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Revisiting Louisiana Drug Interdiction:
Drug Profiling in the Louisiana Justice System

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Abstract

Drug profiling in Louisiana State Police Crime Control Unit (LSP-CPU) and the deputies of the St, Martin Parish Sheriff’s Office (SMSO) has been through an in-depth analyses by Ruiz and his colleagues (Bowling, Ruiz, & Reynolds, 2008; Ruiz, 2000; Ruiz & Woessner, 2006). The essential findings of the study supported the allegations of demographic profiling in traffic arrests in the corresponding area on I-10. Also, Ruiz successfully suggested the most plausible explanation by introducing the war on drugs, which was specified by the asset forfeiture procedure, as the underlying factor of the issue.

Assuming that a similar pattern would exist in the St. Martin Parish justice system, this research attempted to examine the court dispositions which were followed by drug interdiction in Ruiz’s studies (Bowling et al., 2008; Ruiz, 2000; Ruiz & Woessner, 2006). This research also endeavored to discover more evidence supportive to the assertion with regard to the relationship between the asset forfeiture policy and the drug interdiction by the Louisiana justice system. The drug arrest records from 1988 to 1994, which were prepared by the officers of the SMSO and the LSP-CPU and collected by Ruiz, were analyzed, focusing on court dispositions.
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CHAPTER ONE

STATEMENT OF THE PROBLEM

Background - Drug profiling Cajun style

Ruiz (2000) and subsequent studies (Bowling, Ruiz, & Reynolds, 2008; Ruiz & Woessner, 2006) appear to indicate that demographic profiling in traffic enforcement were being utilized by members of the Louisiana State Police Criminal Patrol Unit (LSP-CPU) and certain deputies of the St. Martin Parish Sheriff’s Office (SMSO). These studies were predicated on the alleged existence of demographic profiling on Interstate 10 in St. Martin Parish, Louisiana, from 1989 to 1994. Ruiz has long been concerned about the issue of demographic profiling at the same location since 1994 when the Bell family, driving a rental vehicle with Texas plates, was stopped by the LSP-CPU. The father, David Bell, Jr., became ill during the vehicle search and subsequently died at the scene. In Ruiz’s studies, Bell’s death was alleged to be the outcome of demographic profiling under the assumption and evidence in which LSP-CPU and SMSO had been enforcing traffic policing and drug arrests without legal suspicion, armed only with racial or vehicle information, or both.

In this context and throughout this research, demographic profiling is defined as using not only race but also other information of an individual, such as state of residence, as the basis for the justification for unfair application of the law. This position is taken because the base study by Ruiz showed that state of residence as well as race seemed likely to have been taken into the consideration of a driver’s alleged criminality by the police officers. Also, this study deals with court cases in which information of an arrestee’s state of residence was open to the judges, whereas it was not available to the
officers until the actual decision to make the stop was made.

From this researcher’s perspective, the issue of demographic profiling in policing was perceived as stale, or even vapid, to a certain degree. Perhaps it was due to this researcher’s personal career in enforcing national guardianship against illegal trafficking of people and contraband as a South Korean Army Second Lieutenant on the western coast of South Korea. Even though there were only a few actual cases while this researcher was in the line of duty, the guardianship had to be officially enforced every single day. To this researcher’s recollection and viewpoint, every kind of profiling, including demographic profiling, seemed effective enough to offset any collateral damage resulting from the profiling enforcement.

Nevertheless, as this researcher began reading articles and books on racial and demographic profiling in policing, especially traffic policing, the issue came as a new one. First of all, the alleged profiling of this researcher’s own experience was under more specific conditions. The tactic was for policing smuggling and contraband, and the frequency of occurrences, as well as arrests, was relatively rare. The total number of contacts between police and the public greatly outnumbers that of the contacts between this researcher’s team and the public within the same amount of time. Simply stated, these two different kinds of contacts are not comparable in a quantitative manner, even though there might be a similar type of law enforcement.

In addition, Ruiz (2000) suggested that the most plausible explanation for the issue of discriminative profiling was the war on drugs. Specifically, he presented a reasonably proper rationale by addressing the asset forfeiture syndrome employed by the LSP-CPU and SMSO. According to Louisiana Revised Statute Title 40 Chapter 26,
confiscated assets are to be distributed to the arresting agency, the court, and the district attorney’s office in each case by the proportions of 60%, 20%, and 20%, respectively (Prejean, 1999). This is noteworthy since most other states have promulgated in their statutes that none of the forfeitures is to be distributed to the courts. As expected, the proceeds from the forfeiture are mostly distributed to arresting agencies or certain types of investigative funds (Arizona Revised Statute 13-4315; California Health & Safety Code Section 11489; Colorado Revised Statutes 16-13-501; Delaware Code 11-41-II-4114; Illinois Compiled Statutes 725 ILCS 175; Indiana Code 34-24-1-4; Minnesota State Forfeiture Statutes 609.5315; Revised Code of Washington 69, 50, 505). Finding this subtle implication was refreshing since, as a lower class officer in the Korean Army, this researcher could not and had not tried to figure out the manner in which seized assets were distributed. This was a new and inspiring finding, rather than a comparable subject between South Korean Army enforcement and Louisiana police enforcement.

The Louisiana State Police Annual Report (2004) states that, in 2004, the total value of assets seized from drug enforcement was nearly $254,000,000. This amount was confiscated by only two divisions in the Louisiana State Police, the Criminal Patrol Unit, which comprised 27 officers, and the State Police Narcotics Section (Louisiana State Police, 2004). One may perceive the efficiency of this drug enforcement as remarkably high. Simultaneously, one does not require much accounting expertise to see considerable economic impact here. Simple calculations show that, for example, the court receives more than $50,000,000 in a year. Equipped with that knowledge, this researcher was intrigued sufficiently to take on the issue for further study.
Purpose of the study

The reason this research focused on the same location and even the same period was not because the issue seemed more significant or more serious at that location, but because the studies of racial profiling at that location have resulted in proof of its existence. Also, this researcher had the privilege of knowing Ruiz personally. Ruiz (2000) has eminently elaborated on the alleged existence of demographic profiling by LSP-CPU and SMSO. His research on the issue in 2000 suggested seemingly undeniable conclusions derived from thorough analyses on arrest data and direct personal observations. Due to the outstanding research of the location with regard to alleged demographic profiling in traffic policing, it seemed sufficient to examine the existing research and move beyond to court dispositions.

This researcher sought to discover any relationship between the demographic variables and the court disposition of the drug arrests on Interstate 10 in St. Martin Parish, Louisiana, from 1989 to 1994. The underlying assumption was that the alleged demographic disparity in court dispositions of the drug arrests might have had similar patterns to the proven demographic disparity in traffic policing.

This research also attempted to detect any notable tendency in court dispositions which would support the allegation of a suspicious economy in drug enforcement. It seemed quite probable given the statutory allocation of the seized assets in the justice system at the location. One would be more confident in inferring the existence of a suspicious economy in the court disposition provided the descriptive data analysis indicated a specific tendency. If the analyses of the data show results favorable to the allegations, it would seem logical to conclude total corruption in the justice system of the
location and the period. Specifically, the total corruption refers to the demographic profiling at the beginning, through demographic discrimination in court dispositions, and financial justice at the conclusion of the cases.

This thesis commences with the diversity issue in the United States followed by the emphasis on the Hispanic population. The motivation for this issue was that prior research at the same location and the same period showed a racial disparity in traffic policing, and Hispanics were the alleged victims (Ruiz, 2000; Ruiz & Woessner, 2006). Moreover, two of the basic notions which seemed likely to contradict the demographic profiling studies are unity and diversity through equal treatment and dedicated public service. Studies of racial profiling are presented to demonstrate how much more sensitive the issue is now than it was previously. This research depicts how much more serious demographic profiling can be when it involves governmental authority. Substantial data are presented to confirm the existence of demographic profiling. This research also shows how policing and the court process can be even more sensitive owing to the frequent contacts with the public and the importance of the court as the last resort against the miscarriage of justice.

**Diversity in the United States**

Few would disagree with the assertion that diversity has been the driving force behind the historical development in America. The concept of the melting pot is, indeed, renowned in the USA as posted on a government publication under the title of “Portraits of the USA” (U.S. Department of State, 2003). America’s unique and arguably integrated culture has originated largely from immigrants dating back before this nation was born.

