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To cite this article: Danielle M. Romain Dagenhardt, Amanda J. Heideman & Tina L. Freiburger (2021): An examination of the direct and interactive effects of race/ethnicity and gender on charge reduction, Journal of Crime and Justice, DOI: [10.1080/0735648X.2021.1936123](https://doi.org/10.1080/0735648X.2021.1936123)

To link to this article: <https://doi.org/10.1080/0735648X.2021.1936123>



Published online: 29 Jun 2021.



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An examination of the direct and interactive effects of race/ethnicity and gender on charge reduction

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ABSTRACT

Much of the prior literature on criminal court case processing has focused on judicial decisions regarding bail and sentencing. Fewer studies have examined prosecutorial decision-making, particularly charge reduction. Framed within the focal concerns perspective, this paper examined racial and gender disparity in charge reduction and whether disparity existed across different types of charge reduction. Findings demonstrated partial support for the focal concerns perspective with men and minority defendants less likely to receive a severity reduction. Implications for plea negotiation policies are discussed.

ARTICLE HISTORY

Received 1 October 2020
Accepted 24 May 2021

KEYWORDS

Charge reduction; focal concerns; prosecutorial; racial disparity

Introduction

Prosecutors have vast discretion in the court process. Beyond the initial charging decision, prosecutors determine whether and how much to negotiate during plea bargaining (Bibas 2004; Miethe 1987; Shermer and Johnson 2010). They have the ability to leverage multiple counts, serious charges, and penalty enhancers when negotiating with defense attorneys toward securing a guilty plea. These prosecutorial decisions can also have a major impact on defendants' final sentences, whether by reducing judicial discretion or circumventing mandatory minimums (Johnson, Ulmer, and Kramer 2008; Shermer et al. 2010). Further, charge reduction may have lasting implications for defendants facing potentially long sentences with multiple counts or serious charges (Ball 2006; Fellner 2014; Miethe 1987). In sentencing guideline states, judges may be curtailed in their discretion by penalty enhancers that prescribe mandatory minimums (Ulmer, Kurlychek, and Kramer 2007; Johnson, Ulmer, and Kramer 2008; Logue 2011). This enhances prosecutors' power, as adding or circumventing penalty enhancers can be bargaining chips to induce a guilty plea. Because charge reduction decisions typically occur with little oversight and have implications for sentencing, it is important to investigate the decisions that occur between initial charge filing and sentencing (LaFave 1970; Shermer et al. 2010).

While there has been extensive research on sentencing decisions (e.g., Ulmer, Eisenstein, and Johnson 2010; Johnson and Kurlychek 2012; Kim et al. 2015; Holleran and Spohn 2004), only examining decisions at the end of the criminal court process may mask disparity that has occurred earlier or throughout the criminal court process (Baumer 2013; Brennan 2006; Kutateladze et al. 2014). Focusing attention on these earlier stages of criminal case processing (e.g., charge reduction) can provide a fuller picture of where gender and racial/ethnic disparities exist in court decisions (Baumer 2013; Ulmer 2012). Prosecutors may engage in overcharging minority males, which could be used as leverage to induce guilty pleas for reduced charges. Prosecutors,

concerned about ability to do time among ‘hardened criminals,’ may more readily offer White offenders reduced charges (Cano and Spohn 2012; Steffensmeier, Ulmer, and Kramer 1998) or noncustodial pleas (Kutateladze et al. 2014). Given that severity of charges is one of the key factors utilized in determining community release or incarceration (Ulmer 1997), the extent to which disparity exists at both charging and plea negotiation stages has an impact on sentencing. In fact, recent research has shown that Black defendants experience cumulative disadvantage through being less likely to have their case dismissed, more likely to receive a custodial plea offer, and charge reductions that translate into harsher sentences (Johnson and Larroulet 2019; Kutateladze et al. 2014; Kutateladze, Andiloro, and Johnson 2016; Metcalfe and Chiricos 2018; Stemen and Escobar 2018; Testa and Johnson 2020).

This article utilizes the focal concerns perspective to examine whether gender and racial disparity exists across different measures of charge reduction. Data from a population of cases fully prosecuted in an urban, Midwestern county in 2009 are utilized to test whether race/ethnicity, gender, and the joint effects of gender and race impact charge reduction. Further, this study adds to the empirical literature by examining three forms of charge reduction – severity and count reduction, and violent charge amendment, two of which have had limited examination in previous research (e.g., Ball 2006; Caravelis, Chiricos, and Bales 2013; Farnworth and Teske 1995; Miethe 1987).

A broader examination of different types of charge reduction expands our understanding of racial and gender disparities and how they manifest. This is important because these disparities have far-reaching implications in who is labelled as a felon, or as a violent offender, which in turn affects defendants’ access to public assistance and employment and housing opportunities (Decker et al. 2015; Geller and Curtis 2011). Further, disparity may reflect raced and gendered assumptions of who is considered dangerous, blameworthy, and in need of confinement, thus perpetuating disparate incarceration of minority men (Steffensmeier, Ulmer, and Kramer 1998).

Literature review

Prosecutors who are faced with uncertainty over convictions have the discretion to offer various incentives to induce a guilty plea, thus securing a conviction for a case that may otherwise be ‘troublesome’ and not a ‘slam dunk.’ Among these options are case dismissals, charge reductions, as well as sentence bargaining. Less commonly studied, sentence bargaining may involve the prosecutor making explicit recommendations for serving a sentence in the community or remaining silent during sentencing, with the defendant pleading to the initial charge (Tor, Gazal-Ayal, and Garcia 2010). In an examination of how racial disparities might exist in these bargaining outcomes, Kutateladze, Andiloro, and Johnson (2016) found Black defendants were less likely to receive a sentence bargain involving non-incarceration, which contributes to sentencing disparity (see also Kutateladze et al. 2014).

Although the literature on charge reduction is small, there has been a variety of ways that scholars have measured a reduction in charges. Within the past decade there has been a renewed interest in examining charge negotiation, with most examining severity reduction. Prosecutors may amend charges through plea negotiations to a lesser charge ((i.e. felony battery to misdemeanor battery); e.g., (Johnson 2018; Kutateladze, Andiloro, and Johnson 2016)). This form of charge reduction can have direct benefits to defendants, as the reduced offense severity translates into less incarceration or potentially no presumptive incarceration in guideline states (Johnson 2018; Kutateladze, Andiloro, and Johnson 2016). Other scholars have used measures of charge reduction that capture count reduction (e.g., Ball 2006), noting that defendants may be concerned about receiving consecutive sentences by judges for multiple counts. In the case of count reduction, prosecutors may stack charges initially to utilize count dismissal as an incentive for inducing a guilty plea. Dismissing one or more counts alleviates some of the uncertainty of sentencing, as fewer counts at conviction could translate into less incarceration, particularly in cases where consecutive sentencing may be used by judges to serve as a deterrent (i.e., sexual assault, child molestation).

Although Farnworth and Teske (1995) argue that those labeled as violent offenders often experience difficulties during reentry with employment, housing, and other forms of assistance, fewer studies have examined alternative forms of charge reduction, such as amending a violent charge to a non-violent charge (e.g., battery to disorderly conduct; see also Hartley and Tillyer 2018; Romain and Freiburger 2016). Yet the effects of amending charges by changing offense types can have real and lasting implications for offenders during reentry if they are denied access to public assistance and housing options due to stigma associated with drug and violent offender labels.¹

Focal concerns perspective

One of the most widely used theories to explain disparity in court processing is the focal concerns perspective. Developed by Steffensmeier and colleagues (1998) to explain judicial decision-making, it suggests that judges are guided by three overarching focal concerns when processing defendants. Spohn, Beichner, and Davis-Frenzel (2001) expanded the theory to include prosecutors, arguing that both court actors often have the same overarching focal concerns – assessing culpability of the defendant, protecting the community, and practical constraints (see also Beichner and Spohn 2005; Spohn and Holleran 2001; Ulmer, Kurlychek, and Kramer 2007). They noted, however, that unlike judges, prosecutors' practical constraints are less concerned with consequences of incarceration and more concerned with convictability. Prosecutors are more likely to charge cases and continue preparing a case toward trial if the crime is serious and/or has victim injury (i.e., dangerousness and blameworthiness), the defendant has a lengthy criminal record (i.e., blameworthiness), and there is strong evidence to indicate guilt (i.e., convictability, see also Ulmer, Kurlychek, and Kramer 2007; Kutateladze, Andiloro, and Johnson 2016). Because prosecutors are highly concerned with obtaining a conviction, they make decisions with the goal of avoiding the unknown (see Albonetti 1986, 1987). In cases where there is higher uncertainty in the likelihood of a conviction (e.g., victim credibility issues, exculpatory evidence, uncooperative witnesses), prosecutors will dispose of cases more quickly via rejecting cases and reducing charges to tempt a defendant into pleading guilty.

