Effect of Race and Education on Plea Outcomes for Public Defender Clients

By

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DEDICATION

This study is dedicated to the underdogs. Those who were knocked down, pushed around, and overlooked. In hopes that this work will find you and remind you that one thing you are amazing at, is that you just do not know when to quit.

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ABSTRACT

Plea bargains are a negotiated process between a prosecutor, judge, defense attorney/public defender, and defendant where an individual facing criminal charges pleads guilty in exchange for a lesser charge, lesser sentence, or dropped charges. Plea bargains are deeply rooted within the U.S. legal history and have shaped laws and legal procedures. Between 98-99 percent of convictions in the United States result from some form of plea bargaining; very few cases go to trial. Although extremely common and beneficial on many levels, this process is not without critics. Beyond actual innocence, there are questions about the fairness of plea deals for defendants. The research question for my thesis is: *how does race and educational level of a defendant explain the case disposition for those accepting a guilty plea*? I use secondary data from a single county in Tennessee compiled from public defender's (PD) records for the years 2016-2019 to examine four case outcomes: cases dismissed, deferred to probation, guilty to a lesser charge, and guilt as charged. Of the 6,800 cases, nearly 60 percent of cases were guilty as charged and only a smaller percentage (3.5%) were deferred to probation. White clients were more likely to plead guilty as charged compared to Black clients. Those with higher education were more likely to have cases dismissed or deferred to probation. In addition, younger ages and females were more likely to negotiate lesser charges, be deferred to probation, or have their cases dismissed than older, male clients. Felony cases were more likely to negotiate lesser charges than misdemeanor cases. Implications of these findings and limitations of the data are discussed.

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INTRODUCTION

Plea bargains are a negotiated process between a prosecutor, judge, defense attorney/public defender, and defendant where an individual facing criminal charges pleads guilty in exchange for a lesser charge, lesser sentence, or dropped charges. Plea bargains are deeply rooted within the U.S. legal history and have shaped laws and legal procedures. They have become a doorway for the judge, prosecution, defense attorney, and defendant to meet on common ground (Tor, 2010, p. 97).

A prime example of this process was the case of North Carolina vs. Henry C. Alford (1970). The case began where a twenty-four-year-old was found raped and murdered in her home. The police arrested two men, including Henry C. Alford. The men were offered a plea deal that if they admitted to the crime and accepted a guilty plea then they would not have to serve anytime. The other man involved took the guilty plea deal and was immediately released, but forever labeled a murderer. Alford, on the other hand, did not accept the deal, maintained his innocence, but agreed to a lesser charge and was sentenced to thirty years in prison for second-degree murder. Today, this type of plea is known as an Alford Plea. In most plea deals, defendants are required to accept guilt for the crime in order to receive the "deal" of a reduced charge or sentence. In the Alford Plea, a defendant may still profess their innocence while under a plea deal. In 2006, Alford was proved innocent through DNA evidence and was set free after serving time in prison (Rose, 2017).

While a small percentage of cases rely on Alford Pleas, between 98-99 percent of convictions in the United States result from some form of plea bargaining. By estimations, a criminal case is resolved by plea bargains every two seconds during a

typical work week (Subramanian, Washington & Sorage, 2020, p.7). Today, guilty pleas are essentially a “foregone conclusion” and the accepted machinery of the criminal legal system (Edkins & Redlich, 2019, p. 2).

Within the U.S. criminal legal system, plea bargains are an agreement between the defense and the prosecution. The plea bargain is offered to defendants who face criminal charges in hopes having their charges dropped, lessening the sentence, or avoiding a trial. It is this agreement that will conclude with a guilty plea. All parties have the power to negotiate terms and conditions of the bargain, however this fact is sometimes unknown to many. Often plea bargains are pushed more than trials because the prosecutors and defense attorneys are limited by time restrictions and heavy caseloads forcing them to make court cases run as fast and smoothly as possible; for example, only a fraction of cases goes to trial (Gilchrist, 2011).

Although extremely common and beneficial on many levels, this process is not without critics. The Innocence Project & The Innocence Network (2018) focus on the guilty plea problem which includes not only the high number of cases resolved using pleas but the question of why someone who professes their innocence would still plead guilty. This organization has gained national recognition for compiling information from former defendants' testimonies who accepted a plea deal and were later proven innocent. Many of their participants who were convicted felt like it was the best decision and maybe even an opportunity to clear their conscience. Others, who were innocent or could prove they had minimum involvement and responsibility for the crime, felt accepting a plea gave them a sense of certainly, knowing their future and having the power to dictate what happens next. By bringing attention to cases of actual innocence, attorneys in this

organization began asking other questions about plea bargaining: does the plea bargain benefit the defendant or is it a benefit of the court to have everyone sign a plea deal and save on trial costs? For all involved, perhaps a plea deal shortens the time it would take for a trial? Additionally, might pleas increase the defense attorney's ability to obtain lower sentences for their clients, give the prosecutor a higher conviction rate, or allow a judge to show they are fighting crime while saving the state money (The Innocence Project & The Innocence Network, 2018)? These are all important questions surrounding the use of plea deals in the U.S. criminal legal system.

However, beyond actual innocence, there are questions about the fairness of plea deals for defendants. Who is most likely to receive a plea offer? To what extent do plea deals provide better outcomes for defendants? Does the offer of a plea deal and/or the outcomes of the bargain vary by defendant characteristics? The research question for my thesis is: *how does race and educational level of a defendant explain the case disposition and sentence received once accepting a guilty plea*? Addressing this issue and question continues an on-going discussion on the reasons why people take plea deals and if plea bargains are the best outcome for a defendant. In particular, any evidence of racial disparities in case outcomes, especially as compared to defendant educational level (and other relevant legal/extralegal factors) are assessed.

BACKGROUND

The origins of plea bargains are unknown and debated, but legal scholars place plea bargains at the beginning of the United States criminal legal system. Alschuler (1979, p. 4) estimates the birth of the plea bargains during 17th century England as a way of limiting the overuse of harsh punishment. It was not until the 19th century that plea

bargains became more frequent when the courts were having difficulties "proving the negative" (p. 5). Proving the negative occurred when there was not enough evidence to prove the defendant guilty and the court began to operate outside of the traditional law books. Plea bargains (also known as plea deals) began in the 1830s and the 1840s in America to create a functioning law where the courts did not have to intervene in every case. By doing this, their purpose was removing those who use the rule to benefit their own interest (Vogel, 1999).

Prior to the 20th century, few cases were settled by plea bargains but after the 20th century, they became the dominate form of criminal convictions. The U.S. Supreme Court, which had opposed plea bargaining, showed clear approval around the 1970s (Edkins & Redlich, 2019). Guilty plea rates increased from the 1970s which were at about 70 percent to 95 percent in the 2000s. By the 1990s plea rate percentages held steady at 90 percent felony offenders in urban areas; this increased to 97 percent by 2009 (Testa, A., & Johnson, 2020, p. 501 & 504).

