

STATUS CHARACTERISTICS AND JUDICIAL DISCRETION

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ABSTRACT

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This research examines the idea that status characteristics influence criminal justice decision making and case processing. This study is rooted in the status-characteristics/expectation states tradition in sociological social psychology. While quantitative studies at the macro level consistently suggest that status characteristics such as race and gender have an impact on criminal justice decision making, what is lacking is an understanding of how these factors operate at the micro level of the individual case. A promising alternative for understanding the impact of individual characteristics at the micro level is the status-characteristics/expectation states tradition in sociological social psychology.

Twelve Felony district court judges from the State of Texas were interviewed and asked to provide perspective, sentencing, and observations for three felony cases. The findings indicate that specific and diffuse characteristics do influence performance expectations and thereby case processing. The results show that specific structural characteristics such as financial and familial support as well as diffuse characteristics, chiefly age and education stimulate performance expectations among criminal justice decision makers. The likelihood of offender rehabilitation and the safety of the

community factor heavily in performance expectations associated with status characteristics. Significant findings in the study include process level thinking on the part of judges, and the influence of judges' personal experience with victimization on sentencing decisions. Furthermore, the research suggests that judges appear to have treated legal variables in a manner similar to status characteristics. Findings point to the need for continued qualitative research on criminal justice decision making and the influence of status characteristics on case processing.

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## CHAPTER I

### INTRODUCTION

A large body of research in social psychology extending back to the 1960's has demonstrated that status characteristics influence social interaction in task oriented groups (Berger and Webster 2006). To date, the research that has attempted to examine the applicability of this tradition to criminal justice is very small (Unnever and Hembroff 1988) and entirely quantitative in nature. However, available research suggests that performance expectations associated with status characteristics should influence decision-making of officials at all levels of the criminal justice system, including the behavior of judges. The purpose of this study is to explore whether performance expectations associated with status characteristics of offenders in the criminal justice system influence the decision-making process among judges at sentencing and if so, how.

#### Rationale

Research has examined a variety of issues concerning decision making and the processing of criminal cases in the juvenile and adult criminal justice systems. Previous research on decision making and case processing in juvenile and adult criminal cases has focused on the impact of offender characteristics (race, ethnicity, gender, prior record etc.), case characteristics such as severity of

the offense, and, more recently, contextual characteristics (characteristics of the jurisdiction, such as the city or county, including urban-rural location, racial/ethnic inequality, minority composition of the population, and poverty rates) on case dispositions at various levels of the criminal justice system (Unnever and Hembroff 1988; Albonetti 1997; Brashear 2007). Studies of this nature are quantitative in orientation and use relatively large sample sizes. Such a macro-level approach seeks to explain variations in decision making over time or across geographical entities. The present study builds on the previous body of work; however, the central focus of the study rests on micro-level analysis. Prior studies on decision making and case processing have largely been quantitative and macro in design. These studies rely heavily on secondary data. Thus the benefit of this micro level analysis is that it focuses greater attention on the decision making process and can shed light on how perceptions of status characteristics affect beliefs judges hold about individuals that come to them for sentencing. The study may also help address questions concerning the degree to which these status characteristics and the performance expectations attached to them affect the way judges make decisions. This study can also contribute to the development of criminal justice theory by adding a new perspective that sheds light on decision making at the micro level.

Extending the Status Characteristics-Expectation States tradition to judicial sentencing offers substantial benefits. By definition, in sentencing

offenders, judges speak to the very core of the criminal justice system, most notably to the protection of society and the rehabilitation or punishment of offenders. This study will shed additional light on the sociological and social psychological factors that affect judicial sentencing. In addition, it will address the lack of qualitative studies of judicial decision making, as well as the need for a theoretical perspective that may demonstrate how and why defendant characteristics continue to affect decision making at the micro level. Further, it will constitute an additional test of the status-characteristics/expectation states paradigm by examining its possible applicability in criminal justice and will also add to the very small body of work that has attempted to introduce this perspective into criminal justice.

#### Research Questions

This study examines how status characteristics influence judicial decision-making in the adult criminal justice system. The following research questions will be explored:

1. Which status characteristics most stimulate performance expectations among criminal justice decision makers?
2. What performance expectations associated with status characteristics factor into the decision-making process at sentencing?
3. What are the mechanisms by which status characteristics are conveyed?

4. What outcomes result for individuals who either fail to convey status characteristics that are associated with positive performance expectations or who transmit status characteristics that are associated with negative performance expectations?

#### Statement of the Research Problem

Quantitative research on sentencing has long identified disparities in criminal justice outcomes based on race/ethnicity and gender. Examples include minority overrepresentation among arrest statistics as well as among jail and prison populations. Ideally, case outcomes reflect both the facts of the case along with legal and case-related variables such as the severity of the offense and prior record of the defendant, as opposed to extra-legal variables such as race/ethnicity and sex. Studies of case processing raise questions concerning sentencing, behavior, predictions of sentencing, and the impact of race, class, and gender on sentencing decisions. The continued presence of these disparities suggests that defendant characteristics continue to influence case outcomes, independent of legal and case related variables. This is documented in numerous quantitative studies that continue to demonstrate the presence of gender and race effects on sentencing (Doerner 2009). As long ago as 1996, Bishop and Frazier argued for the need for quantitative studies of case dispositions to be supplemented by qualitative studies that examine the process by which criminal justice officials make decisions about cases. Not only does there remain a severe shortage of

qualitative studies of decision making, there is also a need for the development of a theoretical perspective that can offer insights into the decision making process. The current study addresses both of these limitations. Through its focus on the influence of status characteristics on performance evaluations, the status characteristics/expectation states paradigm may help explain how defendant characteristics such as race and gender influence decision making at the micro level.

Using interviews with judges, this qualitative study attempts to address whether and how perceptions of offenders influence judicial decisions at sentencing. Figure 1 below describes the expected relationship between status characteristics, performance expectations, and judicial decision making. Through its focus on the influence of status characteristics on performance evaluations, the status characteristics/expectation states paradigm may help explain how defendant characteristics such as race and gender influence decision making at the micro level.

Figure 1: Transmission of characteristics, expectations and the decision

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Status Characteristics----->Performance Expectations----->Judicial Decision Making

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## Organization

This dissertation is divided into five chapters. The first chapter provides a brief introduction to the issue of status characteristics and judicial discretion, the statement of the research problem, rationale, research questions, and the general dissertation outline. The second chapter provides a comprehensive literature review. Chapter two reviews literature on status characteristics/expectations, discretion, and applications of status characteristics theory. Chapter three describes the methods and data. This chapter includes information on case selection, participants, data analysis, validity and reliability, and limitations of the research. Chapter four details the study's findings including themes identified in the research. Chapter 5 concludes the study with a summary and discussion of the findings. This is followed by a discussion of the implications of the study and recommendations for future research.

## CHAPTER II

### LITERATURE REVIEW

#### Introduction

The first section provides a review of the status characteristics/expectation states tradition. This is followed by an examination of the discretion literature, with a focus on discretion in judicial decision making. The final section considers the application of Status Characteristics-Expectation States Theory in understanding decision making in criminal justice, with a focus on judicial decision making. To limit the scope of the literature to be reviewed, this chapter focuses on judicial decision making.

#### Status Characteristics/Expectation States

Status Characteristics Theory is generally regarded as a core theory to the expectation states paradigm (Berger and Zelditch 1993). In all groups acting as a collective, status characteristics affect social interaction. An assumption can be made that status cues, or status symbols as they are referred to, are early indicators when a group forms. Two dimensions of status cues are important to note. The first dimension is the question of *how* status is informed and transmitted, while the second dimension concerns *what* is being transmitted. In both dimensions, a system of cues is employed to further communication between actors, in this case the offender and the sentencing judge. Indicative cues

explicitly label or identify a person as someone who possesses a status or condition, while task cues signal the individual's ability and potential. A third cue, categorical, provides some measure of who the person is. Status characteristics/expectation-states theory is a broad, highly influential tradition that has spawned a series of other, related theories. The framing of the early research on power and prestige initially rested on the statement, "in a group where individuals start out similar in external status, performance expectations emerge out of sequences involving accepted performance outputs" (Berger and Webster 2006:270).

Status Characteristics Theory was developed in response to those situations where the actors were initially different on "such status distinctions as gender, race, or occupational positions" (Berger and Webster 2006: 271). Status characteristics theory makes five assumptions. The first assumption is that status information becomes salient if it is initially defined as relevant to a task (Berger and Webster 2006: 272). Expectations States theory would suggest a leader is formed in the group as the actors identify what needs to happen to complete a task, what amounts to a shared goal/outcome. This is the first level of salience. In essence, when a group forms the unspoken goal among participants within the group is to mentally eliminate any unnecessary status claims not specific to the task for actors in a set situation.

It should be noted that these previously unnecessary claims may be reintroduced if the situation dictates. This forms the second assumption- that actors tend to generalize status advantages to new situations (Berger and Webster 2006: 273). The third assumption follows that with the introduction of another individual in the exchange this new third individual brings a unique status and carries a collective expectation for the group. The third individual's status characteristics, whether real or perceived, may alter the group's dynamics. The fourth assumption maintains that the totality of relevant status information is combined in order for actors to form performance expectations. The fifth assumption is that the new addition in the situation (the introduced new character) has observable power and carries knowledge consistent with an anticipated reward. These dynamics are relevant to this study in that the actors present in the courtroom-the bailiff, attorneys, defendant, and judge hold varying status, and situational context--the offense, pending decision, and anticipated outcome.

As noted, the status characteristics-expectation states paradigm has given rise to a rich body of theoretical research. One recent development is evaluations and expectations theory. The scope of evaluations and expectations theory is limited to situations in which pass or failure are outcomes and actors are working in unison on a specific task (Berger and Webster 2006:330). In a further development of this tradition, Fisek, Berger, and Moore (2002) integrate status characteristics and expectation states with source theory. In so doing, they

introduce key elements such as the valued role and imputed and assumption possession (331). In all groups acting as a collective, status characteristics and expectation states influence interaction. Status construction theory has been another significant development in understanding interaction among actors (Burke 2007: 268, 301). Status construction theory is framed as an extension of expectation states theory. Status Construction theory aims to explore how status beliefs develop and are transmitted (Ridgeway and Correll 2006). Cecilia L. Ridgeway explains it as a social psychological theory that aids in understanding social differences. As she writes, it “helps us understand how social differences in society become axes along which social inequality is organized” (Ridgeway 2007:319). Status construction theory is micro in scope looking more at interpersonal exchange and the structure of context as it is shaped by external conditions creating and sustaining shared status beliefs about social differences (Zelditch 2007: 320).

### Judicial Discretion

The social world of criminal justice is vast, and replete with examples of research on different circumstances in which discretion is exercised. Discretion is at the heart of decision making as evidenced in a police officer’s decision to detain or release, a prosecutor’s plea offer, or a judge’s sentence of probation versus prison. Significant bodies of research exist that examine the various dimensions of police and prosecutorial discretion. To limit the scope of the

present analysis, this review concentrates on formal discretion as it operates in the courts.

A substantial body of research has examined discretion in the court system. One focus of this research has been on testing the impact of sentencing guidelines, especially in United States Federal Courts (Albonetti 1997, Asma 2001, Hanbury 2000, Brashear 2007). The goal of sentencing guidelines was to constrain judicial discretion (Albonetti 1997; Brashear 2007). The typical assumption holds that the guidelines are representative of the criminal justice system. Interestingly, in one study on sentencing guidelines, Albonetti (1997) found that sentencing disparities persisted and were linked to both defendant characteristics such as ethnicity, educational level, gender, and non-citizenship and to offense-related variables as structured by the guidelines (Albonetti 1997). Two particularly interesting findings were that women received less severe sentences than males while guideline departure played an added role in that judges influenced sentencing decisions. The finding that women received less severe sentences is particularly interesting since some research in social psychology suggests female offenders are more likely to receive harsher sentencing (Albonetti 1997). Albonetti (1997) implies that race and education level of the defendant have significant effects on judicial decisions and length of imprisonment. Far less literature has examined the impact of gender on judicial discretion (Farnworth and Teske 1995).

Albonetti (1998) speaks directly to the need for further research on the impact of offender characteristics and expectations for judicial discretion on sentencing. Her analysis follows U.S. federal sentencing prior to the implementation of sentencing guidelines. Arguing that U.S. federal sentencing guidelines have impacted judicial discretion, Albonetti (1997) maintains that the imposition of federal sentencing guidelines has reduced judicial discretion. The prosecutor, however, has been granted considerably more autonomy (Albonetti 1997). Brashear (2007) also found that the prosecutor enjoyed more discretion after the imposition of sentencing guidelines. Still, the imposition of judicial guidelines introduced a unique pattern in that where there was no discretion allowed the judge, sentences were at the minimum allowed by the guideline while in situations in which broad discretion was allowed sentencing was set at or below the minimum (Brashear 2007). With a large sample size, using records of drug offenders sentenced under the federal guidelines, Albonetti (1997) researched sentencing disparity particularly with reference to the effects of defendant status characteristics such as race, education and the conditioning effect of the defendant's ethnicity on sentence outcomes. Albonetti found that offense, or legal variables were impacted by status characteristics such as gender, educational level, and race. These characteristics were intended to be eliminated by sentencing guidelines.

Judges could be influenced by the offender's background and social characteristics. That formed the key ingredients Hanbury (2000) employed in a study of sentencing outcomes. In Hanbury's (2000) analysis of U.S. Sentencing Commission data, judicial decisions appeared to be influenced by the offender's social characteristics, including those "not ordinarily relevant" (Hanbury 2000). Hanbury concluded that the characteristics that most affected judicial decisions were the physical condition, employment, and family responsibilities of the offender (2000). In a similar study, Pasko (2002) found that sentencing variations and ethnic disparity were impacted by both legal and extralegal factors such as individual perceptions of offenders as either villain or victim. Pasko's findings suggested that judicial perception of the offender in drug cases influenced judicial discretion

On the assumption that modes of conviction are a unique indicator of discretion in the sentencing process by courtroom actors, Johnson (2003) examined 4 modes of conviction: non-negotiated pleas, negotiated pleas, bench trials, and jury trials. Using a sample of 109,931 cases, Johnson found that extra-legal effects vary in contributing to disparities under sentencing guidelines (Johnson 2003). The primary concern of the study, however, was on the overall effects of race/ethnicity on sentencing. Regardless of race or gender, judges who were rated as more "severe" tended to assign longer sentences to offenders with longer recommended sentences than to offenders with lower recommended

sentences (Bushway and Piehl 2001). Sentences appeared to follow with lengthy criminal history, guideline offense levels, and type of offense.

A return to a greater judicial role in sentencing is urged by one researcher claiming that mandatory minimum statutes produce an imbalance between judicial and prosecutorial power in that they diminish discretion in favor of mandatory sentencing (Weinstein 2003). In an earlier study, Farnworth and Teske (1995) examined the impact of gender on sentencing decisions. In particular, the analysis brings a large sample size together on three key concepts, typicality, selective chivalry, and differential discretion. Typicality meant that women are treated with chivalry in criminal processing, but only when their charges were consistent with stereotypes of female offenders while selective chivalry held that decision makers in the criminal justice system extend chivalry disproportionately to white females. Farnworth and Teske (1995) found that females with no prior record were more likely than similar males to receive charge reductions, and that selective chivalry was present with a greater tendency to reduce charges of assault to non-assault among white female defendants than among minority women.

Studies of judicial discretion indicate that sentencing disparities still exist in spite of the fact that sentencing guidelines were intended to reduce discretion and promote equity in sentencing, and thus reduce disparities. These studies of

sentencing suggest that defendant characteristics still influence sentencing outcomes.

### Applying Status Characteristics Theory

The influence of status in an exchange where one actor receives a benefit or is favored by a particular attribute, for example, is a clear indication of its importance and hints at the connection to expectation states theory. Within an exchange between actors, the individual with higher status usually garners higher favor and support. Status then provides a group distinction, setting the individual with status higher than the actor without. This in turn forms what Ridgeway and others refer to as the “hierarchy of esteem and deference” (Ridgeway 2007: 301).

This is likely the result of what appears to be a contextual sameness—a sort of blueprinting or stereotyping in which individuals judge all similar individuals and interactions the same. This suggests an overlap with stereotype and a perhaps less studied or understood operational function of status characteristics. The limitation results from the question of how status construction might differ from stereotype. There would seem to be some overlap in the definition between the two and also the construction process of stereotypes. Correll (2004) offered that a distinction does exist although she admits that she draws on psychological literature on stereotypes in her research. There appears to be a slim separation between the two in that while stereotypes are general beliefs, status construction theory operates on a more empirical level (Correll, 2004: 98).

Moreover, Correll suggests that status construction theory is specific whereas stereotypes are general. Still, she does say both are social schema for interpreting the social world. Thus the significance of specific (athletic ability, intelligence) and diffuse (gender, race, education) status characteristics cannot be ignored. Thus it is relevant to distinguish that stereotype and status characteristics while similar are not the same.

