

**Indigenous Disparity in Lower Court Imprisonment Decisions: A Study of two Australian Decisions, 1998-2008**

Author

Jefferies, Samantha, Bond, Christine

Published

2012

Journal Title

Trends and Issues in Crime and Criminal Justice

Rights statement

© 2012 Australian Institute of Criminology. The attached file is reproduced here in accordance with the copyright policy of the publisher. Please refer to the journal's website for access to the definitive, published version.

Downloaded from

<http://hdl.handle.net/10072/59419>

Link to published version

<https://www.aic.gov.au/publications/tandi/tandi447>

Griffith Research Online

<https://research-repository.griffith.edu.au>

# Trends & issues

in crime and criminal justice



Australian Government  
Australian Institute of Criminology

No. 447 December 2012

**Foreword** | *This paper reports findings from statistical analyses of Indigeneity and lower court sentencing in New South Wales and South Australia from 1998 to 2008. The aim was to explore the probability of Indigenous versus non-Indigenous defendants receiving a prison sentence over time, while controlling for other key sentencing determinates (ie sex, age, criminal history, seriousness of current offence, plea, bail status). Across the study period, results generally showed that Indigenous offenders were more likely to receive a prison term than similarly situated non-Indigenous offenders. However, the pattern of disparity over time differed by jurisdiction. In New South Wales, Indigenous offenders were more likely to receive a prison sentence throughout the entire period. By contrast, in the South Australian lower courts, disparity was found to have increased, with earlier years showing parity and leniency, before a trend towards a greater likelihood of a prison sentence for Indigenous offenders. Focal concerns theory is used to provide a possible explanation for the study's finding of Indigenous lower court sentencing disparity.*

Adam Tomison  
Director

## Indigenous disparity in lower court imprisonment decisions: A study of two Australian jurisdictions, 1998 to 2008

Samantha Jeffries and Christine Bond

There are few systematic investigations of lower court sentencing, even though this is where the majority of offenders are sentenced and baseline statistics show Indigenous people receive relatively harsher sanctions than non-Indigenous offenders (in New South Wales, see Baker 2001; in South Australia, see Castle & Barnett 2000). This paper explores the probability of Indigenous versus non-Indigenous defendants in the lower courts of South Australia and New South Wales receiving a prison sentence over time. Its primary aim is to identify whether a statistical relationship exists between Indigenous status and imprisonment after controlling for other factors known to impact sentencing decisions (such as current and past criminality).

### Explaining disparity in the imprisonment sentencing decision

Three hypotheses are used to explain differences in sentences between minority and non-minority defendants. These are differential involvement, negative discrimination and positive discrimination.

First, according to the differential involvement hypothesis, existing differences in legally relevant factors between Indigenous and non-Indigenous offenders will mediate the relationship between Indigeneity and sentencing. For example, the higher baseline probability of Indigenous people being incarcerated may be a response to differences in criminality by Indigenous status. Thus, there is no Indigenous discrimination in sentencing once other relevant sentencing variables are controlled (Weatherburn, Fitzgerald & Hua 2003).



Second, the negative discrimination thesis predicts that Indigenous status will directly impact sentencing, resulting in harsher outcomes for Indigenous defendants. In other words, baseline sentencing disparity between Indigenous and non-Indigenous defendants is not attributable to differences in other influential sentencing determinates (eg differences in criminality), but a result of more rigorously applying the law to a group that poses a 'threat' to the dominant power group (eg 'whites'). This argument, with its reliance on the concept of 'threat', originated in the conflict school of criminological thought in the United States (Hawkins 1987). This approach has been applied in the Australian context by scholars such as Blagg (2008) and Cunneen (2001).

More recently, the negative discrimination hypothesis has been contextualised within the theoretical framework of focal concerns. Research suggests that sentencing decisions are guided by a number of judicial focal concerns, particularly offender blameworthiness and harm caused by the offence, community protection and practical constraints presented by individual offenders, organisational resources, legal constraints, and political and community expectations. Offender characteristics, such as Indigeneity, may increase judicial assessments of blameworthiness or culpability, as well as judicial perceptions of increased future risk to the community. Organisational constraints may create (or amplify) such perceptions by pressuring judges to make decisions with limited information and time, leading to judicial reliance on 'perceptual shorthand'—or stereotypical attributions of increased threat and criminality to minority group offenders—to determine sentences (Steffensmeier, Ulmer & Kramer 1998).

