistically significant: guideline minimum sentence, criminal points, plea/trial, gender, age, dependents, country of citizenship, and political affiliation. These findings support previous research on case processing, legal, and extra-legal variables that have shown to have an influence on sentencing outcomes.

Model 3: Sentence Length: % Republican

Table 5 includes a linear regression on the percent Republican. The model summary included the R value, R square value, Adjusted R square, and the Standard Error of the Estimate. For the percent Republican, the R value was .891^a with a R square value of .793. The adjusted R Square value is .793, which indicates that 79.3% of the variance is explained throughout the analysis. The Standard Error of the Estimate was .50901.

Case Processing/Legal Variables

All case processing and legal variables were statistically significant. Prior research has shown that cases processing and legal variables have a significant impact on sentencing outcomes and these results are no different. The guideline recommended sentence was statistically significant. For a one-point increase, defendants on average received a 1.99 month increase in the guideline recommended sentence ($b=.689$, $p<.001$). Criminal history score was also statistically significant. For a one-point increase, defendants on average received a 1.22 month increase for each criminal history point ($b=.116$, $p<.001$). The decision of plea or trial was

Table 5

Model 3: Linear Regression for Sentence Length: % Republican

Variables	Unstandardized B	e ^(b)	Coeff. Std. E.	Beta	Sig
Case Processing					
Trial	.442	1.56	.096	.020	*.001
Crim. Points	.116	1.12	.004	.144	*.001
Guideline Min.	.689	1.99	.005	.763	*.001
Def. Characteristics					
Female	-.205	-.815	.030	-.031	*.001
Age	.006	1.01	.001	.048	*.001
Dependents	-.022	-.978	.003	-.035	*.001
<i>Educational Obtain.</i>					
High School Grad	.011	1.01	.016	.003	.473
Some College	-.035	-.966	.032	-.005	.280
College Graduate	.148	1.16	.085	.008	.083
<i>Country of Citizenship</i>					
South America	.012	1.01	.051	.001	.813
Central America	.128	1.14	.014	.041	*.001
Caribbean Sea N.	.227	1.25	.038	.028	*.001
Other	-.094	-.910	.076	-.005	.215
Political Affiliation					
Partisanship: % R	.018	1.02	.001	.089	*.001

statistically significant as well. On average, defendants who went to trial received a 1.55 month increase in their sentence when compared to defendants who took a plea ($b=.442$, $p<.001$).

Defendant Characteristics

Gender was statistically significant. On average, women received .81 months less on their sentence when compared to men ($b=.205$, $p<.001$). The age of the defendant was also statistically significant. On average, defendants who were older received 1.01 months more on their sentence when compared to defendants who were younger ($b=.006$, $p<.001$). The number of dependents was statistically significant as well. On average, defendants who had dependents had .80 months less on their sentence when compared to defendants who did not support dependents ($b=-.022$, $p<.001$).

Educational obtainment was not statistically significant. Receiving a high school degree was not statistically significant ($p<.473$). Defendants who had some college was not statistically significant as well ($p<.280$). College graduate was not statistically significant ($p<.083$).

For country of citizenship, Central America and Caribbean Sea Nations were statistically significant. On average, defendants who had citizenship from Central America received a 1.4 month increase on their sentence when compared to defendants who had citizenship from Mexico ($b=.012$, $p<.001$). Caribbean Sea Nations was also statistically significant. On average, defendants who had citizenship in a Caribbean Sea Nation received 1.26 month more on their sentence when compared to defendants who had citizenship in Mexico ($b=.227$, $p<.001$). South America was not statistically significant ($p<.813$). The country of citizenship from a country other than Mexico, South America, Central America, or Caribbean Sea Nations was not statistically significant ($p<.215$).

Political Affiliation

For political affiliation, the Republican percent variable was statistically significant. Defendants who were sentenced in a Republican percent district received 1.02 months more on their sentence when compared to Democratic districts ($b=.018$, $p<.001$). The findings support Hypothesis 2 as Republican districts should provide longer sentences when compared to Democratic districts.