Types of Plea Bargains

Since plea bargains were first introduced, prosecutors have developed and used several types of deals that offer benefits to the defendant and increase the likelihood that they would take a plea. The defendant could either take a guilty plea or a no contest plea. A guilty plea is the defendant admitting to guilt and involvement in a criminal event. However, a no contest plea is the defendant not admitting to the crime but results in the defendant having a criminal record. Typically, plea bargains are categorized as four different types.

The first type of plea bargain, *Charge Bargains,* is when the defendant agrees to plead guilty to a lesser charge from their original charge. When a defendant is offered or negotiates a lesser charge they may be seen as less of a threat to themselves and others; they would have more opportunities to rebuild their life after legal procedures and not completely outcast by society (Justia, 2019).

Sentencing Bargains are the second commonly used form of pleas. This is when a prosecutor recommends a lower sentence in exchange for the defendant pleading guilty. If the defendant agrees to confess and accept the charges they face, then the prosecutor will speak on their behalf to get them a lesser sentence. This means the prosecutor will show evidence that the defendant is taking accountability for the events that lead to the charges and they will be rewarded with less time (Justia, 2019).

A third type of plea deal is *Count Bargaining.* When a defendant is facing multiple charges, they agree to plead guilty to some of the charges to get the other charges dropped.

The last type of plea deal is *Fact Bargaining.* This occurs when aggravating factors like lack of remorse, amount of harm to the victim, and other "facts" of a case play a role in an increased sentence to a defendant. That is, the prosecution will overlook the aggravating factors during sentencing (Justia, 2019). Each of these types of plea bargaining were applied to the case of Ariel Castro. He was charged in Ohio in 2013 with kidnapping three women and holding them in captivity for more than a decade. His charges included over 977 counts and he was facing the death penalty. To avoid the death penalty, he signed a plea deal agreeing to confess to the crime in exchange for life in prison without parole plus an additional 1,000 years (McLaughlin, 2013).

The Role of Public Defenders

Being represented by an attorney is right that all defendants share, but many lack the resources to hire an attorney. In most states, a public defender is appointed to them if they meet certain requirements including financial need (e.g., income must be below 125% of the federal poverty guideline or decided on by the judge, see Johnson, 2020). According to Harlow (2000), public defenders represent 82% of defendants in urban areas. In 2007, there were 957 public defenders across the United States who received more than 5.5 million cases. It was not until 2007, that the States enacted a cap on how many defendants a public defender could represent at a time (Langton & Farole, Jr., 2010, p. 1). Even today, though, public defenders carry heavy caseloads not in line with these caps, and as a result, counsel can legally refuse/withdraw from a case because of caseload or inadequate time/funding. This is problematic since the right to counsel is the primary safeguard for defendant's plea bargains. Although these caps vary by state, a small county-based office may have fewer than 1000 cases per year whereas a large office may have 5000+ cases. On average, a public defender's annual caseload would not exceed 150 felony, 400 misdemeanor, or 200 juvenile cases, for example. Public defender offices in Tennessee are based at the county-level, are funded by the state, and are one of only two states where they are elected. Smaller counties in Tennessee may have, on average, eight (or fewer) attorneys. In Nashville, the public defender's office is staffed with 80 people, 47 of whom are attorneys. The office is also divided into two divisions, one being for juvenile cases and the other the adult division (Johnson, 2020).

The largest factors affecting defendants who are represented by public defenders include funding, heavy caseload, and limited opportunities to actually meet with clients.

These deficits lead many to perceive that defendants represented by public defenders are at a disadvantage from the outset compared to those with private attorneys. Champion (1989), in a study that included Tennessee, reported that only 11% of cases represented by a public defender were dropped compared of 48% of cases involving private attorneys (as cited in Henderson, 2019). In addition, the vast majority of those surveyed responded that representation makes a difference when it comes to plea negotiations, with more favorable outcomes for those with private attorneys, and less favorable outcomes for those with public defenders. Some studies show equal plea acceptance rates regardless of type of counsel (Henderson, 2019). However, Harlow (2000) found that those with public defenders had more favorable outcomes, for example, less jail time, than those with assigned counsel. The most likely explanation is due to the "courtroom working model" which stresses cooperation between prosecutors and public defenders rather than an adversarial model.

The Plea Bargain Controversy

United States courts are based on a common law system and set up as an adversarial model where prosecutors and defense attorneys representing opposing sides present evidence before the court, judge, and jury to decide the outcome of a case. There are many assumptions to this model including that defendants are presumed innocent until proven guilty, the rights of defendants are upheld, and justice will result. One party will "win". Although this is how the system works in some cases, this is not a reality for most cases. Instead, cases tend to resemble a "courtroom working group model" (Kipnis, 1976). In this model, prosecutors, defense attorneys (particularly public defenders), and judges work together to ensure that courts run efficiently, presumably for all parties

involved. In this model, cases rarely go to trial and defendants are encouraged/expected pled guilty or accept plea deals. It is a way to handle heavy caseloads, avoid delays in the court docket, and manage court resources. While efficiency is pursued, due process can be neglected, and violations of rights may go unquestioned in favor of speed and smooth court operations.

While the Sixth Amendment declares the right to a public trial in front of one's peers, cases rarely go to trial; when/if they do, minorities are left with little representation of themselves within the jury, judge, prosecution, or the defense attorney. Over 95% of prosecutors are White (DuVernay, 2016). In addition, there is a "robust literature that finds stark differences in punishments for plea and trial convictions" which is often referred to as a trial penalty (Johnson, 2019, p. 92). For example, in federal drug cases the average sentence for those who accept a guilty plea is five years four months compared to 16 years for cases without a plea (Edkins and Redlich, 2019, p. 2).

Since plea bargains are used so often, they carry with them a lot of debate and questions about defendant decision-making including whether plea bargains are the best decision, and how plea bargains accurately compare within the possible convictions. The most popular explanation of decision making is the "shadow of the trial" model (Bushway, 2014, p. 723-754). In the simplest form, defendants weigh the probability and outcome of conviction based on a plea or trial. The idea is to avoid trial if the odds are against the defendant. This includes the odds of conviction and/or harsher sentences. Defendants are offered shorter sentences in order to convince them to plead guilty and take responsibility for the events leading to criminal charges. However, some studies show that the plea bargain is of benefit to the defense attorney more so than the actual

defendant (Conklin, 2018). Thus, many, including critical race theorists, argue that this "rational" model is too simplistic (Bibas, 2004). It ignores the question of innocence, other court actors' interests, and larger structural factors such as implicit/systemic bias that affect offers and decision-making.