A similar practical constraint that Ulmer and colleagues noted (2007) was organizational efficiency – prosecutors often face high caseloads with limited resources; as such, they are likely to *nolle* or plead down cases that are deemed not serious or have weak evidence (see also Jacoby 1980; Stemen and Escobar 2018). This leads to a 'perceptual shorthand' (Hawkins 1981; Steffensmeier, Ulmer, and Kramer 1998) that relies on raced and gendered assumptions of who is considered dangerous and blameworthy. Secondly, because prosecutors are focused on conviction rates, they review cases dependent on what they believe jurors will think, what Frohmann (1997) calls 'downstream orientation' (p. 535). Spohn and colleagues (2001) argued that jurors may take into account the social position of the defendant and may view Black and Hispanic males in particular as dangerous and blameworthy. Thus, according to the focal concerns perspective for prosecutors, racial and gender disparity may exist due to juror reliance on stereotypes and ascription of criminality to minority males (see Albonetti 1991; Hawkins 1981).

Prosecutors evaluate defendants based upon gender and race attributions which are invoked through contextualizing or 'framing' a defendant's actions as culpable, dangerous, likely to recidivate, or having practical constraints. More recent work has suggested that judges view legally relevant factors through racialized and gendered heuristics, such that stereotype congruence occurs when defendants fit existing racialized stereotypes of the 'dangerous violent offender' or the 'typical drug offender' (Hartley and Tillyer 2018; Jones and Kaplan 2003; Cano and Spohn 2012; see also Sudnow 1965). Larger societal images of who is considered a criminal, and more blameworthy for the crime, tend to reflect stereotypes of the 'criminalblackman' (Russell-Brown 1998, p. 3). This reflects a historical socio-cultural association of men of color, in particular Black men, as threatening and in need of punishment (Feld 1999; Wacquant 2010). Thus, it would be expected that Black and Hispanic men charged with violent and drug crimes are less likely to receive a charge reduction, as they would be considered more dangerous and culpable for engaging in stereotypically congruent behavior.

More recent work on focal concerns supports the notion of unique court communities, such that variation in population and case processing factors may influence prosecution practices. Johnson (2018) examined the impact of caseload, jurisdiction size, urbanization, and population characteristics (e.g., percent minority, concentrated disadvantage) across federal jurisdictions on charge reductions. He found wide variation in charge reduction practices across districts, with some districts averaging less than 5% of cases reduced, while others averaged over 35%. Most notably, charges were more likely to be reduced in areas with higher caseload and larger jurisdictions, while the influence of defendant characteristics varied across districts (c.f., Hartley and Tillyer 2018). Because the jurisdiction studied here is large and urban, with high caseloads, we may expect to see more cases on average reduced in severity.

Gender and race differences in charge reduction

Early studies on charge reduction from the 1970s and 1980s typically examined severity reduction, with mixed findings. Some research found gender disparity that benefitted men (Bernstein et al. 1977) while others found women were more likely to be offered a lesser sentence plea (Miethe and Moore 1986), and still others found no gender differences in charge reduction (Bishop and Frazier 1984; Holmes, Dauditsel, and Farrell 1987; Miethe 1987). Similarly, these studies produced mixed findings with respect to racial disparity, as several found no differences across race/ethnicity on the likelihood of a severity reduction (Albonetti 1992; Bishop and Frazier 1984; Meyer and Gray 1997; Miethe and Moore 1986; Miethe 1987). Yet one study found Black defendants were less likely to receive a severity reduction (Bernstein et al. 1977) and another found Black defendants were more likely to receive a reduction (Holmes, Dauditsel, and Farrell 1987).

Within the more recent literature, a similar picture emerges. Several studies failed to find a gender difference in the likelihood of a severity reduction (Hartley and Tillyer 2018; Kutateladze, Andiloro, and Johnson 2016, 2016; Romain and Freiburger 2016; Vance and Oleson 2014) or a count reduction (Ball 2006; Romain and Freiburger 2016). Other studies, however, found that men were less likely to receive a severity reduction, which is consistent with gendered assumptions of dangerousness and blameworthiness that benefit women defendants (Johnson 2018; Johnson and Pilar. 2019; Shermer et al. 2010; Stemen and Escobar 2018). Only one study found gender disparity that benefits men. Kutateladze (Kutateladze et al. 2014) found that women who plead at arraignment were less likely to receive reduced charges. When examining specific types of charges and the likelihood of a severity reduction a similar pattern emerges. One study found no gender differences in the likelihood of a violent case reduced in severity (Hartley and Tillyer 2018), while another found men were less likely to have a violent charge amended to a less serious offense (Shermer et al. 2010). Similarly, Shermer and Johnson (2010) found men were less likely to have a drug case reduced in severity; however, Hartley and Tillyer (2018) found men were at increased odds of have a drug case change in offense severity.

Much like the findings regarding the influence of gender, the role of race in charge reduction decisions is mixed. Some prior literature has found no significant differences across race/ethnicity in the likelihood of a severity reduction (Johnson 2018; Kutateladze et al. 2014; Romain and Freiburger 2016; Shermer et al. 2010; Vance and Oleson 2014) or count reduction (Ball 2006; Romain and Freiburger 2016). Kutateladze, Andiloro, and Johnson (2016) found no differences between Hispanic and White defendants on the likelihood of a severity reduction, but found Black defendants were less likely to receive a reduction. By contrast, several studies have found that Black and Hispanic defendants were less likely to receive a severity reduction or a smaller reduction in their final sentences for their guilty plea (Hartley and Tillyer 2018; Johnson and Pilar. 2019; Kutateladze, Andiloro, and Johnson 2016; Metcalfe and Chiricos 2018; Stemen and Escobar 2018; Testa and Johnson 2020).

When examining violent and drug crimes specifically, a complex picture of charge reduction occurs. Kutateladze and colleagues (2014) found that Black and Hispanic defendants were more

likely to receive a custodial plea offer for violent crimes than White defendants, while Hartley and Tillyer (2018) found that Black defendants were less likely to have a change in their initial charge. For drug cases, Shermer and Johnson (2010) found no difference between Black and White defendants on the likelihood of a severity reduction; however, they found that Hispanic defendants were more likely than White defendants to receive a reduction. By contrast, Hartley and Tillyer (2018) found no difference between Hispanic and White defendants on the likelihood of a severity reduction for drug cases, yet Black defendants had increased odds of a charge reduction. These findings are consistent with the concept of raced perceptions of dangerousness and blameworthiness, such that Black defendants may be seen as a greater threat to the community and as requiring longer sentences.

Race and gender compounding effects

Few studies have tested interactions between race and gender on the likelihood of a charge reduction, with mixed findings across studies. Farnworth and Teske (1995) examined whether race and gender interacted in predicting the likelihood of receiving a violent charge reduction, utilizing selective chivalry theory. They found that White men were more likely than Black men to have their case reduced to a non-violent conviction; yet the effect was stronger when comparing White women to Black women. While they connected their findings to chivalry theory, it could be that White women and men are considered less blameworthy. Romain and Freiburger (2016) also examined violent charge reduction in a sample of domestic violence cases, similarly finding that White women had the greatest likelihood of charges being reduced, however, there were no differences when comparing White and non-White men. Again, they attributed this difference to raced gender expectations that benefit White women, suggesting they are considered less blameworthy for their actions.

When severity and count reduction have been examined, few studies have found support for an interaction between race and ethnicity. Early studies found no evidence of an interaction between race and gender on severity reduction (Bishop and Frazier 1984; Miethe and Moore 1986). More recently, Romain and Freiburger (2016) similarly found no significant differences when comparing White men and women to non-White men and women in either the likelihood of a severity or count reduction for domestic violence cases. Shermer and Johnson (2010) also found no differences between White and Black men and women in the likelihood of a severity reduction. They did find, however, that young and old Hispanic females were more likely to receive a severity reduction compared to older White males. Finally, Bloch and colleagues (2014) found that Black men were least likely to have a felony case reduced to a misdemeanor, compared to White men and Black and White women.

