

7-2020

## Prosecutorial and Judicial Decision-Making in Federal Sovereign Citizen Cases

Kyle Kaminicki  
*University of Arkansas, Fayetteville*

Follow this and additional works at: <https://scholarworks.uark.edu/etd>



Part of the [Criminology Commons](#), and the [Criminology and Criminal Justice Commons](#)

---

### Citation

Kaminicki, K. (2020). Prosecutorial and Judicial Decision-Making in Federal Sovereign Citizen Cases. *Graduate Theses and Dissertations* Retrieved from <https://scholarworks.uark.edu/etd/3808>

This Thesis is brought to you for free and open access by ScholarWorks@UARK. It has been accepted for inclusion in Graduate Theses and Dissertations by an authorized administrator of ScholarWorks@UARK. For more information, please contact [scholar@uark.edu](mailto:scholar@uark.edu).

Prosecutorial and Judicial Decision-Making in Federal Sovereign Citizen Cases

A thesis submitted in partial fulfillment  
of the requirements for the degree of  
Master of Arts in Sociology

by

Kyle Kaminicki  
University of Arkansas  
Bachelor of Arts in Criminal Justice, Sociology, 2017

July 2020  
University of Arkansas

This thesis is approved for recommendation to the Graduate Council.

---

Jeff Gruenewald, Ph.D  
Thesis Director

---

Christopher A. Shields, Ph.D  
Committee Member

---

Kevin Fitzpatrick, Ph.D  
Committee Member

## **Abstract**

This study examines how ideology and extralegal factors shape prosecutorial and judicial outcomes among sovereign citizens (“sovereigns”) compared to other terrorists accused of committing non-violent crimes in the United States. This study is informed by focal concerns theory (Steffensmeier et al. 1998), which suggests that perceptions of blameworthiness, risk, and other practical implications shape prosecutorial and judicial decision-making.

Data come from the American Terrorism Study (ATS) where several measures are used including terrorist background and other extralegal factors (age, race, gender) for sovereign citizens and terrorists affiliated with other ideologies. Data on 308 sovereign citizens indicted in 158 federal court cases are compared to data on 1,394 court cases associated with 2,783 terrorists associated with other ideological movements (i.e., extreme far-right, non-sovereigns, and Islamic extremism).

Using both bivariate and multivariate analyses, results show that sovereign citizens were more likely to go to trial than the other two movements; however, they do not receive harsher punishments. The majority of sovereigns and Islamic extremists were convicted on the highest count. Far-right non-sovereigns were less likely than Islamic extremists to be convicted on the highest count. The findings also indicate that younger indictees were more likely to plead guilty, while older indictees were convicted at trial more often. White indictees were more likely convicted at trial but received less time in prison. Males were less likely convicted at trial; however, receive harsher sentences. Younger and older indictees were likely convicted on the highest count, while the 30-39 years old age category were less likely convicted on the highest count.

## **Acknowledgments**

Thank you to my thesis director, Dr. Jeff Gruenewald for your patience and guidance during this process and for becoming the new leader of the American Terrorism Study. I am proud to have been able to work with and be a part of the ATS team throughout graduate school and I am grateful for the opportunity it afforded me to pursue a master's degree. I also want to thank Dr. Chris Shields who encouraged me to pursue a master's degree and sparked my interest in legal research. Dr. Kevin Fitzpatrick, thank you for teaching me the statistical techniques to accomplish a study of this nature. More importantly, thank you for teaching me the importance of telling a story with numbers. Thank you, Dr. Brent Smith, for creating the American Terrorism Study and allowing me the opportunity to do such important research.

I would also like to thank the ATS team: Evan Mudgett, Meredith Lerma, Taylor June, and Katie Ratcliff. You all have been my rock during this whole endeavor, and I cannot thank you enough for the support you all provided me. I could not have finished this program without you all.

Finally, thank you to my family and my faith. I have constantly been encouraged and inspired by them throughout this experience. Education has always been praised in my family and I know that my hard work, persistence, and beliefs were instilled in me by my upbringing. Thank you for providing me the strength necessary to accomplish this task.

## Table of Contents

I.	Introduction .....	1
II.	Theory and Prior Evidence .....	5
	A. Prior Findings about Race .....	6
	B. Prior Findings about Sex .....	7
	C. Prior Findings about the Intersection of Race x Sex x Age .....	9
	D. Adjudicating Domestic Terrorists .....	10
	E. Sovereign Citizens and the Court System .....	10
	F. Research Questions .....	11
III.	Data and Method .....	13
	A. The American Terrorism Study .....	14
	B. Measurement .....	15
	C. Analytical Approach.....	16
IV.	Findings .....	17
	A. Multivariate Findings .....	24
V.	Discussion and Conclusion .....	31
	A. Terrorist Ideology .....	31
	B. Terrorist Age .....	33
	C. Terrorist Gender .....	33
	D. Terrorist Race .....	34
	E. Terrorist Relationship Status .....	35
	F. Limitations and Future Research.....	35
	G. Conclusion.....	36
VI.	References .....	38
VII.	Appendices .....	44
	A. Appendix: Count Severity Table .....	44

## **List of Tables**

1. Bivariate Findings for Case Resolution .....	18
2. Bivariate Findings for Convicted on Highest Count.....	21
3. Bivariate Findings for Sentence in Months .....	23
4. Multivariate Findings for Case Resolution .....	25
5. Multivariate Findings for Convicted on Highest Count .....	27
6. Multivariate Findings for Sentence in Months .....	28

## **CHAPTER ONE**

### **INTRODUCTION**

In 2017, former Washington State prosecutor Heather Ann Tucci-Jarraf and Randall Keith Beane attempted to defraud the United Services Automobile Association (USAA) Bank of more than thirty-one million dollars. The defendants claimed in their trial that the United States hides secret accounts of money for all citizens in the Federal Reserve Bank and they were trying to collect what was owed to them by birthright. Ultimately, they were convicted of wire fraud, conspiracy to commit money laundering, and racketeering charges. Such claims are common among members of the Sovereign Citizens Movement (SCM) who believe that they are separate legal entities and that the American government holds no legal power over them (Colacci 2015; Mastrony 2016; Theret 2012). This ideological movement is a growing far-right domestic terrorist threat that emerged from the American tax protest movements (Sullivan 1999; Theret 2012). In 2009, the FBI identified SCM as a major growing domestic threat (ADL 2012; FBI 2011). A key objective of this movement is to prove the illegitimacy of the American government and its lack of power over citizens, which is typically done by refusing to abide by certain federal laws and not paying taxes. Sovereign citizens are arrested, in some cases, for what is referred to as “paper terrorism,” or often filing indecipherable false liens and motions based on old and outdated laws (Berger 2016; Colacci 2015; Loeser 2015; Mastrony 2016; Sullivan 1999; Theret 2012).

The SCM’s use of paper terrorism to highlight flaws in the American legal system has proven to be a difficult method of ideological crime to combat. Paper terrorism results in the accumulation of a massive number of documents in the court system, which prolongs cases and attempts to clog already encumbered courts. To date, most of the research on SCM has focused

on the legal considerations of paper terrorism. A key finding from prior studies on sovereign citizens is that there has been a rise in the use of paper terrorism methods and similar strategies in prisons (Loeser 2015; Theret 2012). It appears that sovereign citizens are recruiting new members to their ideological movement and teaching fellow prisoners how to use their techniques (Bjelopera 2014; Mastrony 2016).

Given the increasing threat of sovereign citizens to American courts, judges and other court actors should be informed on the nature of these crimes and how best to respond to those accused of committing them. Yet, little is still known about the nature of prosecutorial and judicial responses to crimes committed by sovereign citizens. For example, are sovereign citizens punished more or less harshly than other types of terrorists? The lack of empirical research on this topic may in part be due to the relatively limited amount of data available on the criminal activities of sovereign citizens. Fortunately, this is beginning to change as open-source terrorism databases are increasingly collecting data on the typically non-violent crimes of groups like the sovereign citizens.

Prior research has discovered that some extralegal variables can impact legal outcomes (e.g. race of offenders) (Franklin 2018; Olusanya and Gau 2012; Phillips 2009). In light of these discoveries, it is possible that an indictor's race and other background factors like ideology might shape these outcomes. Despite a robust criminological literature on the topic of criminal sentencing, there are significant gaps in our understanding of how terrorists in the United States, including sovereign citizens, are being adjudicated. Therefore, more empirical research is needed to investigate how offender-level variables shape prosecutorial and judicial decision-making in terrorism cases. Moreover, in order to identify unique factors influencing decision-making for sovereign citizen cases, it is important to consider how specific factors influence legal outcomes

for sovereign citizens compared to other terrorists in the United States committing similar types of crimes.

### **The Proposed Study**

The purpose of this study is to examine how extralegal factors shape prosecutorial and judicial outcomes for sovereign citizens and other terrorists accused of committing non-violent crimes in the United States. This study is informed by the theoretical approach of focal concerns theory (Steffensmeier et al. 1998), which suggests that perceptions of blameworthiness, risk, and other practical implications shape prosecutorial and judicial decision-making. *Blameworthiness* refers to the culpability of the defendant and the level of harm resulting from their offense. *Protection of the community* centers on desires to incapacitate offenders and deter them from committing future offenses. *Practical constraints and consequences* focus on other organizational concerns like the need to maintain working relationships, a stable flow of cases, and resources in the courtroom. Practical consequences that may include the indictee's health, personal needs, costs of imprisonment, and the disruption of familial relationships (Steffensmeier et al. 1998).

