

## ABSTRACT

SCHWAEBLE, KATHRYN. The Diffusion of Narratives: Merging the Narrative Policy Framework (NPF) & Policy Diffusion Using the Case of Mandatory Sentencing Reform. (Under the Direction of Dr. Thomas Birkland).

This policy process dissertation improves traditional diffusion theory by adding representation in the statehouse and measures of interest group narrative attention. The case is the reform of mandatory sentencing policy within the United States in the 2000s. I draw upon the Narrative Policy Framework (NPF), a relatively new approach to the study of the policy process, to incorporate a narrative measure within the diffusion model. Further, I use a traditional policy diffusion model to explore not only the spread of policy change, but also the spread of policy narratives. Logistic regression models explore whether a state reforms their mandatory sentencing policy. I use a type of event history analysis, Cox proportional hazards models, to explore the time to reform, or whether a state is an earlier versus later adopter of mandatory sentencing reform.

I find that narratives can significantly predict whether a state adopts mandatory sentencing reform, as well as lead to states being earlier adopters of reform. A geographic measure significantly predicts reform, despite recent research in policy diffusion failing to find significance of regional measures. I find conflicting evidence whether mandatory sentencing reform is a bipartisan effort. Interest groups are more likely to target states with a higher proportion of Democrats and African Americans in the statehouse. Having reformed mandatory sentencing policy in the state increases the likelihood an interest group will target the state with one or more narratives about reform. This dissertation furthers our understanding of the role of narratives in the policy process.

© Copyright 2020 by Kathryn Schwaeble

All Rights Reserved

The Diffusion of Narratives: Merging the Narrative Policy Framework (NPF) & Policy Diffusion  
Using the Case of Mandatory Sentencing Reform

by  
Kathryn Schwaeble

A dissertation submitted to the Graduate Faculty of  
North Carolina State University  
in partial fulfillment of the  
requirements for the degree of  
Doctor of Philosophy

Public Administration

Raleigh, North Carolina

2020

APPROVED BY:

---

Dr. Thomas Birkland  
Committee Chair

---

Dr. G. David Garson

---

Dr. James Brunet

---

Dr. Stacy De Coster

---

Dr. Michael Jones  
External Member

## **BIOGRAPHY**

Kathryn Schwaeble is a scholar of the policy process. She focuses on public policy, public opinion, and narratives. Her policy area of focus is criminal justice, particularly sentencing. She holds a Master of Science in Criminal Justice from Indiana University – Purdue University, Indianapolis and a Bachelor of Arts in Political Science and Criminal Justice Studies from the University of Dayton.

## **ACKNOWLEDGEMENTS**

I am dedicating this dissertation to Pat Roberts, who was there every step of the way with her support of and help with this project. I would like to thank the advisors who have guided me and helped me to get where I am today at each school I have studied at, particularly Tom Birkland who has been instrumental in this dissertation and my progress during my PhD program. Finally, I thank my family and friends for their support and understanding of the time and effort I have dedicated to my education.

## TABLE OF CONTENTS

LIST OF TABLES .....	vi
LIST OF FIGURES .....	viii
<b>Chapter 1: Introduction and Problem Statement</b> .....	1
Introduction.....	1
What are Mandatory Minimum Policies?.....	1
The Case of Mandatory Sentencing Reform.....	2
Research Questions and Analysis Plan.....	6
<b>Chapter 2: The Case of Mandatory Sentencing Policies and Their Reform</b> .....	8
Introduction.....	8
A Brief History of Sentencing in the United States.....	8
Mandatory Sentencing Policies.....	10
Partisan Stances on Mandatory Sentencing.....	16
Reform of Mandatory Sentencing Policies.....	18
Types of Reform.....	23
Debates on Reform.....	24
Justification for Case Selection.....	25
Focus on Legislators.....	25
Choice of State-Level Sentencing.....	26
Conclusion.....	26
<b>Chapter 3: Theoretical Framework</b> .....	27
Introduction.....	27
Policy Diffusion.....	27
Mechanisms of Diffusion.....	29
State-Level Diffusion Studies.....	33
Criminal Justice Policy Diffusion Studies.....	35
Morality Policy.....	44
Gap in the Literature.....	46
Narratives and the Narrative Policy Framework.....	48
Merging Policy Diffusion and Narrative Analysis.....	51
Conclusion.....	52
<b>Chapter 4: Research Design, Data, and Methodology</b> .....	54
Introduction.....	54
Outcome Variable Operationalization.....	54
Predictor Variable Operationalization.....	57
Data Overview.....	63
Descriptive Statistics.....	63
Hypotheses.....	66
Methodology Overview.....	73
Event History Analysis.....	74
Conclusion.....	76

