

## **“Brotha Brotha....What’s Goin On?”**

### **The Exploration of Racial Disparity in Bail and Pretrial Release and Its Effects on the Black Family**

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#### **INTRODUCTION**

The percentages of minorities in prison, especially those of African American males, increased greatly over the past 20 years in the United States. Nationally, as Mauer points out “Over the past three decades there has been a six-fold increase in the prison population leading to the incarceration of nearly two million Americans....one of every eight black males in the 25-34 age group is locked up on any given day and 32 percent of black males born today can expect to spend time in a state or federal prison if current trends continue” (2004, 79). Compared to their total population locally, African Americans are highly overrepresented in the criminal justice system. For example, in Shelby County, Tennessee, blacks comprise only 48.6 percent of the total population and 61 percent of the population of Memphis, Tennessee; the researcher compiled six months of felony charges and found that of all felony charges blacks comprised 84.5 percent of these cases (US Bureau of Census, 2000 and Shelby County Sheriff’s Department, 2003). Both jails for males and females in Shelby County and Memphis, Tennessee face the challenge of severe overcrowding. The jail for male offenders downtown has a capacity of 1,200 inmates but on any given day the jail may hold 2 to 3 times that capacity (Memphis Flyer, 1999). Because of this situation nationally and locally, social scientists and attorneys both singularly and as partners are delving into in-depth research on all parts of the criminal justice

system—police practices and arrests, bail and pre-trial status, and sentencing—as well as legal and extra-legal factors that can affect them.

Most research up to this date has focused on racial disparities in arrests and sentencing decisions. Few studies were done on the area of bail and pre-trial detention before the 1950s and 1960s. After the Manhattan Bail Project in 1963 showed that bail as it was currently used was penalizing those who could not afford the bond rather than guaranteeing that all offenders attended court, research in this area became more popular. As increasingly more studies focus on this area, they urge others to broaden studies to include the pretrial decision process as an important component of the final adjudication of a case (Katz and Spohn 1995).

This study responds to these recommendations to investigate the relationship between male defendants' race and bail and pretrial detention in Memphis and Shelby County, Tennessee because of the availability of data and other descriptive information. The purpose of the study is to investigate whether there are racial disparities in the criminal justice system, specifically in bail and pretrial detention, in Memphis and Shelby County. Briefly, bail and pretrial detention are the focus of the study because these two variables can affect later stages of the judicial process. Specifically, pretrial detention also influences the determination of the plea of the defendant and the total length of time a person spends in prison after sentencing (Stryker et al.1983). Data will be collected from the Shelby County Sheriff's Office and Shelby County Justice Administration from 2003 and analyzed to investigate disparities. The study predicts that a relationship will be found between race and bail. The researcher believes that blacks will be found to be receiving larger bail amounts for the charges studied. Additionally, it is hypothesized that blacks will spend longer periods in jail during trials. Comparisons between bail and pretrial detention of male defendants charged with the same felony will be made.

The overrepresentation of black males in prison indicates that a large number of men are missing from their families and their community. Men cannot contribute financially to their households nor are they able to fully parent their children. Increasingly more black children live in homes without fathers or father-figures; while there is nothing wrong with single parent homes, males do add a needed element to childhood. Adding to the problem of the absence of a male role models is the cycle of repeat imprisonment. Many who enter prison once become repeat offenders causing families more financial, social, and emotional challenges. While those who commit crime should be sentenced to prison, more evidence is being brought to light by attorneys, politicians, and social scientists that the judicial system is not equitable. Therefore, not only criminals but the system itself contributes to this controversial and complicated social issue. Because of this, the researcher plans to interview a few relatives or spouses of black men currently imprisoned. The sample is by no means representative of black families nationally or regionally but will be used to contextualize the results of the statistical data analysis and to understand the experiences of those who have had contact with the criminal justice system and the effects of that contact on their family life.

## **LITERATURE REVIEW**

The study of bail and decisions determining pretrial release although seemingly insignificant can have drastic effects on other parts of the judicial process. As aforementioned, a great deal of research has been conducted on arrests and convictions; however, bail and its affordability determines whether or not an offender will sit in jail during the time period before adjudication. If a person is imprisoned during this period, he or she cannot financially or emotionally contribute to his or her family or home life. In addition, defendants incarcerated

before trial endure the same hardships and conditions as a convicted person serving time in prison. Stryker et al. echo this sentiment in their study:

This decision [determining bond amount or possible pretrial detention] substantially determines whether the defendant will be incarcerated between arrest and the disposition of his or her case; any decision that may result in the denial of liberty is vital. Moreover, since pretrial detention may cause physical, psychological, and economic hardship (Foote et al., 1954; Freed and Wald, 1964), and may limit the defendant's ability to participate in the preparation of his or her defense, it is of social as well as sociological interest to study the determinants of the pretrial release decision (1983, 472).