In addition to filling an important research gap, this study contributes to criminal justice research by exploring the possible differences between the prosecutorial and judicial decision-making that informs the conviction and sentencing of ideologically motivated indictees. This study also helps to bridge terrorism studies with mainstream criminology by being the first study focal concerns theory as a framework for understanding possible differences in conviction and sentencing across various terrorism movements. This study may also inform criminal justice responses to terrorism by further examining the effects of extralegal factors on legal outcomes for a relatively rare yet serious form of crime.

Data come from the American Terrorism Study (ATS) that measures terrorist ideology and other extralegal factors for sovereign citizens and domestic terrorists affiliated with other ideologies. For the purposes of comparison, ATS data on 1,394 court cases associated with 2,783 terrorists associated with other ideological movements (i.e., extreme non-sovereign far right and Islamic extremism) is relied on. Three dependent variables are measured that capture legal outcomes for domestic terrorism cases, including: 1) the resolution of the case, 2) whether indictees were convicted on the highest count, and 3) prison sentence in months. The independent variables used in the analysis include: 1) sovereign citizen membership, 2) the sex of indictee, 3) the relationship status of the indictee (i.e., cohabitation, engaged, married, divorced, separated, single), and the 4) race of the indictee. Bivariate and multivariate statistical analyses are used to examine the relationships between the independent variables and the three legal outcomes of interest.

## CHAPTER TWO

### THEORY AND PRIOR EVIDENCE

Albonetti's (1991) "bounded rationality" perspective suggests that judges are required to make highly consequential decisions despite often times not having all of the relevant information when adjudicating cases. Organizational constraints like highly congested court dockets and lacking resources, often undermine the quality of decision-making. Steffensmeier et al. (1998) argues that these conditions encourage court actors to create "perceptual shorthands" to fill in the knowledge gaps about offenders. These perceptual short hands act as cognitive shortcuts that allow judges and prosecutors to make quick judgments about the multitude of offenders and their circumstances appearing in their courts on a daily basis. These short hands provide a path for prejudice and stereotypes to shape the decision-making process of court actors and are reinforced in the everyday activities of the courts, becoming resistant to change over time.

Focal concerns theory argues that court actors reach sentencing decisions by weighing three focal concerns: the blameworthiness or culpability of the offender, the dangerousness or risk offenders pose to communities, as well as practical constraints of court environments and consequences for defendants (Steffensmeier et al. 1998). Blameworthiness refers to the defendant's culpability and the goal of aligning punishments to the crime. The nature of the defendant's offense and prior criminal record can play an integral role in perceptions of blameworthiness. Protection of the community captures an offender's potential future behavior, dangerousness, and their risk of recidivism. This focal concern emphasizes objectives such as incapacitation and deterring future offending. The third focal concern, practical constraints and consequences, includes concerns about the organizational costs of cases to the criminal justice

system, the disruption of ties to children or family caused by imprisonment, and the possible impact of offender recidivism on the judges' or prosecutors' standing in the public eye.

Perceptual short hands may be influenced by a number of legal factors, like the seriousness of the crime and the offender's criminal history, but they are shaped by extralegal factors as well. In particular, it is believed that demographic factors like race, sex, and age influence court actor perceptions of offenders as dangerous and crime prone (Franklin et al. 2017; Morrow et al. 2014; Mueller-Johnson and Dhami 2010; Smith and Schriver 2018; Steffensmeier et al. 1998; Steffensmeier and Motivans 2000). As such, perceptual short hands are often linked to general stereotypes about who commits crime and who is more likely to be victimized (Curry 2010; Gruenewald et al. 2013; Helfers 2016; Reyns and Randa 2017). Steffensmeier et al. (1998) argue that offenders that are young, male, and Black are most likely to be described as dangerous and crime prone. They also argue that Blacks are viewed as less likely to be 'harmed' by incarceration. Further research has extended this argument to Hispanic offenders, who are also sometimes stereotyped as especially crime prone (Demuth and Steffensmeier 2004). Importantly, the use of perceptual short hands presents a mental process that is not easily directly observed in the courtroom.

### **Prior Findings about Race**

A review of focal concern theory research focusing on legal decision-making reveals that Black offenders are punished more severely than white offenders, but this is only the case under certain conditions (Franklin 2018; Olusanya and Gau 2012; Phillips 2009). Demuth and Steffensmeier (2004) expanded the use of focal concerns theory to ethnicity and discovered that Hispanic defendants were sentenced similar to Black defendants compared to white defendants, whereas both Black and Hispanic defendants typically received harsher sentences than white

defendants (Harmon 2011). This effect was strongest in the context of sentencing drug offenders (Chen and Nomura 2015; Kautt and Spohn 2002; Lee and Ruiz 2011; Spohn and Belenko 2013; Stringer and Holland 2016). These findings could be the result of racial and ethnic minorities having access to fewer resources and social power, greater cultural dissimilarity, and stereotypes attributing Hispanics to the drug trade and with other drug-related crimes (Franklin 2015; Hartley and Tillyer 2012; Light et al. 2014; Turner and Johnson 2005; Warren et al. 2012).

In addition, prior research shows that Hispanic offenders and Native American offenders are treated similar to Black offenders compared to white offenders (Franklin 2010; Snowball and Weatherburn 2007). Furthermore, stereotypes of criminals do not target all racial and ethnic minorities in the same way. That is, race and ethnicity interact with other attributes, like sex and age, in ways that result in relatively harsher or more lenient sentences (Franklin 2017).

### **Prior Findings about Sex**

Focal concerns theory has also been used to better understand judicial decision-making in the context of differences across defendant's gender. The findings from previous research show that judges generally view female offenders as less blameworthy for their crimes and less dangerous compared to male defendants (Bontrager et al. 2013; Bontrager Ryon 2013; Curry et al. 2004; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006). Females receive more lenient sentences arguably due in part to gender-based stereotypes. Research also finds that male offenders who victimize females receive harsher sentences than those who victimize males (Curry et al. 2004; Dawson 2016; Huebner and Bynum 2006; Tomsich et al. 2014). This has led researchers to suggest that females are seen as less blameworthy for their victimization than males (Curry et al. 2004; Doerner 2012; Felson and Pare 2007; Wingerden et al. 2016).

Studies highlighting the focal concerns of jurors revealed that cases involving female victims were 1.5 times more likely to receive the death penalty than cases involving male victims (Jennings et al. 2015; Richards et al. 2016). The authors surmise that violent crimes against women are \ viewed as more serious offenses in comparison to violent crimes against men. The result of this view is that jurors are more likely to perceive such crimes as more heinous, cruel; therefore, more likely to meet the judicial standards for using the death penalty.

The focal concerns that guide prosecutors' charging decisions may be similar, but not necessarily identical to those of judges. Prosecutors are motivated by practical constraints and the accumulated consequences of their decisions throughout the legal process (Spohn et al. 2001; Steffensmeier et al. 1998). They are more likely to file charges when the offense is serious, when the victim has suffered harm, and when the evidence is strong against the defendant. Prosecutors' concerns about the practical consequences of charging decisions focus on the likelihood of conviction instead of the social costs of punishment. Spohn et al. (2001) contend that, like judges', prosecutors develop perceptual short hands that often are rooted in stereotypes of offenders and credible victims. The perceptual short hands may be based on the background, character, behaviors of the victim, relationship between the suspect and the victim, and the willingness of the victim to cooperate in the future. Victim credibility is also a major concern for prosecutors, especially in sexual assault cases. Indeed, prosecutors are less likely to file charges in cases where the victim engaged in "risk-taking" behavior or if there were questions about the victim's moral character (Beichner and Spohn 2005; Beichner and Spohn 2012; Bushway and Redlich 2012; Campbell et al. 2015; Campbell 2018).

### **Prior Findings about the Intersection of Race x Sex x Age**

Research examining prosecutorial discretion has shown that victim characteristics like sex, age, and victim-offender relationships can increase the odds of conviction (Chen 2008; Fox and Allen 2014; Martin 2014; Vito et al. 2014). The most important factor in determining the odds of conviction in homicide cases was whether or not the offender was a stranger to the victim. Strangers to the victim increased the offender's odds of conviction, while existing relationships with victims decreased the odds of conviction. Based on this research, it is clear that specific extralegal factors, such as the victim-offender's relationship, inform prosecutorial perceptual short hands, and that such short hands are continually reinforced throughout the stages of the legal process.

