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In for a Shock?: Discretion and Disparity in Program Assignment

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by

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Abstract

Due to the massive prison population in America, correctional agencies are considering alternatives to standard incarceration. These programs are designed to redirect individuals from serving a prison sentence, and are instead assigned to a program specifically targeted at reducing offenders' likelihood at recidivating. Typically, the main focus of these programs centers on education, job training, and various types of counseling. The Mississippi Department of Corrections (MDOC) has implemented two programs that aim at reducing recidivism: the first was the Regimented Inmate Discipline Program (RID), which was later replaced with the Recidivism Reduction Program (RRP). While both programs were intended to take the same types of offenders and had the same end goal of reducing recidivism rates, they employed very different methods. The RID is a shock incarceration program, while the RRP employs cognitive behavioral therapy. Research regarding recidivism reduction programs and their effectiveness are plenty. However, one area in which research is lacking is whether disparities in racial treatment are as prevalent as in other areas of the justice system (Walker, Spohn, Delone, 2009). The primary question this research seeks to ask is regarding the role of racial disparities in program assignment. This research will then explore the factors that judges, prosecutors, and defense attorneys use in sentencing offenders to recidivism reduction programs.

Key Words: race, recidivism reduction, sentencing, Courtroom Workgroup, disparity, program assignment

Dedication

To Ron and Laura Mathis, for their unending love, support, and encouragement.

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RID	Regimented Inmate Discipline
RRP	Recidivism Reduction Program
MDOC	Mississippi Department of Corrections

Chapter 1: Introduction

Statement of Problem

The last decades of the 1900's saw increased criminal justice policies and law enforcement crackdowns as the fear of crime became one of the most hotly debated topics in politics. One of the most infamous effects of heightened criminal justice enforcement is the drastic increase of people sentenced to prison. The Sentencing Project reports that America's incarcerated population of 2.2 million has increased 500% since before these new policies began in the 1980s. (Criminal Justice Facts, 2017). This imprisonment boom is primarily a result of the War on Drugs, which President Reagan introduced in 1982 to play on public fears of crack and cocaine to propel drug enforcement, stigmatize individuals suffering from addiction, and increase penalties under a "tough on crime" mentality (Alexander, 2012).

This massive expansion in incarceration has come with enormous costs, leaving government budgets severely strained. During the Clinton administration, the corrections budget grew to $19 billion, a 171% increase since before Clinton took office (Alexander, 2012). These costs are so great that the federal and state governments – who typically oversee prisons – have allowed private companies to oversee operations. Privatization became a well-received idea under the Reagan administration in response to the early increase in incarceration rates and overcrowding, as well as their support for smaller, less intrusive government (Chang, 2002). Privatization is especially harmful to African American inmates. While African Americans are overrepresented regardless of the type of prison they are in, this disparity is even higher in private prisons. (Smith, 2016). Black

inmates are also more likely to be assigned jobs with lower wages, therefore forcing them to find income through illegitimate means. This may lead to more disciplinary action, and fewer privileges and "good time" to help shorten their sentences (Chang & Thompson, 2002).

The cost of incarceration is more than just financial, and this is especially true for former inmates. Inmates face stigma after they leave prison, which is only exacerbated by the subsequent limitations they face upon release. These include being barred from government housing, many government assistance programs, obtaining federal student loans, owning a firearm, and in many states, voting. These limitations, especially in combination with each other, act as roadblocks which can severely hinder the transition from the routine and disciplined lifestyle behind bars to a self-directed life in their community (Alexander, 2012). In addition to a criminal record, having limited education and job skills make it difficult for offenders to find meaningful employment after their release. These barriers – especially when coupled with technical violations – create such a difficult path to reintegration that they contribute to high rates of recidivism. Allowing offenders easier access to employment can help to reduce their likelihood of recidivating. As many as a third of those being released from prison will return within three years of their release. Employment and economic assistance – two things inmates struggle to receive due to their criminal record – can significantly decrease recidivism (Austin and Irwin, 2001).

Though obtaining a job can be difficult for anyone with a criminal record, it is especially challenging for African Americans. The results of Pager's (2003) study show that when comparing post-conviction employment opportunities to the race of the

applicant, black individuals with no criminal record received fewer callbacks for interviews and job offers than whites who had a criminal record. African American applicants who did have a criminal record fared even worse. Bias and disparities in both race and class have historically been and continue to remain one of the most prominent critiques of the criminal justice system. During the War on Drugs, crack was more harshly punished than other drugs, including powder cocaine. It was also more popular among inner cities and communities of color, leading to these populations becoming overrepresented in prison (Alexander, 2012). Alexander (2012) even reports that the number of African American adults who are in some form of correctional supervision today outnumbers those who were slaves in 1850.

Another suspected reason for recidivism stems from the fact that prison conditions and interactions are so different from those on the outside (Rhodes, 1979). For many inmates, there is virtually no transition between the two. After serving a sentence marked by structure and routine, inmates may find it difficult to adjust back into society, especially one that emphasizes independence and self-accountability. There is also evidence that the subculture of imprisonment may lead to increased criminality. For instance, Rhodes (1979) discovered that the environment within prison can cause offenders' attitudes towards criminality to become more deviant and pronounced. The idea that incarceration can affect a person's behavior is also supported by labeling theory. Restivo and Lanier (2015) explain that punishment or stigma of certain behaviors in an effort to reduce them will have the opposite consequence, and individuals will instead subscribe to this notion and act upon it. Together, these two theories suggest that a prison sentence may actually lead to increased criminality.

These aforementioned issues are a few of the reasons that people have called for alternatives to standard incarceration. One form of this is through programs specifically designed to reduce recidivism. This very broadly describes a wide array of programs designed to redirect individuals out of a traditional prison sentence, who may benefit from alternative sanctions. Most often, this includes first-time, nonviolent offenders, or those suffering from addiction or struggling with their mental health (The Center for Health and Justice at TASC, 2013). Recidivism reduction programs have become more appealing and popular across the country, despite their diverse nature. While new programs often look to older programs for ideas, there are a range of different types of programs targeting different populations and with different goals and practices. Additionally, some programs are overseen by the state, while others are run by independent organizations or non-profits. Despite such differences, there are several overarching similarities that most programs seem to have in common. In general, most programs focus their attention on underlying causes of crime, namely addiction and mental illness, and many offer GED or other educational programs, or teach job skills. They also typically are only available to first-time offenders, or those who have committed lower-level offenses (The Center for Health and Justice, 2013).

While the War on Drugs was the phenomenon that prompted the initial increase in incarceration, high rates of recidivism ensured that the United States prison population remained high. Because of the frequency of those who are repeatedly reintroduced into the criminal justice system, the question of how to reduce mass incarceration has shifted focus from aiming to keep people from going to prison to keeping people from returning to prison. The formal limitations that offenders experience upon their release in

conjunction with a lack of education and job skills makes it difficult for offenders to successfully transition back into society. These hurdles keep rates of recidivism – and, in turn, the prison population as a whole – so substantial. Additionally, evidence of racial disparity in treatment can be found in nearly every aspect of criminal justice. Whether and how racial disparities occur specifically in recidivism reduction efforts is the primary focus of this research.

Purpose

This thesis will examine two specific recidivism reduction programs in Mississippi, the first of which is the Regimented Inmate Discipline program (RID). Although it is no longer used in Mississippi, the RID was a paramilitary style program, emphasizing self-discipline and adherence to boot camp style rules. Discipline for failure to follow rules and protocols was administered by certified "Drill Instructor[s] or Drill Commander[s]"(Mississippi Department of Corrections [MDOC], 2013). Participants had to complete five treatment components, which were Discipline Therapy, psychological counseling, alcohol/drug counseling, pre-release counseling, and aftercare strategies. Discipline Therapy was described by the program as "Establish[ing] structure and the importance of adhering to the rules and regulations of society via the paramilitary tasks of marching, inspection, cleaning of housing units, flag ceremonies and calisthenics" (MDOC, 2013). There were also optional treatments that offenders were not required to complete. Participants of the RID were able to graduate from the program once they had completed all four six-week phases, and had been assessed by staff, namely their drill instructors, counselors, and case managers on their performance during "boot-camp procedures," individual and group therapy sessions, and psychological testing (2013).

On May 1st, 2017, the RID was discontinued and replaced by the Recidivism Reduction Program (RRP). Much like the RID, the RRP has five required and other optional program elements. The mandatory elements include cognitive behavioral therapy, alcohol/drug education, adult basic education, vocation education, and pre-employment (MDOC, 2017). While several of the required treatment components are very similar, the biggest difference between the RID and the RRP is the primary method of criminal rehabilitation. The RID is a military-style program, which emphasizes that "adherence to discipline will be an integral part of the rehabilitative process," and employs certified drill sergeants (MDOC, 2013). The main focus of the RRP, on the other hand, is cognitive behavioral therapy, which is described as "training that promotes the development of rational, moral, non-criminal problem solving by providing the tools necessary for offenders to begin initiating changes in attitudes necessary for behavior change" (MDOC, 2017). Despite the significant difference in the target method of treatment, both programs are designed to treat the same types of offenders (MDOC, 2013; MDOC, 2017).

One question that arises from these programs is, despite the drastic differences in rehabilitative measures, are both programs actually receiving the same types of offenders? Or are there disparities between one and the other? This thesis will examine this question, particularly regarding the issue of race. The hypothesis behind this research is that sentences to these programs were not imposed equally. First, this thesis will compare the populations of the RID and the RRP, particularly to look for any demographic disparities. The second half of the research will consist of surveys and interviews with judges and prosecutors of Mississippi, as the two key players in

sentencing. Doing this will ideally uncover what they know about the RID and the RRP, how they are informed of new program availability, and how decisions in sentencing with regard to recidivism reduction are made.

As was mentioned earlier, programs to reduce recidivism are becoming more widespread in America. These programs are becoming an increasingly popular way to lessen the costly and already overburdened prison system. While many programs show promise in potentially reducing recidivism rates, they are still a relatively new area of study. There is little existing research on sentencing specific to recidivism reduction and on how judges and prosecutors decide to use these programs (The Center for Health and Justice, 2013). This research may help program directors to understand what they must do to increase awareness and understanding of their program to judges and prosecutors. This can help to ensure that any decision to sentence to a program is one that is accurately made and well-informed.

The use of the RID and the RRP specifically to measure disparate sentencing is ideal because it is well controlled. The two programs exist in the same jurisdiction, are run by the same organization (the Mississippi Department of Corrections), occur in similar time frames, and are intended to serve the same types of offenders. However, the primary difference between programs is that one has a more rehabilitative focus and the other a more punitive and retributive method of treatment. The primary goals of this research are to examine the processes and decision-making that goes into sentencing to recidivism reduction programs, and how race factors into program assignment. While racial tensions in America have significantly improved in the last century and a half,

there has yet to exist an aspect of the justice system untouched by biased treatment and discrimination. Programs aiming to reduce recidivism are likely no different.

