

# Stacking punishment: The imposition of consecutive sentences in Pennsylvania

Miranda A. Galvin<sup>1,2,3</sup> 

<sup>1</sup>Pennsylvania Commission on Sentencing, State College, Pennsylvania, USA

<sup>2</sup>State College, Pennsylvania, The Criminal Justice Research Center

<sup>3</sup>Department of Sociology and Criminology, The Pennsylvania State University, University Park, Pennsylvania, USA

## Correspondence

Miranda A. Galvin, The Pennsylvania State University, 211 Oswald Tower, University Park, PA 16801, USA.  
Email: [mag483@psu.edu](mailto:mag483@psu.edu)

## Abstract

**Research Summary:** This study introduces the decision to impose consecutive sentences as a “window of discretion” in modern sentencing regimes that has the potential to produce extreme and disparate punishment. Among cases sentenced in Pennsylvania between 2015 and 2019, consecutive sentences were present in more than 20% of all cases, including 35% of cases resulting in a primary sentence to prison and 39% of cases resulting in a primary sentence to jail. The length of consecutive incarceration and probation often exceed primary sentence length and substantially extend justice involvement.

**Policy Implications:** In the absence of guidance, consecutive sentences undermine policy efforts at uniformity and correctional control. Further, relatively common use of (long) probation tails may contribute to “mass probation.” Such decisions should be deserving of the same consideration as given the imposition of primary sentences, meaning the promulgation of guidance regarding imposition and reasonable limits for length.

## KEYWORDS

guidelines, policy, punishment, sentence severity, sentencing

Efforts to characterize punitiveness and disparities in criminal justice have focused primarily on the decisions of individual court actors, giving less attention to the laws and policies that also shape outcomes (Lynch, 2019). Such an approach ignores the ways in which policies are themselves produced (Duxbury, 2021; Murakawa & Beckett, 2010), that policies are frequently discretionary and employed differentially (Kurlychek & Johnson, 2019), and the role of such policies

in expanding punishment in substantial ways. To date, research has identified several policies and practices that can indirectly—but also, dramatically—alter sentencing outcomes for defendants, including mandatory minimum sentences (Lynch, 2016; Schlesinger, 2011; Ulmer et al., 2007), departures from the guidelines (Kramer & Ulmer, 1996), pretrial detention (Dobbie et al., 2018; Heaton et al., 2017; Kutateladze et al., 2014; Martinez et al., 2020; Metcalfe & Chiricos, 2018; Schlesinger, 2007; Stevenson, 2018), and pleading guilty versus going to trial (Yan & Bushway, 2018). Yet, little attention has been given to a practice that is both highly discretionary and has a direct impact on punishment—the imposition of stacked (consecutive) sentences. In many jurisdictions—even those with sentencing guidelines—the decision as to whether multiple sentences should be served consecutively versus concurrently is entirely unstructured (Frase, 2015). As a result, the discretionary decision to impose multiple, consecutive, sentences become an important “legal” mechanism through which punishment can be (substantially) enhanced with little oversight.

Stacked sentencing is, simply, the imposition of multiple punishments in a single case that are required to be served consecutively. Administratively, then, consecutive sentencing results in the imposition of two distinct sentences, both of which must be satisfied before the individual is free of the criminal justice system. While the issue of consecutive sentencing is largely thought to affect only cases with multiple offenses of conviction, that is not always (or even most often) accurate. Broadly, stacked sentencing takes one of two possible forms (and only rarely, both). First, sentences may include multiple terms of similar punishments to be served consecutively—for example, two terms of incarceration or two terms of probation. That is to say, the sentences are “appended” with the intent of increasing total punishment. Appended sentences—as referenced in this study—are most often employed when the defendant is sentenced for multiple offenses or when the primary sentence is to an intermediate sanction (such as a treatment program or electronic monitoring). The second form of consecutive sentencing consists of a consecutive term of *probation* following successful completion of a primary sanction, that is, a “probation tail” (see Silbert, 2012; Wexler & Jones, 2017).

While the combination of probation after incarceration has also sometimes been referred to as “split sentencing” (Bureau of Justice Statistics, 1985; Menefee et al., 2021; Talarico & Myers, 1987), that term is avoided here for several reasons. First, “split sentencing” has most often *specifically* referred to an abbreviated jail term in exchange for a term of probation (Talarico & Myers, 1987, p. 613), though it will be demonstrated that probation may be imposed consecutive to any primary sanction (not only jail, and including prison<sup>1</sup>) and does not necessarily result in a shorter incarceration term relative to those not receiving probation (Bureau of Justice Statistics, 1985).<sup>2</sup> Relatedly, consecutive probation in state courts most closely parallels the imposition of Federal Supervised Release after incarceration (Scott-Hayward, 2013), rather than the “split sentencing” program (Semisch, 2015).<sup>3</sup> Finally, purely functionally, the imposition of a consecutive probation term is in fact the imposition of a second sentence, even for a single offense. Consequently, these sentences remain in effect even if the individual’s primary sentences are extended for a violation beyond the original aggregate length, exposing them to additional justice supervision.

Stacked punishments have rarely been studied but may dramatically increase punishment through extended incarceration or surveillance in the community. In Pennsylvania, the imposition of a consecutive sentence also has consequences beyond punishment for the current offense; lesser offenses for which a consecutive sentence of supervision or confinement is imposed are included in the calculation of a defendant’s prior record score for future convictions, though not if sentenced concurrently.<sup>4</sup> For example, if an individual was previously convicted of assault and also of possession of a controlled substance in the same proceeding, the less serious possession

charge counts against the defendant in the calculation of the prior record score *if and only if* the possession sentence was ordered to be served consecutively to the assault sentence. In such a guidelines regime, punishment is served not once but many times over for those who are repeatedly involved with the criminal justice system.

This study begins by discussing the ways in which stacked sentences have—and have not—been included as focal outcomes in prior research on criminal sentencing. Next, I discuss the established guidance on consecutive sentences in the broader landscape of sentencing guidelines and the penological value of these sentences. Finally, I explore patterns of consecutive sentencing using data on individuals sentenced in Pennsylvania from 2015 to 2019 from the Pennsylvania Commission on Sentencing, focusing on (a) the relative frequency of different forms of stacked sentences, (b) the consequences of these sentences for punishment severity and length, and (c) the circumstances in which they are most likely to be applied. As will be demonstrated, stacked sentences are imposed with relative frequency, especially for persons who already receive the most severe form of criminal punishment (i.e., incarceration). The consequences are substantial, introducing wide windows for disparity, broadening the reach of the correctional system, and potentially undermining efforts at correctional population control.

## 1 | SENTENCING STUDIES AND CONSECUTIVE PUNISHMENT

There has been little attention to the imposition of stacked sanctions, whether as an outcome or predictor. The most comprehensive treatment of the imposition of consecutive sentences is nearly 40 years old (Bureau of Justice Statistics, 1985). With the exception of a handful of studies in the decades, stacked sentences are either systematically excluded or included without acknowledgement or statistical control in what Omori and Petersen (2020) call the “modal” sentencing study. Inclusion of appended (consecutive) incarceration in studies of incarceration length varies by study and data source. For example, studies using state-level data often limit samples (and the length variable) to the most serious offense. This practice describes several seminal studies using the Pennsylvania Commission on Sentencing data, including Johnson (2005, p. 773, 2006, p. 272), Steffensmeier et al. (1998, p. 774), and Ulmer et al. (2016, p. 648; 2004, p. 147). Others, such as Bushway and Piehl (2001), restrict themselves to single offense cases (2001, p. 751). In adopting such approaches, we underestimate the severity of total punishment, and even total incarceration. Further, our conclusions might be biased to the extent that race or other factors are correlated with the receipt and length of consecutive punishments.

Federal data present a different problem: punishment variables in the data published by the United States Sentencing Commission are total sentences, across offenses, that include but do not identify consecutive versus concurrent sentences. Yet, suggested control variables reflect the most serious guideline of conviction (Reedt et al., 2013). As a result, models may not appropriately account for differences in the number and severity of secondary offenses, possibly producing biased coefficients. For example, if the characteristics of those secondary offenses vary substantially between White and Black defendants, our estimates of disparity will reflect these differences even after accounting for differences in primary guideline factors and “multiple convictions.”<sup>5</sup> In many other studies, multiple charge defendants are not discussed, and it not possible to determine whether analyses are for the most serious sentence, the total sanction, or all convicted offenses (e.g., Britt, 2000; Engen et al., 2003). The net result is an imperfect measurement of punishment and of the factors responsible for its production.

Of those studies that have addressed the issue of stacked (consecutive) punishments, the greatest attention has been paid to the imposition of probation following incarceration, almost

always called “split sentencing” though its form and purpose vary substantially across the studies (see note 2). In a BJS study of 18 jurisdictions across the country, almost 20% of all felony defendants received a sentence of probation after jail (i.e., a probation tail), ranging from 0% to 50% across jurisdiction. Among those sentenced to jail, an average of 68% also received a sentence of (consecutive) probation, though two counties reported no jail sentences *without* consecutive terms of probation (Bureau of Justice Statistics, 1985). Talarico and Myers (1987) provided the first multivariate study of probation following incarceration. They noted that while split prison-probation sentences were intended to create a release valve for burgeoning prison populations, their creation also gave court actors an additional sanctioning lever by which to maintain control over certain groups (1987, p. 612). They found that White defendants were more likely to receive split sentences compared to Black defendants, and their total sentences were generally longer. This suggests, first, that judges may view Black defendants as a greater risk to the community and thus may be more reluctant to offer a sentence involving community supervision for these defendants. Second, it is likely that judges do not offer a 1:1 exchange of prison:probation months in determining the length of probation tails (Moore et al., 2008). As a result, total time under criminal justice supervision becomes longer as the use of probation tails increases. As noted previously, however, this “exchange” principle does not seem to describe the current sentencing practice of consecutive probation following incarceration in Pennsylvania, meaning that these findings might reflect specific policy use in an effort to control populations.

“Split-sentencing” is also the focus of a handful of recent articles using data from Washington, Michigan, and Florida. Engen et al. (2003), Gainey et al. (2005), and Lehmann and Gomez (2021) study the imposition of split sentences, which they characterize as an alternative to (longer) incarceration and a potential avenue for racial disparity in punishment. As with Talarico and Myers (1987) and the use of “split sentences” in the federal system, each of these samples consists of individuals sentenced to *prison*, rather than jail. Further, in both Washington<sup>6</sup> and Florida studies, split sentences are described as consequences for a single offense and a potential safety valve for managing prison populations. The most recent study by Menefee et al. (2021) focused not on the *imposition* of split sentences but rather on their consequences for employment using data from Michigan.<sup>7</sup> Specifically, the authors considered how jail followed by probation affected employment outcomes relative to individuals sentenced only to probation. They found that those sentenced to jail prior to probation experienced more technical violations of supervision and more labor market interruptions than those sentenced only to probation. It is not immediately clear the extent to which “split sentences” in this sample mirror the function or form of the “split sentences” in the Washington and Florida samples. This is indeed the most substantial challenge to the use of “split sentencing” as a descriptor—it has been so used so widely and for such diverse purposes as to make its meaning unclear across districts.<sup>8</sup> Such an approach does not necessarily reflect additive nature of stacking incarceration and supervision and also has the (perhaps unintended) consequence of excluding those who experience supervision following incarceration as a result of a sentence for a lesser offense of conviction.