THEORETICAL FRAMEWORK

The most relevant theory for understanding racial disparities in plea bargaining and case outcomes is Critical Race Theory (Bell, 1985). Critical race theorists argue that the law and the legal system is inherently racist due to the fact individuals involved in the legal system like judges, attorneys, police officers, and etc. uphold aa social, economic, and political inequalities against those who are non-white. Critical Race Theory's origins can be traced to critical sociological theories of the 1960s and 1970s which emerged around the time of the Civil Rights Movement. Critical Legal studies was first to introduce he idea that the law and legal system was based on inequalities. Critical Race Theories applied race to these ideas and officially became recognized as a theory in the 1980s. The theory is based on several sociologist tenets: first, race is not a natural construct but a social construct. Second, racism in the United States is normal and lastly, the setback of a person of color is used in the best interest of the dominant white social class (Taylor, 1998).

Crenshaw (2005) added the ideas of intersectionality to Critical Race Theory. While Critical Race Theory points to race, intersectionality emphasizes how racism, sexism, and other forms of discrimination intersect to affect outcomes. For example, Black females compared to White females share a minority status as female but Black females experience both racism and sexism. Likewise, Black males may not experience

sexism but their experiences with racism are unique compared to White males and females. In sum, no one has just one social identity or location, but multiple intersecting experiences.

In addition to Critical Race Theory, social capital theories can help us understand the law and legal system and how race, its intersection with sex, and educational level may impact defendants. Social capital theory was first introduced by Pierre Bourdieu (1986) in his theory of habitus. Later, the concept was elaborated to specific the way community and family help individuals develop human capital (Acar, 2001). Education is one example of social capital. Higher levels of education increase community and social capital and provide individuals resources which include both economic and cultural capital. All forms of capital influence perceptions of individuals as capable, responsible, and important to society which can affect outcomes. Those with more capital have better outcomes compared to those with less capital. Applied to race and using an intersectional lens, people of color and those who experience multiple form of oppression may have less social capital. However, social capital can improve outcomes even as individuals experience discrimination.

LITERATURE REVIEW

Research that examines plea bargains takes one of two forms. In the first, and seemingly most common, respondents are presented with hypothetical scenarios or vignettes about a case, its probability of conviction, evidence, legal factors and extralegal factors (e.g., race). An experimental condition is set up to alter these factors and test the "shadow of the trial" model (described above). The primary question is: given these conditions/under which conditions would someone accept plea deal or go to trial.

Samples in these types of studies include university students and the general public as well as court actors such as prosecutors and defense attorneys (Bushway, 2019). With few exceptions, actual defendants are not included in this research (Bordens & Bassett, 1985).

For example, Bordens (1984) administered a mock-trial survey to 442 male and female students from an introductory psychology course at Indiana University at Fort Wayne and asked them whether they would take a plea deal under various conditions. He listed four known variables: the sentence the defendant would receive if they took the plea deal which was between six months' probation to the maximum of three years in prison; the advice of the defense attorney with a likelihood of conviction from either ten percent, fifty percent, or ninety percent rate; the value of the sentence they would receive if they reject the plea deal which would add between one to five years more to their sentence; and whether they were innocent or guilty (Bordens, 1984, p. 63). He found that, overall, those who play the role of guilty took a plea bargain more often than those who played the role of innocent. However, 20.3% of those who were innocent accepted the plea deal (79.6 % of those who were guilty accepted the plea deal). Even those who were innocent and had a conviction as low as ten percent went to trial. Those with higher convictions were more likely to take a plea deal even when facing a 50 to 50 chance of being convicted (p. 66). Bordens found that based on previous evidence innocent defendants sometimes make these decisions because of the risk of prison time that they face if convicted. He noticed from previous studies that those who knew they were innocent where less likely to accept a plea bargain than those guilty of the crime. The lines did not get blurred until those who knew for certain they were going to be

convicted. Even innocent subjects began to accept plea bargains to cut their losses in hopes of receiving probation (Bordens, 1984, p. 72)

In another more recent example, Michael Conklin (2019) conducted a study on how legal counsel's level of experience affected their willingness to accept the plea deal. The study factored in variables like race, gender, and political affliction to provide a more detailed understanding of the defendant's decision making. It tested defense attorneys (n=152) predictions on the likelihood of the trial conviction and whether after consulting with their clients, defendants would take the plea deal. The overall results were to reject the plea deal and go to trial with an experienced attorney when trials had a lower conviction rate. Male defense attorneys were more likely to take the case to trial compared to women defense attorneys. Conservatives were two and a half times more times likely than Liberals to alter their decision based on innocent and guilty defendants. Lastly, white defendants were more likely to be pushed to go to trial versus Hispanic and Black defendants (Conklin, 2019, p. 413-414).

The second common line of research on plea bargains examines administrative data from court files and criminal legal processing records either at the state level or county level. The researchers also use data from public defender records. This approach is not without limitations. If 95 percent or more of cases result in pleas it is difficult to impossible to test the "shadow of the trial" model or attempt to predict sentence discounts. These are either unknown, or highly variable (Bushway, 2019). It is also the case, as with all secondary data, that missing information or important variables are not included for analysis. Despite these limitations, a small body of research has used this approach and has done so with the purpose of examining how defendant characteristics

affect plea bargaining; in particular, researchers have focused on racial differences and bias in outcomes.

Frenzel and Ball (2008) used a single year (1998) of offense and judicial records from Pennsylvania to examine race, sex, and age as variables that impacted the plea negations and trials (n=3,421). The sample was made up as 66.7% Black and 88.7% male defendants with the average age being 28 years. Their first hypothesis was that the race, sex, and age of the offender would have a significant effect on whether the defendant received a negotiated plea or a non-negotiated plea. Secondly, they hypothesis that the race, sex, and age of the defendant would impact if the defendant was advised by their defense attorney to go to trial or take a negotiated plea deal (Frenzel & Ball, 2008, p. 66). They found that male offenders were more likely to receive a negotiated plea compared female offenders than go to trial. Black offenders were less likely than White offenders to receive a negotiated plea, Black and Hispanic offenders were more likely to go to trial than White offenders. Legal factors were also important: offenders who committed property crimes were more likely to have charges in a negotiated plea than go to trial as were those with fewer previous convictions (Frenzel & Ball, 2008, p. 74 & 75).

Testa and Johnson (2020) used data from Maryland which contained detailed information on offenders and case-processing characteristics. The cases occurred from January 1, 2012 to June 30, 2015 and focused on trials and plea bargains. In total, they had 24,854 offenders in the sample size. More than half of the participants were males with an average age of 32 years old. Black defendants were overrepresented in the study accounting for two-thirds of the participants. Most of the defendants were represented by public defenders. They hypothesized that Black and Latino defendants would be less

likely than Whites who experience similar charges and case characteristics to plead guilty and more likely to go to trial. In other words, young minority males would rather go to trial than take a plea deal. Additionally, Black and Latinos would not agree to open pleas and those that were non-negotiated compared to White defendants. Lastly, Black and Latinos would be more likely to enter a legally binding plea by the court than their White counterparts (Testa & Johnson, 2020, p. 507 & 508). However, they found small differences in outcomes based on race: "Ninety-six percent of White defendants entered a plea of guilty compared with 93% of Blacks and 91% of Latinos" (Testa & Johnson, 2020, p. 512-514).