Model 4: Sentence Length: Democratic or Republican Controlled Court Districts

Table 6 includes a linear regression on the Democratic or Republican controlled court districts. The model summary explains the R value, the adjusted R square value, and the Standard Error of the Estimate value. The R value for *Table 6* was .913^a with a R Square value of .834. The adjusted R Square value was .834. The adjusted R Square value indicates that 83.4% of the variance is explained throughout the analysis. There is more variance explained among the Democratic or Republican controlled court district variable when compared to the Republican percent variable. The Standard Error of the Estimate had a value of .45592.

Case Processing/Legal Variables

Case processing and legal variables are statistically significant. The guideline recommended sentence was statistically significant. For a one-point increase, defendants on average received a 1.86 month increase in the guideline recommended sentence ($b=.621$, $p<.001$). Criminal history score was also statistically significant. For a one-point increase, defendants on average received 1.11 months more for each criminal history point ($b=.101$, $p<.001$). The decision of plea or trial was statistically significant as well. On average, defendants who went to trial received 1.60 months more on their sentence when compared to defendants

Table 6

Model 4: Linear Regression for Sentence Length: % DorR Controlled

Variables	Unstandardized B	e ^{^(b)}	Coeff. Std. E.	Beta	Sig
Case Processing					
Trial	.473	1.60	.086	.022	*.001
Crim. Points	.101	1.11	.004	.126	*.001
Guideline Min.	.621	1.86	.005	.688	*.001
Def. Characteristics					
Female	-.186	-.830	.027	-.028	*.001
Age	.005	1.01	.000	.040	*.001
Dependents	-.016	-.984	.002	-.027	*.001
<i>Educational Obtain.</i>					
High School Grad	.039	1.04	.014	.011	.006
Some College	-.003	-.997	.029	.000	.919
College Graduate	.073	1.08	.076	.004	.336
<i>Country of Citizenship</i>					
South America	.031	1.03	.045	.003	.498
Central America	.083	1.09	.013	.026	*.001
Caribbean Sea N.	.291	-1.34	.032	.037	*.001
Other	-.030	-.970	.068	-.002	.653
Political Affiliation					
Partisanship: DorR	.612	1.84	.011	.244	*.001

who received a plea bargain ($b=.473$, $p<.001$).

Defendant Characteristics

For defendant characteristics, gender, age, dependents, and country of citizenship was statistically significant. Prior research has shown that gender has an influence on sentencing outcomes and this study supports those findings. Gender was statistically significant. On average, women received .83 months less when compared to male defendants ($b=-.186$, $p<.001$). The age of the defendant was also statistically significant. On average, older defendants received 1.01 months more when compared to younger defendants ($b=.005$, $p<.001$). The number of dependents was statistically significant as well. On average, defendants who had dependents received .85 months less on their sentence when compared to defendants who did not have dependents ($b=-.016$, $p<.001$).

Educational obtainment was not statistically significant. Prior research has shown that education does have an influence on sentencing outcomes however the results differ. High school graduate was not statistically significant ($p<.006$). Defendants who had some college was also not statistically significant ($p<.919$). College graduate was not statistically significant as well ($p<.336$).

For country of citizenship, Central America and Caribbean Sea Nations was statistically significant. On average, defendants who had citizenship from Central America received 1.09 months more on their sentence when compared to defendants who had citizenship from Mexico ($b=.083$, $p<.001$). Defendants who had citizenship in a Caribbean Sea Nation received 1.34 months more on their sentence when compared to defendants who had citizenship in Mexico

($b=.291$, $p<.001$). South America was not statistically significant ($p<.498$). Lastly, the other category was not statistically significant as well ($p<.653$).