Even less attention has been paid to the imposition of consecutive versus concurrent sentences for convictions with multiple offenses (either in the form of appended incarceration or a probation tail). The 1985 BJS study reported that appended incarceration sentences substantially increased total sentence length; consecutive incarceration sentences were 112% longer than those with multiple prison sentences served concurrently and 178% longer than the average sentence length for all cases (Bureau of Justice Statistics, 1985).<sup>9</sup> The total sentence length for those sentenced to consecutive jail-probation sentences was more than 400% longer than those receiving straight jail.<sup>10</sup> Additionally, Hebert (1997) used an older version of the data from the United States

Sentencing Commission and included two binary controls indicating the presence of a concurrent and/or consecutive incarceration sentence. Both were positively related to the predicted length of incarceration, increasing sentences by approximately 11 months each. This finding underlines the importance of the consecutive versus concurrent decision for incarceration; that is, it is not necessarily that lesser offenses sentenced concurrently are less serious than those sentenced consecutively. Rather, secondary sentences appear similar in all except whether they affect certain versus *potential* incarceration.

## 2 | POLICY AND PENOLOGICAL VALUES

The introduction of sentencing guidelines in many jurisdictions during the late 20th century marked a tonal shift in the stated purposes of criminal justice processing and punishment (Feeley & Simon, 1992; Garland, 2001; Savelsberg, 1992). Guidelines, like other policies adopted during this time, purported to tamp down on individualization that had led to inequality and insufficiently severe sentences in service of (apparently) failed rehabilitative ideals (Feeley & Simon, 1992). Such formal rationalization was to be accomplished by the adoption of a “gap-less system of rules” that could achieve calculable equality with the removal of discretion and extralegal considerations (Savelsberg, 1992, p. 1350). However, as with most attempts to reform institutions, sentencing guidelines had to contend with the problem of path dependence—the institutional development of self-perpetuating mechanisms that undermine reform efforts (Pierson, 2000). For example, Garland (2001) argues that while social conditions were ripe for the jettisoning of welfarist programs and ideals in the late 20th century, many attempts at criminal justice reform (including the adoption of sentencing guidelines) were undermined from within through organizational momentum, such as the professionalization of justice system agents and adoption of prevention orientations. Institutions also resist reform intentionally in the way in which they interpret and react to policy in an effort to preserve the “law-before”—local historical legacies of organization, power, and practice—especially where policy is vague (Verma, 2015). The relatively forgiving structure of sentencing guidelines reflects this negotiated resistance to reform: at first blush, sentencing guidelines appear to restrain judicial discretion, yet most guideline regimes leave ample space for the operationalization of the same substantive concerns that guided sentencing prior to sentencing reform (Savelsberg, 1992).

Relatedly, several scholars argue that many sentencing guidelines offer judges “windows of discretion”: protected structures within guidelines that permit, and even encourage, the consideration of nonlegal criteria (Cirillo, 1986; Engen et al., 2003). While Engen et al. (2003) use the term in reference to alternatives to incarceration, the decision to impose a consecutive versus concurrent sentence offers a similar haven for discretion under many guideline regimes, regardless of the number of offenses of conviction.<sup>11</sup> For example, judges in Arkansas, Delaware, Florida, Kansas, Maryland, Massachusetts, Michigan, North Carolina, Pennsylvania, Tennessee, Utah, and Virginia can impose consecutive or concurrent sentences with full discretion with limited exceptions (Frase, 2015).<sup>12</sup> Judges in the federal system also have relatively broad discretionary power over consecutive and concurrent sentencing (18 U.S.C. § 3584). Only two jurisdictions with sentencing guidelines—Washington state and Minnesota—consider consecutive sentencing to be nonconforming,<sup>13</sup> even though the Model Penal Code recommends a presumption of concurrence in the case of multiple sentences.<sup>14</sup> In Pennsylvania, consecutive sentences have become even more entrenched as windows for discretion over time: while the original Guidelines presumed concurrence, the 1997 Criminal Code was amended to read: “Whenever more than one sentence

is imposed at the same time on a defendant, or whenever a sentence is imposed on a defendant who is sentenced for another offense, *the judge shall state* whether the sentences shall run concurrently or consecutively” (“Title 234 - Rules of Criminal Procedure,” 1996, p. 5694, emphasis added). The reported reasoning for the amendment was that “the length of sentence which a judge intends to impose on a defendant is a substantive matter governed by statute and case law, not a procedural matter to be governed by rule” (“Title 234 - Rules of Criminal Procedure,” 1996, pp. 5694–5695). In doing so, the rule change asserted the irreplaceability of the judiciary (“not a procedural matter to be governed by rule”) while also further preserving space for discretion.<sup>15</sup>

The lack of policy surround the imposition of a consecutive sentence in many jurisdictions, then, may be understood as an important gap in guidelines that permits, and even encourages, the use of substantive factors in decision-making (Savelsberg, 1992). Above and beyond traditional sentencing considerations, the decision to impose a consecutive rather than a concurrent sentence is aligned with two primary penological values—retribution/just deserts and risk management—each of which manifests as a distinct form of consecutive sentence.

## 2.1 | Retribution for extraordinary crimes and just deserts

Appended sentences, especially those of incarceration, are likely motivated by substantive concerns related to retribution and just deserts. Desires for retribution are tied to our perceptions of crime seriousness (Rossi et al., 1974), which are a function of both the magnitude of the consequences (harmfulness) and moral wrongfulness of the behavior (Stylianou, 2003). However, retributive (or deserts) justifications for punishment are already present in sentencing guidelines in the form of the offense severity (or gravity) axis. By extending punishment beyond this recommendation, consecutive sentences are especially punitive and can convey the “extraordinariness” of some offenses. This may be due to the nature of the offense (e.g., multiple offenses, vulnerable victims, moral repugnancy of the behavior), or to assessments made about the defendant (e.g., being a “super-predator”). The sentencing of Bernie Madoff is illustrative in this regard. On June 29, 2009, Madoff was sentenced to 11 consecutive sentences totaling 150 years of incarceration, despite an estimated life expectancy of less than 30 years from the date of sentencing. Judge Denny Chin, who sentenced Madoff, justified the sentence as follows:

But the symbolism is important, for at least three 3 reasons. First, retribution . . . Here, the message must be sent that Mr. Madoff’s crimes were extraordinarily evil, and that this kind of irresponsible manipulation of the system is not merely a bloodless financial crime that takes place just on paper, but that it is instead, as we have heard, one that takes a staggering human toll. (United States v. Madoff, Sentencing Transcript)

In other words, Judge Chin’s justification for consecutive sentencing—as opposed to concurrent sentences that would have easily amounted to a life sentence given Madoff’s advanced age—was that the conduct was so extreme that it deserved punishment of the same variety, even if only symbolically. Perhaps the most well-known Pennsylvania case of consecutive sentencing was that of Jerry Sandusky, sentenced to a minimum of 30 years as a result of 45 counts.<sup>16</sup> In meting out the sentence, the judge in that case noted, “The crimes are not only what you did to their bodies, your crimes are also your assault to their psyches and to their souls and your assault to the sanctity and well-being of the larger community in which we all live” (Ward, 2012).



However, in states that have sought to reduce prison populations through automatic or discretionary (i.e., parole) early release policies, consecutive incarceration sentences may also be employed as a pre-emptive countermeasure against downstream criminal justice reform even for “ordinary” offenses. For example, in Pennsylvania, most individuals who are incarcerated are eligible for parole once they have served their minimum sentence. If a case has multiple incarceration sentences that are to be served consecutively, this will lengthen the minimum sentence before the defendant is eligible to be paroled. Thus, the decision to impose a consecutive incarceration sentence may reflect an indirect policy lever through which judges can influence parole timing for individual defendants. In doing so, the consecutive sentence operates not only as a tool to increase sentence length but also to retain judicial control over punishment outcomes.

## 2.2 | Stacking sentences as risk management

However, when consecutive sentences take the form of some incarceration (either in prison or jail) followed by a mandatory term of probation—regardless of whether the individual has served a term of parole after being released from incarceration—it may be less that the consecutive sentence is intended to increase the perceived severity of the punishment so much as the sentence extends the state’s control over the individual after they have been released from incarceration. It is illustrative that in Pennsylvania terms of consecutive probation after incarceration are called “probation tails”—they are “tacked on,” an appendage that continues after the primary body of punishment is completed.

Historically, probation was intended to serve rehabilitative purposes, a means of connecting defendants with services that might reduce their needs to commit crime (Winslow, 1968). Yet, as the 20th century drew to a close, the criminal justice system underwent a dramatic shift in orientation, away from rehabilitation as a unifying penology and toward one focused on managing risk and securing public safety (Feeley & Simon, 1992; Garland, 2001).<sup>17</sup> In addition, the growing correctional rolls both incarcerated and in the community (Phelps, 2013) required an increasingly managerial system focused on tracking individuals as they moved through an increasingly larger and more complicated criminal justice system (Garland, 2001). In this new era:

Rather than instruments of reintegrating offenders into the community, [community-based sanctions] function as mechanisms to maintain control, often through frequent drug testing, over low-risk offenders for whom the more secure forms of custody are judged too expensive or unnecessary. (Feeley & Simon, 1992, p. 461)

This is further supported by one of the few studies on the imposition of probation conditions. Using data from Minnesota, Kimchi (2019) found wide imposition of drug and alcohol testing, even when individuals were not convicted of drug-related offense. The same study also found that Black individuals—especially those who are young or convicted on drug violations—are more likely to receive particularly restrictive conditions, consistent with the notion that judges may impose conditions based on perceived risk of future behavior. Similarly, Lehmann and Gomez (2021) found that judges in Florida were more likely to impose probation after incarceration for individuals convicted of violent offenses, relative to the odds of a prison sentence without

probation. While monitored, individuals under supervision are expected to perform according to a script of trying to make good<sup>18</sup>—indeed individuals tend to consider probation supervision as relatively punitive, rather than rehabilitative (Wodahl et al., 2020). Probation tails after incarceration and appended probation sentences, then, may be seen as ways to increase monitoring of individuals who judges deem to be “too risky.”