Chapter 2: Literature Review

As recidivism reduction programs become a more popular sentencing option, more needs to be known about the role they play within the criminal justice system. While many are advertised as promising new ways to reduce rates of recidivism while saving correctional costs, questions remain regarding how and why sentencing decisions are made with respect to recidivism reduction programs. Additionally, how interactions between judges, prosecutors, and defense attorneys influence sentencing remain unclear. The following section explores the current literature on recidivism reduction programs, specifically those using either shock incarceration or cognitive behavioral therapy. These are examined with a special consideration towards the role of race, as well as the influence of discretion and decision-making in sentencing.

Race and Disparity in the Criminal Justice System

Questions regarding unfair and disparate treatment in the criminal justice system cannot be answered without addressing the role of race, specifically regarding African Americans. As of 2005, African Americans in their late twenties were seven times more likely than Caucasians of the same age to be in jail or prison (Harrison & Beck, 2006). Despite society only recently acknowledging such differentiated treatment, it is not a recent phenomenon – black Americans have been subject to unfair treatment by the criminal justice system since the convict lease system was put in place after the Civil War (O'Shinsky, 1996).

The current racially-influenced state of the criminal justice system was created mostly due to the War on Drugs, which focused crime-control efforts through racially-motivated language and laws (Alexander, 2012). Likely the most infamous example of this is the disparate sentences imposed on users of crack-cocaine versus users of powder cocaine (Alexander, 2012). Racially motivated laws were generally unquestioned, as they were enacted under the guise of crime control. Because these policies were not acknowledged as being explicitly racist, claims of being victimized by racial discrimination were dismissed and believed to be unfounded (Simon, 2016). Black and Hispanic males are still today often disadvantaged and stereotyped as the typical criminal (Jordan & Freiburger, 2015). The increase in incarceration and criminal justice intervention against minorities has led to the false assumption that people of color are more likely to engage in drug use or other criminal activity (Walker, Spohn, & DeLone, 2012).

Racism in the criminal justice system has not gone away, but is merely being justified differently. Alexander (2012) explains that while racial terms are no longer blatantly used in laws, racially disparate treatment and attitudes still exist under "color-blind" language. This use of disguised language was especially prevalent during the War on Drugs, when cracking down on violent and street-level drug crimes (which was only a concern for 2% of Americans at the start of the drug war) and perpetuating the image of greedy "welfare queens" faced little opposition to its race-neutral yet racially charged policies (Alexander, 2012). Colorblind laws would use factors like prior criminal history as a proxy for race. On the surface, figures stating that African Americans have more extensive involvement in the criminal justice system may indicate a higher involvement

in crime. However, it is more likely that this is indicative of an unfair system rather than an accurate reflection of criminal behavior (Scurich & Monahan, 2016; Alexander, 2012).

African Americans' overrepresentation is likely a product of color-blind laws and policing tactics combined with sentencing. These factors can also build on each other. When disparities occur early on in the process, it also increases disparities in sentencing (Alexander, 2012; Spohn, 2015). Spiegel (2017) writes that a jury is more likely to vote to convict when an African American defendant is accused of a crime against a white victim. Upon examining the effect that race had on sentencing, Jordan & Freiburger (2015) found that between a jail sentence and a prison sentence, black offenders were sentenced to prison instead of jail at a greater rate than white offenders were. The same was found true when comparing jail sentences as opposed to probation. In Spohn, Gruhl, & Welch's (1981) study of discriminatory sentencing, after other legal and extra-legal factors were controlled for, blacks had a 5% higher incarceration rate than whites. Other studies say that number is even higher. In California, blacks were found to be 17% more likely to be sent to prison than similarly-situated whites (Nicosia, MacDonald, & Pacula, 2017).

Spohn (2015) offers three different perspectives on the conflict between race and law. The first is critical race theory, which states that racism is deeply ingrained in policy and law, which works to maintain social and racial hierarchies. Conflict theory argues that law and society act to protect the elite in power, and to hold down those at the bottom of society who may threaten the status of the elite. Finally, attribution theory states that those with power in the justice system make decisions that are influenced by stereotypes. Understanding the source of discrimination in the legal system can help to

better understand how to fix it. However, the exact source is difficult to determine and likely has more than one origin. This literature helps to illustrate the prevalence of racial inconsistencies in many areas of the justice system. Unfortunately, while the literature has revealed a great deal of the inequality within the justice system, there is a gap in existing research as to whether these racial disparities also appear in programs specifically aimed at reducing recidivism.

Discretionary Power and the Courtroom Workgroup

Understanding the disparities that appear in the correctional system requires an examination of those responsible for sentencing: judges, prosecutors, and defense attorneys. While it is at the discretion of each program to decide what types of offenders they will serve, judges and prosecutors are the ones deciding who goes to them. Prosecutors exercise their duties with very broad discretion, which can ultimately "determine [the] course of the criminal process" (Krug, 2002). Despite some uniformity and general restrictions, there are still 52 separate prosecutorial jurisdictions in the US, most of which elect their chief prosecutors. Prosecutorial power largely manifests itself in three ways. The first decision prosecutors make is whether to charge the individual or to drop a case entirely. They then decide – if there is enough evidence – what those charges will be, as well as how many. Prosecutors also face limited interference from the courts or legislature. In fact, both parties typically support this broad discretion. Even when not deciding a case, judges have some authority over prosecutorial decisions. However, if there is at least sufficient evidence to prosecute, they too have little influence. Judicial interference over prosecutorial actions is only allowed in very specific instances when prosecutors have denied equal protection laws or due process. Proponents of broad

discretionary powers argue that the electoral process rather than legal regulation is the most proper way to avoid charging abuses. The decision by prosecutors to charge is rarely contested, and, if so, rarely successful. In 1976, the Supreme Court extended absolute immunity to prosecutors against civil lawsuits against them (Krug, 2002).

Despite this, most calls for reform look to make improvements elsewhere, namely in legislation. Even these changes do little to affect the work of prosecutors, who can undermine sentencing reform through plea bargaining. For example, federal sentencing guidelines impose no restrictions on the sentencing power of prosecutors (Alschuler, 1978; Fischman & Schanzenbach, 2012). While the criminal justice process relies on plea bargaining to prevent the already overburdened courts from even more backlog, it gives prosecutors even more discretion to decide the outcome of cases. Defendants waive some of their constitutional rights, including the right to confront their accuser and a trial by jury, and opt for a lesser charge in exchange for a guilty plea. While they cannot make deliberate decisions based on race, it may informally alter their actions. Alschuler (1978) expresses his concern that at least occasionally, prosecutorial discretion considers factors such as "race and personal or political influence in sentencing decisions," and that this may cause the perception of unfairness, reducing deterrence (564).

Nicosia, MacDonald, & Pacula (2017) however, offered a conflicting opinion. In their examination of the effect of mandatory diversion of certain offenders to drug treatment has on racial disparities, they found that prison sentences for similarly situated black and white offenders experienced similar declines. This contrasts the theory that disparities will be reduced if prosecutorial discretion is as well, and calls into question the impact that prosecutors have with regards to unfair sentencing.

As another key authority in the criminal justice system, judges are also accused of being a source of racial disparity in sentencing. However, scholars disagree on how responsible judges actually are for these disparities. Spiegel (2007) blatantly states that when controlling for the same offense, African American defendants receive harsher sentences from judges than white defendants. When using sentencing guidelines, judges applied a lesser sentence than the guideline suggested due to less serious offense or prior frecord 14% less often for African Americans than for whites (Kramer & Ulmer, 1996). Similarly, Bushway & Piehl (2001) found in Maryland that African Americans tended to be sentenced to longer sentences than what was recommended by the sentencing grids. They cautioned against assuming that this was the result of discrimination, but conclude that more exploration is needed. In cases allowing a judge to decide between a short prison sentence and a long probation sentence, African American offenders were more likely to receive prison, while whites were more likely to get probation (Walker et al., 2012).

This finding, however, is not universal. Sampson & Lauritsen (1997) argue that judges do not even have much capability to impose disparate sentences, since disparities primarily stem from legal factors that occur before the judge enters the picture. Studies are also conflicting on whether or not having an African American judge made a difference. The level of discretion and, therefore, disparities vary based on the severity of the offense, where the severity is negatively proportional to discretion, and by extension, the ability to informally consider race (Walker et al., 2012).

Where prosecutors have largely been ignored in efforts targeting discretionary sentencing, judges have been at the forefront of speculation. Restrictions on judicial

decision-making typically appear in the form of sentencing guidelines to help judges in deciding sentences uniformly across offenders. However, guidelines still allow for discretion by not including mitigating factors, and sometimes do not align with state statutes. Voluntary sentencing guidelines have not been shown to significantly decrease disparities in sentencing (Tonry, 1997; Bushway & Piehl, 2001).

Like prosecutors, the broad discretion held by judges is not new, and ultimately does have a purpose. Sentencing guidelines are limited in what factors can be considered without becoming excessively long. For justice to be dispensed fairly, judges must be allowed to make sentencing decisions that are well informed and based on all available evidence. It is unrealistic to expect legislation to incorporate all aggravating or mitigating factors into sentencing recommendations (Alschuler, 1978).

Though judges and prosecutors each have their specified roles in sentencing, they do not work independently of each other. In fact, they – in addition to defense attorneys, and specifically public defenders – work closely with each other to decide the outcome of cases in what is known as the Courtroom Workgroup. Although these players are often assumed to be opponents at all times, they typically work with each other in close proximity, oftentimes for a span of years, with the "common goal of disposing of cases" (Haynes & Cusick, 2010). This close work environment and frequency of interactions has been hypothesized to influence sentencing decisions. Haynes & Cusick (2010) measured the influence that Courtroom Workgroup members' similarity in personal characteristics, proximity of offices to each other, and length of time working together in the same jurisdiction have on sentencing outcomes. They found that workgroup factors were more impactful for less serious crimes, which are typically less likely to go to trial, and that the

greater the similarity was within a work group, the less likely that they were to impose a prison sentence or require restitution Haynes & Cusick (2010).

The structure of the Courtroom Workgroup can have potentially negative consequences for black defendants. Richardson (2016) describes that implicit racial biases are unconscious opinions and stereotypes associated with certain racial groups, and that they likely appear within courtrooms. Implicit biases are apt to thrive in a courtroom environment, where actors have limited time and information for each case, having to focus on many things at once, and, as discussed above, have broad discretionary power. These biases are likely to be more established as proactive policing results in an overrepresentation of racial minorities in courtrooms, which then strengthens the implicit association between race and crime (Richardson, 2016). Croyle (1983) takes a bolder view, stating that if a judge is found to be "neutral" or "problack" towards black defendants, these neutral/problack opinions are still often overridden by "racist attorneys" (Croyle, 1983).