Other prior research exploring intake decisions of juveniles has found that these decisions are affected by the intersection of race, sex, and age. The odds that a Black youth will be recommended for formal processing is higher than the odds of formal processing for whites (Higgins et al. 2013), and females are less likely to be referred for formal processing than males (Koons-Witt 2002; Pinchevsky and Steiner 2013). Previous studies indicate that white youth charged with drug offenses are significantly less likely than youths of color to be recommended for formal processing (Fairchild et al. 2019). Other studies find that Black youth charged with felony crimes are more likely to be formally prosecuted than whites (Campbell et al. 2015; Cochran and Mears 2015; Fader et al. 2014; Harris 2008). Prior criminal record has no effect on adjudicatory decisions for whites, while this is not the case for Blacks defendants (D'Angelo et al. 2012; Guevara et al. 2008; King 2019). This suggests that racial stereotyping of minority offenders as more threatening than whites may play a role in prosecutorial decision-making (Bishop et al. 2010).

## **Adjudicating Domestic Terrorists**

While prior research on prosecuting and sentencing terrorism remains limited, some studies have suggested that the majority of terrorism cases are tried similarly to more traditional crimes (Smith and Damphousse 1996; 1998). After major terrorism events like 9/11; however, some researchers found that the government tends to prosecute cases that are less serious and complicated (Damphousse and Shields 2007). Research also shows that terrorist defendants are less likely to be convicted as the result of a trial in comparison to traditional defendants (Damphousse and Shields 2007). Shields (2008) found that prosecutors in the post-9/11 era often have less evidence at hand, which affects the types of cases they pursue. The result is that plea bargain rates and conviction rates for terrorists have increased in the 21<sup>st</sup> century, particularly in the years following 9/11.

How prosecutors decide to frame their case against terrorists also shape legal outcomes. Findings from the American Terrorism Study have demonstrated that prosecutors are more successful when terrorist defendants are portrayed as traditional defendants instead of being depicted as terrorists or politically motivated offenders (Smith and Damphousse 1996; 1998). In addition, terrorist defendants who attempt to disassociate themselves from terrorist groups or broader ideological movements have lower conviction rates (Smith et al. 2005).

## **Sovereign Citizens and the Court System**

The precursor to sovereign citizen ideology emerged in the 1950s with the tax protest movement, which objected to the legitimacy of federal income tax and the federal government (Berger 2016; Mastrony 2016; Phillips 2016; Sullivan 1999; Theret 2012). These ideas bled into the Posse Comitatus movement, founded in 1969, and grew in the 1980s as many Midwest farm families were going bankrupt and were in danger of losing their land (Berger 2016; Mastrony

2016; Phillips 2016; Sullivan 1999; Theret 2012). Posse Comitatus rejected the expansion of the federal government and called for strong local control over limited government (Melle 2013). Movement adherents believed that farmers were exempt from paying taxes and could prevent the federal government from taking their land by filing lawsuits against the banks and public officials. Eventually Posse Comitatus and other right-wing militia groups transformed into the Patriot movement in the early 1990s. The Patriot movement was founded on the beliefs that the federal government had become tyrannical by controlling citizens through taxation, environmental regulation, gun ownership, and constitutional liberties (Sullivan 1999). Among these newly focused ideals came the increased use of false liens along with other sham legal findings (i.e., revoking Social Security Accounts, birth certificates, marriage license) in an effort to reclaim their sovereignty as citizens. Common-law courts were used at the local level to apply common law principles to resolve matters and make judgments on crimes outside of officially recognized courts (Berger 2016; Mastrony 2016; Phillips 2016; Sullivan 1999; Theret 2012). These courts were used to harass and intimidate court actors, other law enforcement officials, and defame the government.

### **Research Questions**

Little is known about the similarities and differences in how adherents of particular terrorism movements are adjudicated in comparison to other terrorists. Focal concerns theory has yet to be applied to legal outcomes in terrorism cases, including for sovereign citizens. As a result, there is much to learn about the factors shaping legal outcomes for sovereign citizens in comparison to terrorists adhering to other ideological movements. Thus, the general research questions guiding this study include: *How does terrorist ideology and other demographic*

*attributes shape (a) conviction type (plea bargain vs. trial conviction) (b) conviction on highest count and (c) length of sentence?*

## **CHAPTER THREE**

### **DATA AND METHOD**

This study examines how extralegal factors and terrorist ideology shape legal outcomes for sovereign citizens when compared to other forms of non-violent domestic terrorists. The scope of the research encompasses three different domestic terrorism movements, which includes the SCM, far-right non-sovereigns, and Islamic extremists. The following chapter outlines key definitions, data sources, variable measurements, and the analytical strategy.

The extreme far-right movement is composed of individuals or groups that subscribe to following: 1) nationalism, anti-globalism, suspicious of centralized federal authority; 2) reverent of individual liberty; 3) believe in conspiracy theories that involve a grave threat to national sovereignty and/or personal liberty and a belief that one's personal and/or national "way of life" is under attack and is either already lost or that the threat is imminent (some far-rightist claim the threat is from a specific ethnic, racial, or religious group); 4) and a belief in the need to be prepared for an attack either by participating in or supporting the need for paramilitary preparations and training or survivalism (ATS 2020).

Sovereign citizens are anti-government extremists that believe they are separate or "sovereign" from the United States. As a result, they believe they are not required to answer to any government authority, which includes courts, tax entities, motor vehicle departments, or law enforcement (FBI 2011). Their terroristic acts primarily utilize non-violent methods, which separates them from the larger extreme far-right movement. In particular, far-right non-sovereigns are more likely to focus on cultural grievances (e.g., fear of potential threats from ethnic, racial, or religious groups) rather than anti-government sentiments.

Islamic extremists are defined by their interpretation of Islam through a specific interpretation of *jihad*, or a defensive struggle against injustices that have been forced on Muslims by the Western world. Not all Islamic extremists become violent, but for them *jihad* is an obligation to target non-Muslims and Muslims who have been corrupted by secular and non-fundamentalist influences. Islamic extremists are included in the study as a comparison group to examine the two far-right movements, which are vastly different domestic terrorist movements.

### **The American Terrorism Study**

Data for this study come from the American Terrorism Study (ATS), which was originally created in 1988 with the cooperation of the Federal Bureau of Investigation's (FBI) Terrorism Research and Analytical Center. The ATS was designed to collect and code data from court case records on all federal criminal cases since 1980 that resulted in indictments initiated from an official FBI "terrorism" investigation. Additional cases that meet the FBI's definition of terrorism are included in the database from sources other than lists provided by the FBI. These auxiliary sources include the Department of Justice, Executive Office of U.S. Attorneys (EOUSA), and a wide variety of open-source information (e.g., media documents).

The ATS includes data on 165 federal court cases involving 317 sovereign citizen indictees, 265 cases involving far-right non-sovereigns with 570 indictees, and 486 cases involving Islamic extremists with 979 indictees. Data ranges from the years of 1972 to 2019. A preliminary look at the data reveals that various forms of white-collar crimes are a relatively common crime charged to far-right terrorists investigated by the FBI and indicted in federal court, including sovereign citizens and Islamic extremists. These crimes range from racketeering charges to material support charges, and for the purposes of the proposed study, are matched by their count severity. The ATS measures count severity on a scale of 0 for the least severe crimes

to 29 for the most severe crimes (Shields 2008; Smith et al 2005; Damphousse and Shields 2007). A table with the crime severity rankings and crime types is included as Appendix. The majority of the included crimes were RICO (Racketeer Influenced and Corrupt Organizations Act), racketeering, or material support offenses, which are most always non-violent in nature. The most commonly acknowledged charges in this study were 18 USC 1960: prohibition of unlicensed money transmitting businesses; 18 USC 1956: laundering of monetary instruments; and 18 USC 2339A: providing material support to terrorists. In some cases, defendants were charged with committing violent crimes in addition to other white-collar offenses.

### **Measurement**

**Dependent Variables.** Three dependent variables are included in the current study, including case resolution, conviction on highest count, and the sentence in months. The variables are proxies for how harshly, or leniently, courts treat defendants who are indicted for terrorism-related offenses. Case resolution was coded as guilty plea = 0 or trial conviction = 1. Convicted on the highest count was coded as not convicted on the highest count = 0 or convicted on the highest count = 1. The final dependent variable measures criminal sentencing in months as a continuous variable.

**Independent Variables.** The current study includes five independent variables. Terrorist ideology was coded as far-right sovereign = 0, far-right non-sovereign = 1, and Islamic extremist = 2 to examine the extent to which ideology shapes court actor decision-making. Gender was coded as male = 0 and female = 1. Guided by prior research, this variable was chosen to explore how a defendant potentially shapes perceptions of their gender in the courtroom. In addition, relationship status was coded as partnered = 0 and non-partnered = 1. Partnered includes cohabitation, engaged, and married (includes common law). Non-partnered includes divorced,

separated, and single. Another factor included in previous focal concerns research suggests that judges and prosecutors may perceive evidence of social ties as a positive indicator that the defendant is at a lower risk of recidivism and less of a danger to public safety. Whether or not a defendant is partnered is one form of evidence of social ties.

Additionally, race was coded as white = 0 and non-white =1. Non-white includes American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander. The final independent variable was age, which was dummy coded as 18-25-years-old = 0, 26-29-years-old =1, 30-39-years-old =2, 40-49-years-old =3, and 50-years-old or older = 4. Age was coded this way to best represent the age crime curve that is commonly observed in more conventional types of crimes (Hirschi and Gottfredson 1983).