Political Affiliation

For political affiliation, the Democratic or Republican controlled court district variable was statistically significant. On average, defendants who were sentenced in a Republican controlled district received 1.84 months more on their sentence when compared to Democratic controlled districts ($b=.612$, $p<.001$). The results provide support for Hypothesis 2 as Republican affiliated districts should provide longer sentences when compared to Democratic affiliated districts.

CHAPTER V

DISCUSSION

The research question in this study focused on examining the impacts of political affiliation of federal districts on sentencing outcomes. It was hypothesized that federal districts that were labeled as Republican would provide longer sentences for illegal re-entry when compared to federal districts labeled as Democratic. Regarding the in/out decision, it was hypothesized that Republican districts would be more likely to provide offenders with a term of incarceration rather than release/probation when compared when compared to Democratic districts.

The findings from the study provide support for Hypothesis 2, but not Hypothesis 1. Republican districts were seen to provide offenders with longer sentences within the percent Republican model as well as the Democratic or Republican controlled model when compared to Democratic districts. The percent Republican model showed that defendants received 1.02 months more when sentenced in a Republican percent districts compared to a Democratic percent district. The Democratic or Republican controlled court district variable showed that defendants received 1.84 months more when sentenced in Republican controlled districts compared to Democratic controlled districts.

However, in both the percent Republican model and the Democratic or Republican controlled model, Republican districts were shown to be less likely to provide defendants with a term of incarceration when compared to Democratic districts. The percent Republican model showed that percent Republican districts were 7.9% less likely to provide defendants with a term of incarceration when compared to Democratic affiliated districts. The Democratic or Republican

controlled variable showed to be a stronger variable and results indicated that Republican controlled districts were 30.7% less likely to provide defendants with a term of incarceration when compared to Democratic controlled districts.

Political Affiliation

Little research has involved political affiliation among federal districts and examined the effects on sentencing outcomes for immigration offenses. This study sought to understand the influence that political affiliation might have regarding immigration offenses due to the heightened political debate surrounding noncitizens. Surprisingly, the Democratic or Republican controlled variable had more strength when compared to the percent Republican variable. Percent Republican was measured using county votes for Trump in the 2016 election. As federal court jurisdictions follow county lines, percent Republican should have been a stronger variable. Democratic or Republican controlled districts was more of a macro analysis of political affiliation and was measured using House of Representative seats for the 2016 election.

The results of the study resembled results of Hartley and Tillyer (2012), in which southwestern border districts sentenced harsher among immigration offenses when compared to non-southwestern border districts. The majority of cases involving illegal re-entry were sentenced throughout the southwestern border which included Texas, New Mexico, Arizona, California. These southern states frequently deal with the most amount of immigration offenses with the Mexico border being connected to them. In the sample, the largest portion of illegal re-entry offenses came from Texas. The state of Texas has shown to have strong Republican affiliations which promotes harsher sanctions for noncitizens and increased border security.

Similar to the explanation from Hartley and Tillyer (2012), harsher sanctions from Republican districts could be explained through immigrant threat and deterring non-citizens from engaging in illegal re-entry. Harsher penalties among immigrants throughout southwestern border districts who frequently deal with cases involving immigration could act as a deterrence, political agenda, and threat of immigration.

As more federal districts begin to see immigration cases, there is more variation in political affiliation as well. Districts who have more exposure to immigration offenses involved states throughout the southwestern border (Hartley & Tillyer, 2012). Districts around the southwestern border have more exposure to these types of immigration offenses. Other southwestern bordering states are getting more exposure than they have throughout the years creating variation in political affiliations. The majority of immigration offenses are sentenced in Texas. However, California and Arizona have seen an increase in immigration offenses as well. Following Ulmer and Parker (2019), Democratic affiliated districts have not frequently processed immigration offenses until the rapid growth of immigration offenses throughout federal courts. A possible explanation for lenient sentences could be from lack of exposure as well as political incentives.