While their study was not able to show the racial disparities within felony crime, they did find that racial disparities tend to occur in property or drug cases. Their analysis supported the idea that minorities have a higher sentence and are treated more severely when it comes to less serious crimes. In the article, Testa & Johnson define this as the "liberation hypothesis" where legal representatives and judges, because of the power to apply their own rules and regulations, began to use their own bias to implicate stricter penalties on minor crimes committed by minorities (Testa & Johnson, 2020, p. 521).

A similar study of Wisconsin Circuit Court records by Cerbejo (2018) examined racial disparities in plea outcomes and sentences. Based on over 48,000 felony and misdemeanor cases between 1999 and 2006, they also found that a prior record and seriousness of charge have a significant impact on racial disparities in outcomes. For example, White and Black defendants have similar outcomes for felony charges and when considering prior convictions. However, for all other types of cases, White defendants were more likely to have their cases dropped, charges reduced, or were not

convicted than were similar cases that involved Black defendants. Cerbejo (2018) concluded that race is likely used as a proxy in these cases for criminality, guilt, and risk of recidivism.

Metcalfe and Chiricos (2018) conducted a case-control study which used data from the public defender's office in one of the largest counties in Florida. The study reviewed cases between 2002 to 2010, which included 411 trial cases with convictions and acquittals. Because the vast majority of cases result from pleas, the researchers selected a random sample of 500 felony cases that involved plea bargains within the same timeframe. They examined disparities in outcomes based on defendant sex and race. The results showed variations in the treatment and procedures towards White and Black individuals. The Black male defendants were viewed as more of a threat and more dangerous than their White male counterparts. Across the board those with a serious crime and a previous criminal record were less likely to resolve the charges by a plea bargain. When it came to Black defendants, plea bargains were 46.4% less likely to be offered to them compared to White defendants regardless of the charge. Between a Black male compared to a White male, the percentage decreased to 42.2%. White males and Black women defendants evidenced similar percentages.

While there is a small body of recent research on racial disparities, no studies reviewed here examined the relationship between education and plea outcomes or sentences. Metcalfe and Chiricos (2018) mentioned in a footnote that education (and measures of socioeconomic status) were not included in their (and most all other) research on plea bargaining because 1) information on education is not available in the official records obtained from court data; 2) there is too much missing information when

education is included; and 3) depending on the data source (e.g., public defender records), education and other measures of socioeconomic status are "controlled" for. To explain the third reason, Metcalfe and Chiricos argued that all public defender clients must meet indigent guidelines (e.g., 125% below the poverty line) and thus the data represent low-income defendants. This should account for differences in educational level. They do recognize, however, that by not including education and employment in their analyses that they cannot eliminate confounding effects of these variables on case outcomes (p. 233). They also cannot compare the impact of race and/or education on plea decisions or other case outcomes. These limitations are not unique, but as Johnson (2019) has argued, additional methodological approaches are needed. These include innovative data collections and collaborations with court actors and defendants; clearer measures for case outcomes and types of pleas; and expanding the types of research questions examined.

Studies which attempt to measure pleas which involve sentence discounts (i.e., charge reductions) either have not focused on race (or education) because of the sample composition (e.g., highly educated, legal professionals, and college students) or find little evidence to support systemic disparities. Although Johnson (2019) noted that past research on racial disparities in plea bargaining has provided little or mixed evidence, the results of these more recent studies (Cebejo 2019; Frenzel & Ball, 2008; Metcalfe & Chiricos, 2018; Testa & Johnson, 2020) were able to show that Black defendants and White defendants experienced a different type of legal system whether negotiating pleas of guilt or going to trial. A system that is supposed to be by the people and for the people does not mean it will necessarily benefit all. What is clear from prior theory and research

is that there is a need to examine reasons for racial disparities in pleading guilty (Johnson, 2019, p. 93).

METHODS

To address the research questions of the current study, I use secondary data from a single county in Tennessee compiled from public defender's (PD) records for the years 2016-2019. The data was compiled by the staff at the public defender's office and was based on client information sheets which in many ways is far superior to court records. Basic demographic information included age, race, and sex. Juvenile cases were not common, therefore, only adults were included (ages 18 and older). Unlike prior analyses on plea bargaining, information was also collected on education level. Additionally, legal factors such as crime type (felony/misdemeanor) was included. Although staff recorded additional information on clients' marital status, number of children, current employment, reading level, drug abuse, and mental health problems, the public defender's office was not confident in the quality of that information. Multiple staff recorded the information in different ways, or not at all, which resulted in coding issues and missing data. For variables such as sentence length, the information such was not coded for quantitative analysis.

In addition to these data limitations as well as attorney representation (only PD clients) and timeframe (2016-2019), all cases represented new crimes; no probation violations were included. My analysis focuses on cases that were either dismissed, deferred to probation, pled guilty to a lesser charge, and entered a guilty plea (as charged). Lastly, individuals included in the data file may have had multiple court cases and outcomes during the timeframe. For simplicity, the unit of analysis was the case

rather than the individual. These limitations are discussed more fully in the discussion section below.

Variables

The dependent variable for the analysis was case outcome. The analysis focused only on cases which were closed during this timeframe. As such, all cases had a disposition, or outcome, which could include dismissed (with or without court costs), deferred judgement (probation unless violated), or guilty plea. Clients either pled to the charge or to a lesser charge. The dependent variable was measured at the nominal level with four categories: case dismissed, probation, guilty to a lesser charge, or guilty as charged.

The key independent variables I examined included race and education. Race was a dichotomous, binary coded variable that was limited to the categories White and Black. The distribution of race in the county was 90% White. As such, there were not enough Hispanic cases or "other" races to include in the analysis. Education was a traditional measure of the highest level of education attained. Categories for this variable included drop out, high school or GED, current college student or some college, and college graduate. For the analysis, education categories were recoded to include less than high school, high school or GED, and at least some college.

Prosecutors' basis for plea negotiations rests on legal variables such as prior record and seriousness of the crime; thus, it is important to control for case type in the analysis. Case type is defined by the most serious current charge and categorized as felony or misdemeanor. Extralegal factors included sex (male or female) and age. Age was only available in categories: 18-25 years old, >25-30 years old, 30s, 40s, and over 50

years old. Sex was combined with race to represent the intersections effects on outcomes. Based on the measure of race and sex, four categories were created: Black female, Black male, White female, and White male.

Analysis

Using this existing secondary data on public defender clients, I conducted quantitative analyses. The data was provided in a spreadsheet, imported into SPSS, and then prepared for analysis. All the variables were initially "string" variables and then had to be coded quantitatively using data transformation options in SPSS. The process continued with descriptive analyses to determine the distribution of cases, decisions about recoding key variables for the analysis, and dealing with missing cases. After these necessary steps, I was able to examine descriptive statistics and bivariate relationships between my key independent (race and education) and dependent variables (case outcome) as well as additional variables of age, sex, race/sex interaction, and crime type.

