



1 Aggravation / Mitigation – 3 papers				
1	Mandeep K. Dhami	Middlesex University	Aggravation and Mitigation in Sentencing	<p>The act of criminal sentencing requires sentencers to balance out factors that may increase or reduce the penalty an offender receives. Aggravating factors increase penalty severity while mitigating factors reduce it. These factors typically include those pertinent to an offender’s past criminality, victim characteristics, an offender’s character, and circumstances of the offence. However, neither laws nor guidelines typically indicate the weight that should be attached to specific aggravating and mitigating factors, or the relative weight that should be given to each set of factors. This means that sentencers are afforded considerable discretion. Past research suggests that this results in inconsistencies and biases in sentencing practice. However, little work has focused on aggravation and mitigation. The present study examined aggravating and mitigating factors in sentencing. The study analysed data collected by the Sentencing Council for England and Wales from Crown Courts, using the Crown Court Sentencing Survey (CCSS). Binary logistic regression models were computed for four offence categories (i.e., assault, burglary, drugs and driving) predicting (1) whether offenders received immediate custody v. a non-custodial penalty, and (2) if custody, whether offenders received shorter or longer custodial terms. The study reports the relative power of aggravating and mitigating factors in predicting sentences controlling for offender gender and age, offence seriousness, and percentage reduction in sentence for a guilty plea. The 2 findings have implications for our understanding of how judges conceptualise offence seriousness and how they prioritise factors such as past criminality, victim and offender characteristics and crime, when meting out punishments.</p>
2	Colleen M. Berryessa	Rutgers University, School of	The Potential Influence of Criminological Rationales in Considering Childhood Abuse	<p>This research examines if criminological theoretical perspectives linking childhood abuse and later offending (Social Control Theory, Social Learning Theory, General Strain Theory) are persuasive in arguing childhood abuse (neglect, witnessing trauma, sexual abuse, physical abuse) as mitigating to</p>



		Criminal Justice	as Mitigating to Criminal Sentencing Goals	criminal sentencing goals. A multi-factorial experiment was conducted with a nationally representative sample of U.S. adults (N=521). Results showed that evidence on childhood abuse, particularly sexual abuse, reduced support for incapacitation and increased support for rehabilitation. Social Control Theory was particularly persuasive in arguing childhood abuse as mitigating to prison and in relation to support for rehabilitative sentencing (mediated by beliefs regarding what the theory conveys about the offender's future dangerousness and reduced responsibility). Ultimately, criminological theories, specifically Social Control Theory, appear to be persuasive rationales for arguing childhood abuse as mitigating to sentencing contexts involving incapacitation and rehabilitation. Implications for sentencing guidelines and systems are also discussed.
3	Ojmarrh Mitchell, Shi Yan, and Daniela Oramas Mora	School of Criminology and Criminal Justice, Arizona State University	Punitiveness, Extralegal Disparities, and Guideline Circumvention: What Happened in the Last Two Decades?	<p>Since arriving at its peak in the early 2010s, the total inmate population in the U.S. has been on the decline for several years. Studies found sentencing laws and practices had strong predictive powers of the inmate population. Many researchers viewed the adoption of presumptive sentencing guidelines and mandatory sentences as a driving factor of the inmate population in the 1990s and 2000s.</p> <p>We analyzed the population of Florida Criminal Punishment Code (CPC) scoresheet data between Fiscal Years 1998 and 2018. We found that the over sentence harshness has been declining since the mid-2000s, which was largely attributable to the increase in mitigated departures—a mechanism to sentence defendants below the presumptive level prescribed by the state's sentencing guidelines. We also found that extralegal disparities, particularly those between Black and White defendants, were also declining, which was also related to the use of mitigated departures. Contrary to the findings of many previous studies, our analysis found that prosecutors appeared to utilize the guidelines in a way that suppressed extralegal disparities.</p>