Republican %

The percent Republican variable was measured using county votes on the 2016 presidential election. For the in/out variable, percent Republican was statistically significant. Defendants who were sentenced in Republican percent districts were 7.9% less likely to receive a prison sentence when compared to Democratic percent districts. The findings for the in/out analyses do not provide support for Hypothesis 1 by showing a decreased odd of receiving a prison sentence if sentenced in a Republican controlled district. This is an extremely interesting

finding as previous research has shown Republican ideologies support anti-immigration policies and seek harsher punishments for noncitizens. For sentence length, defendants who were sentenced in Republican controlled districts received 1.02 months more on their sentence when compared to defendants sentenced in Democratic controlled districts. This finding did follow previous research as conservative ideologies seek harsher punishments for noncitizens, heightened border security, and support anti-immigration policies (Harteveld et al., 2017).

Analysis provided support that districts with strong Republican affiliations were less likely to provide noncitizen offenders with a term of incarceration. However, if a prison sentence was provided, Republican districts were shown to provide longer sentences for illegal re-entry charges when compared to district with strong Democratic affiliations. A potential explanation for this could be that Republican affiliated districts frequently process immigration offenses where prisons could be at max capacity, budget constraints are present, or illegal re-entry has become a normal crime that is frequently occurring. Instead of providing a term of imprisonment, Republican districts may deport immigrants at a higher rate or drop charges to increase case processing. Due to the drastic increase of immigration offenses in the southwestern border, Republican affiliated districts may see illegal re-entry as a normal crime with more of these specific cases being processed. An increase in exposure to immigration offenses may involve dropping charges and providing less terms of incarceration.

Democratic affiliated districts do not frequently process immigration offenses where the crime is not normalized, so they may have less organizational and practical constraints in mind. If Republican affiliated districts did provide a term of incarceration, then results showed that defendants were provided with longer sentences when compared to Democratic districts. Republican affiliated districts may have organizational and practical constraints in mind before

deciding to incarcerate defendants. However, results suggest that when they do choose to provide defendants with a term of incarceration, they may choose a lengthier sentence to act as a deterrence or keep defendants from re-offending.

Democratic or Republican Controlled

The Democratic or Republican controlled variable was measured using House of Representative votes from the 2016 election. For the in/out regression analysis, Democratic or Republican controlled was statistically significant similar to the percent Republican. Defendants who were sentenced in Republican controlled districts were 30.7% less likely to receive a prison sentence when compared to defendants sentenced in Democratic controlled districts. Democratic or Republican controlled did not support Hypothesis 1 by showing that Republican controlled districts were less likely to provide a prison sentence for illegal re-entry when compared to Democratic controlled districts. Democratic or Republican controlled provided support for Hypothesis 2. Results indicated that defendants sentenced in Republican controlled districts had 1.84 months more on their sentence when compared to defendants who were sentenced in Democratic controlled districts.

For sentence length, Democratic or Republican controlled was statistically significant as well as the second strongest variable throughout the sample with a Beta value of .244. The strongest variable being the guideline minimum sentence. Previous research has identified that guideline minimum sentence, case processing variables, and criminal history score have had the strongest influence when determining sentencing outcomes (Steffensmeier et. al., 1998). The results of the study showed that Democratic or Republican controlled variable was a stronger variable than criminal history score ($B=.126$) and plea/trial ($B=.022$). This is a very interesting find considering political affiliation was shown to have a stronger impact when compared to

some legal /case processing variables. Federal guidelines mandated that sentencing outcomes would revolve around criminal history, the evidence against the defendant, offense seriousness, and legal factors of the case instead of demographic or extralegal characteristics (United States Sentencing Commission, 2016). Most research on legal factors throughout federal sentencing has established that legal factors have a stronger impact when compared to extralegal factors. Results showed that extralegal factors such as political affiliation may have more of an impact on federal sentencing than some legal factors described in the federal guidelines.