Farnworth and Teske (1995) examined gender and race influences on the likelihood of a severity reduction for defendants charged with theft or assault. They found that Black men were less likely than White men to receive a severity reduction, while there were no significant differences in the likelihood of a severity reduction between White and Black women (also see Metcalfe and Chiricos 2018; Stemen and Escobar 2018). This is congruent with the tenants of the focal concerns perspective – namely that Black men are considered more dangerous and blameworthy, thus leading to fewer negotiations on the severity of the offense to ensure protection of the community vis-à-vis potential longer incarceration terms.

Taken together, the existing research provides mixed support for the interaction of race and gender on severity reduction. Some studies have found differences between Black and White men that benefit White men, while others have found no differences across race and gender groups. Further still, only one study has found some differences comparing White and Hispanic men and women of varying ages (e.g., Bloch, Engen, and Parrotta 2014; Farnworth, Raymond, and Teske 1995), which suggests that any differences between racial/ethnic groups across gender may be nuanced by age (e.g. Shermer et al. 2010).

The current study

The prior literature on charge reduction is relatively limited, and much of it is dated. Additionally, most of these studies examined the influence of defendant characteristics on charge reduction individually (i.e., gender separate from race), yet intersectionality suggests that inequalities may be compounded (McCall 2005; see also Steffensmeier, Ulmer, and Kramer 1998). Further, most of the extant literature examines only severity reduction, yet there are other ways that charges can be reduced (see Ball 2006; Farnworth, Raymond, and Teske 1995). The purpose of the current study is to contribute to the literature by examining the influence of gender and race on three forms of charge reduction: severity reduction, count reduction, and violent charge reduction.

The focal concerns perspective states that disparate treatment will be given to men and minorities, in particular minority men, due to court officials relying on attributions of these individuals as dangerous and more blameworthy than White defendants and women (Steffensmeier, Ulmer, and Kramer 1998). Further, prosecutors may have fewer concerns about minority men's ability to serve sentences of incarceration or of the collateral consequences (e.g., family responsibilities) of their incarceration compared to White men and women defendants. Additionally, the impact of stereotypes of dangerousness and blameworthiness may be stronger for violent and drug crimes, which have racialized images of the 'dangerous' criminal (see Hartley and Tillyer 2018; Kutateladze et al. 2014). Based upon the focal concerns perspective, the following hypotheses were examined:

- (1) Men will be less likely to receive a charge reduction than women.
- (2) Black defendants will be less likely to receive a charge reduction than White defendants.
- (3) Hispanic defendants will be less likely to receive a charge reduction than White defendants.
- (4) Black and Hispanic men will be least likely to receive a charge reduction.
- (5) Black and Hispanic men will be least likely to receive a charge reduction for drug and violent crimes.

Method

Data were from a population of cases resulting in a guilty plea ($n = 5,514$) in a large, urban Midwestern county in 2009.² There is one central court in the county where both felony and misdemeanor cases are heard. The county is relatively diverse, with approximately 54% White residents, 27% Black residents, and 13% Hispanic residents. Just over half of residents are female (approximately 52%), with approximately 20% of residents living below the poverty line (U.S. Census 2019). The total population included both felony and misdemeanor cases that were fully prosecuted, excluding those that were part of diversion programs. Cases in which defendants were not Black, Hispanic, or White were excluded from the analyses, as they were infrequent ($n = 53$), as well as those that were missing data on key variables ($n = 5$).

Part of the data was provided from the county prosecutor's office, which included information on defendant background factors, severity of the offense, number of counts, and method of adjudication. We supplemented these data with additional information obtained from a publicly available website that contained court dockets for measures related to prior record and case processing. Under the state's open records law, court case information is required to be available to the public unless confidentiality laws prohibit publication (e.g., juvenile cases). This website provides exact information from court record management systems, as entered by court clerks from individual courtrooms across each county in the state.

Dependent variables

We used three measures of charge reduction to better capture possible ways in which prosecutors could offer leniency to defendants. Although prosecutors may decide to increase the counts or

severity of charges, we are focused on *reduction* of charges (see Kutateladze, Andiloro, and Johnson 2016). The first measure is the relative reduction in severity, which is the most commonly utilized in prior research (e.g., Shermer et al. 2010; Kutateladze, Andiloro, and Johnson 2016). The severity index was based on the charge severity and class (e.g., Felony C, Misdemeanor A) in rank order for the initial charge and conviction (range 2–14). To construct this, we subtracted the severity index of charges at conviction from the severity index of charges at initial appearance. This created a range of absolute severity reduction from 0, indicating no reduction in severity to 10, the highest amount possible (e.g., from a Felony B to a Misdemeanor B). For example, a severity reduction of 1 would correspond to reducing the severity by one class (e.g., Misdemeanor A to Misdemeanor B, Felony G to Felony H). Because the data were positively skewed, we created a dichotomous indicator comparing no reduction (=0) to any reduction in severity (=1). Although this reduces precision in capturing severity reduction, it allows for examining whether any reduction in severity occurred and which factors influenced this decision.³

The second measure of charge reduction captures the ability of prosecutors to file multiple counts and subsequently dismiss one or more of these counts during plea negotiations. Because judges have the discretion to sentence consecutively or concurrently for multiple count cases, defendants may be more willing to engage in plea negotiations that dismiss one or more counts. This form of charge reduction has been examined infrequently in the prior literature (e.g., Ball 2006; Romain and Freiburger 2016). As the data for this measure were positively skewed, we created a dichotomous indicator of whether one or more counts were dismissed (=1) compared to no counts dismissed (=0). Analyses for this measure included only cases that had two or more counts, as a case with a single count cannot be reduced without the entire case being dismissed ($n = 1,489$).⁴

The last form of charge reduction examines a unique form that may not be present in all cases appearing before judges. The third examines the subset of cases that involved charges for violent crimes ($n = 1,0470$) and whether these violent charges were amended to non-violent offenses upon conviction. Only two studies have examined this form of charge reduction (and Farnworth, Raymond, and Teske 1995; Romain and Freiburger 2016), yet this type of reduction has implications for offenders during reentry with obtaining employment and housing. A common example from the data was a misdemeanor battery amended to a disorderly conduct charge or a substantial (felony) battery amended to endangering safety. Cases that were amended to non-violent offenses were coded 1, with those remaining violent offenses at conviction coded 0.

Independent variables

The main variables of interest were defendant gender and race/ethnicity. Gender was a dichotomous measure of whether the defendant was a man (=1) or woman (=0). Race/ethnicity included Black, Hispanic, and White defendants. We created dummy variables for race/ethnicity, with White defendants omitted from models as the reference category. We included defendant age as an additional independent variable, given the assertions of the focal concerns perspective of the influence of age on case processing (Steffensmeier, Ulmer, and Kramer 1998). Age was a continuous measure (range 15–85) and included few defendants under the age of 18. Prior literature has demonstrated that age may exert a curvilinear effect on pretrial release and sentencing (Johnson and Kurlychek 2012). As such, we also included the squared-term for age.

Control variables

Several variables were identified from the prior literature as influential in the decision to reduce charges.⁵ The first set of variables related to the offense included initial severity, number of initial charges, type of offense, and whether there was a penalty enhancer added to the initial charge. We measured the severity of the offense by creating an index based upon the severity of the most serious charge (i.e., misdemeanor vs. felony and class), with a range of 2 (i.e., Unclassified

Misdemeanor) to 14 (i.e., Felony A). The number of initial charges also was a continuous measure, ranging from 1 to 18. Type of offense was a categorical variable, including violent, property, drug, public order (e.g., disorderly conduct, vagrancy, harassment), public safety (e.g., drunk driving, carrying a concealed weapon, endangering safety), and other offenses, with violent crime serving as the reference category. Lastly, we included a measure of whether any penalty enhancers were utilized by the prosecutor when initially charging the case. Enhancers in this jurisdiction included habitual or repeat offender status and use of a weapon. Each of these could increase jail or prison time upon conviction, as they typically have mandatory minimums associated in the state criminal statutes. Cases with an enhancer were coded 1, with those without enhancers coded as 0. We measured prior record two ways. The first was a continuous measure of the number of prior felony convictions statewide (range 0–16). The second is the number of prior misdemeanor convictions statewide (range 0–25).