The pretrial decision can also effect other decisions in the legal process. Those who have been incarcerated before trial and exposed to the environment of a jail are markedly changed in appearance which can affect the opinion of the judge or jury. Rankin states in her findings "defendants who were in jail continuously between arrest and final adjudication received unfavorable dispositions much more often than those who were free on bail during all of part of that period" (1964, 642-643). Bail amounts can also unduly penalize those of the lower or working class because they cannot afford it. Faced with the possibility of more jail time, people detained in jail before trial sometimes plea guilty to their indictments despite guilt or innocence just to be released from their environment. Stryker et al. cite other research that supports this idea:

Hagan et al, (1980) argued that defendants detained prior to the disposition of their cases may experience prejudicial handling in the variety of court decisions that follow. Defendants detained may be more willing to settle for a less favorable plea to advance their release from detention. Judges may be more likely to sentence a detained defendant to prison since the shock of incarceration no longer mitigates against the harshness of imprisonment. Understanding the pretrial decision may be crucial to modeling the entire decision-making process. While pretrial detention may not be causally related to all later outcomes, both pretrial and later decisions may be affected by the same consideration, e.g., dangerousness to society (1983, 472).

According to Nagel, the process of determining bail is a “three-tiered process” (1983, 485). First, the defendant must be found to be bailable. The judge could decide that the seriousness of the charge holds so much weight that the offender must remain in custody of the court until his or her trial date. Secondly, if the offender is found to be able to be released, then the judge decides whether or not to release a defendant on recognizance which is a promise by the defendant to appear in court on the appointed day of trial. Finally, if the judge does not release the prisoner on his or her own recognizance, the amount of bail has to be determined. The dollar amount of the bond is completely up to the judge’s discretion.

Bock and Frazier (1977) studied the effects of official standards versus actual criteria in bond dispositions in a Florida judicial district. The American Bar Association and the National Advisory Commission developed official standards to be considered before bond hearings.

According to Bock and Frazier, these include the following:

- (1) the length and character of defendants’ residence in the community;
- (2) their employment status and history;
- (3) their family ties;
- (4) their reputation, character, and mental condition;
- (5) their previous criminal record;
- (6) any record of behavior while on previous pretrial release;
- (7) the seriousness of current charge(s);
- (8) any vouchers from reputable community members on defendants’ reliability; and
- (9) any other indications of community ties (1977, 322-323).

In addition to these official criteria, the researchers also observed extra-legal characteristics gender, race, appearance, age, and demeanor in court. Offenses studied included both misdemeanors and felonies and previous record or convictions were also accounted for in analysis. Bock and Frazier found “none of the measures of community ties, employment and financial conditions, or family ties to be related significantly to the type of bond set by the court” (1977, 326). The measures of seriousness of the charge and previous record seemed to be the

most significantly related to the amount of the bond set. This result is supported by the findings of Anne Rankin (1964). This researcher examined the relation of characteristics—previous record, type of representation, family organization and employment stability to bond disposition and pretrial detention. Rankin cites that “Defendants with previous records were 23 percent more likely to be detained before adjudication than defendants without previous records” (1964, 645). Later Stryker et al. (1983) echoed the sentiment of both Rankin and Bock and Frazier. “Defendants with a prior record are asked to meet more restrictive conditions” [to be released on bail] (Stryker et al. 1983). Bock and Frazier also found that extra-legal variables, though few, had an influence bond amount. Of the extra-legal variables they studied, only appearance in court approached significance in its relationship to bond.

Other studies have found a correlation between ascribed statuses and excessively high bond dispositions. Katz and Spohn (1995) measured the correlation between the interaction of gender and race and these variables influence on bail decision making. While they did not find race to have a direct effect on bail outcomes, they found race to interact with gender in increasing the severity of bond amounts. Katz and Spohn concluded the following: “White defendants were more likely than black defendants to be released pending trial and females were more likely than males to be released prior to trial. In fact, white females, white males, and black females all were more likely than black males to be released” (1983, 179). Again they explain very plainly, “The race and gender of the defendant *are* significant predictors of pretrial release. Black defendants were less likely than white defendants to be released prior to trial; male defendants were also less likely than female defendants to be released pending trial” (1983, 172).

## **METHODS**

Because of the complexity of this legal situation, the researcher feels that this issue should be explored more thoroughly. Previous research as discussed in the preceding section points to the importance of bond amount and pretrial detention. In the eight week period, the researcher was not able to perfectly model and cover all variables that could influence the decision of bail and pretrial detention; thus, the researcher chose to explore the relationship of race and previous record as well as the relationship of race and bond amounts and the pretrial detention lengths that may result from one being unable to afford the bond amount set by a judge.

Some preliminary data used for comparison to the actual data set collected for the study was collected by Bill Powell for the Shelby County Sheriff's Office as a "Snapshot Report" on inmates from both Memphis and Shelby County housed in the jail at 201 Poplar in 2003. The sample includes all inmates, male and female, in jail awaiting trial or because of conviction of misdemeanor and felony charges. This report gives monthly accounts of prisoners' length of stay in the jail, age, and type of bond release. However, these descriptions were not categorized by race. Powell directed the researcher to Chris Kirby, Shelby County Jail Population Management Analyst, who would be more able to help the researcher collect the needed data.

Chris Kirby served as a major source of data for the study. She gave the researcher two additional snapshot reports of the jail which were more descriptive than that obtained from Bill Powell. The reports were of the year 2003, and they compared the makeup of the men's facility against the females' facility. The average monthly population of the men's jail facility downtown was four times that of the women's. The differences between male and female jails are interesting. From December 2002 to June 2003, the average daily population of Jail East was 195 inmates while at 201 Poplar Avenue was 1781 inmates. The reports also showed that of the type

of charge for which offenders were jailed felony charges were much more prevalent for both men and women. Graphs of cases pending in General Sessions Court and Criminal Court by offense type showed a difference in averages for felony and misdemeanor cases. Between December 2002 and June 2003, the average monthly number of misdemeanor cases heard by General Sessions Court was only 348 while the average monthly number of felonies was 466. In Criminal Court, between December 2002 and June 2003, the average monthly number of misdemeanor cases heard was 156 and the average monthly number of felonies was 2185. Additionally, of the different felonies, the number of drug charges was more numerous than any other felony. Between December 2002 and June 2003, the average number of male inmates charged with at least one drug charge was 390 while the average number of female inmates charged with at least one drug charge was only 56.