Finally, the positive discrimination thesis suggests that minority group statuses may mitigate sentencing outcomes. It predicts that Indigenous offenders will be sentenced more leniently than non-Indigenous offenders when sentenced under like circumstances. Unlike the conflict perspective, the focal concerns approach also allows us to recognise that a defendant's Indigeneity may operate as

a mitigating influence on sentencing decision making because it may trigger attributions about the causes or reasons for offending and broader social and policy expectations (Jeffries & Bond 2009).

There are at least two reasons, flowing from the focal concerns perspective, for expecting more favourable sentencing outcomes for Indigenous offenders in Australia. First, sentencing outcomes are affected by offender constraints, such as the ability to 'do time' (Steffensmeier, Ulmer & Kramer 1998). By comparison with the non-Indigenous population, Indigenous people tend to experience higher levels of social and economic disadvantage and associated poverty, victimisation, substance abuse and ill health. Potentially, these differences in offender constraints could mitigate sentence severity and lead to more lenient outcomes for Indigenous defendants. Second, community and political constraints may place pressure on magistrates to reduce sentence severity for Indigenous defendants. For example, since the Royal Commission into Aboriginal Deaths in Custody, there has been community and political concern about the treatment and over-representation of Indigenous peoples in the Australia's criminal justice system (Jeffries & Bond 2009).

### Prior research on the imprisonment decision

International research on racial and ethnic disparities in sentencing is well-established, primarily focusing on the effect of being African American or Latino. The current standard requires multivariate techniques to estimate the separate independent (direct) impact of variables, controlling for other variables of interest. While results of this research suggest that baseline differences by race/ethnicity can be partially explained by the differential involvement hypothesis, findings also consistently support negative sentencing discrimination against African and Latino defendants (Mitchell 2005; Spohn 2000).

By contrast with the prolific research on racial/ethnic sentencing disparities, international research exploring Indigenous

disparities in sentencing has been much sparser. In Canada, New Zealand and the United States, this work broadly supports differential involvement as completely or partially mediating the relationship between Indigenous status and imprisonment outcomes. However, there is little evidence of negative discrimination against Indigenous defendants in Canada and New Zealand; while in the United States, the research suggests that Native Americans are sentenced more harshly than their non-Indigenous counterparts (United States: Alavarez & Bachman 1996; Everett & Wojtkiewicz 2002; Munoz & McMorris 2002; Wilmot & Delone 2010. Canada: Weinrath 2007; Welsh & Oglloff 2008. New Zealand: Deane 1995; Triggs 1999).

Recently in Australia there has been a proliferation of studies in the area of Indigenous sentencing disparities (see Bond & Jeffries 2011a, 2011b, 2011c, 2010a; Bond, Jeffries & Weatherburn 2011; Jeffries & Bond 2009; Snowball & Weatherburn 2007, 2006). The vast majority of this research has focused on higher court sentencing, where either equality or leniency has been found to have been extended to Indigenous offenders. There have only been two prior investigations of Indigeneity and sentencing in Australia's lower courts. In New South Wales, Bond, Jeffries and Weatherburn (2011) found that although the difference was small, Indigenous defendants received shorter periods of incarceration after adjusting for other important sentencing factors, suggesting positive discrimination. However in Queensland's lower courts, Bond and Jeffries' (2011a) analysis of the decision to imprison/not imprison revealed that Indigenous offenders were more likely to be incarcerated than non-Indigenous defendants when sentenced under like circumstances.

### Data and methods

To explore the probability of Indigenous versus non-Indigenous defendants receiving a prison sentence over time, outcomes in the lower courts of New South Wales and South Australia were investigated over an 11 year period from 1998 to 2008. Data was obtained from two sources:

- the South Australian Office of Crime Statistics and Research's court database, which tracks cases through the court system, augmented by information from South Australian Police criminal history data and Department of Correctional Services; and
- data provided by the NSW Bureau of Crime Statistics and Research courts database.