### **Analytical Approach**

The current study analyzes the ATS data with a specific focus on the relationships between extralegal factors and legal decision-making in terrorism cases. Bivariate analysis, using a  $X^2$  for the dichotomous dependent variables (case resolution and convicted on highest count) and a t-test, as well as one-way ANOVA, for the continuous dependent variable (sentence in months) are used in the initial analysis. The  $X^2$  identifies statistically significant relationships between nominal independent variables and binary coded dependent variables. T-test of mean differences and one-way ANOVA identify significant differences across groups in regard to the outcome variable, length of sentence. Next, negative binomial regression is utilized for the continuous dependent variable to identify significant relationships between the independent variables and the continuous dependent variable. Finally, binary logistic regression is used to examine the relationships between the independent variables and the two binary-coded dependent variables.

## CHAPTER FOUR

### FINDINGS

This chapter presents the results of the bivariate and multivariate analyses. Firstly, results for bivariate analyses using  $X^2$  and one-way ANOVA tests for statistically significant differences across the various outcomes of interest are discussed. Next, the results from a series of multivariate analyses are presented. Specifically, results for binary logistic regression models for outcomes *case resolution* and *convicted on highest count* are presented, in addition to results from a negative binomial regression model for the outcome *length of sentence*.

The indictees in the sample for Table 1 were indicted on crimes classified as a 26 (see Appendix) on the crime severity scale and were non-violent in nature (e.g., RICO, racketeering, material support). The most commonly observed crimes were 18 USC 1960, 18 USC 1956, and 18 USC 2339A. Results in Table 1 reveal that far-right sovereigns made up a relatively small portion of the indictees in the sample (18%). Moreover, results indicate significant differences in terrorist ideology across case resolutions, with a higher percentage of far-right sovereigns (55%) going to trial than far-right non-sovereigns (32%). These findings are consistent with current research on far-right sovereigns that suggests sovereigns' ideological beliefs may motivate them to draw out court processes to increase opportunities for political expression (Berger 2016; Bjelopera 2014; FBI 2011). Other, non-sovereign far-rightists make up about one-third of all indictees and are more likely to plead guilty than to be convicted at trial, as most far-right non-sovereigns (68%) included in the current study pleaded guilty. These findings suggest that sovereigns are unique from most extreme far-right indictees in regard to how their cases are resolved in the courts. Islamic extremist cases appear to be resolved more similarly to extreme

far-right non-sovereign cases, as most Islamic extremists (76%) pleaded guilty for their terrorism-related crimes.

**Table 1: Bivariate Findings for Case Resolution (0=Guilty Plea, 1=Trial Conviction)**

	Guilty Plea		Trial Conviction		Total		$\chi^2$ Value	<i>p</i>
	n	%/Mean	n	%/Mean	Total	% Sample		
Terrorist Ideology							87.282	0.000
Far-right Sovereign	125	45.0	153	55.0	278	18.0		
Far-right Non-Sovereign	345	68.2	161	31.8	506	32.8		
Islamic Extremist	573	75.6	185	24.4	758	49.2		
Total	1043	---	499	---	1542	100		
Age							87.426	0.000
18-25	224	79.7	57	20.3	281	20.0		
26-29	209	72.1	81	27.9	290	20.0		
30-39	202	77.4	59	22.6	261	18.2		
40-49	173	57.5	128	42.5	301	20.9		
50+	151	50.2	150	49.8	301	20.9		
Total	959	---	475	---	1434	100		
Gender							0.823	0.364
Male	942	67.3	458	32.7	1400	91.2		
Female	96	71.1	39	28.9	135	8.8		
Total	1038	---	497	---	1535	100		
Race							4.902	0.027
White	555	64.8	301	35.2	856	59.3		
Non-White	414	70.4	174	29.6	588	40.7		
Total	969	---	475	---	1444	100		
Relationship Status							1.621	0.203
Partnered	409	62.7	243	37.3	652	63.1		
Non-partnered	254	66.7	127	33.3	381	36.9		
Total	663	---	370	---	1033	100		

While indictees under the age of 30 were more likely to have pleaded guilty, indictees 40 and older went to trial more often. Indictees who were 50 and older just as commonly pleaded guilty as were convicted at trial. These findings are not consistent with previous focal concerns theory research examining more routine types of crimes, which has shown that younger defendants are more likely to be treated harshly by the courts (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-Johnson and Dhami 2010; Morrow et al. 2014; Smith

and Schriver 2018; Franklin et al. 2017). Discussed more below, findings regarding age could be indicative of older, white sovereigns being more intent on taking their cases to trial.

Most of the indictees in the current study are white. White indictees were more likely to be convicted at trial, while non-white indictees pleaded guilty more often. These findings also run counter to previous focal concerns research, which found that non-white indictees were more likely to be convicted at trial than whites (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017). This could have something to do with the nature of the terrorist crimes that non-white indictees are committing and the types of charges applied to their crimes. For example, perhaps non-white terrorists associated with Islamic extremism are being prosecuted for crimes perceived less serious. It is also possible that the types and amount of evidence available to prosecutors differ for terrorism-related crimes committed by Islamic extremists (Shields 2008).

Bivariate analyses revealed no significant differences in indictee gender or relationship status across the dependent variable case resolution. The majority of males and females pleaded guilty (67% and 71%) rather than go to trial. Similarly, the majority of partnered and non-partnered indictees pleaded guilty (63% and 67%). This aligns with criminological research more generally showing that most defendants “plead out” of the criminal justice system and do not seek a trial (Bushway and Redlich 2012).

The sample in Table 2 represents indictees who were convicted on their highest count, which can include violent and/or non-violent offenses. These crimes can range from a 1 to a 29 on the crime severity scale (see Appendix). Table 2 shows that terrorist indictees vary significantly by ideology and age depending on whether they were convicted on their highest count or not. More than half of extreme far-right sovereigns were convicted on their highest

count (57%), and less than half of non-sovereigns were convicted on their highest count (49%). Similar to far-right sovereigns, the majority of Islamic extremists were convicted on their highest count (58%). These findings seem to initially support that notion that sovereigns are treated more harshly by the courts, possibly because they are perceived as a particularly serious threat to homeland security, similar to Islamic extremists, in the United States (Bjelopera 2014; FBI 2011).

While the bivariate relationship between indictee age and conviction on highest count is statistically significant, the relationship is not linear. Findings shown in Table 2 suggest that younger indictees were more likely to get convicted on their highest count. This is also consistent with previous focal concerns research, which shows that younger offenders are viewed as relatively more dangerous and crime prone (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-Johnson and Dhimi 2010; Morrow et al. 2014; Smith and Schriver 2018; Franklin et al. 2017). In contrast, slightly older indictees (30-39) were less often convicted on their highest count (47%). Findings also show, however, that older indictees were more often convicted on their highest count, similar to younger indictees. It is possible that older indictees who were convicted on their highest count were charged with more serious crimes or that they were considered the ringleaders of terrorist operations. Focal concerns research has also shown that the more serious the crime, the less likely extralegal factors, like age, contributes to the decision-making process for judges and prosecutors (Martin 2014; Vito et al. 2014; Chen 2008; Fox and Allen 2014). The curvilinear relationship between age and convicted on highest count might also be explained by a desire to more harshly punish older terrorists with long criminal histories. While routine criminals who are older may be viewed as less dangerous and more attached to society, and thus less likely to recidivate, courts could perceive indictees in terrorism

cases differently. Serving time in prison may be regarded as harsher punishment for older indictees, as time may be seen as a fading resource for these indictees (Steffensmeier et al. 2017).

**Table 2: Bivariate Findings for Convicted on Highest Count (0=Not Convicted on Highest Count, 1=Convicted on Highest Count)**

	Not Convicted on Highest Count		Convicted on Highest Count		Total		$X^2$ Value	$p$
	n	%/Mean	n	%/Mean	Total	% Sample		
Terrorist Ideology							9.547	0.008
Far-right Sovereign	121	43.2	159	56.8	280	18.3		
Far-right Non-Sovereign	264	50.7	257	49.3	521	34.1		
Islamic Extremist	307	42.1	422	57.9	729	47.6		
Total	692	---	838	---	1530	100		
Age							14.197	0.007
18-25	111	39.4	171	60.6	282	19.2		
26-29	79	42.7	106	57.3	185	12.6		
30-39	202	52.6	182	47.4	384	26.2		
40-49	129	42.6	174	57.4	303	20.7		
50+	134	42.9	178	57.1	312	21.3		
Total	655	---	811	---	1466	100		
Gender							3.417	0.065
Male	614	44.3	772	55.7	1386	91.1		
Female	71	52.6	64	47.4	135	8.9		
Total	685	---	836	---	1521	100		
Race							0.438	0.508
White	374	44.1	475	55.9	849	57.9		
Non-White	283	45.8	335	54.2	618	42.1		
Total	657	---	810	---	1467	100		
Relationship Status							4.698	0.036
Partnered	321	46.5	370	53.5	691	62.5		
Non-partnered	166	40	249	60	415	37.5		
Total	487	---	619	---	1106	100		

Table 2 also shows significant differences in relationship status across conviction on highest count. While the majority of non-partnered indictees were convicted on their highest count (60%), this was the case in just over half of those who were partnered. These findings are also in line with past focal concerns research, which found that marital or cohabitant relationships can inform judicial and prosecutorial decision-making. Those persons untethered by social attachments are often viewed as a greater risk to society by prosecutors and judges (Martin 2014; Vito et al. 2014; Chen 2008; Fox and Allen 2014).