From the previous studies discussed as well as the snapshot reports, the researcher developed a list of variables to be examined. These are the following: gender, race, charge, bond amount, length of stay in jail, and criminal record. Chris Kirby was able to obtain a file of cases that included all variables except criminal record. The cases were all recorded from January to June of 2003. The year was chosen to maintain consistency with the snapshot reports from both Chris Kirby and Bill Powell. A six month period was asked for because the file of cases was not being collected by the researcher but was being put together by Chris Kirby. The original file contained 2,591 felony cases committed by male offenders. The number of drug charges specifically possession of marijuana with intent to deal, sell, or manufacture and possession of cocaine with intent to deal, sell, or manufacture, was more abundant than any other felony charge out of the 2,591 offenses over a six month period. This supported the researcher's decision to only study drug charges. After elimination of other felonies this list was reduced to 376.



Previous records were controlled for in this study. In order to control for this variable, the researcher utilized the services and computer databases of Pretrial Services of Shelby County. Pretrial Services is a criminal justice agency that offers alternative programs to incarceration. Its operations range from mediating disputes prior to arrest to providing supervision of offenders convicted and placed on County Probation for misdemeanor offenses. The agency also assists with the collection and presentation of information that allows a bond to be set on defendants arrested and brought into the Shelby County jail. Additionally, Pretrial Services supervises defendants released on their own recognizance or on citation (Shelby County Website). The researcher used JSS, a computer database system created by Shelby County Justice Administration, and an offender's RNI number, a unique identifier, to locate previous arrests and convictions. Previous record, in this research is defined by having previous arrests for any felony or misdemeanor offense.

The variables in this study were defined narrowly. Because of the small number of minorities other than African Americans, Asians, Hispanics, and American Indians/Native Americans were eliminated. Race was defined as either being "black (African American)" or "white (Caucasian/European American)." Not all offenders spent time in jail at 201 Poplar before their trial. For those that did, length of pretrial detention was organized into categories of 1 week, 2 weeks, 3 weeks, 1 month, 2 months, 3 months, and more than 3 months as detention lengths ranged from 5 days to 377 days total. There were only two felony charges within this research study which are possession of cocaine with intent to deal, sell, or manufacture and possession of marijuana with intent to deal, sell, or manufacture. In this study, criminal record was defined broadly because of time limitations. It was divided into two categories, previous record and no previous record. Previous record is defined as having a prior arrest or conviction

prior to the case recorded in between January and June of 2003 while no previous record was defined as having no previous record prior to the case recorded in the six month period of 2003 included in this study. The range of bond amounts extended from \$0 to \$1,000,000. To study the relationships between bond amounts and other variables such as race, bond amounts were categories of \$250-\$5,000; \$5,000-\$10,000; \$10,000-\$45,000; and more than \$50,000. These categories also excluded anyone whose bond amount was \$0. These variables were coded and entered into SPSS and descriptive tests were conducted on them as well as chi-square tests to determine relationships.

Besides data analysis, a few interviews will be analyzed. The researcher contacted about 3 relatives, spouses, or partners of African American males who have been imprisoned or are currently imprisoned. Interviewees were questioned about their own experiences with the police as well as interactions that they have observed in their community, their experiences in dealing without the male in question imprisoned, opinions of the relationship between bail and pre-trial detention with race and ultimate sentencing outcomes, and how crime in the community should be handled. These opinions and answers will be transcribed and included in the paper as discussion to the possible changes that can be made to improve community relations with the criminal justice system, specifically with the police, in adding to efficiency in reducing crime.

## **FINDINGS**

The data collected for January through June of 2003 amounted to 2,591 felony offenses. As aforementioned, these cases were reduced to 376 after controlling only for two charges, possession of cocaine with intent to deal, sell, or manufacture and possession of marijuana with intent to deal, sell, or manufacture. Frequencies of these charges were conducted for race,

previous record, and pretrial detention. Within the variable race, 344 offenders identified themselves as blacks and 32 identified themselves as being white, non-Hispanic. In this sample, there were a very limited number of whites as well as a limited number of those with no previous record and who were jailed as a result of being unable to post bail, or in other words, pay the amount of the bond set by the judge in their case. Only 62 defendants did not have a previous record compared to 314 with a previous record. Only 64 offenders were detained in the jail for men located at 201 Poplar Avenue. The researcher conducted several cross-tabulations to find relationships between variables. Some of the results received were opposite of what the researcher expected to find and what previous research literature supports. The tables following contain some of the most interesting relationships the researcher found.

**Table of Distribution of Race Across Felony Charges**

		Race	
		Blacks	Whites
Description of charge	Possession of cocaine	47.4%	25.0%
	Possession of marijuana	52.6%	75.0%
	Total	100.0%	100.0%

The total number of cases being examined in this study is 376. This table shows description of charges as distributed by race. Of the number of blacks, 47.4% are charged with possession of cocaine with intent while only 25.0% of whites are charged with possession of cocaine with intent. Fifty-two point six percent of blacks are charged with possession of marijuana with intent while 75.0% of whites are charged with the same felony. The distribution of charges stands about equal within the racial category black while whites seem more likely to be charged with the possession with intent to sell of marijuana.