Sentencing outcomes in these data are for cases convicted, rather than individual offenders—while this analysis relates to cases, the term *offender* will be used for ease of reference. This means that individual offenders may appear more than once in the data. However, the use of cases as the unit of analysis is common in sentencing disparities research and is taken into account in the analyses.

During the study period in South Australia, a total of 606,986 cases went to a sentencing hearing. However, due to missing data and data errors, this analysis uses 536,534 cases (or 88.4% of the total population). Of these, 11.04 percent were identified as involving an Indigenous offender, 19.04 percent involved a female offender and the mean age was 31.31 years (sd=10.60). In only 2.97 percent (n=15,930) of all cases, an order of imprisonment was imposed as the most serious outcome. In New South Wales during the same period, there were 1,248,785 cases in the lower courts at sentencing. Again, missing data resulted in only 1,003,988 (or 80.4%) cases being available for analysis. In the end, there were 15.70 percent cases with an Indigenous offender, 17.43 percent with a female offender and the mean age was 31.40 years (sd=10.76). Imprisonment was the most serious sentencing outcome for 7.57 percent (n=76,002) of cases.

This analysis treats the data as a repeated cross-sectional design, as more extensive longitudinal analysis is beyond the scope of this project. A series of logistic regression models of imprisonment were estimated for

- each year 1998 to 2008; and
- pooled data.

For each group of models, both the baseline likelihood of imprisonment for Indigenous

status was estimated, as well as the adjusted likelihood after controlling for social demographics, past and current offending, and court processing factors. Robust standard errors are calculated, due to the presence of repeat defendants.

The three groups of independent variables—offender social demographics, past and current offending, and court processing factors—were determined from the matters listed in the South Australian *Criminal Law (Sentencing) Act 1988* and New South Wales *Crimes (Sentencing Procedure) Act 1999*, as well as other factors highlighted in past studies as influential to sentencing decisions. Thus, the measures in the models of the relationship between Indigenous status and the decision to imprison are:

- *Offender social demographics.* In addition to offender's Indigenous status, the first group of independent variables includes sex and age. Prior research has shown that sex and age often impact judicial focal concerns around assessments of blameworthiness/risk, practical constraints and may also trigger stereotyping (Jeffries & Bond 2010a; Johnson 2003; Steffensmeier, Ulmer & Kramer 1998; Wu & Spohn 2009). This makes controls for both age and sex especially important. It should also be noted that in South Australia, Indigenous status is based on the apprehending officer's assessment of offenders' physical appearance for 1998 to mid-2007 and self-identification for mid-2007 to 2008. In New South Wales, Indigenous status is self-identified for the entire period.
- *Prior and current criminal offending.* When making sentencing decisions, judicial officers must impose punishment proportionate to the criminal harm caused, while also taking into consideration how culpable offenders are for their actions and any potential risks they pose to the community (Steffensmeier, Ulmer & Kramer 1998; White & Perrone 2005). Research consistently shows that current crime seriousness and criminal history are crucial to these considerations (Mitchell 2005; Spohn 2000). Criminal history is measured as number of prior convictions in South Australia and number of prior

court appearances in New South Wales. Offence seriousness is measured using the presence of multiple conviction counts and the National Offence Index seriousness score for the principal sentenced offence (for definitions of principal offence, see BOCSAR 2009 and SA AOCSR 2004 [major offence found guilty]).