Page (2007) recently presented empirical tests of diversity versus homogeneity
and successfully delineated how diversity in a system or organization can “trump” (p. 152) homogeneity. He stated that, in organizations that deal with the same task, the ones with members of different perspectives appear to achieve a better outcome than that which is achieved by the ones with members of analogous perspectives. He noted that when the individual ability of each member of an organization is similar to others, different perspectives can lead to manifold ways of coping with problems, which are ultimately conducive to better goals (Page). The overall implication is that the organization with implicit power of diversity can outperform those with identical points of view, even when the members in those organizations are better in individual abilities.

Given the relatively outstanding history of diversity in the USA, it seems reasonable to assume that the great power of the USA has stemmed primarily from the manifold perspectives of the blending or melding of the different races and cultures.

**Hispanics in the USA**

Historically, all Americans, except for Native Americans, are immigrants or are descendants of immigrants. According to all historic and archeological evidence, only Native Americans are considered indigenous to North America. All other races and ethnic groups came to North America as either immigrants or in one form or another of servitude. Thomas Paine, one of the founders and activists of the American Revolution, stated in 1776, "Europe, and not England, is the parent country of America" (as quoted in U.S. Department of State, 2003). It seems rational to assume that Europeans were the first immigrants, though not the original colonizers of America, and it literally means not just English people, but European immigrants as well.

The immigration tendency, however, as well as the world and American society,
has changed dramatically. While Europeans continue to immigrate to the USA, the Asian and Latino immigrants have outnumbered the European immigrants. Since before 1990, the largest immigration groups have come from Mexico, India, China, the Philippines, and Vietnam (U.S. Department of State, 2003). Consequently, the minority population in the USA surpassed 100 million in July 2006, when the total population reached 300 million. It can easily be depicted by describing one out of every three people in the USA as a minority. Of those 100 million minorities, over 44 million are Hispanics, while blacks make up 40.2 million. Moreover, Hispanics have been the fastest-growing population among minorities, while Asians ranked second (U.S. Census Bureau, 2007). It seems natural to assume that the minority population can equal or surpass that of whites in the U.S. in the not-too-distant future.

Rationally, it is manifest that growth of a certain population can bring the diffusion as well as development of that population’s culture. Anthropologists and archaeologists have addressed the close relationship between population and culture (Hammel & Howell, 1987; Shennan, 2000). Hammel and Howell noted the influential power of population with regard to diffusion of culture and even unique perspectives. They argue that history has shown the influx of different groups into a population and people of immigrating groups bringing their own culture as well as language into the population. Some anthropologists, like Shennan, take a view in which the positive cultural evolution by population fluctuation are deemed as a “drift” (p. 185) in a holistic fashion, rather than a cognitive selection process of people. Simply stated, people of a growing population will pursue their own culture, which includes arts, music, food, and even language, while simultaneously trying to assimilate the predominant culture into
their own. This researcher’s assumption is that it seems more likely to be so when a certain population and culture are the second-largest in the nation.

Spanish is apparently the second language in the USA. There is no official language in the USA, while English is indisputably the first language, and some states, such as Louisiana, embrace a different language from Spanish. However, Spanish is spoken by many people, and it is not uncommon to see Hispanic cultural influences from Mexican restaurants to public phone services asking callers to select a language preference between only English or Spanish.

It is not surprising to note that Spanish was the most generally taught language at colleges and universities across the USA from 1970 to 2002 (Association of Departments of Foreign Languages, 2004). Specifically, in the fall of 2002 only, 53% of the total enrollment in language programs in institutions of higher education was Spanish, while French, the second-largest, accounted for 14.4%. Furthermore, the report from the U.S. Census Bureau (2003) states that by 2000 Spanish had been the most spoken language, other than English, in homes in the USA for at least three decades. It also reveals that the number of people who spoke a language other than English at home had increased 38% in the 1980s and 47% in the 1990s.

In the South and West, there were 9.9% and 11.1% of the total population who spoke Spanish at home, respectively, in 2003 (U.S. Census Bureau, 2003). Given the abrupt growth in the Hispanic population in recent years, one does not need logic to assume that the number of people who speak Spanish at home will greatly increase by 2010. Naturally, the increase in overall Spanish speakers in the USA will ensue. When combining the two facts of rapid population growth and amplifying linguistic prevalence,
it seems more than possible that Hispanic culture will be predominant throughout America. Even though merely 10% of the total population in Louisiana speaks a language other than English at home, more than 25% of total population in Arizona and more than 30% of total population in Texas do so. Given the data of distinguishable Hispanic factors in the South and West, the actual Hispanic prevalence in the South and West can be significant. Moreover, this study does not merely concern the state residents of Louisiana, but also those who were arrested and brought to court, from Interstate 10 during the research period, most of whom were supposedly from the South.

**Contemporary racial issue**

There is little doubt that negative experiences based on race or ethnicity can lead to a host of problems from both individuals and communities. A recent study concluded that experiencing racial discrimination in childhood can lead to subsequent drug use (Gibbons et al., 2007). As acknowledged by most people, perceived racial discrimination can devastate the relationship between two or more groups of people and, in turn, cause serious social conflicts.

The gist of this contemporary racial issue lies in the individual, in other words, subjective perceptions of victimization. Simply stated, the main focus is about how the words and deeds are interpreted rather than how they are intended. Little direct or explicit racial aggression against minorities can be detected in contemporary society. Although focusing only on Asian immigrants, Sue, Bucceri, Lin, Nadal, and Torino (2007) examined racial victimization qualitatively and found that racial aggression still occurs. The authors suggest that racial aggression has become more implicit and covert in its manner, and, accordingly, its detection is difficult in most cases. Spontaneously, the focus
has moved to the subtle, implicit and even unintended racially discriminative attitudes against minorities which psychologically victimize those minorities (Sue et al.). The point being made here is that racial discrimination is still a sensitive issue in every facet of society, and an even more delicate issue than ever before. The overt and explicit manifestation of racial discrimination, therefore, would bring unimaginably serious reactions as well as criticisms from the victimized population, when and if detected. Studies that have found evidence of the negative effects of racial discrimination, and how it can be detrimental to society and overall unity, will be reviewed in the later section.

**Police and the public**

Basically, policing is the entry point of the justice system. Every kind of demographic issue in policing can be extremely detrimental to the credibility of the service the police provide. This means that the allegation of immoral conduct or using improper tactics, such as demographic profiling, can devastate the fundamental basis of the police organization. Further, it will not only undermine the police organization but also frustrate the overall justice system provided by the government. For example, Weitzer and Tuch’s (2002) research survey of public perceptions of racial profiling by police found that both black and white Americans, in general, deem racial profiling by police as negative by its nature. This is notable since most whites reported not ever having experienced profiling victimization (Weitzer & Tuch). Kennedy (1997) also argues that traffic stops perceived as racially discriminatory may engender conflict between police and motorists and generate distrust of the police. The reasons for this sensitivity, especially in policing, may be that the police per se are the representative government’s issued authority, and the public and police frequently have contact with
each other. Though this research indirectly deals with traffic policing as a method of drug enforcement, the significant influential power of traffic policing over the public is proposed.

Racial profiling by police has been defined in various ways by many scholars and public authorities (Aguirre, 2004; Ramirez, McDevitt, & Farrell, 2000; Weitzer & Tuch, 2002). The most common definition of racial profiling is a police enforcement that is based on the race or national origin of an individual rather than actual behavior or information of possible criminality. Even though the term has a negative orientation, some officers or agencies attempt to rationalize their use of racial profiling under the pretense of efficiency. They argue that minorities are more likely to be engaged in criminal activity than are white people, and, thus, it is reasonable to conduct differential enforcement as well as judgments on different races (Rudovsky, 2002). It is commonly believed, however, that it causes excessive collateral damage to innocent people and it ultimately produces mistrust of law enforcement.

A Bureau of Justice Statistics (2002) national survey demonstrates the degree to which policing, including traffic policing, impacts the lives of Americans. It revealed that out of 192.7 million drivers, nearly 1 out of 11 drivers were pulled over by the police in traffic stops in 2002 (U.S. Department of Justice, 2005). Given that almost 90% of the total population aged 16 or older was driving, one can assume that a traffic stop is more than merely an act of law enforcement. In other words, it seems not absurd to surmise that roughly every American will have contact with traffic police officers at least once in his or her lifetime. As such, traffic policing should be distinguished from other types of policing, such as drug enforcement. Meanwhile, from the perspective of the general
public, among the 45 million people who had at least one face-to-face contact with police, more than 18 million had contacts through traffic stops. This number accounts for the highest proportion of the total contacts between police and the public. Traffic policing is indeed representative of the majority of police-public contact in the United States.