The research regarding racially disparate sentencing is extensive. Knowing the function and impact of the Courtroom Workgroup is useful in understanding how sentencing decisions are made. Unfortunately, many of the findings are contested within the available research, indicating uncertainty of the sources of sentencing disparity. The literature, in addition, fails to address the impact that the structure of the courtroom has on sentencing, specifically towards recidivism reduction programs.

Recidivism

The War on Drugs displaced offenders from the streets to the prisons *en masse*. One of the unaccounted consequences of this shift was the significant cost required to

lock away more people than any other country (Walmsley, 2003). The massive rise in incarceration has begun to strain state and federal budgets and resources (Chang & Thompkins, 2002). Short of allowing enough people to be released early, one way that many are looking to fix this is through reducing rates of recidivism. Recidivism is generally defined as an offender's formal re-entry into the criminal justice system, typically beyond arrest (Cottle, Lee, & Heilbrun, 2001). One third of all people released from prison return within three years. This figure includes technical violations as well as for new offenses. Generally, most inmates are rearrested at least once after their release from prison (Austin & Irwin, 2001). In many ways, the amount of people who become reincarcerated is unsurprising. Austin and Irwin (2001) state that when compared to other forms of punishment, incarceration "does not reduce convicted offenders' involvement in crime."

Employment or other economic assistance can significantly decrease recidivism. Criminal convictions bar people from holding certain jobs or obtaining certain professional licenses. Even for jobs they can legally obtain, they risk facing stigma from potential employers who shy away from hiring a convicted felon. In addition, offenders may lack the skills that are beneficial in finding meaningful employment (Austin & Irwin, 2001). The relationship between employment status and likelihood of recidivating is unsurprising, especially if the offense committed has economic gain that the offender can then fall back on (Austin & Irwin, 2001).

Kempinen & Kurlychek (2003) assert that two of the most indicative factors of recidivism have been found to be prior record and age. Offenders with prior arrests are 92% more likely to recidivate. In addition, offenders tend to "age out" of crime, with

their likelihood to recidivate reducing by 4% with every year increase in their age (Kempinen & Kurlychek, 2003). It is not surprising that these two factors are most indicative of an offender's likelihood to reoffend. Younger adults are more susceptible to the conditions of crime, primarily by having increased physical ability and fewer responsibilities (Kempinen & Kurlychek, 2003). Upon release, many offenders go back to associate with the same people and enter the same environment they had been in during their last arrest. This may be the only life the offender knows, potentially leaving them with no other place to go. In addition, many offenders are left with limited money and resources upon their release, with some accruing debt during their incarceration. Debt and financial instability coupled with the shock of transitioning back to a life outside of prison can further hinder offenders from successfully abstaining from criminal activity (Austin & Irwin, 2001; Levingston & Turetsky, 2007).

Knowing the characteristics of typical recidivists, as well as some of the barriers to reintegration, should prove beneficial for programs aiming to reduce rates of recidivism. During the 1980's, shock incarceration programs began emerging with the assurance that they could reduce recidivism (Osler, 1991). Rehabilitative portions were offered to combat substance abuse and help develop job skills, and the structured and disciplined routine that offenders live by is intended to be carried with them after they have completed the program. Unfortunately, the rehabilitative effects that had been promised showed very little influence on decreasing recidivism (Osler, 1991).

While the goal of shock incarceration programs to rehabilitate by transference was not found to be effective, treatment based rehabilitative efforts are more impactful. Substance abuse programs and drug treatment courts have been shown to have a positive

influence on recidivism, as do aftercare programs. Aftercare is designed to help offenders transition from the heavily regimented and controlled environment experienced during incarceration or boot camp to life after their release. Kurlychek & Kempinen (2006) found that aftercare programs reduce rates of recidivating, and that offenders who did recidivate had delayed rearrests when compared to offenders who received no aftercare. In Pennsylvania specifically, receiving aftercare was more impactful on recidivism than not, regardless of the specific program offenders had been initially sentenced to (Butzin, Saum, & Scarpitti, 2002; Kurlychek & Kempinen, 2006).

Shock Incarceration

While the first shock incarceration programs appeared in 1983, they hit their stride in popularity in the 1990's when the "tough on crime" rhetoric was still very popular (Osler, 1991). Though many programs have different elements, most boot camp programs have the same overarching goals of reducing rates of recidivism and the cost burden on corrections departments (Osler, 1991; Kempinen & Kurlychek, 2003). The appeal of shock incarceration is the rigid and difficult nature of the program that is intended to teach offenders character and discipline. The target offender varies by the specific program, but programs tend to focus on those who have committed less serious crimes, and those with a history of drug use or abuse (Austin & Irwin, 2001). Despite the punitive nature of shock incarceration, many programs include community service, therapy, and rehabilitation. Boot camps employ a rehabilitative focus in an effort to lower recidivism rates. This is done by offering various treatment programs, in addition to creating a structured and discipline-oriented lifestyle for offenders to carry with them upon their completion. (Osler, 1991).

Benefits of these programs included an increase in certain desirable short-term outcomes, such as improvements in offenders' attitude, self-esteem, and educational achievement. An examination of New York's shock incarceration program shows that the program achieved the goals of reducing cost as well as overcrowding (Kurlychek & Kempinen, 2006; Austin & Irwin, 2001; Osler, 1991).

Unfortunately, in terms of reducing recidivism, shock incarceration programs are less effective than hoped for. Overall, they were generally found to have very little effect on recidivism when compared to offenders who had been incarcerated. One difference found between those released from boot camp rather than typical incarceration was that boot camp graduates were more likely to have their parole revoked on technical violations. In examining these programs in relation to the main indicators of recidivism, Kempinen & Kurlychek (2003) found that shock incarceration had more of an impact for offenders with prior convictions, but did not in terms of age (Austin & Irwin, 2001; Osler, 1991; Kurlychek & Kempinen, 2006).

One proposed solution to help improve recidivism rates post-boot camp is implementing an aftercare program, to help offenders in the transition from the structured and regimented life within a paramilitary program back into their own communities (Kurlychek & Kempinen, 2006). Despite the benefits of aftercare, they are rarely funded or implemented completely (Kurlychek & Kempinen, 2006). Reintegration and recidivism saw greater improvements when community aftercare is paired with a pre-release program to prepare offenders. Post-shock incarceration recidivism may not be the fault of the program or model, but "a lack of continuity of treatment from an institutional setting to the community setting" (Kurlychek & Kempinen, 2006). Other recommended

improvements to shock incarceration include more careful implementation and training, as well as increasing the length of incarceration. While shock incarceration typically lasts 3-6 months, effective therapy requires 9-12 months of time. Another criticism argues that while military boot camps tear participants down before building them back up, correctional boot camps only do the former before releasing offenders into society (Osler, 1991).

Bellew & Graham (2007) argue that the methods typically used in shock incarceration explain the lack of reduction in recidivism. Before release, there needs to be a shift from external to internal control. Controlling punishment and humiliation breeds frustration, and leads to resistance against offenders changing their own behavior as an act of resistance against the institution that they believe is their oppressor. More control generates more resistance. The primary focus is on what not to do rather than what to do. While the threat of punishment has only a limited effect as a deterrent to crime, instilling the idea that crime does not work is much more effective (Bellew & Graham, 2007).

Cognitive Behavioral Therapy

Some of Bellew & Graham's (2007) ideas regarding effective sanctions more closely resemble a newer effort to reduce recidivism: Cognitive behavioral therapy (CBT). While this approach has largely replaced the shock incarceration model in Mississippi, it has also been recommended as a component in boot camp aftercare programs (Kurlychek & Kempinen, 2006). Like boot camp programs, individual CBT programs may vary from each other in their implementation, the types of services each program entails, and target offenders (Lipsey, Ladenberger, & Wilson, 2007).

There are a variety of different programs that use CBT-based methods. CBT is not a single technique, but a collection of procedures and goals. In a broad sense, CBT focuses on refining prosocial skills as well as decision making, and altering behavior by altering thinking. Specific approaches include social training skills, social problem-solving training, rational-emotive therapy, cognitive skills program, relapse prevention planning, planning long-term, setting goals, anger management, and critical thinking and reasoning (Pearson, Lipton, Cleland, & Yee, 2002; Lipsey et al., 2007; Kurlychek, Wheeler, Tinik, & Kempinen, 2011).

This is contrasted against behavior modification, which aims to improve behavior through positive reinforcement, token economies, and rewards systems. The drawback of behavior therapy is that the desired behaviors tend to only exist as long as the reinforcements are continued. In order for effective change to take place beyond the program, the positive rewards must continue to be carried out by someone for the offender, in their own environment (Pearson et al., 2002).

Fortunately, CBT is found to have a positive effect on reducing recidivism. Pearson et al. (2002) states that verified cognitive skills programs as well as those that focus on developing social skills are found to be effective in recidivism reduction. Based on the Correctional Drug Abuse Treatment Effectiveness project's database and meta-analysis of treatment and intervention programs from 1968 to 1996, Pearson et al. (2002) cite that general cognitive-behavioral programs can effectively reduce recidivism, as well as individual social skill and cognitive skills development components. Lipsey et al. (2007) meta-analysis found that in the first year after treatment, offenders who had

received CBT treatment were 1.53 times as likely to succeed – or to not recidivate – as offenders in the control group.

The CBT approach is overwhelmingly found to improve rates of recidivism, regardless of the specific programs examined. This success can be accredited to the twofold approach of having both a cognitive behavioral angle, as well as a social skills angle. Kempinen & Kurlychek (2003) argues that the most effective programs should have both focuses, as well as some way for the program to be personalized to the offender. Programs were also found to be more effective when they had fewer dropouts, stayed true to the program's implementation, and ensured proper training for CBT providers. Whether CBT treatment was given in prison or externally (probation, parole, or transitional aftercare) had little impact on effects (Lipsey et al., 2007).

A key distinction between the effectiveness of CBT programs and shock incarceration is how well offenders can apply the skills and behaviors to their lives after the program. While the rewards that are typically associated with improved behaviors in paramilitary programs do not last very long after the offenders graduate, participants in CBT are equipped with a new set of skills to be used in situations that could have otherwise led to illegal activity (Pearson et al., 2002). Lipsey et al. (2007) writes that the success of CBT is attributable to the program's focus on "[targeting] 'criminal thinking' as a contributing factor to deviant behavior." CBT acknowledges that the altered cognition that is found in offenders is learned, and works to address and correct criminal thinking. CBT primarily focuses on increasing offender accountability, interpersonal problem-solving skills, anger management, and delayed gratification. In addition, CBT is

adaptable to offenders, and can be administered alone or in conjunction with other programs (Lipsey et al., 2007).