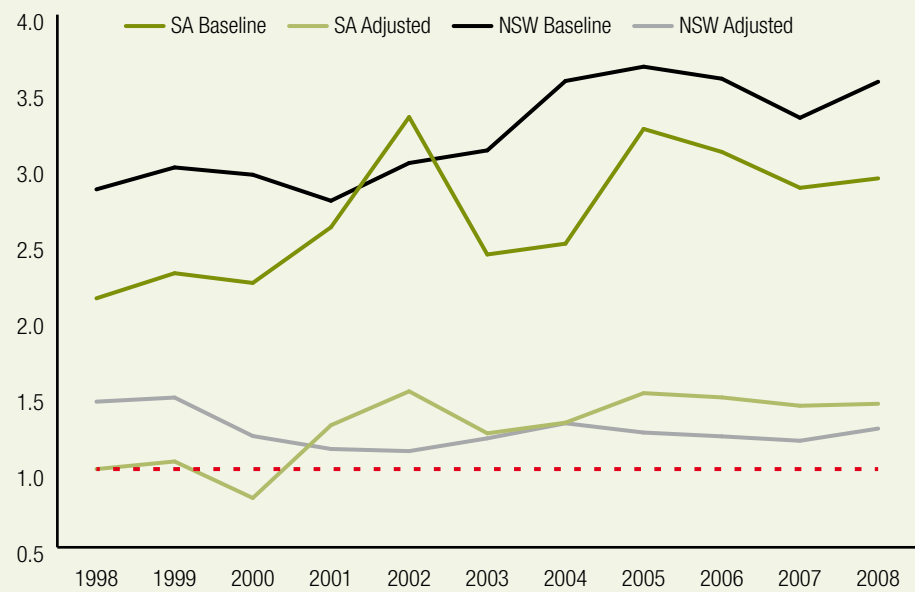
- *Court processing factors.* Type of plea and bail outcome were also included in the analyses. This refers to whether or not bail was ever cancelled, excluded, revoked, ineligible, or refused at any stage of the court process (South Australia); or whether or not an offender had bail refused or was already in custody on another offence (New South Wales). Refusal by police and previous judicial actors to release offenders back into the community may influence judges' perceptions of risk (Jeffries & Bond 2009; Jeffries, Fletcher & Newbold 2003). Guilty pleas may be associated with sentencing outcomes, although this may be due to expression of remorse (ie reduced blameworthiness) inherent in that plea, or due to the saving of time and work to the court and its personnel (ie practical constraint) (Steffensmeier, Ulmer & Kramer 1998; White & Perrone 2003).

The imprisonment sentencing decision (in/out) is the dependent variable. For the purposes of this study, *imprisonment* ('in') is defined as only including orders of immediate incarceration in a custodial facility.

## Impact of Indigenous status by year

Figure 1 reports the baseline and adjusted odds ratios for Indigenous status for each year in South Australia and New South Wales. The odds ratios are a multiplier of the likelihood of receiving a prison sentence by Indigenous status. An odds ratio greater than 1.0 indicates increasing likelihood and values less than 1.0 indicate decreasing likelihood. The baseline model estimated the impact of Indigenous status on the decision to impose a prison sentence without any controls. The adjusted model estimated the impact of Indigenous status on

**Figure 1** Independent effect of Indigenous status on the likelihood of an imprisonment order in adult lower courts (South Australia and New South Wales) by year



Note: Odds ratios reported. The adjusted odds ratios are estimated from a logistic regression model that controls for sex, age at disposition, prior history, offence seriousness, presence of multiple conviction counts, guilty plea and not released on bail. The dashed red line represents equal odds, or parity. Odds ratios below this line indicate increasing leniency in favour of Indigenous offenders; odds ratios above this line indicate increasing harshness toward Indigenous offenders

imprisonment, controlling for sex, age at disposition, criminal history, seriousness of the principal offence, presence of multiple conviction counts, presence of a guilty plea and not released on bail.

There are three findings of particular interest. First, the fit of the model varies between jurisdictions and over time. Depending on the year, the adjusted model (with all controls) explains between 16.93 and 25.44 percent of the variance in the decision to imprison in South Australia and 40.41 and 51.86 percent of the variance in the decision to imprison in New South Wales (as estimated by the pseudo  $R^2$ . Note that the pseudo  $R^2$  statistic will in general be lower than  $R^2$  values in Ordinary Least Squares regression models). The fit statistics suggest that the model fits the variation in imprisonment outcomes reasonably well in New South Wales, but not as well in South Australia. These results indicate that there may be other variables not included in these analyses that could further illuminate the imprisonment outcome in both jurisdictions (eg mental health issues or context of the current offending behaviour).