National survey data indicate that more than half of traffic stops resulted in traffic citations being issued in 2002 (U.S. Department of Justice, 2005). Also, more than 450,000 people of 16.8 million stopped drivers were arrested. It is important to address the sensitivity of traffic policing to the public since it can affect them in every facet of daily life. A traffic ticket can affect the financial status of the violator by charging a certain amount of money regardless of how much it is. When an illegal substance or material is found during the traffic stop, through vehicle search or not, the case more than likely goes to court. Rationally, a trial which comes as a result of a traffic stop is likely to be financially or even socially stressful on the defendant in the case, regardless of the final verdict. One need not ponder greatly to understand how racial or any other types of discrimination in traffic policing and the following arrest can be not only a sensitive but also an explosive issue in the United States.

**The court and the public**

This study focuses heavily on the alleged existence of demographic profiling by the public authority, the court. At least in this study, the meaning of court disposition parallels with sentencing. Sentencing is the legal punishment imposed on the convicted person by the court, and can consist of imprisonment at hard-labor, fine, and/or probation, among others.

This study predicates overall analyses on the substantial data set that can be
ostensible evidence of alleged hypotheses, when statistically supported. It seems more than logical that overt evidence of demographic discrimination against certain populations by courts would engender critical concerns. The court is, arguably, the last and the only system for people who think or want to think that they have been victimized by law enforcement. People can still rebut law enforcement in ways other than litigation. Mass media and journalism have been representative and effective ways to confront the alleged miscarriage of justice (Brawley & Martinez-Brawley, 1999; Noble, 2004). The final conclusion, however, has always been made by the court, even if it was the court who was accused of the misjudgment. Given the gravity of traffic policing to the public in general, the responsibility of the court as the last resort for police misconduct or miscarriage of justice is undoubtedly heavy. Simultaneously, the integrity of the overall court process should be more sensitive than that of policing. The allegation of the existence of racial or any type of discrimination, allegedly profiling, in courts seems more than likely to be extremely fatal to the overall justice system.

In sum, the main argument intended here is that if evidence of racial or any type of discriminative enforcement by government authorities is found, the impact on society would be disastrous. This is especially so when the perceived victimization caused by overt, or even unintended, racism delivers abundant social concerns. Although this study deals with the drug arrests and subsequent court dispositions, both of which differ from physical assault, there is no assurance that serious social conflict, like the Los Angeles riot in 1992, would not occur again. The Jena Six demonstration that was against the racially discriminative rulings in a case of black and white youths in Jena, Louisiana, may not be the last one, and may not be the toughest one (Newman, 2007).
A review of the literature concerning mostly racial profiling in the justice system will be presented in the following chapter. As noted in an earlier section, this researcher was also interested in searching for more empirical grounds on which the lucrative enforcement may affect the court dispositions of drug arrests. Some remarkable studies concerning the disposition of asset forfeiture through drug and other types of enforcement were reviewed as well. While many scholars, however, have shown interest in racial disparity, few have shown interest in other types of demographic disparity or suspicious court cases. Also, very few have shown concerns toward Hispanics when it comes to racial profiling by law enforcement, even though there are more Hispanics than blacks in the United States. Accordingly, this researcher had no choice but to focus on reviewing precedent studies of racial disparity, mostly between blacks and whites, in court dispositions.
CHAPTER TWO

REVIEW OF THE LITERATURE

Criticisms of profiling

Finding criticism of racial or any other kind of profiling in the justice system is not laborious since many scholars and even authorities have shown concerns about such practices. Even though some might complain of the staleness of evoking the criticisms of this particular issue, it seems worthwhile to revisit the prior lectures focusing on logical reasoning. This is especially so as this thesis deals with demographic disparity in court dispositions which originated from the alleged demographic profiling in drug arrests through traffic policing. In other words, this study seeks to reveal the possible existence of discriminative profiling by the overall justice system.

Harris (as cited in Minnesota House of Representatives, 2000) spoke about the existence of a circular reasoning error in the racial profiling theorem. Emphasizing the statistics that depict nearly identical drug usage rates of both blacks and whites in the United States, he asserted that the seeming effectiveness of demographic profiling is per se a result of profiling. Specifically, when there are nearly identical numbers of drug users in both black and white populations, the ones who undergo more stops and searches are more likely to be arrested (Minnesota House of Representatives). In sum, he stated that racial profiling is responsible for the skewed statistics which are used as the justification itself.

Kennedy (1999) has also shown concern about racial profiling by law enforcement. His arguments are predicated on both constitutional and social issues. Racially distinguishing between people, according to Kennedy, on an ethnic basis is a
violation of the equal protection clause of the Fourteenth Amendment. Besides, he warned of the potential social costs which may come from the perceived racial victimization by minorities. Kennedy asserted that the perceived alienation of the minority population by law enforcement is likely to create mistrust of and frustration with the entire justice system (Kennedy).

Racial profiling also has been criticized in the courtroom. The 9th Circuit Court of Appeals ruling in *United States v. Montero-Camargo* (as cited in Aguirre, 2004) is noteworthy when it comes to Hispanic victimization of racial profiling by police, especially by traffic police. In this particular case, the court ruled that “stops based on race or ethnic appearance send the underlying message to all our citizens that those who are not white are judged by the color of their skin alone” (p. 936).

Tyler and Huo (2002) articulated the psychological mechanism that is driven by perceived racial discrimination by law enforcement. In the study of perceived racial discrimination by the police and the courts, they argued that enforcement of law should be predicated not only on the agreement of but also the satisfaction from the public (Tyler & Huo). For the study, the authors performed a telephone survey interview of more than 1,600 residents in two high-crime areas in California in 1999. The residents interviewed were selected because they had experienced at least one recent contact with the police or the court. For the better chance of data accumulation, the authors intentionally adjusted the demographic composition of the interview participants, and created an almost equal number of each race or ethnicity in the interview groups. The interview surveyed the participants’ perceptions of victimization through their contact with the police or the courts and their attitudes toward the contacted authority afterward. Further, the interviews
also dealt with their senses of belonging in society and their perceptions of legitimacy of law enforcement. The qualitative analyses of the interview responses revealed that a person, regardless of race, who had a negative perception, such as unfair treatment, from contact with law enforcement expressed a negative opinion, such as mistrust, toward legal authority (Tyler & Huo). Subsequently, the mistrust of the motives of law enforcement led to noncompliance with the law. This particular study is noteworthy since it shows how perceptions of victimization can aggravate the attitudes toward legal authorities.

**Racial disparity in court sentencing**

Racial disparity in court sentencing has been studied with varying points of view and varying subjects. In addition, many studies have shown evidence of the racial disparity in court dispositions. As a result, it seems logical to assume that racial profiling also happens inside courtrooms. Some of the studies are presented here.

Unnever and Hembroff (1988) analyzed court sentences of 313 drug offenders in Miami, Florida, to confirm the applicability of Hembroff’s theory in court sentencing. In his theory of status characteristics and expectation state, Hembroff (as cited in Unnever & Hembroff) argued that status characteristics of a person, such as employment status, age, social class, record of prior convictions, seriousness of the charge, and race, are believed to establish expectations among people who judge the person. The authors argued that when each of the primary status characteristics, such as prior conviction, is consistent with others, favoring toward one conclusion, the likelihood of that conclusion being made is very high (Unnever & Hembroff). Other relatively trivial characteristics are easily disregarded in the process of decision making. For example, if a defendant is unemployed
and has prior convictions, he or she, regardless of race, is more likely to get a more severe sentence than would those who are employed and have no prior records. However, when there is an inconsistency among the primary status characters, making the decision becomes a bit more intricate, the defendant’s trivial characteristics will be taken into account. For example, when the defendant is Hispanic, unemployed, and has no record, he or she is more likely to receive a harsher sentence than would a defendant who is white, also unemployed, and also has no prior record. In this case, both defendants have the same primary status characteristics, unemployed but no prior record, which are inconsistent with each other in sentencing outcomes. Racial status is, consequently, employed in making differing sentence severity among the defendants (Hembroff, Martin, & Sell, 1981; Unnever & Hembroff, 1988).

Gibson (1978) also made his point by assessing court cases with regard to individual judges’ racial preference on rulings. Data gathered from the Fulton County Supreme Court in Georgia between 1968 and 1970 showed possible existence of classifications by judges with their preference of a certain race among the defendants. As a result, Gibson could classify the types of judges by their racial preference, cultural characteristics, and severity of sentencing, among others. The author also pointed out the importance of focusing on individual judges and cases, rather than aggregate court cases, when it comes to researching racial disparity in sentencing (Gibson).