2 Stereotypes – 4 papers – August				
1	Lora Briški, Mojca M. Plesničar	Institute of Criminology Ljubljana	Stereotyping when sentencing for rape?	In recent years, various debates about the existing state of rape legislation and sentencing have emerged. Our paper aims to examine the sentences imposed for rape and sexual violence and the reasoning underpinning sentencing decisions. Our findings come from judicial decisions in cases of rape passed by Slovenian courts in 2016-2019. In the first part, we analyse the various sentences used, especially the proportion of suspended sentences and the length of the custodial sentences imposed, and compare that with the range set by the legislature. Moreover, we examine aggravating and mitigating factors that were taken into account by the Slovenian courts in the last five years. With regard to the latter, we observe how stereotypical beliefs about perpetrators, victims, and the crime of rape itself affect the court's perception and evaluation of events. Generally, we found that such narratives were often proposed by the defence, whose stance was sometimes followed or ignored by courts, while sometimes courts recognized and denounced them.
2	Ana Páez- Mérida, Raquel Bartolomé Gutiérrez	Criminology Research Centre, University of Castilla- La Mancha (Spain)	Sentencing process of female delinquency in Spain	There is an extensive literature on sentencing disparities. Research has found that judges decisions are mostly influenced by legal variables such as criminal history and offense severity. However, there is a broad consensus in criminology that gender crosses justice systems and becomes a non-legal factor that influences sentencing. Most of the empirical research in this field finds a benevolent treatment for women, but little has focused exclusively in analyse if all women benefit from this benevolent treatment. Some research in Anglo Saxon contexts shows that black and low-class women receive harsher criminal responses. As far as we know, there is not work on this issue in the justice system in Spain. The purpose of this study is to explore how judges sentence women and to examine if all women are treated equally. Our data include 472 women sentenced between 2008 and 2019 in Castilla-La Mancha (Spain) courts. Some preliminary results show that there is a correlation between the imposition of a guilty sentence and prior record, nationality, gypsy ethnicity and



				drug problems. However, apart from drug problems, these variables are not related to the imposition of a prison sentence.
3	Erik J. Girvan	University of Oregon School of Law	Eye of the Beholder or Beheld?: Examining the Magnitude of Racial and Ethnic Disparities in Outcomes of Sentencing Decisions	One challenge in using large existing data sets to conduct quantitative research on discrimination in criminal sentencing is developing methods that can assess whether differences occur as a result of biased decision-making or differences in base-rate behaviors. This examined a way to address the challenge by examining whether ethnic disparities in sentence outcomes differed depending upon whether the codes for the ethnicity of individuals being sentenced were (a) derived from third-party observation, and thus were more likely to be associated with stereotyping, or were (b) corrected with Bayesian Surname Geocoding to more closely reflect the self-identified ethnicity of the sentenced individuals. Data consisted of information about 265,320 unique sentenced offenses committed by 216,275 individual offenders who were under the supervision of the Department of Corrections (DOC) of one U.S. state at any point between 2005 and 2018. Results indicated that, controlling for the type and severity of the offense, number of concurrent offenses, offender's criminal history, and offenders' age and sex, offenses committed by Hispanic individuals were substantially more likely to have resulted in a sentence to prison as compared to jail or probation than were offenses committed by White individuals. Further, results suggested the disparity was significantly larger when ethnicity codes used in the analysis were based on DOC ratings, derived primarily from their observations (odds ratio: 2.05 [1.96, 2.16]), than when the codes were adjusted to better reflect self-identification of those individuals as Hispanic (odds ratio: 1.65 [1.58, 1.72]). Implications for the research on discrimination, as well as sentencing policies and practices, are discussed.
4	Avril M Brandon	Maynooth University, Ireland	Investigating Sentencing Differences Between Irish and Non-Irish Nationals in the Irish Criminal Justice System	Ireland's economic growth from the late 1990s prompted sustained and diverse inward migration, resulting in substantial changes in the population and reshaping the social and cultural landscape. These shifts have also been visible among those processed by the criminal justice system, with a marked increase in the number of non-Irish nationals committed to Irish prisons. International