### 3 | PRESENT STUDY

Because most sentencing research has focused on sentences for the primary offense or for total sentences, little is known about the imposition or consequences of stacked (consecutive) sentences in the modern era of sentencing guidelines. Further, the lack of guidance around the imposition of consecutive sentences is an important gap in sentencing policy that creates a legal window for excessive punishment and disparity. This research follows on calls in the past decade to expand sentencing research beyond primary sentences of incarceration (Baumer, 2013; Ulmer, 2012), while also focusing on a highly discretionary (rather than policy-driven) outcome. The present study addresses several interrelated questions of primary importance for understanding this unexplored element of criminal punishment:

RQ1. How frequently are consecutive sentences imposed?

RQ2. What are the consequences of consecutive sentencing?

RQ3. How do the imposition and consequences of consecutive sentencing vary across primary type of sanction (i.e., prison, jail, intermediate sanction, probation)?

Finally, the present study offers an assessment<sup>19</sup> of the circumstances associated with consecutive sentencing:

RQ4. What case and individual characteristics are associated with the imposition of consecutive sentencing?

#### 3.1 | Data

The sample is comprised of sentences imposed on individuals who were sentenced in Pennsylvania from January 1, 2015 through December 31, 2019. Due to statutorily required combinations of sanctions, cases in which the primary offense of conviction was driving under the influence are excluded from the analysis. First- and second-degree homicide offenses are also excluded as they are not subject to the sentencing guidelines. Further, sentences for these offenses are not required to be reported to the Commission on Sentencing, meaning that those that are reported may differ from those unreported in meaningful ways. This results in a total sample of 309,042 cases.

Sentences are reported to the Pennsylvania Commission on Sentencing at the defendant-case-offense level. If there are multiple sentences per case (either on the same offense or across multiple offenses), the court reports whether the judge indicated that the sentence should be served consecutively or concurrently to the most serious sanction as indicated by custody level and length.



### 3.2 | Dependent variable

A “probation tail” was indicated for any primary incarceration or intermediate sentence<sup>20</sup> that had either (a) a term of consecutive probation imposed for the same offense or (b) a term of consecutive probation imposed for a lesser sentenced offense. The decision to include single-offense sentences was made in part based on descriptives that suggested limited discounting of incarceration relative to similarly situated cases without consecutive probation. Appended sentences include (a) cases with multiple offenses resulting in a primary sanction of incarceration or intermediate punishment that also received at least one nonprobation sanction to be served consecutively to the incarceration and (b) cases with multiple offenses that receive a primary sentence of probation and at least one probation sanction to be served consecutively.<sup>21</sup> Cases were considered to have received a consecutive sentence if the condition of *either* a probation tail or appended sentence was met.

### 3.3 | Control variables

In multivariate models, I include several defendant- and case-characteristics that have been used in prior research using the Pennsylvania Commission on Sentencing Data. Individual covariates include defendant sex (male, relative to female), race (Black, relative to White, defendants of other races are excluded due to small sample sizes), and age at sentencing and age at sentencing squared. Case characteristics include the crime type for the most serious offense (violent excluding homicide, drugs, and other, relative to property), disposition (plea, relative to trial), whether the most serious offense was a felony (i.e., eligible for more than 5 years incarceration, relative to misdemeanor), and the guidelines conformity of the primary sentence (below, above, relative to in the recommended standard range).

I also include the two dimensions that form the Pennsylvania guidelines standard sentencing matrix, offense gravity score and prior record score (PRS). Offense gravity score is included as a linear and squared term, consistent with prior research (Bushway & Piehl, 2007). However, PRS is treated as a categorical variable because its calculation in the 7th edition guidelines results in more qualitative than quantitative differences in prior behavior as the categories increase.<sup>22</sup> For example, the “top” category in the 7th edition guidelines (REVOC) reflects not only differences in past offenses but *also* in the current offense gravity score. As a result, individuals with two violent felonies might be categorized as RFEL if they were being sentenced for a felony retail theft or REVOC if being sentenced for a third violent felony. Similarly, the same individual might be in category 5 if being sentenced for a misdemeanor.

Prioritizing an intuitive interpretation, PRS is grouped into three categories: categories 2–4, 5/RFEL/REVOC, relative to categories 0/1. Categories 0–1 represent individuals with either no prior offending or minor criminal justice involvement (2–3 standard misdemeanors, or one Felony 3 offense, or a serious misdemeanor); Categories 2–4 contain individuals with more extensive prior involvement (e.g., more than three standard misdemeanors, or 2–4 Felony 3 offenses, or one to two Felony 2 or Felony 1 offenses, or one serious crime of violence); Categories 5, RFEL, and REVOC contain individuals with extensive prior criminal justice contact including multiple crimes of violence or a long history of lesser offending. To consider an effect that this operationalization may have on conclusions, models with alternative coding are provided in the Supporting Information (S3).

### 3.4 | Analytic strategy

Given the limited information about the use of consecutive sentences, I first describe the overall pattern of consecutive sentencing, including its frequency, form, and relationship with the recommended sentencing matrix. I next describe the differences in sentence length between those sentenced to serve no consecutive sentences, consecutive probation (“tails”), and appended sentences. After these preliminary analyses, I next conduct separate multivariate analyses predicting the imposition of a consecutive sentence for single and multiple offense cases sentenced to incarceration.<sup>23</sup> This split is necessary as cases with only a single offense generally cannot receive appended punishments. Single offenses are modeled using binary logistic regression predicting the imposition of consecutive probation versus no consecutive sentence. Multiple offense cases are modeled using a multinomial logistic regression approach predicting the imposition of an appended sentence versus a probation tail versus no consecutive sentence.<sup>24</sup> Due to expected differences across county of sentencing, models include county fixed effects. Information on variable coding and sample descriptives is provided in the Supporting Information.

## 4 | RESULTS

### 4.1 | How common is consecutive sentencing in Pennsylvania?

Consecutive sentencing is relatively common in Pennsylvania, occurring for approximately 20% of all cases sentenced. Probation tails are more common than appended sentences overall (14.3% compared to 6.7%), but their usage varies substantially across the primary sanction of offense (Table 1). Probation tails and appended sentences are predominantly but not entirely mutually exclusive. In rare cases, individuals may serve consecutive terms of imprisonment or back-to-back sentences of intermediate punishment only to then also receive a probation tail. More than one third of prison sentences involve some form of consecutive punishment, including more than 16% of cases that experience appended punishments, almost exclusively consecutive prison sentences.<sup>25</sup> The frequency of appended incarceration is even higher when focusing on those cases that are *eligible* to receive appended punishment (i.e., cases sentenced for multiple offenses); among this group, almost 30% of prison and probation sentences include an appended incarceration term (Figure 1). A similar proportion of multiple offense probation cases also receive appended sentences.

### 4.2 | How severe are consecutive sentences? How does severity vary across primary sanction?

Table 2 describes the distributions of minimum additional justice supervision associated with appended sentences and probation tails for both the total sample and by the most serious sanction of the primary offense (i.e., the offense typically included in sentencing studies). For most individuals and for both forms of consecutive sentencing, the costs of secondary sentences being ordered as consecutive instead of concurrent are significant.

TABLE 1 Frequency of consecutive sentencing overall and by type

Primary Sentence	Total		Any consecutive sentence		Appended sentence		Probation tail	
	N	%	N	%	N	%	N	%
Total sample	309,040		62,241	20.1	20,765	6.7	44,138	14.3
Most serious sanction								
Prison	41,433		14,554	35.1	6944	16.8	8971	21.7
State intermediate punishment	1529		1529	100.0	1487	97.3	454	29.7
Jail	88,439		34,212	38.7	2703	3.1	32,498	36.7
County intermediate punishment	11,962		2586	21.6	271	2.3	2215	18.5
Probation	155,369		9360	6.0	9360	6.0	0	0.0

Note: Two cases missing information on most serious sanction. An additional 10,308 cases received only a restorative sanction. These cases cannot receive consecutive incarceration or probation and are thus excluded from this table and subsequent analyses.

TABLE 2 Distributions of minimum length of consecutive sentences by type and most serious sanction of primary offense (in months)

Primary Sentence	Type of Consecutive Sentence	N	Mean (months)	Median	75th	90th	Maximum
Total sample	Appended sentence	20,767	24.6	12	24	48	3960
	Probation tail	44,138	38.4	24	48	72	4296
Most serious sanction							
Prison	Appended sentence	6944	43.3	18	42	96	3960
	Probation tail	8971	54.8	36	60	108	4296
State intermediate punishment	Appended sentence	1487	23.5	24	24	24	24
	Probation tail	454	50.6	36	60	84	672
Jail	Appended sentence	2703	4.9	3	5	9	105
	Probation tail	32,498	34.2	24	36	60	3900
County intermediate punishment	Appended sentence	271	6.3	3	9	12	84
	Probation tail	2215	31.7	24	36	60	2532
Probation	Appended sentence	9360	17.2	12	24	24	648

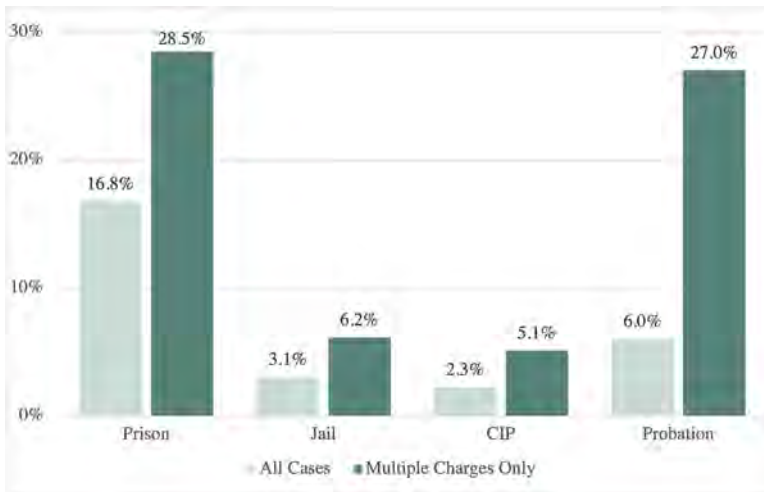


FIGURE 1 Percent of cases receiving appended punishment by most serious sanction, all cases and multiple charges only [Color figure can be viewed at wileyonlinelibrary.com]

For individuals given appended sentences, the additional justice supervision time they are exposed to is more than 2 years, on average. Ten percent of defendants sentenced to appended terms will serve sentences 4 years beyond the sentence for their primary offense. For defendants who are incarcerated in state incarceration facilities, the consequences of consecutive sentences are most substantial; 25% of these individuals will serve at least an additional 42 months of justice supervision and 10% will serve more than 8 years (96 months) of additional incarceration.

Probation tails are similarly lengthy for many individuals. For the entire sample, the average term of probation supervision served after incarceration or intermediate punishment averages more than 3 years. Probation tails for those in state incarceration are again the most substantial at more than 4 and a half years. For defendants across all types of primary sanctions, these distributions are substantially right skewed; the extremes of these distributions extend far beyond human life expectancy (4296 months). However, even at the 75th and 90th percentiles, the distributions provoke pause. Ten percent of individuals returning to the community after state incarceration with a probation tail (served after the conclusion of any parole) face additional supervision of at least 9 years.