Federal sentencing guidelines, a byproduct of the Sentencing Reform Act of 1984, were established for the sake of equal treatment in sentencing in the justice system (Everett & Wojtkiewicz, 2002). When Everett and Wojtkiewicz analyzed the data of more than 50,000 sentencing cases, which were from the Monitoring Database founded
by the U.S. Sentencing Commission, the guidelines seemed not to have been strictly
mandated. The results showed that blacks, Hispanics, and Native Americans were more
likely to receive harsher sentences than were whites (Everett & Wojtkiewicz).

Steffensmeier, Kramer, and Streifel (1993) were interested in demographic
disparity in judges’ incarceration decisions. They analyzed more than 6,000 cases of
Pennsylvania sentencing data spanning from 1985 to 1987. The results of the study did
not support the hypothesis that an offender’s gender had salient effects on incarceration
rates. However, this study produced additional findings from the qualitative data analyses.
Steffensmeier et al. were able to conclude that judges were influenced by two main
concerns in sentencing practices, which are “blameworthiness” (p. 411) and “practicality”
(p. 411). Specifically, the authors stated that the degree to which a victim was harmed,
how the judge perceived the seriousness of the charge, and prior record of the defendant
affected the ruling process of the judge. Also, the defendant’s individual conditions, such
as health condition, special needs, and space needs, and organizational concerns, such as
prison population and case loads, seemed to influence a ruling. Finally, the authors
asserted that the judge’s interpretation of the case or the circumstantial conditions of the
system may affect the corresponding judge’s decision making (Steffensmeier et al.). This
study can be an example supportive of the assertion in which the justice system is
vulnerable to the judge’s own opinion of the justice system. Arguably, even if the judge
does not have racial bias, the judge’s ruling can be distracted by the expected financial
incentives of the case.

Steffensmeier, Ulmer, and Kramer (1998) attempted to test the applicability of the
prior conclusion. They analyzed the data of Pennsylvania sentencing results from 1989 to
1992. To be more organized in its manner, they adopted the term “focal concerns” (as cited in Steffensmeier et al., 1998, p. 766) from Miller’s subcultural theory of criminology. They hypothesized that the defendants’ age, gender, and race have significant effects on the sentencing process. As a result, they could conclude that the suggested three focal concerns of judicial process had expected influences on the sentencing outcomes (Steffensmeier et al., 1998). Race, especially, had the most significant effect on sentencing. In addition, they found that these focal concerns work interactively, rather than additively, that they collaboratively affect the sentencing processes. In other words, age, gender, and race would show no significance on sentencing when they are analyzed individually, but would show up when analyzed collectively.

**Criticisms of asset forfeiture**

Asset forfeiture is another important agenda which is addressed throughout this study. Generally, and throughout this study, the term forfeiture has the same meaning as confiscation, and assets are properties which are either profits of crime or the ones used to facilitate crime. Categories of properties subject to confiscation were articulated in the case of *Bennis vs. Michigan* in 1996. In this case, dissenting Justice Stevens explained about the three categories of property, which are pure contrabands, proceeds from illegal activity, and tools or instrumentalities used in commission of a crime (1996). Pure contrabands are properties, possession of which automatically constitutes an illegal activity, such as an automatic weapon. Proceeds from illegal activity are properties which are a result of an illegal activity. Instrumentalities used in commission of a crime are those which are used to facilitate the illegal activity, for example, a vehicle used for the
drug trafficking would be regarded as such. According to this rationale, the court decision of a drug arrest case may involve application of all three categories. Drugs per se, cash allegedly linked to drug sale or purchase, and transportation used in the case are subject to forfeiture. A great deal of assets can be confiscated, and this makes this study worth dealing with the statutory allocation of proceeds from asset forfeiture within a corresponding location and period.

As Schnepper (1994), a reporter for USA Today, introduced briefly in his report, the Comprehensive Crime Control Act of 1984 was seemingly a reasonable response to the war on drugs in the 1970s and early 1980s. The zero-tolerance strategy against the drug offenses had incurred manifold social and financial burdens to the federal government. For example, more than 9 out of 10 crimes were drug related, exorbitant resources were focused on drug-related tasks, and state and even federal budgets were almost forced into bankruptcy. One of the unique provisions in the Act was the consolidation of local, state, and federal law enforcement agencies’ power over asset forfeiture. Prosecutors and police now had a legitimate opportunity to experience financial gain under the protection of the Act. Spontaneously, states have started to propose and enact the forfeiture laws in which the disposition of the seized assets was promulgated. Schnepper also noted the birth of the Asset Forfeiture Fund in the Department of Justice, which was a part of the Act. Delineating the abrupt increase in total deposits to this account, he warned of the likelihood of the abuse of discretion by law enforcement. It is not surprising to see that most of the studies concerning this issue deemed the Comprehensive Crime Control Act of 1984 as the spawning ground of unscrupulous search and seizures by police.
Benson, Rasmussen, and Sollars (1995) worked together to examine the alleged influence of the Comprehensive Crime Control Act of 1984 on the strategic changes of the state and local law enforcement agencies. Using empirical data to demonstrate the historic consistency between the initiation of the Act and the beginning of the change in police strategy, the authors asserted that police resources had been vastly drawn to anti-drug tasks (Benson et al.). The authors implied that the temptation driven by seized assets returned directly to the agencies might have been the cause and the result of this syndrome in law enforcement.

Stellwagen and Wylie (1985) were interested in the system making it possible for police to cope with fewer resources and more tasks. In a survey of administrators of law enforcement agencies in 28 states, donation programs and asset forfeiture laws were shown to be the main sources of extra revenue. Various types of funds and foundations were found to be assisting the police departments as a result. However, asset forfeiture seems to be the only one source over which law enforcement has control, and the survey showed responses consistent with the allegation in its context. Borrowing critics’ arguments, the authors also warn of the possible corruption as well as abusive strategies of the law enforcement agencies (Stellwagen & Wylie).

Worrall (2001) provided more empirical evidence regarding the allegation of a suspicious economy in drug enforcement. He conducted a survey of more than 1,000 law enforcement officials, and showed various conclusions which basically were consistent with the general assumption. When divided into two groups by the number of sworn officers in the agency, small agencies were less likely to rely on the proceeds from asset forfeiture. This seems rational since larger agencies get larger budgets to spend. However,
the general tendency was that all of the agencies were obviously in favor of asset forfeiture (Worrall). More interestingly, among the overall agencies, those agencies that received more forfeiture proceeds tended to depend more on asset forfeiture. This is also rational given the fact that these agencies experienced a financial boost which, in turn, encouraged them to continue seeking such opportunities. In conclusion, Worrall applied the results of the study to Reiman’s (1979) Pyrrhic defeat theory of criminology. Reiman argued that the criminal justice system is manipulated by the privileged as the top class of society has overwhelming control power over the poor and even over the justice system (Worrall). In this context, the justice system may seem successful, but the system is solely for the privileged and the collateral damage from keeping the system is covertly enormous. Worrall also implied that the contemporary criminal justice system would fail since it was profiting from seized assets, which were the fruits of the war on drugs. The system would not exert itself to enforce the war on drugs because it thrives on the extra revenue.

A unique approach to the concern about the police search and seizure can be found in the study by Gould and Mastrofski (2004). Unlike most other studies, these authors investigated the legality of searches and seizures by police in a manner of direct observation. Among the 115 suspects in the research sample, 30% were searched unconstitutionally. Specifically, when the sample cases were categorized into two classes, full and pat down search, 20% of full searches and 46% of pat downs were illegal. Moreover, nearly 60% of the drug searches were unconstitutional, whereas merely 15% of the other searches were illegal. Assuming that Gould and Mastrofski’s study results can be generalized to other locations, it appears likely that a large proportion of police
searches may be illegal. Also, when this current Louisiana study result seems favorable to the allegation of a suspicious economy and demographic profiling, one may assume that those results are just the tip of the iceberg. Given that nearly all of the illegal searches had not been developed into the court cases in Gould and Mastrofski’s study, it seems reasonable to assume that more invisible cases of drug profiling had been dismissed at the scene by members of the SMSO and LSP-CPU.

