

# Missouri Sentencing and Race: A Closer Look from 2007-2015

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## Introduction

On August 9, 2014, the rest of the United States and the world would come to know the city of Ferguson, Missouri. On that day, a white police officer, Darren Wilson, shot and killed Michael Brown, a young African-American teen.<sup>1</sup> Rioting and protests in Ferguson soon followed. Public outrage at the killing of an unarmed African-American teen by a white police officer reached a boiling point.

In an effort to regain control in the streets of Ferguson, law enforcement officers appeared as well as members of the Missouri State Highway Patrol. Law enforcement officers came under scrutiny for what appeared to be a military response.<sup>2</sup> While civil rights leaders and activists called for the arrest and prosecution of Officer Wilson, the Department of Justice conducted an investigation concerning the practices of the city of Ferguson Police Department.<sup>3</sup> In addition, the St. Louis County Office of the

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<sup>1</sup> Kim Bell and Robert Patrick, "Ferguson officer appears before grand jury on shooting of Michael Brown," *St. Louis Post Dispatch*, September 17, 2014, accessed August 14, 2016, [http://www.stltoday.com/news/local/crime-and-courts/ferguson-officer-appears-before-grand-jury-on-shooting-of-michael/article\\_74022ab8-756f-5e1d-81b3-3c577f1e9208.html](http://www.stltoday.com/news/local/crime-and-courts/ferguson-officer-appears-before-grand-jury-on-shooting-of-michael/article_74022ab8-756f-5e1d-81b3-3c577f1e9208.html).

<sup>2</sup> Robert Patrick, "Ferguson police began seeking military assault rifles days before Michael Brown shooting," *St. Louis Post Dispatch*, September 9, 2014, accessed August 21, 2016, [http://www.stltoday.com/news/local/metro/ferguson-police-began-seeking-military-assault-rifles-days-before-michael/article\\_b5fc691b-71b9-5457-ba67-062304f2be43.html](http://www.stltoday.com/news/local/metro/ferguson-police-began-seeking-military-assault-rifles-days-before-michael/article_b5fc691b-71b9-5457-ba67-062304f2be43.html).

Prosecuting Attorney presented evidence to a grand jury concerning the shooting.<sup>4</sup> The grand jury did not indict Officer Wilson.<sup>5</sup>

The focus has not only turned on the events surrounding Michael Brown's death, but has also put the fairness of our nation's criminal justice system under the microscope. In that vein, some of the problems concerning municipal court systems in the St. Louis area have been chronicled by the ArchCity Defenders, an organization providing legal services to those in need.<sup>6</sup>

In the wake of the Michael Brown shooting death, some have questioned whether or not the criminal justice system in the state of Missouri will reflect any changes as well. To that end, this paper will examine the issue of sentencing disparity and discrimination based upon race and explore the potential impact of the scrutiny brought on the criminal justice system in light of the shooting death of Michael Brown in Ferguson.

## Missouri Sentencing Law

Article I, Section 2, of the Bill of Rights to the Missouri Constitution provides, in part, that "all persons are created equal and are entitled to equal rights and opportunity under the law." When the state

<sup>3</sup> Chuck Raasch, "Justice Department to announce probe of Ferguson police department," *St. Louis Post Dispatch*, September 4, 2014, accessed August 22, 2016, [http://www.stltoday.com/news/national/justice-department-to-announce-probe-of-ferguson-police-department/article\\_4c75924f-cfe3-5978-b593-34069dc2f4f7.html](http://www.stltoday.com/news/national/justice-department-to-announce-probe-of-ferguson-police-department/article_4c75924f-cfe3-5978-b593-34069dc2f4f7.html).

<sup>4</sup> Bell and Patrick, "Ferguson officer appears before grand jury."

<sup>5</sup> Monica Davey and Julie Bosman, "Protests flare after Ferguson police officer not indicted," *New York Times*, November 24, 2014, accessed August 22, 2016, [http://www.nytimes.com/2014/11/25/us/ferguson-darren-wilson-shooting-michael-brown-grand-jury.html?\\_r=0](http://www.nytimes.com/2014/11/25/us/ferguson-darren-wilson-shooting-michael-brown-grand-jury.html?_r=0).