**Table of Distribution of Criminal Record Across Race**

		RACE	
		Blacks	Whites
	No Previous Record	13.1%	53.1%
CRIMINAL RECORD	Previous Record	89.6%	46.9%
	Total	100.0%	100.0%

This table shows the distribution previous records across racial categories. Of the 376 cases studied only 16.5% have no previous records while 83.5% have previous arrests or convictions. Overwhelmingly, 86.9 % of blacks had a previous record while only 13.1% of blacks had no previous record. Conversely whites are almost split in half in the categories previous record and no previous record. Fifty-three point one percent of whites had no previous record while 46.9% of whites had a previous record. The chi square shows a relationship between the two characteristics and therefore blacks are more likely to have a previous record [ $\chi^2(1, N=376)=34.1, p<.01$ ]. The value of phi shows that the relationship is moderate ( $.3 < \Phi < .7$ ). This can support the idea that while both whites and blacks can engage in criminal behavior, blacks may be more likely to be caught and prosecuted. Also those with a previous record are more likely to become repeat offenders and re-enter the criminal justice system. Since those with previous records are distinctly black, this may mean exhibit the possible cycle of entry and re-entry of the criminal justice system in which black men find themselves trapped.

**Table of Relationship of Criminal Record and Bond Amounts**

		CRIMINAL RECORD	
		No Previous Record	Previous Record
	\$250-\$5,000	48.9%	19.9%
	\$5,000-\$10,000	17.0%	20.2%
BOND AMOUNT	\$10,000-\$45,000	6.4%	43.7%
	More than \$50,000	27.7%	16.2%
	Total	100.0%	100.0%

This table shows the relationship of race and bond amounts. In this chart bond amount is categorized. All those who were released on recognizance, or had their bond set at \$0 were excluded. Forty-eight percent of those with no previous record had bond set between \$250 and

\$5,000; 17% had bond set between \$5,000 and \$10,000; 6.4% had bond set between \$10,000 and \$45,000; and 27.7% had bond set at above \$50,000. Nineteen point nine percent of those with a previous record had bond set between \$250 and \$5,000; 20.2% of had bond set between \$5,000 and \$10,000; 43.7% had bond set between \$10,000 and \$45,000; and 16.2% had bond set at above \$50,000. A chi square test shows a significant relationship between these characteristics. [ $\chi^2$  (3, N=324)=31.9,  $p < .01$ ]. The value of phi shows that the relationship is moderate (.3 <  $\Phi$  < .7). Therefore, those with no previous criminal record are more likely to have bond set at \$10,000 or less; more than 50% of those with no previous record had their bond set within the categories \$250-\$5,000 and \$5,000-\$10,000. Those with a previous record are more likely to have bond set at \$10,000 and greater. More than 50% of offenders with a criminal record had bond set within the categories of \$10,000-\$45,000 and more than \$50,000.

**Table of Relationship between Criminal Record and Bond Amount by Race**

		CRIMINAL RECORD			
		No Previous Record		Previous Record	
		Blacks	Whites	Blacks	Whites
	\$250--\$5,000	51.6%	43.8%	19.3%	30.8%
	\$5,000--\$10,000	25.8%	0.0%	19.7%	30.8%
<b>BOND AMOUNT</b>	\$10,000--\$45,000	6.5%	6.3%	44.3%	30.8%
	More than \$50,000	16.1%	50.0%	16.7%	7.7%
	<b>Total</b>	100.0%	100.0%	100.0%	100.0%

After studying the influence of criminal record on bond amount, the researcher wanted to see how race may relate. The table above shows this relationship. Once again, like the previous table, the bond amounts in this chart shows bond amounts split into categories and those who were released on recognizance or had bond amount set at \$0 were excluded. One can see that race follows the relationship of criminal record to bond amount. Over 70% of blacks with no previous record had their bond set at \$10,000 or less while more than 50% of blacks with a previous record had bond set at \$10,000 or more. About half of whites with no previous record

had bond set at \$5,000 or less while the other half of whites with no previous record had bond set at \$50,000 or more. About 61% of whites with a previous record had bond set at \$10,000 or less; however, the percentages of whites with a previous record were spread almost equally across all bond amount categories. Thirty point eight percent of whites with no previous record had bond set between \$250 and \$5,000; 30.8% had bond set between \$5,000 and \$10,000; 30.8% had bond set between \$10,000 and \$45,000, while 7.7% had bond set at above \$50,000. Chi square showed a significant relationship between criminal record and bond amount and race [ $\chi^2$  (3, N=295)=11.9 p<.01].. The phi value showing the strength of this relationship was strong for whites ( $\Phi>.7$ ) and moderate for blacks (.3<  $\Phi$ <.7). When looking at median bond amount for blacks and whites, the researcher found that whites pay less than blacks for bond. The range for bond amount for whites is \$3,000 through \$1,000,000 and the median bond amount for whites is \$10,000. The range for bond amount for blacks is \$250 through \$200,000 and the median bond amount for blacks is \$15,000. Therefore, although the range of bond amount for whites is higher than that for blacks, blacks still pay more for bond.