Race and gender do not vary by highest count conviction. Nonetheless, some slight, non-statistically significant, differences are observed across these variables. The majority of males were convicted on their highest count (56%), while only 47 percent of females were convicted on their highest count. On the other hand, whites were just as likely to have been convicted on their highest count as non-whites.

The sample analyzed in Table 3 consisted of non-violent crimes that were classified as a 26 on the severity scale (e.g., RICO, racketeering, material support) (see Appendix). The majority of the observed crimes were 18 USC 1960, 18 USC 1956, and 18 USC 2339A. The findings presented in Table 3 suggest that terrorist ideology has a statistically significant relationship with sentence in months. The results also show that gender, race, and relationship status have significant statistical relationships with the outcome variable, sentence in months.

Findings reveal that far-right sovereigns received shorter sentences than Islamic extremists and far-right non-sovereigns. These findings seem to conflict with prior research, which suggests that sovereigns are treated more harshly by the courts, because they are recognized as a severe threat, comparable to Islamic extremists, in the United States (Bjelopera 2014; FBI 2011).

Male indictees were sentenced to longer prison time than females. This aligns with previous focal concerns research, which proposes females are perceived to be less blameworthy for their crimes and less dangerous; therefore, prison can be regarded as a much harsher punishment for females (Curry et al. 2004; Bontrager Ryon 2013; Bontrager et al. 2013; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006).

**Table 3: Bivariate Findings for Sentence in Months**

	<b>n</b>	<b>Average Number of Months</b>	<b>ANOVA Sig.</b>
Terrorist Ideology			0.001
Far-right Sovereign	275	284.7	
Far-right Non-Sovereign	508	552.7	
Islamic Extremist	720	478.3	
Total	1503	---	
Age			0.870
18-25	285	455.1	
26-29	298	497.3	
30-39	258	434.7	
40-49	295	448.2	
50+	314	417.3	
Total	1450	---	
			<b>T-test Sig.</b>
Gender			0.000
Male	1361	484.0	
Female	133	270.8	
Total	1494	---	
Race			0.010
White	844	430.7	
Non-White	589	510.1	
Total	1433	---	
Relationship Status			0.010
Partnered	665	415.7	
Non-partnered	391	523.1	
Total	1056	---	

White indictees were sentenced to less time in prison than non-white indictees. Prior focal concerns theory research has discovered that racial and ethnic minorities are normally treated more harshly than white offenders in traditional criminal cases. Harsher treatment theorized to be the result of judicial and prosecutorial stereotypes of Black and Hispanic offenders being more dangerous to society. Consequently, Black and Hispanic offenders are regarded as more blameworthy for their crimes (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017). These findings seem to suggest that these racial and ethnic biases can be transferrable to terrorism-related criminal cases.

Table 3 also reveals a significant relationship between relationship status and sentence in months. Non-partnered indictees received harsher sentences than partnered indictees. These findings are in line with past focal concerns research, which has found that marital or cohabitant relationships can inform judicial and prosecutorial decision-making. Persons without social attachments are perceived as a greater risk to society by prosecutors and judges (Martin 2014; Vito et al. 2014; Chen 2008; Fox and Allen 2014).

### **Multivariate Findings**

The findings in Table 4 show that far-right sovereign indictees are significantly more likely than Islamic extremist indictees to be convicted at trial net the effects of other variables. These findings align with the bivariate findings and are consistent with those of prior research (Bjelopera 2014). Sovereign citizen ideology motivates these indictees to publicly demonstrate their due process rights in court. They believe that their rights are violated when they are arrested or imprisoned by a perceived tyrannical government. Trials provide opportunities to air their grievances.

The results also suggest that the 40 to 49 age categories are 2.4 times more likely to be convicted at trial compared to younger indictees (18-25). The 50 plus age categories are 2.4 times more likely to have a conviction at trial. Again, these multivariate findings are not in line with prior focal concerns research. Older offenders typically benefit from being perceived as a lower risk to society (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-Johnson and Dhimi 2010; Morrow et al. 2014; Smith and Schriver 2018; Franklin et al. 2017). A possible explanation for these findings could be that younger indictees are viewed as more redeemable by prosecutors and more deserving of a break.

**Table 4: Multivariate Findings for Case Resolution (0=Guilty Plea, 1=Trial Conviction) Using Binary Logistic Regression**

	<i>B</i>	<i>S.E.</i>	<i>Exp(B)</i>	<i>Sig.</i>
Terrorist Ideology				
Far-right Sovereign	1.311	0.195	3.709	0.000
Far-right Non-Sovereign	0.274	0.165	1.316	0.097
Islamic Extremist	---	---	---	---
Age				
18-25	---	---	---	---
26-29	0.342	0.201	1.408	0.090
30-39	-0.005	0.218	0.995	0.981
40-49	0.855	0.198	2.351	0.000
50+	0.844	0.208	2.421	0.000
Gender (Male = 1)	-0.463	0.229	0.630	0.043
Race (White = 1)	0.136	0.152	1.146	0.369
(Constant)	-1.508	0.189	0.221	0.000
-2 Log likelihood = 1596.551				
Nagelkerke R Square = 0.136				

The results also suggest that the 40 to 49 age categories are 2.4 times more likely to be convicted at trial compared to younger indictees (18-25). The 50 plus age categories are 2.4 times more likely to have a conviction at trial. Again, these multivariate findings are not in line with prior focal concerns research. Older offenders typically benefit from being perceived as a lower risk to society (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-

Johnson and Dhami 2010; Morrow et al. 2014; Smith and Schriver 2018; Franklin et al. 2017). A possible explanation for these findings could be that younger indictees are viewed as more redeemable by prosecutors and more deserving of a break.

Males are statistically less likely to be convicted at trial than females. This finding is in contrast to findings of previous focal concerns research, which suggests that females are usually perceived to be less blameworthy for their crimes and generally less dangerous to the public. Prosecutors and judges may view prison as an excessively harsh punishment for female defendants (Curry et al. 2004; Bontrager Ryon 2013; Bontrager et al. 2013; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006). One explanation for this finding is that females are more often indicted on the most serious offenses (e.g., RICO).

Multivariate findings shown in Table 5 reveal a significant relationship between ideology and the dependent variable indicating that non-sovereigns are less likely to be convicted on the highest count in comparison to Islamic extremists, while there are no statistical differences between sovereigns and the reference category. Aligning with bivariate findings, the relationship between slightly older indictees (30-39) is a significant predictor of a conviction on the highest count, while 26 to 29, 40 to 49, and 50 plus age categories are not significantly different from the reference category (18-25).

**Table 5: Multivariate Findings for Convicted on Highest Count (0=Not Convicted on Highest Count, 1=Convicted on Highest Count) Using Binary Logistic Regression**

	<i>B</i>	S.E.	Exp(B)	Sig.
Terrorist Ideology				
Far-right Sovereign	-0.078	0.173	0.925	0.653
Far-right Non-Sovereign	-0.456	0.126	0.634	0.000
Islamic Extremist	---	---	---	---
Age				
18-25	---	---	---	---
26-29	-0.108	0.194	0.897	0.578
30-39	-0.500	0.163	0.606	0.002
40-49	-0.016	0.178	0.984	0.928
50+	-0.082	0.187	0.922	0.663
Gender (Male = 1)	-0.310	0.113	0.814	0.108
Race (White = 1)	-0.206	0.193	0.734	0.068
(Constant)	0.690	0.146	1.993	0.000
-2 Log likelihood = 1913.326				
Nagelkerke R Square = 0.030				

Table 5 suggests that far-right non-sovereign indictees are less likely to be convicted on their highest count in comparison to Islamic extremists, providing more support that terrorist ideology has an effect on legal outcomes. Non-sovereign extreme far-rightists are not as likely to be convicted on their highest count in comparison to Islamic extremists, while there are no significant differences in extreme far-right sovereigns and Islamic extremists indictees in this regard.

Indictees that were between the ages of 30 to 39 are less likely to be convicted on their highest count when compared to younger indictees (18-25). As noted in the bivariate findings, there is a curvilinear relationship between age and the outcome convicted on highest count. Focal concerns theory and prior research found that younger offenders are considered to be more of a risk to the community for their crimes, while older offenders are seen as more attached to society and thus less of a risk to public safety (Steffensmeier et al. 1998; Steffensmeier et al. 2017). Along these lines, considerations of practical constraints may also influence court decision-

making, as older offenders are more likely to have jobs and familial obligations (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017; Mueller-Johnson and Dhami 2010; Morrow et al. 2014; Smith and Schriver 2018; Franklin et al. 2017). A possible explanation for these results could be that this age group is perceived as less blameworthy and a lower risk to public safety. It could also be that the crimes committed by slightly older indictees (30-39) are less severe, thus resulting in a lower likelihood of a conviction on the highest count.

The findings in Table 6 present the multivariate findings from the negative binomial regression model predicting length of sentence. The relationships between terrorist ideology, gender, race and sentence in months are all statistically significant.