Fundamental criticism of asset forfeiture from the perspective of political theory was suggested by Zalman (1996). His argument introduced the philosophical Lockean paradigm of the Constitution. According to the paradigm, in the state of nature, every man is supposed to be equal and to have freedom. However, as people get together and form a society, and as materials and provisions are scarce in their nature and are basically byproducts of labor, some happen to have power over the others in society. As an individual’s interests, perceptions, and viewpoints are inconsistent with those of others, conflict ensues. People decide to settle the conflict through reliable judgment by the publicly authorized entity, the government. The important point is that, in the state of conflict, those who are most powerful are the ones who can be both judge and stakeholder within the conflict. Tyranny arises when the government has the power to judge and reap the benefit at the same time. The U.S. Constitution, thus, has its basis in the notion that people should be able to confront the illegitimate authority, when public policy is against the public benefit. Moreover, it is acknowledged that the judgmental power over the conflict between two parties should be removed from both parties. This is the reason the Constitution exists and the reason the judiciary should be politically separated from politics. As Zalman introduced this paradigm in his assertion, he argued
that the statutory promulgation of disposition of asset forfeiture is per se against the constitutional paradigm. Specifically, he held that the justice system should not be the entity which has judicatory power over asset forfeiture as well as the beneficiary of asset forfeiture enforcement. He cautioned of possible institutional corruption as justice officials become judges enforcing the legal restraint and stakeholders benefited by drug asset forfeiture, simultaneously (Zalman). Simply stated, judges and police should not be the ones who receive financial advantage for the services they perform.
CHAPTER THREE

METHODOLOGY

Hypotheses

As noted in an earlier section, this research examined possible relationships between the demographics of the drug arrestees and the court dispositions of them. Under the assumption that race and state of residence were focal concerns of the judges in the cases, the alleged disparities within each demographic group were to be examined. When all the justice system entities were stakeholders of these drug arrests, it seemed logical to assume that the justice system entities have similar standards one to the other. Specifically, the court dispositions might have varied among the race of the arrestees in a manner unfavorable to Hispanics. They might have varied among the different states of residence of the arrestees in a manner negative to those who reside in states other than Louisiana. This assumption was based on the salient results shown in the study of demographic profiling by traffic police in the same location and the same period by Ruiz (2000). Arguably, this research is an extension of Ruiz’s study concerning the court dispositions of the profiled drug arrests.

This research also looked for suspicious tendencies among the court dispositions of the arrest cases under review. It was assumed that the “hometown split” (Ruiz, 2000, p. 47) in which seized assets from drug arrests are allocated among arresting agencies, prosecuting district attorneys’ offices, and the judges hearing the cases affected the court dispositions. Each justice system entity would have exerted itself in cooperation with others to maximize the benefits from the asset forfeiture. Moreover, little effort would have been made by those entities to incarcerate drug arrestees or even follow the standard
legal procedure. Incarceration or keeping with the promulgated due process for drug offenses would be a drain on their finances, and no public entities would be willing to bear the financial costs. Thus, a notable number of cases of the drug arrests profiled by LSP-CPU and SMSO were expected to have been disposed of in a manner favorable to the financial stakeholders of asset forfeiture. However, this research could not confidently provide the evidence of this allegation of a suspicious economy. This was due to the lack of comparable data of other types of arrests and other jurisdictions. Nevertheless, this study attempted to furnish additional support of the findings by Ruiz (2000).

Conclusively, two directional hypotheses and one investigative hypothesis were to be examined in this research; H1: Hispanics were more likely to receive more severe sentences than were whites or blacks. H2: Non-Louisiana residents were more likely to receive more severe sentences than would a resident of Louisiana. H3: A significant number of cases ended up with a fine, or probation, and some cases even disappeared.

Data collection

The data set associated with the study of demographic profiling by the LSP-CPU and SMSO by Ruiz (2000) was utilized in the current study. As Ruiz indicated, the data were collected via a case-by-case survey of arrests conducted on I-10 in St. Martin Parish, Louisiana. Specifically, Ruiz had the privilege of being allowed to review the actual arrest reports prepared by the officers of the SMSO and the LSP-CPU. The data spans from January 1, 1988, to December 31, 1994.

More than 500 cases were included in the study. The data consisted of specifics for each drug arrest, which included the time and location of the arrest, individual status of arrestees, specifics of charges (including the amount of confiscated marijuana/cocaine)
and court dispositions. The court dispositions varied from missing records to guilty pleas, and the sentences included hard labor with varying terms, fines, and probation. This research focused on the race and states of residence of the arrestees, and court dispositions of incarceration and alternatives to incarceration. The court dispositions which seem supportive of the allegation of a suspicious economy were also focal concerns.

According to the guidelines by the Department of Health and Human Service Federal Regulations, and Penn State University's Policy RA14 ("The Use of Human Subjects in Research"), the use of data should be reviewed and approved by the Office for Research Protection (OPR) or the Institutional Review Board. After their review, the OPR ruled that current research data is not regarded as human participant research as defined by the federal regulations. The main reason for this ruling is that the dataset does not contain identifiable or private information about individuals.

**Data recording**

Since this study was utilizing secondary data, it was first necessary to shape the organization of variables in a way favorable to test the current hypotheses. For two reasons, the original dataset needed to be modified so that it could be analyzed by statistical methods. The modifications were exclusion and integration, which is popularly known to be processed through recoding. The reason of data exclusion was due to the inclusion of unnecessary data that could jeopardize the reliability of findings from the data analysis. Table 3.1 shows the final dispositions of each case.
Table 3.1: Cases by final dispositions (N=536)

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Record of Case in Clerk of Court Office</td>
<td>30</td>
</tr>
<tr>
<td>Case Number Assigned by Case Folder Missing</td>
<td>84</td>
</tr>
<tr>
<td>Case Folder Empty</td>
<td>19</td>
</tr>
<tr>
<td>Case Folder with less than three pages</td>
<td>1</td>
</tr>
<tr>
<td>Case Appeared Open, Old, and with no Disposition</td>
<td>20</td>
</tr>
<tr>
<td>Defendant Wanted on Attachment</td>
<td>71</td>
</tr>
<tr>
<td>Defendant Wanted on Bench Warrant</td>
<td>50</td>
</tr>
<tr>
<td>Guilty Plea-Not/Never Sentenced</td>
<td>27</td>
</tr>
<tr>
<td>Guilty Plea-Sentenced Deferred</td>
<td>4</td>
</tr>
<tr>
<td>Guilty Plea-Sentenced</td>
<td>124</td>
</tr>
<tr>
<td>Case Dismissed</td>
<td>18</td>
</tr>
<tr>
<td>Case Awaiting Sentencing</td>
<td>2</td>
</tr>
<tr>
<td>Case Awaiting Future Trial</td>
<td>15</td>
</tr>
<tr>
<td>Unresolved cash seizure case</td>
<td>1</td>
</tr>
<tr>
<td>Sealed by court</td>
<td>2</td>
</tr>
<tr>
<td>Missing</td>
<td>68</td>
</tr>
<tr>
<td>Total</td>
<td>536</td>
</tr>
</tbody>
</table>

Among a total of 536 cases, 68 missing cases, 18 dismissed cases, 15 cases awaiting future trial, two sealed cases, and one unresolved case with cash seizure failed to present the valid court dispositions. In other words, these 104 cases did not have any information on how they were disposed of. Nor could a final sentence be identified. These uncertain cases, therefore, were excluded, and the remaining 432 cases became
valid for this study.

The race of arrestees associated with these 432 cases is shown in Table 3.2.

<table>
<thead>
<tr>
<th>Cases</th>
<th>White</th>
<th>Black</th>
<th>Hispanic</th>
<th>Asian</th>
<th>Middle Eastern</th>
<th>Missing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases</td>
<td>191</td>
<td>63</td>
<td>167</td>
<td>5</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Percent</td>
<td>44.2</td>
<td>14.6</td>
<td>38.7</td>
<td>1.2</td>
<td>0.9</td>
<td>0.5</td>
</tr>
</tbody>
</table>

*Note. Percentages are rounded to one decimal*

Among them, Asians and Middle Easterners numbered 5 and 4 out of the total 432 arrestees, respectively. Moreover, preliminary analysis revealed that only two Asians pled guilty, while the other three Asian and three Middle Eastern cases were missing. There was one Middle Eastern case in which the defendant was released and wanted on a bench warrant since he did not appear for court. Also, there were two cases in which the arrestee’s race was not recorded. Even though cases which suspiciously vaporized as well as the cases in which defendants were sentenced were a focal concern, a small number of a particular case can cause a critical error in data analysis. It was obvious that these cases would reduce the credibility of statistical analysis and, thus, it seemed rational to exclude the 11 cases. Consequently, the final 421 cases were ready to be analyzed.