The third set of variables related to the processing of cases, type of attorney, and whether the defendant was detained until sentencing. Type of attorney may affect charge reduction, as public defenders could be more socialized in the courtroom workgroup, which may benefit defendants (Walker 2011).⁶ Alternatively, Zatz (2000) noted that type of attorney can be a proxy for class. Given that defendants with limited income may be unable to make bail, this may influence their decisions for accepting a plea deal (Feeley 1979). Defendants who have retained private counsel were coded 0, with those using public defenders coded 1. Finally, we included a measure of whether the defendant was detained pretrial until sentencing (=1) or was out on bail or release on own recognizance (ROR) at sentencing (=0). Feeley (1979) noted that defendants he observed often felt the need to plead guilty to 'get it over with.' Those who were unable to make bail might have felt added pressure to plead because of employment, family, or housing concerns (e.g., rent) while held pretrial.

Analytical approach

To examine hypotheses one through three, which test the direct influence of gender and race/ethnicity on charge reduction, we conducted a series of logistic regression models. To predict the likelihood of receiving a count reduction and the likelihood of a violent charge reduction, a subset of cases from the population that fit the predetermined criteria (i.e., only cases with multiple counts, violent offenses) were analyzed. Hypotheses four and five examined the joint influence of defendant race with gender. We included five variables that captured the joint effects of race and gender (i.e., Black man, Black woman, Hispanic man, Hispanic woman, White woman) with White men serving as the reference category.

When examining multiple decision-points, it is important to consider the possibility of bias caused by prior decision-making.⁷ We addressed this issue in a couple of ways. First, because pre-trial detention decisions are made prior to plea and charge negotiations, we included pretrial detention as a control in models of charge reduction. Similarly, because the initial nature of the charge (e.g., severity, counts) also clearly precedes the decision to reduce the charge, we also included it as a control in subsequent analyses.⁸

Findings

Description of the data

Table 1 presents the descriptive statistics for the population of 5,514 cases fully prosecuted in the selected Midwestern county. Approximately 88% of defendants were men (87.83%), over two-thirds were Black (69.08%), with White and Hispanic defendants less common (25.17% and 5.74%, respectively). When compared to the county Census data, it appears that Black and male defendants were overrepresented, while White and Hispanic defendants were underrepresented. The average age of defendants in this county was 29.83 years (S.D. = 10.897). Most defendants in this population were

Table 1. Descriptive statistics of 2009 cases resulting in a guilty plea. (N = 5514)^a

Variable	N	%
Defendant Gender	4843	87.83%
Male (=1)	671	12.17%
Female		
Defendant Race/Ethnicity	1388	25.17%
White (=0)	3809	69.08%
Black	317	5.74%
Hispanic		
Race & Gender	1186	21.5%
White Male (=0)	202,336,244,729,522	3.6%
White Female		60.97%
Black Male		8.1%
Black Female		5.35%
Hispanic Male		0.398%
Hispanic Female		
Defendant Age	M = 29.83	SD = 10.897
Prior Misdemeanor Convictions	M = 2	SD = 3.192
Prior Felony Convictions	M = 1.032	SD = 1.722
Offense Severity	M = 5.892	SD = 2.904
At Initial Charge	M = 5.303	SD = 2.738
At Conviction		
Number of Charges	M = 1.435	SD = 0.999
At Initial Charge	M = 1.251	SD = 0.622
At Conviction		
Charge Type		
Violent	1047	18.99%
=1	4467	
=0		
Property	1184	21.47%
=1	4330	
=0		
Drug	1551	28.13%
=1	3963	
=0		
Public Order	9,094,605	16.48%
=1		
=0		
Public Safety	4,285,086	7.76%
=1		
=0		
Other	3,955,119	7.16%
=1		
=0		
Penalty Enhancer	7,894,725	14.3%
Yes (=1)		85.69%
No		
Detained Pretrial	2342	42.47%
Yes (=1)	3172	57.53%
No		
Public Defender	4515	81.88%
Yes (=1)	999	18.11%
No		
Severity Reduction	9,824,532	17.8%
Yes (=1)		82.19%
No		
Count Reduction ^b	704,785	47.28%
Yes (=1)		52.71%
No		
Violent Charge Reduction ^c	215,832	20.53%
Yes (=1)		79.46%
No		

Notes:

^aexcludes trial cases. For continuous variables, means and standard deviations are presented.^bsample size n = 1489; ^csample size n = 1047

Black men (60.97%), followed by White men (21.5%), Black women (8.1%), and Hispanic men (5.35%). White women and Hispanic women were relatively infrequent (3.6%, .398%, respectively).

Defendants in this jurisdiction had an average of two prior misdemeanor convictions ($SD = 3.192$) and 1.032 prior felony convictions ($S.D. = 1.722$). With respect to case characteristics, most defendants had few counts initially charged ($M = 1.435$, $S.D. = 0.999$), and the average severity was 5.892 ($S.D. = 2.904$), which corresponds to a Class I Felony. The most common types of offenses were drug (28.13%), followed by property (21.47%), violent (18.99%), public order (16.48%), public safety (7.76%), and other offenses (7.16%). A little over 14% of defendants were charged with a penalty enhancer. Finally, over 80% of defendants had a public defender (81.88%), and less than half were detained pretrial until sentencing (42.47%). In this jurisdiction, charge reductions of any form were relatively less common. Over 80% of cases did not have a severity reduction. Of cases with more than one charge, about 47% of cases had at least one charge dismissed, and in the subset of violent cases, violent charge reduction occurred in approximately 20% of cases.

The results of our analyses are presented in [Tables 2, 3, 4, and 5](#).⁹ Overall, race and gender were associated with various forms of charge reduction consistent with the focal concerns perspective. However, these relationships were not consistent across all outcome measures, and varied by type of crime.

Factors influencing severity reduction

For the severity reduction models, we find that independently, race and gender had statistically significant associations with the likelihood of receiving a reduction in charge severity ([Table 2](#), Model 1). As predicted, men were less likely than women to receive a reduction in charge severity. We also found significant race effects, with Black defendants significantly less likely to receive a severity reduction; the coefficient for Hispanic defendants approaches, but does not reach, conventional levels of statistical significance. Because the estimated parameters were in the log-odds scale, which do not have a practical interpretation beyond indicating the direction of the relationship, we calculated marginal effects as a way of presenting the results as differences in probabilities. The probability of receiving a severity reduction was about 6% less for men than it was for women defendants.¹⁰ Compared to White defendants, the probability of Black defendants receiving a reduction in charge severity was reduced by 3.4%, while the probability of Hispanic defendants receiving a reduction in severity was about 3% lower than White defendants.¹¹ In addition to independent effects of race and gender, we also found some evidence of joint effects. The second column (Model 2) presents the results of the model containing the joint effect of race and gender, with White men defendants as the reference category. Here, the probability of a Black male defendant receiving a severity reduction was 3.8% lower than a White male defendant. We did not find a statistically significant difference between Hispanic men and White men's probability of receiving a severity reduction, nor were there significant differences between White, Black, and Hispanic women compared to White men in the likelihood of a severity reduction.

Additional analyses were performed (tables not shown) with White women, Black women, and Hispanic women as the reference category. When White women were used as the reference category, White women were more likely than Black men and Hispanic men to receive a severity reduction, with the probability of receiving a charge reduction changing by about 6% and 5%, respectively. Similarly, when Black women were the reference category, Black women were significantly more likely than Black men and Hispanic men to receive a severity reduction. We were unable to detect any statistically significant differences between Hispanic women and other groups.

Factors influencing count reduction

The results of the binomial logistic regression models predicting count reduction are also presented in [Table 2](#). Model 3 includes the direct effects of race and gender. While we found significant racial

Table 2. Predicting severity and count reduction.