Despite the relatively new implementation of different types of recidivism reduction programs, there is a significant amount of research on what is effective and what is not. While much of the literature describes the types of offenders that these programs are designed to service, it fails to address whether or not offenders are being sentenced to these programs as the programs intended.

Conclusion

The primary research topic that this thesis will explore is the relationship that race has to recidivism reduction efforts, with a specific focus on sentencing. There is extensive extant literature regarding the topics that are relevant to this research. The data shows that the disparate racial make-up of our incarcerated population is influenced, at least in part, by the broad discretion that necessarily occurs in the criminal justice process. While programs aimed at reducing recidivism are a relatively newer phenomenon that requires further research, the existing body of knowledge is still telling. Across much of the available literature, programs that employ CBT are generally effective in reducing rates of recidivism. Shock incarceration programs have proven to be less effective, as the skills that offenders learn are not as easily transferable to life outside of incarceration. Shock incarceration may have other benefits by reducing overcrowding and, by extension, costs.

The literature is lacking, however, in regard to the connection of race and recidivism reduction efforts in addition to any understanding of how decisions about placement in recidivism reduction programs are made. A frequent critique in the

literature is the pervasive occurrence of racial disparities within the criminal justice system. The research regarding recidivism reduction efforts typically has a larger emphasis on effectiveness over assignment, and the role of race within recidivism reduction research is scarce. The first hypothesis (H_1) guiding this research is that there is a difference in racial assignment between the RID and the RRP. Although further research will be needed to explore racial disparities more generally in the context of assignment into recidivism reduction programs, this will ideally provide a starting point for future research. The researcher similarly hypothesizes that offender age (H_2) and the number of prior incarcerations (H_3) of offenders will differ between offenders who had been sentenced to the RID versus to the RRP. Age and criminal history were frequently mentioned in the literature as being the two factors most indicative of an offender's likelihood of recidivating. It is therefore likely that these two factors are considered in some capacity by members of the Courtroom Workgroup while making sentencing decisions. Prior incarcerations may also act as a proxy for race.

The literature reveals what decisions are made by actors in the Courtroom Workgroup, but not how or why those decisions are made. The goal of this research is to learn more about how members of the Courtroom Workgroup and their thinking about recidivism reduction influence race and disparities within such programs. Another hypothesis (H_4) is that members of the Courtroom Workgroup consider different factors from each other in deciding to either sentence or recommend sentencing to a recidivism reduction program. Prosecutors, defense attorneys, and judges have similar goals such as wanting to reduce rates of recidivism and to move cases through swiftly to reduce the already overburdened court docket and thus overall workload. However, it is still an

adversarial system where each member is trying to achieve goals related to their own individual job. Similarly, this research anticipates (H_5) that there is also a difference between judges, prosecutors, and defense attorneys in overall knowledge and understanding of the RID and the RRP, as well as a difference in their opinions regarding each program.

To validate and examine the accuracy of these hypotheses, this research will first explore quantitatively the existence of disparities between programs, before qualitatively searching for the origin of such disparities through interview data with members of the Courtroom Workgroup.

Chapter 3: Methods

This study employs both quantitative and qualitative methods of research to fully explore recidivism reduction from a sentencing angle. Data is comprised of offender information from each program, as well as survey and interview data from judges in Mississippi. Offender data allows for insight into who the typical offenders being sentenced to these programs are. Surveys and interviews were to help explain why certain types of offenders were sentenced to these programs, as well as how judges viewed the programs, what types of offenders are appropriate for the programs, and knowledge about the processes contained in each of the programs designed to reduce recidivism.

Setting

While similar programs are available in other states, this study explores the RID and the RRP in Mississippi. Examining these two particular programs is ideal because both are run by the same organization (MDOC) and are intended to serve the same type

of offenders. Aside from the actual program objectives, the main difference between the two is that because the RRP replaced the RID, the two never existed at the same time. These similarities allow for an ideal comparison between the two program types. Because these programs are within Mississippi's jurisdiction, surveys and interviews were only conducted on judges, prosecutors, and defense attorneys working in Mississippi.

Participants

The participants for this study included offenders who had been sentenced to either the RID (while it was in effect) or the RRP, as well as judges in Mississippi. The data collected on offenders contained demographic and offense data. This was used to compare the populations of each program. Offenders were not directly surveyed or interviewed. All of the relevant information regarding the offenders in either program was supplied by MDOC under an existing memorandum of understanding with the University. Offenders themselves are not anticipated to have much insight into trends in sentencing. In addition, the data provided by MDOC gave no identifying information that could be traced back to individual offenders.

The other key participants were judges in Mississippi, since judges make the final decision in sentencing. Surveys were announced to judges at the annual Mississippi Trial and Appellate Judges Conference in Jackson, MS. The survey itself was later distributed via e-mail. Participants had to indicate that they understood the informed consent agreement prior to answering any other survey questions. Informed consent as well as Internal Review Board authorization appear in Appendices C and D. Judges were also made aware that no incentives were being offered, and that they could rescind

participation at any time with no consequence. Surveys were conducted via Qualtrics and contained 27 total questions.

Data collection

Out of the 1,704 offenders whose demographic and offense information was included in the data from MDOC, 1,429 had been sentenced to the RID while 275 had been sentenced to the RRP. The RRP's smaller sample size is due to it still being a relatively new program. The data was received from MDOC on May eleventh of 2018, thus only including RRP participants up to that point. MDOC data included information about age, race, education level, substance abuse, prior incarceration, and offense type, which was further classified into violent, non-violent, or drug offenses. There were three instances where offenders had been convicted of sex crimes. Since this accounts for a very small percentage of participants, those who had been convicted of a sex crime were included into the violent offense category. Similarly, race is divided into White and Other. While the Other category under Race is primarily made up of African American offenders, there were thirteen offenders from other racial categories, which did not make up enough to justify their own categories.

Table 1 - Demographic and Offense Data

Category	Type	Sub-category
Age at Intake	Integer	
Race	Categorical	
		White
		Other
Offense Type	Categorical	
		Non-violent
		Violent
		Drug
Education Level	Categorical	
Substance Abuse	Dichotomous	
Prior Incarceration	Integer	

After indicating that they had read and agreed to the statement of informed consent, the survey began by asking about demographic information and job history. The rest of the survey asked about both general opinions regarding recidivism and crime control, as well as their thoughts specifically about the RID and RRP. Additionally, participants were asked about their awareness and understanding of the programs, as well as whether or not they felt informed about changes made to available programs. The complete breakdown of the survey questions is listed in Table 1 below. Including questions that explored opinions on the role of recidivism against more punitive measures allowed for a deeper insight into how Courtroom Workgroup actors make sentencing decisions. The majority of the survey questions were based on a Likert type scale, and the full survey is available in Appendix A. The survey concluded with the option for participants to provide their contact information, if they consented to be interviewed at a later date.

Table 2 - Survey Topics

Topic	# of survey questions	Question Type
Demographics and employment	4	Nominal/Ordinal/Integer
Knowledge of available programs	3	Likert
Opinion of specific program types	4	Likert
Purpose of sentencing	2	Likert
Drug and alcohol counseling	1	Likert
Criminal thinking	1	Likert
Program re-admission	1	Likert
Evidence-based program	1	Likert
Prior sentencing to programs	4	Dichotomous/Integer

The qualitative portion of the research involved interviewing judges to gain a deeper understanding of the survey results, as well as their own opinions between the two programs. Within the interviews, judges were questioned on their knowledge about the RID and the RRP and considerations made in sentencing to each program. Judges were also asked what components they believe were necessary or destructive to the success of programs aimed at recidivism reduction, and how they learned about changes in available programs. With the exception of one conducted in person, the interviews were done over the phone. Interviews were recorded and later transcribed. There were 8 standard questions, however some responses prompted further questioning. The full interview guide can be seen in Appendix B.

Data Analysis

Quantitative Data

Offender data was input into SPSS software and coded by applying numerical values to the pieces of data within each category of information. Chi-square tests were run on offense type, race, substance abuse, and education level, while t-tests were run on age and prior incarceration. Chi-square tests are used to measure the relative frequency and differences in distributions between categorical variables. Similarly, t-tests are used to compare probability distributions between numeric values. The statistics were conducted to determine the likelihood that the results of the data could have occurred by chance.

ANOVA tests were run to determine statistical significance between variable groups. This was used to determine the means of survey answers, and to discover differences between judges, prosecutors, and defense attorneys in terms of those means. Using offenders' demographic and offense data, logistic regression was used to assess the probability of offenders being sentenced to the RRP over the RID.

Survey data was obtained using the survey platform Qualtrics. Judges accessed the survey through a web link that they had received via e-mail. In addition to a platform to create and complete surveys, Qualtrics can also analyze the data obtained from surveys. Surveys took between five and ten minutes to complete. Surveys had been e-mailed out to judges by a program manager for a law school in Mississippi, who had also coordinated the judges' conference. Twenty-one surveys were completed, but it is unknown exactly how many surveys had been distributed.

Qualitative Data

Similarly, to the quantitative research, interview data was coded and analyzed. One interview had been conducted in person, while the other three were by phone. Both in-person and phone interviews were recorded and later transcribed. Transcripts were uploaded to the program ATLAS.ti, where they were then coded. Coding the transcripts involved applying labels to sections of text that contained a certain theme relating to the research. Pieces of text could be described by more than one code, and many of the same codes were found in more than one transcript. Common codes included "substance abuse treatment" and "goals for offenders." Once the transcripts were coded, related codes were combined together to form code groups. For example, the code group "offender characteristics" included codes such as "repeat offense" and "pre-criminality." While coding and analyzing transcript data, memos were used to document notes, thoughts, relationships and hypotheses about the data. Memos were adjusted and altered as new codes were created. After coding was completed, networks were created from code groups. These networks offered visual layouts to demonstrate how certain codes and code groups were related to each other.

Qualitative data was analyzed using grounded theory, which involves constructing theories from analyzed qualitative data. These theories, in turn, help to direct the researcher in how to proceed with future data. Going back and forth between data and analysis helps to discover gaps that may be in the data, and may provide direction for how to fill the gaps through gathering future data. This is why code groups, memos, and networks are important to the analyzing process. Employing grounded theory's approach

of using data and analysis to build off of each other ensures that the data collected is thorough and complete (Charmaz, 2014).

Supplementing the demographic and offense data of the RID and the RRP with surveys and interviews with judges was intended to add a qualitative perspective in understanding the role of sentencing on recidivism reduction programs. The purpose of this is to verify the original hypothesis, as well as to eliminate the current gaps in the literature. Combining offender data for those in the studied programs with the qualitative results from the key authorities on sentencing is intended to bridge a previously unexplored angle of recidivism reduction.

Chapter 4: Results

Quantitative

The two quantitative measures were the demographic and offense data from offenders who had been sentenced to either the RID or the RRP, as well as survey data of judges, prosecutors, and defense attorneys. Offender data was analyzed with t-tests and chi-square tests prior to their inclusion into a logistic regression model, while the results of the survey data were analyzed using ANOVA. Offender data is displayed in Table 3.