				<p>research suggests that racism is a significant issue within criminal justice systems, with minority ethnic groups often disadvantaged. Despite these findings and the growth in non-Irish national prisoners, little research had assessed the impact of ethnic bias on Irish sentencing outcomes. This exploratory study examined whether disparities exist between the sentencing of Irish and non-Irish defendants, using data from the Irish Prison Service. Analyses observed that certain offences elicited a modest, but statistically significant difference between sentence lengths for Irish and non-Irish nationals. Differences in sentencing outcomes remained when sex and previous custodial sentence were controlled. Non-Irish nationals received statistically significantly longer sentences in both male and female groups; and among those with and without a previous custodial sentence</p>
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3 Experimental - 4 papers				
1	Jakub Drápal, Michal Šoltés, Josef Montag	Charles University Prague	Sentencing Ranges, Crime Severity, and Punishment Decisions: A Survey Experiment with Students and Prosecutors	Many criminal codes restrict judicial discretion in imposing prison sentences within sentencing ranges. Depending on whether the seriousness of the criminal activity e.g., the amount of drugs possessed, exceeds a threshold, two almost identical cases may fall in different sentencing ranges. We study the role of sentencing ranges on sentencing decisions and propose two mechanisms that affect sentencing decisions and that work in opposing directions around the threshold: (i) the severity effect and (ii) the reference case effect. The overall sentencing pattern depends on the relative strength of these two mechanisms. To test for the presence and the strength of the mechanisms, we conducted an experiment with law students in February 2020 and we will conduct a similar one with prosecutors in June 2020. We specifically provide the participants with vignettes of illustrative criminal cases in which we exogenously vary the seriousness of the criminal activity, the sentencing ranges, and the values of thresholds and then collect their suggested sentences.
2	Mojca Plesničar, Miha Hafner, Katja Šugman Stubbs	Institute of Criminology Ljubljana	"It can't be!" The effects of anchoring on sentencing decisions	Anchoring, that is the cognitive bias explaining the heavy dependence of decision-making on initial (non-/relevant) information, is one of the most studied and explored cognitive biases. Anchoring effects have been observed in the legal reality by various authors with applications to law in general (Guthrie et al) and criminal sentences more specifically (Mussweiler et al.) and with using various types of information as anchors. To test the findings in the Slovenian context we designed an experiment for professionals in which we tested the anchoring effect in a hypothetical non-legal and in a sentencing context. Our results reaffirm previous findings and bring additional insights into possible mechanisms of prevention.
3	Miha Hafner, Mojca Plesničar, Katja Šugman Stubbs	University of Ljubljana	Searching for stereotypes and prejudice in sentencing: a study on professional judges	Professional decision-making in criminal law context is covered by the veil of objectivity and impartiality. However, a plethora of evidence from other decision-making contexts, but also rapidly growing evidence from the legal context itself, suggest that professional legal decision-makers are not immune to



				<p>various psychological mechanisms. In our study, we focus on the potential influence of stereotypes and prejudice.</p> <p>To test this potential influence, we designed and carried out an experiment with professional criminal law judges in Slovenia. Judges were asked to make sentencing decisions in realistic criminal law cases presented to them in a form of short vignettes. The experiment was designed in a way that the influence of stereotypes/prejudice in judges (if present) could be detected through their sentencing decisions. In this presentation, the experiment will be presented and first preliminary results revealed and discussed together with caveats about their interpretation.</p>
4	Jose Pina-Sánchez, John Paul Gosling	Leeds University	1 + 1 ≠ 2 ?! Exploring how sentencing factors interact using Bayesian model averaging	<p>It is well accepted that even under the most restrictive sentencing guidelines multiple factors describing the offence or the offender interact with each other. From this premise it is inferred that attempts to codify further the sentencing process are bound to undermine judicial autonomy and the principle of individualisation. This view is supported by a wide range of empirical studies that have reported statistically significant interaction effects between sentencing factors. However, all of those studies have focused on one (or in the best of cases a few) interaction effects, which questions claims made about the overall prevalence of such effects across the multiple factors considered throughout the sentencing process. Here we use Bayesian model averaging techniques to contemplate all possible combinations of two-way interaction that could be derived from the Crown Court Sentencing Survey. Our findings show that the perception of factors commonly interacting with each other might be misplaced; with a few important exceptions, once the main effect of each sentencing factor is controlled for we find few to no relevant interaction effects.</p>