<b>Chapter 5: Results and Findings</b> .....	78
Introduction.....	78
Adoption of Mandatory Sentencing Reform Policies.....	78
Adoption of Subtypes of Mandatory Sentencing Reform.....	81
Diffusion of Mandatory Sentencing Reform Policies.....	87
Diffusion of Subtypes of Mandatory Sentencing Reform .....	90
Presence of Mandatory Sentencing Narratives.....	96
Diffusion of Mandatory Sentencing Narratives.....	99
Narratives and Reform Trends.....	102
Findings Regarding Speed of Diffusion .....	109
Conclusion .....	112
<b>Chapter 6: Discussion and Conclusion</b> .....	113
Major Innovations of the Dissertation .....	113
Review of the Findings .....	114
Hypotheses about Reform Adoption.....	116
Hypotheses about Reform Spread.....	118
Hypotheses about Narrative Presence.....	120
Hypotheses about Narrative Spread.....	121
Key Findings of the Dissertation .....	122
Limitations .....	124
Future Research .....	125
REFERENCES .....	128
APPENDICES .....	146
Appendix A: The Effect of Mandatory Sentencing Policies .....	147
Appendix B: State Prison Incarceration Rate, Select States & All 50 States .....	149
Appendix C: State Imprisonment Rate in 2017 .....	150
Appendix D: State Expenditures on Corrections in Billions, 1985-2017 .....	151
Appendix E: Public Support for “Tough on Crime” Policy, 1953-2010 .....	152
Appendix F: Policy Narrative from ACLU .....	153
Appendix G: Policy Narrative from FAMM .....	155
Appendix H: Policy Narrative from ALEC .....	157
Appendix I: Policy Narrative from Right on Crime .....	159
Appendix J: State Role in Mass Incarceration Crisis.....	162

## LIST OF TABLES

Table 2-1	Most Recent Mandatory Sentencing Policy Enacted by State during Modern Wave .....	12
Table 2-2	Reform of Mandatory Minimum Sentencing Policies in the 2000s.....	21
Table 4-1	Variables and Sources .....	62
Table 4-2	Descriptive Statistics .....	64
Table 4-3	Collinearity Statistics .....	65
Table 4-4	Hypotheses about Reform .....	67
Table 4-5	Hypotheses about Narratives.....	69
Table 4-6	Models.....	74
Table 5-1	Model 1 (DV reform, logistic regression model).....	80
Table 5-2	Model 3a (DV subtype 1, addition of safety net, logistic regression model).....	82
Table 5-3	Model 3b (DV subtype 2, general reform/repeal, logistic regression model).....	84
Table 5-4	Model 3c (DV subtype 3, removal of automatic sentence enhancements, logistic regression model) .....	86
Table 5-5	Model 2 (DV reform, event history analysis).....	89
Table 5-6	Model 4a (DV subtype 1, addition of safety net, event history analysis) .....	91
Table 5-7	Model 4b (DV subtype 2, general reform/repeal, event history analysis) .....	93
Table 5-8	Model 4c (DV subtype 3, removal of automatic sentence enhancements, event history analysis).....	95
Table 5-9	Model 5 (DV narratives, logistic regression) .....	98
Table 5-10	Model 6 (DV narratives, event history analysis).....	101
Table 5-11	States Not Targeted by Narratives.....	102
Table 5-12	Highest Narrative Attention by State .....	103
Table 5-13	States That Did Not Reform & Narrative Trends.....	105

Table 6-1 Summary of Findings by Hypothesis ..... 115

## LIST OF FIGURES

Figure 1-1	State Reforms of Mandatory Minimum Sentencing Policies, 2000-2016.....	5
Figure 5-1	Level of Narrative Attention by Year.....	103
Figure 5-2	Number of State Reforms Per Year.....	104
Figure 5-3	Interest Group Targeting by State, 2000-2017 .....	106
Figure 5-4	States That Reformed Mandatory Minimum Sentencing Policies, 2000-2017.....	109
Figure 5-5	Diffusion of State Mandatory Sentencing Reform.....	111
Figure 5-6	Normal Diffusion of Innovation S-Shaped Curve.....	111

## **CHAPTER 1: INTRODUCTION AND PROBLEM STATEMENT**

### **Introduction**

Why have some states reformed mandatory minimum sentences and others have not (at least, not yet)? Using the theoretical framework of policy diffusion, I explain the process of when and why mandatory sentencing reform occurred during the 2000s. Traditional diffusion theory alone is not enough to explain these changes. By adding a theory of the effect of narratives, we can understand the why of reform. Diffusion answers how reform spreads, while adding a measure for narratives allows us to better understand this spread in a more nuanced way than traditional diffusion literature. The major contribution of this dissertation is the addition of narratives to the diffusion literature.

The goal of exploring the diffusion of policy reform adoption is to better understand policy change, particularly state-level policy processes and the role that narratives play. Other studies have used event history analysis (EHA) and the Narrative Policy Framework (NPF) in the context of criminal justice, making this is a rich area for further exploration. I contrast the factors influencing the diffusion of policy adoption with factors influencing the diffusion of narratives across states for the same number of years, using a sample of interest group documents. This dissertation demonstrates the extent to which a diffusion model may predict the spread of narratives, rather than its traditional use for policy change.

### **What are Mandatory Minimum Policies?**

There are various policies that may be categorized as mandatory minimum sentencing. For purposes of this dissertation, a mandatory minimum sentencing policy is any policy that mandate a required length of sentence for an offense. Mandatory sentencing policies are

presumptive policies that mandate sentencing guidelines that judges generally must follow. Mandatory sentences are communications from legislators that certain crimes necessitate harsh punishment (Clement, 2001; Tonry, 1999). In turn, these also shift focus away from community-based sentences to more incarceration. Mandatory sentencing policies generally target either habitual offenders or those committing unpopular offenses including drug related crimes and crimes against children. Three strikes laws are one common type of mandatory sentence targeting habitual offenders. Many states required a 25 year to life sentence upon a third felony offense (Clement, 2001). The unintended result of mandatory minimum sentences was increased prosecutorial discretion due to the practice of plea bargaining, because defendants are usually willing to agree to a lesser offense to avoid going to trial and being sentenced to a long mandatory minimum (Benavie, 2009). In general, mandatory sentences increased sentence length, decreasing judicial authority to account for the circumstances or nature of an individual or their offense (Benavie, 2009).