Claiming inconsistencies in the method in which individual and group decisions are arrived at, Simpson and Walker (2002) offer challenges to existing status characteristics and performance expectations. In their theoretical analysis they argue that diffuse characteristics are greater predictors underlying individual and group decision making. They assert that performance expectations may be arrived at more predictably by realizing the diffuse value of an individual. Diffuse characteristics do appear to weigh heavily in decision making; something which seems to be highlighted in criminal justice research, particularly the variable of education. Situation is of also significance in their model such that tasks determine the outcome and individuals are judged based on the task. In this conceptualization then, specific characteristics weigh higher in tasks but are less significant than diffuse characteristics once tasks have been completed.

Consistent with the assertion that individuals hold performance expectations associated with status characteristics in reaching decisions about individuals, groups, or tasks, Unnever and Hembroff (1988) found disparities

present in sentencing. Although the data used in their study were collected in 1971, their findings are consistent with other, more current studies. Furthermore, Hembroff's (1982) work is uniquely linked to expectation states, and several studies build from it. In their 1988 study, for instance, Unnever and Hembroff (1988) employed status characteristics and expectation states in the analysis of decision making at sentencing. Accordingly their analysis suggested that sentencing disparities are less likely to occur based on a defendant's race/ethnicity when case-related attributes all point to incarceration or all point to probation. Consistent with expectation states theory, sentencing disparity is predicted to occur as case-related attributes become increasingly inconsistent and disparities likely follow. The present study differs in that it seeks to examine specific status characteristics and their impact on judicial decision making. Essentially, if case related attributes are consistent, status characteristics are less influential and so less disparity occurs.

Figure 2: Predictions of Status Characteristics and Expectations

	Expectations(E)	No Expectations (~e)
=Status-characteristics (SC)	E=SC	~e≠SC
~ status-characteristics (~sc)	E=~sc	~e≠~sc

Figure 2 illustrates the transmission of status-characteristics and expectations. It is useful to conceptualize status characteristics especially within the context of arriving at some cogent, empirical or mixed method for

understanding the decision making process in a court setting. Interpretation of Figure 2 highlights predications of status characteristics and expectations among actors in an exchange. The primary focus in the illustration is on roles and expectations. The figure assumes two actors and a common goal. In the current study, for instance, the focus examines the roles of actors, specifically the judge and offender and the common goal of sentencing the offender for the commission of a crime. The graph helps to explain how status characteristics are applied. By understanding that the situation for the actors in the present analysis evolves from the offender's initial crime, to their appearance before the judge following the commission of the crime, specific attention is thus focused on how the roles change within the dynamics of the situation. In order to participate in a mutually supported exchange relation with the judge, the offender must manipulate his or her role as a criminal.

Where s/he is conscious of role, the judge is relying instead on normal interaction expectation or unique gains from the interaction whether some type of punishment, rehabilitation through community supervision, or in some instances, dismissal of charges. The first outcome is ideal where expectation equals status characteristics. The second suggestion implies that having no expectations of the individual allows for individually defined status characteristics to have an effect. An example of this transmission might best be observed among young children. The latter two transmissions are problematic first by having an expectation and no

status-characteristics and lastly no expectation and no status characteristics.

Interestingly, courts rely heavily on tools such as the Pre-Sentence Investigation Report, Risk Needs Assessment Instruments, CATS, psychological evaluations, and sentencing guidelines to circumvent these more challenging associations.

### Discussion

The bulk of status characteristics-expectation states research has been conducted in the United States and this tradition remains largely American. There is some research that attempts to shed light on the issue that defendant characteristics continue to affect sentencing outcomes. An attempt to reduce discretion and promote equity was made through the creation of sentencing guidelines. Studies testing their effect have been somewhat mixed.

This literature review has stressed the impact of performance expectations associated with status characteristics and their impact on decision making in the criminal justice system. Discretion is widespread throughout the American criminal justice system and there are significant bodies of research focusing on the exercise of discretion at points such as police, prosecutors, and judges. There are large and disparate bodies of research focusing on judicial sentencing, decision making, and a wider body focused on the impact of race, gender, and offense type on decision making and sentencing disparity.

## CHAPTER III

### DATA AND METHOD

This chapter details the methods and data. After a discussion of the research design, the data and sample are reviewed. This is followed by a discussion of the instrument and data collection, human participants protection, ethical considerations, and data analysis. The final section reviews limitations of the research.

#### Research Design

The research design for this dissertation is qualitative. The primary focus of this study centers on the question of how status characteristics may influence judicial decision-making by judges in the adult criminal justice system.

Qualitative analysis allows for a thick, richer description of the phenomena being studied which is consistent with the exploratory nature of the analysis as a whole.

While quantitative studies at the macro level consistently suggest that status characteristics such as race and gender have an impact on decision making, what is lacking is an understanding of how these factors operate at the level of the individual case. The research design allows for analysis at the micro-level.

Qualitative research is often time consuming and expensive, however, these issues are outweighed by the thick descriptions available in to researchers.

The ability to provide rich, meaningful data beyond the cold numerical

expressions so common in quantitative research is a particular advantage of qualitative research. The design typically uses semi-structured, open ended questions. Recruitment of participants follows a non-probability technique whereby participants are selected via a system of convenient/accidental, quota, purposive, or snowball sampling. Often because in qualitative studies, the researcher seeks to explore and examine the subject in depth with the ultimate goal of providing the thick, rich, description of the research area, the sampling design must include either an obtrusive or unobtrusive element.

#### Data

There are three sources of data. The first source was from in-depth interviews conducted with each participant. The second source is from the evaluations of three case studies in the form of Pre-Sentence Investigation reports. The type of cases selected for the Pre-Sentence Investigation report included cases typically observed by Felony District Court Judges and included a drug offense, driving while intoxicated, and a criminal non-support. These three items comprised one of the key instruments in the data. Demographic data were also collected from each participant using a questionnaire. The specific data consisted of responses to the interview questions, their evaluations of the three case studies, and the demographic data. In all, data was accumulated from 12 participants.

### Sample

A general contention among qualitative researchers is that a saturation point is reached in detailed interviews with sampling sizes greater than 20 to 25 (Chase 1995; Silverman and Marvasti 2008; White 2008). In order to provide a thorough, detailed description, and because the research proved very time consuming the sample size was kept small (N=12). This small sample size allowed for minimized risk, and in-depth analysis of responses.

Participants were recruited using email addresses available from the State of Texas Judicial Courts Directory. A recruitment email was sent to all email addresses of judges listed in the State of Texas Judicial Courts Directory. Emails were sent to approximately two hundred and sixty-six email addresses appearing in the directory. The first twelve respondents were selected. Interested Judges contacted the researcher by responding to the email. The researcher then responded with a recruitment script. Interested judges indicated their continued interest via email and the researcher provided consent to participate via email. Interviews were not conducted until the consent to participate was signed and faxed or scanned back to the researcher. While one interview was conducted in person, nine interviews were conducted over the phone because of the distance involved. Two participants agreed to participate if they could respond via email only. All interviews used a semi-structured interview schedule. The interview was semi-structured to allow respondents the opportunity to venture freely while

affording the interviewer the flexibility to remain on task especially with respect to understanding status characteristics and judicial discretion. The interview questionnaire served as one of the primary instruments for the data collection.

### Instrument

The instruments consisted of an interview schedule, a series of three anonymous Pre-Sentence Investigation (PSI) reports, and a demographic questionnaire. A semi-structured interview schedule was used to examine participant's perceptions of status characteristics and their influence on judicial decision making. The questions on the interview schedule were open-ended and created specifically for the purposes of this study.

The PSI reports were obtained from a Community Supervision and Corrections department in the North Texas area. According to Texas law, in a Felony case a PSI must be completed for the court prior to sentencing an offender. The PSI's used in the analysis were from cases who plead guilty and whose offenders were sentenced before the court. This is done to reflect more accurately the disposition of typical cases in district courts. The Pre-Sentence Investigation reports were for Felony Possession of Controlled Substance (drug offense), Felony Driving While Intoxicated (DWI) 3<sup>rd</sup> or more, and Felony Criminal Non-Support. These three types of cases were selected because they are broadly representative of typical cases heard by felony district court judges. All personally identifying information was removed from each PSI. Each PSI was

generated from a court in a North Texas county where the sentencing judge had retired or was no longer seated. This was to ensure that no participating judge in the study potentially reviewed a PSI on a case for which they may have originally sentenced the offender. Using interviews with judges and case analysis, the study addresses whether perceptions of offenders and the predicted likelihood of outcome influence judicial decisions at sentencing.

#### Data Collection

To facilitate this study, judges were contacted as described above and interviews scheduled. The data collection extended from June 19, 2012 through February 4, 2013. Initially, data collection for this study utilized a non-probability purposive (snowball) sample technique. This however, quickly proved problematic. Using snowball sampling, twelve judges were to be selected from among all state and municipal judges in the northern counties in the State of Texas. From the onset, it was determined that the sample size would be limited to 12 respondents due to time constraints and to allow for greater depth of analysis. Initially, a district court judge known to the researcher was contacted in person and invited to participate in the study. If this judge was interested in participating they were to notify the researcher verbally or in writing (via email) to indicate their willingness. At the interview the judge would be asked to suggest the name of another judge who might be willing to participate in an interview. This second judge would be contacted via phone and invited to participate. If this second judge

agrees to participate, an interview date and time would be arranged. Each judge would give their consent in the same fashion as the preceding judge either verbally or in writing via email. At the interview the second judge would be asked to suggest the name of a third judge who might be willing to participate in an interview. This third judge would be contacted by phone and asked to participate. If this third judge agreed to participate, an interview date and time would be arranged. This judge would also give their consent either verbally or in writing. This process was to be repeated until a maximum of twelve participants were recruited. It worked once.

Subsequently, to increase access and participant availability, the researcher recruited participants using email addresses available on a State of Texas District Court Judges email list available on a State of Texas website. A request to participate email was sent to all courts in the email directory and interested judges contacted the researcher by responding to the email. Eleven judges meeting criteria responded to the request to participate. Judges were sent a consent to participate and the demographic survey. After receiving the consent to participate, the researcher contacted the judges and interviews were scheduled.

As previously stated, one interview was conducted in person while nine interviews were conducted over the phone. Two judges agreed to participate if they could respond via email only. Interviews conducted over the phone were scheduled in advance around judge's schedules. Typically, respondents

scheduled interviews between cases or during breaks in their dockets. In this manner, judges were responsible for selecting the location of their interviews and also the times. This allowed participants to feel more comfortable and presumably speak more freely. Interviews last a minimum of 30 minutes and a maximum of sixty. The average interview last approximately 40 minutes.

#### Human Participant Protection

Approval for this study was sought and obtained from the Institutional Review Board (IRB) at Texas Woman's University in compliance with institutional policy and procedure regarding human subjects. The consent to participate in research forms, interview schedule, review Pre-Sentence Investigation form, demographic questionnaire, and recruitment script were approved before the initiation of the study.

#### Ethical Considerations

Potential Risks for participants included fatigue and physical or emotional discomfort during the interviews. To address this, the interview was conducted at a place of the participant's choosing which allowed participants to feel more comfortable or via phone. Every effort was made by the researcher to limit the interviews to one hour; however, if needed, participants were informed that they could take breaks at any time. Since the interview occurred at a place of participants choosing, physical and emotional discomfort was generally believed to

be minimized. The interviewer's training included recognizing signs of emotional discomfort and both the participant and interviewer could elect to break or terminate the survey.

Another possible risk to participants was release of confidential information. Coding of participants was employed to maintain anonymity. The code was available only to the primary researcher and only for the duration of the research project. In the subsequent chapters, participants are referred to by their title of Judge and randomly assigned number in order to retain anonymity. The number and corresponding judge are known only to the primary investigator and the research advisor.

### Data Analysis

Using hand coding and Nvivo 10 qualitative software, interview responses were analyzed to examine the data for themes and patterns indicative of the presence of status characteristics and their contribution to the process of sentencing. Each of the four research questions were addressed through an analysis of the interview data. Nvivo 10 qualitative software was used to help transcribe and organize themes which developed out of the interviews.

Coding was also utilized during transcription of the interviews. Coding and analysis was completed using NVivo 10. To facilitate coding, the interview questions represented nodes which allowed for separating and organizing the data. Data was analyzed individually and collectively using hand coding to identify

themes. Coding started with jotted notes on the transcriptions which helped to begin the identification of themes. These jotted notes became analytic memos and often time referring back to jotted notes, which contributed to developing themes and eventually to selective coding. The NVivo 10 software was crucial in helping conduct text queries, codes, and organize themes.

### Limitations

It is important to note that the sample size is small and non-representative, so generalizing to the larger population of district court judges in Texas is not possible. Qualitative studies typically use a non-random sampling process as in the present analysis in which recruitment followed individuals who responded from the State of Texas Judicial Directory. In general, qualitative studies do not allow for generalizability to the population.

An additional limitation is that a relatively short, single interview may not allow enough time or depth of engagement with the participants in which to adequately tap into the degree to which status characteristics may influence decision making. Further, a qualitative interview would make it more difficult to control for the influence of other factors such as case characteristics on decision making than could be done in a traditional quantitative study using secondary data.

## CHAPTER IV

### FINDINGS

This chapter provides results from the extensive interviews conducted with these judges and begins with a discussion of the participants, their demographics including gender, average age, marital status, and political ideological affiliation. This is followed by a discussion of findings with reference to each research question.

#### Participants

For this study participants were recruited from a directory of District Court Judges in the State of Texas. This allowed for diverse and potentially more representative participant population. A total of twelve judges including six males, and six females from throughout the State of Texas participated in the study. The average age of the participants was fifty-one.

Almost all participants in the interview reported themselves to be married. Eight respondents indicated that they were married, while one was single, and another was divorced. Two judges declined to answer.

Table: 1 Participant Demographics

	N	%
<b>Gender</b>		
Male	6	50%
Female	6	50%
<b>Marital Status</b>		
Married	8	67%
Single	1	8%
Divorced	1	8%
No Response	2	17%
<b>Political Ideology</b>		
Liberal	0	
Conservative	6	50%
Independent	3	25%
No Response	4	33%

*Note:* (N= 12)

Determining political party identification was particularly challenging. Almost all respondents indicated they were strong Republicans while a few categorized themselves as Independent. Respondents were reluctant to categorize themselves as either Liberal, Conservative, or Independent. Six respondents identified as conservative, and three independent, while three declined to answer. Respondents were encouraged to describe or self-define whichever category they selected prompting one judge to laugh,

Hell, Eddy, this is Texas! I can't get elected if I don't say I'm a conservative. (Judge number withheld by request)

As might be expected, the respondents' perceptions of their work were similar. All respondents overwhelmingly answered that they were busy but did not see any difference between them and their colleagues. Interestingly, none of the participants were aware of the size of their current caseloads. As one respondent offered,

I don't know. We don't get those reports anymore. I think we all work hard. The numbers can be skewed. (Judge Number 12)

A common response among participants was the similarity in the amount of cases moving through their respective courts.

I believe we handle similar caseloads, but I believe I am more actively involved in trying to move my docket. (Judge Number 99)

All respondents indicated that they had full dockets—cases awaiting action—which they stated was no different from other courts in their district.

Other than that, we generally hear about the same numbers. I think this year I'm getting more—last year I got more murders than anyone else.

That had to do with the fact that the offenders had prior cases out of this court. The assignment of cases is fairly even. (Judge Number 24)

The assumption of equal workloads and perception of their peers could largely be contributed to the way cases are assigned. All respondents indicated that cases were randomly assigned. Case assignment was determined by as simple a system as alphabetical arrangement or a rotation method. In addition, all respondents

indicated that recidivist offenders, individuals who committed a crime, were sentenced by them [the judge] and then committed a subsequent crime, were returned to the same judge and court for sentencing on the new offense.

Respondents were comfortable with the way cases were assigned.

Interestingly, when asked how many cases they saw in a year, each respondent stopped the interview, called out for their court clerk, and requested actual numbers. This presented some problem as it added additional time to interviews. Although each court clerk keeps track of the court docket-the number of cases heard by their respective judge, the actual number did not appear readily available. On several occasions, after some confusion, court clerks provided estimated numbers. These numbers included civil and criminal cases.

Interestingly each respondent appeared surprised by the number of cases seen in their court. A common response was,

I hear about 45 jury trials a year and we keep an average case load of about 1,200 felony cases at any one time. My colleagues preside over about one third this number of jury trials. (Judge Number 99)

The number of cases highlights a heavily utilized criminal justice system. Judges' responses indicate that they operate in a criminal justice system that handles a very high volume of cases. Some research suggests that the criminal justice system would collapse if it were not for the vast number of plea bargains judges supervise.