**Table of Race Across Length of Pretrial Detention**

		RACE	
		Blacks	Whites
	<b>1 Week</b>	0.0%	10.0%
	<b>2 Weeks</b>	7.4%	10.0%
	<b>3 Weeks</b>	22.2%	20.0%
<b>LENGTH OF PRETRIAL DETENTION</b>	<b>1 Month</b>	20.4%	0.0%
	<b>2 Months</b>	33.3%	20.0%
	<b>3 Months</b>	6.3%	0.0%
	<b>3 Months or More</b>	9.3%	40.0%
	<b>Total</b>	100.0%	100.0%

The table of the findings of these results shows the length of pretrial detention according to race. The total number of those who remained in pretrial detention was only 64 out of 376

cases. The racial make up of these 64 imprisoned defendants is the following: 54 are black and 10 are white. Of these, 22.2% of black prisoners stayed in 3 weeks, 20.4% were jailed 1 month, and 33.3% were jailed 2 months. Of the white population detained before their trials, 10.0% were jailed for 1 week, 10.0% were jailed for 2 weeks, 20.0% were jailed for 3 weeks, and 40.0% were jailed for 3 months or more. These results seem strange for 2 important reasons. The highest percentages of prisoners who are black cluster for detention periods from 3 weeks to 2 months while the percentages of prisoners who are white cluster at both extreme ends of the detention period. Percentages of white prisoners aggregate around periods of 3 weeks or less and 3 months or more. Secondly, the mean or average detention time for whites in days is 42 days while the mean detention time for blacks was 31.5 days.

The interviews brought a completely different dimension to the numerical data collected from the Shelby County Jail. The questions asked which are shown in the Appendix of this study, did not pertain so much to the concrete facts of bail or bond amount and detention length. Instead, the focus of the interviews pertained mostly to trying to put a human face on the numbers. While the numerical data is sufficient unto itself in showing the relationship of race to bond amounts, the interviews give contextualize the results of the statistical analysis. Whether or not a relationship was found between race and bond amount, the disparities in the criminal justice system result in the imprisonment of African American men. These questions reach to find the consequences of the data or what the absence of the male figure might mean for these families as well as the perception of the police constructed. Therefore the researcher tried to conduct as many interviews as possible in the time frame given.

Similarities between interviewees are striking although the researcher talked with a limited and small number of people. All three subjects are native Memphians; born and raised

here, two out of the three never left the city and the third returned. Two of the interviewees have spent most of their lives in what Rhodes College now defines as Hollywood-Springdale. All have raised their children here and have a sense of pride for the city and its diverse communities. These women, all differing in age ranging from 27 to 58 years of age, have seen Memphis go through many changes and have watched it grow. They know about the city's citizens and their attitudes, as well as the politics, the governmental institutions, and the police. The neighborhoods they have spent most of their lives in have been predominantly black with very little contact with other races or ethnicities within the neighborhood. Therefore along with being black, they have had the most contact with black people and understand the black family, community, and culture. The fact that all three of these interviewees, or subjects, are female is very telling about the situation going on in the black family today. Two of these women have children whose fathers have been incarcerated. They raised their children alone with only the help of their extended families. Increasingly, in the United States, the average family is one with a single parent, usually a female member. Black families stand as no exception to this national trend. Increasingly this is occurring because of the imprisonment of the male head of the family.

The number of interviews cannot be representative of the black community or be generalized to fit how many black families may feel about the judicial system, but many of the answers to questions were very poignant. The researcher thought it important to begin with a few questions about how the subjects felt their neighborhoods were perceived by the police and how the community interacted with officers. According to the subjects, their communities, especially Hollywood, tried to be as cooperative as possible with the police. Community members try to communicate and keep police officers aware of the actions in the neighborhood according to two of the interviewees. With Hollywood being a friendly neighborhood, most



people try to keep relationships between the community and the police open and this is increasing with the introduction of the Hollywood-Springdale Rhodes Partnership. No cooperation from community members in some cases often stemmed from fear of retaliation. When a house is robbed or a car stolen, some neighbors refuse to fully answer police questions because they fear that the perpetrators will find out and come back to hurt them or rob them of their property.

All of the interviewees mentioned in one fashion or another that they believed the police were effective in trying to control crime. The main problem was the attitude of the police. One woman's comments were the following: "I find them to be more arrogant than hostile. They're short-tempered and have no empathy for the victims." Another woman said that "They come up to you like their God Almighty and know everything. They got a bad attitude and be real nasty to folks if they don't get the answer they want when they want it. They look down on people." One subject offered a possible cause for this attitude. She explained that she had been attending citizen's policing classes at her local precinct. During this period, the people who came to class were given the chance to ride with a police officer for a few hours while that officer was on duty. She explained that she witnessed the officers' role call with their supervisors. "Their supervisors treat them awfully. Anyone that wants to know why police are like they are should go to a citizen's policing class. They will see that the officers treat people out there like their officers treat them. Supervisors yell and treat them bad, bully them, so officers are just doing what has been done to them."

In addition to bad temperaments, the women thought that racial profiling was used prevalently by the Memphis Police Department. Blacks were targeted for two specific crimes, traffic and motor vehicle violations. Black people, according to one subject, were more likely to

be pulled over for a speeding or license tag violation. This often leads to other charges. “The police will look up the plate and notice that there’s some kind of warrant out for the person’s arrest or the car will be searched and drugs or a weapon will be found. That’s how most black people are targeted—traffic stops.”