### 4.3 | Under what circumstances are consecutive sentences more likely to be imposed?

The remainder of the analyses in this study are multivariate in nature and focus on those who are sentenced to a primary sanction of incarceration (prison or jail), for whom consecutive sentences are most common and consequential. To ensure the appropriate comparisons are made between consecutive sentences and the alternative [no consecutive sentence/concurrent sentences], the sample was split into single- and multiple-offenses.

**TABLE 3** Logistic regression results predicting the odds of a probation tail for single offense convictions; fixed-effects for county of conviction

Variable	P(Probation Tail   MS Sanction = Incarceration) <sup>a</sup>		
	OR	SE	Significance
Male (female)	0.98	0.04	
Age	1.00	0.01	
Age squared	1.00	<0.01	
Black (White)	1.03	0.06	
Guidelines conformity (in range)			
Below range	1.39	0.20	*
Above range	0.96	0.08	
Plea (trial)	0.85	0.07	
Crime type (property)			
Violent—No homicide	0.58	0.08	***
Homicide	1.48	0.42	
Drugs	0.44	0.06	***
Other crime type	0.54	0.06	***
Felony	1.80	0.21	***
Jail (prison)	5.35	1.61	***
Prior record score (0–1)			
2–4	1.01	0.07	
5+	0.96	0.07	
OGS	2.23	0.15	***
OGS squared	0.95	<0.01	***
N		66,219	
Pseudo R <sup>2</sup>		0.2487	

Note: Models contain controls for district and clustered errors.

Abbreviations: OR, odds ratio; SE, standard error.

<sup>a</sup>Three counties were not used in analysis as they did not vary on the dependent variable. Two of these counties are considered rural counties (Class 6–8) with total populations less than 90,000.

\* $p < 0.05$ , two-tailed.

\*\* $p < 0.01$ , two-tailed.

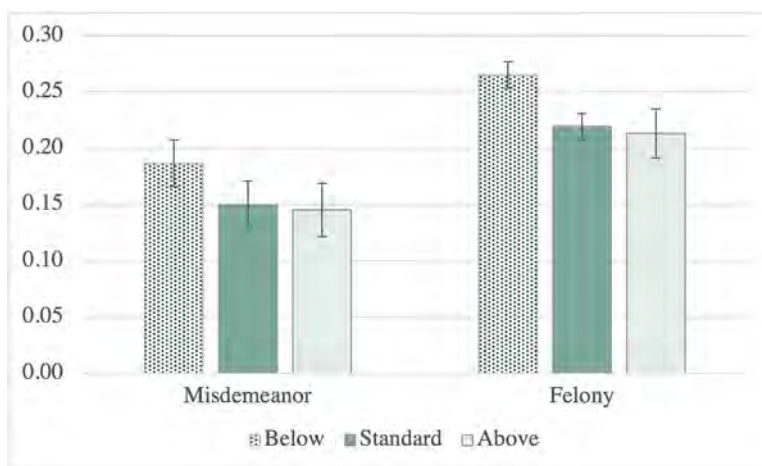
\*\*\* $p < 0.005$ , two-tailed.

#### 4.3.1 | Probation tails after incarceration for cases with single offenses

When individuals are convicted of only one offense, consecutive sentencing takes the form of probation tails to be served after incarceration. Table 3 displays the results of a fixed effect logistic regression predicting the imposition of a probation tail for single offense convictions where the primary sentence is to jail or prison.<sup>26</sup> Overall, there is little support for the notion that defendant characteristics are associated with judicial decisions to impose probation tails for single offense cases. Instead, offense and primary sentence factors appear most related to this decision.

Guidelines conformity has a substantial association with the imposition of probation tails after incarceration; defendants who receive downward departures are 41% more likely to receive a probation tail relative to those who receive sentences in the standard range (OR = 1.39, SE = 0.20). Probation tails are also more common for more serious offenses, with each additional offense





**FIGURE 2** Predicted probability of receiving a probation tail after incarceration by offense level and guidelines conformability (single offense convictions only) [Color figure can be viewed at [wileyonlinelibrary.com](http://wileyonlinelibrary.com)]

gravity score (OGS) increasing the likelihood of receiving a probation tail by more than 100% (OR = 2.23, SE = 0.15), though the significant negative squared term suggests that OGS becomes less positively associated with the likelihood of a probation tail over time. Specifically, for offenses with an OGS greater than 8, probation tails become *less* likely as OGS increases<sup>27</sup>, possibly owing to the presumptive sentence of state incarceration (OGS 9 and above). Felony offenses<sup>28</sup> are similarly associated with a relative increase in the odds of receiving a probation tail. A county jail sentence, compared to a state prison sentence, is more than five times as likely to result in a probation tail (OR = 5.35, SE = 1.61). Defendants' prior record scores, however, are not statistically related to the odds of receiving a probation tail. Compared to the base category of property offenses, violent and drug offenses receive probation tails less often.

Together, these findings suggest that probation tails may be a way for the criminal justice system to “hedge its bets”—allowing individuals to receive shorter, less restrictive incarceration sentences (e.g., in a county facility, possibly through a downward departing mechanism) while also maintaining correctional control over them in the community after the fact.<sup>29</sup> This may be especially likely when offenses are more serious. Consider, for example, Figure 2, which depicts the predicted probability of receiving a stacked sentence for individuals convicted of a felony under conforming sentences compared to those who receive sentences below or above the recommended sentencing range. The probability of receiving a probation tail after incarceration for a single misdemeanor offense when receiving a sentence below the standard range is only marginally more, and not statistically different from, the odds of receiving a probation tail after a standard range sentence. However, for felonies, the predicted probability of receiving a probation tail after a below range sentence for a *felony* offense is 0.27, compared to 0.22 for a standard range sentence.

#### 4.3.2 | Appended sentences and probation tails for cases with multiple offenses

For defendants who are convicted of multiple offenses, judges have multiple options for imposing consecutive sentences. Table 4 presents the results from a multinomial logit with county fixed

TABLE 4 Multinomial logistic regression results predicting the relative risk of appended sentences and probation tails for multiple offense convictions

Variable	Probation tail vs. no consecutive		Appended vs. no consecutive		Appended vs. probation tail	
	RRR	SE	RRR	SE	RRR	SE
Male (female)	0.96	0.03	1.31	0.07	1.37	0.06
Age	0.99	0.01	1.02	0.01	1.03	0.01
Age squared	1.00	<0.01	1.00	<0.01	1.00	<0.01
Black (White)	0.90	0.06	0.93	0.05	1.04	0.04
Guidelines conformity (in range)						
Below range	1.26	0.12	0.67	0.04	0.53	0.06
Above range	1.03	0.07	0.87	0.06	0.84	0.09
Plea (trial)	0.82	0.05	0.26	0.03	0.32	0.03
Multiple incidents (single incident)	1.23	0.07	2.01	0.16	1.63	0.10
Crime type (property)						
Violent—No homicide	1.12	0.04	1.01	0.05	0.90	0.03
Homicide	1.79	0.43	4.06	1.26	2.26	0.56
Drugs	0.84	0.06	0.90	0.07	1.07	0.09
Other crime type	1.00	0.03	1.20	0.07	1.20	0.07
Felony (misdemeanor)	1.01	0.06	0.69	0.05	0.68	0.06
Jail (prison)	3.61	0.80	0.26	0.02	0.32	0.03
Prior record score (0–1)						
2–4	0.79	0.03	0.76	0.04	0.96	0.06
5+	0.62	0.05	0.63	0.05	1.01	0.10
OGS	1.25	0.07	1.02	0.04	0.82	0.04
OGS squared	0.99	<0.01	1.00	<0.01	0.00	<0.01
N	58,062					
Pseudo R <sup>2</sup>	0.2211					

Note: Models contain controls for district and clustered errors.

Abbreviations: RRR, relative risk ratio; SE, standard error.

\* $p < 0.05$ , two-tailed.

\*\* $p < 0.01$ , two-tailed.

\*\*\* $p < 0.005$ , two-tailed.

effects predicting when a defendant received (a) only concurrent sanctions, (b) appended incarceration sentences, or (c) a probation tail. As was the case for offenders convicted of multiple offenses, consecutive sentences appear to—in part—be driven by judges' desires to achieve particular sentencing results. When judges depart downward for multiple offenses, they are less likely to impose appended sentences, both relative to probation tails (RRR = 0.53, SE = 0.06) and to no consecutive sentence of any type (RRR = 0.67, SE = 0.04); judges are also more likely to impose probation tails than no consecutive sentence for multiple offenses when they depart downward. Felony offenses are *less* likely to result in appended sentences, both compared to no consecutive sentence and compared to probation tails. Surprisingly, violent crimes were not associated with greater relative risk of receiving appended sentences compared to property crimes; in fact, defendants sentenced for violent crimes are more likely to be given a probation tail relative to no consecutive sentence, and more likely to receive a probation tail than an appended sentence. This may be a function of focusing on a group of offenders sentenced to incarceration—less serious property crimes are likely excluded, creating fewer differences between the violent crimes and remaining property crimes. However, it also may reflect that the behavior of defendants sentenced for violent crimes—once released—can also expose judges to potential criticism if they are seen as failing to protect the public.<sup>30</sup> Results also suggest that defendants who committed the crimes with which they were convicted on multiple dates, that is, showed a pattern of criminal behavior, were more likely to be given probation tails relative to no consecutive sentences (RRR = 1.23, SE = 0.07), and even more likely to receive appended sentences than probation tails (RRR = 1.63, SE = 0.10). Consistent with the descriptive statistics, those sentenced to jail rather than prison as a primary incarceration sentence are substantially more likely to receive a probation tail (RRR = 3.61, SE = 0.80).

Additionally, individual characteristics appear to play a role in the imposition of consecutive sentencing for defendants convicted of multiple offenses. Men are more likely to receive appended sentences relative to probation tails (RRR = 1.37, SE = 0.06) and to receiving only concurrent sentences (RRR = 1.31, SE = 0.07) compared to women. Age is also positively associated with receiving appended sentences; though the effect is relatively small per year (i.e., about 2% change in odds), it can amount to large differences when comparing individuals who are 20, 10, or even 5 years apart in age. Finally, individual prior record is associated with consecutive sentences in a surprising way: for individuals sentenced on multiple offenses, more serious prior record scores are generally *less* likely to receive probation tails or appended sentences relative to no consecutive sentences when compared to those who have very minor or no prior criminal record. It is possible that consecutive sentences may be one way that judges react to the cognitive dissonance brought on by multiple offenses committed by individuals with relatively no prior criminal involvement.