**Table 6: Multivariate Findings for Sentence in Months Using Negative Binomial Regression**

	<i>B</i>	Std. Error	Sig.
Terrorist Ideology			
Far-right Sovereign	-0.343	0.1605	0.032
Far-right Non-Sovereign	0.344	0.1266	0.007
Islamic Extremist	---	---	---
Age			
18-25	-0.033	0.1686	0.843
26-29	0.022	0.1613	0.890
30-39	-0.148	0.1723	0.392
40-49	-0.007	0.1577	0.963
50+	---	---	---
Gender (Male = 1)	0.558	0.1829	0.016
Race (White = 1)	-0.216	0.1159	0.050
(Constant)	5.768	0.2351	0.000
Pearson Chi-Square = 1829.010			
Log Likelihood = -8850.288			

Interestingly, the results show that sovereigns are less likely to receive longer sentences compared to Islamic extremists ( $p < 0.03$ ), while far-right non-sovereigns are more likely to receive longer sentences than Islamic extremists ( $p < 0.007$ ). This could be the result of the

practical constraints faced by the courts. Sovereign citizens are typically older males and considerations of the amount of resources it would cost to imprison a sovereign citizen could factor into decision-making during their sentencing. Another aspect to consider could be the differences in charge types when compared to the other two groups. Sovereign citizen tactics are typically non-violent, whereas the extreme far-right movement and Islamic extremists may have a combination of violent and non-violent crimes associated with them (Berger 2016; Colacci 2015; Loeser 2015; Mastrony 2016; Sullivan 1999; Theret 2012). Finally, previous research has shown that the judicial decision-making process is a separate set of decisions by different court actors (Spohn et al. 2001; Steffensmeier et al. 1998). Judges work under different expectations and guidelines in comparison to prosecutors, thus their decision-making process is distinct and can result in divergent outcomes compared to prosecutorial outcomes. While sovereign citizens may be more likely to go to trial and convicted on their highest count than Islamic extremists, judges do not sentence them as harshly.

The findings also suggest that males received harsher sentences when compared to female indictees. Females are perceived to be less blameworthy for their crimes and less dangerous, thus prison can be regarded as an exceptionally harsh punishment (Curry et al. 2004; Bontrager Ryon 2013; Bontrager et al. 2013; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006). Such ideas may inform the perceptual shorthands of prosecutors and judges in terrorism cases as well. Consequently, males involved in terrorism cases are given significantly more prison time than females when convicted of similar crimes.

White indictees were sentenced to significantly less time in prison in comparison to non-white indictees. A large portion of the sample used in this study were Islamic extremists who represented indictees of Asian and Arab descent. Previous focal concerns theory literature has

discovered that racial and ethnic minorities are usually treated more harshly by the courts than white offenders in traditional criminal cases. This may be the result of judicial and prosecutorial stereotypes of Black and Hispanic offenders being more dangerous to society and, as a result, more blameworthy for their crimes (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017). Importantly, the findings in this study suggest that these racial and ethnic biases carry over to terrorism-related cases. This is the first time that the focal concerns theoretical framework has been applied to a study of terrorism; more research is needed to learn more about the effects of racial stereotypes on the prosecution and sentencing of terrorists.

## CHAPTER FIVE

### DISCUSSION AND CONCLUSION

The current study examined how extreme far-right sovereign ideology and other extralegal factors shaped prosecutorial and judicial outcomes in comparison to other terrorist movements in the U.S. This study contributes to the criminological literature on criminal justice system decision-making by applying focal concerns theory to the adjudication and sentencing of terrorist indictees by prosecutors and judges. The current study also contributed to terrorism studies by examining criminal justice responses to an understudied terrorist movement – the sovereign citizens movement. The results of this study reveal some important factors shaping terrorists’ criminal case outcomes, the likelihood of being convicted on their highest count, and the length of their sentences. What follows is a discussion of key findings, research limitations, and suggestions for future research.

#### *Terrorist Ideology*

One of the most important findings of the current study is that a higher percentage of extreme far-right sovereigns went to trial compared to indictees from other extreme far-right movements. This finding aligns with other research on SCM, which suggests that sovereign citizens often pursue long, drawn out legal processes to congest the courts and seek attention through their “paper terrorism” tactics (Berger 2016; Bjelopera 2014; FBI 2011). With non-sovereign far-right indictees more likely to plead guilty, findings suggest that the nature of terrorist sovereign citizens’ behaviors and responses to sovereign citizens represent a unique sect within the broader extreme far-right movement. Current research on adjudicating terrorists highlights that terrorists are less likely to be convicted when an indictee acts as a traditional

offender (Dampousse and Shields 2007). Sovereign citizens do not act like typical offenders, which results in a higher likelihood of trial conviction.

This study also found that, similar to Islamic extremists, the majority of sovereign citizens were convicted on their highest count, suggesting that sovereign citizens may be similar in regard to how they are perceived as serious offenders and blameworthy for their crimes by court actors. Likewise, these findings align with the current understanding about sovereign citizens who, like Islamic extremists, have been increasingly perceived as a serious threat to law enforcement and the public more generally (Bjelopera 2014; FBI 2011). The finding further supports the notion that far-right sovereigns were more likely to be convicted at trial than other terrorist movements. Further research on adjudicating domestic terrorists demonstrates that more complicated cases result in a higher likelihood of conviction (Shields 2008). One reason for this is that complicated cases that enter the trial process are likely to have more evidence to convict the indictee.

Interestingly, far-right sovereigns were less likely to receive longer sentences compared to Islamic extremists, while non-sovereigns were actually more likely to receive longer sentences than Islamic extremists. This could also be the result of the practical constraints that judges consider when deciding how harshly to punish terrorist defendants. Sovereign citizens tend to be older males and considerations of the amount of resources it could cost to imprison them might affect decision-making. Other factors could be the differences in charge types from sovereign citizens and other terrorists. Sovereign citizen tactics are typically non-violent, whereas other extreme far-rightists and Islamic extremists may be more likely to have been involved in combinations of violent and non-violent crimes (Berger 2016; Colacci 2015; Loeser 2015; Mastrony 2016; Sullivan 1999; Theret 2012). Moreover, research has shown that the judicial

decision-making process is a separate set of decisions by different court actors (Spohn et al. 2001; Steffensmeier et al. 1998). Judges work under different expectations and guidelines than prosecutors and, as a result, their decisions to punish defendants more harshly or leniently may seem to counter prosecutors' decisions to secure convictions at trial for the most serious applicable charges.

### *Terrorist Age*

This study also found that the 40 to 49 and 50 plus age categories were more likely to be convicted at trial than the younger, 18 to 25-year-old, indictees who were more likely to plead guilty. This was inconsistent with previous focal concerns theory research focusing on more common types of crimes. Focal concerns theory suggests that younger defendants are more likely to be treated harshly by the courts (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-Johnson and Dhami 2010); however, this might not be the case for terrorist indictees. Initial bivariate results showed that younger indictees were more often convicted on their highest count; however, these conclusions were not statistically significant in the multivariate analysis.

Multivariate findings showed that 30 to 39-year-old indictees were less likely to be convicted on the highest count compared to younger indictees. This was consistent with focal concerns research, which shows that younger offenders are viewed as dangerous and especially crime prone (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Mueller-Johnson and Dhami 2010; Morrow et al. 2014; Smith and Schriver 2018; Franklin et al. 2017)

### *Terrorist Gender*

Despite conclusions from prior research, the current study found that males were less likely to be convicted at trial but received longer sentences than females when convicted. The results of this study were mixed in how females are treated in the courts. Focal concerns theory

suggests that females are typically perceived to be less blameworthy for their crimes, less dangerous, and that prison can be too harsh of a punishment (Curry et al. 2004; Bontrager Ryon 2013; Bontrager et al. 2013; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006). These ideas seem to have previously unexplored nuances in how they inform the perceptual shorthands of prosecutors and judges in the context of terrorism cases.

It could be that female indictees commit more serious forms of terrorism; therefore, they are viewed as more dangerous and more of a risk to society. It may also be that females who are indicted are the most serious offenders. Terrorism cases can be viewed as more high-profile cases compared to conventional types of crime, so it might be that female indictees charged with terrorism offenses are regarded as the worst of the worst, initially. On the opposite end, these results appeared to be restricted to prosecutorial outcomes and were not translated in the results for sentence in months. Males were often given longer sentences when they were convicted. These results seem to align with current research, which shows that males are perceived to be more blameworthy for their crimes and can be of greater risk to society (Curry et al. 2004; Bontrager Ryon 2013; Bontrager et al. 2013; Gathings and Parrotta 2013; Leiber et al. 2018; Rodriguez et al. 2006).

#### *Terrorist Race*

This study found that white indictees were more likely to go to trial, which runs counter to previous focal concerns research that found that non-white indictees are more likely to be convicted at trial than whites (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017). The nature of the terrorist crimes committed by non-white indictees and the types of charges applied to their crimes could be fundamentally different from those of more common types of criminals. For instance, it is possible that non-whites, associated with

Islamic extremism, are prosecuted for different, perhaps less serious, crimes or that their cases are built upon less credible evidence.