4 Experience of Researching Sentencing and Explaining Sentencing – 4 papers				
1	David Hayes	Sheffield University	Ben Crewe on the Bench? Bringing the Dimensional Pains of Punishment into the Courtroom	<p>Penal subjectivists argue that the severity of punishment ought to be measured in terms of the suffering actually experienced by penal subjects, rather than that intended by sentencing authorities. One challenge that subjectivists must confront, however, is that it is difficult to meaningfully compare the subjective experiences of different individuals, in a way that is sufficiently fair, equitable, and consistent to satisfy the requirements of equal and proportionate sentencing.</p> <p>This paper considers the prospects and pitfalls of Ben Crewe's theory of the <i>dimensionality</i> of the pains of imprisonment as a means of overcoming this challenge. Crewe's ground-breaking work (occasionally with colleagues) takes the 'deprivations and frustrations' of everyday prison life associated with Gresham Sykes's prison sociology, and subjects them to four spatial metaphors that help to trace differences between penal experiences: depth; weight; tightness; and breadth. This metaphorical mapping of the experience of imprisonment into a four-dimensional space allows for a more effective comparison of different prison regimes, for different classes of prisoners.</p> <p>Could Crewe's dimensional analysis be used to effectively compare the (predicted) pains of punishment at the point of sentence? This paper aims to explore that question, considering the strengths, limitations, and possibilities of Crewe's framework, against the backdrop of sentencing processes in England and Wales.</p>
2	Nicole Bögelein	Institute for Criminology, Köln University	Two Choices are More than One. A Decision-Making Perspective on Day Fines	<p>84 % of all sentences in Germany are fines. Day-fines are applied in amounts proportional to the offender's economic situation. The aim of this is to deliver a punishment which has equal impact regardless of one's social economic status. But by separately deciding on amount and number of daily units, criminal justice actors have to make two choices.</p>



				<p>The suggested paper examines the decision-making process of legal practitioners. What makes for a “suitable punishment” in the eyes of judges and prosecutors? How do decision-makers justify their decisions? Do they give past factors for their decision? Do potential outcomes have influential effect on the decision-making process? (For example, as evident in Alfred Schütz’s “in-order-to motives” and “because motives”). Do judges and prosecutors depict themselves as impersonal “sentencing machines” who apply law “as it is”? Or do they relate to more sublime, maybe quasi-rational aspects of sentencing? The research project Calculating the Fine: Front-End Legal Practice was carried out between September 2018 and August 2019 as a joint project of the University of Cologne and the Criminal Justice Policy Program at Harvard Law School. It was comprised of 14 group interviews made up of 21 judges and 33 prosecutors.</p>
3	Andrew Bell	Scottish Sentencing Council	An insider’s experience of researching with sentencers	
4	Jay Gormley	University of Strathclyde, Glasgow	Judicial Authority and Legitimacy	<p>The authority to pass sentence can be understood in terms of its legality. However, sentencing authority can also be understood in terms of its normative legitimacy. Ideally, there should be an overlap between the two understandings. However, is this always the case? Is it possible that the law, while granting legal authority to pass sentence, might work to undermine the perceived legitimacy of that sentence?</p> <p>Drawing on research in Scotland, this paper argues that Plea Bargaining, while generally a legal consideration in determining sentences, can undermine the legitimacy of a judge's authority. In particular, it is argued that Plea Bargaining, in the eyes of defendants, reduces sentencing (and sentencers) to part of a game lacking in principle.</p> <p>The ramifications of defendants' perceptions of gamesmanship are multi-faceted. Firstly, legal professionals (especially judges) find these perceptions to be profoundly challenging, both personally and professionally. Secondly, defendants fail to internalise normative messages from the criminal process</p>