## 5 | DISCUSSION AND CONCLUSION

Relatively little scholarly attention has been paid to the imposition of consecutive sentences in the modern (i.e., guidelines) era, possibly because they were once believed to be relatively rare (Bureau of Justice Statistics, 1985). However, this is no longer a fair assumption. Based on data of cases sentenced in Pennsylvania 2015–2019, stacked sentences are relatively common, especially for individuals already subject to the most intrusive forms of punishment—prison and jail. More than one third of individuals sentenced to prison receive some form of stacked sentence; among those sentenced for multiple offenses, 28% receive a term of consecutive incarceration.

Furthermore, when applied, the additional terms of punishment are lengthy. Appended incarceration sentences average additional incarceration in excess of 40 months—quite substantial given an average prison sentence of less than 30 months. More than 25% of probation tails are 4 years or more. Some individuals—though admittedly few—receive what amounts to lifelong terms of probation and incarceration for crimes that are not otherwise eligible for incarceration for life without parole. The extreme right tails of these distributions, however, should promote pause; under current policy, these sentences are considered acceptable variation in sentences.

Despite the frequency and consequence of consecutive sentencing, there is little structure surrounding the circumstances in which appended sentences or probation tails are appropriate. In Pennsylvania and many other jurisdictions, the decision to impose consecutive sentences exists as window of discretion within the broader architecture of the sentencing guidelines (Engen et al., 2003). That is to say, the lack of monitoring and guidance around the use of consecutive versus concurrent sentences acts as a safe haven for discretion even within modern policies whose purpose is uniformity (i.e., sentencing guidelines). Instead, these decisions are informed by decision-makers' assessments of substantive concerns, including the need for additional retribution in the form of additional incarceration or the need to mitigate risk by monitoring defendants after their incarceration ends via probation tails.

This is readily observable in the multivariate models. Even after accounting for differences between counties, men were substantially more likely to receive appended incarceration sentences rather than no consecutive sentence or a probation term; this may be because men are seen as more dangerous or culpable (Steffensmeier et al., 1993). Among individuals who were convicted of multiple offenses, those sentenced for offenses committed on *different dates*, showing a pattern of behavior, were nearly twice as likely to receive an appended sentence relative to no consecutive sentence, and more than 50% more likely to receive an appended sentence than a probation tail. Appended sentences were also more likely for in-range sentences than for departures, suggesting that some judges may use consecutive sentences as a way of lengthening punishment without triggering the scrutiny of a departure. Nevertheless, these sentences often produce significant additional punishment—the average consecutive incarceration term was 43.5 months in this sample.

The findings also highlighted the widespread—and varied—use of probation tails. Under Pennsylvania guidelines, probation tails may be added to nearly any sentence, even for a single offense of conviction. More than 20% of all individuals sentenced to state prison received a probation tail, and 36.7% of all individuals sentenced to county jail. When described as a “split sentence,” probation following incarceration has often been seen as an “alternative” to incarceration, that is, a more lenient outcome, which may explain why men were more likely to receive appended sentences than incarceration. Yet the extent of supervision these individuals are subjected to may be anything but lenient. Probation tails generally exceed appended sentences in duration; the average values for probation tails after prison and jail incarceration are 54.9 and 34.1 months, respectively. These averages are significantly influenced by the upper decile of tails, which range from 108 months (9 years) to 4296 months (358 years) for those sentenced to state prison. While these sentences are certainly not the modal experience, the frequency of these extremes should prompt pause.

Individual demographic characteristics appeared unrelated to the imposition of a probation tail for either single or multiple offenses. Instead, guidelines conformity (i.e., below-range sentences), crime type (violent), multiple incidents, and type of incarceration (jail) were predictive of receiving a probation tail. These factors may reflect attempts to anticipate the outcomes of upstream decision-making (Hill et al., 1985). In Pennsylvania—which still retains indeterminate

sentences—probation tails can ensure postrelease surveillance if defendants “time out” (i.e., are not paroled before their maximum sentence). However, individuals incarcerated in local facilities can receive credit for “good time” to reduce their minimum incarceration exposure; probation tails thus offer judges a means of continuing surveillance in anticipation of time served less than imposed. Downward departures, which inherently reduce maximum sentence length and reduce the opportunity for parole board review and discretionary release, are more likely to receive probation tails. Judges may be especially mindful of political consequences in cases involving violent offenses, wary of potential fallout should the individual go on to recidivate (Giordano, 1983; Huber & Gordon, 2004).

## 5.1 | Policy implications

State-level presumptive sentencing guidelines have been declared largely successful in reforming criminal sentencing (Frase, 2019)—yet few address consecutive sentences in any way. In their absence, local decision-makers are left to contend with these complicated issues, likely developing their own informal policies (Ulmer, 2019). The consequences of those individual decisions are substantial—as demonstrated above, consecutive incarceration and probation add years to already lengthy sentences and are tied to other policy problems in the criminal justice system.

The imposition of longer confinement sentences increase the likelihood of infractions (Thompson & Loper, 2005), difficulty finding employment postrelease (Ramakers et al., 2014), and mortality (Patterson, 2013). There is little evidence of a “benefit” in exchange for these costs, with longer terms showing little evidence of reducing recidivism (Rhodes et al., 2018; Wermink et al., 2018) and an increase in mental health symptoms upon release (Porter et al., 2021; Porter & DeMarco, 2019). Furthermore, consecutive sentences also increase the consequences of any future criminal involvement. Under Pennsylvania sentencing guidelines, each offense sentenced consecutively contributes to the scoring of prior criminal record (PRS), rather than just the most serious sentence if multiple offenses were sentenced concurrently (Pa. 204 §303.5). In choosing to impose consecutive sentences, then, judges are meting out more punishment now and also potentially in the future, made all the more likely by the strains of additional incarceration.

While often seen as a significant benefit to defendants, many individuals receiving departures will leave prison only to endure a different type of criminal justice supervision. In many jurisdictions, probation is often no longer a means to provide services to individuals, and instead is a system of supervision whose primary purpose is the prompt—and even pre-emptive—identification of those who may pose risks to the community (Feeley & Simon, 1992; Phelps, 2020). Offices increasingly have adopted risk assessment instruments to determine supervision “levels” (Gill, 2014; Miller & Maloney, 2013; Oleson et al., 2012). In many ways, the requirements of probation parallel the performative aspects described in Kohler-Hausmann’s (2018) description of misdemeanor court participants; probation tails create a formal mechanism for observing and evaluating performances of the reformed, law-abiding citizen. For those who struggle to meet the performance expectations, probation supervision provides a means of removing these individuals from the community. “Technical violations”—arguably the adult version of “status offenses”—are the most common reason for revocation in many jurisdictions (The Pew Charitable Trusts, 2018), consistent with probation supervision as a means of evaluating individuals rather than providing services. Probation tails may also widen gaps in successful reentry after incarceration. Social privilege is associated with ability to abide by probation

requirements successfully (Doherty, 2016), meaning that even if there are no differences in who receives probation tails after prison, less privileged people are more likely to be negatively affected by them. This is likely to be exacerbated by racial differences in postrelease employment opportunities (Decker et al., 2015; Pager, 2003) given that employment may be a term of probation (Alper & Ruhland, 2016).

Consecutive sentencing, left unquestioned and unchecked, also poses a significant challenge for jurisdictions that are trying to stem the tide of long-increasing correctional populations. The “window of discretion” afforded to judges in many jurisdictions to impose consecutive sentences at will can undermine efforts to decarcerate even if primary sentences are shorten in length. For example, it is possible for primary sentences to decrease but for total person-days to stay the same or increase as a result of consecutive incarceration sentences. Judges may also respond to pressures to decarcerate or reduce sentences by imposing probation tails in addition to shorter sentences (Talarico & Myers, 1987). The widespread use of probation tails in this sample suggests that consecutive sentencing may already be a substantial contributor to the phenomenon of “mass probation” (Phelps, 2013). In leaving such a consequential decision unmoderated, sentencing commissions limit the power of guidelines as a correctional resource management tool.

Consecutive sentences are an often-unregulated part of criminal sentencing. Nor is their use a “niche” issue limited to cases involving multiple offenses of conviction (about 30% of cases in this sample). Frase (2017, 2019) has argued that the complexity surrounding sentencing multiple offenses means that Commissions are inherently limited to broad advisory rules subject to departure (2019, p. 119). However, most jurisdictions lack even advisory policies on consecutive sentence. The consequences, both in type and length, impose substantial additional costs to individuals. The decision to impose a consecutive sentence, then, should be deserving of the same consideration as given the imposition of primary sentences. This necessarily includes the promulgation of guidance regarding the circumstances in which these sentences may be imposed and the development of reasonable limits surrounding their length.

## 5.2 | Limitations

In considering the results of this article and their corresponding policy implications, some caution is warranted. First, while other states have similar windows of discretion in their decision to implement stacked punishments, it is not necessarily so that patterns of consecutive sentencing mirror those in Pennsylvania. Future research should seek to document the extent of consecutive punishment, both for multiple offenses as well as probation tails for single offenses. It is possible that the use of consecutive sentencing varies in proportion with judicial perceptions of and support for the guidelines (Ulmer & Johnson, 2017); where guidelines sentences are perceived as too lenient, consecutive sentences should be more common. Second, it is not possible in these data to determine judicial intent, and therefore the difference between a “split sentence” that exchanges a shorter incarceration term for probation after release from a true “probation tail.” Third, a software glitch prohibited the determination of consecutive versus concurrent punishment in 3370 offenses nested in 1957 cases (0.5% of all reported cases) reported between 2016 and 2017. While these cases are relatively few compared to the size of our sample, their absence may have affected these findings. Similarly, as with all data compiled by the Pennsylvania Commission on Sentencing, data completeness depends on counties reporting all sentences given. While most counties have a high compliance rate in recent years, some counties report at lower rates. The use of county



fixed effects in multivariate models should limit the effect of this variable reporting. Finally, while the results here may support inferences regarding motivation for consecutive sentencing, qualitative work is needed to bridge the gap between observed patterns and judicial rationalization for imposing stacked punishment.

## 6 | CONCLUSION

This study demonstrates the importance of examining consecutive sentences in conjunction with other sentencing outcomes. The conceptual space in which these phenomena is littered with terms that overlap in language but not meaning and vice-versa (e.g., probation tail, consecutive probation, postrelease supervision, split sentences)—I am afraid this article is no exception to the use of multiple terms. It is for this reason that I have opted to problematize not a specific sentence pattern but a mechanism of action that produces the circumstance of multiple punishments: consecutive sentencing. More work is needed to fully understand the rationale and circumstances surrounding these stacked punishments. Foremost—is consecutive sentencing as common in other jurisdictions as it is in Pennsylvania? Are there other particular characteristics of offenses for which consecutive sentences are more common than others? For example, are consecutive sentences more common when the victim is White (Ulmer et al., 2020)? The imposition of consecutive sentences also creates issues for how we calculate sentence length, a common dependent variable in sentencing research. How might estimates of disparity be affected by the inclusion of consecutive incarceration? Probation tails? Critically, scholars should explore the context in which consecutive sentencing occurs (Lynch, 2019)—what particular courtroom environments and workgroups are related to the imposition consecutive sentencing is most likely? To what extent are these sanctions the product of individual actors?