Table 3 - Descriptive Statistics

Variable	RID	RRP
Participants	1429	275
Age at Intake		
Mean	22.89	26.36
Max	57	56
Min	15	16
Race		
White	644	147
Other	779	127
Offense Type		
Non-violent	676	138
Violent	413	54
Drug	337	82
Missing	3	1
Education Level		
Did Not Complete High School	855	161
High School or GED	356	45
Post-High School	168	34
Missing	50	35
Substance Abuse		
Alcohol Only	71	5
Drugs Only	180	23
Alcohol and Drugs	965	177
Not Reported	213	70
Prior Incarceration		
Mean	1.01	0.40
Max	4	6
Min	0	0

T-tests, chi-square tests, and logistic regression were used to evaluate the first three hypotheses presented, which predicted that race, age, and number of prior offenses was different for offenders in the RID compared to those in the RRP. In keeping with the methodology outlined in the previous chapter, t-tests were used to compare numeric variables (age and number of prior incarcerations) to program participation. Chi-square tests were used to evaluate the impact of categorical variables, including offense type,

race, substance abuse, and education level. The results of these initial analyses can be seen in Table 4, below.

Table 4 - Statistical Tests

Comparison (Program Participation by)	Statistic	p-value
Offense Type	Chi-square = 11.280 (DF)	0.004
Race	Chi-square = 6.504	0.011
Age	t-test = 6.898*	0.000
Prior Incarceration	t-test = 10.955*	0.000
Substance Abuse	Chi-square = 6.432	0.040
Education Level	Chi-square = 5.607	0.061

*equal variances not assumed

While providing some information regarding the relationships between a single independent and dependent variable, the analyses above does not take into account more complex relationships among the independent variables. These relationships can often have unexpected effects on the dependent variable. In order to account for this, a more complex analysis was undertaken. Using binary logistic regression, offense type, race, prior supervisions under MDOC, prior incarcerations, and gender were analyzed by their likelihood to predict a sentence to the RRP over the RID, while controlling for the other variables' inclusion in the model. Model fit statistics reveal a -2 Log likelihood of 1319.204. The model was able to correctly classify 83.9% of the cases. While offender race was found to be a statistically significant variable between the RID and the RRP in the initial bivariate analysis, including factors in the multivariate analysis such as prior offenses and marital status eliminated the significance of race. Of the independent variables measured, prior supervisions under MDOC, prior incarcerations, and gender were found to be statistically significant in predicting program assignment. The proportion of variance in program assignment is portrayed by a Cox & Snell R Square of

.101 and a Nagelkerke R Square of .172. The logistic regression and model fit statistics display this below.

Table 5 - Variables in the Equation

	B	S.E.	Wald	df	Sig.	Exp(B)
OffenseType	-.021	.088	.057	1	.812	.979
Race	-.185	.145	1.632	1	.201	.831
PriorSuper	-.184	.064	8.271	1	.004	.832
InmateAdmissionCt	-1.206	.118	104.424	1	.000	.300
Gender	.595	.203	8.584	1	.003	1.812

Table 6 - Model Summary

-2 Likelihood	Cox & Snell R Square	Nagelkerke R Square
1319.204	.101	.172

In addition to understanding offender statistics, descriptive statistics were also run on judges, prosecutors, and defense attorneys based on survey data. Age, race, length of time in their respective position, and length of time practicing in Mississippi were asked and analyzed to determine if any of these characteristics influenced Courtroom Workgroup knowledge or decision making. The descriptive statistics are featured below in Table 7.

Table 7 - Courtroom Workgroup Descriptive Statistics

	Judges			Prosecutors			Defense Attorneys		
	N	Mean	Std. Deviation	N	Mean	Std. Deviation	N	Mean	Std. Deviation
Race	21	1.10	.301	10	1.20	.422	11	1.00	.000
Job length	21	2.90	1.480	10	2.40	.843	11	3.36	1.629
Time in MS	21	4.81	.512	10	3.60	1.430	11	4.00	1.183
Age	15	62.33	9.225	8	45.38	9.086	7	45.43	12.817

While understanding the relationship between offender demographic data and program assignment is essential, it is also extremely important to understand how members of the Courtroom Workgroup understand the programs to which they are assigning inmates. In order to better examine this, a one-way ANOVA was conducted to compare the effect of job position within the Courtroom Workgroup on the length of time having practiced law in Mississippi. This effect was significant between judges and prosecutors at the $p<.05$ level [$F(2, 39) = 5.874$, $p = .006$]. Post hoc comparisons were done using Tukey HSD and Bonferroni. These results suggest that the mean score for judges ($M = 7.81$, $SD = .512$) was significantly different than prosecutors ($M = 6.60$, $SD = 1.430$). However, defense attorneys ($M = 7.00$, $SD = 1.183$) did not significantly differ from judges or prosecutors. Table 8 below displays the ANOVA showing the degree of difference between the Courtroom Workgroup actors and their length of employment in the state.

Table 8 - ANOVA - Length of Time Practicing Law in Mississippi

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	11.338	2	5.669	5.874	.006
Within Groups	37.638	39	.965		
Total	48.976	41			

A one-way ANOVA was also used to compare members within the Courtroom Workgroup to their belief that rehabilitation should be prioritized over retribution in sentencing. Defense attorneys varied significantly from both judges and prosecutors, but judges and prosecutors did not differ from each other. Defense attorneys differed significantly at the $p<.05$ level [$F(2, 39) = 4.879$, $p = .013$]. This is confirmed by the post

hoc comparisons, which reveal that the mean score for defense attorneys (M = 1.55, SD =.688) was significantly different than for judges (M = 3.05, SD = 1.802) and prosecutors (M = 3.40, SD = 1.430). This indicates that defense attorneys reported being less retributive than prosecutors and judges. Table 9 shows this comparison below.

Table 9 - ANOVA - Rehabilitation Should be Prioritized over Retribution as the Purpose of Sentencing

	Sum of Squares	df	Mean Square	F	Sig.
Between Groups	22.039	2	11.020	4.879	.013
Within Groups	88.080	39	2.258		
Total	110.119	41			

While the meaning of the results will be fully examined in the following chapter, it seems that there are differences between Courtroom Workgroup actors, specifically with regard to the purpose of sentencing and length of time that they've practiced law in the state of Mississippi. Statistically significant variations were also found between offenders within the RID and the RRP.

Qualitative

Qualitative interview data was used to examine the latter two hypotheses, which predicted that members of the Courtroom Workgroup differed from each other with respect to program knowledge and how they make their sentencing decisions. A total of four judges had participated in interviews, two of which had been interviewed twice in accordance with grounded theory. In addition, two prosecutors and two defense attorneys were also interviewed, with one defense attorney having prior prosecutorial experience as well. Transcripts of interviews were analyzed, and portions of text were coded based on

their general subject. Individual codes were then categorized into broad groups with an overarching topic based on the original open coding. Networks of code groups were then made to compare against other code groups and individual codes and were used to find consistencies and similarities across interviews. Some individual codes were outliers and did not relate to other codes, thus not fitting into a code group. Others fit into more than one code group. After coding and re-coding, a total of 108 codes were identified, and were broken down into 9 general code groups. Table 10 shows the breakdown of codes into code groups.

Table 10 - Interview Codes

Code Group	Individual Codes
Factors in Assignment	Assignment based on likelihood of success, Assignment by demographic info, Assignment for faster release, Avoid prison time, Comparing incarceration to program assignment, Demographic factors, Different use by job, Frequent use of program, Illusion of effectiveness, Importance of CBT, Increase productivity, Increased assignment from increased awareness, More awareness of RID, Necessity of both components, Negative opinion of program, Offender attitude, Offense severity, Offense type, Positive opinion of program, Program knowledge, PSI report, Reduction in recidivism, Substance abuse treatment
First-Hand Interactions	Communicating with offender, Difficulty in predicting recidivism, First-hand experience, Limited time to know defendant
Goals for Programs	Employment, Ensuring program effectiveness, Goals for offenders, Necessary for success, Necessity of both components, Physical benefits, Prevent prison mentality, Program completion,

	Proposed changes, Reduction in recidivism, Responsibility for actions, Self-discipline, Sentencing for treatment, Staff oversight, Standard requirements, Substance abuse treatment, Teach respect
Influence of Race	Race, Implicit bias
Offender Characteristics	Circumstances of offense, Criminal history, Demographic factors, First-time offender, Inclined toward criminality, Non-violent, Offender attitude, Offense severity, Offense type, Pre-criminality, Repeat offense, Responsibility for actions, Self-discipline, Young offender
Opinion of Programs	Become better offenders, Comparing incarceration to program assignment, First-hand experience, Gang violence, Illusion of effectiveness, Importance of CBT, Increased assignment from increased awareness, Ineffective program, Lack of funds, Necessity of both components, Negative opinion of program, Overcorrecting, Paramilitary, Pendulum shift, Physical benefits, Positive opinion of program, Program knowledge, RID downfall, RRP replaced RID, Staff training, Thinking for a Change, Too new to know effectiveness, Unsure of effectiveness
Plea Bargaining	Accepting plea, Cons of not accepting plea, Judicial inability to influence plea, Lack of knowledge about case, Plea bargain refusal, Plea bargaining, Plea based on judge, Prosecutor/defense agreement, Receive plea in advance, Recommendation to judge
Role of Victim	Impact on victim, Victim input
Sources of Information	AOC, Community corrections officers, Different access by job, Difficulty in pinpointing source of information, Feel well-informed, First-hand experience,

	Formal presentation, Infrequency of new programs, Lack access to information, Lack knowledge of program, Lack of formal presentation, Lack of standard way to get information, Learn at conference, Learn from advance sheets, Learn from jails, Learn from MDOC, Learn from occupational association, Learn from others, Learn from probation officers, Learn from publicly available source, Learn through e-mail, OK with lack of uniformity, Program knowledge, Seminar

The most frequent code that appeared was "Lack knowledge of program," which was coded 27 times. This was regardless of the occupation held – nearly every participant had indicated that they had limited knowledge or were even unfamiliar with at least one program. The "I don't know" response was most common regarding the RRP. When one defense attorney was asked what he knew about the RRP program, he responded with "Absolutely nothing. I've heard very little talked about it." One judge, when asked about the RRP program, revealed that he was not even aware that he had the ability to employ it as a sentencing option:

> I know they're making some fundamental changes, but I just don't know that they've done that yet. I mean, I don't have that as a tool in my arsenal to use at this point, that I know of, so I'm not familiar with it.

In addition to not understanding how the programs – especially the RRP – operated, several participants indicated that they were unsure there was a difference between the two. One defense attorney described:

> Most people don't even know that they exist. And those that do know aren't aware of the differences between the two programs. There's just very little…very little publicity of it, even among the legal profession.