	Severity Reduced (n = 5514)				Count Reduced (n = 1489)				
	Model 1		Model 2		Model 3		Model 4		
	b	se	Odds ratio	b	se	Odds ratio	b	se	Odds ratio
Black	-0.283*	0.089	0.754						
Hispanic	-0.275^	0.181	0.759						
Male	-0.453*	0.117	0.636						
White Female				0.255	.205				
Black Male				-0.324*	0.095	0.723			
Black Female				0.216	0.153				
Hispanic Male				-0.323^	0.19	0.724			
Hispanic Female				0.369	0.586				
Age	-0.018	0.022		-0.016	0.022		-0.004	0.029	
Age Sq.	0.000	0.00		0.000	0.000		0.000	0.000	
Prior Misdemeanor Convictions	-0.019	0.016		-0.02	0.016		-0.011	0.020	
Prior Felony Convictions	-0.021	0.027		-0.018	0.027		-0.009	0.035	
Initial Severity	0.283*	0.015	1.327	0.283*	0.015	1.327	-0.059*	0.022	0.942
Total Counts	0.011	0.035		0.013	0.035		0.442*	0.062	1.556
Public Defender	0.176^	0.101	1.192	0.163	0.100		-0.116	0.139	
Pretrial Detention	-0.649*	0.089	0.523	-0.653*	0.088	0.520	-0.028	0.115	
Property	-0.620*	0.117	0.538	-0.631*	0.117	0.532	0.136	0.187	1.559
Drug	-0.342*	0.105	0.711	-0.340*	0.105	0.712	0.444*	0.169	1.815
Public Order	-0.488*	0.149	0.614	-0.497*	0.147	0.608	-0.059	0.214	0.212
Public Safety	-1.609*	0.220	0.200	-1.609*	0.220	0.200	0.596*	0.222	0.625*
Other Type	-1.343*	0.251	0.261	-1.379*	0.220	0.252	0.076	0.268	0.267
Enhancer	-0.207^	0.115	0.813	-0.215^	0.115	0.806	-0.263^	0.147	0.769
Intercept	-1.332*	0.445		-1.757*	0.43		-1.363	0.631	
Log likelihood		-2173.77			-2192.016			-976.434	
Pseudo R ² (McFadden)		0.158			0.159			0.052	
Pseudo R ²		0.138			0.139			0.070	
(Max. Likelihood)		0.7934			0.7944			0.6583	
AUC								0.6613	

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

differences in the likelihood of *severity* reduction, we did not find the same effect of race for likelihood of receiving a *count* reduction. We did, however, find gender was a significant predictor, though not in a way that was expected. Interestingly, men were *more likely* to receive a count reduction than women, with the probability of receiving a count reduction increasing by about 9%. Model 4 presents the logistic regression results when the joint effect of race and gender were included in the models. As indicated, none of the race/gender joint effects were significant; although, White women approached significance compared to White men in the likelihood of a count reduction.

Factors influencing violent charge reduction

Table 3 presents the results of the binomial logistic regression model predicting the likelihood of a violent charge reduction. Again, Model 1 includes the direct influence of race and gender. Much like the results of the count reduction model, race yielded little influence on the likelihood of a violent charge reduction. Gender, on the other hand, had a statistically significant association with the likelihood of a violent charge reduction. Consistent with gendered assumptions of dangerousness and blameworthiness that benefit women defendants, the probability of a man defendant receiving a violent charge reduction was about 9% lower than for women. Model 2 includes the joint effect of race and gender on violent charge reduction. There were no significant differences between any of the race/gender groups in the likelihood of violent charge reduction.

Charge reduction among drug and violent cases

Our final hypotheses addressed the notion that the impact of stereotypes of dangerousness and blameworthiness may be stronger for certain crimes that have racialized images of the 'dangerous' criminal (see Hartley and Tillyer 2018; Kutateladze et al. 2014). To test this point, we isolated violent

Table 3. Predicting violent charge reduction.

	Violent Charge Reduced (n = 1047)					
	Model 1			Model 2		
	b	se	Odds ratio	b	se	Odds ratio
Black	-0.252	0.181	-	-	-	-
Hispanic	-0.429	0.351	-	-	-	-
Male	-0.506*	0.224	0.603	-	-	-
White Female	-	-	-	0.299	0.455	-
Black Male	-	-	-	-0.255	0.189	-
Black Female	-	-	-	0.250	0.277	-
Hispanic Male	-	-	-	-0.548	0.377	-
Hispanic Female	-	-	-	1.232	1.024	-
Age	0.017	0.047	-	0.020	0.047	-
Age sq.	-0.000	0.000	-	-0.000	0.001	-
Prior Misdemeanor Convictions	-0.024	0.035	-	-0.024	0.035	-
Prior Felony Convictions	0.019	0.056	-	-0.010	0.055	-
Initial Severity	-0.018	0.024	-	-0.018	0.024	-
Total Counts	-0.01	0.072	-	0.021	0.075	-
Public Defender	0.149	0.197	-	0.149	0.196	-
Pretrial Detention	-0.327^	0.171	0.721	-0.301^	0.17	0.739
Enhancer	0.374^	0.195	1.454	0.338^	0.194	1.402
Intercept	-0.689	0.896	-	-1.277	0.869	-
Log likelihood		-521.377			-528.551	
Pseudo R ²		0.019			0.019	
(McFadden's)		0.019			0.019	
Pseudo R ²		0.5965			0.5956	
(Max. Likelihood)						
AUC						

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

Table 4. Predicting severity reduction by crime type.

	Severity Reduced-Drug Crimes (n = 1551)			Severity Reduced-Violent Crimes (n = 1047)			Severity Reduced-All Else (n = 2916)		
	Model 1			Model 2			Model 3		
	b	se	Odds ratio	b	se	Odds ratio	b	se	Odds ratio
Black	-0.236	0.165	-	-0.413*	0.164	0.661	-0.35*	0.147	0.701
Hispanic	-	0.370	-	-0.067	0.294	-	-0.393	0.316	-
	0.498								
Male	-0.429^	0.260	0.651	-0.814*	0.213	0.447	-0.442*	0.185	0.642
Age	-0.038	0.044	-	-0.006	0.041	-	-0.054	0.034	0.947
Age sq.	0.000	0.001	-	0.000	0.001	-	0.000	0.000	-
Prior Misdemeanor Convictions	0.025	0.030	-	-0.014	0.029	-	-0.029	0.026	-
Prior Felony Convictions	-0.076	0.050	-	0.060	0.049	-	-0.037	0.046	-
Initial Severity	0.261*	0.028	1.298	0.205*	0.023	1.228	0.473*	0.029	1.604
Total Counts	0.167*	0.077	1.181	-0.154^	0.065	0.857	0.043	0.049	-
Public Defender	0.478*	0.189	1.613	0.425*	0.177	1.529	-0.286^	0.166	-
Pretrial Detention	-0.805*	0.165	0.447	-0.821*	0.154	0.440	-0.323*	0.145	0.721
Enhancer	-0.678*	0.205	0.508	0.117	0.184	-	-0.399^	0.235	-
Intercept	-1.826 *	0.861	-	-0.925	0.793	-	-2.164*	0.695	-
Log likelihood		-680.791			-620.447			-808.105	
Pseudo R ² (McFadden)		0.097			0.088			0.192	
Pseudo R ² (Max. Likelihood)		0.091			0.11			0.124	
AUC		0.7359			0.701			0.816	

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

Table 5. Predicting severity reduction by crime type- joint effects models.

	Severity Reduced-Drug Crimes (n = 1551)			Severity Reduced-Violent Crimes (n = 1047)			Severity Reduced-All Else (n = 2916)		
	Model 1			Model 2			Model 3		
	b	se	Odds ratio	b	se	Odds ratio	b	se	Odds ratio
Black Male	-0.278	0.174	-	-0.510*	0.173	0.600	-0.350*	0.162	0.704
White Female	0.253	0.379	-	0.265	0.436	-	0.407	0.313	-
Black Female	0.357	0.378	-	0.513*	0.262	1.67	0.022	0.251	-
Hispanic Male	-0.491	0.374	-	-0.084	-0.304	-	-0.575	0.351	-
Hispanic Female	-11.994	374.19	-	-0.018	1.187	-	1.137^	0.684	3.107
Age	-0.039	0.044	-	0.005	0.042	-	-0.051	0.034	-
Age sq.	0.000	0.001	-	0.000	0.001	-	0.000	0.000	-
Prior Misdemeanor Convictions	0.025	0.030	-	-0.016	0.029	-	-0.029	0.026	-
Prior Felony Convictions	-0.072	0.050	-	0.061	0.049	-	-0.040	0.046	-
Initial Severity	0.261*	0.028	1.298	0.206*	0.023	1.223	0.474*	0.029	1.606
Total Counts	0.167*	0.077	1.181	-0.152*	0.068	0.858	0.045	0.05	-
Public Defender	0.479*	0.189	1.615	0.423*	0.177	1.526	-0.285^	0.166	0.752
Pretrial Detention	-0.810*	0.165	0.445	-0.822*	0.155	0.439	-0.315*	0.146	0.729
Enhancer	-0.677*	0.206	0.513	0.108	0.185	-	-0.400^	0.235	0.669
Intercept	-2.203 *	0.814	-	-1.668	0.772	-	-2.655*	0.675	-
Log likelihood		-680.162			-619.097			-806.818	
Pseudo R ² (McFadden)		0.098			0.090			0.19	
Pseudo R ² (Max. Likelihood)		0.091			0.11			0.12	
AUC		0.7358			0.7027			0.8161	

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

and drug crimes and explored the role of race and gender in the likelihood of severity and count reduction for each type. The results are presented in [Table 4](#).