<sup>6</sup> Thomas Harvey, John McAnnar, Michael-John Voss, Megan Conn, Sean Janda, and Sophia Keskey. *ArchCity Defenders: Municipal courts white paper* (2014). Accessed August 25, 2016, <http://03a5010.netsolhost.com/WordPress/wp-content/uploads/2014/08/ArchCity-Defenders-Municipal-Courts-Whitepaper.pdf>.

fails to ensure such treatment, it “fails in its chief design.”<sup>7</sup> Accordingly, both African-Americans and Caucasians are to be treated equally under the law and without regard to race. To that end, disparate treatment based on race would be illegal. Besides treating defendants equally under the law and without regard to race, Missouri judges, in imposing a sentence upon a defendant, are instructed to consider all of the circumstances, including those related to the offense, as well as those related to the history and character of the offender.<sup>8</sup> Such factors would naturally include an offender’s previous criminal history and the facts and circumstances surrounding the offense. As such, one would expect to see uniformity in sentences between African-Americans and Caucasians. If sentences were not uniform, one would expect the recent scrutiny of the criminal justice system in Missouri to impact sentences imposed on defendants.

### Studies of Sentencing Disparity

One of the major difficulties in comparing racial disparity studies is the lack of consensus of what actually constitutes “disparity.”<sup>9</sup> Accordingly, it is important to define disparity and discrimination as they relate to sentencing for purposes of this study. Disparity in sentencing exists when defendants with similar cases receive different sentences. Discrimination in sentencing, however, exists when a defendant receives a sentence which is based, in whole or in part, upon an illegal consideration, such as race, gender or economic status.<sup>10</sup> Under Missouri law, a sentence imposed by a judge is illegal if based upon race.<sup>11</sup> Despite the difficulty in comparing racial disparity studies, the Missouri Sentencing Advisory Commission’s findings are consistent with previous studies relative to sentencing disparity based upon race.

In the United States, disparity in sentencing has been the subject of many studies over many years. Going back as far as 1928, sociologist Thorsten Sellin found

that African-Americans were more likely to receive a sentence of death for committing a homicide than whites. Sellin found that this disparity was a result of discrimination against African-Americans.<sup>12</sup> Many of these early studies, however, received much criticism, including that they were overly simplistic to assume that disparity in sentences between African-American offenders and Caucasian offenders was due to outright racism.<sup>13</sup>

In the mid-1980s, Marjorie S. Zatz studied sentencing disparity. She found that sentencing disparity studies could be grouped in four time periods or waves. The first wave consisted of studies conducted from the 1930s through the mid-1960s. Wave I studies typically found overt discrimination against minority defendants.<sup>14</sup>

Wave I studies suffered from a number of shortcomings that were exposed in the Wave II studies, which were conducted in the late 1960s and 1970s. Using better research designs, those studies found that the increased incarceration rates of minorities were due in part because of a minority group’s greater likelihood to have been convicted of previous criminal offenses, and not direct discrimination. Zatz examined what she called the third wave of research, which was conducted in the 1970s and 1980s, and examined data gathered in the late 1960s-1970s. Wave III studies, depending upon the context, found evidence of both direct and indirect forms of discrimination against minority defendants.

Lastly, Zatz reviewed studies that were conducted in the 1980s from data collected in the 1970s-1980s, which she called Wave IV studies. These studies differed from the other studies because determinate sentencing had risen in popularity during this time period. Determinate sentencing provided for presumptive sentences and set guidelines on how judges were to exercise discretion in sentencing. Determinate sentencing set forth prescriptive sentences for each crime. This led to the prosecution having a greater influence on a defendant’s sentence

<sup>7</sup> Missouri Constitution, Art. I, Section 2.

<sup>8</sup> Section 557.036.1, RSMo (Missouri Revised Statutes).

<sup>9</sup> Sue Titus Reid, *Crime and Criminology* (New York: Oxford University Press, 2009).

<sup>10</sup> Cassia Spohn, “Thirty years of sentencing reform: The quest for a racially neutral sentencing process,” *Criminal Justice* 2000 3 (July 2000).

<sup>11</sup> Missouri Constitution, Art. I, Section 2.