Savelsberg (1992) argued that despite efforts to restrain individualized sentencing through the imposition of guidelines, the social conditions that allowed substantive approaches to overtake formally rational policies remain. As a result, criminal justice actors learn to move within the rational structure to produce their desired outcomes that are shaped by substantive concerns. The imposition of consecutive sentences, then, becomes a tool through which disparity can emerge. Furthermore, the imposition of consecutive sentences serves to dramatically increase the breadth of the correctional system by increasing incarceration length and requiring individuals to serve multiple forms of correctional supervision. Unchecked, consecutive sentencing may undermine efforts at correctional population control and criminal justice reform.

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## CONFLICT OF INTEREST

The author confirms that they have no conflict of interest to declare.

**ORCID**

Miranda A. Galvin  <https://orcid.org/0000-0002-2164-3385>

**ENDNOTES**

<sup>1</sup> Consecutive probation (“probation tails”) also includes probation imposed after primary sentences state incarceration (prison). As will be discussed, this is not necessarily reflective of a desire for reentry supervision—nearly 80% of individuals released from state prison in Pennsylvania are released conditionally on parole prior to their maximum sentence date (Kuba, 2020). Consecutive probation sentences are required to be served even after successful parole completion, suggesting that they serve a distinct purpose in sentencing.

<sup>2</sup> On average, even consecutive sentences of probation following a primary sentence of jail in this sample do not follow the pattern of an incarceration “discount” in exchange for probation supervision associated with the term “split sentencing”. As demonstrated in the Supporting Information (S2.A/B), on average, incarceration length is similar for those with and without probation tails, and, in some cases, longer. The only evidence of discounting (traditional “split sentences”) occurs for very serious crimes that are rarely sentenced to jail as a primary sanction.

<sup>3</sup> That said, there remain a number of differences between consecutive probation in state courts and Federal Supervised release. First, contemporary federal supervised release is often considered a replacement for parole, that is, ensuring successful reentry after a period of incarceration. In contrast, consecutive probation is often served *even after the completion of parole*, meaning that their imposition is less likely to be motivated by reentry concerns. Second, consecutive probation and federal supervised release differ in their frequency of imposition. Federal supervised release is imposed broadly, meaning that while the decision is discretionary there is little variation across individuals. In contrast, the imposition consecutive probation is far from uniform, and likely varies by county. Relatedly, the two differ in their relative dominance of probation agency caseload, and therefore, their receipt of targeted programming. Probation tails are almost exclusively serviced by county probation agencies. Unlike the overwhelming share of federal supervised release, these individuals make up a small share of overall probation caseloads and may not receive dedicated reentry programming

<sup>4</sup> 204 Pa. Code §303.5

<sup>5</sup> “Multiple counts of conviction” is occasionally included as binary control variable in the federal data (Johnson et al., 2008; Steffensmeier and Demuth, 2001) or, more rarely, the number of counts (Galvin, 2020; Kautt, 2002). However, many studies do not include any such control (e.g., Engen et al., 2003; Mustard, 2001). Further, this does not explicitly account for consecutive sentencing and likely produces underestimates due to the averaging of consecutive and concurrent sentence lengths.

<sup>6</sup> Split sentences in Washington are currently limited to specific subsets of individuals—that is, with substance-involvement or with dependent children (State of Washington Caseload Forecast Council, 2020, pp. 215–222). In general, Washington has moved away from the imposition of community supervision for felonies (State of Washington Caseload Forecast Council, 2020, p. 27).

<sup>7</sup> Current Michigan guidelines do not specify a split sentence option other than one incorporating a rehabilitative program, known as probation with special alternative incarceration. See Michigan Judicial Institute (2021).

<sup>8</sup> Even within jurisdiction, a “split sentence” might reflect multiple outcomes. For example, “split sentence” describes both probation after incarceration, incarceration after probation, and a term of probation split into active supervision and administrative supervision in Florida (FL §948.012). Although Lehmann and Gomez (2021, p. 353) report that most instances of split sentences involve postincarceration probation, it is not clear whether all incarceration components are to prison versus jail.

<sup>9</sup> 18.9 years versus 8.9 years (concurrent) and 6.8 years (all cases) (Bureau of Justice Statistics, 1985, p. 8).

<sup>10</sup> 38 months versus 7 months (Bureau of Justice Statistics, 1985, p. 2)

<sup>11</sup> That is to say, the decision to impose a consecutive versus concurrent sentence applies to any imposition of multiple offenses, regardless of whether those sentences are distributed over multiple offenses or applied to a single offense.

<sup>12</sup> However, some jurisdictions specify instances in which punishments *must* be consecutive. In Pennsylvania, this includes third degree murder of a victim under the age of 13 (42 Pa. Code §9711.1 or assault on a guard by an individual in correctional custody (18 Pa. Code §2703[b])). Similar rules are in place in Maryland (2 Md. Correctional Services Code §§ 9–201, 9–202), Washington (9 Revised Code of Wa. §9.94A.589), and Minnesota (§609.15(1)(c)). Generally, these offenses are rare and do not reflect the bulk of consecutive sentencing. Further, analyses of

affected cases in Pennsylvania show that these cases to experience varied treatment rather than the uniformity suggested by legal mandates (available upon request).

<sup>13</sup> Washington (9 Revised Code of Wa. §9.94A.589) and Minnesota (§609.15(1)(a))

<sup>14</sup> “The Model Penal Code (MPC) recommends that sentencing commissions develop guidelines that (1) shall include a general presumption in favor of concurrent sentences” (§6B.08(2)). The MPC also proposes that total sentences should be capped at twice the presumptive sentence for the most serious offense (§6B.08(7)), though sentences for multiple offenses should reflect the existence of lesser offenses (§6B.08(3)).

<sup>15</sup> I state that this is “further” preservation of substantive rationalities given Savelsberg’s (1992) astute observation that the inclusion of justice actors in the formulation of sentencing guidelines resulted in the consideration of defendants’ prior record in addition to offense criteria in most guidelines systems. This was itself a means of embedding substantive concerns in a purportedly formally rational policy. The inclusion of juvenile adjudications in Pennsylvania’s prior record score was the result of substantive concerns (culpability) raised by the judiciary and (Kramer and Ulmer, 2009)

<sup>16</sup> Only four of the counts was sentenced to be served consecutively, with the remaining to be served concurrently.

<sup>17</sup> The decline of rehabilitation was made possible by a number of political and social shifts too numerous to treat with diligence here. See Garland (2001) for a thorough discussion.

<sup>18</sup> This parallels the argument made by Kohler-Hausmann (2018) in her description of misdemeanor case processing. She describes the ways in which courts “mark” defendants as having contact with the justice system (e.g., noncriminal or criminal conviction, or adjournment in contemplation of dismissal [ACD]); while often temporary in misdemeanor cases, these marks nevertheless produce consequences for affected individuals both inside and outside the justice system. She also describes how defendants are punished through procedural hassles, during which their behavior is evaluated by agents of the justice system to determine whether the individual warrants further control.

<sup>19</sup> These analyses should be considered exploratory as consecutive sentences have not been studied in any significant capacity. Further, consecutive punishments vary in form and may be justified by overlapping or contradictory penological values. Mixed-methods work to develop theoretical explanations of consecutive sentencing is ongoing.

<sup>20</sup> Under the sentencing guidelines in effect during the study time period, Pennsylvania categorized intermediate punishment programs as either “State Intermediate Punishment” (SIP) or “County Intermediate Punishment” (CIP). The SIP program in operation during this time included a combination of incarceration, substance use treatment in a therapeutic community while incarcerated, coupled with a transition period into treatment in the community. CIP, in contrast, encompasses a variety of programs, only some of which are rehabilitative in nature; all of these programs occurred in the community. However, as part of the second round of Justice Reinvestment in Pennsylvania, these programs have been incorporated into other sentences. See (Commonwealth Foundation, 2019).

<sup>21</sup> The web platform used to report sentencing data to PCS, SGSWeb, experienced a technical glitch for a period of time in 2016–2017, resulting in an inability to identify whether sanctions were consecutive or concurrent for a small portion (less than 0.5%) of cases sentenced between 2015 and 2019. These cases are excluded from all analyses reported here.

<sup>22</sup> While a comprehensive treatment of prior record score determination would detract from the purpose of this study, broadly: individuals’ prior record score category is determined based on an additive process (sum of [offense point value × number of convictions]). However, for the upper most categories (RFEL and REVOC), scoring is based on a more limited set of (serious) offenses and—in the case of REVOC—the seriousness of the *current* offense of conviction. As a result, individuals who have a high number of additive points but do not necessarily meet the necessary current offense criteria (i.e., serious prior involvement) are placed in category 5, which requires no specific conditions for placement.

<sup>23</sup> I limit the analysis here to incarceration (prison and jail sentences) because, as will be demonstrated, stacked sentences are more common and most consequential for this group of defendants.

<sup>24</sup> Offenses receiving both a probation tail and appended sentence (N = 2385 of 60,076) are coded as receiving an appended sentence.

<sup>25</sup> Nine offenders were sentenced to consecutive terms of intermediate punishment programs; four of these defendants also were sentenced consecutive terms of incarceration.

- <sup>26</sup>Note that while individuals sentenced to State Intermediate Punishment are also incarcerated for a portion of their sentence, the nature of the programming they receive in the community as well as the universal use of probation tails warrants exclusion in these analyses.
- <sup>27</sup>The  $x$  coordinate of a vertex of a parabola is given as  $x = -b/2a$  where  $a$  is the linear coefficient in an equation and  $b$  is the quadratic coefficient. In this case,  $b$  is equal to 0.80 and  $a$  is equal to  $-0.05$ .
- <sup>28</sup>Note that in Pennsylvania, felonies are defined differently than in other jurisdictions; the distinction between felonies and misdemeanors is made at *five* years of incarceration, rather than one. In these models then, felonies may be an additional measure of offense seriousness.
- <sup>29</sup>Note again, however, that on average individuals do not receive discounts in incarceration when receiving a probation tail. See S2A/B in the Supporting Information.
- <sup>30</sup>While judges likely also express genuine concern for the community, risk is already controlled through the prior record score variables in the model. Further, individuals convicted of violent crimes are generally no more likely to recidivate than property or drug offenders, and may even be less likely (Alper et al., 2018); consequently, a true assessment of risk would result in a *decreased* likelihood of receiving a probation tail for these defendants.