The most recent wave of mandatory sentencing occurred in the 1980s and early 1990s. By 1994 all 50 states had at least one mandatory sentencing policy in place (National Research Council, 2014; Parent et al., 1997). Policies that were tough on crime were popular during this time, but states soon realized that these policies did not work. Therefore, reform began.

### **The Case of Mandatory Sentencing Reform**

The first efforts to reform or repeal mandatory sentencing policies occurred during the late 1990s at the state level (Vera Institute of Justice, 2014). During the 2000s, states began to adopt mandatory sentencing reform in earnest. For this reason, the present study covers from

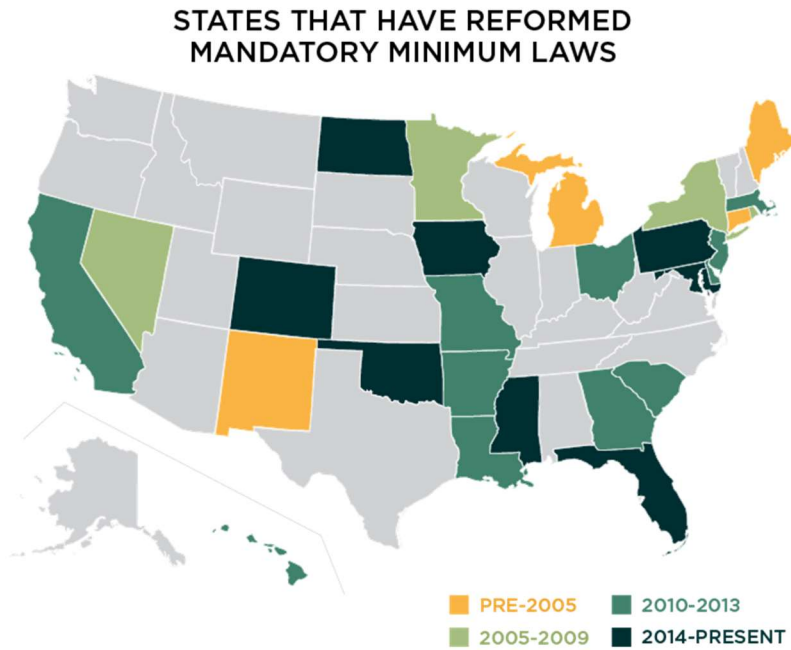
2000 through 2017. This case serves as an appropriate context to explore the process of diffusion of a policy (as well as diffusion of policy narratives) across the United States.

I provide a few examples of early reform of mandatory minimum sentencing policies at the state level to illustrate trends in the type of changes made. In Connecticut, a 2001 policy change relaxed mandatory minimum laws for the sale or possession of drugs if the court finds good cause. In 2001, Indiana also reformed their sentences, exempting drug offenders with no other types of convictions from the three strikes law, as long they do not have more than one trafficking conviction. In 2002, New Mexico repealed a mandatory sentencing enhancement requiring prosecutors to charge defendants with a prior drug conviction as a habitual offender. Also in 2002, Michigan repealed almost all of its drug mandatory minimums, changed lifetime probation to a five-year period, and created new sentencing guidelines. Finally, in 2003, Maine reduced the mandatory minimum sentence for murder from 25 to 20 years, and authorized courts to suspend any other mandatory sentences which represented a substantial injustice and would not endanger public safety. As demonstrated, most policy changes by states in the reforms focus on drug offenders, particularly those who are nonviolent, which is consistent with the reforms throughout the 2000s. Maine and Michigan did make more sweeping changes, such as a change for murder sentences and a general guideline change, but these are more exceptions to the general trend throughout the 2000s.

The interesting question is, given the popularity of mandatory minimum sentences in the 1990s and overall concern about crime (out of proportion to its actual rate), what happened that led states to shift away from mandatory minimum policies? There are many reasons for this shift. Fear of crime (despite record low crime) and pressure from the public contributed to the pressure to enact new mandatory minimums, as well as rising sentiment among lawmakers in favor of

harsher sentences. Lawmakers passed the initial mandatory minimums in hopes of increasing fairness, as they intended to decrease judicial discretion by setting definitive punishments by offense type. Yet it turned out that a concomitant increase in prosecutorial discretion through the use of plea bargains led to unfairness in implementation of mandatory sentencing policies themselves, particularly for people of color. Mandatory minimum sentencing policies also ended up being very costly and burdensome on the states' criminal justice systems, as longer sentences mean housing older offenders who generally have a very low risk of reoffending once reaching a certain age. They exacerbated the effects of the justice system on impoverished minority communities, discussed in Appendix A. They also contributed to a rising incarceration issue, pictured in Appendix B.

Arguments for repealing punitive sentencing policies led to a wave of bipartisan efforts beginning in 2010 associated with the Justice Reinvestment movement, a formalized effort to enact sentencing change at the state level (La Vigne et al., 2016), although several states had already been moving in the direction of reform since the early 2000s (FAMM, 2017c; Mauer, 2002, 2011; Porter, 2012). Since 2005, when only four states had enacted reforms of their mandatory sentencing policies, more states have reformed. By 2017, 28 states had reformed their sentencing policies (FAMM, 2017c) (see Figure 1-1). There have been enough cases of reform that exploring the diffusion mechanisms is worthwhile. This study examines the length of time until adoption of mandatory sentencing reform.



*Figure 1-1* State Reforms of Mandatory Minimum Sentencing Policies, 2000-2016.