At one point in every interview, each woman mentioned the influence of the media on the police department opinions of blacks in Memphis and specifically in their neighborhoods. One of my questions specifically addressed this issue; while two outright agreed that the media negatively influences public opinion concerning blacks and crime and how outsiders see Memphis and the black community in Memphis, one was hesitant. “Yeah, the media can make people believe that things aren’t the way they are but if people are committing crime then how can it be helped.” Later in the interview she expressed her frustration with the police and the media that contradicted her first statement in some ways. She made the following confession:

I’m tired of the TV always showing black people killing folks, dealing drugs, and whatever. We ain’t the only ones doing crime though I’m not going to lie, I know some folks who ain’t innocent. I just wish it [media] was more fair in what they showed. Cause, what you always see—man shoots convenience store owner. And I automatically think, please God don’t let him be black. But he is and I think, great more folks gonna think that my son is a thug ready to kill them when they look at him. They don’t think that he can be a doctor or lawyer; no, they be thinking he’ll just be a basketball player, a thief, or a gangbanger.

This quote exemplifies the complexity of the issue of crime and the public. The issue of crime concerns the interviewee. She wants the police to catch criminals and the courts to prosecute them whether the offender be classified as black, white, or any other ethnicity or race. The media complicates the issue of crime by possibly playing to public prejudice and showing one group committing crimes more than other groups. The prejudice that the media plays to reinforces the prejudice in return and the cycle continues. Then in addition to being black and having a husband who is currently imprisoned, she has to deal with the challenges her son faces because of his

father and the media. The media shows blacks as being criminal; her son has a father who is currently jailed for a felony. She fears that knowing these two facts, opinion of her son will be negative. People will not believe her son is capable of a professional career of his choosing, but instead the public will believe that he will be just like his father or worse.

Some needs would not have sprung up nor would some agencies be necessary had not male relatives and spouses been incarcerated, or so the researcher thought. Therefore, each person was asked about the challenges they faced in the continued absence of their husbands and brother. The challenges were different for each person; no one gave the same answer. One woman had trouble financially, because her husband contributed half of the household's income. Incarcerated, he lost his job and she was forced to seek a second job to get by. Her children were taxed emotionally because they missed their father. Her family, during the time of his incarceration, felt emotionally taxed. Another woman who spoke of her brother's imprisonment discussed some of the challenges her mother faced. She did not discuss her own feelings and explained that her family did not have any financial difficulties because of him; he had no children and never required bail because he was always released on his own recognizance. The interviewee spoke of how her mother dealt and continues to deal with a son who constantly is in and out of jail. She explains, "I look at her now and I can see a sadness about her, a depression. She just couldn't save him; she's trying to find a way to get past it. She's slowly resigning herself to being okay that he's in jail and will continue to be in and out of jail. At least he's off the streets." The third woman did not miss her husband at all and made no qualms about it either.

"He was a horrible husband, no good and up to nothing. He never held a job for too long and was lazy. I did all the work, I maintained the house and everything in it and it has continued to be so while he's been gone. But I feel for my kids; without him, they ain't got no male role model or influence. While he may have been worthless, he loved them and they need a man to look to just like they need a woman to look up to."

One of the most important questions asked was for the interviewees opinions of what agencies should be made to help prevent people from being imprisoned and to aid those recently released. All agreed that a major feature needed in Memphis is some kind of agency or center for those with mental problems. One of the ladies interviewed said that her male relative had a dual diagnosis.

He has a dual diagnosis; he's addicted to drugs and he has paranoid schizophrenia. No one will take him. Rehabilitation centers don't want him; they will send him away because he can talk like a lawyer and convince them that he's not sick. His schizophrenia allows him to do this. Mental facilities won't take him because he's got a drug problem. So he continues to steal, he gets caught, and they (jails) release him because he's got a mental illness and they think he won't harm anyone.

Another interviewee commented that her incarcerated husband did not have any mental health issues but that she noticed around the city that that seemed to be the biggest problem. "A lot of folks walking around here have something wrong with them in the head. They good people but they can't find no help because of they drug addictions. They get caught sometimes and get meds but they eventually stop taking them. They go back to stealing to support they habit, and the police arrest them again. It's a horrible cycle." Additionally one woman mentioned that a facility should be built or created to counsel those recently released from prison or jail to help them with their transition. "Although-- you know how it is in our culture, folks don't believe in talking to someone—it should be available. Not only should former prisoners go there, their families should too if they need it."

The researcher found several interesting results in this study. Whites were more likely to be charged with possession of marijuana with intent while blacks were almost equally likely to be charged with possession of marijuana and possession of cocaine with intent. Whites are more likely to have no previous record and blacks are more likely to have a previous record. The

presence of a criminal record influences the amount of bond set. Those who have a previous record are more likely to have bond set at above \$10,000 while those with no previous record are more likely to have their bond set at \$10,000 or less. The addition of race does not affect this relationship; however, there is a difference in whites. Whites are more spread across all bond amount categories if they have a previous record while whites with no previous record are clustered near the extreme categories. Pretrial detention is dependant upon whether or not an offender can afford his bail. Although more blacks were found to be in pretrial detention, the average length of time they spent in jail was 31.5 days while whites spent an average length of 42 days in jail. The interviews were used to contextualize the results received. It was found that the police and blacks of the community interacted congenially but the police had no empathy for victims. Blacks believe that the media adds to the negative view of the criminal justice system on the black community making it easier for the lawmakers to possibly created policies that penalize those because of their race. Black families faced emotional, psychological, and financial challenges in the absence of their male relatives because of imprisonment; the main concern of black families seemed to center on children involved.