### Judicial Decision Making

Prior to continuing the analysis of findings, it is important to note that the study recognized the parameters of the Texas judicial system rules pertaining to sentencing of offenders. Plea agreements are negotiated primarily by the state's attorney, the prosecutor, and the defense attorney. In such circumstances where a plea agreement has been met, Judges at sentencing are limited in their discretion. In a plea agreement, as one participant offered,

Really the sentence has already been negotiated by the parties. Generally I'm willing to follow that unless the facts of the case determine it is not conscionable to do so. I've only had one case where that has originated. It was a jury trial on an individual and a co-defendant testified. The co-defendant had worked out an agreement for a reduced case and I would not accept that. In that instance, it was a series of home invasions and by his testimony he'd participated in about 100. I believe the sentence was for 5 years something of that nature and I just couldn't do it so I refused to accept the plea. That's probably the only time I've refused to accept the plea. (Judge Number 24).

Plea agreements limit judicial discretion in that a judge is bound by the plea arranged by the prosecution. That is to say that the judge cannot sentence an offender on an agreed to plea to a harsher sentence. Instead, the judge may either elect to not accept the plea, or can reduce a sentence. This is very different from

an open plea where an offender has essentially provided the judge with the total means of determining the offender's fate—community supervision or incarceration. In order to look at judicial discretion and the decision making process, the present research offered participating judges the opportunity to sentence offenders in an open plea setting by utilizing instruments consisting of an interview schedule, a series of three anonymous Pre-Sentence Investigation (PSI) reports, and a demographic questionnaire. Moreover, to allow discretion in sentencing, something which is limited in a plea agreement, judges were asked to consider their decision process and how it might differ in either an open or plead case. The ultimate goal in this approach was to allow judges the opportunity to exercise and discuss their discretion, decision making, and case processing options.

In an open plea, judges enjoy wider discretion thus allowing for greater examination of status characteristics and performance expectations. In a plea agreement, the Pre-Sentence Investigation (PSI) report includes status characteristics and legal variables such as age, education, gender, nationality, race/ethnicity, socio-economic status, family, military, criminal, and substance use history are contained in the report. The significance of the PSI became crucial as it serves as a primary mode of status characteristic transmission in this and all cases.

The PSI also includes information on restitution, victim information, and often offers versions of the offense from the perspective of the arresting officer, defendant, and in cases involving a victim, a victim's statement. Article 42.12, Section 9 (a) of the Texas Code of Criminal Procedure asserts a requirement that unless waived by the defendant, a PSI must be completed prior to the imposition of a sentence. The PSI provides the sentencing judge with information about the offender's life. The PSI is a valuable tool not only for judges but community supervision officers in the event the offender is placed on supervision in the community. Thus the PSI itself serves as transmitter for both specific and diffuse offender status characteristics. In fact, one training module commonly used to train Pre-Sentence Investigators refers to the PSI as a means to relay information to the judge concerning an offender's character (OL Mod 6-PSI 9-11.Rtf - Module6.Pdf). As one respondent said,

The PSI is so important to what we do. It is one of the few pieces we have.  
(Judge 24)

This comment was consistent among participants.

Well, probably the most significant part of that process—and we're assuming that person is pleading guilty and not going to a jury is the Presentence investigation report and my reliance on that. Of course the severity of the crime, age of the person is very important as well; as well

as the person's criminal history but all of that is in the PSI. (Judge Number 12)

Table 2: Specific and Diffuse Status Characteristics within a Pre-Sentence Investigation

Specific	Diffuse
Socio-economic status, Family Support,	Age, Education, Gender, Nationality, Race/ethnicity, Military Service Substance Use

The open-ended structure of the interview questionnaire served as one of the primary instruments in the data collection. This afforded the opportunity to go beyond the PSI through probing questions. Moreover, to negate the influence of the Pre-Sentence Investigation report, judges in the study were asked to sentence offenders on three cases in a presumed open plea. Interestingly, all respondents were uncomfortable with being asked to sentence offenders based solely on the information contained in the PSI. As one respondent offered:

The state presents any evidence and it has to with any priors, severity of the offense, and perhaps even some details that might not have come out at the plea of the offense. So I take that into account and I take into account listening to the offender's presentation. (Judge Number 14)

Judge 14's comments were common and suggested the complexity of the decision making process which judges employ. As another respondent stated,

Testimony is also very important. I weigh the testimony heavily. The PSI may sometimes come in too heavily one sided. The testimony becomes very important. The PSI can heavily influence you but I never close my mind to anything that may sway me. (Judge Number 31)

Among respondents, verbal testimony and as might be expected, offender acceptance of guilt, appeared to be of particular importance.

I always want to make sure that they really did accept responsibility for the offense. They will not accept responsibility when they meet with the probation officer so I make them repeat to me why it is that they are in fact guilty. (Judge 14)

The defendant's acceptance of responsibility for his or her crime was important to all judges regardless of whether the offender was awaiting sentencing as either a plea or open plea agreement. All participants stressed the need for defendants to accept responsibility regardless. Garrath Williams (2008) asserts that responsibility is a moral need. In developing a judgment task model that incorporates affective influence on attributes such as emotions, moods, and responsibility of blame, Feigenson and Park (2006) found that moods and emotion influence decision makers. This influence manifests itself in 3 ways: informational cues on decision making, affecting information processing, and

inclining decision makers' judgments in the direction of the mood or emotion. Several theories have come forth examining and attempting to offer some explanation of emotions including but not limited to Dramaturgical, Symbolic Interactionist, Interaction Ritual, Power and Status and Exchange Theories (Blumer, 1969; Erickson and Ritter, 2001; Bolton and Boyd, 2003; Lively and Heise, 2004; Turner and Stets, 2006). Regardless of the manifestation and as might be expected, no respondent was willing to sentence an offender without the offender acknowledging guilt. All respondents said they would not sentence a defendant in their court who was being sentenced as the result of a plea without the defendant acknowledging this publicly.

The emotional element in decision making cannot be ignored. To its credit and recognizing the potential influence of emotion, the State of Texas has designed criminal procedure to take into account the impact of emotion on decision making and case processing. Regardless of the plea type—open or agreed-- punishment must fall within a range. In situations whereby emotion may heavily sway sentencing established procedure circumvents emotion so that judgment is rendered only on the facts of the case. This is perhaps best illustrated by the Victim Impact Statement and when it can be accessed and utilized by judges. In Texas the Victim Impact Statement cannot come into play until after the sentencing decision. One participant's response best echoed the theme.

They don't want you making a decision based on emotion. (Judge Number 1)

I tend to be less willing to work with an offender if the victim comes up to testify. If they have been held up at gunpoint, they are going to tell you I've been working my whole life, I've had this job for a while and when this guy put this gun in my face, I thought about my kids, my wife, and now I'm scared and—I had this one woman who...this creep followed her around and she use to travel all the time but this creep followed her and now she doesn't do it anymore cause she's fucking scared. Even if you think you're really strong this really messes with you. A lot of times the victim is not present. Sometimes, I've had victims who have heard the defendant speak. The victim, gets up, hugs the offender and it may change everything. (Judge Number 8)

As might be expected then, respondents asserted that they did not take the Victim Impact statement into account in thinking about disposition.

I'll explain why. The victim impact statement is given after the judge sentences the offender. I think it is set up so it won't affect the judge's decision. They can be very emotional. (Judge Number 18)

Respondents unanimously agreed that in addressing sentencing whether on an open or agreed plea that they first looked at the offender's age, criminal history, and the severity of the offense.

Probably the three most significant things are the person's age, criminal history, and the nature of the offense—the severity of the offense. Those are probably the top three. (Judge Number 18)

These three items, age, criminal history, and the nature of the offense were consistent among participants in developing impressions about offenders and influenced performance expectations. This is an interesting finding since criminal history is not a status characteristic but is in fact, a legal variable. This also suggests that status characteristics and legal variables may act collectively to stimulate performance expectations. For example, the first item that all respondents commented on, age, is a status characteristic while the second and third factors strictly speaking constitute legal factors. This returns to the question of status characteristics and their influence of judicial discretion in the study.

#### Research Question One: Factors that Stimulate Performance Expectations

The first research question asks which status characteristics most stimulate performance expectations among criminal justice decision makers? The influence of status in an exchange where one actor receives benefit or is favored by a particular attribute, for example, is a clear indication of its importance. Within an exchange between actors, the individual with higher status usually

garners higher favor and support. Status then provides a group distinction, setting the individual with status higher than the actor without. This in turn forms what Ridgeway and other refer to as the “hierarchy of esteem and deference” (Burke, 2007: 301). Within the confines of the courtroom, the offender’s transmission of status is challenged by the very nature of participation within the court. The offender stands accused of a crime. Through the commission of a crime itself, the offender has transmitted potentially lower performance expectations. It is incumbent on the offender to manage the performance expectation especially during sentencing. At sentencing, for instance, failure to transmit positive status characteristics may facilitate an outcome contrary to the offender’s desire; for example, a period of incarceration. As one respondent stated,

You know they are in a felony court so if it is their first time, I’m a little concerned that they went for the big bang you know? But on the other hand, it is good to know that they’ve never been in trouble. If it is a repeat offender—it is troubling that they are. It is puzzling to me how people can you know, reoffend. I’m like, really? You’re back? (Judge Number 14)

Participants indicated that age factored heavily in their sentencing decisions especially as it may impact the offender’s likelihood of reoffending. An offender’s age often could work in their favor. One respondent reported,

Now age, I’m always curious. I don’t know necessarily that...well, I guess in some ways it is a factor. I’m probably a little more willing to give a

younger offender a second chance than I am an older. With all factors equal, I'm going to lean toward this person is 19, has a short criminal history, has an opportunity to make a change; I'm more likely to send them to boot camp than I am a 51 year old. (Judge Number 1)

Thus age appears to have an inverse relationship with performance expectations whereby the younger the offender, the greater the expectation for rehabilitation. This expectation is interestingly contrary to research in that the literature suggests that younger offenders are often more inclined to reoffend (Lloyd, 1994; Oldfield, 1996; May, 1999; Carr, 1994; Sanders, 1998; Benda, 2001; Thomas, Hurley, and Grimes, 2002; Harms, 2003; Puzzanchera, Stahl, Finnegan, Tierney, and Snyder 2003). The larger point is that judges maintain an assumption that a younger offender may be more "salvageable" than an older offender, even though empirical research indicates that younger offenders are more likely to reoffend. Among participants in the study, youth was viewed in a positive manner and associated with positive expectations with regard to the likelihood of future conduct.

Everything. Like the personal information is very important. If the individual is a kid and you read about the horrible life he's had, you're going to work with that kid more. Like a kid growing up in a heroin family. You're going to do what you can for that kid. But on the other hand, if their dangerous, you're going to do what you have to. Each case is

unique where the circumstances may be the same. The court works based on the safety of the community. (Judge Number 8)

The relationship between youth and expectation is perhaps best exemplified in the response from Judge Number 18 who said,

Theoretically, the older they are the more mature they are but that's not always the case. You expect those people not to make bad choices when they are older. You expect some people to make mistakes. There are so many—another reason I look at age, the legislature over the past 15-20 years have increased the number of actions or crimes that amount to felonies where in the past they might have been a misdemeanor so I really look hard at a person that is very young. I don't want them to have a felony on their record that maybe might keep them from getting a job or a state license if I think that they might be able to get their life back in order.

Education shared equal value with age in stimulating positive performance expectations among participants. As education level increased, the expectation for rehabilitation was higher.

It is hard to generalize. You can look at education, for example burglary but it is –well if we're talking about generality, you see a high degree of substance abuse and low education. For example in burglary, a common scenario is a substance abuse issue. It is hard to—well in the most general

term you will always wonder about education and substance use. (Judge Number 6)

Of the twelve participants only one indicated that education was not a factor influencing their expectations for rehabilitation. Overall, lower education was tantamount to decreased expectation for rehabilitation and law abiding behavior. Lower education was in fact, highly associated with the kind of criminal behavior participants see in their courts. Respondents were asked if they tended to see the same type of people over and over.

Did they grow up with both parents or did their parents' divorce when they were young. Were they abused, physical or sexual? Offense? Severity of offense? Most of the time, I find the people I deal with have not completed high school so I don't find education useful. Most tend to be uneducated, poor...but I've had some very wealthy offenders too. But you know if they had some education, and or had parents like I did, maybe they would have done well too. (Judge Number 12)

Likewise, the addition of poor education and some type of substance issue became a common theme.

Yeah. Unfortunately, yeah. You see the same kind of people that are primarily not educated, primarily low to middle income, middle class, and many of them have a background where they didn't have a stable home. I was shocked, I think it was maybe two years into my career; it might have

been longer when I finally saw a PSI that did not say that the person did not come from a broken home. It took years before I saw that because every single PSI is consistent. This is exactly what you read about; that instability of the family can influence everything including criminal activity. And I was shocked at how long it took me to see that. (Judge Number 14)

Although age and education serve to stimulate performance expectation in a positive manner, respondents also sought to identify the offender's support system. The presence of a support system outside the courtroom increased the perceived likelihood of rehabilitation and expectations of law abiding behavior. As one respondent offered,

The maturity of the person, their support group outside of the court, their family, church; whatever support group they have outside of the court. (Judge Number 24)

I realize their not educated, don't have any job skills, they may live with one parent and not know where one of their parents are, grown up on the street. It's just a bad situation all around. (Judge Number 12)

Among respondents the presence of family support was typically favored and believed to be a positive signal of the individual's ability to remain in the community. Family support played an important role in determining offender disposition. In sentencing offenders, respondents overwhelmingly reported that

they took the family into consideration when pronouncing a sentence. Interestingly, family support is not strictly speaking a status characteristic in that it does not fall within the context of either diffuse or specific status characteristics. Diffuse status characteristics relate more with an individual's characteristics such as gender, racial group, or educational level while specific characteristics relate to perceived ability such as ability to perform math, or play sports. Because judges continually referred to family support as a perceived structure that offered offender support and indicated structural ability, it is listed in this study as a status characteristic. All respondents (100%) found family support as a positive indicator of an individual's ability to rehabilitate. Family support was closely related to positive performance expectation. For example, a pattern was observed in which judges weighed the cost of incarceration on the offender and the offender's family. This pattern was perhaps best illustrated when participants were asked to sentence a male offender charged with criminal non-support on an open plea.

I have a case in my court that is almost the same factor. These are hard because we don't have debtor's prisons. The large amount of money he owed and the length of time he's owed that money...but I wasn't clear if the woman wanted him in jail or did she just want his money? I took the position that it wouldn't benefit her or his family to put him in jail. (Judge Number 1)

Only one participant mentioned mental health concerns as an issue influencing judicial discretion.

I think one of the biggest problems we have is society's inability to deal with people who have mental illness. Sometimes full blown psychosis brought on by drug use. A lot of times, when I was a juvenile judge, parents would have charges placed on their kids because they'd run out of options for services for their kids. ....

There is no money in mental health issues because those people don't vote. They don't have a voice. Even though our attitude has changed somewhat, we still have this attitude that "he's faking it."

(Judge Number 1)

So while age, education, and family support are status characteristics with the potential to favorably impact performance expectations, a criminal history represents the opposite spectrum. Dolney, McShane, and Williams (2000) assert that criminal history only marginally predicts future offender behavior, however, as might be expected, the transmission of a lengthy criminal history negatively impacts performance expectations. Similarly substance abuse issues, offender responsibility, severity of offense, and presence of a victim had the potential for increasing negative performance expectations. These last two are not status characteristics but are legal variables that are widely recognized in the literature for affecting outcomes. As with family support, the variables of substance abuse,

offender responsibility for the crime, severity of the offense, and presence of a victim do not meet the strict definition of status characteristics. Interestingly, participants used these terms as if they were status characteristics suggesting that possibly legal variables act like status characteristics and influence performance expectations.

As one respondent offered,

I look at their criminal history because if it is long, that's a pretty good indicator they are not going to get their life in order. I look at their drug history too. (Judge Number 24)

Another respondent stated,

When they plead guilty, let's say in an open plea, I look at the evidence they present, the different factors that come into play—their criminal history, how egregious the crime was—I mean if there is a victim or not; their support, whether probation is an option—if they have a substance abuse issue that can be addressed, say through SAFPF or something like that; their age, education, their likelihood that they are likely to be dangerous in the future—all of those things are what I'm looking at. Also, did they admit to it? Sometimes they'll plead guilty but they don't take responsibility for it. (Judge Number 9)

Criminal history is not a status characteristic by definition, however, because respondents base performance expectations off the story it is worth analysis.

Perhaps the point is that these factors are treated as status characteristics by judges. For instance, the criminal history takes on a language of its own. As Judge 24 stated,

I look at the priors. They put in the dialogue sometimes. If it appears that they are not accepting responsibility, that's probably a bigger problem for me. If they have a drug issue or something like that I want to support probation in what they are doing; I have the hammer already hanging over their [offender's] head but I want to give them the chance to work with me to get beyond it because otherwise we will have them back in the system within 2 years statistically speaking. (Judge Number 24)

Substance abuse typically resulted in lower performance expectations.