				because, for them, the process is not a principled one. Finally, and counter-intuitively, defendants' perception of the gamesmanship inherent in Plea Bargaining often inclines them to delay pleading guilty. Sensing this inclination, judges strive further to encourage Guilty Pleas, which can compound the issue. These points raise crucial questions for sentencing authorities concerning the value of their attempts to secure the expedient disposal of cases and how these attempts can undermine the legitimacy of their authority in the eyes of defendants.
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5 - Sentencing Juvenile offenders – 4 papers				
1	Dr Max Lowenstein	Bournemouth University	Judicial Communication in the English Youth Court: The role and sentencing approach of Youth Court Judges who explain their sentencing reasons to reform young offenders.	This paper considers youth sentencing explanations provided by the English Judiciary at the micro-level. Micro-level research is limited globally, both in the USA (Burfeind, Jeglum Bartusch and Hollist, 2019) and the EU (Goldson, 2019). First, the relevant macro-level global and domestic youth justice systemic principles and practices guiding sentencing explanations in England are considered. Second, there is critical discussion regarding the three purposes behind youth sentencing explanations delivered in the courtroom. They are, understanding human behaviours and language simplification, which connect to relevant social theory, whilst moral education connects to moral theory (Weijers, 2004). Third, new qualitative data gathered from English Youth Court Judges confirms the relevance of social and moral theory as well as the three purposes (Lowenstein, 2020). Understanding human behaviours focuses primarily on the young offender and their close supporters. Language simplification involves a positive calm and measured delivery, listening to and discussing the consequences of the sentence imposed with the young offender. Moral education includes receptive body language provided from both the judiciary



				and the young offender. Finally, further micro-level comparisons of youth sentencing explanations in different youth justice systems are encouraged to redress our current global micro-level knowledge gaps.
2	Dr Etain Quigley	Maynooth University, Ireland	Perceptual Shorthand, Practitioners Narrative and Decision Making at the Irish Children Court.	This paper explores the role of perceptual shorthand during decision making processes related to young offenders as they move through the youth justice system. The paper draws on findings generated from in-depth qualitative interviews conducted with Irish youth justice practitioners, namely, judges, lawyers, probation officers, juvenile liaison officers [youth police officers] and detention school workers. Findings suggest convergence between practitioners in terms of Irish youth justice practitioners' perceptions, understandings and decision making about the young people they work with. Furthermore, findings suggest that the primary concept driving perceptual shorthand was related to a young person's level of compliance with a pro-social attitude and dominant social norms, perceptual shorthand playing a key role during sentencing.
3	Dr Yannick N. van den Brink	Leiden University / University of Cambridge	Pre-trial detention and bail decision-making in the youth court: A comparative analysis of England and the Netherlands	This presentation presents the key findings of an in-depth comparative study of pre-trial detention and bail decision-making in youth courts in England and the Netherlands. Based on qualitative empirical research – i.e. court observations and interviews – in youth courts in both jurisdictions, this presentation explores the differences and similarities in the decision-making process and in the functions of pre-trial detention and bail in the administration of youth justice, while taking into account their respective legal, institutional and practical contexts. Specific attention will be given to the roles of, and the interactions between the different actors in the youth court (i.e. the judge or magistrates, legal adviser or clerk, prosecutor, defence lawyer, social workers, parents and youth). Building further on the notion that youth court decision-making should be seen as a 'collective process', this presentation explores how the role-perceptions of, and dynamics between the different stakeholders shape the pre-trial detention and bail decision-making process in the youth court. Ultimately this presentation aims to contribute to furthering the cross-national knowledge about pre-trial detention and bail decision-making in the youth court.



4	Alicia Montero Molera, Esther Fernández Molina	Criminology Research Centre, University of Castilla-La Mancha (Spain)	An exploratory study of plea bargaining in the Spanish juvenile justice system	Nowadays plea bargaining is a common and accepted legal practice in adult and juvenile justice system. Despite the fact that most of criminal convictions come from negotiated pleas, little empirical research has focused exclusively in this field. Through a plea bargain the defendant agrees to plead guilty to the charges in return of a lenient sentence and procedural agility of the case. This negotiation between prosecution and the lawyer is characterized by its lack of transparency shortly before the hearing. This study was designed to examine the plea bargaining process in juvenile courts among a sample of 219 juveniles offenders in Castilla-La Mancha (Spain). Our preliminary results find that 67% of juveniles are convicted through a plea bargain. Moreover, gender, age, type of offense, recidivism and number of victims are not correlated with the plea bargain process. Therefore, it is explored if other structural variables can influence this plea bargain process. Thus, in the preliminary analysis it has been found that juveniles with a public defender are more likely to accept a plea bargain. Results and implications of this work are discussed.
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