Research Questions

The research questions for this proposed study are: *how does race and educational level of a defendant explain the case disposition and/or the sentence received once accepting a guilty plea deal?* My hypothesis is that, net of controls, educational level and race would negatively influence the sentence of the defendant. More specifically, I expect a harsher sentence for those with a lower education level and minority clients. This would include, for example, a lower likelihood of charge bargaining for those with less education and Black clients compared to those with a higher education level and White. The null hypothesis is that the two variables will not influence the disposition or sentence of the defendant.

RESULTS

Description of Sample

As show in Table 1, most of the sample was White (90%); only 10% of the sample was black (10.1%). This is consistent with the racial composition of the county where the records were obtained. A little more than half of the cases (55.5%) had a high school education or had obtained a GED compared to high school dropouts (27%) or at least some college (17.3%). Males made up approximately two-thirds of the cases. Age categories were normally distributed with most of the clients in their 30s but ranging from 18 years old to over fifty years. Nearly three-quarters of the crimes involved misdemeanors compared to felony cases.

Dependent Variable

In all cases, defendants accepted a guilty plea, but level of negotiation and the court response varied. Of the over 6,800 cases, almost sixty percent accepted a plea of guilty as charged. That is, there was no negotiation of charge bargaining. In contrast, very few cases were deferred to probation (less than 3%). About a quarter of cases were ultimately dismissed, however the court may impose court costs. Of particular interest for understanding plea bargaining were cases which resulted in a plea of guilty to obtain a lesser charge. Here, there is an agreement to a decreased charge and/or amount of time in jail compared to a potential or initial charge or original sentence. In this sample, 14.5% of clients pled guilty to a lesser charge.

Relationship between Case outcomes and Race

Crosstabulations and Chi Square tests were performed for all variables and case outcomes. All the bivariate associations were statistically significant at the $p < .05$ level;

Cramer's V was used to determine the strength of the associations (see Table 1). Regarding race, black defendants were more likely to have their cased dismissed than White defendants (27.7% versus 23.4%) and only slightly more likely to negotiate a lesser charge (15.9% versus 14.5%). However, White defendants were more likely to get probation (3.6% versus 3.0%) and plead guilty as charged (58.5% versus 53.3%).

Relationship between Case Outcomes and Education

Education appears to be associated with favorable case outcomes. That is, those with at least some college were significantly less likely to accept a guilty plea and more likely to have their case dismissed or deferred to probation while high school dropouts were overrepresented among pleas of guilty as charged. For example, =

Relationship between Case Outcomes and Other Variables

Sex, age, and crime type all have significant and relatively large associations with case outcome compared to race and education. Females evidenced higher percentages of cases dismissed (26.8%) and deferred to probation (4.3%) compared to males but were less likely to plead guilty as charged (54.5%). In general, cases involving younger clients (18-25 years) benefited from plea negotiations; they were overrepresented among dismissed cases and those deferred to probation. In fact, 14.4% of those in the18 to 25-year age range were deferred to probation compared to older age groups: 1.7% 30s, 1.6% 40s, and 1.0% over 50 years old (Chi square = 401.245(12); $p < .001$).

The strongest association with case outcomes was crime type (Cramer's V = .329). In this sample, felony cases were significantly and substantially less likely to be dismissed (18.3% versus 25.6%) or plead guilty as charged than misdemeanor cases (43.4% versus 63.4%). The percentage differences (26 points) were even larger for cases

that pled guilty to a lesser charge. Felony cases were significantly more likely to negotiate a lesser charge than misdemeanor cases (33.8% versus 7.8%; Chi square = 772.363(3); $p < .001$).

Intersection of Race and Sex and Relationship with Case Outcomes

More than half of the sample was comprised of White males (59%), followed by White females (31%). Black males made up about eight percent of the sample and a very small percentage of the sample (less than 2%) was Black females. Despite the unequal distribution and small numbers, the intersection of race and sex revealed interesting patterns in case outcomes, especially for felony versus misdemeanor cases. Overall, White males were less likely to have their cases dismissed and more likely to plead guilty as charged compared to all other groups. White females were slightly more likely to be deferred to probation than all other groups. Black males demonstrated neither over nor underrepresentation for any of the case outcomes. Noticeable differences were evident for Black females, though. As shown in Table 2, Black females were overrepresented among cases which were dismissed, and this was true for felony and misdemeanor crimes. While misdemeanor cases were less likely to negotiate lesser charges overall (7.9%), 15.5% of the misdemeanor cases which involved Black females resulted in pleas of guilty to a lesser charge. In addition, although few cases were deferred to probation overall (3.5%), 10.7% of Black females' felony cases resulted in probation. Likewise, Black females were less likely to accept a plea of guilty as charged compared to all other groups (45% misdemeanor cases and 25% felony cases). Another interesting difference in these patterns was for Black males who were more likely to pled guilty to lesser charges for misdemeanor crimes but less likely to do so for felony crimes compared to other groups.

The reverse was seen for the guilty as charged cases. Black males were less likely to pled guilty as charged for misdemeanor crimes but more likely to pled guilty as charged for felony crimes compared to all other groups. These percentage point differences were small; however, they contrast with the patterns for the overall distribution of case outcomes which showed that felony cases are more likely to be negotiated than misdemeanor cases. As shown in Table 2, the Chi-square tests indicated that these differences were statistically significant at $p < .05$.

DISCUSSION

This study examined case outcomes for over 6,000 public defender (PD) clients and explored the relationship between race and education and case outcomes. Knowing that PD's have heavy caseloads, decreased funded, limited time to meet with clients, and operate under a "courtroom working model" explains why so few cases in this small county during this time frame went to trial (less than ten cases in four years). All cases considered for this study had an outcome other than trial. This included 1) case was dismissed; 2) case was deferred to probation; 3) case pled guilty but to a lesser charge; and 4) case pled guilty as charged. Several previous studies were able to compare plea bargaining and trial outcomes; however, the data limited our ability to replicate the findings of these studies. What we did find was that about half of the cases in this sample pled guilty as charged; about one-quarter of the cases were dismissed with or without costs; nearly 15% negotiated a plea of guilty, but to a lesser charge; and very few in this sample were deferred to probation.

At the bivariate level, the association between race and case outcome was statistically significant but the magnitude of this relationship was relatively small

(Cramer's V = .04). In addition, the sample was disproportionately White (and male). The results suggested, though, that White males were more likely to pled guilty as charged and less likely to have their cases dismissed or negotiated than Black males or females. In fact, the interaction analysis of race and sex revealed that Black females were significantly and substantially more likely to have cases dismissed, deferred to probation, or negotiate a plea than White or Black males and White females (the exception is deferred to probation). Overall, then a "chivalry hypothesis" could be at work for females where they are presented with more favorable options for case outcomes compared to males. It could also be possible that Black males and females are over-charged and have more negotiation room compared to White males. Without knowing the original charge and other qualitative details of these cases, it is impossible to know for sure which of these ideas holds more explanatory power.