Participants were sympathetic toward substance abusers; however, they remained reserved about the offender and likelihood for successful rehabilitation. This is consistent with studies correlating substance abuse with recidivism (Schmidt & Witte, 1988; Whitehead, 1991; Jones, 1995). Interestingly, these same studies also highlight crimes committed early in the offender's life course, unemployment, and severity of offense as key indicators of recidivism.

I want to see how long the person has been using drugs, do they have some insight into how their substance abuse has affected their criminal history. They are going to say what their attorney tells them to say in front of me but what they'll say to their probation officer is very different.

Sometimes they'll say all kinds of crazy things to their probation officer.

(Judge Number 1)

Another respondent offered,

You see the same type of offender. Most of the ones—I won't say most of them—more cases are state jail felonies, theft, possession of controlled substance, burglaries—they're tied together in which the person has substance abuse issues and that keeps them where they are selling drugs or theft to pay for their habit or they have difficulty finding employment which keeps them committing thefts to maintain their habit. (Judge Number 9)

Interestingly all respondents expressed strong desires to see individuals with substance abuse issues “clean up their act.”

My go/to default is to go to the least restrictive. Probation right off the back. I'm going to decide if I'm going to release this individual right into the community. Is there something I can do to keep this person from coming back to jail without risking the safety of the community—that's what I look at first. Prison should be the last resort. (Judge Number 8)

Participants typically favored substance abuse treatment and community supervision over incarceration. All respondents regarded probation and probation offices as instrumental in assisting offenders. Moreover, participants felt strongly that they needed to support probation.

Unlike substance abuse, the severity of the offense and presence of a victim strongly influenced performance expectations. It is essential to be clear here that these are not status characteristics but case/legal variables. Again, legal variables act like status characteristics. Still, it is interesting to note that judicial discretion was less inclined to favor community supervision in such instances. As one judge offered,

On violent crimes you look at their background and their risk to the community.

(Judge Number 20)

While another stated,

For me on violent offenses, it is protection of the public. I have to look into those people that are likely victims and I have to take into account; for property crimes and drug offenses, it depends. I'm trying to look at rehabilitation of the offender. Property crimes similarly. But there are times when I have to punish. I have to. For instance, I had someone who after they dismissed some of the cases the person had 12 more burglary cases. They'd been committed over the course of a year. There were a lot of victims. I had to give the person more time than I probably would have. She had cleared up her act, gone intake, gotten off drugs, but she'd betrayed the trust of a lot of folks and had crossed the line where I couldn't consider probation so I had to give her jail time. Protecting

people first and then rehabilitating the offender. That really is what I have to take into account first. (Judge Number 24)

Interestingly, of the series of three anonymous Pre-Sentence Investigation (PSI) reports in which participating judges were asked to provide a sentence, the Felony Driving While Intoxicated (DWI) 3<sup>rd</sup> carried the harshest penalty. The threat of a victim was sufficient to influence discretion. As one respondent said,

No judge wants to put someone on probation for DWI and then they go out and kill a family. (Judge Number 1)

This was reiterated by Judge Number 24 who said,

My concern is that he's going to kill someone soon. I'd look at probation as a possibility but I'd want all the state programs that I could. In this instance I'd want a SCRAM device. (Judge Number 24)

I have zero tolerance. They aren't getting out on the street without treatment and I'm constantly making sure that they are not out drinking using technology such as SCRAM, blow device, etc. (Judge Number 12)

The comments of Judge Number 14 emphasize the significance between status characteristics and judicial discretion. The passage indicates the process the respondent follows as they arrive at their decision. Initially, the call is for incarceration based on legal variables; however, the presence of family and a victim influence the process.

As I was reading this, first thing I was thinking is okay, he's going to the pen especially when I'm reading his criminal history but I'm looking and he has children to support, he seems to be employed. It has been verified. I don't want him to lose that. But he I'm not believing him as he's saying he hasn't had a drink in 5 years in between those offenses. I would want him to pay that deductible; the restitution. I would give him ten years and ten years probation and I would follow the recommendations and terms the probation officer made.

Participating judges responded to the three anonymous Pre-Sentence Investigation (PSI) reports in an almost mechanical fashion. Their responses suggest involvement with process—a set pattern or process to review cases and look for information-- and highlight diffuse status characteristics of offenders as particularly important in arriving at their sentence. For example after reading the anonymized PSI for Felony Possession of Controlled Substance (drug offense), two respondents offered,

He doesn't have any other drug cases except for this one. He has a lot of cases that have been dismissed so I delete all of those. So, this is only on the possession. Employment is not verified. Says he's supposed to be supporting a child but it doesn't appear he is doing that...and he's living at home? I'd give him 12 months in state jail. (Judge Number 14)

Took into consideration amount of drugs, the larger the amount the less likely I am to give probation; no felony arrests or conviction—I did also note that he'd been on probation before. That made me cautious about whether he should be on probation again. Probation should be a one-time deal. In terms of what I would do I ended up saying I wouldn't put him on probation. My concern was whether he'd abide by the conditions of probation. It didn't sound like he wanted drug treatment. (Judge Number 1)

The criminal history causes me concern. The assault and violation of protective order but given the fact that he's being popped on drugs, the DWLS, are just not taking care of business. It just kind of falls into a pattern of not taking care of business. His other stuff confirms...I'm not really worked up about his criminal history. I would ask if he had probation when he got this offense. I have an issue with not taking responsibility and given what was found, the pattern of cases, these are peripheral cases, I would want to make sure we evaluate him appropriately and based on the evaluation determine whether we need to do some type of inpatient or not. I'd look at putting him on probation. Deferred I'm fine with. It gives me something to hold and use so we can try to take care of business. (Judge Number 24)

Similarly, sentencing offenders for Felony Driving While Intoxicated (DWI) 3<sup>rd</sup> or more also illustrated process level thinking.

DWI is a real hard offense. By the time they get to us on a DWI 3<sup>rd</sup>, they've already been caught twice. That's a big factor that this guy has been arrested twice before. This guy doesn't look like he's made a lot of changes. The fact that there was a car crash. He crashed into a parked car. I'd take that into consideration also. (Judge Number 1)

I would assess this defendant's punishment at five years probated eight years with a \$2,500 fine in addition to restitution. As a condition of probation I would require him to attend a Substance Abuse Felony Punishment Facility. Upon completion of SAFPF I would require an interlock device for 1 year. This defendant does not seem to acknowledge his alcohol problem. Since it appears that he has never received treatment I would send him to SAFPF. This would accomplish several things. First, he would receive treatment. Second, he would be in a lockdown facility thus he would be punished for his conduct. Third, when released he would still be on probation and would be able to pay the restitution. He would be in the lockdown facility approximately nine months to one year. (Judge Number 18)

Not taking responsibility for his drinking. I'm not believing his version of events. That he'd been three years without alcohol. It doesn't confirm to his criminal history. Aggravated assault, dropped... I don't give it any real weight because it was declined but then we have the marijuana and several DWI's. That's what I would normally want. I would probably look at a five year probation my feeling being that the numbers bear that out. We start getting too long of a probation and it can be counter-productive. I'd like to do SAJPF but I'd defer to the PSI. If we need to do additional testing I'd want to get that done. (Judge Number 24)

Felony Criminal Non-Support was particularly interesting. Performance expectations here must also take into account not only rehabilitation for the offender but the wellness of the family. The responses from participating judges indicate the complexity of decision making and case processing. As Judge Number 8 stated, "family law is where it gets emotional so it gets messy. You as the judge or attorney should lend a rational voice."

No way that he's going to pay \$90k of restitution. They wouldn't be in that situation if they could have paid it out. You can only give 10 years probation. The law only allows you to extend it a year or two so I would think that it would be—well you could give them a chance to pay what they could but from what I'm reading in the summary, I would have given him pen time. He had probation before, he didn't do well on it and that's

just a lot of money that he's—well it's an unreasonable amount to think that he could ever come up with that. (Judge Number 12)

I would place him in probation, let him spend some time in jail, but I'd have him report to the court monthly or quarterly with documentation of how much he's paid. I'd reduce the amount that he had to pay a month and ask what could he really pay a month; realistically pay—if he said \$500 then I'd allow that and the probation officer could reassess his income. In my way of thinking his ex-wife is in better position if she can get \$500 rather than nothing. (Judge Number 8)

The reason I have to look at probation in this case is twofold. 1) putting him in prison, victim doesn't get any of that money. Taking into consideration that we shouldn't be dealing with money issues alone, I would have some issue putting him in jail for that alone. The fact that he's negligent about his probation though, I'd consider prison time. The fact that he's unlikely to pay his commitment; prison time. I'd have to consider 10 years. I don't like probation that long but I need to see effort--that he's taking care of business. I would let him know that if he's taking care of business I'd let him know that I'd reward it. (Judge Number 24)

It would be 10 years sentence and 10 years probation and that is thinking he might get some of that restitution paid. His lack of commitment to his

obligation--he doesn't seem to take that all that seriously. He needs a reality check. I think that, he comes across to me as lazy and unwilling to meet his obligations. (Judge Number 14)

The mechanical process responses may simply be a matter of routine. To this end, participants were asked whether the cases became routine. There was some slight variation in responses.

Yes. Well, there just aren't that many differences in the facts. You know, like in DWI, unless there has been an accident? The facts are just not that different. If it were a sexual assault it could be very very different. (Judge Number 14)

Yes, the cases are very, very similar. Yes, I almost always see the poor, the disadvantaged. They are usually either addicts, mentally challenged or in a minority of cases, just depraved monsters. (Judge Number 45)

No. I've been a criminal defense, prosecutor, juvenile bench, and criminal district. They do not become routine because there is always different about the offender. (Judge Number 1)

I don't think the cases necessarily become routine, the process can become routine. The process we go through is a process that—you almost say it without thinking about it. The actual information you receive back it never becomes routine. (Judge Number 6)

Violent action and the presence of a victim severely lowered performance expectations for offenders. Status characteristics may not act alone. The impact of other legal variables also affect performance expectations.

Philosophically, most cases in which a woman, child or elderly person is purposely injured, those tend to be jail cases. Property crimes, drug cases and most burglaries tend to be probation cases unless there is a lengthy record of recidivism. These are general guidelines and everything is decided on a case by case basis. (Judge Number 45)

Is he violent? Potential to be violent? Victims out there...and I would base my decision differently based on that. I go through that process how big a threat is he to the community. (Judge Number 1)

Although quantitative studies suggest that status characteristics such as age, gender, race, and education stimulate performance expectations, the qualitative analysis suggests a much richer process. Performance expectations may be stimulated by a number of factors in addition to status characteristics. Among respondents in the study, age, education, family support, criminal history, substance abuse issues, responsibility, severity of offense, and presence of a victim most stimulated performance expectations. Status characteristics do affect sentencing because they affect performance expectations.

## Research Question Two: Research Question Two: Relevant Performance

### Expectations

The second research question asks what performance expectations associated with status characteristics factor into the decision-making process at sentencing?

Age, education, and the degree to which the defendant took responsibility for their actions factored prominently among respondents when sentencing offenders. Here again, it should be noted that the offender's acceptance of responsibility for their offense does not constitute a status characteristic in itself. Certainly, the act of accepting responsibility was associated with positive performance expectations. For the participants, performance expectations centered around questions of whether the offender could return to the community and if so what was the likelihood for rehabilitation? Would the offender become a productive member of society? Technology has also increasingly expanded the opportunities for community supervision of offenders via electronic monitoring. In response to the financial pressures brought about by high rates of incarceration, and the developing understanding of drug and alcohol abuse as a potential medical issue, new courts and treatment facilities have emerged to provide additional resources for judges in sentencing offenders. Texas is unique for example in that it also allows judges the opportunity to sentence offenders to Substance Abuse Felony Punishment Facilities (SAFPF) for treatment.

I'll take into account his background that includes his education, his employment history; kind of the social and I'll consider that. Of course I'll always consider the victim; even if it is one those "victimless" crimes. So it is a matter of weighing all of this things and then coming up with a number that in my opinion gives the defendant a message about how I believe our community would want me to sentence him. I'm doing it as a representative of the community so I look as how the community would want to say to you. I take all of that into account. I can't say I always come up with a number right away. I find it depending on the offense, I may have a range. It has to do with the process; the range of punishment for that offense. It has to be within those parameters but after that, I'm going to figure other things that go into it. (Judge Number 14)

Harsher penalties such as jail or prison followed poor performance expectations. Respondents offered that offenders who were older and wherever a victim was involved could reasonably anticipate harsher penalties. This appeared regardless of whether the plea was open or closed. Respondents overwhelmingly saw the court and their role judges as an extension of the community in which they were tasked with bringing balance to the community. Criminal justice agencies have certain mantras. For instance, police departments have "to protect and serve" while probation and parole officers live by "protection of society and

rehabilitation of the offender.” Participants were asked to define the court’s mantra.

Balance—in violent crime I see it as protecting the public. In other types of cases I see it as rehabilitation. (Judge Number 18)

Protection of society resonated with another respondent.

In general? I guess it would be protecting the public. I consider myself a servant of the community and I’m there to perform a function that is sometimes difficult for people to carry out. They don’t like having to impose laws on others. I don’t have a problem with that. (Judge Number 14)

The offender as an individual was also a concern as indicated by respondents.

Just and efficient disposition of the cases. Our job is to appropriately deal with each offender as an individual. (Judge Number 6)

Balance, protection of society, seeing the offender as an individual and assessing the likelihood of rehabilitation were among the common responses.

You have to look at what is in the best interest of society not just the victim, or the defendant. You try to figure out and balance the different reasons for punishment whether it is someone that needs separation from society or some other type of punishment. (Judge Number 9)

All respondents were preoccupied with the issue of fairness and justice. As one respondent offered,

You have to be fair. You have to put yourself in—well shoes on both sides. What I mean by that is you have a victim on one side who is seeking justice and then you have a person who is accused of a crime who is also seeking justice. What you're looking for is something that will help you achieve justice. (Judge Number 20)

To make sure first and foremost that the court follows the law. The judges are responsible that every case that goes through the court allows for fair trial and to ensure that everyone that goes through is being treated equally. That they are getting the same plea bargain agreement based on offense. When I first got on the bench I saw black guy two years deferred; Hispanic guy two years deferred; White female...misdemeanor reduction—I'm like no. (Judge Number 8)

The central theme among participants concerning their roles and the role of the court was the pursuit of justice. The Thomas Theorem reads that “if men define situations as real, they are real in their consequences.” Similarly, justice or the idea of justice must fall on a framework of shared meaning or at the very least a perception of shared experience and outcome. The significance here is specifically as it relates to performance expectations. Interestingly, participants also wanted to convey a performance expectation for themselves and offenders. The common response was,

Justice for all. (Judge Number 31; Judge Number 45; Judge Number 99)

One respondent offered,

You have to look at all circumstances and weight out what is particularly correct for this person and their particular circumstance because every case is different. Justice for all. It is a moving target. (Judge Number 31)

### Research Question Three: Mechanisms for Conveyance

The third research question asks what are the mechanisms by which status characteristics are conveyed?

This question is multi-dimensional as status within the study was conveyed at various levels by all participants. The focus of the study, however, was on the status characteristics of the offender and their influence on judicial discretion. By their strictest definitions, status characteristics are either specific—suggestive of individual aptitude—or diffuse—personal, individual attributes differentially evaluated and culturally associated with specific and general performance expectations. Thus in the context of the study, and with respect to the research question, the mechanisms or instruments by which status characteristics are conveyed are multifaceted. For instance, the offender by the nature of their presence in a felony district court conveys a diffuse status characteristic associated with crime and the criminal. Here, type of crime might

also need to be considered as a status characteristic. Although crime is generally considered a legal variable, the type of crime, degree of the offense, and even number of times the crime was committed work as an influence on judicial discretion. This variable hints at the possible need to expand the traditional view of status characteristics.

Although respondents did not indicate gender, race, or immigration status as being relevant to their decision making process, the literature suggests that these status characteristics are in fact very significant at sentencing (Albonetti 1997; Bushway and Piehl 2001; Chiricos, Welch & Gertz 2004; Brashear 2007). Respondents in the study, however, claimed that they did not take into account these diffuse characteristics in their decision making and case processing. Instead, within the lens of their actual judicial process, they relied on the Pre-Sentence Investigation report as a primary mechanism for receiving information about offenders. Before proceeding, it is important to note that in an actual court setting the Pre-sentence Investigation (PSI) report itself serves as transmitter for both specific and diffuse offender status characteristics. Respondents repeatedly referred to the PSI as the item they looked at in sentencing offenders.

As far as probation, I deal with the PSI. In my court, generally speaking, I will not accept the plea without the PSI. I've warned everyone that if I don't have the PSI done, then I will reset it for a week. If they come back

and don't have it done, then I'll stick 'em in jail and get it done. (Judge Number 24)

The role of physical and non-verbal cues, however, cannot be ignored. One respondent in particular indicated that rude offenders stimulated negative performance expectations.