Source: FAMM (<http://www.thealiadviser.org/sentencing/famm-urges-mass-legislature-to-adopt-sentencing-reform-in-response-to-supreme-court-ruling/>).

Politics helps explain state crime policies. For instance, policies that were tough on crime were popular in Oklahoma, where under both Democrats and Republicans, the state passed some of the most punitive laws (Obbie, 2016). Yet Oklahoma overcame this tendency in 2012, reforming their mandatory minimum policies. Louisiana had the highest level of incarceration in the U.S., but now has reformed its drug sentences (FAMM, 2017a). These occurrences are not unusual. According to Kevin Ring, the president of Families Against Mandatory Minimums (FAMM), “We have seen thoughtful, smart sentencing reform pass in both red and blue states this year. We hope that this bipartisan trend will continue” (FAMM, 2017b). “Dozens of states, both red and blue, have reformed or repealed their mandatory minimum drug sentencing laws over the past 15 years... If blood-red Louisiana can do it, every state can do it” (FAMM, 2017a).

Yet reform is not comprehensive: both political parties tend to focus on reducing mandatory minimums for nonviolent, low risk offenders, not removal of all mandatory minimums (Larkin & Bernick, 2014; Newburn, 2016).

## **Research Questions and Analysis Plan**

The NPF emphasizes that the stories people tell about policies matter (McBeth, Jones, & Shanahan, 2014). Combining this approach with policy diffusion will reveal the role narratives play in diffusion. My dissertation proposes that combining arguments from traditional policy diffusion models with the NPF is likely to offer a more comprehensive understanding of policy diffusion using mandatory sentencing reform as an instance of diffusion. I offer that it is important to understand how policy narratives influence policy diffusion, and to consider whether variables used in diffusion studies to predict policy change and time to policy change shape narrative presence. The core research questions addressed in this dissertation are:

1. What factors lead to the adoption of mandatory sentencing reform policies at the state level?
2. What factors lead to the diffusion of mandatory sentencing reform policies at the state level?
3. What factors lead to the adoption of policy narratives at the state level?
4. What factors lead to the diffusion of policy narratives at the state level?

This dissertation uses discrete event history analysis (EHA), the most used approach for policy diffusion studies. I answer the question of whether adoption occurred with a logistic regression model. I then compare these results to the EHA model results to determine whether

factors influencing adoption of reform are the same as those influencing time to adoption of reform. I use the same models for the outcomes of reform by subtype and policy narratives.

To ensure the diffusion of narrative results are comparable and to have a baseline model, initial models explore the diffusion of policy adoption itself. The models using narratives then explore whether the variables accounting for policy diffusion are the same or different from those accounting for policy narrative diffusion. By modeling the outcome of interest group narratives, this dissertation builds on the knowledge established by the NPF about policy narratives.

For the level of analysis of NPF, this dissertation is a meso-level study that focuses on interest groups and organized narratives for and against policies (McBeth, Jones, & Shanahan, 2014). The narrative outcome data consists of interest group documents related to mandatory sentencing policies. I measure interest group involvement with a count of these reform narratives, by state and year. This policy context is somewhat unique, as there is no for or against reform, but rather all actors are in favor of reform. I use a simple count measure of narratives because of this one-sidedness.

I contribute to diffusion studies in several ways. First, I show that considering the influence of narratives on policy diffusion is critical to understanding the nature of policy change. Second, this dissertation establishes a baseline of how policy narratives diffuse at the state level in models predicting narratives. Finally, this dissertation offers a compelling model for how to merge the literature on the NPF and policy diffusion that can be used to study additional instances of policy diffusion.

## **CHAPTER 2: THE CASE OF MANDATORY SENTENCING POLICIES AND THEIR REFORM**

### **Introduction**

The policy case at the heart of this study is reform of mandatory minimum sentencing policy in the United States, at the state level. The policy outcome I explore is whether and when a state adopts any reform or repeal of mandatory minimum sentencing policies. I review the trajectory of sentencing policy in the United States, including the underlying context, particularly the purpose of or philosophy regarding punishment that is the focus of the policies put into place. I then define mandatory minimum policies and when they arose in the United States. This study is not focused on policy implementation; rather, the focus is on policy change through adoption. Other types of sentencing are also reviewed here to give context to the policy case.

### **A Brief History of Sentencing in the United States**

The United States went from an emphasis on retribution, then rehabilitation, then back to retribution throughout the 1900s (Gertner, 2010; Schwartz, 1983). Indeterminate sentencing predominated within the United States until the mid-1970s. Indeterminate sentencing is based on rehabilitation, so the parole board determines when an offender is perceived as reformed (Witayapanyanon, 1989). The sentence is subject to limits according to the range the sentencing judge gives. The role of the parole board as an administrative body was to determine when an individual was rehabilitated to the extent that they were prepared to return to society.

By the mid-1970s, the public no longer believed in the value of rehabilitation through individualized lengths of sentences (unstructured sentencing) (Morris, 1977; Stemen, 2007; Zimring, 1983). There was a shift to determinate sentencing amidst a movement to get tough on

crime and punishment (Witayapanyanon, 1989). The movement stemmed from an elite-created moral panic about crime among the public (Loo & Grimes, 2004). Within this law-and-order movement, politicians severely limited the discretion of judges and parole boards. They passed mandatory prison terms and determinate sentencing structures, removing the use of parole and indeterminate sentences where offenders were released once seen as reformed (Cullen, Clark, & Wozniak, 1985).