## **CONCLUSION**

Statistical analysis of the data exhibited several relationships. Whites were more likely to be charged with possession of marijuana with intent while blacks were split with half being charged with possession of marijuana with intent and half being charged with possession of cocaine with intent. Criminal record exhibited a relationship with bond amount; bond amount was higher for those with a previous record than those with not previous record. When the relationship between criminal record and bond amount was tested by race, the same previous

relationship was found. Additionally, comments during interviews pointed to a few real life implications of the data collected.

The number of interviews limited because of research time constraints and focus of the study was on the numerical data and statistical analysis. The few interviews conducted gave the researcher some insight as to some of the possible attitudes of community members. The answers given to the researcher indicated some of the possible needs of black families in the community. For example, when asked about the challenges the family faced in the absence of the male relative, most answers concerned the needs of children of these incarcerated males. Black families feel a void in the emotional and psychological well-being of the children; the women interviewed felt that the children were missing something necessary in the absent imprisoned father figure. Additionally, the interviewees expressed a community need for mental help or counseling facilities. The family members felt that those who are released from jail and even family members of the imprisoned need therapy in order to adjust to the changes in their lives. In the future, the researcher would like to conduct more interviews.

The results of the data collected from Shelby County Jail were unexpected. The percentage of blacks in the sample is almost twice the percentage of blacks in Shelby County. The abundance of blacks in the sample as well as the large percentage of blacks that have a previous record could indicate a cycle of imprisonment of which black men find themselves a part. For some reason whites are not being caught and charged with crimes at the same rate as blacks. This may have to do with the type of felonies on which the researcher focused. Whites were more likely to be arrested and charged with possession of marijuana with intent. The percentage of blacks were split almost in half with half being charged with possession of marijuana with intent and the other half being charged with possession of cocaine with intent. In

Memphis and Shelby County, the criminal justice system may be trying to stop the spread of drug crimes; however, legal policy concerning drug crimes historically has had racial prejudices. Marc Mauer (2004) wrote a policy review paper concerning the disparities in punishment of drug crimes involving cocaine and those involving marijuana and the racial prejudices that formed them. Used as a cure-all treatment for various ailments before the Civil War, white Southerners quickly lost their love of the drug. Reconstruction brought newly freed slaves into the cities; cocaine became associated with black violence against whites, feeding the fear of the rape of white women by black men (Mauer, 2004). Today the image of cocaine has changed as the drug has been separated into two different types, powder and crack. Crack is produced from powder cocaine by adding a baking soda mixture and cooking until all the water evaporates and the crystal rock cracks. This type of cocaine emerged in inner city areas in the 1980s and the media and politicians played upon the myth that it was used predominately by low-income minorities and whites as well as its quality of being more addictive than powder cocaine (Mauer, 2004). As a result, the public with the aid of the media pushed policymakers into creating harsher criminal penalties for offenses involving crack cocaine as opposed to powder cocaine. Mauer explains, “For crack, the possession or sale of as little as five grams mandates five years in federal prison, but for cocaine that penalty is not triggered until the sale of one hundred times that amount, or five hundred grams” (2004, 84). This situation creates a wide gap of racial and class disparities for those who cannot afford bail or private counsel to conduct cases. Like cocaine, the perception of the “evilness” of marijuana has changed as the public has seen a change in the types of people who use it. Marijuana was seen as a drug used primarily by blacks and Mexican Americans and immigrants for the first several decades of the twentieth century. This association with a group of people and the drug helped contribute to legislation like the Boggs Act of 1951 which penalized

first-time possession of marijuana or heroin with a sentence of two to five years in prison (Mauer, 2004). However, users of marijuana primarily came from the white middle class in the 1960s and were mainly college students. Because of this, legislation became more lax. Politicians such as Presidents Kennedy and Lyndon Johnson reviewed allegations of the connection between violent crime and marijuana use. “By 1970, federal legislation was passed that distinguished marijuana from other narcotics and lowered federal penalties for possession of small amounts” (2004, 82). Therefore in Memphis and Shelby County, law enforcement may be trying to stop the spread of marijuana into the suburban areas of the community which has a higher percentage of whites as residents. Equally valid may be that the blacks arrested for cocaine possession with intent were caught with the “crack” form of the drug on their person or in their vehicle. The file containing all the felonies in this study did not distinguish whether the cocaine charges were for powder or crack cocaine. “Crack” may be the target drug in Memphis and Shelby County in the new war on drugs. This may explain the disparities here.

The results concerning the relationship between criminal record and bond amount was expected. The previous studies cited in the literature reviewed found that having a previous record often raised the amount of bond a judge set for an offender. When this relationship was tested by race, the relationship was still found to be significant. Therefore race and criminal record interact to produce higher bond amounts for those with a previous criminal record; however the distribution of whites across bond amount by criminal record was interesting. One third of whites with a previous record were found in the categories \$250-\$5,000; \$5,000-\$10,000; and \$10,000-\$45,000. This may be because of the small number of whites in the sample; there may not have been enough whites to show that whites with a previous record paid a larger bond amount than whites with no previous record. An explanation of this may be that the



judges that decided the bond amount in these cases may have had a bias against these whites, a bench bias. Ilene Nagel explains, “Bench bias refers to the tendency of particular judges to prefer some kinds of outcomes to others regardless of case characteristics” (1983, 506). On the other hand, the median bond amount for whites is \$10,000 while the median bond amount for blacks was \$10,000; blacks in Memphis and Shelby County still pay more for bond.