There are certain ways to approach life. You can approach it positive or you can be...well rude behavior not accepting responsibility then that tells me there is something else that I need to address. (Judge Number 24)

Likewise, when asked about physical appearance as a status characteristic that might impact judicial discretion, another respondent answered,

It [physical appearance] shouldn't. I've had very presentable defendants and I think that always, like anything else, makes a difference in how people perceive them. If someone comes and is unkempt, messy, I get the impression that they don't consider the seriousness of the situation-at least it wasn't important enough to get cleaned up. So their appearance does influence me to a small degree but it is not enough that it is going to make a difference between guilty and not guilty. (Judge Number 14)

Interestingly, the respondent does not recognize that they are in fact saying that it does have an effect.

Participant responses are consistent with the literature. For example, Fisek, Berger, & Norman (2004) examined how status cues contribute to the

formation of expectations. They ascribe the first dimension of how status cues contribute to the formation of expectation as correlated with the question of *how* status is informed and transmitted while the second dimension is relegated to *what* is being transmitted (Fisek, Berger, & Moore, 2002; Fisek, Berger, & Norman, 2004: 82). In both dimensions, a system of cues is employed to further communication between actors on a subliminal plane. Indicative cues explicitly label or identify a person as someone who possesses status or a condition while task cues signal the individual's ability and potential (Fisek, Berger, & Moore, 2002; Fisek, Berger, & Norman, 2004). A third cue, categorical, provides some measure of who the person is (ibid). This brings up the question of what outcomes result from transmission of status characteristics by offenders?

#### Research Question Four: Impact of Expectations on Outcomes

The fourth research question asks what outcomes result for individuals who either fail to convey status characteristics that are associated with positive performance expectations or who transmit status characteristics that are associated with negative performance expectations?

Among respondents, incarceration was generally viewed as a last resort. Jail, specifically short visits to a jail facility was a method employed to encourage offender rehabilitation. Only when the severity of the offense warranted were jail and prison outcomes for individuals who failed to convey or transmit status characteristics.

I don't like to sentence people to county jail on felony charges as a condition of probation because it is a waste of resources and counterproductive to what I'm trying to do—what I mean by that is I'm trying to put a little scare into them if I sentence them to county jail but I think county is probably a little more lax than Texas Department of Criminal Justice (TDCJ). (Judge Number 24)

This was not unanimous however. Among some respondents, jail was a tool for potential behavioral modification.

On a plea agreement, what I'll end up sending them to is some time in jail as a condition of probation to give them a taste of what is heading their way if they don't straighten up. (Judge Number 9)

Extended stays in jail or prison however, were regarded as the last resort. Instead, judges employed a system of graduated sanctions ranging from fines and fees, community service, probation, treatment, jail, and finally prison. Variations of the sanctions were also possible whereby an offender could go to inpatient treatment and have probation or serve time in jail as a condition of probation. Prison, however, existed independent of all other sanctions.

Is there something I can do to keep this person from coming back to jail without risking the safety of the community—that's what I look at first. Prison should be the last resort. Is he violent, potential to be violent, victims out there, and I would base my decision differently based on that. I

go through that process how big a threat is he to the community. If it appears that the person can be rehabilitated safely than I will try that first. I will keep working with the person until I decide there is no working with them anymore. (Judge Number 8)

From the punishment assessed in crime to the graduated sentences employed, much of the American criminal justice system is grounded in this concept of deterrence which assumes only a rational actor. For example, the perceived racial make-up of crime points to a potentially ugly bias in the criminal justice system. Indeed, the swift, certain, and severe “deterrence” of the American Criminal Justice system may show some support for this contention in how punishment is assessed (Chiricos, Welch, & Gertz 2004). Consistently, non-whites are over-represented in the criminal justice system, constituting the highest percentages of incarcerated offenders and the highest numbers numerically and proportionately in the nation’s prisons. However, in the present study, respondents did not mention race or gender as having an influence on their decision at sentencing nor did they indicate a desire to quickly incarcerate offenders. It should be noted that neither race nor gender were held constant in the research design. Although the PSI’s were anonymous, the claim cannot be made that the participants had the opportunity to judge female or mixed race cases. it is still not possible, nor would the research claim that judges were provided the This is not to suggest that race and gender do not play a role, but

rather to suggest that future qualitative research similar to the present study may provide a greater depth of understanding in the influence of race and gender on judicial decision making and performance expectation. Interestingly, when talking about offenders, the hypothetical offender was almost always referred to as “he.” Curiously, in the twelve interviews the word “she” only appears six times; four to describe a victim and only twice for an offender.

But if offender status characteristics influence performance expectations, then it is negligent to remove the judge from similar scrutiny. How, for instance, might the Judge’s experience with crime as a private citizen influence them in terms of their sentencing offenders? A central idea in status characteristic theory is the varying degree attitudes in interactional settings contribute to the interactional decision making process. Similarly, how might their experiences influence their perception of the offender? The majority of participant judges had some experience as victims of a crime.

Well, I find that I have very low tolerance for thieves. I had a ring stolen. The instance with my ring, the guy who stole my ring, came to my house. He was with a trusted friend doing some remodeling and repairs on my house and so the trusted friend brought him along. And so I didn’t know that that was stolen. And so they were in my home. I solved the crime real quickly because I knew who had been in my home. I have a very low tolerance for thieves. We’ve had stuff stolen out of our garage out of a

stupid situation where the garage door was left open all night but never the less.. I have a real problem with people stealing from each other. I find myself really scolding those offenders, I mean what gave you that authority to take someone else's property? I'm really offended by it. I'm more suspicious. (Judge Number 14)

What exposure I have had, had quite an impact on me. When I was a little girl, my dad owned a liquor store. He was robbed at gunpoint probably 10 times. He owned it by himself and ran it by himself except maybe Friday or Saturday night when he had a helper. I remember being very scared for my dad. He would always give them the money and he survived them. That didn't affect me all that much. I don't think I'm harder on robbery suspects. That was my first exposure to crime. When I was in Jr. High, our house was broken into. At that time, I had those same feelings; I didn't want to go out alone or at night. I do remember the police saying that it was probably kids looking for items that they could go out and sell for drug money. The one that probably affected me the most, I was already a lawyer, I was working at a civil firm, I was on my way to file something for one of the partners, I was dressed nice and all of a sudden I see this car with flashing lights. I pulled over and got out of the car and the officer pulled a gun on me, arrested me and told me I had been evading him for miles. I told him I didn't see him. I'd been focused on my thoughts. I was

so upset. He took me to jail. I was so upset. I'm driving a nice car, baby seat in the back, not your typical...well, I had to call someone at the law firm and they had to bail me out. What that taught me is that people are not always guilty. I think there was a reason for me to have that experience. I know that situations are not always what they seem. The police report won't always be 100% accurate but neither will the defendant's. The truth is somewhere in the middle. I truly think the experience happened for a reason. They later dropped the charge to a misdemeanor failure to yield to an emergency vehicle. (Judge Number 12)

I have been yes. Oh, I had my vehicles broken into and some items stolen. My house was vandalized after an election. I had a person make some extortions—not attempt but try to extort money out of me. In the respect that I have a better idea of how the victim might feel. I don't pick people out. I know this has happened to me and I'm going to be harsh on you because it happened to me—no I don't do that. (Judge Number 18)

In the last year, my vehicles were broken into four times. On another occasion, someone broke into my vehicle and tried to steal it. Our house that we'd been living in has been their 10 years. We've had attempted burglary twice. As far as burglary of a motor vehicle, we've had that happen to us 15 to 20 times. The last time I reported anything was when

they broke the steering column. The vehicle burglary is just not worth reporting it takes more time. How they impact me, I really try not to allow that to impact my judgment whatsoever. Every case...I don't have a case I don't like. I don't like sexual assault, aggravated assault, crimes against people. Problem with violence is if it is present, I have to come down hard and take a hard stance because I'm afraid they are going to do something and put someone at risk. As far as the crimes, I can't let that impact what I do. At least I don't consciously let them do so. (Judge Number 24)

The suggestion that victimization might impact sentencing decisions may be an area for future research. Similarly, work experience either as defense or prosecuting attorney prior to donning judicial robes may require further analysis. How might prior experience influence judicial discretion? Participants were asked how they thought their experience has influenced their perception toward crime.

Sure, I've gone from the Marine Corps to being a practicing lawyer, to being a judge. All of those things have influenced how I experience crime and justice. (Judge Number 20)

My personal experience influences me in many ways; in particular, I believe it is very important that all persons be treated respectfully (not because I wasn't but just as a matter of course; I don't think my personal experience makes me uniquely respectful, but it is part of why I believe it

is important). I also believe that most criminal defendants are “good” people, capable of changing the course of their lives should they want to (even without the benefit of criminal justice resources but better when they have them). As to felony drug offenses: I don’t think my experience influences my perception in any way. As to felony DWI: I don’t think my experience influences my perception in any way. As to felony domestic violence: same. This is not to say that I don’t have any personal experience with any of these type of offenses, but that I don’t believe my personal experience influences my perception. Except I really do believe that I am not shocked or offended by any of the crimes; I think “good” people sometimes commit these offenses and that “good” people can be at the victims of such crimes. If anything, I believe my experience causes me to require personal responsibility for all parties. (Judge Number 99)

It has changed it over the years. I mean when I first came on the bench 15 years ago, I had a hard nose attitude toward crime. I think over time, I won’t say I softened but I came to understand crime a little bit better and come to understand that every case is different and not every person has to go to prison. (Judge Number 18)

I’ve always been a defense attorney. I never was a prosecutor. I’m more inclined to disbelief that the police are telling me everything than a

prosecutor. I think it should be required of every judge that they serve as a defense attorney. Prosecutors only work with the guilty. (Judge Number 8)

I was a prosecutor before I got elected. I don't think it does influence me. I look at each case right down the middle. I think having been a prosecutor makes me more prosecutor friendly. (Judge Number 6)

Just what degree of impact that prior legal experience has on discretion may be a subject for future research. In both instances, the evidence of victimization and prior experience as a prosecutor or defense attorney appear to have some significance in terms of perception of crime, criminals, and justice.

#### Discussion of Themes

Status characteristics do appear to influence judges at sentencing, contrary to quantitative studies which seem to limit understanding of this phenomenon to issues of gender, race, and ethnicity. In this study the transmission of status characteristics came about entirely through the Pre-sentence Investigation (PSI) reports. This is consistent with how they are transmitted in actual courts. It is important to note, as also indicated in the interview,s that status characteristics are also transmitted by such things as offender appearance, demeanor, and body language.

The theory suggests that in task oriented groups, status organizing processes are created. The PSI neatly organizes and reports both the offender's specific and diffuse status characteristics. A host of offender risk/need instruments including the PSI, substance screening, drug testing prior to sentencing, Drug and Alcohol Evaluations, Comprehensive Assessment of Treatment Services (CATS), Psychological Evaluations, also serve to facilitate performance expectations at sentencing. As respondent 12 said,

[We] have PSI and Comprehensive Assessment of Treatment Services. This CATS is done by psychologists and this is done to determine what type of treatment if any is involved. This is required on drug, alcohol and domestic assault cases where alcohol or drugs was involved. I'm finding that these are sometimes more helpful. I'm finding that the two reports tend to duplicate to a degree—like the family history, education—I don't need to read that twice. I do use them. I don't necessarily rely on them but I do read them. (Judge Number 12)

Tools like the Pre-Sentence Investigation serve to aggregate specific and diffuse characteristics of the offender.

### Summary

Chapter four details the study's findings including themes arrived at from the research. The primary focus of this study centered on the question of how status characteristics might influence decision-making by judges in the adult criminal

justice system. Among participants in the study, age, education, family support, criminal history, substance abuse issues, responsibility, severity of offense, and presence of a victim most stimulated performance expectations. One of the central findings in the study included the fact that issues other than status characteristics alone stimulated performance expectations. The identification of themes merged status characteristics and legal variables together. These legal variables are essentially operating as status characteristics and influence performance expectations. Judges were preoccupied with issues corresponding with likelihood of offender rehabilitation, balance, protection of society, fairness, and justice. Chapter 5 summarizes and discusses the findings, the implications, and offers suggestions for future research.

## CHAPTER V

### CONCLUSION

This chapter summarizes the key empirical and practical findings, implications, and recommendations for future research.

#### Summary and Discussion

This study examined the influence of status characteristics on judicial decision making and case processing using a qualitative research design and a small sample. Twelve respondents participated in interviews and provided information that has implications for status characteristics theory and criminal justice. Four research questions were addressed: 1) Which status characteristics most stimulate performance expectations among criminal justice decision makers; 2) What performance expectations associated with status characteristics factor into the decision-making process at sentencing; 3) What are the mechanisms by which status characteristics are conveyed; and 4) What outcomes result for individuals who either fail to convey status characteristics that are associated with positive performance expectations or who transmit status characteristics that are associated with negative performance expectations?

The research yielded some interesting findings including judicial process level thinking, the interaction of legal variables with status characteristics, influence of personal experience, crime victimization, and potential for prosecutor bias. The findings also suggest the need for further testing of legal variables. The findings suggest that in some situations legal variables may actually be functioning as status characteristics. Respondents treated legal variables such that they acted like status characteristics suggesting that the definition of status characteristics may need to be re-examined. Hence, for analytical purposes it may be necessary to treat legal variables as status characteristics. There was also intriguing evidence resulting from the study that judge's own experiences may influence the way they exercise judicial discretion and performance expectations.

The present research found that performance expectations are influenced by status characteristics at sentencing. Respondents in the study indicated that specific and diffuse characteristics did influence participants' decision making and case processing at sentencing. A number of status characteristics correlated with performance expectations and stimulated outcomes. This study concerned itself with teasing out these characteristics through interviews and discussion. It was possible to study the influence of status characteristics by setting the present study within the lens of the criminal justice system and specifically felony district courts. Participants in the study had prescribed roles such as prosecutor, defense attorney, defendant, and judge. Each role has an accepted definition and actors

are oriented toward these respective definitions. The prosecutor, for example, assists the court as a representative of the community and seeks justice for the community. The prosecutor's aim is to bring the facts of the case, and the accused to the court's attention. The defense attorney's role is to defend the accused while the judge represents the community as a whole and decides on a sentence for the accused. While simplified here, the roles are prescribed and clearly indicate not only the function of the participants but their orientation toward specific tasks. This study concerned itself with the defendant, the judge, and the oriented outcome. Additionally, the outcome had a component of pass—supervision in the community—or fail--incarceration. The key elements of status construction--attributes, beliefs, and status hierarchy are present in the study.

Respondents were twelve currently seated Felony District Court Judges recruited from a directory of District Court Judges in the State of Texas. The average age of the respondents was 51. Six males and six females participated in the study. The judges viewed themselves as members of a community tasked with seeking justice and restoring balance in their respective communities. Respondents were open and spoke about their experiences being a judge, the process they used in order to arrive at sentencing decisions, and their work.

Respondents viewed themselves as no different from their judicial peers. They generally regarded themselves as equally busy with similar case loads and court processes. All judges were interested in offenders assigned to their court

and viewed the facts of the case as being the most interesting factors influencing their decision. Thus the foundation for discussing offender status characteristics and their influence was established early in the conversation. Some issues, however, quickly developed.

Status characteristics that most stimulate performance expectations included specific structural characteristics such as financial and familial support as well as diffuse characteristics, chiefly age and education. Legal variables also influenced performance expectations. These variables while not status characteristics in a social psychological sense played a vital role in the judicial decision making process. The severity of the offense and offender's criminal history stimulated performance expectations.

It is important to categorize these variables within the lens of social psychological definitions of status characteristics. Figure 3 below evaluates each term and summarizes one of the findings in the study. The legal variables in the study were fluid and significantly influenced performance expectations. In the study, status characteristics and legal variables were often indistinguishable from one another and typically were interlocked in stimulating either a positive or negative performance expectation.

Figure 3: Status Characteristics and Legal Variables Categorized

Specific-ability	Diffuse--associations that relate more with an individual's characteristics	Legal Variables
Socio-economic Status; family support, math, sports, etc.	Age, Education, Gender, Nationality, Race/ethnicity, Military Service, Substance Use	Severity of Offense Criminal History Victim

The relationship of age with performance expectations is particularly interesting. The respondents all seemed to favor “breaks” for younger offenders while older offenders were held to a higher standard. Youth and crime seemed more often to be accompanied by leniency suggesting that negative performance expectations for younger offenders were less while older offenders received harsher penalties. One caveat should be noted and is perhaps subject for future research. For example, the performance expectation of a young offender with no criminal history was different than an older male with no criminal history.

It is, for example, unlikely that a youthful offender with a long criminal history would stimulate positive performance expectations. Instead, it is more probable that the observed likelihood of recidivism in young offenders may simply be the result of perceptions of the criminal justice system by offenders early in their developing criminal histories. That is to say that because judges are typically more lenient on younger offenders, the result may be increased

recidivism by these youthful offenders. The message of leniency may be lost on these youthful offenders who instead interpret the action as the result of a lax system.