Case Processing/Legal

As previous research has shown, the minimum guideline sentence is one of the strongest legal factors when determining sentencing outcomes (Hartley & Tillyer, 2012). For the in/out regression, defendants were more likely to receive a term of incarceration if the guideline sentence recommended it. Previous research has shown that judges typically are more lenient compared to the guideline minimum sentence and provide offenders with less than what the guideline says to (Steffensmeier & Demuth, 2001). Judicial discretion is used in order to provide offenders with a sentence that seems fit per all of the mitigating circumstances. The results of the percent Republican linear regression indicated that judges actually sentenced 1.99 months more than the guideline recommended sentence. For the Democratic or Republican controlled variable, judges were shown to sentence 1.86 months above the guideline recommended sentence. Sentencing above the guideline recommended sentence could be in response to the rapid increase of immigration offenses throughout federal courts and in relation to the political climate. Longer sentences may be provided to act as a deterrence from noncitizen offenders.

The results indicated that criminal history score was statistically significant as well and a strong consideration when determining sentencing outcomes. Similar to previous research,

defendants with a higher criminal history score category were more likely to receive a prison sentence when compared to defendants with a lower criminal history score. For the sample, 100% of the defendants had a criminal history. As the offense is illegal re-entry, the results are not surprising. For sentence length, defendants with a higher criminal history score received longer sentences when compared to defendants who had a lower criminal history score.

The results resembled previous research with an increased likelihood of receiving a prison sentence if the defendant chose to go to trial over taking a plea bargain. Trial is an extremely time consuming and expensive process that has been shown to provide offenders with harsher punishments (Steffensmeier & Demuth, 2001). For noncitizens, fast track programs have provided offenders with more lenient sentences, options aside from deportation, and efficient cases if they choose to plead guilty to their charges (Hartley & Tillyer, 2012). Noncitizens are encouraged to go through fast-track programs in order to benefit their cases and use as little resources possible on noncitizen offenders throughout the federal court system.

For sentence length, plea/trial was statistically significant and defendants who chose to go to trial had harsher sentences when compared to defendants who settle with a plea bargain. The results resemble previous research on the decision of plea or trial by showing the benefits of settling in a plea versus going to trial. As research has shown, noncitizen offenders are not providing with the same resources as United States citizens and results show that going to trial puts them at an even greater disadvantage.

Demographic Characteristics

Gender

In the sample, male defendants were shown to have harsher sentences. The results on gender follows previous research on gender disparities throughout sentencing with providing an explanation of females engaging in less crime and gender norms stereotypes (Kim et al., 2019). Previous research has uncovered that female defendants often are provided with more lenient sentences than their male counterparts. Only 3.9% of the sample were female, so there is very little variation among gender. Gender was not statistically significant throughout the in/out analysis, however a possibly for this is most likely related to the limited number of female defendants that were represented in the sample. Previous research has also indicated that judges sentence women more leniently when they have children and dependents who would struggle in her absence (Kim et al., 2019). The results of the sentence length regression support previous research and was statistically significant. However, the number of dependents was not statistically significant among the in/out analysis. There was no significant difference in the likelihood of incarceration compared to receiving parole or probation for defendants who had dependents versus defendants who had no dependents.

Age

Previous research has shown that older defendants are shown more leniency in their sentence when compared to younger defendants. However, the results of the study did not support previous research. In both linear regressions, older defendants were sentenced more harshly than younger defendants. Previous research has shown that age is put into consideration by judges when determining a sentence and that younger defendants tend to receive harsher

punishments than older defendants (Mueller-Johnson & Dhimi, 2009). In the sample, the average age for defendants was 35.86. For sentence length, on average younger defendants were shown to receive less on their sentences in both sentence length linear models. Previous research has shown that the number of dependents a defendant has is put into consideration when receiving a prison sentence (Kim et al., 2019). Previous research has also shown that older defendants are more likely to have a family to support, dependents to look after, and more responsibilities that a prison sentence would interfere with, creating an odd finding in this research. However, when explaining what factors impact the in/out decision, age was not statistically significant.