There was a national interest in presumptive sentencing in the late 1970s (Zalman, 1982). Presumptive sentencing is “sentencing guidelines that were developed by a specialized agency and that have some degree of formal legal authority” (Coffee & Tonry, 1983, p. 156). Presumptive sentences provide a range of appropriate sentence length to the judge, who is generally expected to follow the range unless special circumstances warrant departure from the sentencing range (but these departures are subject to appellate review). Minnesota’s presumptive sentencing guidelines provide a range of months for which an individual should go to prison for a particular offense nature and their prior history (Coffee & Tonry, 1983). Sentencing guidelines were put into place with the intention of decreasing judicial sentencing disparities (Schwartz, 1983). Guidelines leave discretion with the judge, as they have to select seriousness of offense (Schwartz, 1983). The sentence was about doing time for the violation of the law, rather than being rehabilitated or reformed. Yet in operation, these actually increased disparities as discretion merely shifted from judges to prosecutors (Tonry, 2013).

The middle and late 1970s were an era of determinate sentencing. This practice focuses on abolishing the parole systems and decreasing uncertainty about sentence length as the sentence given by the judge is the time to be served (Zimring, 1983). Mandatory minimum sentences were put in place around the same time which lengthen sentences and remove judicial

discretion. Zimring (1983) argues that mandating minimum terms for particular offenses leads to longer prison terms because lawmakers, caught up in the tough-on-crime movement, envisioned applying these sentences to the worst offenders. This “get-tough” movement consisted of lawmakers attributing harsher punishment desires to the public, despite whether the public actually supported this (Cullen, Clark, & Wozniak, 1985).

By the mid-1980s, demands for accountability came within a context of declining trust in government, which opened the door for politicians to stoke fear of crime and to claim government responsibility for protecting victims and the public while dealing out harsh punishment to the criminals (Simon, 2007). One way this took form was the passing of more laws calling for determinate sentencing (Fairchild & Webb, 1985), yet reform left large amounts of discretion within the system despite efforts otherwise (Zimring, 1983).

### **Mandatory Sentencing Policies**

The United States has a long history of mandatory sentencing policies, yet the policies I focus on are the most recent wave of mandatory sentencing enactments in the U.S. from the late 1970s to the 1990s. Crime was on the decline during the 1990s, yet all states, even liberal states, got tough on crime. Democrats particularly feared being labeled as soft on crime, so along with Republicans they rallied behind policy choices such as three strikes laws, which mandate that an offender committing a third felony offense be given to a life sentence for the third offense. Interestingly, the earlier mandatory minimums were largely repealed during the 1960s, culminating in the federal government repealing all federal mandatory minimums in 1970 (Tonry, 2013). Yet by the 1970s, they were back in favor.

During this shift in sentencing emphasizing retribution, the 1973 New York Rockefeller Drug Laws and the 1977 Michigan Felony Firearms Statute exemplify mandatory sentencing

policies. New York's Rockefeller Drug Laws passed in 1973 and mandated a sentence of 15 years to life for possessing four ounces or selling two ounces of an illicit drug (Benavie, 2009). This was during pressure to address open-air markets for drugs like heroin and high crime. New York led the states and federal government in establishing harsh mandatory sentencing policies, and many states followed suit (Kilgore, 2015). A law focused on gun offenses is the Michigan law passed in 1976 mandating a two-year sentence for any individual in possession of a firearm while committing a felony offense. Any individual subject to this mandated term was not eligible for parole, probation, or a suspended sentence, and had to serve the two years consecutively, thereby adding time to the sentence length (Bynum, 1982).

The 1970s, 1980s, and 1990s represented a slow ramp-up of mandatory minimum sentence policies, mandating increased sentence lengths. During the 1970s, 49 states (all except Wisconsin) enacted mandatory minimum laws that generally required a one- to two-year sentence for any felony, typically for firearms offenses (Shane-DuBow, Brown, & Olsen, 1985; Tonry, 2013). During the 1980s, most states and the federal government passed minimums of five, ten, and 20 years focused on drug offenses, sex offenses, and violent offenses, as well as for habitual offenders specifically (Mauer & Nellis, 2018; Tonry, 2013).

The years between 1972 and 1984 were the most active years for mandatory sentencing adoption (Clement, 2001). Within the second half of the 1970s alone there were mandatory sentencing policies on the books of 16 states (Witayapanyanon, 1989). These adoptions all occurred within 1970 and 2002. "The mandatory sentencing laws and sentence enhancements enacted between 1970 and 2002 were increasingly focused on narrowly defined offenses or behavior" (Stemen, 2007, p. 47). See Table 2-1 for the most recent mandatory sentencing policy enacted by each state during this modern wave. Lawmakers passed symbolic laws to address

crime concerns, and because of their desire for longer sentences (Stemen, 2007). These laws target harsh sentences for certain offenses and require predetermined sentences, despite the carry through with most offenders pleading out to avoid lengthy sentences (Stemen, 2007). Yet these policies mostly remain in place to serve the symbolic goal of appearing tough on crime.

*Table 2-1* Most Recent Mandatory Sentencing Policy Enacted by State during Modern Wave.

<b>Year</b>	<b>State</b>
1970	Nevada
1973	Delaware
1974	New York
1975	Arkansas
1976	Kansas
1976	Maine
1976	South Carolina
1977	Georgia
1977	Idaho
1977	Indiana
1977	Mississippi
1977	Montana
1977	Nebraska
1978	Arizona
1978	Illinois
1978	Iowa
1978	Maryland
1978	Michigan
1978	New Hampshire
1978	New Jersey
1979	Alabama
1979	Louisiana
1979	Missouri
1979	New Mexico
1979	South Dakota
1979	Tennessee
1979	Texas

Table 2-1 (continued).