The reason for data integration was a concern that the details of variables, such as the final status of each case or varying periods of each sentence, were too specific such that analyzing them seemed not feasible. For example, as shown in Table 3.3, in the case of drug arrestees who went to court and pled guilty, 29 of them were sentenced to hard labor, while 12 of them were sentenced to hard labor with the major portion of the sentence suspended. It should be noted that, in the court of Louisiana, at the time of data collection, incarceration was titled as hard labor in verdicts.
Table 3.3: Guilty-plea cases by sentences (N=122)

<table>
<thead>
<tr>
<th>Cases</th>
<th>29</th>
<th>12</th>
<th>46</th>
<th>27</th>
<th>2</th>
<th>1</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percent</td>
<td>23.8</td>
<td>9.8</td>
<td>37.7</td>
<td>22.1</td>
<td>1.6</td>
<td>0.8</td>
<td>4.1</td>
</tr>
</tbody>
</table>

Note. Percentages are rounded to one decimal

The original dataset was specific enough to classify varying service periods of each hard labor sentence. Among 29 hard labor cases, two of them received more than six months and less than one year, while 11 of them received more than three years and less than six years. It seemed rationally acceptable to integrate the varying sentence periods within hard labor cases and consider them as hard labor cases, regardless of differing sentence periods. Each service period has such a relatively small number of cases that distinguishing them would be meaningless for the research purpose.

Despite within-variable integration among guilty-plea cases, the trifling differences among similar sentences still seemed unnecessary that all sentences had to be dichotomized into either incarceration cases or non-incarceration cases. For example, 29 cases of hard labor and 12 cases of hard labor with the major portion of the sentence suspended were basically incarceration sentences. Similarly, 46 suspended hard labor cases and other sentences seemed better to be integrated into non-incarceration sentences. Consequently, the hard labor cases and the hard labor with major portion of the sentence suspended cases were integrated and composed one category of incarceration, which is
composed of 41 cases. The other kinds of sentences were also integrated into a single
category of non-incarceration, which consists of 81 cases. Table 3.4 displays the final
organization of sentences among convicted offenders.

Table 3.4: Guilty-plea sentenced total (N=122)

<table>
<thead>
<tr>
<th></th>
<th>Cases</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Incarceration</td>
<td>41</td>
<td>33.6</td>
</tr>
<tr>
<td>Non-incarceration</td>
<td>81</td>
<td>66.4</td>
</tr>
</tbody>
</table>

Note. Percentages are rounded to one decimal

Table 3.5 shows the final dispositions of each case. Recall that some were
excluded during the modification explained in an earlier section; thus, the numbers of
cases are different from the numbers indicated in Table 3.1.

Table 3.5: Cases by final dispositions (N=421)

<table>
<thead>
<tr>
<th></th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>No Record of Case in Clerk of Court Office</td>
<td>28</td>
</tr>
<tr>
<td>Case Number Assigned but Case Folder Missing</td>
<td>82</td>
</tr>
<tr>
<td>Case Folder Empty</td>
<td>17</td>
</tr>
<tr>
<td>Case Folder with less than three pages</td>
<td>1</td>
</tr>
<tr>
<td>Case Appeared Open, Old, and with no Disposition</td>
<td>20</td>
</tr>
<tr>
<td>Defendant Wanted on Attachment</td>
<td>70</td>
</tr>
<tr>
<td>Defendant Wanted on Bench Warrant</td>
<td>48</td>
</tr>
<tr>
<td>Guilty Plea-Not/Never Sentenced</td>
<td>27</td>
</tr>
<tr>
<td>Guilty Plea-Sentenced Deferred</td>
<td>4</td>
</tr>
<tr>
<td>Guilty Plea-Sentenced</td>
<td>122</td>
</tr>
<tr>
<td>Case Awaiting Sentencing</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>421</td>
</tr>
</tbody>
</table>
Among final dispositions of the total 421 cases, 17 of them had empty folders and one had a case folder with less than three pages of documents. Unlike missing cases in Table 3.1, the final status of these cases was identifiable, and they were identified as missing in various manners. The cases whose final status was deemed as suspiciously missing, therefore, seemed better to be integrated and compose the missing cases. These missing cases can be supportive of allegation of a suspicious economy within the Louisiana justice system from 1988 to 1994 if found to occupy a significant portion of the total cases.

The cases in which drug arrestees pled guilty of their charges were to be integrated into one variable of the guilty plea. Even though the final sentences as well as final dispositions of each case differ with variety, this part of study was less concerned about the detailed final dispositions and more concerned about the differential tendencies among the cases. Given that, guilty plea cases seemed better to be one simple but eminent tendency among the cases. Moreover, the categories among the cases of final dispositions showed an obvious distinction between the guilty plea cases and the remaining cases. However, the cases awaiting sentencing were those in which defendants pled guilty or were found guilty of their charges, and the sentences were postponed. It seemed unnecessary either to exclude these cases or to distinguish cases of guilty plea from cases of found guilty. Thus, the cases awaiting sentencing were included in the one category of guilty plea.

The cases in which defendants wanted on attachment or on bench warrant were basically the same cases with different types. In both the cases, the defendants were released either through bail or cash bond, on recognizance, by district attorneys, or by
police or sheriff’s deputies with unspecified reasons. Importantly, they never came back to the court when they were supposed to. These cases did not have any final dispositions or sentences since they had not appeared at court until the moment of research. An assumption was made that if these cases occupy a significant portion of the total cases, the justice system in the corresponding jurisdiction was not dealing effectively with the drug arrestees. Table 3.6 displays how the cases by final dispositions were reorganized as mentioned above.

<table>
<thead>
<tr>
<th>Cases</th>
<th>148</th>
</tr>
</thead>
<tbody>
<tr>
<td>Case missing</td>
<td></td>
</tr>
<tr>
<td>Guilty plea</td>
<td>155</td>
</tr>
<tr>
<td>Defendant wanted</td>
<td>118</td>
</tr>
</tbody>
</table>

Meanwhile, states of residence should also be categorized into the two categories of Louisiana and other states. As long as this study was concerned about the possible disparity in sentence severity between hometown-resident cases and others, it seemed necessary to integrate non-Louisiana resident cases into one category.

In sum, the variables associated with the current study were race, state of residence, and the final sentences and dispositions. The primary purpose of this study was to examine the relationship between demographics of arrestees and the final sentences as illustrated in the established hypotheses. Also, one should recall that the other important purpose was to present any evidence that could support the allegation of a suspicious economy in the corresponding justice system.
CHAPTER FOUR
DATA ANALYSIS AND FINDINGS

Univariate analysis

Simple frequency analysis of the final dispositions of the total 421 cases generated a noteworthy result. As shown in Figure 4.1, the cases that were missing from the St. Martin Parish Court office, where all 421 cases were processed, numbered 148. One should notice that the missing cases occupied more than 35% of the total cases. Simply stated, slightly more than one out of three drug-arrest cases were missing.

Also, the cases in which defendants were released and never came back to the St. Martin Parish Court numbered 118. In other words, nearly one out of three drug arrestees did not appear in court, even though the charges were still effective.

Figure 4.1: Cases by final disposition (N=421)

Given unreasonably high proportions of missing and defendant-wanted cases, it seemed worth analyzing the reports, which indicate how the arrestees were released. As
shown in Figure 4.2, a disproportionate number of arrestees, regardless of the final dispositions or even sentences, were released with cash bonds from surety. Putting 30 unidentified cases aside, over 80% of the total arrestees were released with the help of surety bonding companies. In other words, a particular surety bonding company, or companies, was providing drug arrestees with financial guarantee for future court appearance.