Metcalfe and Chiricos (2018) identified the harsh reality for Black individuals. Their study showed the treatment of Black defendants was harsher and had an increased sentence/lower charge reduction compared to White defendants who committed the same crime. In essence, Black males and females received the worst value for their plea negotiation when it involved charge reductions.

Frenzel and Ball's (2008) study examined how race and sex of the offender affected a negotiated or non-negotiated plea. Unlike my results, they found that male offenders were more likely to receive a negotiated plea compared female offenders than go to trial. My results showed that Black females were more likely than all others to negotiate a guilty to lesser charge plea.

While Testa and Johnson's (2020) study was not able to show the racial disparities within felony crime, they did find that more racial disparities tend to occur in property or drug cases compared to violent crimes. Crime type—felony or misdemeanor—had the strongest association with case outcome relative to all variables examined including race and education. My results showed that felony cases were substantially more likely to be negotiated for lesser charges than pled guilty as charged, and race modified this association. Black males and females were more likely to negotiate a lesser charge (versus plead guilty as charged) than White males and females but only for misdemeanor cases. In contrast, Black females were overrepresented among dismissed cases and those deferred to probation compared all other groups but only for felony cases. The patterns may reflect the different distributions of race and sex among felony versus misdemeanor cases. Black males (11.1%) are slightly overrepresented among felony cases while females (34.4%, including Black females) are overrepresented among misdemeanor cases/underrepresented among felony cases (28.7%). In sum, although the effect of race on outcomes was relatively small, race, sex, and serious of the case do modify case outcomes and plea negotiations.

The relationship between education and case outcomes is less clear. Although statistically significant, the effects were also small. There does appear to be some support for the idea that more educated clients were deferred to probation and had their cases dismissed (more favorable outcomes) than pled guilty compared to those with less than a high school degree. Additional analysis is needed to determine any mediating factors in the relationship between education and case outcome. For example, age was a significant factor in outcomes with cases involving younger clients much more likely to be deferred

to probation than older age groups. This effect may also be accounted for by criminal history. That is, older clients with lengthy records and less education may have fewer options for negotiating outcomes and instead plead guilty as charged while younger clients with fewer prior charges and more education may be given a "second chance" with either a dismissed case or deferred to probation. In fact, the characteristics of the Black female clients suggest this may also be the situation in their cases; that is, Black females in the sample were overrepresented among those under age 25 and those with at least some college education. These patterns would support social capital theories. When prosecutors, public defenders, and judges perceive clients as possessing more social capital, the clients have more opportunities for plea negotiation, reduced charges, probation, or dismissed cases.

Limitations

The data used for this study were based on a single, rural county. Compared to a larger or more urban county the results would certainly differ. In addition, other factors influence case processing in a specific county including prosecutor style and working relationships with both PD's and judges. Thus, the findings cannot generalize beyond this or similar counties in Tennessee. A comparison of rural and urban samples would be needed to understand different race and education patterns in case outcomes.

The data does have limitations regarding race. Out of the 6,877 cases only about ten percent were Black. Additionally, the data set only included two racial groups. Due to the lack of diversity from a rural county that is predominantly White, the data for other races including Hispanic or LatinX were not sufficient for analysis.

The findings are only based on bivariate associations between the dependent variable, key independent variables, and other factors. Legal factors are essential components of plea negotiations and the data did not allow for the examination of criminal record, bail options, or sentence type/length. This information would certainly be useful to consider and could have an influence on the relationships between race, education, and case outcomes. Factors such as employment, marital status, parental status, and income could also be important determinants of both options and decision-making because each point to social bonds and costs of crime for defendants. A multiple regression analysis considering these additional factors would clarify these findings and is a necessary step for future research.

CONCLUSIONS

Despite these important limitations, my research provides insights into how race, education, and other factors shape case outcomes among public defender clients. Specifically, the study focused on a rural area whereas most studies focus on large cities or urban areas or do not differentiate the case location. The study also was able to examine different types of case outcomes rather than just guilty pleas versus trials, or a general measure of negotiated pleas. While race and education effects were rather small, noticeable and statistically significant relationships were evident based on the interactions of race and sex. This finding is consistent with prior research but difficult to make comparisons based on different dependent variables, locations, and additional measures not included in this study. By far, however, the strongest predictor of negotiated pleas (i.e, reduced charges) was crime type: felony cases were significantly more likely to be negotiated than misdemeanor cases. White males were more likely to plead guilty as

charged compared to Black males and females. The patterns for Black females deserve additional attention, especially the way outcomes may differ based on crime type, original charges, and rural location.

REFERENCES

Acar, E. (2011). Effects of Social Capital on Academic Success: A Narrative Synthesis. *Educational Research and Reviews*, 6(6), 456-461.

Alschuler, A. W. (1979). Plea Bargaining and its History. *Columbia Law Review*, 79(1), 1-43.

Bar-Gill, O., & Gazal Ayal, O. (2006). Plea Bargains only for the Guilty. *The Journal of Law and Economics*, 49(1), 353-364.-

Berdejo, C. (2018). Criminalizing Race: Racial Disparities in Plea Bargaining. *Boston College Law Review*, 59(4), 1187-1249.

Bordens, K. S. (1984). The Effects of Likelihood of Conviction, Threatened Punishment, and Assumed Role on Mock Plea-Bargaining Decisions. *Basic and Applied Social Psychology*, 5(1), 59-74.

Bordens, K.S. & & John Bassett (1985) The Plea Bargaining Process From the Defendant's Perspective: A Field Investigation, *Basic and Applied Social Psychology*, 6:2, 93-110.

Bushway, S. (2019). Defendant Decision-Making in Plea Bargains: A System of Pleas, edited by Vanessa Edkins and Allison Redlich. New York: *Oxford University Press*. 24-36

Bushway, S. D., Redlich, A. D., & Norris, R. J. (2014). An Explicit Test of Plea Bargaining in the Shadow of the Trial. *Criminology*, 52(4), 723-754.

Champion, D. (1989). Private Counsel and Public Defenders: A look at Weak Cases, Prior Records, and Leniency in Pleas Bargaining. *Journal of Criminal Justice*,17, 253-263.

Church, T. (1976). Plea Bargains, Concessions, and the Courts: Analysis of a Quasi-Experiment. *Law & Society Review*, 10(3), 377-401.

Conklin, M. (2019). How Do You Plead, and Why? How Attorney Experience and Defendant Background Affect Plea Bargaining. *Ohio St. J. Crim. L.*, 17, 409.

Crenshaw, K., Gotanda, N., Peller, G., & Thomas, K. (1995). Critical Race Theory. The Key Writings that formed the Movement. *New York*, 276-291.

Dika, S. L., & Singh, K. (2002). Applications of Social Capital in Educational Literature: A Critical Synthesis. *Review of Educational Research*, 72(1), 31-60.

DuVernay, Ava. (2016) Documentary '13TH' Argues Mass Incarceration is an Extension of Slavery. *NPR*.