<b>Year</b>	<b>State</b>
1980	Alaska
1980	Massachusetts
1980	Minnesota
1981	Connecticut
1984	Ohio
1986	Hawaii
1988	Rhode Island
1992	Kentucky
1993	Washington
1994	California
1994	Colorado
1994	North Carolina
1994	Virginia
1994	Wisconsin
1995	Florida
1995	Oregon
1995	Pennsylvania
1995	Utah
1995	Vermont
1999	Wyoming

During the 1990s, most states passed three strikes policies that required 25 years to life for various crimes, mainly for drug-related offenses, and enacted life without parole (LWOP) laws, many of which were mandatory policies (Tonry, 2009; Tonry, 2013). These 1990s-era policies included widespread passage of “three-strikes-and-you’re out” laws, in which an individual who gets a third felony offense receives a life sentence, as well as truth-in-sentencing laws, in which individuals must serve at least 85 percent of the sentence given to them by the judge (abolishing early parole release) (Tonry, 2013; Sabol et al., 2002; Stemen, Rengifo, & Wilson, 2006). “Following the high-profile adoption of the three-strikes law in California in 1994 about half the states enacted a variation on this policy, typically calling for a life sentence for a third conviction of a violent offense” (Mauer & Nellis, 2018, p. 117).

The reasons for the emergence of mandatory minimum sentencing policies and the rationales for their adoption are important to understand. Lawmakers see crime as a particularly intractable problem, making it “a peculiarly frustrating problem area for decision makers” (Fairchild & Webb, 1985, p. 9). The general public’s fear of crime may rise even when crime itself is not rising (as occurred during the 1990s) (Fairchild & Webb, 1985). Given the difficulties inherent in this policy area, policy makers are prone to embrace simple solutions that are later replaced when results show undesirable or at least less than desirable results (Fairchild & Webb, 1985). Thus, it is not surprising that mandatory sentencing policies were able to spread yet again to every state, in an even more punitive manner than prior policies. Legislators saw mandatory minimum policies as politically appealing at the time (Doob & Cesaroni, 2001; Tonry, 2013). There was “a trend toward punitiveness among policymakers, a punitiveness founded on feelings of frustration, anxiety, and loss of control” (Fairchild & Webb, 1985, p. 9). It is politically attractive to lengthen, not shorten, sentence lengths in general (Wicharaya, 1995). Further, political entrepreneurs (advocates for policy change) and concern about crime levels in the 1990s among the public (the fear of crime problem, rather than actual rising crime) (Wicharaya, 1995) allowed for the enactment of tough on crime policies, including an infamous mandatory sentencing policy, the three strikes law (Williams, 2003).

The rhetoric around offenders also helps us understand how mandatory sentencing came to be, especially for those nonviolent offenders serving disproportionate sentences. “Some of the statements made by public figures about drug law violators are more suggestive of a religious crusade than a law enforcement issue” (Benavie, 2009, p. 13). For instance, “On September 5, 1990, the Los Angeles police chief Daryl Gates testified before the Senate Judiciary Committee that casual drug users ‘ought to be taken out and shot’” (Benavie, 2009, p. 13). “The loathing

expressed for drug law violators seems out of all proportion to their crimes. The drug war appears to give people a license to say things about illicit drug users that they would never be allowed to say about the groups whom they associate with these drugs: African Americans, Latinos, and rebellious young people” (Benavie, 2009, p. 14). These strong emotions from members of the public may drive the harsh punishments resulting, with drug offenses sometimes result in sentences equal to that of murder or rape (Benavie, 2009).

Proponents believed mandatory sentences would even the length of sentences for offenders and reduce judicial bias in the process, as well as reduce crime due to the deterrent effect of potential long sentences for particular offenses or repeat offenders (Loftin, Heumann, & McDowall, 1983; Roche, 1999). The theory behind why mandatory sentences would decrease crime is deterrence. Yet “there is no convincing evidence that they are effective deterrents to crime” (Tonry, 2013, p. 466; see also Doob & Webster, 2003 and Webster & Doob, 2012). By the early 1990s, crime was decreasing, due to a multitude of reasons (but not sentencing policies that were tough); political salience of the issue dropped and possibilities for reform increased, particularly those focused on the flaws of the War on Drugs (Mauer & Nellis, 2018). Yet even if they are not successful deterrents, proponents argue they serve the other goal of retribution and incapacitation. (See Appendix A for further discussion of the effects of mandatory sentencing policies on communities of color and impoverished areas.)

One factor shaping criminal lawmaking according to Berk, Brackman, and Lesser (1977) is bureaucratic interests. In a study of prison reform, Berk and Rossi (1977) found elites, or policymakers, perceived their peers to be more against reform than they were. This finding poses an important consideration for the current study of reform, but also for understanding why punitive tough on crime policies spread across the U.S. If policymakers perceive the public to be

more in favor of punitive measures, they are more likely to pass punitive measures into law. Berk, Brackman, and Lesser (1977) found lawmakers responded to crime-related problems with new legislation or harsher policies. Both studies found elites adhering to solutions that are in their own interest, a key factor in the rise of tough-on-crime legislation, most notably mandatory minimum sentences, due to their fear of being perceived as soft on crime. Values and beliefs are another factor shaping criminal lawmaking (Berk, Brackman, and Lesser, 1977).