Figure 4: Answering Research Question 1: Factors that stimulate Performance

Expectations

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Status Characteristics----->Performance Expectations----->Judicial Decision

Outcomes

- Age -----> Rehabilitation -----> Community Supervision
  - Education
  - Family support
  - Substance abuse issues
- 

It is, for example, unlikely that a youthful offender with a long criminal history would stimulate positive performance expectations. Instead, it is more probable that the observed likelihood of recidivism in young offenders may be the result of perceptions of the criminal justice system by offenders early in their developing criminal histories. That is to say that because judges are typically more lenient on younger offenders, the result may be increased recidivism by these youthful offenders. The message of leniency may be lost on these youthful offenders who instead interpret the action as the result of a lax system.

Still, judges perceived that younger offenders deserved a chance to improve their lives and appeared preoccupied with the effect a felony might have

on a youthful offender's record. This suggests an area for future studies perhaps looking at the growing practice of utilizing specialized offender caseloads such as Pre-Trial Diversion. In Pre-Trial Diversion, typically young, often wealthy offenders are allowed to complete a reduced period of probation. Following successful completion of this period of probation their offense is removed from any criminal history. Similarly, Deferred Adjudication allows the opportunity for successful offenders to lessen the significance of their offense. The offense merely shows up as an arrest which allows the offender the latitude to indicate in job applications, bank loans, and similar documents, that they have never been found guilty of a felony. It is interesting to note that these programs provide offenders the opportunity to alter their status characteristics.

Many programs in the criminal justice system allow this. A common tenet in most probation agreements is the stipulation that offenders obtain their General Educational Development (GED) diploma, an indicator that the offender has high school level skills. Education was a strong factor influencing performance expectations. Similarly, a support system stimulated positive performance expectations. Family, church, and offender responsibility encouraged optimistic expectations for offenders by participants in the study.

Substance abuse, criminal history, severity of the offense, and the presence of a victim resulted in lower performance expectations. Recidivism and substance abuse were commonly mentioned together by participants while

criminal history was seen as indicative of future criminal behavior. Participants seemed to intertwine criminal history and substance abuse with recidivism. Consistent with previous research, almost all participants lowered expectations for offender rehabilitation if substance abuse was an issue. This finding suggests the need for treatment and supports growing trends in Texas of specialized drug offender caseloads, drug courts, and frequent drug testing coupled with outpatient treatment programs. Interestingly, all participants favored substance abuse treatment.

Although it is not strictly a status characteristic, as might be expected the severity of the offense strongly influenced performance expectations. It is worth discussing as the interchange between legal variable and status characteristic was sometimes indistinguishable by respondents. Moreover, these terms often fit together in complex equations influencing performance expectation and outcome. For example, a youthful offender with a long criminal history of mainly substance issues might stimulate an outcome supportive of treatment in a substance abuse facility. Among participants, the severity of the offense and presence of a victim served to dramatically lower performance expectations. Respondents indicated they were more likely to consider jail or prison for these offenders. Interestingly, the presence of a victim within the courtroom did not always produce harsher penalties. Of the twelve respondents, two indicated that they had occasions where the victim had lessened the severity of the offense and positively affected the

performance expectation for the offender. This speaks to the value of testimony and suggests that emotions and studies examining emotion in the courtroom may be another area for review. A similar study might examine Affect Control Theory and testimony. For example, of the three anonymous Pre-Sentence Investigation (PSI) reports used in the study, Felony Driving While Intoxicated (DWI) 3<sup>rd</sup> or more produced the most emotional responses based on fear on the part of judges.

Figure: 5 Answering Research Question 2; Relevant Performance Expectations

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Status Characteristics----->Performance Expectations----->Judicial Decision

Making

Status Characteristics	----->	Performance Expectations	----->	Judicial Decision
<ul style="list-style-type: none"> <li>• Age</li> <li>• Education</li> <li>• Family support</li> <li>• Criminal history</li> </ul>	----->	<ul style="list-style-type: none"> <li>Rehabilitation</li> <li>Supervision</li> </ul>	----->	<ul style="list-style-type: none"> <li>Community</li> <li>Jail*</li> <li>Prison*</li> </ul>
<ul style="list-style-type: none"> <li>• Substance abuse issues</li> <li>• Responsibility</li> <li>• Severity of offense</li> </ul>		<ul style="list-style-type: none"> <li>treatment*</li> </ul>		<ul style="list-style-type: none"> <li>Jail*</li> <li>Prison*</li> </ul>
<ul style="list-style-type: none"> <li>• Presence of a victim</li> </ul>		<ul style="list-style-type: none"> <li>jail*</li> </ul>		<ul style="list-style-type: none"> <li>Jail*</li> <li>Prison*</li> </ul>

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Note: \*Decreased performance expectation; increased likelihood of Jail or Prison including jail as a condition of probation

In response to research question number 2, the likelihood of an offender's rehabilitation is a key factor influencing the decision-making process at sentencing. Respondents indicated that the safety of the community was their

paramount concern. Thus the second research question in this study can be addressed by the general belief among the research participants that their role was consistent with protection of society and the rehabilitation of the offender. Interestingly, this dogma serves as the mantra among professionals in the probation and parole arena. A potential discrepancy easily overlooked in the research was the linkage between offender, victim, and the ability to make the victim whole. For example, in the Felony Criminal Non-Support Pre-Sentence Investigation (PSI) report used in the study, judges elected to allow the offender supervision within the community in order to allow the offender the opportunity to repay the victim and her family. Similarly the Felony Driving While Intoxicated (DWI) 3<sup>rd</sup> or more PSI report included a car accident. Judges favored allowing supervision of the offender in the community in order for the offender to make restitution.

Research question 2 asked what were the performance expectations that were most associated with status characteristics and the decision making process. Respondents indicated that they were influenced by age, education and the offender's acceptance of responsibility, guilt, or remorse for their crime. As an example, the offender's failure to accept responsibility for his family in the Criminal Non-Support Case resulted in negative performance expectations. The impact of the construction of the self in reaction to the label of criminal is highly interesting. Using in-depth interviews, one study identified two dominant

constructions of the self, "not my fault" and "good at heart" (Green, South, and Smith 2006). Participants indicated that individuals who exercised guilt, remorse, or acceptance of the complicity in a crime stimulated a positive performance expectation.

The presumption that justice is blind could be challenged by the various modes through which status characteristics are transmitted. The mechanisms by which status characteristics are conveyed was the primary concern of research question 3. In an actual court setting, the Pre-Sentence Investigation (PSI) is a key factor in this transmission. The information contained in the Pre-Sentence investigation includes specific and diffuse characteristics of the offender. Interestingly, Article 42.12 of the Texas Code of Criminal Procedure provides clear instructions on use of the Pre-Sentence Investigation including limiting when attorneys can view the PSI. Strict guidelines rigidly enforce the production and viewing of the report on the assumption that the document may influence criminal justice outcomes. While participants in the study recognized the significance of the PSI, all participants indicated that they were looking for other cues, especially offender demeanor. All participants responded that oral testimony was important to them suggesting that oral skills are also a key mechanism conveying status characteristics.

The final research question centered on outcomes, specifically outcomes resulting for individuals who either failed to convey status characteristics

associated with positive performance expectations or who transmitted status characteristics associated with negative performance expectations. Respondents indicated fines and incarceration as likely results for individuals deemed at high risk or likely to reoffend.

### Issues and Problems

Another interesting issue that quickly developed in the research is worth examining here especially as it speaks to a potential limitation in status characteristics theory. The definition of status characteristics may be too limited. The problem is that in some respects variables traditionally regarded in criminal justice research as legal variables act in similar ways to status characteristics. Criminal history, for instance is regarded as a legal variable, however, judges in the study appear to have treated it as a status characteristic. Criminal history can be viewed as fluid and its interpretation consistent with either a positive or negative outcome. The presence or absence of a criminal history influenced performance expectations and outcomes. Likewise guilt, remorse, or acceptance of complicity in a crime impacted outcome and conveyed some status characteristics.

### Implications

The present study speaks to larger social and behavioral elements consistent with status construction. Participants shared similar performance expectations for offenders. For example the perceived importance of education

and the significance of support systems reaffirm programs designed to support students and families. If stereotyping represents a potential false generalization about an individual or group of people, perhaps the distinction with regard to status characteristics falls on the potential for change. In particular, while diffuse characteristics or ability may remain forever entwined in stereotype, specific abilities can be addressed by programs aimed at improving an individual's chances at rehabilitation. Education, job training, and family support programs may serve to increase this likelihood. Participants overwhelmingly indicated that they were looking for something that indicated offenders had some stability in the community. The qualitative nature of the present study allowed for a better understanding of decision making and case processing by judges. For example, in describing the characteristics they observed in substance abuse cases, respondents looked favorably on offenders with family support. One respondent included support of the church as something favorable which suggested positive performance expectation for the offender. Similarly, the more educated an individual, the greater the positive performance expectation by judges.

### Social Implications

The social implications of this study allow for a host of potential benefits including non-evasive judicial review, programs, policy, and legislation designed to facilitate fair and equitable treatment of individuals at all levels of the criminal justice system. In this area, the present study yields some conceptual realization in bridging not only disciplines but these theoretical constructs associated with exchange, power, status and affective and symbolic meanings. Hegtvedt (2006), for example, points to the perception of justice as a means of evaluation; the “result of what individuals believe about the situation, the comparisons that they make, and their perceptions of situational information” (Hegtvedt 2006:48).

### Research Implications

The present research and similar studies have implications for improving criminological research, theory construction, and examining decision making in general. Implications include reexamining status characteristics and decision making overall, qualitative research with judges, legal variables and how they act as legal variables, the status characteristics perspective itself, and applications of status characteristics in criminal justice research using qualitative and quantitative methodologies. One of the implications for the status characteristic paradigm is that it appears to have substantial possibility for uses in criminal justice research. Similarly, the research suggests that the status characteristics/expectation states

paradigm may contribute to a richer theoretical framework available for criminal justice theory. Quantitative strategies have traditionally have not tapped into nuances such as the victimization of the judges or the impact of their personal experiences on sentencing outcomes. The development and incorporation of a stronger theoretical framework such as the status characteristic paradigm may offer a possibility for greater understanding of criminal justice decision making. The research may expand understanding of sentencing and sentencing disparities which have been the focus of much of previous quantitative research. A micro level examination potentially allows for a richer understanding and moves beyond limitations inherent in quantitative studies.

#### Future Research

Future research should involve analysis of the impact of status characteristics at all layers of the criminal justice system. How might status characteristics influence performance expectations among police officers in their decisions to arrest or not arrest? At arrest? Do status characteristics of defendants influence lawyers at intake? How might status characteristics influence probation or parole officers and decisions they have to make on supervising their clients? In what way do inmate status characteristics affect prison officials tasked with housing inmates? How do these same status characteristics influence performance expectations for juries? Another area, although clearly challenging, might involve studying the effect of early onset

imprinting with performance expectations and decision making. For example, at least two judges in the study indicated their experiences as a victim of a crime influenced their attitudes toward offenders committing similar crimes as those of which the judges had been victims at an earlier point in their lives. Future research should also replicate the present study with a greater number of judges and expanding to include additional decision makers. Studies with larger sample sizes are clearly needed. Larger sample sizes and mixed methods might yield stronger support for bridging and examining complex issues such as crime, criminals, and courts. More complex case studies might offer enhanced understanding of complex social exchanges and interactions such as the exchanges between the offender and the judge in the current study. The present study, for instance demonstrates a possible framework for studying the social psychological dimensions of the process of criminal justice decision making. Further, trend analysis over the offender's life course might yield a better understanding of how performance expectations and outcomes impact criminal careers. Future research may also wish to explore the issue of legal characteristics and the degree to which they are being treated as status characteristics by other decision makers such as assistant district attorneys. Another interesting area might be grand juries and how status characteristics influence their decisions as well. This research was exploratory but clearly indicates the need for continued analysis.

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Appendix A  
Institutional Review Board Approval



Appendix B  
Consent to Participate in Research

TEXAS WOMAN'S UNIVERSITY  
CONSENT TO PARTICIPATE IN RESEARCH

Title: Status Characteristics and Judicial Decisions

Investigator: Eddy Lynton, M.S.  
Advisor: James L. Williams, PhD

elynton@twu.edu 940/898-3437  
jwilliams2@twu.edu 940/898-2051

Explanation and Purpose of the Research

You are being asked to participate in a research study being conducted by Eddy Lynton as part of the research for his dissertation at Texas Woman's University. This study examines status characteristics and judicial decision making in the adult criminal justice system. You have been asked to participate in this study because you are a felony district court judge.

Description of Procedures

As a participant in this study you will be asked to spend one hour of your time in a face-to-face interview with the researcher. The researcher will ask you questions about sentencing an offender and how you arrive at a decision including the process that you use to arrive at your decision. You and the researcher will decide together on a private location where and when the interview will happen. The interview will be audio recorded and then written down so that the researcher can be accurate when studying what you have said.

Potential Risks

One potential risk is that confidentiality of the information is breached. To minimize the possibility of loss of confidentiality, all computer based and hard copy files will be accessible only by the primary researcher. Confidentiality will be protected to the extent that is allowed by law. The interview will be held at a private location that you and the researcher have agreed upon. No one but the researcher will know your real name. The tapes and the written interview will be stored in a locked cabinet in the researcher's home office. Only the researcher and his advisor will have access to the interviews. Consent forms will be stored separately from transcribed interviews and demographic forms. Demographic forms and interviews will be coded and lists of codes stored separately. Another possible risk is loss of anonymity. To minimize the possibility of loss of anonymity no names or other identifying information will be used. There is a risk of fatigue. You may take a break at any point in the interview. There is a risk of loss of time. The interview will be a maximum of 60 minutes. The interview will be scheduled at a date and time of your choosing. If you become tired or upset you may take breaks as needed. You may also stop answering questions at any time and end the interview.

Another risk in this study is loss of confidentiality. The tapes and the written interview will be shredded within 2 years after the study is finished. The results of the study will be reported in scientific magazines or journals but your name or any other identifying information will not be included.

The researchers will try to prevent any problem that could happen because of this research. You should let the researchers know at once if there is a problem and they will help you. However, TWU does not provide medical services or financial assistance for injuries that might happen because you are taking part in this research.

\_\_\_\_\_  
Initials  
Page 1 of 2

Participation and Benefits

Your involvement in this study is completely voluntary and you may withdraw from the study at any time. For your participation, you may receive access to a summary of results upon request. If you would like to know the results of this study I will mail them to you.\*

Questions Regarding the Study

You will be given a copy of this signed and dated consent form to keep. If you have any questions about the research study you should ask the researchers; their phone numbers are at the top of this form. If you have questions about your rights as a participant in this research or the way this study has been conducted, you may contact the Texas Woman's University Office of Research and Sponsored Programs at 940-898-3378 or via e-mail at [IRB@twu.edu](mailto:IRB@twu.edu).

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

\*If you would like to know the results of this study tell us where you want them to be sent:

Email: \_\_\_\_\_

or

Address:

\_\_\_\_\_

\_\_\_\_\_

Appendix C  
Interview Schedule Anonymous

## Interview Schedule

Thank for you participating in this study. I'd like to ask you some questions about resolving cases and the process you go through in arriving at your verdicts.

- 1) Can you talk about the process by which you make decisions about sentencing someone who pleads guilty?
- 2) What are the steps that you go through in a typical case (court process)?
- 3) In what ways do these vary by type of case (property vs. violent etc.)
- 4) What factors influence the type of cases you hear?
- 5) How are these cases scheduled?
- 6) What things do you look at when you read PSI's?
  - a) Why do you tend to focus on them?
  - b) Why do you find those more helpful?
  - c) Probe for responses related to:
    - Prior record vs. no prior record
    - Number of priors
    - Severity of offense
    - Offender Gender (male vs. female)
    - Race
    - Education
    - Work History
    - Drug History
    - Drug screen versus no drug screen
    - Age
    - Interactions
    - Citizenship
    - Height (physical characteristics)
- 7) Tell me about victim impact statements. In what way(s) do you take them into account in thinking about disposition?
- 8) Criminal justice agencies have certain mantras. For instance, police have "to protect and serve," probation and parole live by "protection of society and rehabilitation of the offender." What would you say the court's mantra is?
- 9) Could you talk about your experiences with crime as a private citizen?
- 10) How do you think your experience has influenced your perception toward crime? (probe for:)
  - a) Felony Drug Offenses?
  - b) Felony DWI?
  - c) Felony Domestic Violence?
- 11) In your perception, would you say you see more or less cases than the average judge?
  - a) What would you say is the average number of cases heard a year by your colleagues? By you?

- b) How would you compare the types of cases you hear compared to the other judges?
  - c) Do these cases tend to become routine for you and your colleagues? How so?
  - d) Are there similarities in cases? Similarities in terms of case types?
  - e) Do you tend to see the same types of people over and over?
- 12) How many cases might you see during a normal work week?
- 13) Are there situations or aspects that influence when these cases are heard?
- 14) In what ways might the presence of a lawyer influence how judges perceive the offender?
- Court appointed vs. retained?
  - Plea vs. Open Plea?
- 15) In your experience, are there specific characteristics/types of attorneys that tend to be more effective for specific types of cases?