## REFERENCES

- Alper, M., Durose, M. R., Statisticians, B., Markman, J., & Statistician, B. (2018). 2018 update on prisoner recidivism: A 9-year follow-up period (2005–2014). <https://bjs.ojp.gov/library/publications/2018-update-prisoner-recidivism-9-year-follow-up-period-2005-2014#:~:text=An%20estimated%2068%25%20of%20released,within%20the%20first%203%20years>
- Alper, M., & Ruhland, E. (2016). *Probation Revocation and its causes: Profiles of state and local jurisdictions*. <https://robinainstitute.umn.edu/publications/probation-revocation-and-its-causes-profiles-state-and-local-jurisdictions-hennepin>
- Baumer, E. P. (2013). Reassessing and redirecting research on race and sentencing. *Justice Quarterly*, 30(2), 231–261. <https://doi.org/10.1080/07418825.2012.682602>
- Britt, C. L. (2000). Social context and racial disparities in punishment decisions. *Justice Quarterly*, 17(4), 707–732. <https://doi.org/10.1080/07418820000094731>
- Bureau of Justice Statistics. (1985). Felony sentencing in 18 local jurisdictions. <https://bjs.ojp.gov/library/publications/felony-sentencing-18-local-jurisdictions-0>
- Bushway, S. D., & Piehl, A. M. (2001). Judging judicial discretion: Legal factors and racial discrimination in sentencing. *Law & Society Review*, 35(4), 733. <https://doi.org/10.2307/3185415>
- Bushway, S. D., & Piehl, A. M. (2007). Social science research and the legal threat to presumptive sentencing guidelines. *Criminology & Public Policy*, 6(3), 461–482. <https://doi.org/10.1111/J.1745-9133.2007.00447.X>
- Cirillo, V. A. (1986). Windows for discretion in the pennsylvania sentencing guidelines. *Villanova Law Review*, 31, 1309–1349.
- Commonwealth Foundation. (2019). An overview of justice reinvestment initiative II. <https://www.commonwealthfoundation.org/research/an-overview-of-justice-reinvestment-initiative-ii/>
- Decker, S. H., Ortiz, N., Spohn, C., & Hedberg, E. (2015). Criminal stigma, race, and ethnicity: The consequences of imprisonment for employment. *Journal of Criminal Justice*, 43(2), 108–121. <https://doi.org/10.1016/j.jcrimjus.2015.02.002>
- Dobbie, W., Goldin, J., Yang, C. S., Harvard, Y., Agan, A., Cox, A., Farber, H., Goldsmith-Pinkham, P., Kaplow, L., Looney, A., Mas, A., Mogstad, M., Mueller-Smith, M., Murphy, E., Rehavi, M., Shavell, S., Stevenson, M., Sukhatme, N., Bunke, M., ... Wickett, A. (2018). The effects of pretrial detention on conviction, future crime, and employment: Evidence from randomly assigned judges. *American Economic Review*, 108(2), 201–240. <https://doi.org/10.1257/AER.20161503>
- Doherty, F. (2016). Obey all laws and be good: Probation and the meaning of recidivism). *Georgetown Law Journal*, 104(2), 291–354.
- Duxbury, S. W. (2021). Who controls criminal law? Racial threat and the adoption of state sentencing law, 1975 to 2012. *American Sociological Review*, 86(1), 123–153. <https://doi.org/10.1177/0003122420967647>
- Engen, R. L., Gainey, R. R., Crutchfield, R. D., & Weis, J. G. (2003). Discretion and disparity under sentencing guidelines: The role of departures and structured sentencing alternatives. *Criminology*, 41(1), 99–130. <https://doi.org/10.1111/j.1745-9125.2003.tb00983.x>

- Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30(4), 449–474. <https://doi.org/10.1111/j.1745-9125.1992.tb01112.x>
- Frase, R. S. (2015). The Treatment of Multiple Current Offenses. In R. S. Frase, J. V. Roberts, R. Hester, and K. L. Mitchell (Eds.), *Criminal History Enhancements Sourcebook* (pp. 91–96).
- Frase, R. S. (2017). Principles and procedures for sentencing of multiple current offenses. In J. Ryberg, J. V. Roberts, and J. de Keijser (Eds.), *Sentencing for multiple crimes* (pp. 189–201). Oxford University Press. <https://doi.org/10.1093/oso/9780190607609.003.0011>
- Frase, R. S. (2019). Forty years of american sentencing guidelines: What have we learned? *Crime and justice* (vol., 48(1), pp. 79–135). University of Chicago Press. <https://doi.org/10.1086/701503>
- Gainey, R. R., Steen, S., & Engen, R. L. (2005). Exercising options: An assessment of the use of alternative sanctions for drug offenders. *Justice Quarterly*, 22(4), 488–520. <https://doi.org/10.1080/07418820500219219>
- Galvin, M. A. (2020). Substance or semantics? The consequences of definitional ambiguity for white-collar research. *Journal of Research in Crime and Delinquency*, 57(3), 369–399. <https://doi.org/10.1177/0022427819888012>
- Garland, D. (2001). *The culture of control: Crime and social order in contemporary society*. University of Chicago Press.
- Gill, C. E. (2014). Intensive probation and parole. In G. Bruinsma & D. Weisburd (Eds.), *Encyclopedia of criminology and criminal justice* (pp. 2581–2592). Springer. [https://doi.org/10.1007/978-1-4614-5690-2\\_23](https://doi.org/10.1007/978-1-4614-5690-2_23)
- Giordano, P. C. (1983). Sanctioning the high-status deviant: An attributional analysis. *Social Psychology Quarterly*, 46(4), 329. <https://doi.org/10.2307/3033721>
- Heaton, P., Mayson, S., & Stevenson, M. (2017). The downstream consequences of misdemeanor pretrial detention. *Stanford Law Review*, 69, 711–794.
- Hebert, C. G. (1997). Sentencing outcomes of black, hispanic, and white males convicted under federal sentencing guidelines. *Criminal Justice Review*, 22(2), 133–156. <https://doi.org/10.1177/073401689702200202>
- Hill, G. D., Harris, A. R., & Miller, J. L. (1985). The etiology of bias: Social heuristics and rational decision making in deviance processing. *Journal of Research in Crime and Delinquency*, 22(2), 135–162. <https://doi.org/10.1177/0022427885022002003>
- Huber, G. A., & Gordon, S. C. (2004). Accountability and coercion: Is justice blind when it runs for office? *American Journal of Political Science*, 48(2), 247–263. <https://doi.org/10.1111/j.0092-5853.2004.00068.x>
- Johnson, B. D. (2005). Contextual disparities in guidelines departures: Courtroom social contexts, guidelines compliance, and extralegal disparities in criminal sentencing. *Criminology*, 43(3), 761–796. <https://doi.org/10.1111/j.0011-1348.2005.00023.x>
- Johnson, B. D. (2006). The multilevel context of criminal sentencing: Integrating judge- and county-level influences. *Criminology*, 44(2), 259–298. <https://doi.org/10.1111/j.1745-9125.2006.00049.x>
- Johnson, B. D., Ulmer, J. T., & Kramer, J. H. (2008). The social context of guidelines circumvention: The case of federal district courts. *Criminology*, 46(3), 737–783. <https://doi.org/10.1111/j.1745-9125.2008.00125.x>
- Kautt, P. M. (2002). Location, location, location: Interdistrict and intercircuit variation in sentencing outcomes for federal drug-trafficking offenses. *Justice Quarterly*, 19(4), 633–671. <https://doi.org/10.1080/07418820200095381>
- Kimchi, A. (2019). Investigating the assignment of probation conditions: Heterogeneity and the role of race and ethnicity. *Journal of Quantitative Criminology*, 35(4), 715–745. <https://doi.org/10.1007/s10940-018-9400-2>
- Kohler-Hausmann, I. (2018). *Misdemeanorland: Criminal courts and social control in an age of broken windows policing*. Princeton University Press.
- Kramer, J. H., & Ulmer, J. T. (1996). Sentencing disparity and departures from guidelines. *Justice Quarterly*, 13, 81–106.
- Kramer, J. H., & Ulmer, J. T. (2009). *Sentencing guidelines: Lessons from Pennsylvania*. Lynne Rienner.
- Kuba, R. (2020). Annual statistical report, 2019. Harrisburg, PA: Pennsylvania Department of Corrections.
- Kurlychek, M. C., & Johnson, B. D. (2019). Cumulative disadvantage in the American criminal justice system. *Annual Review of Criminology*, 2, 291–319. <https://doi.org/10.1146/annurev-criminol-011518-024815>
- Kutateladze, B. L., Andiloro, N. R., Johnson, B. D., & Spohn, C. (2014). Cumulative disadvantage: Examining racial and ethnic disparity in prosecution and sentencing. *Criminology*, 52(3), 514–551. <https://doi.org/10.1111/1745-9125.12047>
- Lehmann, P. S., & Gomez, A. I. (2021). Split sentencing in Florida: Race/ethnicity, gender, age, and the mitigation of prison sentence length. *American Journal of Criminal Justice*, 46(2), 345–376. <https://doi.org/10.1007/s12103-020-09550-4>