### **Partisan Stances on Mandatory Sentencing**

Everyone, liberals and conservatives alike, is against crime (Rosch, 1985). This helps in comprehending how a tough on crime mandate such as mandatory sentencing policy took off in the 1970s and 1980s in the U.S. Both parties, and all levels of government, supported a large-scale shift to harsh, punitive policies (Mauer & Nellis, 2018). There is also the matter of timing, as trends in policy follow the country's sentiments about appropriate punishments for crime. As I will discuss in the following chapter in the section on morality policy, mandatory sentencing policies are an example of following public sentiment, and this matters because it helps frame the differences between liberals and conservatives on the issue.

Lakoff's (2002) work on morality policy reveals that on crime policy, conservatives generally align with retribution which calls for punishment in response to crime, of which mandatory sentencing policies are a clear example. The moral argument drives conservatives, with the belief that offenders will never change, so this response makes sense morally (even if not pragmatically, such as when mandatory sentences fail to reduce crime). The motivating standards for conservatives include concerns about how states allocate resources for addressing crime, prioritization of safety, and a framework of us versus them, law-abiding citizens versus criminals (Rosch, 1985). The conservative reasoning aligns well with arguments in favor of

mandatory minimums, which include deterrence, removal of unjust practices, elimination of bias, and longer incapacitation effects. This is because conservatives generally support exactness in the sentence received for a certain offense. Early mandatory sentencing proponents perceived their institution as removing racial bias from sentencing decisions, as all individuals charged for the same offense would receive the same sentence. Yet this discretion transfers from judges to prosecutors, leaving room for continued bias in who prosecutors offer a plea deal and to what lesser offense.

In contrast, liberals see crime as caused by social problems, including poverty, unemployment, and discrimination, thus they prioritize policy responses addressing social failures over harsher sentencing (Lakoff, 2002; Rosch, 1985). The motivating standards for liberals include fairness, due process, equal protection, and elimination of discrimination (Rosch, 1985). The liberal stance aligns well with arguments against mandatory sentencing policies, including limited judicial discretion, inconsistent application, targeting of specific groups, coercive use, no individualized case considerations, high cost, and use for nonviolent crime. Prosecutors' discretion increases under mandatory sentencing policies, as they have the responsibility of charging and bringing a case against a defendant. The practice of plea-bargaining increases under these sentencing policies, because a defendant fears the lengthy sentence that is a possibility if the prosecutor decides to charge them with a more serious offense. Judges' discretion in turn decreases, as losing their ability to consider individual mitigating circumstances in a case ties their hands, as most policies mandate certain exceptions must be present to deviate from the prescribed length of sentence.

Despite these differences, both liberals and conservatives generally supported the "new wave" of mandatory minimum sentencing policies. By the mid-1970s, both agreed on

punishment meaning prison, and ensuring that certainty in sentences occur. Liberals' reason is equality, while conservatives' reason is crime control (Zimring, 1983, p. 109). This is an interesting preview to the conditions of the 2000s that have allowed for the rollback of mandatory minimum policies. Although the reasoning behind support is different from the two parties, they are in general alignment on the recommended policy solution. This is a unique aspect of sentencing policy that makes it a very interesting case for the study of diffusion. This introduces a key question of this dissertation: is mandatory sentencing reform bipartisan? Are state legislators from both sides willing to reform these policies, or are both paying "lip service" as the public has shifted in favor of reform, without taking political action?

### **Reform of Mandatory Sentencing Policies**

Tonry (1992) established that mandatory sentencing policies are ineffective and damaging to the system of justice. Yet policy change does not always follow pragmatism, so knowing the policies are failing does not alone lead to reform. Given the influence of these policies, it is difficult to justify their continuation. Yet changing ineffective policy is not that simple. Reforming a policy requires overcoming the status quo, that necessitates power in the policy process and also that the issue is a priority (Nice, 1994). Important actors were supportive of reform: the American Bar Association, U.S. Sentencing Commission, and most federal judges oppose mandatory minimums (Benavie, 2009).

At the federal level, the Smarter Sentencing Act, that would reduce the mandatory sentences for certain nonviolent drug offenses, has been reintroduced in Congress since 2013 without successful passage to date, with the most recent reintroduction in late 2019 (Kaine, 2019). The elimination of a mandatory minimum sentence for simple possession of crack cocaine

included in the 2010 federal Fair Sentencing Act is a partial, minor success (Mauer & Nellis, 2018), although this was a very specific reform that does not address all drug offenders, but rather is a piecemeal effort to correct the large disparity between racial treatment of cocaine-related offenses.

In late 2018 the bipartisan First Step Act was signed into law, following the earlier-established rationale that incarceration and longer sentences do not work to address crime and exacerbate the problem (Nagin, 2013; National Institute of Justice, 2016). The law enhances the safety valve for low-level nonviolent drug offenders, allowing them to avoid mandatory minimum sentences. For certain drug offenders, the applicable mandatory minimum sentencing terms are shortened. The First Step Act also makes the achievements of the Fair Sentencing Act retroactive (Federal Bureau of Prisons, 2019). This demonstrates the federal level is beginning to catch up to the states, although this is more recent than this dissertation's state sample which ends in 2017.

Despite only some change at the federal level, states have been very successful in reforming their policies, with more than half of states having adopted some type of mandatory sentencing reform as of 2018 (FAMM, 2017c; Vera Institute of Justice, 2018). Since 2000, at least 29 states have achieved some type of reform of mandatory sentencing policies (Mauer & Nellis, 2018). (See Table 2-2.) By the late 1990s, even conservatives were in support of decreasing incarceration, and governors from both parties reformed at the state level (Mauer & Nellis, 2018). For instance, California reformed its three-strikes law with Proposition 36, passed in 2012; this required all three strikes be serious or violent to give a 25 year to life sentence (Mauer & Nellis, 2018). Further, in 2014, Proposition 47 decreased the use of incarceration for

nonviolent offenses (Mauer & Nellis, 2018). This is despite the political difficulties in reforming these policies for violent offenders especially.