Figure 4. 2: Cases by release (N=421)

Note. Percentages are rounded to one decimal; ROR: Released on recognizance by judge, RBSMSO: Released by members of SMSO, RBDA: Released by members of DA’s office, RI: Remained incarcerated

Bivariate analysis

The alleged relationship between the arrestee’s race and the severity of the sentence was one of the focal concerns in this study. The severity of the sentences among the cases in which arrestees pled guilty and were sentenced was bifurcated into incarceration and non-incarceration. The cross tabulation result of race with guilty sentence severity is shown in Table 4.1.
Table 4.1: Correlation between race and sentence severity (N=122)

<table>
<thead>
<tr>
<th>Guilty-plea &amp; Sentenced</th>
<th>Race</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>Black</td>
<td>Hispanic</td>
<td>Total</td>
</tr>
<tr>
<td>Incarceration</td>
<td>Cases</td>
<td>16</td>
<td>3</td>
<td>22</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>21.8</td>
<td>4.7</td>
<td>14.5</td>
</tr>
<tr>
<td>Non-Incarceration</td>
<td>Cases</td>
<td>49</td>
<td>11</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>43.2</td>
<td>9.3</td>
<td>28.5</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>65</td>
<td>14</td>
<td>43</td>
</tr>
</tbody>
</table>

Note. Chi-Square Sig.=0.01

Cross tabulation analysis showed statistically significant correlation between race and sentence severity. Out of 122 arrestees who pled guilty and were sentenced to either incarceration or non-incarceration, 65 were whites, 14 were blacks, and 43 were Hispanics. Among the 65 whites, 16 were actually incarcerated, while more than 21 were expected to be incarcerated. The number of white arrestees who were not incarcerated and released with probation, fine, or other options was nearly six more than were expected. On the other hand, Hispanics were significantly more likely to be incarcerated. When approximately 15 out of 43 Hispanic drug arrestees were expected to be incarcerated, 22 were actually sentenced to serve in prison for certain periods. Not surprisingly, when nearly 29 of them were expected to receive non-incarceration sentence, only 21 were sentenced as expected.

One should then wonder about the possible existence of an allegation in which Hispanics in this research period or location might have had higher rates of drug offense. If that was the case, a higher proportion of more severe sentences to Hispanics than to whites or blacks would seem reasonable. Fortunately, the dataset contained the details of
the guilty plea and sentenced cases. Specifically, 115 out of 122 arrestees were arrested for possession of marijuana with intent to distribute. Among the 115 arrestees, 62 were whites, 12 were blacks, and 41 were Hispanics. Four of the 122 arrestees, two whites, one black, and one Hispanic, were arrested for simple possession of marijuana. Given the total numbers of each race among 122 arrestees, one does not need much statistical knowledge to notice no significance between race and drug offense. In other words, at least in these cases, Hispanics had not shown a higher rate of drug offense, as seen in Table 4.2. Specifically, absolute number of the charges was the possession of Marijuana with intent to distribute, regardless of race of the convicted offenders.

Table 4.2: Drug offense by race (N=122)

<table>
<thead>
<tr>
<th>Guilty-plea &amp; Sentenced</th>
<th>Race</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>White</td>
<td>Black</td>
<td>Hispanic</td>
<td>Total</td>
</tr>
<tr>
<td>Possession of Marijuana with Intent to Distribute</td>
<td>62</td>
<td>12</td>
<td>41</td>
<td>115</td>
</tr>
<tr>
<td>Possession of Cocaine with Intent to Distribute</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Simple Possession of Marijuana</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Simple Possession of Cocaine</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>65</td>
<td>14</td>
<td>43</td>
<td>122</td>
</tr>
</tbody>
</table>

Moreover, even the details of confiscation in each case were available. One hundred twenty out of the 122 guilty plea and sentenced cases identified the amount of confiscated substance in this dataset. Cocaine was confiscated only three times, and each race had one case with a slightly different amount of confiscation. Analyzing cocaine confiscation cases, thus, would not be productive in this study.
Meanwhile, as shown in Table 4.3, marijuana was confiscated with differing amounts in 117 cases. Specifically, there were four Hispanic arrestees, and more than 90 pounds but less than 100 pounds of marijuana were confiscated from each of them. However, there were two white arrestees with similar amounts of marijuana confiscation, making a barely noteworthy difference between whites and Hispanics. There were also five Hispanic arrestees, from each of whom was confiscated more than 40 pounds and less than 50 pounds of marijuana. Only one white arrestee was in the same category, and was not incarcerated. However, this seemed not supportive enough to assert that Hispanics were more likely to use marijuana than whites do. This was because only three of these five Hispanic arrestees were incarcerated, which made very little difference between whites and Hispanics, with regard to differing sentence severity. In other word, a three difference was made between numbers of white and Hispanic arrestees who were confiscated more than 40 pounds but less than 50 pounds of marijuana, but this difference seems not important given the significant disparity shown between the two races. One should be reminded of Table 4.1 in which Hispanic arrestees were disproportionately incarcerated than were white and black arrestees. Conclusively, it seemed obvious that the amount of confiscated substance had little to do with race or racial disparity in sentences.

One may even argue that, when total numbers of more than 40 pounds and less than 400 pounds of marijuana confiscation in each race were compared, 13 out of 17 Hispanic arrestees were incarcerated, whereas three out of nine white arrestees were incarcerated. Unfortunately, there was no scholarly agreement on which a certain amount of marijuana or cocaine should be considered as a serious amount. In addition, the
frequencies of the relevant cases were too small, which was the main reason for dataset modification, that judging with them seemed not worthy. Still, among these research cases, Hispanics were no more likely to use drugs than were whites or blacks.

Table 4. 3: Marijuana confiscation by race and sentence severity (N=117)

<table>
<thead>
<tr>
<th>Marijuana Confiscation</th>
<th>Race</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>2</td>
<td>21</td>
<td>38</td>
<td></td>
</tr>
</tbody>
</table>
Another hypothesis in this study was the allegation of discriminative sentencing between Louisiana residents and non-Louisiana residents. This allegation was derived from the study of Ruiz (2000) in which LSP-CPU and SMSO were found to be more
likely to target out-of-state vehicles for drug profiling stops. A key assumption was that St. Martin Parish Court had a similar standard of drug offense profiling to LSP-CPU and SMSO, making the justice system entities collaborate with each other. The analysis between arrestees’ residence and sentence severity, thus, was expected to show distinguishable differences among states of residence. However, the result turned out to be not supportive of the hypothesis. As shown in Table 4.4, among guilty plea and sentenced arrestees, there was no significant correlation between state of residence and sentence severity.

Table 4.4: Correlation between state of residence and sentence severity (N=122)

<table>
<thead>
<tr>
<th>Guilty-plea &amp; Sentenced</th>
<th>State of residence</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LA</td>
<td>Non-LA</td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>Incarceration</td>
<td>Cases</td>
<td>5</td>
<td>36</td>
<td>41</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>5.4</td>
<td>35.6</td>
<td>41.0</td>
</tr>
<tr>
<td>Non-Incarceration</td>
<td>Cases</td>
<td>11</td>
<td>70</td>
<td>81</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>10.6</td>
<td>70.4</td>
<td>81.0</td>
</tr>
<tr>
<td>Total</td>
<td>Cases</td>
<td>16</td>
<td>106</td>
<td>122</td>
</tr>
</tbody>
</table>

*Note.* Chi-square sig. = 0.83

Some might still wonder if any differences could be found when race or sex was considered with states of residence. However, nothing surprising was found in the analysis between state of residence and sentence severity with distinction of individual sex. Table 4.5 displays the result of the analysis.
Table 4. 5: Sentence severity by state of residence and sex (N=122)

<table>
<thead>
<tr>
<th>Guilty-plea &amp; Sentenced</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Incarceration</td>
<td>Non-Incarceration</td>
<td>Total</td>
</tr>
<tr>
<td>Louisiana</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>4</td>
<td>11</td>
<td>15</td>
</tr>
<tr>
<td>Female</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Non-Louisiana</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>35</td>
<td>60</td>
<td>95</td>
</tr>
<tr>
<td>Female</td>
<td>1</td>
<td>10</td>
<td>11</td>
</tr>
</tbody>
</table>

The analysis between state of residence and sentence severity with distinction of individual race was only another example of sentencing discrimination against Hispanic arrestees. As can be noticed in Table 4.6, white drug arrestees from out of Louisiana were most likely to receive non-incarceration sentences. Simultaneously, Hispanic drug arrestees from Louisiana were most likely to be sentenced to incarceration in this research period and location.
Table 4. 6: Sentence severity by state of residence and race (N=122)

<table>
<thead>
<tr>
<th></th>
<th>Guilty-plea &amp; Sentenced</th>
<th>Sentence severity</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Incarceration</td>
<td>Non-incarceration</td>
</tr>
<tr>
<td></td>
<td>Cases</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Louisiana White</td>
<td>Expected</td>
<td>3.4</td>
<td>7.6</td>
</tr>
<tr>
<td></td>
<td>Cases</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>1.6</td>
<td>3.4</td>
</tr>
<tr>
<td></td>
<td>Cases</td>
<td>12</td>
<td>42</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>18.3</td>
<td>35.7</td>
</tr>
<tr>
<td>Non-Louisiana¹</td>
<td>Black</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>3.1</td>
<td>5.9</td>
</tr>
<tr>
<td></td>
<td>Cases</td>
<td>22</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>Expected</td>
<td>14.6</td>
<td>28.4</td>
</tr>
</tbody>
</table>