## **Part B: Review Pre-Sentence Investigation**

Thank you for your answers. Now for the remainder of our time, I would like you to review these three Pre-Sentence Investigations, adjudicate them, and then please talk with me about your decision and the process you employed to arrive at your decision.

Instructions: Please recommend a sentence for each PSI. Upon completion, please complete the demographic questionnaire. Thank you again for your participation.

(Probe: See Question 6)

Appendix D

Anonymous Pre-Sentence Investigation Reports

Defendant's Name: [REDACTED]  
Cause No.: [REDACTED]

### PRE-SENTENCE INVESTIGATION REPORT

NAME: [REDACTED]  
PLEA BARGAIN: OPEN PLEA  
FINE: OPEN  
CO-DEFENDANT: NONE  
OFFENSE: POSSESSION OF A CONTROLLED SUBSTANCE

ON JANUARY 6, [REDACTED] A FARMERS BRANCH POLICE OFFICER OBSERVED A BLACK JEEP CHEROKEE THAT HAD BEEN REPORTED STOLEN. THE DRIVER REFUSED TO STOP AND WAS OBSERVED CONSTANTLY REACHING INTO THE CENTER CONSOLE AND APPEARED TO BE DIGGING UNDER THE DRIVERS SIDE FRONT SEAT. THE OFFICER FOLLOWED THE JEEP FOR 3 MILES WITH EMERGENCY LIGHTS ON BUT THE VEHICLE DIDN'T STOP. WHEN THE DRIVER OF THE JEEP STOPPED AT HWY. 121 AND I-35, ADDITIONAL OFFICERS RAN TO THE RIGHT REAR OF THE VEHICLE AND YELLED FOR THE DRIVER TO GET OUT. HE DID NOT COMPLY. ONE OFFICER ATTEMPTED TO OPEN THE RIGHT FRONT DOOR BUT IT WAS LOCK. THE JEEP ROLLED FORWARD LIKE IT WAS GOING TO TURN RIGHT WHEN ONE OF THE OFFICERS BROKE THE RIGHT FRONT WINDOW WITH HIS FLASHLIGHT TO GAIN ENTRY. ANOTHER OFFICER OPENED THE DRIVER'S DOOR AND PULLED THE DRIVER FROM THE JEEP. HE WAS PLACED ON THE GROUND AND HANDCUFFED. THE DRIVER, DOUG [REDACTED] WAS SEARCHED, AS WELL AS THE VEHICLE. FOUND ON THE FRONT FLOORBOARD OF THE JEEP WERE SEVERAL CRYSTAL "ICE" PIECES. ALSO FOUND WAS A TANITA HAND SCALE AND 56 SMALL ZIP LOCK BAGGIES. HE WAS CHARGED WITH EVADING ARREST AND POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO DELIVER.

#### DEFENDANT'S VERSION:

MR. [REDACTED] CLAIMS HE DIDN'T KNOW THE VEHICLE WAS STOLEN. HE CONTENDS A FRIEND HAD PURCHASED THE JEEP BUT HAD NEVER RECEIVED THE TITLE. HE EXPLAINS THE PREVIOUS OWNER REPORTED IT STOLEN. MR. MINER REPORTS HIS FRIEND ASKED HIM TO MOVE THE JEEP FOR HIM AND THAT IS WHEN HE WAS STOPPED BY THE OFFICERS. HE DENIES THE DRUGS IN THE VEHICLE WERE HIS OR THAT HE HAD ANY KNOWLEDGE OF THEM.

#### CRIMINAL HISTORY:

06-03-1995	UNLAWFULLY CARRYING A WEAPON (CEDAR HILL, TX)	FINE
11-05-1999	STALKING (MANSFIELD, TX)	DROPPED
12-24-1999	VIOLATION OF PROTECTIVE ORDER (ARLINGTON, TX) UNAUTHORIZED USE OF A VEHICLE	DROPPED REJECTED
01-25-2001	THEFT BY CHECK >\$20 <\$500 (TARRANT COUNTY, TX)	6 MO. PROBATION
03-30-2001	DRIVING WHILE LICENSE SUSPENDED (FORT WORTH, TX)	DISMISSED
02-21-2002	DRIVING WHILE LICENSE SUSPENDED (TARRANT COUNTY, TX)	DISMISSED
05-05-2002	DRIVING WHILE LICENSE SUSPENDED (WAXAHACHIE, TX)	10 DAYS JAIL
02-11-2003	VIOLATION OF PROTECTIVE ORDER (DALLAS COUNTY, TX)	24 MO PROBATION CURRENTLY SERVING
03-05-2004	ASSAULT CAUSING BODILY INJURY/FAMILY MEMBER	180 DAYS JAIL

Defendant's Name: [REDACTED]  
Cause No.: F [REDACTED]

(PARKER COUNTY, TX)

05-19 [REDACTED] POSSESSION OF A CONTROLLED SUBSTANCE (DENTON COUNTY, TX) INSTANT

**SOCIAL HISTORY:**

DOUGLAS [REDACTED] IS A 38-YEAR-OLD WHITE MALE BORN IN ST. PAUL, MN. HE REPORTS HE RESIDES WITH HIS PARENTS IN GOTTFR, AR AND "AS LONG AS HE KEEPS HIS ROOM CLEAN" THEY GET ALONG WELL. MR. [REDACTED] EXPLAINS HE IS THE THIRD OF FIVE CHILDREN AND ENJOYS A GOOD RELATIONSHIP WITH EACH OF HIS SIBLINGS. HE STATES HE HAS BEEN MARRIED TWICE; HIS FIRST MARRIAGE LASTING 12 YEARS AND HIS SECOND 2 YEARS. HE CLAIMS HE HAS BEEN DIVORCED FOR A YEAR-AND-A-HALF. MR. [REDACTED] REPORTS HE HAS AN ELEVEN-YEAR-OLD SON WHO RESIDES WITH HIS MOTHER IN BILOXI, MS. HE STATES THEY HAVE A GOOD RELATIONSHIP, TALK OFTEN, AND HIS SON VISITS HIM SUMMERS AND HOLIDAYS.

MR. [REDACTED] REPORTS HE GRADUATED FROM MIDLOTHIAN HIGH SCHOOL IN MIDLOTHIAN, TX. HE CONTENTS HE IS SELF-EMPLOYED AS A LAWN CARE SPECIALIST AND RANCH WORKER. HIS EMPLOYMENT COULD NOT BE VERIFIED.

MR. [REDACTED] ADMITS HE FIRST DRANK AT AGE 16, OCCASIONALLY CONSUMES 3-4 BEERS, AND LAST DRANK ON 10-5-05. HE STATES AT AGE 17 HE EXPERIMENTED WITH MARIJUANA THREE TIMES BUT HAS NOT SMOKED POT SINCE THAT TIME. HE DENIES THE USE OF ANY OTHER ILLEGAL DRUGS. HIS URINE SCREEN 10-6-05 WAS NEGATIVE FOR ALL DRUGS.

**VICTIM'S STATEMENT:**

NA

**RESTITUTION INFORMATION:**

TOTAL: \$140.00

TO: DPS NARCOTICS  
RESTITUTION ACCOUNTING  
P.O. BOX 4087  
AUSTIN, TX 78773

**RECOMMENDATION:**

THE PROGNOSIS FOR MR. [REDACTED] & SUCCESSFUL COMPLETION OF PROBATION IS GUARDED. HE HAS SERVED TWO TERMS OF PROBATION AND TWO JAIL TERMS PRIOR TO THE INSTANT OFFENSE. MR. [REDACTED] IS CURRENTLY SERVING A DALLAS COUNTY PROBATION IN MT. HOME, ARKANSAS, NEAR HIS HOME. HIS PROBATION OFFICER STATES MR. [REDACTED] HAS DONE AN EXCELLENT JOB WHILE SERVING HIS COMMUNITY SUPERVISION. SHE STATES HE IS REPORTING ON TIME, PAYING HIS FINES AND FEES, AND NOT CAUSING ANY PROBLEMS. SHE STATES SHE WOULD BE HAPPY TO SUPERVISE HIM DURING ANY TERM OF PROBATION FROM DENTON COUNTY.

I RECOMMEND MR. [REDACTED] BE PLACED ON DEFERRED ADJUDICATION PROBATION SO THAT IN THE EVENT HIS PROBATION IS REVOKED, THE FULL RANGE OF PUNISHMENT WILL BE AVAILABLE TO THE COURT. IF PROBATION IS GRANTED, I RECOMMEND MR. [REDACTED] COMPLETE A DRUG EDUCATION COURSE, SERVE 250 HOURS OF COMMUNITY SERVICE, AND COMPLY WITH THE STANDARD TERMS OF PROBATION.

**DATE:**

10-17 [REDACTED]

**PSI OFFICER:**

[REDACTED]

Defendant's Name: [REDACTED]  
Cause No.: [REDACTED]

### PRE-SENTENCE INVESTIGATION REPORT

NAME: [REDACTED]  
PLEA BARGAIN: OPEN PLEA  
FINE: OPEN  
CO-DEFENDANT: NONE  
OFFENSE: DRIVING WHILE INTOXICATED - 3<sup>RD</sup>

ON 9-26-2005, POLICE OFFICERS RESPONDED TO A WELFARE CHECK. [REDACTED] THEY FOUND EDUARDO [REDACTED]'S CAR CRASHED INTO A PARKED CAR, HIS FOOT PUSHING DOWN ON THE ACCELERATOR PEDAL. MR. [REDACTED] WAS PASSED OUT BEHIND THE WHEEL. ONE OF THE OFFICERS SMELLED A MODERATE ODOR OF ALCOHOL FROM MR. [REDACTED]'S BREATH. WHEN MR. [REDACTED] STEPPED OUT OF THE CAR, HE STUMBLED AND FELL AGAINST THE SIDE OF THE CAR. MR. [REDACTED] INFORMED THE OFFICERS HE HAD CONSUMED 6 OR 7 DRINKS AND WHEN ASKED HOW MANY DRINKS IT TOOK TO FEEL THE EFFECTS OF ALCOHOL, HE STATED 5. MR. [REDACTED] FAILED THE FIELD SOBRIETY TESTS ADMINISTERED BY ONE OF THE OFFICERS AND WAS ARRESTED FOR DRIVING WHILE INTOXICATED.

**DEFENDANT'S VERSION:**

MR. [REDACTED] WRITES, "I WAS DRIVING INTO MY COMPLEX, I WAS PARKING IN THE PARKING LOT, AND I GUESS I FELL ASLEEP IN THE CAR." HE ADMITS HE HAD BEEN TO HAT TRICKS BAR AND BARFLY BAR AND GRILL DRINKING BEFORE DRIVING HOME. MR. [REDACTED] CLAIMS BEFORE THE NIGHT OF HIS ARREST HE HADN'T CONSUMED ALCOHOL FOR THREE YEARS. HE EXPLAINS THAT HE HAD MOVED TO DALLAS TO BE NEAR HIS FIANCE BUT TWO MONTHS AFTER LEAVING HIS FAMILY IN EL PASO, SHE BROKE OFF THEIR ENGAGEMENT. HE CLAIMS SHE HAD GIVEN HIM ONE WEEK TO MOVE OUT, HE LEFT THEIR APARTMENT, TOOK HER BROTHER HOME, AND WENT TO A BAR. MR. [REDACTED] STATES HIS LAST MEMORY ON THE NIGHT OF HIS ARREST WAS PARKING IN THE APARTMENT COMPLEX.

**CRIMINAL HISTORY:**

03-10-1995	AGGRAVATED ASSAULT WITH A DEADLY WEAPON (EL PASO, TX PD)	DROPPED
06-18-1995	AGGRAVATED ASSAULT WITH A DEADLY WEAPON (EL PASO, TX PD)	NO BILL
08-07-1997	POSSESSION OF MARIJUANA (EL PASO, TX PD)	DIVERSION
12-10-2000	DRIVING WHILE INTOXICATED - 1 <sup>ST</sup> (EL PASO, TX PD)	16 MO PROBATION REVOKED FOR 2 <sup>ND</sup> DWI ARREST 60 DAYS JAIL
06-14-2001	DRIVING WHILE INTOXICATED - 2 <sup>ND</sup> (EL PASO, TX PD)	2 YR. 2 MO. PROB. COMPLETED
08-12-2003	DRIVING WHILE LICENSE INVALID (DPS MIDLAND, TX)	6 MO. PROBATION
09-26-2005	DRIVING WHILE INTOXICATED - 3 <sup>RD</sup> (LEWISVILLE, TX PD)	INSTANT

Defendant's Name: [REDACTED]  
Cause No.: [REDACTED]

**SOCIAL HISTORY:**

[REDACTED] IS A 28-YEAR-OLD HISPANIC MALE BORN IN EL PASO, TX. HE REPORTS HE HAS 15 HALF BROTHERS AND SISTERS AND 3 FULL SIBLINGS. [REDACTED] STATES HIS PARENTS RESIDE IN EL PASO WHERE HE GREW UP AND THEY HAVE A VERY CLOSE RELATIONSHIP. HE CLAIMS HE HAS NEVER BEEN LEGALLY MARRIED BUT WAS IN A COMMON-LAW RELATIONSHIP. HE REPORTS THEY HAVE BEEN SEPARATED FOR FOUR YEARS AND HIS FORMER WIFE AND THREE CHILDREN RESIDE IN EL PASO. HE REPORTS HE SEES HIS CHILDREN IRREGULARLY SINCE MOVING TO [REDACTED] BUT CONTENDS HE PAYS \$500 PER MONTH CHILD SUPPORT. [REDACTED] STATES HE WOULD LOVE TO MOVE BACK TO EL PASO AND ONCE AGAIN BE NEAR HIS CHILDREN.

MR. [REDACTED] EXPLAINS THAT HE DROPPED OUT OF RIVERSIDE HIGH SCHOOL IN EL PASO FOLLOWING THE TENTH GRADE IN ORDER TO WORK AND HELP HIS AILING FATHER. HE REPORTS HE OBTAINED HIS GED CERTIFICATION IN EL PASO. MR. [REDACTED] STATES HE HAS BEEN IN THE RESTAURANT BUSINESS ALL OF HIS WORKING LIFE AND IS CURRENTLY MANAGER OF [REDACTED] MEXICAN GRILL IN GRAPEVINE. HIS EMPLOYMENT HAS BEEN VERIFIED.

[REDACTED] ADMITS HE FIRST DRANK ALCOHOL AT AGE 17 AND DRANK ON WEEKENDS UNTIL HIS ARREST IN SEPTEMBER 2005. HE CLAIMS HE HAS NOT HAD AN ALCOHOLIC DRINK SINCE THAT TIME. MR. [REDACTED] STATES HE OCCASIONALLY USED MARIJUANA AT AGE 17 BUT HASN'T SMOKED A JOINT SINCE 1995. HE DENIES THE USE OF ANY OTHER ILLEGAL DRUGS. MR. [REDACTED]'S DRUG SCREEN 7-5-05 WAS NEGATIVE FOR ALL DRUGS.

**VICTIM'S STATEMENT:**

[REDACTED] STATES HE HAS MIXED EMOTIONS CONCERNING THE POSSIBILITY OF MR. [REDACTED] RECEIVING PROBATION. HE EXPLAINS THAT ON ONE HAND HE BELIEVE HE SHOULD SPEND SOME JAIL TIME FOR DWI BUT ON THE OTHER HAND HE WOULD LIKE TO RECUPERATE THE \$500 DEDUCTIBLE HE HAD TO PAY FOR DAMAGES TO HIS VEHICLE.

**RESTITUTION INFORMATION:**

TOTAL: \$500.00 TO: [REDACTED]

**RECOMMENDATION:**

[REDACTED] HAS HAD THREE DRIVING WHILE INTOXICATED ARRESTS IN THE PAST FIVE YEARS. HE CLAIMS UNTIL THE NIGHT OF THE INSTANT OFFENSE HE HADN'T HAD A DRINK IN THREE YEARS, BUT HE ADMITS HE USED POOR JUDGMENT IN DRINKING THE NIGHT OF HIS ARREST. LUCKILY NO ONE WAS INJURED IN THE ACCIDENT. MR. [REDACTED] IS A YOUNG MAN WITH THREE YOUNG CHILDREN HE HELPS SUPPORT. HE HAS A FULL TIME JOB AND APPEARS TO BE DEPENDABLE IN HIS WORK AND IN PROVIDING FOR HIS CHILDREN. THE VICTIM IN THIS CASE WOULD LIKE TO RECOVER THE \$500.00 DEDUCTIBLE PAID TO HAVE HIS CAR REPAIRED AND IS AWARE THAT RESTITUTION WILL ONLY BE PROVIDED IF MR. [REDACTED] IS GRANTED PROBATION.