<sup>12</sup> Douglas C. McDonald and Kenneth E. Carlson. *Sentencing in the federal courts: Does race matter?* (1993). Accessed August 30, 2016, <https://www.ncjrs.gov/pdffiles1/Digitization/145328NCJRS.pdf>.

<sup>13</sup> Spohn, “Thirty years of sentencing reform.”

<sup>14</sup> Marjorie S. Zatz, “The changing forms of racial/ethnic biases in sentencing,” *Journal of Research in Crime and Delinquency* 24, no. 1 (February 1987): 69-92.

in that the prosecution controlled the charges that were brought. These studies revealed that indirect forms of discrimination at sentencing exist against minority defendants.<sup>15</sup>

Other research corroborated Zatz's findings concerning indirect discrimination. For example, Cassia Spohn, John Gruhl, and Susan Welch found in their review of roughly 50,000 felony criminal cases decided in 1968 through 1979, in a large city in the northeast portion of the United States, that direct discrimination did not account for African-American defendants receiving a harsher sentence than whites. The difference, however, was explained as relating to socioeconomic conditions. In the study, Spohn, et al., found that African-Americans received harsher sentences because they were more likely unable to afford a private attorney or be released pending disposition, both of which are associated with more severe sentences.<sup>16</sup>

John Kramer and Jeffery Ulmer studied requests for downward departures under the United States Sentencing Guidelines. They found disparities in the way discretion was exercised in granting the departures based upon race. They concluded that the disparate treatment was due to the sentencing court's reliance upon legal factors, such as prior convictions and the nature and circumstances of the offense.<sup>17</sup>

Other research contradicts the contention that sentencing disparity is due to the consideration of legal factors. For instance, one study of sentencing under the Pennsylvania Sentencing Guidelines examined the impact extralegal factors, such as race, had on the sentence imposed. Three years of sentencing data, 1996-1998, from the state of Pennsylvania was examined. Brian Johnson found that African-Americans and Hispanics had a lower probability of receiving a downward departure from the guidelines and a higher probability of receiving an upward departure from the guidelines than compared to white defendants.<sup>18</sup>

## Filling The Gap

Information obtained from the Missouri Sentencing Advisory Commission concerning sentencing practices for the years of 2007-20015 was examined. This information included sentencing data from both before and after Michael Brown's death. Going forward, there will be ample opportunity to replicate this study in a longitudinal fashion for not only African-Americans and Caucasians, but also Hispanics, as the commission provides data on those groups as well.

## Methodology

### Experiment vs. Quasi-experiment

The goal in many criminal justice research efforts is to determine the relationship between variables, and in particular, causality. Many contend that an experiment is the best way to determine a causal relationship between variables. The essential distinguishing characteristic of an experiment is the ability of the researcher to assign subjects to treatment and control groups randomly.<sup>19</sup>

In studying crime, it is usually not easy for a researcher to randomly assign subjects to a treatment or control group. Most often, researchers use quasi-experimental designs in their studies. Quasi-experiments are different from true experiments in that the researchers are unable to randomly assign subjects to treatment or control groups. In addition, in quasi-experiments, researchers sometimes may not even have a control group. That being said, quasi-experiments are well suited for the study of crime because the researcher is often unable to design a true experiment.<sup>20</sup>

Despite some of their limitations, quasi-experiments are much easier to use in a natural setting, such as studying the impact of the recent events in Ferguson on sentencing disparity in Missouri. This study used a quasi-experimental design, as it is well suited to take

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<sup>15</sup> Ibid.

<sup>16</sup> Cassia Spohn, John Gruhl, and Susan Welch, "Effect of race on sentencing: A re-examination of an unsettled question," *Law and Society Review* 16, no. 1 (1981): 71-88.

<sup>17</sup> John Kramer and Jeffery Ulmer, "Sentencing disparity and departures from guidelines," *Justice Quarterly* 13, no. 1 (1996): 81-106.

<sup>18</sup> Brian Johnson, "Racial and ethnic disparities in sentencing departures across modes of conviction," *Criminology*, 41, no. 2 (May 2003): 449-490.

