

**Differences in the Measurement of the Dependent Variable: Does the Specificity of
Type of Incarceration Really Matter?**

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IMPORTANT BACKGROUND

Most sentencing research has concentrated on two outcomes: in/out and length

Scholars suggest that these are two different types of decisions made by judges

The findings generally suggest that the following variables exert statistically significant (and mostly positive) influences on the in/out decision and/or the sentence length decision:

Defendant characteristics:

age, race, sex, criminal history

Case/offense characteristics:

seriousness of the current offense, quick arrest, type of attorney, type of adjudication, pre-trial detention

However, recent research (Holleran and Spohn, 2004) suggests that the use of the “total incarceration” variable (i.e., in versus out) is erroneous

They suggest that jail confinement and prison incarceration are two distinctly different sentencing options and two distinct institutions

They also suggest that since these options are different from one another; it is likely that different factors may influence the likelihood of being confined in a jail versus the likelihood of being sent to prison

Further, they argue that sentencing decisions should be measured as a trichotomy (prison/jail/probation) as opposed to a dichotomous or binary variable (prison and jail versus some non-custodial punishment)

Arguments surrounding the following issues (both quantitative and qualitative) are present in their study:

- the differences in jail versus prison populations (demographics; types of offenders/offenses)
- the time sentenced for jail versus prison (< 1 year v. 1 year or more)
- post-incarceration differences for offenders sentenced to jail versus prison (i.e., inability to maintain family ties; lack of education, skills, and job opportunities; legal restrictions such as inability to access social welfare programs, voting, obtaining loans, etc.)

However, Holleran and Spohn (2004) make their arguments and conduct comparative analyses using PCS (Pennsylvania Commission on Sentencing) data

****Although much of the contemporary sentencing research uses this data, this particular analysis may be somewhat problematic in that it only includes information from only one of fifty states****

More importantly, Holleran and Spohn (2004) did not conduct a full scale analysis with the PCS data; instead, they chose one county in which to focus their analysis (Philadelphia) and found, in general, that the correlates for jail and prison sentences are, in fact, different.

This is especially true as it relates to the following variables:
Defendant race and offense types (violent, drug)

The present research examines the usefulness (or lack thereof) of the total incarceration variable on a much larger, more widespread and thus, more generalizable, sample of sentencing decisions in counties across the U.S.

DATA/ANALYSIS

- SCPS (State Court Processing Statistics, 1998)
- 39 counties (stratified, random sample) representative of the 75 most populous counties in the US
- Almost 7,000 cases eligible for inclusion in the analysis (i.e., eligible for a sentence)
- Two different outcome measures
 - In/out (prison/jail versus probation)
 - Trichotomous (prison v. jail v. probation)
- Several defendant, offense, and case variables (Table 1, descriptives)
- Also have data on county-level variables for each of the counties, but they are not the focus of the present series of analyses...if interested, let me know
- Two separate HLM series of models (binary and multinomial) were run in order to assess the differences, if any, in the factors that affect the in/out decision versus the categorical decision

Table 2. Descriptive Statistics (N= 6,980).¹

VARIABLES	Mean	S.D.
<u>Dependent Variables</u>		
In/Out Decision		
Incarcerated	.66	.47
Sentence Type		
Prison Incarceration	.30	.80
Jail Confinement	.36	.80
Probation/Fine	.34	.80
<u>Individual-level Variables</u>		
Dummy-Coded Defendant Age Categories		
17 Years and Younger	.03	.17
Between 18 and 20 Years Old	.15	.35
Between 21 and 29 Years Old	.30	.46
Between 30 and 39 Years Old	.32	.47
Between 40 and 49 Years Old	.16	.37
50 Years and Older ²	.04	.20
Defendant Male (1= yes)	.81	.39
Defendant Black (1= yes)	.54	.50
Criminal History (1= yes)	.66	.47
Defendant Arrested Quickly (1= yes)	.59	.49
Defendant Detained Prior to Adjudication (1= yes)	.42	.49
Public Defender (1= yes)	.55	.50
Violent Offense (1=yes)	.13	.34
Drug Offense (1= yes)	.33	.47
Property Offense (1= yes)	.25	.44
Other Adjudication Charge (1= yes) ²	.29	.45
Bench Trial	.05	.22
Jury Trial	.02	.14
No Trial ²	.93	.26

¹The descriptive results as well as all other results are based on the unweighted data. Preliminary diagnostic tests revealed that the use of weighted versus unweighted data does

not change the substantive findings.

²In the analyses, these variables serve as reference categories.

RESULTS

IN/OUT MEASURE

<u>Variable</u>	<u>Direction</u>	<u>Significance</u>
Offender Age Categories*		
Under 17	+	non-significant
18-20 years	+	.10 level
21-29 years	+	.01 level
30-39 years	+	.01 level
40-49 years	+	.05 level
Black Offender	+	.01 level
Male Offender	+	.001 level
Criminal History	+	.001 level
Quick Arrest	+	non-significant
Detained	+	.001 level
Public Defender	+	non-significant
Type of Offense**		
Violent	+	.001 level
Drug	+	.001 level
Property	+	.001 level
Type of Adjudication***		
Bench Trial	+	non-significant
Jury Trial	+	.001 level

*Reference category is age category 50 years and older.

**Reference category is public order/other offenses.

***Reference category is no trial/guilty plea.

PRISON VS. JAIL COMPARISON

<u>Variable</u>	<u>Direction</u>	<u>Significance</u>
Offender Age Categories*		
Under 17	+	.05 level
18-20 years	+	.05 level
21-29 years	+	.01 level
30-39 years	+	.01 level
40-49 years	+	.01 level
Black Offender	+	non-significant
Male Offender	+	.001 level
Criminal History	+	.001 level
Quick Arrest	-	non-significant
Detained	+	.001 level
Public Defender	-	.10 level
Type of Offense**		
Violent	+	.001 level
Drug	+	.001 level
Property	+	.001 level
Type of Adjudication***		
Bench Trial	-	.001 level
Jury Trial	+	.001 level

*Reference category is age category 50 years and older.

**Reference category is public order/other offenses.

***Reference category is no trial/guilty plea.

DISCUSSION/CONCLUSIONS

- 16 total individual-level effects (in both models)
 - 7 variables exhibit *some* change across type of decision measured
 - 3 effects change from + to – (quick arrest/public defender/bench)
 - 1 effect becomes non-significant (race)
 - 3 effects become significant (age: under 17/public defender/bench)
 - significance levels (for previously significant effects) increase for 2 variables (ages: 18-20; 40-49)
 - How important are these changes, what do they tell us?
 - Do they really provide a greater examination of what predicts sentencing decisions?
 - Is it essential to provide a more specific measure of “in?”