I RECOMMEND PROBATION FOR MR. [REDACTED] AND SUGGEST HE COMPLETE A REPEAT DWI COURSE, ATTEND THE VICTIM IMPACT PANEL AND SERVE 260 HOURS OF COMMUNITY SERVICE. IN ADDITION, MR. [REDACTED] WILL BE REQUIRED TO RETAIN THE IGNITION INTERLOCK IN HIS CAR. IF THE COURT DESIRES, AN SCRAM UNIT ATTACHED TO HIS ANGLE, WHICH WILL MEASURE ANY ALCOHOL CONSUMPTION 24/7, CAN ALSO BE A TERM OF HIS PROBATION.

**DATE:**

07-12-05

**PSI OFFICER:**

[REDACTED]

Defendant's Name: [REDACTED]  
Cause No.: [REDACTED]

### PRE-SENTENCE INVESTIGATION REPORT

NAME: [REDACTED] WILLIAM [REDACTED]

PLEA BARGAIN: [REDACTED] PROBATION

FINE: [REDACTED]

CO-DEFENDANT: NONE

OFFENSE: CRIMINAL NONSUPPORT

ACCORDING TO THE POLICE REPORT, ON 9-21-2007 [REDACTED] FILED A CRIMINAL NONSUPPORT REPORT WITH THE LEWISVILLE POLICE DEPARTMENT. SHE STATED MR. [REDACTED] HAS PAID \$33,663.64 IN CHILD SUPPORT PAYMENTS, AND OWES \$90,434.86 IN COURT ORDERED CHILD SUPPORT. ON 10-2-2007, MS. [REDACTED] PROVIDED BIRTH CERTIFICATES AND COPIES OF THE FINANCIAL ACTIVITY FROM THE ATTORNEY GENERAL'S OFFICE. THE DEFENDANT CONTACTED DETECTIVE [REDACTED] AND REPORTED THAT HE HAS SUFFERED FINANCIAL SET BACKS SINCE 12-2006 AND HAS NOT RECEIVED ANY PAYMENT FROM HIS EMPLOYMENT SINCE 4-2007.

**DEFENDANT'S VERSION:**

MR. [REDACTED] STATED HE COMMITTED THIS OFFENSE BECAUSE HE WAS GOING THROUGH "HORRIBLE TIMES" FINANCIALLY AND LOST EVERYTHING. WHEN ASKED WHY THIS TERM OF PROBATION WOULD BE DIFFERENT HE REPLIED, "I HAVE NO DESIRE TO DISAPPEAR AND I WANT TO GET THIS RESOLVED." HOWEVER, HE SAID HE WOULD NOT BE ABLE TO PAY RESTITUTION IN THE AMOUNT OF \$90,434.86. HE STATED THAT THE RESTITUTION AMOUNT WAS UNREASONABLE AND THAT HE WANTED TO KNOW WHAT THE SUCCESS AND FAILURE RATE IS FOR PROBATION. MR. [REDACTED] NEVER MENTIONED THE IMPORTANCE OF HIS CHILDREN DURING THE INTERVIEW, AND STATED THAT \$90,434.86 WAS THE INCORRECT AMOUNT THAT HE OWES.

**CRIMINAL HISTORY:**

DATE OF ARREST	OFFENSE	ARRESTING AGENCY	DISPOSITION
9-30-1987	ASSAULT	DALLAS CO S.O.	UNKNOWN
9-30-1989	CRIMINAL TRESPASS	FLOWER MOUND PD	UNKNOWN
11-1-1990	ASSAULT	DENTON CO S.O.	ACQUITTED ON 5-13-1991
4-28-1999	THEFT PROP >=\$20<\$500 BY CHECK	COLLIN CO'S.O.	5 MONTHS DEFERRED PROBATION COMPLETED IN 9-2000
1-18-2000	THEFT PROP >=\$20<\$500 BY CHECK	DENTON CO S.O.	180 DAYS PROBATION SUCCESSFULLY COMPLETED
9-8-2004	THEFT PROP >=\$20<\$500	DENTON CO S.O.	30 MONTHS PROBATION- PROBATION REVOKED AND SENTENCED TO 70 DAYS JAIL
5-17-2007	THEFT PROP >=\$20<\$500	DA'S OFFICE- HOUSTON	**ACTIVE WARRANT** BOND FORFEITURE
2007	INTERFERE W/ EMERGENCY PHONE CALL	UNKNOWN	PENDING
2007	ASSAULT CAUSES BODILY INJ(2 CHARGES)	UNKNOWN	PENDING

Defendant's Name: [REDACTED] WILLIAM  
Cause No. [REDACTED]

9-3- [REDACTED] CRIMINAL NON SUPPORT DENTON CO S.O. INSTANT OFFENSE

**SOCIAL HISTORY:**

MR. [REDACTED] IS A 39 YEAR OLD WHITE MALE WHO STATED HE WILL BE LIVING WITH HIS WIFE IN WHITE HOUSE, TEXAS. HE ADVISED THAT HE HAS THREE CHILDREN. MR. [REDACTED] ADVISED THAT HE IS COURT ORDERED TO PAY CHILD SUPPORT IN THE AMOUNT OF \$1200.00 A MONTH. HE STATED HE GRADUATED FROM SUMMIT CHRISTIAN HIGH SCHOOL AND ATTENDED TWO YEARS AT BROOKHAVEN COLLEGE. HE REPORTED THAT HE SERVED IN THE NAVY FOR TWO YEARS AND WAS HONORABLY DISCHARGED IN 1989. HE STATED HE INCURRED BACK PROBLEMS AS A RESULT OF SERVING IN THE MILITARY AND CURRENTLY IS UNABLE TO UNDERGO ANY PHYSICAL LABOR. MR. [REDACTED] IS CURRENTLY UNEMPLOYED DUE TO HIS STATUS IN JAIL, BUT STATED HE HAS PLANS ON EITHER ENTERING THE MILITARY OR GETTING A JOB. MR. [REDACTED] DID NOT HAVE A PARTICULAR PLACE OF EMPLOYMENT IN WHICH HE WAS INTERESTED IN WORKING. MR. [REDACTED] STATED HIS WIFE MAKES BETWEEN \$400.00 AND \$500.00 A MONTH WORKING AS A SALES CLERK FOR MACYS DEPARTMENT STORE.

MR. [REDACTED] STATED HE HAS NO HISTORY OF MENTAL ILLNESS AND IS CURRENTLY NOT UNDER THE CARE OF A MEDICAL DOCTOR. HE STATED HE FIRST CONSUMED ALCOHOL AT AGE 16, DRINKS 2-3 BEERS OCCASIONALLY, AND LAST CONSUMED ALCOHOL IN JANUARY OF 2008. HE STATED HE USED MARIJUANA ONE TIME AT THE AGE OF 17 AND HAS HAD NO OTHER USE OF ILLICIT DRUGS SINCE THE AGE OF 17. A DRUG SCREEN WAS NOT ADMINISTERED IN THE DENTON COUNTY JAIL. [REDACTED]

**VICTIM'S STATEMENT:**

MS. [REDACTED] WAS CONTACTED AND ADVISED THAT SHE IS REQUESTING \$90,434.86 FOR UNPAID CHILD SUPPORT SINCE 1997. SHE STATED THAT MR. [REDACTED] HAS NEVER THOUGHT OF THEIR CHILDREN AS A PRIORITY. SHE ADVISED THAT SHE HAS SUPPORTED HER CHILDREN ON HER OWN SINCE 1997 AND HAS HAD TO WORK FOUR JOBS, AT CERTAIN TIMES, IN ORDER TO SUPPORT HER CHILDREN.

**RESTITUTION INFORMATION:**

TOTAL: \$90,434.86 TO:

**RECOMMENDATION:**

MR. [REDACTED] APPEARS TO BE UNDESERVING OF PROBATION. MR. [REDACTED] FAILED TO REPORT SIX TIMES WHILE ON PROBATION WITH DENTON COUNTY. COMMUNITY SUPERVISION OFFICER [REDACTED] ADVISED THAT MR. [REDACTED] CONTINUALLY PROVIDED HIM WITH EXCUSES AS TO WHY HE COULD NOT PRODUCE MONEY TO PAY FOR PROBATION AND COURT FEES. MR. [REDACTED] STATED HE WON'T BE ABLE TO AFFORD RESTITUTION IF ASSESSED AT \$90,434.86. A CONCERN IS THAT MR. [REDACTED] HAS A LENGTHY HISTORY OF FAILING TO REPORT, THEREFORE, IT IS SUSPECTED HE WILL CONTINUE THIS HABIT THROUGHOUT HIS TERM OF PROBATION.

HOWEVER, IF PROBATION IS GRANTED I RECOMMEND HE COMPLETE 200 HOURS OF COMMUNITY SERVICE, PAY RESTITUTION IN THE AMOUNT OF \$90,434.86, BE PLACED ON INTENSIVE SUPERVISION CASELOAD, BE PLACED ON ELECTRONIC MONITORING FOR THE FIRST NINE MONTHS OF MR. [REDACTED]'S PROBATION, COMPLETE A DRUG/ALCOHOL EVALUATION WITH ANY TREATMENT DIRECTIVES, SEEK AND MAINTAIN SATISFACTORY EMPLOYMENT, AND REPORT ANY NON-COMPLIANCE TO THE COURT IMMEDIATELY.

**DATE:**

**PSI OFFICER:**

## **EDDY LYNTON**

E-mail: [elynton@twu.edu](mailto:elynton@twu.edu)

### **EDUCATION**

Ph.D. in Sociology	Texas Woman's University	May 2013
M.S. in Criminal Justice	University of North Texas	May 2007
B.S. in Sociology	Eastern New Mexico University	May 1995
A.A.	New Mexico Military Institute	May 1990

### **PROFESSIONAL EXPERIENCE**

Director of Academic Success, Undergraduate Studies, and Academic Partnerships (Oct 2010-Present)

Directed and evaluated retention initiatives; researched and implemented new initiatives. Consulted with department chairs and/or faculty on course-embedded assessment of core curriculum courses and prepares reports.

Directed the freshman seminar including selection, training, and oversight of instructors; course assessment; and curriculum development.

Advancement Via Individual Determination (AVID) Liaison. Coordinates all AVID professional development and regularly communicates with AVID Center, the TWU AVID Team, and the TWU community about success initiatives at TWU. Coordinated Undergraduate Council, AVID, Undergraduate Academic Program Review, Core Curriculum, and various success initiatives including University's Early Warning System.

Undergraduate Studies Coordinator (May 2010 to Oct 2010)

Coordinated academic staff participation in recruitment events; coordinated and supported retention initiatives, and conducted university-wide staff training when needed for implementation of undergraduate policies and procedures.

Presentence Investigator (2001-May 19, 2010)

Denton County Probation, Community Supervision and Corrections Department, Denton, TX. (Met and interviewed defendants, victims, attorneys and other individuals associated with the application of justice in felony cases. Coordinated with District Attorney's Office, local, state and federal law enforcement as needed Conducted Presentence Investigations and wrote Presentence Investigation Reports)

Bilingual Probation Officer (1999-2001)

61<sup>st</sup> District Court, Grand Rapids, Michigan (Supervised adult offenders and referred to treatment sources as applicable. Conducted and wrote

Presentence Investigations on time for review by Judges. Served as liaison to Immigration, Naturalization Service)

Intensive Supervision Officer (1997-1999)  
 9<sup>th</sup> Judicial District Juvenile Probation/Parole Office, Clovis, New Mexico  
 (Provided Intensive Supervision for a specialized court ordered case load of clients at risk level of being committed to an institution. Duties included taking into custody, transporting and dealing with hostile delinquent juveniles, families and pets. Also dealing with hostile neighborhoods and individual sometimes under the influence of alcohol or drugs. This challenging position entailed being firm but fair in all dealings with individual clients and their families while enforcing compliance with the conditions of probation as set by the courts.)

Owner/Operator (1993)  
 Designed and implemented a successful non-alcoholic, college-styled after hours club geared towards 18 and older. Staff consisted of ten workers at all times during a twelve-hour cycle. Highly profitable venture closed by order of the City of Portales for fire code violation, non-fire rated ceiling.

Federal Bureau of Investigation, Albuquerque, New Mexico (1987-1988)

Radio Announcer/Sports Director (1991-1995)  
 KSEL AM/FM, KSMX FM, Portales, New Mexico  
 (Hosted several sports, entertainment, and informational shows, wrote and anchored daily college sports report and live broadcasts of college (ENMU) athletic events. Produced and coordinated broadcast announcers and technical support staff.)

Radio Announcer (1986-1987)  
 KTQM FM/KWKA AM, Clovis, New Mexico  
 (Maintained professional sound of the highest rated radio station in Eastern New Mexico with equally rated air show. Produced/wrote commercials.)

Radio Announcer (1990-1991)  
 KISR FM, Fort Smith, Arkansas  
 (Produced/edited commercials, ran air show.)

Spanish Translator (1990-1991)  
 U.S. District Court Western District of Arkansas, Fort Smith, Arkansas  
 (Translated from English to Spanish and vice versa during hearings for the court.)

Radio Announcer (1985-1986)  
 KCLV AM/FM, Clovis, New Mexico  
 (Produced and hosted popular weekend shows.)

## **TEACHING EXPERIENCE**

Graduate Teaching Assistant, Texas Woman's University (2008-present)

SOCI 1013 Introductory Sociology  
SOCI 3003 Theories of Crime  
SOCI 3043 Deviant Behavior and Social Control  
SOCI 3053 Social Research  
SOCI 3113 Juvenile Delinquency  
SOCI 4303 Correctional Systems  
UNIV 1011 Contemporary Learning

(Served as instructor of record, responsible for syllabus design, instruction, exams, course content, etc. in both online and face-to-face formats.)

Adjunct Professor/Instructor University of North Texas (2005-2006)

Designed and taught Correctional Systems, an upper level course to a mixture of junior and senior level college students. Course consisted of over 100 cross discipline students. Course examined the origins, expansion, and evolution of the American Correctional System. The course took an historical look at official sanctions by the state and their underlying philosophies. Exploring current assessments while examining political and ideological issues in current-day corrections, the course integrated policy with the study of corrections. Responsible for the course content, syllabus, exams, and course preparation.

### **Funded Grants Activity**

2012-\$35,000

Texas Higher Education Coordinating Board (THECB) Year 2 funding, TWU and THECB AVID Work-study Student Mentorship Program (served as Co-Investigator)

2012-\$175,000

Subcontract from the Texas Higher Education Coordinating Board (on a grant from the U.S. Department of Education). Project entitled: Comprehensive Student Success Program (Served as Co-Investigator)

2012-\$35,000

Texas Higher Education Coordinating Board (THECB) TWU and THECB AVID Higher Education (served as Co-Investigator)

2011-\$45,000

Texas Higher Education Coordinating Board (THECB) TWU and THECB AVID Work-study Student Mentorship Program (served as Co-Investigator)

2011-\$45,000

Texas Higher Education Coordinating Board (THECB) TWU and THECB AVID  
Higher Education (served as Co-Investigator)

## **SERVICE**

Liaison Undergraduate Council (2010-Present)—Coordinated UGC which provides oversight of the core curriculum and student assessment, reviews of new programs, and assistance in periodic program reviews and student retention efforts.

Arranged tours of Denton County jail for government, history, criminal justice, and social work students (Spring 2010)

Guest speakers: Forensic Expert Ed Hueske for Criminal Justice (Fall 2009)

Coordinated Lecture Series for Denton County Sex Offender Officers (Fall 2008)

Re-Activated and Recruited Members to Alpha Phi Sigma, National Criminal Justice Honor Society (Fall 2009-Spring 2010)

Contributor to the Turkish Institute of Police Societies On-line Journal

## **PUBLICATIONS**

Ready for Review

Lynton, Eddy. "Crime control, social issues and implications for social assimilation"

Ready for Review

Lynton, Eddy and Erin Rider. "Interconnection of Deviance, Agency, and Conditions: A Theoretical Model of Action"

## **BOOK REVIEWS:**

*Comparative Youth Justice* edited by John Muncie & Barry Goldson London ; Thousand Oaks, Calif. : Sage Publications Inc., 2006, 224 pp (softcover).  
For *Youth Violence and Juvenile Justice an Interdisciplinary Journal*  
April 2009.

Alarid, Leanne and Reichel, Philip (2006). *Corrections: A Contemporary Introduction*. Boston, MA: Allyn/Bacon.

## **CONFERENCES AND SCHOLARLY CONTRIBUTIONS**

“Moral Time and Criminal Justice: Testing Black's Theory of Social Time,”  
Williams, Lynton, & Rodeheaver, Academy of Criminal Justice Sciences,  
March 2013

“Correlates of recidivism,” American Society of Criminology, November 2010

“Sex, Statutory Offenders, and Master Status: Deconstructing Hyper-Masculinity  
and Media Sold Identity Restrictions,” American Society of Criminology,  
November 2009

“The Theory of Action,” American Society of Criminology, November 2008

## **AWARDS**

Bertha and Morris Levy Endowed Scholarship (2010)

Ann Lindemann Starnater Scholarship (2009)

Bertha and Morris Levy Endowed Scholarship (2008)