Edkins, Vanessa & Alllison Redlich (2019). A System of Pleas. *New York: Oxford University Press.*

Feuer, Alan. (2017). After 28 Years in Prison, a Rare Plea Deal Frees a Connecticut Man. *New York Times*.

Frenzel, Erika Davis & Ball, Jeremy D. (2008) Effects of Individual Characteristics on Plea Negotiations Under Sentencing Guidelines, *Journal of Ethnicity in Criminal Justice*, 5(4), 59-82, DOI: 10.1300/J222v05n04_03

Gilchrist, G. M. (2011). Plea Bargains, Convictions and Legitimacy. *Am. Crim. L. Rev*., 48, 143.

Harlow, C. (2000). Defense Counsel in Criminal Cases. Bureau of Justice Statistics Special Report. *Bureau or Justice Statistics*.

Henderson, K. Defense Attorneys and Plea Bargains, 37-55 in *A System of Pleas,* edited by Vanessa Edkins and Allison Redlich. New York: Oxford University Press.

Humphrey, J. A., & Fogarty, T. J. (1987). Race and Plea-Bargained Outcomes: A Research Note. *Social Forces*, 66(1), 176-182.

The Innocence Project & The Innocence Network (2018). Why Innocent People Are Pleading Guilty. Let's Fix America's Guilty Plea Problem. *Guilty Plea Problem*.

Johnson, B. & R. Richarson. (2019). Race and Plea Bargaining in A System of Pleas, edited by Vanessa Edkins and Allison Redlich. *New York: Oxford University Press.* 83-106.

Johnson, M. L., J.D. (2020). A Short History of the Public Defender. *Nashville Public Defender's Office.*

Justia. (2019) Plea Bargains. Justia.

Kipnis, K. (1976). Criminal Justice and the Negotiated Plea. *Ethics*, 86(2), 93-106.

Kutateladze, B. L., Andiloro, N. R., & Johnson, B. D. (2016). Opening Pandora's box: How does defendant race influence plea bargaining. *Justice Quarterly*, 33(3), 398-426.

Langton, L., & Farole, D. J. (2010). State Public Defender Programs, 2007. *US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*.

McLaughlin, Eliott C., and Pamela Brown. (2013) Judge Sentences Cleveland Kidnapper Ariel Castro to Life, plus 1,000 Years. *CNN*, Cable News Network.

Metcalfe, C., & Chiricos, T. (2018). Race, plea, and charge reduction: An assessment of racial disparities in the plea process. *Justice Quarterly*, 35(2), 223-253.

Rakoff, J. S. (2014). Why Innocent People Plead Guilty. *The New York Review of Books*, 20.

Rose, Megan. (2017). The Deal Prosecutors Offer When They Have No Cards Left to Play.

Rosett, A. I., Cressey, D. R., & Ruth, H. S. (1976). Justice by Consent: Plea Bargains in the American Courthouse pp. 128-32.

Stefancic, J., & Delgado, R. (Eds.). (2000). Critical Race Theory: The Cutting Edge. *Harvard: Temple University Press*.

Subramanian, R., Digard, L., Melvin Washington, I. I., & Sorage, S. (2020). In the Shadows: A Review of the Research on Plea Bargaining.

Taylor, E. (1998). A Primer on Critical Race Theory: Who are the Critical Race Theorists and What are they Saying?. *The Journal of Blacks in Higher Education*, (19), 122.

Testa, A., & Johnson, B. D. (2020). Paying the Trial Tax: Race, Guilty Pleas, and Disparity in Prosecution. *Criminal Justice Policy Review*, 31(4), 500-531.

Tor, A., Gazal-Ayal, O., & Garcia, S. M. (2010). Fairness and the Willingness to Accept Plea Bargain Offers. *Journal of Empirical Legal Studies*, 7(1), 97-116.

Vogel, M. E. (1999). The Social Origins of Plea Bargaining: Conflict and the Law in the Process of State Formation, 1830-1860. 161-246.

Welling, S. N. (1987). Victim Participation in Plea Bargains. *Wash*. ULQ, 65, 301.

APPENDICES

APPENDIX A: TABLES

Table 1. Descriptive and Bivariate Statistics for Variables of Interest

		Case Outcome (%)				
		Dismissed	Deferred to Probation	Guilty to Lesser Charge	Guilty Plea	Total (Valid %)
Total		23.7%	3.5%	14.6%	58.2%	
Race:	White	23.4%	3.6%	14.5%	58.5%	89.9%
	Black	27.7%	3.0%	15.9%	53.3%	10.1%
	Chi-square = 9.428(3); p = .024					
	Cramer's V = .037					
Education:	Less than HS	21.8%	2.5%	14.2%	61.4%	27.0%
	HS or GED	23.1%	4.0%	15.4%	57.5%	55.7%
	College	25.0%	3.9%	13.0%	58.0%	17.3%
	Chi-square = 13.892(3=6); p = .031					
	Cramer's V = .036					
Sex:	Male	22.2%	3.1%	14.9%	59.8%	67.1%
	Female	26.8%	4.3%	14.4%	54.5%	32.9%
	Chi-square = 27.175(3); p = .000					
	Cramer's V = .062					
Age:	18-25 years old	26.5%	14.4%	11.4%	47.6%	12.1%
	>25-30 years old	22.8%	3.9%	14.5%	58.8%	18.9%
	30s	22.7%	1.7%	17.1%	58.5%	33.7%
	40s	21.8%	1.6%	13.1%	63.6%	19.7%
	Over 50 years old	27.9%	1.0%	14.2%	56.8%	15.6%
	Chi-square = 401.245(12); p = .000					
	Cramer's V = .138					
Case Type:	Felony	18.3%	4.5%	33.8%	43.4%	26.3%
	Misdemeanor	25.6%	3.1%	7.8%	63.4%	73.7%
	Chi-square = 772.363(3); p = .000					
	Cramer's V = .329					

Table 2. Intersection of Race and Sex by Case Outcome for All Cases, Misdemeanor Cases & Felony Cases

	Case Outcome			
	Dismissed	Deferred to Probation	Guilty to Lesser Charge	Guilty Plea
Black Female (1.9%)	34.4%	3.1%	19.1%	43.5%
Black Male (8.2%)	26.2%	3.0%	15.2%	55.6%
White Female (31.1%)	26.5%	4.4%	14.1%	54.9%
White Male (58.7%)	21.7%	3.2%	14.7%	60.4%
Total	23.8%	3.5%	14.7%	58.0%

Chi-square = 43.317(9); p = .000; Cramer's V = .046

	Misdemeanor Cases			
	Case Outcome			
	Dismissed	Deferred to Probation	Guilty to Lesser Charge	Guilty Plea
Black Female	35.0%	1.0%	15.5%	48.5%
Black Male	28.6%	2.0%	9.9%	59.5%
White Female	28.0%	4.0%	8.2%	59.8%
White Male	23.5%	3.0%	7.2%	66.3%
Total	25.6%	3.2%	7.9%	63.3%