A common theme that arose – particularly among those who admitted to knowing little about available programs – was that access to information was severely limited. One prosecutor stated:

> Communication is extremely poor. Mississippi Department of Corrections does not in any way, shape, or form really share that information…You have to actively seek out information about the RID program, or formerly the RID program, currently the RRP program. I'll be honest with you, I didn't even know it existed until probably a year ago, the RRP. No, communication's just god awful.

Information about program availability is not only limited, but inconsistent. When asked about how they learn about changes or updates in available programs, many different sources of information were provided. There were 2 primary ways that were typically mentioned as sources of information. The standard way was through conferences. At least one member of each specific Courtroom Workgroup position mentioned learning information through occupational-specific conferences that are held 2-3 times a year. Typically, information presented at conferences is through MDOC. While this was arguably the most standard way of receiving information, some questioned how reliable this information is. One judge cautioned "with MDOC I guess you expect a little bit to spin as you would with any political agency."

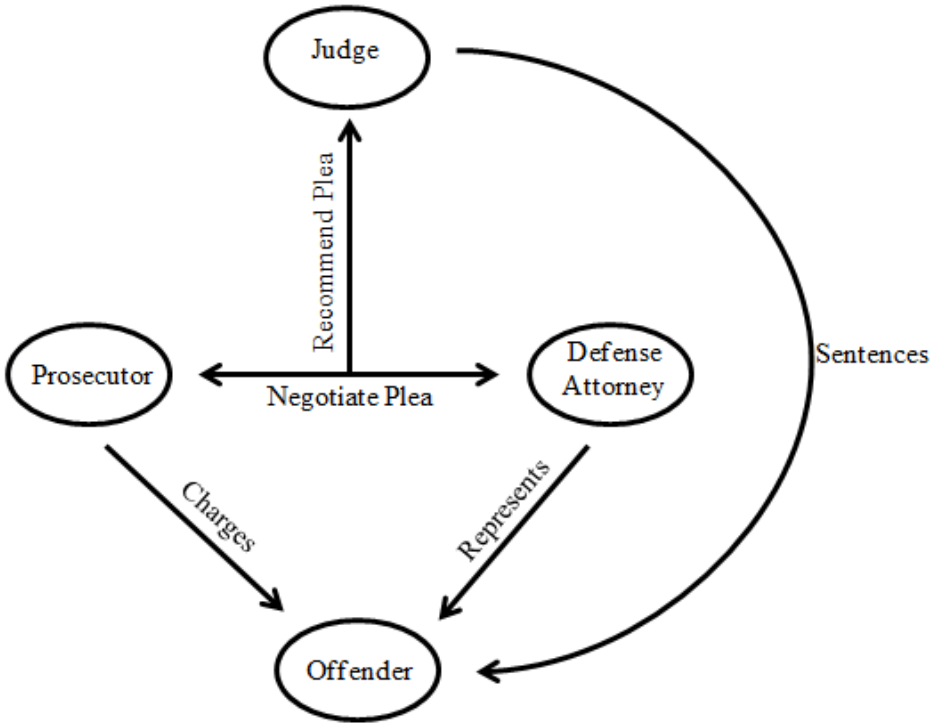
The other primary – and possibly more accurate – way of obtaining information about programs was from other members of the Courtroom Workgroup, primarily those in the same position. Most of these interactions are described as casual conversations, where information is simply brought up in passing.

One area where members of the Courtroom Workgroup differed most in their responses was in the factors used to consider assignment to a recidivism reduction program. While there was a consensus among sentencing younger offenders being charged with a less severe offense who would benefit from some of the skills training that the RID or RRP had to offer, judges brought up how infrequently they are making active decisions towards where to sentence offenders, and instead accepting the plea agreements that are made between prosecutors and defense attorneys. One judge estimated that he accepts the recommendation between 90-95% of the time, while another declared that in his 23 years as a judge, he has never turned down a plea agreement. Judges explained that this was because they knew significantly less about the case than either the prosecutor or defense attorney and relied on them as more informed decision makers. One prosecutor explained:

> Judges don't know defendants as well as prosecutors do. We've read the entire file 3 or 4 times, we talked to the law enforcement officers. We've looked at their old cases. And within the confines of a guilty plea colloquy, the court cannot, it just really can't become that well informed. Now it's my job as a prosecutor to make sure the judge knows everything there is to know about the defendant that's going to impact sentencing.

This limited interaction that judges have with offenders, as well as the basic interactions between the Courtroom Workgroup and offender, are displayed in Figure 1 below.

Figure 1 - Courtroom Workgroup and Offender Interactions



Whether there is a difference in recommending assignment between prosecutors and defense attorneys is less clear. One prosecutor stated:

> So, we all individually try to exercise responsibility…not to send people to RID that were not appropriate to the program, but at the same time we've got defense attorneys that are pressuring us to do it, and that are advocating it to the courts.

One of the defense attorneys interviewed illustrated a different experience:

> I've had over a dozen offers from the district attorney's office, but I can think of only two times where I thought, where I suggested my client be sentenced to [RRP] to resolve a case.

One interviewee, who had experience on both the defense and prosecutorial side, stated that the factors he considered in sentencing remained the same.

Although detailed knowledge about the programs was limited, Courtroom Workgroup members appeared to have similar opinions on the programs overall. No one interviewee stated a definite preference for one program over the other. The interviewee with the most in-depth knowledge about the RID and the RRP argued that neither one individually is better than the other, but that a successful program should employ both components:

> I don't think it's one or the other, I think either program has to incorporate both things, I guess the question is one of emphasis…and in the end, have a program that combines the two things you're talking about: discipline and changing behavior, and that you find the balance.

Generally, interviewees reported feeling optimistic about the RID early on before it "collapsed on itself" and ceased to be effective. Most stated that they did not know enough about the RRP to form an opinion on it. Many of the cautious attitudes expressed towards either program was due to the aforementioned lack of knowledge over what exactly each program entails, and whether or not it is effective in reducing recidivism. Regarding the RRP, one judge mentioned that:

> If I knew more about the effectiveness or something like that it was good, I would probably be more likely to try to utilize that when I'm figuring out what to do with people that come before me.

Interviewees were also asked what components they believed to be necessary in successful recidivism reduction programs. While no single factor was mentioned by a

majority of the participants, nearly every proposed component appeared in more than one interview. This included teaching offenders respect, self-discipline, and responsibility, reducing the prison-like environment, and strict regulation and staff oversight. Several of the goals that Courtroom Workgroup actors had for the programs mirrored the goals that they had for offenders, such as distancing themselves from criminal activity and adherence to authority.

Five hypotheses were presented in Chapter 2. While Chapter 5 further explains the significance of these results, the findings that relate to the stated hypotheses are reported below. H_1, which sought to examine if there were racial differences between the RID and RRP was supported, to an extent. When measured alone, there was a statistically significant disparity in race. However, when multivariate logistic regression measured race against offense history, it was no longer found to be significant. H_2 and H_3, which sought to compare age and offense history between the two programs, were both supported by t-tests. RID participants were nearly three and a half years younger on average than RRP participants, and those in the RID averaged 1.01 prior incarcerations to the RRP's average of 0.40. With the exception of judicial acceptance of plea agreements, Courtroom Workgroup actors were not found to differ from each other regarding the factors considered in program assignment, thus supporting the null hypothesis of H_4. Finally, survey and interview data supported the null hypothesis of H_5, contradicting the prediction that Courtroom Workgroup members had different levels of program knowledge.

Chapter 5: Discussion

Offender Differences Between Programs

Both the quantitative and qualitative analysis examined in the previous chapter revealed important findings that require further investigation to interpret and apply to the literature. The first and primary hypothesis that this research explored was whether or not the racial make-up of the RID was different than the RRP, two programs designed to take in exactly the same types of offenders. When comparing the number of offenders who had been sentenced to each program, there were statistically more African American offenders who had been sentenced to the RID (779 compared to 644 white offenders), and more white offenders in the RRP (147 compared to 127). As was predicted in the hypothesis, recidivism reduction assignment is not unlike other areas of the criminal justice system – whether intentional or not, there are disparate outcomes with reference to race. The consideration of race in assignment appeared twice in the interview data. One judge, when discussing what he knew about the RID program, recalled:

> in some sense it changed as a result of representatives from Heinz county area, who apparently, or allegedly, complained that it was being used in a racially discriminatory manner, so they made changes to it so it wasn't regulated or disciplined any longer, therefore became ineffective. That's what I heard other judges talking about.

While he could not elaborate more on this point, having another source that brought up potential issues with race regarding these program helps to substantiate the first hypothesis. It also mirrors many of the other interview responses in which several participants mentioned the RID becoming less effective nearing its end, although they do

not mention why. Another interviewee, a prosecutor, when asked about the factors considered in assignment, said:

> You can't necessarily judge the people. So what do you do? You look at the crime. That is, their conduct. Cause you can fairly judge conduct and their history, criminal history specifically. Because that is a record of their past conduct. So you find yourself judging conduct, not impermissible factors, consciously or subconsciously…so I'm reading this thing about implicit bias and I'm like, hmmm…I would have said "I'm not biased," but there is some…I audit my decisions to make sure I'm not engaging in any type of implicit bias on any spectrum.

The literature mentions that rather than outright racism, disparate decisions are likely to be from implicit or unconscious biases (Richardson, 2016). Citing factors such as "age, conduct, nature of the crime, history," as many of the other Courtroom Workgroup members had also mentioned, helps to reduce the possibility of unintentionally considering race-related factors. Unfortunately, due to the small sample size and the inability to measure implicit bias, this research cannot conclude that that is the source of existing disparities. Additionally, racial differences between the programs only existed when race was measured by itself. Prior criminal history minimizing the significance of race is consistent with the literature that other factors may act as a proxy for race (Scurich & Monahan, 2016). As Sampson & Lauritsen (1997) argue, African American offenders experience disparities from legal factors before they are even in front of a judge. Beginning with racially charged policing, this disparate treatment amounts to African American offenders having more extensive criminal histories.

The second hypothesis sought to compare assignment by offense history. Analyzing offense data revealed that there was also a difference between the RID and the RRP in terms of prior offenses. While the demographic information that had been supplied by MDOC did not go into detail about offenders' criminal histories, it did list the number of prior incarcerations. Offenders who had been sentenced to the RID had more than double the average number of prior incarcerations than those sentenced to the RRP, 1.01 compared to 0.40. Several of those who had been interviewed mentioned prior criminal history as an influencing factor in sentencing. Either those offenders with no previous offenses, or with only one or two prior offenses were mentioned as more likely to be considered for assignment. It then makes sense as to why the averages are so small. It is curious that the average number of priors is so much lower for the RRP than the RID. However, several different comments from the interviews may hint towards why this is the case. Generally, the overwhelming opinion among Courtroom Workgroup members was that the RID was, at least initially, a program that seemed to be beneficial and well-liked, which many interviewees mentioned using often. This broader use may have allowed judges, prosecutors, and defense attorneys to be less selective in who they recommended sentencing to, thus admitting offenders with more extensive criminal histories. On the other hand, the attitude toward the RRP was, for the most part, one of skepticism and uncertainty.