Education

The results indicated that education was not statistically significant in both the in/out decision and sentence length. Previous research has shown that defendants with lower educational obtainment are sentenced harsher than defendants with a higher education. The analysis did not support prior research on educational obtainment. A possible explanation for lack of significance could be the little variation among educational levels. Previous research has shown that offenders with lower education tend to have less resources, less income, and are more likely to be unemployed when compared to defendants with higher levels of education (Mustard, 2001). Research has shown that immigrants are more likely than U.S. citizens to be living in poverty and have lower levels of education (Young et al., 2018).

Country of Citizenship

Most of the research on sentencing has involved race of the defendant, however little research has examined the effects of a defendant's county of citizenship on sentencing decisions.

The results indicated that country of citizenship from Central America and Caribbean Sea Nations were statistically significant among sentence length. Defendants who had a country of citizenship from Central America or Caribbean Sea Nations received longer sentences when compared to defendants who had citizenship in Mexico. For the in/out regression, only Caribbean Sea Nations and citizenship other than Mexico, South America, Central America, or Caribbean Sea Nations was statistically significant. The in/out regression analyses showed that defendants who had citizenship in Caribbean Sea Nations and citizenship in a country other than Mexico, South America, Central America, and Caribbean Sea Nations were less likely to receive a prison sentence versus parole when compared to defendants with citizenship in Mexico.

79% of the defendants had citizenship from Mexico. This was not surprising; the highest amount of immigration offenses occur throughout the southwestern border. Research has shown that majority of defendants among immigration offenses are Hispanic and immigrating from Mexico (Ulmer & Parker, 2019). As immigration remains a controversial political debate, most debate revolves around the southwestern border states with immigrants specifically migrating from Mexico. Federal districts that frequently process immigration cases are exposed to a heightened amount of citizenship from Mexico. The less frequency of cases involving a defendant's country of citizenship being from a country other than Mexico could create less leniency on sentence length.

CHAPTER VI

CONCLUSION

Although there has been a limited amount of research done on political affiliation throughout federal sentencing, it is important to recognize the influence that political affiliation may have on federal sentencing of immigration offenses. Researchers have long recognized the impacts of extralegal, legal, and case processing factors on federal sentencing however little quantitative research has involved the influence of political affiliation of federal districts among immigration offenses.

This research sought to fill the gaps to understand the influence that political affiliation of federal districts could have on sentencing outcomes for an immigration offense involving illegal re-entry. The results of the study allowed an acceptance of Hypothesis 2, but not Hypothesis 1. Surprisingly, the Democratic or Republican controlled variable was one of the strongest variables in the following models. Results indicated that political affiliation was shown to have more strength than criminal history score. It is important to understand the possible influence that political affiliation of federal districts could have on sentencing outcomes for immigration offenses.

As immigration offenses rapidly increase throughout federal courts, more variation in political affiliations of districts will be present. For 2016, a large portion of immigration offenses were present throughout Texas. As immigration cases remain steadily rising, the more exposure surrounding states will have to immigration cases. Other states who were not frequently exposed to immigration offenses will begin to have more exposure creating new immigrant destinations (Ulmer & Parker (2019). As new immigrant destinations obtain more exposure, variations in

political affiliations of districts may lessen the strength of political affiliation among sentencing outcomes. As mostly Republican districts have frequent exposure to immigration offenses, an increase in exposure to immigration offenses from Democratic affiliated districts could decrease significance of this variable.

Limitations

As with any study, there are limitations regarding the generalization of results. Immigration offenses were the largest amount of cases throughout federal sentencing for the fiscal year of 2015-2016 with 20,051 offenses. After including only illegal re-entry offenses, single charges only, only cases that received a prison sentence, and excluding the missing cases, the sample size fell to 10,665. With a smaller sample size, generalizations cannot be made about the influence of political affiliation among all immigration offenses or on other sentencing variables.