The researcher studied pretrial detention and while it does not relate strongly to race, according to previous research, detention does relate to bond amount. If one cannot pay their bond, they must be imprisoned until they pay their bond or until their trial date. The interest in this variable stems from the pretrial detention lengths of whites. About 40% of whites spent 3 weeks or less in jail and about 40% of whites spent 3 months or more in jail. While the median bond amount for whites is lower than for blacks, they may spend a longer period of time in jail pretrial. This may be because of class differences; whites from a lower social class may be less likely to be able to pay bail. Nevertheless, this could result from a different extra-legal variable, or ascribed status characteristic that the researcher missed in data collection and statistical analysis.

The researcher suggests that more research is necessary. In further studies on this subject, the researcher believes that other variables associated with ascribed status characteristics should be included in studying disparities within the criminal justice system. These would include offender’s age, social class, and demographic background. Other extra-legal variables that previous research points to as possibly being critical are judicial bias and attorney relationships. Additionally researchers urge research to focus on ascribed status characteristics such as education and employment as variables that may influence bond amount. For example, Stryker et al.(1983) found that after the like variables appearance and demeanor in court are considered,

race and social class disappear as being significant in their relationship to bond dispositions. In addition to measuring ascribed characteristics such as race, age, and sex and achieved status such as education, they also added variables not traditionally considered. These included contextual variables such as the background of public defenders and prosecutors who could share the same values because of organizational or educational ties. They argue that “prior research overemphasized ascribed status characteristics as determinants of court outcomes; that the underemphasis on achieved status characteristics should be remedied; and that models of court outcomes should include processual and jurisdictional factors, including characteristics of the organizational context in which decisions are made” (1983, 493). For future studies, the researcher suggests branching out beyond simply race to include variables such as bench or judicial bias and in fact plans on looking at the relationship of judges to bond amount for Chris Kirby and the Shelby County Sheriff’s Department. These professionals are already investigating the discrepancies they have found between bond amounts of certain judges within certain felony charges.

judicial or bench bias, prosecutorial actions, and the history of the judicial district itself. Because of time, the researcher was not able to thoroughly explore the differences or similarities between the bond amounts set by certain judges across charges. This may be a key variable in possibly understanding some of the relationships or lack of relationships found in this study. Exploration of possible judicial or bench bias, as explained by Chris Kirby, is ongoing at the jails in

Memphis because analysts and officials are now noticing the discrepancies between bond amounts of certain judges across the same felony charges. Additionally, the prosecutors could influence bail and pretrial release depending on their motives, public pressure, or relationships with the public defenders or other private attorneys they interact with in the courtroom. Of course, historical context of the judicial district of which Memphis and Shelby County are a part of could reveal why courts in the city and county work in way they currently operate. In any case, the researcher believes more than just race is at work in these relationships and therefore much more research is needed in a broader context. The researcher will also continue the interviews with community members. The contextualization of the numerical data is necessary to understand the true and real consequences of disparities in how American and Memphis society handles crime.

## APPENDIX

### INTERVIEW QUESTIONS

- How long have you lived in Memphis?
- How long have you lived in this area?
- How long have you lived on this street?
  - How do people (neighbors) get along here? Are they friendly, helpful to each other? Are there many conflicts between folks?
  - Does this area or this block have a lot of contact with the police?
    - How does that affect the community?
    - Do you feel like blacks are being arrested more often for crimes than other ethnic groups in Memphis? In the neighborhood?
    - Are blacks being arrested more than other groups for just certain crimes than others in Memphis? In the neighborhood? Which crimes do you think? In your opinion, why is that?
    - How do you think the police view crime in the neighborhood? In Memphis?
      - Do you think that the police see crime as being prevalent among blacks?
    - How do you think the media influences police's views of crime in this area? In Memphis? Among black people?
- What is your relation to the man who is currently in prison?
  - What was he charged with?
  - Were you at the pre-trial hearing?
  - Do you know what his bail was set at?

- Was he able to make the bail through cash or bond?
  - Did the bail or bond amount affect you or your family financially or in any other way? How?
  - How much time does this individual have to serve?
- What do you think helps to determine bail? Could race be a factor or social class?
- What do you think the relationship is between bail and trial, and bail and conviction?
- Have there been any changes within your family or household as a result of your relative's incarceration?
  - How have those changes affected the family?
  - How do you think this person will do when they get out? Do you fear that once he is released he will be incarcerated again? Are you concerned about him?
  - Why is that?
- What relationships can be made or fostered to prevent people from entering the criminal justice system?
- What do you think should be done about crime in the neighborhood?
- What about community policing or neighborhood watches? How can we help the police to be more effective?
- Do you think there are challenges with the police and their relationship with the neighborhood? With the public in Memphis? What are those challenges? What can the neighborhood or Memphis do about these challenges?

- What needs need to be met? How can the neighborhood help those who have been released from prison? How would you like the Rhodes-Hollywood Partnership to get involved in this issue?

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