Table 4. Predicting severity reduction by crime type.

	Severity Reduced-Drug Crimes (n = 1551)			Severity Reduced-Violent Crimes (n = 1047)			Severity Reduced-All Else (n = 2916)		
	Model 1		Odds ratio	Model 2		Odds ratio	Model 3		Odds ratio
	b	se		b	se		b	se	
Black	-0.236	0.165	-	-0.413*	0.164	0.661	-0.35*	0.147	0.701
Hispanic	-	0.370	-	-0.067	0.294	-	-0.393	0.316	-
	0.498								
Male	-0.429^	0.260	0.651	-0.814*	0.213	0.447	-0.442*	0.185	0.642
Age	-0.038	0.044	-	-0.006	0.041	-	-0.054	0.034	0.947
Age sq.	0.000	0.001	-	0.000	0.001	-	0.000	0.000	-
Prior Misdemeanor Convictions	0.025	0.030	-	-0.014	0.029	-	-0.029	0.026	-
Prior Felony Convictions	-0.076	0.050	-	0.060	0.049	-	-0.037	0.046	-
Initial Severity	0.261*	0.028	1.298	0.205*	0.023	1.228	0.473*	0.029	1.604
Total Counts	0.167*	0.077	1.181	-0.154^	0.065	0.857	0.043	0.049	-
Public Defender	0.478*	0.189	1.613	0.425*	0.177	1.529	-0.286^	0.166	-
Pretrial Detention	-0.805*	0.165	0.447	-0.821*	0.154	0.440	-0.323*	0.145	0.721
Enhancer	-0.678*	0.205	0.508	0.117	0.184	-	-0.399^	0.235	-
Intercept	-1.826 *	0.861	-	-0.925	0.793	-	-2.164*	0.695	-
Log likelihood		-680.791			-620.447			-808.105	
Pseudo R ² (McFadden)		0.097			0.088			0.192	
Pseudo R ²		0.091			0.11			0.124	
(Max. Likelihood) AUC		0.7359			0.701			0.816	

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

Drug

For defendants charged with a drug crime, the results indicated that race and gender did not have a statistically significant association with a reduction in charge severity.¹² Instead, the results of Model 1 indicated that the initial severity and number of counts had a positive, significant relationship with the likelihood of receiving a severity reduction, while being incarcerated at sentencing and having a penalty enhancer decreased the likelihood of a severity reduction among those charged with a drug crime (by about 10% and 8%, respectively).

Violent

Our second set of cases include those classified as violent. It should be noted that these results differ from the results presented in Table 3 because the outcome of interest is any severity reduction at all instead of a reduction from violent to non-violent, specifically. For those charged with a violent crime, race has a statistically significant association with the likelihood of a defendant receiving a reduction in severity, with the probability for Black defendants being reduced by almost 10% when compared to their White counterparts. We also found the probability of receiving a severity reduction for men defendants charged with a violent crime were about 19% less likely than for women charged with a violent crime to receive a severity reduction. We also find evidence of a statistically significant joint effect of race and gender: black men had a reduced probability of receiving a charge reduction when compared to the reference category, white men, with a difference of about 11% between the two groups. Interestingly, we also found Black women defendants charged with a violent cri

me had an increased probability of receiving a severity reduction: approximately 12% greater than White men defendants.

Model 3 includes the results for the sample of cases that included property, public order, public safety, and all other non-drug and non-violent crimes. Among this subset of cases, we found that

Table 5. Predicting severity reduction by crime type- joint effects models.

	Severity Reduced-Drug Crimes (n = 1551)			Severity Reduced-Violent Crimes (n = 1047)			Severity Reduced-All Else (n = 2916)		
	Model 1			Model 2			Model 3		
	b	se	Odds ratio	b	se	Odds ratio	b	se	Odds ratio
Black Male	-0.278	0.174	-	-0.510*	0.173	0.600	-0.350*	0.162	0.704
White Female	0.253	0.379	-	0.265	0.436	-	0.407	0.313	-
Black Female	0.357	0.378	-	0.513*	0.262	1.67	0.022	0.251	-
Hispanic Male	-0.491	0.374	-	-0.084	-0.304	-	-0.575	0.351	-
Hispanic Female	-11.994	374.19	-	-0.018	1.187	-	1.137^	0.684	3.107
Age	-0.039	0.044	-	0.005	0.042	-	-0.051	0.034	-
Age sq.	0.000	0.001	-	0.000	0.001	-	0.000	0.000	-
Prior Misdemeanor Convictions	0.025	0.030	-	-0.016	0.029	-	-0.029	0.026	-
Prior Felony Convictions	-0.072	0.050	-	0.061	0.049	-	-0.040	0.046	-
Initial Severity	0.261*	0.028	1.298	0.206*	0.023	1.223	0.474*	0.029	1.606
Total Counts	0.167*	0.077	1.181	-0.152*	0.068	0.858	0.045	0.05	-
Public Defender	0.479*	0.189	1.615	0.423*	0.177	1.526	-0.285^	0.166	0.752
Pretrial Detention	-0.810*	0.165	0.445	-0.822*	0.155	0.439	-0.315*	0.146	0.729
Enhancer	-0.677*	0.206	0.513	0.108	0.185	-	-0.400^	0.235	0.669
Intercept	-2.203 *	0.814	-	-1.668	0.772	-	-2.655*	0.675	-
Log likelihood		-680.162			-619.097			-806.818	
Pseudo R ² (McFadden)		0.098			0.090			0.19	
Pseudo R ²		0.091			0.11			0.12	
(Max. Likelihood)		0.7358			0.7027			0.8161	
AUC									

Note: * p < 0.05; ^ p < 0.1. Odds ratios reported for only significant predictors.

race and gender both had impacted likelihood of a severity reduction. We found that the probability of receiving a reduction for Black defendants in this subset of cases was about 2% lower than it was for White defendants. The results also indicated that the probability of a reduction for men defendants charged with one of these types of crimes is about 3% lower than for women. Our results for the models including joint race and gender effects are presented in Table 5. We found that the probability of receiving a severity reduction for Black male defendants, specifically, is about 2% lower than that of White male defendants.

Discussion

This paper examined the influence of defendant race and gender, including the joint effects, on three ways that prosecutors might reduce charges in securing a guilty plea. Based on the focal concerns perspective, we hypothesized that men, Black, and Hispanic defendants would be less likely to receive any type of charge reduction, with Black men as least likely compared to all other groups. We further suggested the influence of race and gender on severity reduction may vary by crime type, such that Black, Hispanic and men defendants charged with violent or drug crimes may fit stereotypical images of dangerous offenders. Our findings provide partial support for these hypotheses, but more importantly indicate that prosecutors might not utilize or view different forms of charge reduction equally. We found gender disparity in all three forms of charge reduction, yet there is nuance to these findings. Consistent with prior research (Johnson 2018; Johnson and Pilar. 2019; Romain and Freiburger 2016; Shermer et al. 2010; Stemen and Escobar 2018) men were less likely to receive a severity reduction than women or to have a violent charge reduced to a non-violent offense; however, they were at greater odds of having at least one count dismissed. Further, among violent offenses, men were less likely to have their charge reduced in severity, yet there were no gender differences in severity reduction among drug crimes. Therefore, there was partial support for our hypothesis that men would be less likely to receive a charge reduction, consistent with the tenants of focal concerns, such that men may be considered more

blameworthy and dangerous, particularly when charged with serious crimes or violent crimes (see Hartley and Tillyer 2018).

These mixed findings might be due to the various impacts that different types of charge reductions have on final sentencing decisions. Given the importance of perceptions of public safety in judicial decision making, it is not surprising that prosecutors were less likely to grant a severity reduction to those who more closely fit the perception of dangerous offender. In research examining predictors of final sentencing, offense severity is often found to be the greatest predictor of incarceration and length of sentence (e.g., Freiburger and Hilinski 2013; Steffensmeier, Ulmer, and Kramer 1998). Therefore, a reduction in severity is likely to have a favorable impact on the final sentence a defendant received.