<sup>19</sup> Richard D. Hartley, *Snapshots of research: Readings in criminology and criminal justice* (Thousand Oaks, CA: Sage, 2011).

<sup>20</sup> Ibid.

advantage of the natural setting—the resulting scrutiny and unrest from the Michael Brown shooting in Ferguson—to examine its influence on sentencing disparity in Missouri. Further, an experimental design cannot be used because random assignment of the Missouri judges is not possible. In addition, in conducting this study, it was impossible to use a control group. As such, the quasi-experimental design was used.

This study attempted to employ a single-group interrupted time-series design which consists of taking a number of measurements of a single group before and after a treatment.<sup>21</sup> In other words, this design involved making a number of observations of the dependent variable and then, after the independent variable is introduced, making another series of observations of the dependent variable. If the second series of observations reveals a significant change, then one can say that the independent variable affected the dependent variable.<sup>22</sup>

## Variables

In this study, the dependent variable was the sentence length and whether the offender was incarcerated or not. Independent variables accounted for the offender's race (African-American or Caucasian) and the timeframe. The crime itself is a confounding variable in that it can be interpreted as correlating with both the dependent and independent variables. Information on these variables was collected for African-American and Caucasian felony offenders in Missouri from the available Missouri Sentencing Advisory Commission's reports for the years of 2007-2015.

The time-series design looked like the following graph:

<u>Group</u>	<u>Time →</u>
Missouri Judges	SL   SL  SL  SL  Ferguson   SL

Key: SL = sentence length

## Hypothesis

Based upon a review of previous studies and the findings of the Missouri Sentencing Advisory Committee, it was anticipated that the baseline data would reveal indirect discrimination based upon the factors described above. It was expected that sentences would show less and less disparity based upon race as the Michael Brown shooting in Ferguson has brought to the public eye the collective impact of racial disparity and has also brought scrutiny of the actual processes and decisions of the criminal justice system in the United States. It was expected that the desire to change the system and the unusual amount of scrutiny of the justice system by the public would provide Missouri judges an opportunity for more reasoned thought when imposing sentence.

## Missouri Sentencing

The above parameters would suggest that an examination of sentences imposed in Missouri would reveal that they are similar for both African-Americans and Caucasians. Similar sentences and rates of incarceration do not, however, appear to be the case. Section 558.019, RSMo., created the Missouri Sentencing Advisory Commission. The commission was created to study sentencing practices in Missouri and to study disparities in sentencing throughout the state.<sup>23</sup>

According to its biennial report 2007, the Missouri Sentencing Advisory Commission found that the incarceration rate for African-Americans is more than five times that of whites. Based upon the data from the 2007 fiscal year, the average prison sentence in Missouri for African-Americans is 7.2 years while the average for whites is 5.6 years. The commission examined whether this disparity could be explained by the type of offense committed. In its examination, the commission found that there is essentially no difference in the average sentence imposed for DWI offenses, and that the difference becomes much smaller when examined by the type of offense and grade of felony. For example, the commission found that the average prison sentence for a violent Class A felony is 17.4 years for African-Americans and

<sup>21</sup> John W. Creswell, *Research design: Qualitative, quantitative, and mixed methods approaches* (Thousand Oaks, CA: Sage, 2009).

<sup>22</sup> Paul D. Leedy and Jeanne Ellis Ormrod, *Practical research: Planning and design* (Upper Saddle River, NJ: Pearson, 2010).

<sup>23</sup> Section 558.019, RSMo.

17.7 years for whites. Likewise, for unclassified sex offenses the average prison sentence for African-Americans is 13.6 years, while it is 14.8 years for whites. In addition, whites are more likely to receive a probationary sentence for a Class C violent offense than African-Americans.<sup>24</sup>

The commission also examined the impact of prior criminal history. It found that African-Americans comprised the highest percentage of offenders with prior felony convictions. When the commission examined each level of prior criminal history, it found that African-Americans received a sentence that is longer than whites, as well as having a larger percentage sentenced to prison. Next, the commission examined the amount of time served by race. It found that African-Americans served an average of 44.4 months, while whites served an average 28.9 months. This finding was due in part because African-Americans tended to receive longer sentences. To examine the disparity issue further, the commission conducted a regression analysis. It concluded that race does not play a significant factor in sentencing. It attributed the disparity to prior criminal history.<sup>25</sup>