Creating a measure for political affiliation was difficult, as there are a variety of political variation among states, counties, and federal jurisdictions. Although there are many states that have a strong majority Democratic and majority Republican, there are also states that are swing states and states that have third parties. Third parties were not identified throughout the measure, however third or independent parties have importance throughout political affiliation as well that are not analyzed in the study. For swing states, the Presidential and House of Representative election for 2016 was used to measure both political affiliation measures. To account for changes in swing states throughout elections, an analysis of the 2012 and 2020 election results would be needed in order to compare to the 2016 election results. However, the 2016 Monitoring of Federal Sentencing Data was the most recent federal sentencing data.

When determining a measure for political affiliation, it was recognized that states did not match up to federal court jurisdictions. For the Democratic or Republican controlled variable, House of Representatives and congressional districts were chosen as a macro measure of political affiliation. Although a strong measure, federal court jurisdictions did not match up to congressional districts and house seats. To account for the political affiliation of each federal court, congressional districts were added to the sum of each federal jurisdiction if the congressional districts went through multiple federal court jurisdictions. As federal court jurisdictions follow county lines, it was a choice to allocate congressional districts within both federal jurisdictions in which it resides in order to account for political variation.

A possible limitation needed to analyze the effect of political affiliation is a variable measuring southwestern border districts similar to Hartley and Tillyer (2012). Southwestern border districts are frequently processing the most immigration offenses as they have states touching the Mexico border. Southwestern border states include Texas, Arizona, New Mexico, and California. With most of immigration offenses being processed in these southwestern border states, sentencing outcomes could be affected from frequently processing immigration offenses rather than political affiliation of federal districts.

A possible limitation that is recognized among the political affiliation measure remains gerrymandering of congressional districts. Gerrymandering is practiced throughout the political arena to adopt an unfair advantage to favor a political party by manipulating federal district maps (Chen & Rodden, 2013). To determine the number of congressional districts a state receives; a state relies on the census population report. The larger population size, the more congressional districts a state receives to account for all political variation among the state. When determining house seats, districts may use gerrymandering to favor a political party to increase that political

party among house seats. Gerrymandering creates political lines instead of community lines and could impact court jurisdictions. The 2016 election data could have gerrymandering and is recognized as a limitation throughout the political affiliation measure.

Future Research

To have a better understanding of political affiliation, presidential election results from multiple elections needs to be analyzed and compared to the 2016 election results. More research needs to be involving the impacts of political affiliation throughout sentencing outcomes on not only immigration offenses but other offenses as well. The purpose of this study was to examine the impacts of political affiliation of districts among immigration offenses. Understanding the impacts of political affiliation of federal districts will benefit case processing of immigration offenses by understanding certain disparities that noncitizens are burdened with. This study also brings attention to future research involving the influence of political affiliation among various extralegal disparities throughout federal sentencing as well.

There is a dire need for future research to focus on improving case processing for non-citizens throughout federal courts, diminish political narratives on noncitizens, and examine the influence of political affiliation among sentencing outcomes. To begin, fast track programs need to be evaluated and discrimination among noncitizen offenders need to be addressed. Fast track programs insist on plea bargains in order to quickly process cases, however, there has been little research on the effectiveness of fast-track programs for noncitizens. As harsher narratives are created for immigrants among political affiliations, sentencing outcomes for immigrant defendants are reflecting these narratives. Future research needs to remain involving the influence of political affiliation on sentencing outcomes for immigration offenses and work on improving fast track programs for noncitizen defendants.

The current study focused solely on immigration offenses involving illegal re-entry, however future research needs to examine the influence of political affiliation of districts among all immigration offenses. As immigration offenses steadily rise throughout federal courts, it would be beneficial for future research to examine multiple immigration offenses to see if the strength of political affiliation of districts varies. There are an increased likelihood of variation in immigration offenses which creates a larger sample size for multiple immigration offenses to be examined.

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