Our finding that men were more likely to have at least one count dismissed is contrary to prior research (Ball 2006; Romain and Freiburger 2016) and what is expected from the focal concerns perspective. It is possible, however, that its negligible impact on final punishment might explain why prosecutors more often utilized this as a term of negotiation when trying to secure a plea for defendants more closely fitting the blameworthiness and dangerousness focal concerns. Given that most judges utilize concurrent sentences for a defendant convicted of multiple counts, prosecutors might be more willing to offer this form of charge reduction to men to induce a guilty plea, knowing that it will not likely impact sentencing. Indeed, research on sentencing decisions has commonly indicated that number of charges does not significantly impact the final sentence (e.g., Johnson and Pilar 2019). The finding that men would not be less likely to receive a reduction for a drug offense also was contrary to what was predicted in the hypothesis based on the focal concerns perspective. This might be due to the nature of the typical drug charge that is processed through the state court. Unlike drug charges typically processed in the federal courts, state court cases often involve possession charges, which seldom fit the stereotypical image of the 'dangerous drug offender' (e.g., Shermer et al. 2010).

Unlike the findings for gender, we only found one measure of charge reduction that demonstrated racial disparity. Black defendants were less likely than White defendants to receive a severity reduction, yet there were no differences in the likelihood of a count reduction, or a violent charge amended to a non-violent charge. When examining drug and violent cases specifically, we found no racial differences in the likelihood of a severity reduction for drug cases, but Black defendants were less likely to have a violent charge reduced in severity. Therefore, we have limited support for hypothesis two and our findings are partially consistent with focal concerns.

It is possible that the limited implications count reductions and amending of violent charges to non-violent have on sentencing might explain this unexpected finding. It is further possible that these decisions are more driven by factors not controlled in the models, such as strength of evidence or victim cooperation, and that race does not impact this decision. The finding of racial disparity in the reduction of severity, however, is largely problematic. Reducing the severity of charges, directly affects sentencing; therefore, if prosecutors view Black defendants, particularly Black defendants charged with violent crimes, as more culpable and dangerous the plea offers given may be of less value than those given to White defendants (see Kutateladze et al. 2014; Freiburger and Hilinski 2013; Spohn and Beichner 2000; Steffensmeier, Ulmer, and Kramer 1998; Steffensmeier and Demuth 2006). These findings are consistent with some of the literature on severity reduction (Johnson and Pilar 2019; Kutateladze, Andiloru, and Johnson 2016, 2016; Metcalfe and Chiricos 2018; Stemen and Escobar 2018; Testa and Johnson 2020) and might contribute to the harsher punishment of Black defendants in the criminal justice system.

While some prior research has found that Black defendants charged with drug cases are less likely to have their cases dismissed and more likely to receive a custodial plea offer (Kutateladze et al. 2014), our findings demonstrate no racial disparity on charge reduction for drug cases. Through discussions with the prosecutor's office in this jurisdiction, we discovered that the office changed their charging and prosecution practices for drug crimes prior to the data collection period in response to reports of racial disparity within drug cases. This policy change likely impacted the

results here and demonstrate that prosecutors can be open to examining their policies and practices for disparity and correcting errors when they occur, thereby eliminating unwarranted disparities.

Hypothesis three examined ethnicity disparities in charge reduction and was unsupported by our findings. There were no differences between Hispanic and White defendants across all three measures of charge reduction, including examining violent and drug cases for severity reduction. The lack of disparity between Hispanic and White defendants is consistent with some of the literature (Johnson 2018; Kutateladze, Andiloro, and Johnson 2016; Shermer et al. 2010) and suggests that Hispanic defendants may not be viewed as more culpable or dangerous.

Finally, when examining the joint effects of race and gender, we found limited support for the fourth hypothesis. More specifically, Black men were less likely to receive a severity reduction than White men; however, there were no significant differences between Hispanic men and White men. This finding is consistent with the focal concerns perspective suggesting that Black men received disparate treatment because they fit the stereotypical image of the dangerous and blameworthy offender (e.g., Steffensmeier, Ulmer, and Kramer 1998; Russell-Brown 1998; Welch 2007). Other research also has found that Black men receive less value for their plea (Metcalf and Chiricos 2018) and that young and old minority males are less likely to receive a severity reduction than young White males (Stemen and Escobar 2018). Other forms of charge reduction (i.e., count reduction, violent charge reduction) did not demonstrate any discernable differences for the joint effects of race and gender. As previously stated, these forms of charge reduction typically do not leverage any change on sentencing; as such, prosecutors may not assess whether to offer these forms of charge reduction with raced and gendered assumptions of blameworthiness and culpability.

Within the past decade there has been a growing interest in prosecutorial decision-making with respect to charging practices and plea negotiations. Few studies examine multiple aspects of charge change from arrest to initial charge or between initial charge and a guilty plea (Hartley and Tillyer 2018; Kutateladze, Andiloro, and Johnson 2016) or plea negotiations (Kutateladze et al. 2014; Metcalfe and Chiricos 2018). Our study is one of few that examines multiple ways that prosecutors can reduce charges between the initial charge and adjudication, and our results demonstrate different patterns depending on the nature of the reduction. Measures of offense severity and crime type influenced both severity and count reduction, while only number of initial counts influenced count reduction. Gender and pretrial release status were the only predictors of violent charge reduction. This suggests that although measures of culpability influence prosecutors' decisions to reduce charges in severity or count, other factors likely explain why violent charges are changed. Further, count reduction and violent charge reduction do not affect defendants at sentencing in the same manner as severity reduction. Therefore, we argue that violent charge reduction is not viewed in the same manner as other modifications to charges when prosecutors consider offers for pleas. Future research that employs qualitative methods is needed to fully understand when and why prosecutors choose to offer a count reduction versus severity reduction or sentence recommendation.

Charge reduction was relatively infrequent in our data, as only 20% of cases received a severity reduction, and only 20% of violent cases were amended to non-violent convictions. Within the literature on charge reduction, there is variation on the frequency and amount of charge reduction, which likely is influenced by the unique social worlds of each jurisdiction (Nardulli, Eisenstein, and Flemming 1988; Johnson 2018). Shermer and Johnson (2010) found only 12% of federal cases were reduced in severity, while Metcalfe and Chiricos (2018) found almost 35% of cases in a Florida county were reduced (see also Stemen and Escobar 2018 with Wisconsin data). Whether a reduction occurs, and by how much, is likely a function of prosecutorial culture and local norms within specific courtroom workgroups, as some prosecutors and defense attorneys may have established norms of modification of charges while others may focus on sentence bargaining (Kim et al. 2015; see also Jacoby 1980 for a discussion of typology of prosecutor offices). Further, Johnson (2018) found that jurisdictional characteristics, such as size, urbanization, and caseload, impacts charge reduction practices. Although he found that larger districts with higher caseloads engaged in charge reduction

more frequently on average, our study does not find this to be the case (see also Hartley and Tillyer 2018). In fact, the prosecutor's office in this jurisdiction has established a reputation for rarely modifying charges once they have been filed, which may explain the relatively uncommon practice.

Conclusion

While judicial decisions are subjected to great public scrutiny, decisions made by prosecutors seldom receive much attention. This is despite the fact that prosecutors can have such a large impact on the sentences that defendants receive and can contribute to racial and gender disparities in the criminal justice system. In this article, we investigated the relative roles of legal and extra-legal factors in shaping the likelihood of charge reductions, with an emphasis on the independent and conditional roles of race and gender. In addition to the 'traditional' way of measuring and analyzing charge reductions, we also incorporated several other measures of charge reduction. We found both racial and gender disparities in decisions about charge reductions. We also provide some of the first evidence of conditional effects of race and gender. Importantly, we also found variation in these effects across the different outcome measures used, which highlights the importance of a multi-dimensional approach to the study of charge reductions.

Ultimately, it is essential that multiple decision points be examined when trying to detect gender and racial/ethnic disparities. Only examining final sentencing decisions can result in misleading interpretations. If gendered and raced stereotypes of who is considered dangerous and blameworthy are affecting decisions made during plea negotiations, it can affect the sentencing decision by changing the nature or seriousness of the offense at conviction, thus compounding disparity.