Second, baseline differences showing that Indigenous offenders are more likely than non-Indigenous offenders to be sentenced

to prison are reduced in both jurisdictions when for social background, legal and court processing factors are controlled for (see Figure 1). There is evidence of baseline disparity between Indigenous and non-Indigenous offenders for the entire study period (1998–2008). In New South Wales, Indigenous offenders were between 2.78 and 3.66 times as likely as non-Indigenous offenders to receive a sentence of imprisonment, before adjusting for other sentencing factors. Similarly, in South Australia, Indigenous offenders were between 2.14 and 3.33 times as likely to be imprisoned. However, controlling for social background, criminality (past and current) and court processing factors considerably reduces the disparity between Indigenous and non-Indigenous offenders in the likelihood of a prison sentence across the study period in both jurisdictions. Nevertheless, some disparity remains. Indigenous offenders were between 1.15 and 1.48 times as likely to be imprisoned in New South Wales, while Indigenous offenders were between 0.82 and 1.53 times as likely to receive a prison sentence in South Australia (see Figure 1). These findings provide support for both the differential involvement and negative discrimination hypotheses.

Third, the pattern of disparity over time differs by jurisdiction (see Figure 1). In New South Wales, although reduced, Indigenous offenders compared with non-Indigenous offenders with similar backgrounds and offending were more likely to receive a prison sentence throughout the entire period. By contrast, in South Australian lower courts, disparity increased over time, with earlier years showing parity and leniency, before a trend towards greater likelihood of a prison sentence for Indigenous offenders in similar statistical circumstances. It is noted that the difference in the odds of imprisonment between Indigenous and non-Indigenous offenders in South Australia was not statistically significant in three of the years (1998, 1999 and 2003). Thus, the size of the effect could have occurred by chance, rather than be an estimate of a true effect. Given the size of the population, this failure is likely due to the small proportion of sentences of imprisonment and the small proportion of Indigenous offenders in some years. These patterns at least suggest that the direct effect of Indigenous status on the likelihood of a prison sentence varied over the study period and the general pattern showed evidence of negative discrimination. From 1998 to 2008, the overall average likelihood of imprisonment for Indigenous offenders, versus non-Indigenous offenders in comparable circumstances in the lower courts, is about 1.3 times more likely for both New South Wales and in South Australia.

## Summary

This paper reports the findings from statistical analyses comparing the probability of receiving a prison sentence by Indigenous status in the lower courts of South Australia and New South Wales over an 11 year period (1998 to 2008). The primary aim was to identify whether there was a relationship between Indigenous status and imprisonment after controlling for other factors known to impact sentencing decisions. It was found that:

- For each year, adjusting for social background, past and present criminality and court processing factors reduced



the initial baseline differences between Indigenous and non-Indigenous defendants in both jurisdictions (New South Wales and South Australia).

- Overall, Indigenous defendants were more likely to receive a prison sentence, compared with non-Indigenous defendants in comparable circumstances in both jurisdictions (New South Wales and South Australia).
- The pattern of disparity over time varied between the two jurisdictions of New South Wales and South Australia. In South Australia, in the period pre-2001, there was evidence of parity and even leniency. However, in more recent years, Indigenous offenders were more likely to receive a prison sentence. By contrast, Indigenous offenders had higher odds of imprisonment throughout the entire period in New South Wales.

So there is some support for the differential involvement hypothesis across the entire time period, but some negative disparity remains. More importantly, the analysis suggests that the gap in the decision to imprison in the lower courts between Indigenous and non-Indigenous offenders may well be increasing in both jurisdictions.

The finding of negative discrimination across time in the lower courts of South Australia and New South Wales stands in contrast with prior research undertaken in Australia at the higher court level where either equality or leniency is found to be extended to Indigenous offenders (Bond & Jeffries 2011a, 2011b, 2011c, 2010a; Bond, Jeffries & Weatherburn 2011; Jeffries & Bond 2009). The focal concerns perspective of sentencing and/or methodological limitations around the variables used in the statistical sentencing models may provide some explanation for the contrasting findings in higher/lower court research.