Chi-square = 44.220(9); p = .000; Cramer's V = .054

	Felony Cases			
	Case Outcome			
	Dismissed	Deferred to Probation	Guilty to Lesser Charge	Guilty Plea
Black Female	32.1%	10.7%	32.1%	25.0%
Black Male	20.6%	5.3%	27.6%	46.5%
White Female	21.5%	5.7%	34.2%	38.7%
White Male	16.9%	3.6%	34.8%	44.7%
Total	18.7%	4.5%	33.9%	42.9%

Chi-square = 20.805(9); p = .014; Cramer's V = .062

APPENDIX B: IRB APPROVAL

IRB
INSTITUTIONAL REVIEW BOARD
Office of Research Compliance,
010A Sam Ingram Building,
2269 Middle Tennessee Blvd
Murfreesboro, TN 37129
FWA: 00005331/IRB Regn. 0003571

MIDDLE TENNESSEE STATE UNIVERSITY

IRBN001 - EXPEDITED PROTOCOL APPROVAL NOTICE

Monday, March 01, 2021

Protocol Title	***Effects of Race and Education Level on Please Outcomes for Public Defender Clients***
Protocol ID	**21-2113 5**
Principal Investigator	**Al'leta Ector** (Student)
Faculty Advisor	Meredith Huey Due
Co-Investigators	Elizabeth Wright*
Investigator Email(s)	*ale3q@mtmail.mtsu.edu; meredith.dye@mtsu.edu*
Department	Sociology and *Criminal Justice
Funding	**NONE**

Dear Investigator(s),

The above identified research proposal has been reviewed by the MTSU IRB through the **EXPEDITED** mechanism under 45 CFR 46.110 and 21 CFR 56.110 within the category *(5) Research involving materials*. A summary of the IRB action is tabulated below:

IRB Action	**APPROVED for ONE YEAR**		
Date of Expiration	**3/31/2022**	*Date of Approval*: 3/1/21	*Recent Amendment*: NONE
Sample Size	ELEVEN THOUSAND (11,000) Records on adult Public Defender Clients		
Participant Pool	*Target Population:* Primary Classification: **Adult (18 or older)** Specific Classification: **Non-public non-research purpose records**		
Type of Interaction	☒ Non-interventional or Data Analysis ☐ Virtual/Remote/Online interaction ☐ In person or physical interaction – Mandatory COVID-19 Management		
Exceptions	NONE		
Restrictions	**1. Other than the exceptions above, identifiable data/artifacts, such as, audio/video data, photographs, handwriting samples, personal address, driving records, social security number, and etc., MUST NOT be collected. Recorded identifiable information must be deidentified as described in the protocol.** **3. Mandatory Final report (refer last page).** **4. NOT APPROVED for data collection.** **5. CDC guidelines and MTSU safe practice must be followed**		
Approved Templates	*IRB Templates:* NONE *Non-MTSU Templates:* NONE		
Research Inducement	NONE		
Comments	NONE		

Post-approval Requirements

The PI and FA must read and abide by the post-approval conditions (Refer "*Quick Links*" in the bottom):

- ***Reporting Adverse Events:*** The PI must report research-related adversities suffered by the participants, deviations from the protocol, misconduct, and etc., within 48 hours from when they were discovered.
- ***Final Report:*** The FA is responsible for submitting a final report to close-out this protocol before **3/1/2022** **(Refer to the Continuing Review section below)**; REMINDERS WILLNOT BE SENT. **Failure to close-out or request for a continuing review may result in penalties** including cancellation of the data collected using this protocol and/or withholding student diploma.
- ***Protocol Amendments***: An IRB approval must be obtained for all types of amendments, such as: addition/removal of subject population or investigating team; sample size increases; changes to the research sites (appropriate permission letter(s) may be needed); alternation to funding; and etc. The proposed amendments must be requested by the FA in an addendum request form. The proposed changes must be consistent with the approval category and they must comply with expedited review requirements
- ***Research Participant Compensation:*** Compensation for research participation must be awarded as proposed in Chapter 6 of the Expedited protocol. The documentation of the monetary compensation must Appendix J and MUST NOT include protocol details when reporting to the MTSU Business Office.
- ***COVID-19:*** Regardless whether this study poses a threat to the participants or not, refer to the COVID-19 Management section for important information for the FA.

Continuing Review (The PI has requested early termination)

Although this protocol can be continued for up to THREE years, The PI has opted to end the study by **3/1/2022** **The PI must close-out this protocol by submitting a final report before 3/31/2022 Failure to close-out may result in penalties that include cancellation of the data collected using this protocol and delays in graduation of the student PI.**

Post-approval Protocol Amendments:

The current MTSU IRB policies allow the investigators to implement minor and significant amendments that would fit within this approval category. ***Only TWO procedural amendments will be entertained per year*** *(changes like addition/removal of research personnel are not restricted by this rule).*

Date	Amendment(s)	IRB Comments
NONE	NONE.	NONE

Other Post-approval Actions:

The following actions are done subsequent to the approval of this protocol on request by the PI/FA or on recommendation by the IRB or by both.

Date	IRB Action(s)	IRB Comments
NONE	NONE	NONE

COVID-19 Management:

The PI must follow social distancing guidelines and other practices to avoid viral exposure to the participants and other workers when physical contact with the subjects is made during the study.

- The study must be stopped if a participant or an investigator should test positive for COVID-19 within 14 days of the research interaction. This must be reported to the IRB as an "adverse event."
- The MTSU's "Return-to-work" questionnaire found in Pipeline must be filled by the investigators on the day of the research interaction prior to physical contact.
- PPE must be worn if the participant would be within 6 feet from the each other or with an investigator.
- Physical surfaces that will come in contact with the participants must be sanitized between use
- **FA's Responsibility:** The FA is given the administrative authority to make emergency changes to protect the wellbeing of the participants and student researchers during the COVID-19 pandemic. However, the FA must notify the IRB after such changes have been made. The IRB will audit the changes at a later date and the FA will be instructed to carryout remedial measures if needed.

Data Management & Storage:

All research-related records (signed consent forms, investigator training and etc.) must be retained by the PI or the faculty advisor (if the PI is a student) at the secure location mentioned in the protocol application.

The data must be stored for at least three (3) years after the study is closed. Additional Tennessee State data retention requirement may apply (*refer "Quick Links" for MTSU policy 129 below*). The data may be destroyed in a manner that maintains confidentiality and anonymity of the research subjects.

The MTSU IRB reserves the right to modify/update the approval criteria or change/cancel the terms listed in this letter without prior notice. Be advised that IRB also reserves the right to inspect or audit your records if needed.

Sincerely,

Institutional Review Board
Middle Tennessee State University

Quick Links:

- Post-approval Responsibilities: http://www.mtsu.edu/irb/FAQ/PostApprovalResponsibilities.php
- Expedited Procedures: https://mtsu.edu/irb/ExpeditedProcedures.php
- MTSU Policy 129: Records retention & Disposal: https://www.mtsu.edu/policies/general/129.php