The RID and the RRP also differed from each other in terms of offender age. Age was a common theme mentioned throughout the interviews, and nearly every interviewee stated that they consider age in assignment. One prosecutor, when asked about the factors he considered in assignment to the RID, said:

> Age. At some point – I don't want to suggest that older people can't learn…but you get…at some point it becomes unreasonable to think that somebody is going to change dramatically.

Assigning younger offenders to recidivism reduction programs is consistent with the literature. Kempinen & Kurlychek (2003) report that offenders' likelihood of recidivating decreases by 4% with every increase in age. They also claim that offenders with prior arrests are 92% more likely to recidivate. This seems somewhat contradictory because as offenders age, they have more opportunities to have been arrested or charged for more offenses. In addition, the combination of being young in age and having limited criminal history as indicators of reduced likelihood of offending is partially contradictory to what is considered in assignment. Courtroom Workgroup members typically pick younger offenders, who are more likely to recidivate, and those with less or no criminal history, who are less likely to recidivate. RID participants were not only younger on average than RRP participants, but also had more extensive criminal histories – two major indicators of future recidivism. Members of the Courtroom Workgroup had indicated in interviews that they preferred to sentence individuals who had a lower likelihood of recidivating in the first place and who would be more likely to be successful in the program:

> Ideally you don't wanna send people that you know are not gonna make it, you don't wanna send them to RID because you're wasting resources…but if you're putting people in RID that are not appropriate to the program, then it's kind of like the guy you sentenced to drug court who becomes the guy that sells all the other participants their drugs.

This research was led by two general areas of hypothesis that each broke down into specific hypotheses: that there were differences between the RID and the RRP with regard to offender characteristics, and that there were differences in program knowledge and use between judges, prosecutors, and defense attorneys. Overall, the first set of hypotheses was generally supported by the data, whereas the second set of hypotheses was not.

Differences in Courtroom Workgroup Knowledge and Assignment

The first null hypothesis that was supported was that Courtroom Workgroup members do not consider different factors from each other in deciding to sentence or recommend sentencing to recidivism reduction programs. In the interviews, no job within the Courtroom Workgroup stood out for having different qualifications or characteristics for assignment. Age, criminal history, and offense type and severity were the main factors, regardless of job. This may indicate that although there is a problematic lack of knowledge about available programs, there is at least some consensus between members of the Courtroom Workgroup as to the types of offenders that should be considered for such programs.

Similarly, there was not a significant difference between judges, prosecutors, and defense attorneys in regard to level of program knowledge. The survey data revealed that Courtroom Workgroup members did not vary significantly when responding to the following prompts:

- I am made well aware of changes in laws regarding implementation of programs designed to reduce recidivism
- I have a clear understanding of the RID

- I have a clear understanding of the RRP

These questions were asked on the survey in a Likert-type format, valuing from 1 to 7, where 1 stood for Strongly Agree, 7 stood for Strongly Disagree, and 4 indicated they neither agreed nor disagreed. Across positions, the average response was a 2.71 in response to the first of the aforementioned prompts, which fell in between Agree and Somewhat Agree. With some exceptions, many participants reported feeling as though there were routes to information, but that communication could be improved. Regarding knowledge of the RID and the RRP specifically, participants rated themselves at 3.07 and 3.65 respectively. No survey participant reported that they strongly agreed to having a clear understanding of the RRP, and no one reported strongly disagreeing to understanding the RID. Reporting less understanding about the RRP than the RID is consistent with what was reported in the interviews. The fact that the RID was in place for much longer also supports this.

Courtroom Workgroup actors similarly did not vary from each other in their preference of one program over the other. The final two survey questions within the Likert scaled questions asked participants if they believe that the RID should have remained in effect, and if they agreed with the decision to replace the RID with the RRP. On average, participants scored a 3.14 (between Somewhat Agree and Neither Agree nor Disagree) and a 4.21 (between Neither Agree nor Disagree and Somewhat Disagree) respectively. This general preference for the RRP fits with what was brought up in the interviews. While the RID initially seemed promising, there was much less faith in it near its end. Though the RRP did not have the faith that the RID did and less is known about it, there seems to be a cautious optimism that because it was implemented in an attempt

to reform and replace the old program, they hope that more care is being taken to ensure it is effective.

In addition to the findings that either supported or did not support the hypotheses presented earlier, some results regarding Courtroom Workgroup positions were similarly significant. One Likert-type question that appeared on the survey asked participants the degree to which they agreed that rehabilitation should be prioritized over retribution as the purpose of sentencing. Judges, prosecutors, and defense attorneys averaged 3.05, 3.40, and 1.55 respectively. Defense attorneys landing in the middle between Agree and Strongly Agree is unsurprising, especially compared to the rankings of judges and prosecutors. In the adversarial court system, defense attorneys advocate for the best outcome they can get for their client. Sentences that are more rehabilitative than retributive in nature are almost synonymous to mean more lenient.

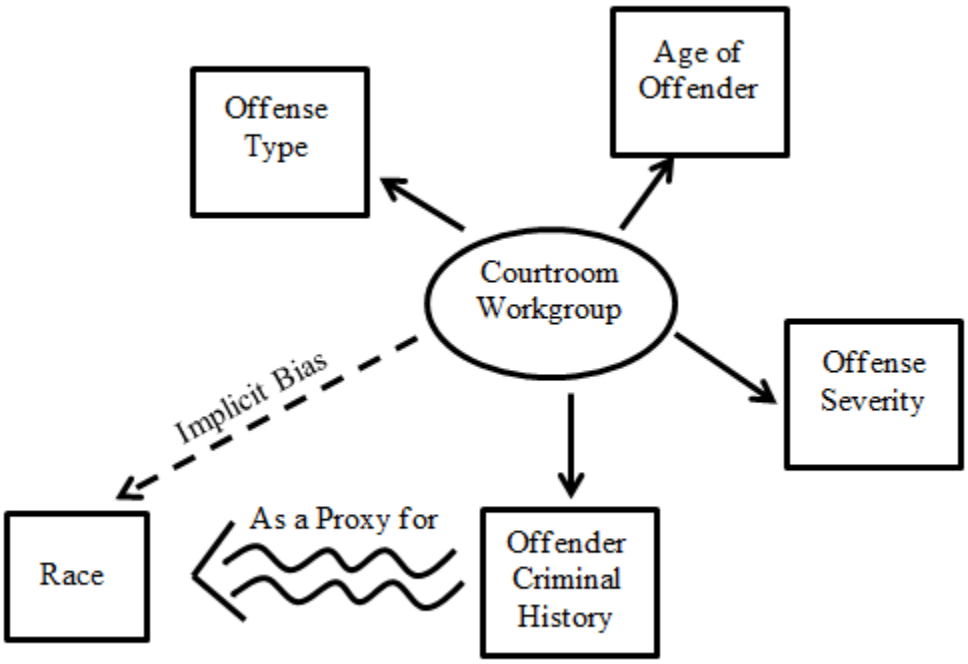
There was also a difference discovered regarding the length of time that Courtroom Workgroup members had practiced law in Mississippi. This difference was only significant between judges and prosecutors, where judges reported practicing in Mississippi for a longer period of time. Because judges typically practice criminal law prior to becoming a judge, it makes sense that they would have practiced law longer than prosecutors. However, defense attorneys' average career length was not significant in relation to either judges or prosecutors. Differences in the length of time that a Courtroom Workgroup actor practiced in Mississippi appears to have no bearing on their level of program knowledge.

While there were significant differences between offenders in the RID and the RRP that helped to support the initial three hypotheses, this was not the case for the

Courtroom Workgroup findings. The differences between judges, prosecutors and defense attorneys appear to have little affect towards their decision-making process in sentencing. Judges, prosecutors, and defense attorneys appeared to share very similar attitudes towards the RID and the RRP, and reported similar levels of knowledge and understanding of these programs. This indicates that the disparities found between the RID and the RRP were unlikely to be a result of an individual member of the Courtroom Workgroup. Rather, it is more likely that a lack of consistent and accurate information as to how these programs were intended to achieve their shared goal of reducing recidivism, and how actors within the Courtroom Workgroup are supposed to employ them.

These findings indicate that while there are differences in program assignment in terms of demographics, the study was unable to establish exactly why this was. In part, it may simply be confusion about the programs, since all members of the Courtroom Workgroup indicated low levels of knowledge about either the RRP or RID. It could also be that the heavy reliance on criminal history in assignment acted as a proxy for race. Prosecutors, who have significant charging discretion, and judges, who rely heavily on plea bargains in program assignment, were found in the ANOVA in Table 9 to be the more punitive actors in the Courtroom Workgroup. Although overall knowledge about available programs was limited, courtroom actors reported at least knowing that the RID was a boot camp style program. Shock incarceration is likely to appeal to those courtroom members with a more punitive preference in sentencing. Figure 2 below illustrates the factors considered in assignment with the potential for implicit bias.

Figure 2 - Factors in Assignment



Chapter 6: Conclusion

While the findings of this research offered a unique insight into the role of sentencing in program assignment, it faced certain limitations that reduced potential generalizability. The most glaring limitation is the low response rate in both the surveys and interviews. Even though certain themes and responses were consistent across many of the interviews, the small sample size prevents it from being generalizable to all judges, prosecutors and defense attorneys in Mississippi, much less in other jurisdictions.

Another issue with the sample was the lack of diversity in gender. While the survey did not ask for participants to indicate their sex, there were no female respondents who had been available for interviews. Interviewing female respondents may have

offered different viewpoints and opinions, and would have allowed for a more accurate and representative responses. Asking participants to indicate their sex on the survey would have also allowed the researcher to compare male and female responses. Even though there are fewer women in Courtroom Workgroup roles, results would have been more accurate if sex had been accounted for.

In regards to the offender data, an issue arises in that the RRP was still a new program, so the data on RRP participants represents less than two years of the program's operation. Not only does this make it difficult to compare to the RID – which had been in place for much longer – but existing for such a short period of time makes it difficult to accurately analyze in general, given the learning curve and time it takes for any new program to be accurately understood.

Future research can correct for these limitations by obtaining a larger and more diverse sample size, as well as waiting for the RRP to become more established to allow for a more accurate comparison between the two programs. Additionally, future research could examine similar programs in other states to see how offenders are being sentenced, as well as how judges, prosecutors, and defense attorneys in other jurisdictions learn about changes in available programs. Future researchers could also look further into MDOC, either from a community corrections angle, or from the implementation side to understand why those specific programs had been chosen and what their goals for them were.