According to the focal concerns perspective, sentencing is likely impacted by practical constraints including limited organisational resources, which place pressure on judicial

officers. By contrast with the higher courts, lower court magistrates are required to make sentencing determinations under tighter time constraints and with less information. The focal concerns perspective proposes that when constrained in these ways, judicial officers may utilise 'perceptual shorthands' (ie community-based stereotypes) to make sentencing determinations. In the North American racial/ethnic sentencing disparities research, these perpetual shorthands are argued to play out in ways that increase judicial assessments of risk and blameworthiness for African American and Latino defendants. Perceptions of Indigenous peoples as 'deviant', 'dysfunctional', 'disintegrated' and 'pathological' also pervade Australian society (Jeffries & Bond 2011).

The other factor that may account for differences in the higher/lower court research is that these contrasting findings may reflect variance in the number and kinds of sentencing factors considered in these studies. Typically in Australia, statistical explorations of Indigeneity and higher court sentencing include a broad range of sentencing factors, such as information about offenders' social contexts (eg employment status, familial situation, health) and offence contexts (eg presence of co-offenders, evidence of premeditation; eg see Jeffries & Bond 2009). However, even if these factors could have been included in the current analyses (they were not available in the court data), reduction in the Indigenous/non-Indigenous sentencing difference would likely be minimal. As discussed above, the restrictive context of lower court sentencing environments suggests that this more detailed level of information is less likely made available to sentencing magistrates. Further, the consistency of the Indigenous finding across time in two Australian jurisdictions provides strength to the argument of disparate treatment at the lower court level.

## Acknowledgements

This research would not have been possible without the data supplied by the South Australian Office of Crime Statistics and Research and New South Wales Bureau of Crime Statistics and Research.

## References

All URLs correct at August 2012

- Alvarez A & Bachman R 1996. American Indians and sentencing disparity: An Arizona test. *Journal of Criminal Justice* 24(6): 549–561
- Baker J 2001. *The scope for reducing Indigenous imprisonment rates*. Sydney: New South Wales Bureau of Crime Statistics and Research
- Blagg H 2008. *Crime, Aboriginality and the decolonisation of justice*. Sydney: Hawkins Press
- Bond C & Jeffries S 2010a. Sentencing Indigenous and non-Indigenous women in Western Australia's higher courts. *Psychiatry, Psychology and Law* 17(1): 70–78
- Bond C & Jeffries S 2011a. Indigeneity and the likelihood of imprisonment in Queensland's adult and children's courts. *Psychiatry, Psychology and Law* 19(2): 169–183
- Bond C & Jeffries S 2011b. Indigeneity and the judicial decision to imprison: A study of Western Australia's higher courts. *British Journal of Criminology* 51: 256–277
- Bond C & Jeffries S 2011c. Harsher sentences? Indigeneity and prison sentence length in Western Australia's higher courts. *Journal of Sociology* 48(3): 266–286
- Bond C, Jeffries S & Weatherburn D 2011. How much time? Indigenous status and the sentenced imprisonment term decision in New South Wales. *Australian and New Zealand Journal of Criminology* 44: 272–290
- Castle C & Barnett A 2000. *Aboriginal people and the criminal justice system*. Adelaide: Government of South Australia
- Cunneen C 2001. *Conflict, politics and crime: Aboriginal communities and the police*. Crows Nest: Allen & Unwin
- Deane H 1995. Race, gender, and the sentencing process in a New Zealand district court, in Hazlehurst K (ed), *Perceptions of justice: Issues in Indigenous and community empowerment*. Sydney: Avebury
- Everett R & Wojtkiewicz R 2002. Difference, disparity, and race/ethnic bias in federal sentencing. *Journal of Quantitative Criminology* 18(2): 189–211
- Hawkins D 1987. Beyond anomalies: Rethinking the conflict perspective on race and criminal punishment. *Social Forces* 65(3): 719–745

Dr Samantha Jeffries and Dr Christine Bond are senior lecturers in the School of Justice at the Queensland University of Technology.