According to its biennial report 2009, the Missouri Sentencing Advisory Commission found that African-Americans are incarcerated at a rate of 5.5 times that of other races. Likewise, based upon data gathered from the fiscal year 2009, African-Americans receive an average prison sentence of 7.9 years while whites received an average sentence of 5.9 years. The commission attempted to examine whether or not this disparity could be explained by different offences committed by race. It found that there is little disparity based upon race for DWI offences, and that the disparities are reduced when examined by offence type and offence level, and sometimes they are even reversed. For example, for violent Class A felonies, whites received an average sentence of 19.2 years while African-Americans received an average sentence of 16.4 years. For unclassified sex offences, African-Americans received an average sentence of 16.3 years, while whites received an average sentence of 15.4 years.

For Class C violent offences, African-Americans were less likely to receive a sentence of probation than whites.<sup>26</sup>

The commission also examined prior criminal history. It found that African-Americans make up the largest percentage of offenders with prior felony convictions. Likewise, for each criminal history level, African-Americans received a longer average sentence as well as a higher average of offenders receiving a prison sentence. The commission also looked at the amount of time served by race. It found that African-Americans served an average of 48.9 months as opposed to 31.4 months served by whites. This disparity, it found, was based in part because African-Americans received longer sentences. It concluded that a longer time served by African-Americans was due to other factors, including among them criminal history.<sup>27</sup>

According to its 2012 annual report on sentencing, the commission reviewed the incarceration rates of African-Americans and whites. It found that African-Americans are incarcerated at a rate of 4.7 times that of whites in Missouri. In attempting to explain the disparity in incarceration rates, the commission looked at the impacts of the offense of conviction, prior criminal history, and the amount of time served.<sup>28</sup>

In Missouri, African-Americans have an average sentence of 7.2 years imprisonment, while whites have an average sentence of 5.5 years imprisonment. The commission explains that sentence disparity may be due, in part, based upon difference in offenses committed by the respective races. In examining the disparities in sentence length and incarceration rates, the commission looked at sentences by race for various defenses. The commission found that African-Americans receive longer sentences and/or are sentenced to prison more often than whites for drug offenses (6.5 years/5.3 years) and lower-level felony offenses. With respect to violent felonies and certain non-violent offenses, and sexual offenses, the commission found that there was no significant

<sup>24</sup> Missouri Sentencing Advisory Commission. (2015). Annual report on sentencing: 2007.

<sup>25</sup> Ibid.

<sup>26</sup> Missouri Sentencing Advisory Commission. (2015). Annual report on sentencing: 2009.

<sup>27</sup> Ibid.

<sup>28</sup> Missouri Sentencing Advisory Commission. (2015). Annual report on sentencing: 2013.

difference in sentence length or incarceration rates between African-Americans and whites.<sup>29</sup>

The commission also examined previous criminal history as a possible explanation. In examining criminal history, the commission found that African-Americans are least likely to have no prior felony convictions and most likely to have more significant criminal histories than whites. Based upon criminal history, the commission found that no significant disparity existed.<sup>30</sup>

When the offense and prior criminal history are examined together, the commission found that African-Americans with no prior convictions are more likely to be sentenced to prison for a violent offense than whites. With respect to drug and other non-violent offenses, the commission found no significant disparities in sentencing.<sup>31</sup>

In exploring sentencing disparity issues further, the commission also found the amount of time served while imprisoned varied for African-Americans and whites as well. The commission found that in 2012, African-Americans served approximately 55 percent of their sentence as opposed to 46.8 percent of the sentence served by white offenders.