Disparities between the RID and the RRP – specifically in race, age, and offense history – were likely a result of a lack of information to courtroom actors. Interview evidence suggests that implicit bias may have factored into these disparities as well.

Although that possibility is consistent with the literature, this project was not able to measure unconscious biases. As recidivism reduction efforts become more popular and widely used, it is important not only to ensure that evidence-based programs are used, but also that they are being used as intended. Understanding how sentencing decisions are made among Courtroom Workgroup actors as well as what they know about programs available to them can be helpful to organizations like MDOC, who are in charge not only of implementation but of educating courtroom decision makers.

Because of this, MDOC has a responsibility to ensure that those with the ability to sentence or recommend sentencing to the programs within their control feel confident in making sentencing decisions that are both beneficial to offenders and in accordance with program requirements. This can be accomplished by presenting, at least annually, to judges, prosecutors and defense attorneys at their respective conferences to keep them updated and informed. These types of presentations are especially crucial when new programs are implemented or when changes are made to existing programs. Conferences provide an opportunity for MDOC to explain directly to Courtroom Workgroup actors what programs are available to them, how they are intended to reduce recidivism, and how the Courtroom Workgroup should be making their sentencing decisions. Courtroom Workgroup actors should also be made aware of the potential for implicit bias, as well as strategies to spot and prevent it. While many factors go into what makes a program effective, those who are in charge of sentencing must be accurately informed and regularly updated to ensure that these kinds of programs are being utilized as intended. In a criminal justice system that has been plagued by racial inequality and disparity since its

foundation, there must be oversight and awareness to ensure that justice is being administered fairly.

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Appendix A: Survey Questions

Age: _____

Race: _____

How long have you been a judge/prosecutor/defense attorney?

- 0-5 years
- 5-10 years
- 10-15 years
- 15-20 years
- More than 20 years

How long have you practiced in Mississippi? _____

- 0-5 years
- 5-10 years
- 10-15 years
- 15-20 years
- More than 20 years

Using the scale below, please circle the number that most closely reflects your feelings about the statement.

1	2	3	4	5	6	7
Strongly Agree	Agree	Somewhat Agree	Neither Agree nor Disagree	Somewhat Disagree	Disagree	Strongly Disagree

1. I am made well aware of changes in laws regarding implementation of programs designed to reduce recidivism.
   1 2 3 4 5 6 7

2. I have a clear understanding of the RID program.
   1 2 3 4 5 6 7

3. I have a clear understanding of the RRP.
   1 2 3 4 5 6 7

4. Boot-camp/paramilitary programs are beneficial to offenders.
   1 2 3 4 5 6 7

5. Boot-camp/paramilitary programs are harmful to offenders.
   1 2 3 4 5 6 7

6. Programs that employ Cognitive Behavioral Therapy are beneficial to offenders.

1 2 3 4 5 6 7

7. Programs that employ Cognitive Behavioral Therapy are harmful to offenders.

1 2 3 4 5 6 7

8. Retribution should be prioritized over rehabilitation as the purpose of sentencing.

1 2 3 4 5 6 7

9. Rehabilitation should be prioritized over retribution as the purpose of sentencing.

1 2 3 4 5 6 7

10. Drug and alcohol abuse counseling/therapy should be mandated for individuals in diversion programs.

1 2 3 4 5 6 7

11. Criminal actions typically stem from "criminal thinking."

1 2 3 4 5 6 7

12. Those who fail to complete recidivism reduction programs should automatically be barred from future admission.

1 2 3 4 5 6 7

13. Evidence-based diversion programs should be more widely implemented in Mississippi than they currently are.

1 2 3 4 5 6 7

14. I believe that the RID should have remained in effect.

1 2 3 4 5 6 7

15. I agree with the decision to replace the RID with the RRP.

1 2 3 4 5 6 7

16. Have you ever sentenced individuals to the RID program while it was in effect?

Yes No

17. If you answered 'Yes' to the previous question, how many times do you estimate sentencing individuals to the RID? 1-5 5-10 10 or more

18. Have you ever sentenced individuals to the RRP? Yes No

19. If you answered ‘Yes’ to the previous question, how many times do you estimate sentencing individuals to the RRP? 1-5 5-10 10 or more

For the second part of my research, I will be conducting interviews to elaborate upon topics touched upon in this survey. Participation is voluntary, and there are no repercussions for choosing not to participate. Check the box below to indicate if you would be willing to further your participation. Interviews are not expected to last longer than an hour.

- Yes, I would like to volunteer for an interview
- No, I would not like to be interviewed

Would you like to be notified of the results of the research once they are made available?

- Yes, I would like to learn about the results of this study
- No, I would not like to be notified about this

If you had agreed to an interview and/or would like to be notified of the results of the study, please put your preferred e-mail address below. This will ONLY be used to contact you for an interview or to send you the results, had you so indicated. This information will not be released, and will not be used in relation to your answers.

E-mail: _____

Appendix B: Interview Guide

How do you learn about changes in available programs?

What did you know about the RID?

What factors did you consider in assignment to RID?

What components do you believe that diversion programs need to be successful?

What components do you believe hurt diversion programs?

What do you know about the RRP?

What factors do you consider in assignment to RRP?

Has the public – from what you've been aware of – reacted differently to the RID and the RRP?

Appendix C: Informed Consent

ORI | Office of Research Integrity

INSTITUTIONAL REVIEW BOARD

STANDARD (SIGNED) INFORMED CONSENT

STANDARD (SIGNED) INFORMED CONSENT PROCEDURES
This completed document must be signed by each consenting research participant. • The Project Information and Research Description sections of this form should be completed by the Principal Investigator before submitting this form for IRB approval. • Signed copies of the consent form should be provided to all participants. Last Edited February 9th, 2018

Today's date: September 20th, 2018		
PROJECT INFORMATION		
Project Title: In for a Shock?: Judicial Discretion and Racial Disparity in Program Assignment		
Principal Investigator: Brianna Mathis	Phone:	Email:
College: The University of Southern Mississippi	Department: Criminal Justice, Forensic Science, and Security	
RESEARCH DESCRIPTION		

1. **Purpose**:

   The purpose of this study is to further understanding of the decision making process judges and prosecutors have in sentencing or recommending sentencing to diversion programs. My research will be examining Mississippi's Regimented Inmate Discipline program (RID) and the Recidivism Reduction Program (RRP) in particular

2. **Description of Study:**

   The qualitative research will be composed of a short survey, ideally taking no more than 10 minutes. The survey will also invite participants to be individually interviewed at a later date. Interviews are not expected to last longer than an hour. Participation is entirely voluntary, and can be withdrawn at anytime without repercussions.

3. **Benefits:**

   Benefits will not be offered for either the survey or the interview.

4. **Risks:**

   The only potential inconvenience for interview participants is the sacrifice of their time. To mitigate their loss of time, interviews are not anticipated to last longer than an hour.

5. **Confidentiality:**

   Any electronic or digital data will be kept password protected. Physical copies of data will be kept securely locked away.

6. **Alternative Procedures:**

As there are no incentives being offered, alternative procedures are not applicable.

7. **Participant's Assurance:**

This project has been reviewed by the Institutional Review Board, which ensures that research projects involving human subjects follow federal regulations.

Any questions or concerns about rights as a research participant should be directed to the Chair of the IRB at 601-266-5997. Participation in this project is completely voluntary, and participants may withdraw from this study at any time without penalty, prejudice, or loss of benefits.

Any questions about the research should be directed to the Principal Investigator using the contact information provided in Project Information Section above.

CONSENT TO PARTICIPATE IN RESEARCH

Participant's Name: _____

I hereby consent to participate in this research project. All research procedures and their purpose were explained to me, and I had the opportunity to ask questions about both the procedures and their purpose. I received information about all expected benefits, risks, inconveniences, or discomforts, and I had the opportunity to ask questions about them. I understand my participation in the project is completely voluntary and that I may withdraw from the project at any time without penalty, prejudice, or loss of benefits. I understand the extent to which my personal information will be kept confidential. As the research proceeds, I understand that any new information that emerges and that might be relevant to my willingness to continue my participation will be provided to me.

Questions concerning the research, at any time during or after the project, should be directed to the Principal Investigator with the contact information provided above. This project and this consent form have been reviewed by USM's Institutional Review Board, which ensures that research projects involving human subjects follow federal regulations. Any questions or concerns about rights as a research participant should be directed to the Chair of the Institutional Review Board, The University of Southern Mississippi, 118 College Drive #5116, Hattiesburg, MS 39406-0001, 601-266-5997.

Include the following information only if applicable. Otherwise delete this entire paragraph before submitting for IRB approval: The University of Southern Mississippi has no mechanism to provide compensation for participants who may incur injuries as a result of participation in research projects. However, efforts will be made to make available the facilities and professional skills at the University. Participants may incur charges as a result of treatment related to research injuries. Information regarding treatment or the absence of treatment has been given above.

_____	_____
Research Participant	**Person Explaining the Study**
_____	_____
Date	**Date**

Appendix D: IRB Approval

INSTITUTIONAL REVIEW BOARD
118 College Drive #5147 | Hattiesburg, MS 39406-0001
Phone: 601.266.5997 | Fax: 601.266.4377 | www.usm.edu/research/institutional-review-board

NOTICE OF COMMITTEE ACTION
The project below has been reviewed by The University of Southern Mississippi Institutional Review Board in accordance with Federal Drug Administration regulations (21 CFR 26, 111), Department of Health and Human Services regulations (45 CFR Part 46), and University Policy to ensure:

- The risks to subjects are minimized and reasonable in relation to the anticipated benefits.
- The selection of subjects is equitable.
- Informed consent is adequate and appropriately documented.
- Where appropriate, the research plan makes adequate provisions for monitoring the data collected to ensure the safety of the subjects.
- Where appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of all data.
- Appropriate additional safeguards have been included to protect vulnerable subjects.
- Any unanticipated, serious, or continuing problems encountered involving risks to subjects must be reported immediately, but not later than 10 days following the event. Problems should be reported to ORI via the Incident template on Cayuse IRB.
- The period of approval is twelve months. An application for renewal must be submitted for projects exceeding twelve months.

PROTOCOL NUMBER: IRB-18-45

PROJECT TITLE: In for a Shock?: Judicial Discretion and Racial Disparity in Program Assignment

SCHOOL/PROGRAM: School of CJFS, Criminal Justice, Forensic Sci

RESEARCHER(S): Brianna Mathis
Joshua B. Hill

IRB COMMITTEE ACTION: Approved
CATEGORY: Expedited
PERIOD OF APPROVAL: November 6, 2018 to November 6, 2019

Edward L. Goshorn, Ph.D.
Institutional Review Board Chairperson