General editor, *Trends & issues in crime and criminal justice* series:  
Dr Adam M Tomison, Director,  
Australian Institute of Criminology

Note: *Trends & issues in crime and criminal justice* papers are peer reviewed

For a complete list and the full text of the papers in the *Trends & issues in crime and criminal justice* series, visit the AIC website at: <http://www.aic.gov.au>

ISSN 0817-8542 (Print)  
1836-2206 (Online)

© Australian Institute of Criminology 2012  
GPO Box 2944  
Canberra ACT 2601, Australia  
Tel: 02 6260 9200  
Fax: 02 6260 9299

Disclaimer: This research paper does not necessarily reflect the policy position of the Australian Government

CRC grant no. 11/09-10

Jeffries S & Bond C 2011. Discourse of 'dysfunction': Sentencing narratives and the construction of Indigenous offending. *The Australian and New Zealand Critical Criminology Conference Proceedings*. Sydney: Institute of Criminology

Jeffries S & Bond C 2010. Narratives of mitigation: Sentencing Indigenous criminal defendants in South Australia's higher courts. *Journal of Sociology* 46(3): 219-237

Jeffries S & Bond C 2009. Does Indigeneity matter?: Sentencing Indigenous offenders in South Australia's higher courts. *Australian and New Zealand Journal of Criminology* 42(1): 47-71

Jeffries S, Fletcher G & Newbold G 2003. Pathways to sex-based differentiation in criminal court sentencing. *Criminology* 41(2): 329-353

Johnson BD 2003. Racial and ethnic disparities in sentencing departures across modes of conviction. *Criminology* 41(2): 449-489

Mitchell O 2005. A meta-analysis of race and sentencing research: Explaining the inconsistencies. *Journal of Quantitative Criminology* 21(4): 439-466

Munoz E & McMorris B 2002. Misdemeanor sentencing decisions: The cost of being Native American. *The Justice Professional* 15(3): 239-259

New South Wales Bureau of Crime Statistics and Research (BOCSAR) 2009. *Criminal courts statistics 2008*. Sydney: BOCSAR

Spohn C 2000. *Thirty years of sentencing reform: The quest for a racially neutral sentencing process*. Policies, processes, and decisions of the criminal justice system, 3. Washington: Department of Justice

Steffensmeier D, Ulmer J & Kramer J 1998. The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology* 36(3): 763-797

Snowball L & Weatherburn D 2007. Does racial bias in sentencing contribute to Indigenous overrepresentation in prison? *Australian and New Zealand Journal of Criminology* 40(3): 272-290

Snowball L & Weatherburn D 2006. Indigenous over-representation in prison: The role of offender characteristics. *Contemporary Issues in Crime and Justice* no. 99. Sydney: New South Wales Bureau of Crime Statistics and Research

South Australian Office of Crime Statistics and Research (SA OCSR) 2004. *Crime and justice in South Australia 2004*. Adelaide: SA OCSR

Triggs S 1999. *Sentencing in New Zealand: A statistical study*. Wellington: Ministry of Justice

Weatherburn D, Fitzgerald J & Hua J 2003. Reducing Aboriginal over-representation in prison. *Australian Journal of Public Administration* 62(3): 65-73

Weinrath M 2007. Sentencing disparity: Aboriginal Canadians, drink driving and age. *Western Criminology Review* 8(2): 16-28

Welsh A & Ogloff J 2008. Progressive reforms or maintaining the status quo? An empirical evaluation of the judicial consideration of Aboriginal status in sentencing decisions. *Canadian Journal of Criminology and Criminal Justice* 50(4): 491-517

White R & Perrone S 2005. *Crime and social control*, 2nd ed. Melbourne: Oxford University Press

Wilmot KA & Delone MA 2010. Sentencing of Native Americans: A multistage analysis under the Minnesota sentencing guidelines. *Journal of Ethnicity in Criminal Justice* 8(3): 151-180

Wu J & Spohn C 2009. Does an offender's age have an effect on sentence length? A meta-analytic review. *Criminal Justice Policy Review* 20(4): 379-413