Whites were also found to have a decrease in sentence in months compared to non-whites, which aligns with what we would expect from focal concerns research. Research has shown that racial and ethnic minorities are treated more harshly than white offenders in traditional criminal cases because Black and Hispanic offenders are generally stereotyped as being more dangerous to society and more blameworthy for their crimes (Steffensmeier et al. 1998; Steffensmeier and Motivans 2000; Steffensmeier et al. 2017). It could be argued that similar racial and ethnic biases influence the decision-making processes for terrorism-related cases.

#### *Terrorist Relationship Status*

Non-partnered terrorist indictees were more likely to be convicted on the highest count, which aligns with past focal concerns research that found that marital or cohabitant relationships inform judicial and prosecutorial decision-making (Chen 2008; Fox and Allen 2014; Martin 2014; Vito et al. 2014). Relationship status was not included in the multivariate analysis due to issues of missing data. Nonetheless, research finds that those who are disconnected from relationships are viewed as a greater risk to society by prosecutors and judges (Chen 2008; Fox and Allen 2014; Martin 2014; Vito et al. 2014). It is possible that these perceptions by court actors are more likely to result in a conviction on the highest count and a longer prison sentence.

#### **Limitations and Future Research**

While this study has expanded on previous criminological and terrorism research, it is not without its limitations. For example, the temporal scope of the data was limited by not including some of the most recent terrorist cases. Future research will need to include terrorism cases that

could not be examined in the current study because the cases had not yet officially closed. In addition, the ATS only collects federal cases, so state-level cases dealing with sovereign citizens were not included in the analysis. Scholars should integrate new data on these state-level cases to gain a more comprehensive picture of how the criminal justice system responds to sovereign citizens in comparison to other types of terrorism. Another possible limitation to this study is how sovereign citizens are defined. This study relied on official definitions of sovereign citizens and other types of terrorist ideologies, while the nature of these movements has continued to evolve over time.

Subsequent research should consider applying focal concern theory to legal outcomes for various forms of terrorists adjudicated in the U.S. There are opportunities to apply more sophisticated statistical techniques and qualitative methods to this type of research, which will serve to expand our understanding as to how ideology effects legal outcomes. Continuing to identify the uniqueness of sovereign citizens and their treatment by their courts will inform fairer and more equitable treatment of those indicted for comparable terrorist crimes.

## **Conclusion**

This study examined how terrorist ideology and other extralegal factors shape prosecutorial and judicial outcomes for sovereign citizens compared to other terrorists accused of committing non-violent crimes in the United States. The study was informed by focal concerns theory (Steffensmeier et al. 1998), which maintains that three focal concerns may influence prosecutorial and judicial decision-making, including offender blameworthiness, protection of the community, and other practical implications that shape criminal justice decision-making. The study investigated whether sovereign citizens were viewed as more or less culpable for their crimes in comparison to other types of domestic terrorists. The current study found that while

sovereign citizens may be perceived as blameworthy, this was not necessarily represented in their punishments compared to other types of terrorists. The study also investigated how sovereign citizens may be perceived as a perceived risk to communities in comparison to other types of terrorists. The findings suggest that sovereign citizens are perceived as great risks to the community and are treated comparably to Islamic extremists by prosecutors and judges. Finally, the study explored the practical constraints and consequences of legal decisions and how those effect the treatment of sovereign citizens during the adjudication process compared to other types of terrorists. The study found that such constraints may lead to relatively less harsh punishments for sovereign citizens perhaps due to their age and proclivity for non-violent crimes. By applying focal concerns theory to the prosecution and sentencing of terrorism in the U.S. begins to shed light on how extralegal factors may shape decision-making in federal sovereign citizen cases.

## REFERENCES

- Albonetti, Celesta A. (1991). "An Integration of Theories to Explain Judicial Discretion." *Social Problems* 38(2): 247-266.
- American Terrorism Study Relational Database Codebook (ATS). (2020). 1-194.
- Anti-Defamation League (ADL). (2012). "The Lawless Ones: The Resurgence of the Sovereign Citizen Movement." *Special Report* 2<sup>nd</sup> Edition: 1-39.
- Beichner, Dawn and Cassia Spohn (2005). "Prosecutorial Charging Decisions in Sexual Assault Cases: Examining the Impact of a Specialized Prosecution Unit." *Criminal Justice Policy Review* 16(4): 461-498.
- Beichner, Dawn and Cassia Spohn (2012). "Modeling the Effects of Victim Behavior and Moral Character on Prosecutors' Charging Decisions in Sexual Assault Cases." *Violence and Victims* 27(1): 3-24.
- Berger, J.M. (2016). "Without Prejudice: What Sovereign Citizens Believe." *The George Washington University Program on Extremism* June 2016: 1-13.
- Bishop, Donna M., Michael Leiber, and Joseph Johnson (2010). "Contexts of Decision Making in the Juvenile Justice System: An Organizational Approach to Understanding Minority Overrepresentation." *Youth Violence and Juvenile Justice* 8(3): 213-233.
- Bjelopera, Jerome P. (2014). "The Domestic Terrorist Threat: Background and Issues for Congress." *Congressional Research Service* February 2014: 1-62.
- Bushway, Shawn D. and Allison D. Redlich (2012). "Is Plea Bargaining in the 'Shadow of the Trial' a Mirage?" *Journal Quantitative Criminology* 28: 437-454.
- Campbell, Bradley A., Tasha A. Menaker, and William R. King (2015). "The determination of victim credibility by adult and juvenile sexual assault investigators." *Journal of Criminal Justice* 43(1): 29-39.
- Campbell, Rebecca and Giannina Fehler-Cabral (2018). "Why Police 'Couldn't or Wouldn't' Submit Sexual Assault Kits for Forensic DNA Testing: A Focal Concerns Theory Analysis of Untested Rape Kits." *Law & Society Review* 52(1): 73-105.
- Chen, Elsa and Kevin Nomura (2015). "And Justice for All? Racial and Ethnic Disparities in Federal Drug Courts in California and the US." *The California Journal of Politics & Policy* 7(2): 1-22.
- Cochran, Joshua C. and Daniel P. Mears (2015). "Race, Ethnic, and Gender Divides in Juvenile Court Sanctioning and Rehabilitative Intervention." *Journal of Research in Crime and Delinquency* 52(2): 181-212.

- Colacci, Michael N. (2015). "Sovereign Citizens: A Cult Movement That Demands Legislative Resistance." *Rutgers Journal of Law & Religion* 17: 153-165.
- Curry, Theodore R. (2010). "The conditional effects of victim and offender ethnicity and victim gender on sentences for non-capital cases." *Punishment & Society* 12(4): 438-462.
- Curry, Theodore R. and Guadalupe Corral-Camacho (2008). "Sentencing young minority males for drug offenses: Testing for conditional effects between race/ethnicity, gender and age during the US war on drugs." *Punishment & Society* 10(3): 253-276.
- D'Angelo, Jill, Michael P. Brown, and Jillian Strozewski (2012). "Missouri: An Examination of the Relationship between the Source of Referral to Juvenile Court and Severity of Sentencing Outcomes." *Criminal Justice Policy Review* 24(4): 395-421.
- Demuth, Stephen and Darrell Steffensmeier (2004). "Ethnicity Effects on Sentence Outcomes in Large Urban Courts: Comparisons Among White, Black, and Hispanic Defendants." *Social Science Quarterly* 85(4): 994-1011.
- FBI (2011). "Sovereign Citizens: A Growing Domestic Threat to Law Enforcement." *FBI Law Enforcement Bulletin* Sep 2011: 20-24.
- Fader, Jamie J., Megan C. Kurlycheck, and Kirstin A. Morgan (2014). "The color of juvenile justice: Racial disparities in dispositional decisions." *Social Science Research* 44: 126-140.
- Fairchild, Amanda J., Josh Gupta-Kagan, and Tia Stevens Andersen (2019). "Operationalizing intake: Variations in juvenile court intake procedures and their implications." *Children and Youth Services Review* 102: 91-101.
- Fox, Kathleen A. and Terry Allen (2014). "Examining the Instrumental-Expressive Continuum of Homicides: Incorporating the Effects of Gender, Victim-Offender Relationships, and Weapon Choice." *Homicide Studies* 18(3): 298-317.
- Franklin, Travis W. (2010). "The intersection of defendants' race, gender, and age in prosecutorial decision making." *Journal of Criminal Justice* 38: 185-192.
- Franklin, Travis W. (2015). "Race and Ethnicity Effects in Federal Sentencing: A Propensity Score Analysis." *Justice Quarterly* 32(4): 653-679.
- Franklin, Travis W. (2017). "Sentencing Outcomes in U.S. Districts Courts: Can Offenders' Educational Attainment Guard Against Prevalent Criminal Stereotypes?" *Crime & Delinquency* 63(2): 137-165.
- Franklin, Travis W. (2018). "The state of race and punishment in America: Is justice really blind?" *Journal of Criminal Justice*. 59:18-28.