After examining the issue of sentencing disparity based upon race, the Missouri Sentencing Advisory Commission concluded that its analysis did not fully explain the disparity in incarceration rates of African-Americans as compared to whites. The commission did, however, find that the longer sentences imposed for African-Americans were due to more significant criminal history and being sentenced for more serious crimes.<sup>32</sup>

According to its 2014 Annual Report on Sentencing and Sentencing Disparity, the Missouri Sentencing Advisory Commission found that the incarceration rate for African-Americans was 4.4 times greater than that of Caucasians. According to sentencing data collected for the fiscal year 2014, the commission also found that African-Americans received an average prison sentence of 7.5 years as opposed to 5.6 years for Caucasians. In addition, the commission also

found that African-Americans are more likely to receive a sentence of incarceration than Caucasians.<sup>33</sup>

In examining disparity, the commission reviewed the impact of the severity of the offense. It found that there are no significant differences for non-violent offenses—African-Americans tend to receive a higher prison sentence, while Caucasians tend to have a higher incarceration rate. With respect to violent offenses, African-Americans receive longer prison sentences for B and C felonies, and are more likely to receive a prison sentence for A, B and C felony offenses. Likewise, for drug offenses African-Americans are more likely to be sentenced to prison than Caucasians for Class A and B felony offenses. Caucasians, however, are more likely to receive a prison sentence for Class C drug offenses. Data for sex and child abuse offenses suggests that there is no real difference between African-Americans and Caucasians.<sup>34</sup>

With respect to prior criminal history, data collected from the fiscal year 2014 reveals essentially no difference between that of African-Americans and Caucasians. African-Americans, however, received longer sentences and were more likely to be incarcerated when compared to Caucasians with the same criminal history level. While finding that there was no racial bias with respect to the decisions of the Board of Probation and Parole, the Missouri Sentencing Advisory Commission found that African-Americans serve a significantly larger percentage of their sentence than Caucasians. The commission found that while African-American offenders tend to serve harsher sentences than Caucasians, this result is not due to racial bias, but rather is a result of external factors and not race.<sup>35</sup>

According to its annual report on sentencing and sentencing disparity for the fiscal year 2015, the Missouri Sentencing Advisory Commission found that the incarceration rate of African-Americans is four times greater than that of Caucasians. According to its report, African-American offenders received an average prison sentence of 7.7 years as opposed to an average prison sentence of 5.8 years for Caucasians.

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<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> Missouri Sentencing Advisory Commission. (2015). Annual report on sentencing: 2014.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

Likewise, African-American offenders had a higher percentage of prison sentences than Caucasians.<sup>36</sup>

In attempting to examine this disparity, the commission looked at the severity of the offense. For non-violent offenses, the commission found that sentences for African-Americans and Caucasians were essentially the same, and that Caucasian offenders had a higher percentage of incarceration than African-Americans. With respect to DWI offenses, there was essentially no difference. For drug offenses, African-Americans received an average sentence that was one year greater than that of Caucasians, while the percent of prison sentences was essentially the same.<sup>37</sup>

The commission next looked at prior criminal history. It found that African-American and Caucasian offenders have similar percentages of previous criminal history. Despite the similar criminal history percentages, the commission found that African-American offenders had longer average prison sentences. The commission also looked at the impact of prior criminal history and the offense in examining sentencing disparity. When examining sentencing data for the fiscal years 2013-2015, the commission found that Caucasian offenders received a greater percentage of prison sentences and usually served a longer sentence than African-American offenders. With respect to the amount of time served on a prison sentence, the commission found that African-American offenders served more prison time than Caucasian offenders as well as serving a larger percentage of their sentence than Caucasian offenders. The commission found that this was not the result of racial bias on the part of the Missouri Board of Probation and Parole, but rather because African-American offenders tended to receive longer sentences and was based upon external factors.<sup>38</sup>

## Limitations

No study is without limitations. This study is not an exception. The single most important limitation to a study of this type is that some other event, unknown to the study, would impact the data and the impact would wrongly be attributed to the independent

variables.<sup>39</sup> Here, the danger is that some factor or influence, other than the Ferguson event, may impact the sentences imposed, and the authors may wrongly attribute the influence to the Ferguson event. Likewise, many factors go into a judge's sentencing that the study is unable to recognize. For example, an offender's demeanor may have an impact on the sentence imposed. In the future, a more longitudinal review will help identify and frame decision-making trends.