- Lynch, M. (2016). *Hard bargains: The coercive power of drug laws in federal courts*. Russell Sage Foundation.
- Lynch, M. (2019). Focally concerned about focal concerns: A conceptual and methodological critique of sentencing disparities research. *Justice Quarterly*, 36(7), 1148–1175. <https://doi.org/10.1080/07418825.2019.1686163>
- Martinez, B. P., Petersen, N., & Omori, M. (2020). Time, money, and punishment: institutional racial-ethnic inequalities in pretrial detention and case outcomes. *Crime & Delinquency*, 66(6–7), 837–863. <https://doi.org/10.1177/0011128719881600>
- Menefee, M. R., Harding, D. J., Nguyen, A. P., Morenoff, J. D., & Bushway, S. D. (2021). The effect of split sentences on employment and future criminal justice involvement: Evidence from a natural experiment. *Social Forces*, soab132. <https://doi.org/10.1093/SF/SOAB132>
- Metcalf, C., & Chiricos, T. (2018). Race, plea, and charge reduction: An assessment of racial disparities in the plea process. *Justice Quarterly*, 35(2), 223–253. <https://doi.org/10.1080/07418825.2017.1304564>
- Michigan Judicial Institute. (2021). *State of michigan sentencing guidelines manual*. Michigan Judicial Institute.
- Miller, J., & Maloney, C. (2013). Practitioner compliance with risk/needs assessment tools. *Criminal Justice and Behavior*, 40(7), 716–736. <https://doi.org/10.1177/0093854812468883>
- Moore, N. T., May, D. C., & Wood, P. B. (2008). Offenders, judges, and officers rate the relative severity of alternative sanctions compared to prison. *Journal of Offender Rehabilitation*, 46(3–4), 49–70. <https://doi.org/10.1080/10509670802143276>
- Murakawa, N., & Beckett, K. (2010). The penology of racial innocence: The erasure of racism in the study and practice of punishment. *Law & Society Review*, 44(3–4), 695–730. <https://doi.org/10.1111/J.1540-5893.2010.00420.X>
- Mustard, D. B. (2001). Racial, ethnic, and gender disparities in sentencing: Evidence from the U.S. Federal courts. *Journal of Law and Economics*, 44(1), 285–314. <https://doi.org/10.1086/320276>
- Oleson, J. C., VanBenschoten, S., Robinson, C., Lowenkamp, C. T., & Holsinger, A. M. (2012). Actuarial and clinical assessment of criminogenic needs: Identifying supervision priorities among federal probation officers. *Journal of Crime and Justice*, 35(2), 239–248. <https://doi.org/10.1080/0735648X.2012.674819>
- Omori, M., & Petersen, N. (2020). Institutionalizing inequality in the courts: Decomposing racial and ethnic disparities in detention, conviction, and sentencing. *Criminology*, 58(4), 678–713. <https://doi.org/10.1111/1745-9125.12257>
- Pager, D. (2003). The mark of a criminal record. *American Journal of Sociology*, 108(5), 937–975. <https://doi.org/10.1086/374403>
- Patterson, E. J. (2013). The dose-response of time served in prison on mortality: New York State, 1989–2003. *American Journal of Public Health*, 103(3), 523–528. <https://doi.org/10.2105/AJPH.2012.301148>
- Pierson, P. (2000). Increasing returns, path dependence, and the study of politics. *American Political Science Review*, 94(2), 251–67. <https://doi.org/10.2307/2586011>
- Phelps, M. S. (2013). The paradox of probation: Community supervision in the age of mass incarceration. *Law & Society*, 35(1–2), 51–80.
- Phelps, M. S. (2020). Mass probation from micro to macro: Tracing the expansion and consequences of community supervision. *Annual Review of Criminology*, 3(1), 261–279. <https://doi.org/10.1146/annurev-criminol-011419-041352>
- Porter, L. C., & DeMarco, L. M. (2019). Beyond the dichotomy: Incarceration dosage and mental health. *Criminology*, 57(1), 136–156. <https://doi.org/10.1111/1745-9125.12199>
- Porter, L. C., Kozlowski-Serra, M., & Lee, H. (2021). Proliferation or adaptation? Differences across race and sex in the relationship between time served in prison and mental health symptoms. *Social Science and Medicine*, 276, 113815. <https://doi.org/10.1016/j.socscimed.2021.113815>
- Ramakers, A., Apel, R., Nieuwbeerta, P., Dirkzwager, A., & van Wilsem, J. (2014). Imprisonment length and post-prison employment prospects. *Criminology*, 52(3), 399–427. <https://doi.org/10.1111/1745-9125.12042>
- Reedt, L., Semisch, C., & Blackwell, K. (2013). Effective use of federal sentencing data. United States Sentencing Commission. <https://www.ussc.gov/sites/default/files/pdf/research-and-publications/datafiles/20131122-ACS-Presentation.pdf>
- Rhodes, W., Gaes, G. G., Kling, R., & Cutler, C. (2018). Relationship between prison length of stay and recidivism: A study using regression discontinuity and instrumental variables with multiple break points. *Criminology and Public Policy*, 17(3), 731–769. <https://doi.org/10.1111/1745-9133.12382>
- Rossi, P. H., Waite, E., Bose, C. E., & Berk, R. E. (1974). The seriousness of crimes: Normative structure and individual differences. *American Sociological Review*, 39(2), 224. <https://doi.org/10.2307/2094234>



- Savelsberg, J. J. (1992). Law that does not fit society: Sentencing guidelines as a neoclassical reaction to the dilemmas of substantivized law. *American Journal of Sociology*, 97(5), 1346–1381. <https://doi.org/10.1086/229904>
- Schlesinger, T. (2007). The cumulative effects of racial disparities in criminal processing. *Journal of the Institute of Justice and International Studies*, 7, 261–278.
- Schlesinger, T. (2011). The failure of race neutral policies: How mandatory terms and sentencing enhancements contribute to mass racialized incarceration. *Crime & Delinquency*, 57(1), 56–81. <https://doi.org/10.1177/0011128708323629>
- Scott-Hayward, C. S. (2013). Shadow sentencing: The imposition of federal supervised release. *Berkeley Journal of Criminal Law*, 18, 180–230.
- Semisch, C. (2015). Alternative sentencing in the federal criminal justice system. Government Printing Office.
- Silbert, R. S. (2012). Thinking critically about realignment in California. [https://www.law.berkeley.edu/files/bccj/Thinking\\_Critically\\_3-14-2012.pdf](https://www.law.berkeley.edu/files/bccj/Thinking_Critically_3-14-2012.pdf)
- State of Washington Caseload Forecast Council. (2020). *2020 Washington State Adult Sentencing Guidelines Manual*.
- Steffensmeier, D., & Demuth, S. (2001). Ethnicity and judge's sentencing decisions: Hispanic-Black-White comparisons. *Criminology*, 39(1), 145–178. <https://doi.org/10.1111/j.1745-9125.2001.tb00919.x>
- Steffensmeier, D., Kramer, J., & Cathy, S. (1993). Gender and imprisonment decisions. *Criminology*, 31(3), 411–446. <https://doi.org/10.1111/j.1745-9125.1993.tb01136.x>
- Steffensmeier, D., Ulmer, J. T., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology*, 36(4), 763–798. <https://doi.org/10.1111/j.1745-9125.1998.tb01265.x>
- Stevenson, M. T. (2018). Distortion of justice: How the inability to pay bail affects case outcomes. *The Journal of Law, Economics, and Organization*, 34(4), 511–542. <https://doi.org/10.1093/JLEO/EWY019>
- Stylianou, S. (2003). Measuring crime seriousness perceptions: What have we learned and what else do we want to know. *Journal of Criminal Justice*, 31(1), 37–56. [https://doi.org/10.1016/S0047-2352\(02\)00198-8](https://doi.org/10.1016/S0047-2352(02)00198-8)
- Talarico, S. M., & Myers, M. A. (1987). Split sentencing in Georgia: A test of two empirical assumptions. *Justice Quarterly*, 4(4), 611–630. <https://doi.org/10.1080/07418828700089551>
- The Pew Charitable Trusts. (2018). Probation and parole systems marked by high stakes, missed opportunities. <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/09/probation-and-parole-systems-marked-by-high-stakes-missed-opportunities>
- Thompson, C., & Loper, A. B. (2005). Adjustment patterns in incarcerated women: An analysis of differences based on sentence length. *Criminal Justice and Behavior*, 32(6), 714–732. <https://doi.org/10.1177/0093854805279949>
- Title 234 - Rules of Criminal Procedure. (1996). *Pennsylvania Bulletin*, 26(47), 5694–5698.
- Ulmer, J. T. (2012). Recent developments and new directions in sentencing research. *Justice Quarterly*, 29(1), 1–40. <https://doi.org/10.1080/07418825.2011.624115>
- Ulmer, J. T. (2019). Criminal courts as inhabited institutions: Making sense of difference and similarity in sentencing. *Crime and Justice*, 48(1), 483–522. <https://doi.org/10.1086/701504>
- Ulmer, J. T., & Johnson, B. D. (2004). Sentencing in context: A multilevel analysis. *Criminology*, 42(1), 137–178. <https://doi.org/10.1111/j.1745-9125.2004.tb00516.x>
- Ulmer, J. T., & Johnson, B. D. (2017). Organizational conformity and punishment: Federal court communities and judge-initiated guidelines departures. *Journal of Criminal Law and Criminology*, 107(2), 253–292.
- Ulmer, J. T., Kramer, J. H., & Zajac, G. (2020). The race of defendants and victims in Pennsylvania death penalty decisions: 2000–2010. *Justice Quarterly*, 37(5), 955–983. <https://doi.org/10.1080/07418825.2019.1679865>
- Ulmer, J. T., Kurlychek, M. C., & Kramer, J. H. (2007). Prosecutorial discretion and the imposition of mandatory minimum sentences. *Journal of Research in Crime and Delinquency*, 44(4), 427–458. <https://doi.org/10.1177/0022427807305853>
- Ulmer, J. T., Painter-Davis, N., & Tinik, L. (2016). Disproportional imprisonment of black and hispanic males: Sentencing discretion, processing outcomes, and policy structures. *Justice Quarterly*, 33(4), 642–681. <https://doi.org/10.1080/07418825.2014.958186>
- Verma, A. (2015). The law-before: Legacies and gaps in penal reform. *Law & Society Review*, 49(4), 847–882. <https://doi.org/10.1111/lasr.12163>
- Ward, P. R. (October 12, 2012). Sandusky sentence amounts to life term. *Pittsburgh Post-Gazette*.

- Wermink, H., Nieuwebeerta, P., Ramakers, A. A. T., de Keijser, J. W., & Dirkzwager, A. J. E. (2018). Short-term effects of imprisonment length on recidivism in the Netherlands. *Crime and Delinquency*, 64(8), 1057–1093. <https://doi.org/10.1177/0011128716687290>
- Wexler, D. B., & Jones, M. (2017). Creating a reentry court by wagging the ‘probation tail’. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2938119](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2938119)
- Winslow, R. W. (Ed.). (1968). *Crime in a free society: Selections from the President’s Commission on Law Enforcement and Administration of Justice*. Dickenson Publishing Company.
- Wodahl, E. J., Garland, B. E., & Schweitzer, K. (2020). Are jail sanctions more punitive than community-based punishments? An examination into the perceived severity of alternative sanctions in community supervision. *Criminal Justice Policy Review*, 31(5), 696–720. <https://doi.org/10.1177/0887403419870848>
- Yan, S., & Bushway, S. D. (2018). Plea Discounts or trial penalties? Making sense of the trial-plea sentence disparities. *Justice Quarterly*, 35(7), 1226–1249. <https://doi.org/10.1080/07418825.2018.1552715>

## AUTHOR BIOGRAPHY

**Miranda A. Galvin** is the Pennsylvania Commission on Sentencing Post-doctoral Scholar on Sentencing through the Criminal Justice Research Center at Pennsylvania State University. Her research broadly considers issues related to sentencing outcomes and policy, prosecution, and white-collar crime. Recent projects have focused on the impact of sentencing policies and practices, including the use of consecutive punishment, measuring the effect of juvenile adjudications on prior record score and sentences received, racial disparity in prosecutorial referrals to rehabilitative programming, and community supervision outcomes for individuals who are substance-involved. She has received several awards, including the American Society of Criminology’s Division of White-Collar and Corporate Crime’s Early Career Scholar Award (2020), the National Academies of Sciences, Engineering, and Medicine Mirzayan Fellowship (2018), and the University of Maryland’s Charles A. Caramello Award for Distinguished Dissertation in Social Sciences (2019).

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