- Franklin, Travis W., Layne Dittmann, and Tri Keah S. Henry (2017). "Extralegal Disparity in the Application of Intermediate Sanctions: An Analysis of U.S. District Courts." *Crime & Delinquency* 63(7): 839-874.
- Gruenewald, Jeffrey, Steven M. Chermak, and Jesenia M. Pizarro (2013). "Covering Victims in the News: What Makes Minority Homicides Newsworthy?" *Justice Quarterly* 30(5): 755-783.
- Harris, Alexes (2008). "The Social Construction of 'Sophisticated' Adolescents: How Judges Integrate Juvenile and Criminal Justice Decision-Making Models." *Journal of Contemporary Ethnography* 37(4): 469-506.
- Harmon, Mark G. (2011). "The Imprisonment Race: Unintended Consequences of 'Fixed' Sentencing on People of Color over Time." *Journal of Ethnicity in Criminal Justice* 9: 70-109.
- Hartley, Richard D. and Rob Tillyer (2012). "Defending the Homeland: Judicial Sentencing Practices for Federal Immigration Offenses." *Justice Quarterly* 29(1): 76-104.
- Helfers, Richard C. (2016). "Ethnic disparities in the issuance of multiple traffic citations to motorists in a southern suburban police agency." *Journal of Ethnicity in Criminal Justice* 14(3): 213-229.
- Higgins, George E., Melissa L. Ricketts, James D. Griffith, and Stephanie A. Jirard (2013). "Race and Juvenile Incarceration: A Propensity Score Matching Examination." *American Journal of Criminal Justice* 38: 1-12.
- Hirschi, Travis and Michael Gottfredson (1983). "Age and the Explanation of Crime." *The American Journal of Sociology* 89(3): 552-584.
- Johnson, Brian D., Ryan D. King, and Cassia Spohn (2016). "Sociolegal Approaches to the Study of Guilty Pleas and Prosecution." *The Annual Review of Law and Social Science* 12: 479-495.
- Kautt, Paul and Cassia Spohn (2002). "Crack-ing down on Black Drug Offenders? Testing for Interactions Among Offenders' Race, Drug Type, and Sentencing Strategy in Federal Drug Sentences." *Justice Quarterly* 19(1): 1-35.
- King, Ryan D. (2019). "Cumulative impact: Why prison sentences have increased." *Criminology* 57: 157-180.
- Koons-Witt, Barbara A. (2002). "The Effect of Gender on the Decision to Incarcerate Before and After the Introduction of Sentencing Guidelines." *Criminology* 40(2): 297-327.

- Lee, Joongyeup and James M. Ruiz (2011). "Investigating Discriminative Bail Setting: Multivariate Analysis on Louisiana Drug Interdiction." *Journal of Ethnicity in Criminal Justice* 9: 22-40.
- Light, Michael T., Michael Massoglia, and Ryan D. King (2014). "Citizenship and Punishment: The Salience of National Membership in U.S. Criminal Courts." *American Sociological Review* 79(5): 825-847.
- Loeser, Charles E. 2015. "From Paper Terrorists to Cop Killers: The Sovereign Citizen Threat." *North Carolina Law Review* 93:1106-1139.
- Martin, Christine (2014). "Influence of Race and Ethnicity on Charge Severity in Chicago Homicide Cases: An Investigation of Prosecutorial Discretion." *Race and Justice* 4(2): 152-174.
- Mastrony, Michael. (2016). "Common-Sense Responses to Radical Practices: Stifling Sovereign Citizens in Connecticut." *Connecticut Law Review* 48: 1013-1033.
- Melle, Julia. (2013). "Illogical Extremes: The Sovereign Citizens Movement and the First Amendment." *Temple Political & Civil Rights Law Review* Spring 2013: 1-43.
- Morrow, Weston J., Samuel G. Vickovic, and Henry F. Fradella (2014). "Examining the prevalence and correlates of a 'senior citizen discount' in US federal courts." *Criminal Justice Studies* 27(4): 362-386.
- Mueller-Johnson, Katrin U. and Mandeep K. Dhami (2010). "Effects of Offenders' Age and Health on Sentencing Decisions." *Journal of Social Psychology* 150(1): 77-97.
- Olusanya, Olaoluwa and Jacinta M. Gau (2012). "Race, neighborhood context, and risk prediction." *Criminal Justice Studies* 25(2): 159-175.
- Phillips, Jessica K. (2016). "Not All Pro Se Litigants Are Created Equally: Examining the Need for New Pro Se Litigant Classifications through the Lens of the Sovereign Citizen Movement." *The Georgetown Journal of Legal Ethics* 29:1221-1235.
- Phillips, Scott (2009). "Status Disparities in the Capital of Capital Punishment." *Law & Society Review* 43(4): 807-837.
- Pinchevsky, Gillian M. and Benjamin Steiner (2016). "Sex-Based Disparities in Pretrial Release Decisions and Outcomes." *Crime & Delinquency* 62(3): 308-340.
- Reyns, Bradford W. and Ryan Randa (2017). "Victim Reporting Behaviors Following Identity Theft Victimization: Results from the National Crime Victimization Survey." *Crime & Delinquency* 63(7): 814-838.

- Shields, C.A. (2008). "An analysis of prosecutorial and defense strategies in federal terrorism trials from 1980 to 2004." (Doctoral dissertation). Retrieved from ProQuest. (ISBM 0549963596)
- Shields, C. A., Kelly R. Damphousse, and Brent L. Smith (2009). "An Assessment of Defense and Prosecutorial Strategies in Terrorism Trials: Implications for State and Federal Prosecutors." *NIJ Grant 2006-IJ-CX-0026*.
- Smith, B. L. & Kelly Damphousse (2000). "The National Terrorism Database: An Extension of the American Terrorism Study." Invited presentation to MIPT and NIJ regarding database collaboration. Oklahoma City, OK.
- Smith, Martha S. and Jennifer L. Shriver (2018). "Judges' sentencing decisions with older offenders." *Psychology, Crime & Law* 24(2): 105-116.
- Snowball, Lucy and Don Weatherbun (2007). "Does Racial Bias in Sentencing Contribute to Indigenous Overrepresentation in Prison?" *The Australian and New Zealand Journal of Criminology* 40(3): 272-290.
- Spohn, Cassia, Dawn Beichner, and Erika Davis-Frenzel (2001). "Prosecutorial Justifications for Sexual Assault Case Rejection: Guarding the 'Gateway to Justice'." *Social Problems* 48(2): 206-235.
- Spohn, Cassia and Steven Belenko (2013). "Do the Drugs, Do the Time? The Effect of Drug Abuse on Sentences Imposed on Drug Offenders in Three U.S. District Courts." *Criminal Justice and Behavior* 40(6): 646-670.
- Steffensmeier, Darrell, Jeffrey Ulmer, and John Kramer (1998). "The Interaction of Race, Gender, and Age in Criminal Sentencing: The Punishment Cost of Being Young, Black, and Male." *Criminology*. 36(4):763-797.
- Steffensmeier, Darrell and Mark Motivans (2000). "Older Men and Older Women in the Arms of Criminal Law: Offending Patterns and Sentencing Outcomes." *Journal of Gerontology: Social Sciences* 2000: 55B (3): 141-151.
- Stringer, Richard J. and Melanie M. Holland (2016). "It's not all black and white: A propensity score matched, multilevel examination of racial drug sentencing disparities." *Journal of Ethnicity in Criminal Justice* 14(4): 327-347.
- Sullivan, Francis X. (1999). "The Usurping Octopus of Jurisdictional/Authority: The Legal Theories of the Sovereign Citizen Movement." *Wisconsin Law Review* 1999: 785-823.
- Theret, Michelle (2012). "Sovereign Citizens: A Homegrown Terrorist Threat and Its Negative Impact on South Carolina." *South Carolina Law Review* 63: 853-885.

- Turner, K.B. and James B. Johnson (2005). "A Comparison of Bail Amounts for Hispanics, Whites, and African Americans: A Single County Analysis." *American Journal of Criminal Justice* 30(1): 35-53.
- Vito, Gennaro F., George E. Higgins, and Anthony G. Vito (2014). "Capital Sentencing in Kentucky, 2000-2010." *American Journal of Criminal Justice* 39: 753-770.
- Warren, Patricia, Ted Chiricos, and William Bales (2012). "The Imprisonment Penalty for Young Black and Hispanic Males: A Crime-Specific Analysis." *Journal of Research in Crime and Delinquency* 49(1): 56-80.

### Appendix: Count Severity Table

<b>Crime Severity</b>	<b>Crime Type</b>
1	Miscellaneous
2	Contempt
3	Firearms, possession
4	Embezzlement, false claims
5	Theft, U.S. property, conspiracy
6	Aiding escapee
7	Escape
8	Theft, transportation, conspiracy
9	Embezzlement, postal or wire
10	Racketeering, arson, conspiracy
11	National defense
12	Theft, bank
13	Embezzlement, other
14	Auto theft
15	Drugs, distribution marijuana
16	Drugs, cocaine
17	Firearms, machine guns, conspiracy
18	Manslaughter
19	Robbery, conspiracy
20	Counterfeiting
21	Embezzlement, bankruptcy
22	Murder, 1st, conspiracy
23	Robbery, bank
24	Firearms
25	Explosives
26	Racketeering, terrorism
27	Kidnapping, hostage
28	Murder, 1st
29	Treason, sedition