Limitations and future research directions

Of course, our study is not without limitations. Given the nature of prosecutorial decision-making with a concern of convictability, it is possible that biases exist in earlier decision-points (e.g., charging decisions, police encounters) that affect who is processed thus far into the courts. Prosecutors may make initial charging decisions based upon anticipated plea offers, which is dependent on the organizational context of the prosecutor's office. It also does not include macro-level disparities in societal allocation of resources, yet these factors should be incorporated into a causal framework (see, for example, Knox and Mummalo 2020).

Further, we were unable to obtain information on the legal culture of the prosecutor's office or the local courtroom workgroup present in the county. Prior research has demonstrated that contextual factors, such as local culture, political and media influence, and racial and economic makeup of the county can impact decision-making (Baumer 2013; Dixon 1995; Nardulli, Eisenstein, and Flemming 1988; Ulmer 1997, 2012). Further, screening and case review procedures and internal guidelines influence charge reduction decisions (Jacoby 1980; Spohn, Beichner, and Davis-Frenzel 2001). Prosecutor or defense attorney caseloads, as well as other macro-level factors have been shown to influence charge reduction in some prior research (e.g., Johnson 2018; Kutateladze, Andiloro, and Johnson 2016; Stemen and Escobar 2018). Given this study only included one county, the findings may not directly translate to other jurisdictions where policies, procedures, and local culture of prosecutors' offices and judicial benches may be different.

Additionally, our study was also limited in measures of evidence, which may have influenced the low pseudo- R^2 values in our models. Indeed, prior research on prosecutorial decision-making has demonstrated that strength and nature of evidence (e.g., exculpatory, impeachment) has a strong influence on whether prosecutors initiate, terminate, or reduce charges (Albonetti 1986, 1987; Kutateladze, Andiloro, and Johnson 2016; Spohn, Beichner, and Davis-Frenzel 2001). Yet many studies that examine prosecutorial decision-making often fail to include measures of evidence and victim cooperation, in part due to the nature of data sources (e.g., Shermer et al. 2010; Kutateladze et al. 2014). Future research would benefit from combining multiple methods that produce a more

complete picture of factors that influence court decision-making taking into account contextual factors such as caseloads and court norms as well as individual factors (e.g., ethnography, content analysis of case files) (see Lynch's (2019) argument in reference to the empirical examination of sentencing decisions). Additionally, charge negotiation likely involves consideration of multiple ways in which a case can be amended, suggesting that an individual aspect of charge reduction may be influenced by other options of reduction available. Future research employing advanced quantitative techniques, mixed methods approaches, or focusing on one specific type of crime may help advance our understanding of charge negotiation and better inform theory (see Bloch, Engen, and Parrotta 2014 for example).

We were unable to obtain measures of community ties or individual-level practical constraints that judges and prosecutors might weigh when determining whether to charge or incarcerate an offender. Factors such as employment, family status, physical health, and mental health concerns may influence how prosecutors, judges, and potential jurors (i.e., convictability) evaluate a defendant (Steffensmeier, Kramer, and Streifel 1993; Steffensmeier, Ulmer, and Kramer 1998; Freiburger 2010). Future studies should combine a quantitative examination of prosecutorial decision-making with qualitative interviews with prosecutors. This might provide insight into why unwarranted disparities exist, as well as why certain forms of charge reduction may be utilized compared to others. Factors that should be further examined either qualitatively or quantitatively are strength of evidence, victim and witness cooperation, and community ties (e.g., employment, family status, length of residency), as these factors have been shown to influence charging decisions (Albonetti 1986, 1987; Freiburger 2010; McLeod 1983; Steffensmeier and Demuth 2001).

Finally, the influence of charge reduction on sentencing is beyond the scope of the paper, yet an important question. Some research has shown that severity reduction tends to be small (i.e., decreases by one offense class), which likely has minimal impact on sentencing, particularly if the case does not involve more serious felony charges (Johnson 2018; Stemen and Escobar 2018). Although some research has investigated this issue directly (see Bushway and Piehl 2007; Johnson and Pilar. 2019; Metcalfe and Chiricos 2018; Yan 2020; Yan and Bushway 2018), future research should continue to examine the influence of charge reduction on sentencing, particularly in comparing jurisdictions that use sentencing guidelines and those that do not.

Notes

1. We fully acknowledge the complexity of charge reduction and plea negotiation. Prosecutors have multiple tools within their toolkit to induce guilty pleas, such as filing multiple counts or a charge that requires a mandatory minimum for repeat offender status to bring to the table in negotiating a guilty plea. Capturing complexity of charge reduction that may involve decisions to reduce one aspect of a case (i.e., drop counts) as opposed to another (i.e., reduce severity) is difficult to capture in traditional quantitative models (see Bloch, Engen, and Parrotta 2014). Future research with advanced analytical techniques or mixed methods approaches to specific types of cases is needed to fully examine how prosecutors utilize the myriad of tools available during a plea negotiation.
2. In order to have a charge reduction possible from initial charge to conviction, cases would need to be prosecuted to the point of adjudication and result in a guilty plea, rather than going to trial.
3. We also ran the analysis using OLS regression, poisson, and negative binomial models for the amount of a severity reduction and count reduction. The results did not significantly differ from those generated by the logistic regression models we present in the paper (results available from authors upon request).
4. Based upon conversations with both prosecutors and defense attorneys in this jurisdiction, overcharging in the form of stacking counts appears to be relatively uncommon; however, other prosecutor's offices may have a local culture that supports this (see Ulmer 1997; Johnson 2018). We did not find instances in which prosecutors increased the number of counts between initial filing and adjudication, and only found one instance of an increase in severity. It is likely that the local prosecutor culture does not utilize charge increases as a method of charge negotiation (see Johnson 2018).
5. Although prior literature suggests that evidentiary factors influence charge reduction and plea negotiations, most studies do not include these measures (c.f. Kutateladze, Andiloro, and Johnson 2016). Our data do not have direct measures for strength of evidence, witness credibility, or victim cooperation.

6. The focal concerns perspective suggests that prosecutorial and defense attorney caseload will impact case processing. Unfortunately, we do not have data on caseload for either attorney.
7. We also account for some of the impact of prior decision points and selection bias by modeling case dismissals. To account for the possibility of biased selection into our sample, we estimate a probit model for selection into our sample of plea cases as a function of the information that is available to us in a separate database: defendant race, defendant gender, defendant age, and the crime severity. To satisfy the exclusion restriction, we also include the reviewing District Attorney or Assistant District Attorney. Using the results of the probit model, we calculate the Inverse Mills Ratio (IMR) and re-estimate the models of charge reduction with the IMR included as a control. The results are available in the Supplementary Appendix. We find that the results of our key independent variables of interest are nearly identical to those in the models that do not include an adjustment for sample selection bias. Most importantly, the fundamental inferences we make as a result of the model findings also remain unchanged.
8. We also conducted a series of mediation analyses using both variables as mediators, but the results did not suggest significant mediation effects were occurring and thus were not presented in this paper. Each measure of charge reduction is based on the possibility of a reduction; as such, count reduction includes a subset of cases in which two or more counts were initially charged, violent charge reduction includes only cases which were initially charged as a violent crime.
9. While our ultimate goal is not to explain all variation in charge reductions, we feel some attention should be paid to the measures of fit we provide in Tables 2, 3, and 4. While we include the pseudo R² values, these pseudo R² values are notoriously difficult to interpret in a straightforward manner; therefore, we also calculate the area under the receiver operating characteristic (ROC) curve, which is abbreviated to AUC, as an indicator of model fit for logistic regression. It is equivalent to the probability that a randomly chosen positive instance is ranked higher than a randomly chosen negative instance, i.e. it is equivalent to the two sample Wilcoxon rank-sum statistic.
10. Partial (marginal) effects are calculated using the *mx* package in R. Marginal effects use model prediction so we can better interpret the model in the scale that makes more sense.
11. While the effect of a discrete change from Black to White is statistically significant at conventional levels ($p < 0.05$), the effect of the discrete change from white to Hispanic approaches conventional levels of statistical significance ($P < 0.1$).
12. Similarly, we find no significant race or gender effects when it comes to the likelihood of *count* reduction for drug, violent, and all other crimes. Instead, only the total number of counts is associated with the likelihood of a count reduction. Results available upon request.

Disclosure of potential conflicts of interest

No potential conflict of interest was reported by the author(s).

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