Note. Chi-Square Sig.¹=0.008

Given that there were no Hispanic arrestees who claimed Louisiana as a state of residence, further analysis seemed not feasible or necessary. Also, a disproportionately small number of drug arrestees were Louisiana residents. This impeded performing statistical analysis on the cases of Louisiana residents. Arguably, the St. Martin Parish Court was not including the arrestees’ residence in determining the severity of the sentences.
CHAPTER FIVE
SUMMARY AND CONCLUSIONS

Summary of the research

The location in this study was in St. Martin Parish jurisdiction on I-10 in Louisiana, and, thus, the court of concern was the St. Martin Parish Court. The arrests were made from 1988 to 1994, mostly by LSP-CPU and SMSO. The research group was 421 people, most of whom were arrested for drug offenses. As Ruiz (2000) found undeniable evidences of demographic profiling by LSP-CPU and SMSO on drug arrests, the same allegations would follow up to the corresponding court. The concepts that the whole justice system benefited by the drug arrests and that any incarceration would cost money and human resources were based on this researcher’s hypotheses. In this researcher’s opinion, if the arresting agencies were profiling against a certain race or residence, the corresponding court as well as district attorneys would profile in the same manner. As much as every justice system entity was a stakeholder of these drug arrests, it seemed reasonable to assume that they share similar viewpoints or standards.

Three hypotheses were derived from the base study of drug profiling by LSP-CPU and SMSO by Ruiz (2000). First, Hispanics were more likely to receive more severe sentences than were whites or blacks. Second, non-Louisiana arrestees were more likely to receive more severe sentences than would a resident of Louisiana. Third, a significant number of cases ended up with a fine, or probation, and some cases even disappeared.

During the preliminary data analysis, the variables were made clearer to be feasible for further and in-depth analyses. Sentences were integrated into two categories of incarceration and non-incarceration. Severity of the sentences, then, became the matter
of being incarcerated or not. In addition, different types of missing cases were also integrated into one category.

The results were supportive of two hypotheses with absolute degrees. Among the total 421 arrestees, 155 pled guilty, and 122 were sentenced to either incarceration or non-incarceration, such as probation or fine. Hispanic arrestees who pled guilty were 43, and over 50% of them were sentenced to incarceration. When 65 white arrestees pled guilty, less than 25% of them were sentenced to incarceration. At this point, it was deemed important to figure out the differential amounts of drug possession, if any, among races in this research group. The arrestees were found to have been racially profiled in Ruiz’s study (2000) that the demographic distribution of them was not in proportion to that of residence or drivers on the location. However, this study was examining differing sentences among those who pled guilty. Even though the arrestees were profiled by police, the ratio of races among those who were incarcerated, or not incarcerated, would have been proportionate to the demographic ratio of those who pled guilty and were sentenced, unless significant difference of charges among races existed. Additional analyses revealed that there was no correlation between race and confiscated drug amount. Thus, the ratio of white, black, and Hispanics of being incarcerated or non-incarcerated would have been in proportion to the ratio of each race of the guilty-plea and sentenced. Consequently, it seemed safe to argue that Hispanics were more likely to receive more severe sentences than were whites or blacks.

Meanwhile, a substantial portion of the total cases had disappeared. Among the total 421 cases, over 30% of the cases were missing. Further, among 122 arrestees who pled guilty at court, over 60% of them were given sentences other than incarceration.
Given that these were drug offenses and 402 out of 422 arrestees possessed marijuana or cocaine at the time of arrest, these seemed more suspicious than if they were relatively lighter offenses. One should be reminded of the statutory allocation of the proceeds from the asset forfeiture in Louisiana. When even the court was one of the beneficiaries of the drug arrests, and incarceration of a convict would cost money, these findings may have a reasonable implication.

Also suspicious was that, among 391 cases of which the final dispositions could be traced, nearly 85% of them were released with financial support from surety bonding companies. When nearly 30% of the total 421 arrestees did not come back to court at the time they were supposed to, those surety bonding companies seemed to have been excessively generous to the drug arrestees in this study.

In sum, two hypotheses were supported by the results of data analysis, while one hypothesis was not supported. Meanwhile, absolute application as well as interpretation of this study should be cautioned since this study may have some limitations.

**Implications of the study**

This study can be a new lead in the demographic profiling literature. The research on literature revealed that no study of demographic profiling by police has been developed to the assessment of the court disposition. When the profiling by police shaped into arrest that would lead the case to court, and upon the ideology of the collaboration among the justice entities, more studies should follow their cases to the final court disposition. Specifically, the alleged collaboration seems more likely to exist in a local justice system or under a system in which more than one entity benefits from the case at hand. Louisiana is unique as it has been the only state the statute of which promulgates
the allocation of the proceeds from asset forfeiture favorable to the corresponding courts. Despite the uniqueness of the location in this study, it still seems reasonable for the studies of demographic profiling by police in other states to track the cases up to the court disposition. When the findings support the allegation of collaborated demographic profiling by main justice entities, rather than by a single entity, they would cause much more agitation among the public. Frightening as it may be, the extended focus on the issue seems worthy of an attempt. It is this researcher’s belief that, when the justice entities are sharing not only the fruits of a certain enforcement but also their viewpoints on it, the researchers and scholars may be the only group who can uncover the existence of unfair justice, if any, to the public.

This study also leads to the call for further research on the same issue in Louisiana and other states. Comparison with other states may reveal that this alleged total corruption in the justice system is unique to Louisiana as is the statutory allocation of the proceeds from asset forfeiture. If this is the case, one policy implication of this study would be thorough assessment of the asset forfeiture laws. They are the primary basis which led this researcher to assume that police and court would have a similar type of profiling and a significant proportion of the cases would have gone missing. One should be reminded that the case at hand is not a misdemeanor case but a drug crime. If the further examinations of the issue provide critical guarantee for statutory review, the next task would be to generate the best statutory procedure for Louisiana.

**Limitations of the study**

Although the data analyses showed seemingly eminent results, the limitations should be discussed. First of all, even though analysis of drug arrests from initial arrests
to the final court dispositions seem unprecedented, this study required scholarly agreement in conceptualization of focal concerns. Similar sentences were integrated into either incarceration or non-incarceration. This researcher, then, assumed that incarceration was a more severe sentence for these drug arrestees. One may argue that, in certain circumstances, being locked up in a prison for a certain period could be favored by these arrestees, rather than putting up with annoying supervision for a long period. It is generally known that the charge has not been the only one official condition which makes the final sentence. Some of the mitigating circumstances could be proposed or even concealed by the arrestees. If this was the case, a Hispanic arrestee could intentionally plea guilty and could make the judge sentence him or her to incarceration. In other words, he or she could manipulate possible mitigating circumstances in order to receive an incarceration sentence, rather than a longer period of probation sentence. Consequently, more in-depth research seems necessary with regard to classification of sentence severity among drug cases.

Similarly, this research assumed that confiscated amount of drugs is the only standard which affects the severity of sentences. This assumption led to the comparison of the differential amount of confiscated substances among races. The result showed no significant differences in confiscated amount of substances among races. This researcher, then, assumed that there should be no differences in sentence severity among races unless the arrestees were racially discriminated. However, as noted above, there might have been additional circumstances or conditions which affected differential sentences among races or arrestees. In other words, there could be other conditions than race which might have generated a disproportionate rate of incarceration sentences on Hispanic arrestees.
Additional and in-depth investigations on this research group or other scholarly research seem warranted to ascertain the reliability of the interpretation.

Second is the issue of generalization. To confidently argue the disparity among races or to locate any evidence of residential discrimination by the court system in St. Martin Parish, additional studies with other kinds of arrests seem necessary. A drug arrest is unique since the distribution of forfeiture proceeds from drug arrests affected the court budgets in Louisiana. Thus, the hypothesis in which allegation of a suspicious economy within the justice system was proposed would not possibly be tested with other kinds of arrests. However, racial or residential discrimination in the final sentences could be dismissed or found in other kinds of criminal cases. When similar patterns of racial or residential disparity in the final sentences are found to have been in other kinds of criminal cases, generalization of the allegation would be more acceptable.

The other problem of generalization would be that this study seems too small in its data size to be interpreted at the state level. Even if the results are as they seem, St. Martin Parish is only one of 64 parishes in Louisiana, and these results should not be generalized to the entire state. It is this researcher’s suggestion that comprehensive research on several or more parishes should be undertaken to obtain more confidence in the arguments in this study.
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