During the timing of this quasi-experiment, threats to validity also include both history and experimental mortality. History may call into question the results of the study, in that there is the possibility of further unrest and actions relative to the Ferguson incident or spawning from it that may occur in the post-event testing period that could impact the length of sentences. In addition, experimental mortality may present its own unique problems as well. For example, this study examines sentences imposed by judges throughout the entire state of Missouri. It can safely be assumed that there were significant changes in sitting judges during the time period of this study. Some judges, for instance, may not be re-elected and therefore will drop out and will be replaced by new judges. Further, some judges may retire or leave the bench for personal or health reasons. This threat impacts the validity of the study because the judges and the sentences that are studied will in all likelihood not remain constant throughout the time of the study.

In addition, maturation may call into question the validity of the study. Here, the study will be examining sentences imposed by Missouri judges. As the study is designed to examine these sentences over a significant period of time, it is not unreasonable to conclude that the judges, as human beings, may change. For example, viewpoints or opinions may change as a judge matures. Such changes may impact the sentences they impose and the changes in those sentences may be wrongfully attributed to Ferguson.

Despite efforts to reduce threats to validity, the findings of this study must be considered as a whole and all of the possible shortcomings must be factored

<sup>36</sup> Missouri Sentencing Advisory Commission. (2015). Annual report on sentencing: 2015.

<sup>37</sup> Ibid.

<sup>38</sup> Ibid.

<sup>39</sup> Leedy and Ormrod, *Practical research*.

into interpreting its findings.

### Conclusion

In conclusion, this study attempted to examine sentencing disparity in Missouri for African-American and Caucasian felony offenders in light of perceived inequities in the criminal justice system brought to light in the wake of Officer Darren Wilson’s shooting and killing of Michael Brown in Ferguson, Missouri. A review of the 2007-2015 Missouri Sentencing Advisory Commission’s Annual Reports of Sentencing and Sentencing Disparity showed consistently that African-Americans received longer sentences and served longer periods of incarceration of those sentences compared to

Caucasian counterparts. The chart found at the bottom of this page, created from the data provided by the 2007-2015 MSAC’s annual reports, summarizes the degree of difference.

Further, these reports found that these disparities are the result of external factors, such as criminal history, age, substance abuse, and type and severity of the crime, not racial bias. It was expected that sentences would show decreased disparity based upon race, as the Michael Brown shooting in Ferguson brought national attention to the criminal justice system in Missouri. However, a review of the 2007-2015 MSAC’s reports shows that there was no significant difference in sentencing African-Americans or Caucasians prior to or after the shooting involving Michael Brown.

MO Sentencing Advisory	2007		2009		2012		2014		2015	
Comission Report	Average Prison Timen(yrs)		Average Prison Time (yrs)		Average Prison Time (yrs)		Average Prison Time (yrs)		Average Prison Time (yrs)	
Crime comitted	AA	C	AA	C	AA	C	AA	C	AA	C
All Offenses	7.2	5.6	7.9	5.9	7.2	5.5	7.5	5.6	7.7	5.8
Drug Offenses	6.3	5.2	6.6	5.3	6.5	5.3	6.3	5.6	6.4	5.5
Non-Violent Offenses	4.6	4.3	4.8	4.5	4.2	4.2	4.3	4.1	4.1	4.2
Sex Offenses (Felony)										
Class A	18.7	22	21	15.2	21.3	18.3	16.3	15.4	19.3	17.3
Class B	8.7	9.2	8.4	8.2	8.4	8.9	8.4	9.3	8.8	9.8
Class C	5.8	5.4	5.6	5.6	5.2	5.2	5.4	5.5	5.1	5.4
Class D	3.2	3.6	3.3	3.2	3	3.8	3.7	3	2	3.5
Unclassified	13.6	14.8	16.3	15.4	16.7	16	included in A	included in A	included in A	included in A
Violent Offenses (Felony)										
Class A	17.4	17.7	16.4	19.2	17.4	19.5	17.2	20.3	16.6	19.3
Class B	8.8	8.6	8.7	8.9	8.2	8.8	9.1	8.8	8.5	8.4
Class C	5.1	4.9	5.6	5	4.9	4.9	5.2	4.8	5.2	5.1
Class D	3.6	2.8	3.6	3.6	2.7	3.1	2.9	3.1	3.4	3.1
Unclassified	0	0	0	0	3	0	0	0	0	0