As seen in Table 2-2, on average, modern mandatory minimums stayed in effect without any reform by a state for about 29 years. On the shortest end of the spectrum, Oregon and Virginia went six years without reform, and Colorado 9 years without reform. On the longest end of the spectrum, Kansas has yet to reform, making it 41 years without doing so as of 2017. Idaho, Montana, and Nebraska went 40 years without reform.

Table 2-2 Reform of Mandatory Minimum Sentencing Policies in the 2000s.

<b>Year</b>	<b>State</b>
2000	Virginia
2001	Indiana
2001	Louisiana
2001	Connecticut
2001	Oregon
2002	Michigan
2002	New Mexico
2003	Delaware
2003	Maine
2003	Colorado
2004	New York
2007	Texas
2009	Nevada
2009	Rhode Island
2010	New Jersey
2010	South Carolina
2011	Arkansas
2011	Ohio
2011	Kentucky
2011	Pennsylvania
2012	California
2012	Georgia
2012	Hawaii
2012	Massachusetts
2012	Missouri
2012	Oklahoma
2013	Illinois
2014	Florida
2014	Mississippi
2015	Maryland
2015	North Dakota
2016	Iowa
2017	Montana

The reasoning for general bipartisan support of mandatory minimum sentencing reform may be due to the focus on nonviolent, mainly drug, offenders. For instance, the American Legislative Exchange Council, a traditionally conservative group, claims the “most effective way to combat the surge of individuals in prison is to engage in reforming mandatory minimum sentences for nonviolent, low-risk offenders” (Smith, 2016). Although more liberal groups occasionally mention violent offenders and that their sentences are out of line from a just sentence, their attention is mainly on nonviolent, drug offenders.

Shifting budget constraints and prison overcrowding help explain the shift in political landscape that allowed for state-level reform:

On one hand, this potentially provided prison guards and officials with job security and even growth. On the other, the strain on state budgets made it impossible for states to fund enough new prisons and guards to meet the demand. In the end, the department of corrections and prison guard unions joined in the call for reform, advocating for alternatives to prison for drug offenders as a way to reduce the influx of inmates.

Although this led to closures of some prisons that had been opened to accommodate drug offenders, this was preferable to the severe overcrowding prisons were dealing with under the policies of the War on Drugs. (Frost, 2014, p. 210)

Yet ideological agreement about reform of mandatory sentencing policies for drug offenders did not extend to that of Three Strikes laws, one type of mandatory sentencing policy for habitual offenders. Although economic factors still led to reform efforts, as well as ideological changes, Karch and Cravens (2014) found employees of prisons, prison unions, and private prison organizations were opposed to these reforms, in contrast with the drug reforms discussed by Frost. Boushey (2016) emphasizes partisanship and electoral competition as driving change in

sentencing policies for nonviolent offenders. These reforms are bipartisan among lower crime rates (Lowery, 2015).

In the U.S., we have seen pushback against mandatory minimums because of the negative influence on communities of color and the inequities in their implementation (see Appendix A). For instance, in her study of why reform or rollback of drug mandatory sentences was politically feasible in some states but not others, Frost (2014) finds that race was an underlying issue in New York's reform due to the clear disparate effects, yet the rhetoric around reform generally avoided the discussion of race. Rather, explicit narratives for reform focused on budgetary reasons, and race only appeared implicitly. In contrast, Frost (2014) found both politicians and interest groups working towards reform in Michigan discussed race. They made these decisions strategically according to whether to avoid the conversation about race and discrimination because of the divisive nature of these topics. This is interesting given the disparate effects of mandatory sentencing policies. Yet she found reform of drug mandatory minimums to be best predicted by state budget shortfalls. This is an interesting finding, given that morality policies are mostly immune from economic causal factors, that supports the argument that reform is economically driven. I test this economic argument in a model including different types of mandatory sentencing reform to determine what is driving this movement or trend, rather than looking at one type of reform.

### **Types of Reform**

A key issue in the operationalization of this study is that state mandatory sentencing policies that were on the books vary, so the reforms also vary. According to Benavie (2009), difficulties inherent in classifying the policy outcome of mandatory sentencing reform stem from the enormous variation in state drug laws, with drug offenses being just one of the common types

of crimes for which mandatory sentences are on the books. Most reform efforts center around reform that benefits nonviolent drug offenders (Beckett, Reosti, & Knaphus, 2016). It is still not politically feasible to ask for sentencing reform for violent offenders (Beckett, Reosti, & Knaphus, 2016). To address this variation in reform types, I use one source from Families Against Mandatory Minimums (FAMM) that classified state reforms into three categories: expansion of judicial discretion (untying the hands of judges by allowing them to deviate from mandatory sentences), general repeal or revision of mandatory sentences (rolling back or shortening lengths of sentences on the books), and revision of automatic sentence enhancements (removal of longer mandated sentences because of possession of a gun during the commission of a felony, for example) (FAMM, 2017c). By using their categorization, this limits the difficulty of rating the degree to which a state reformed or what the policy the state passed changes about the mandatory minimum policy or policies they had on the books.

### **Debates on Reform**

In the earlier section on rationales for different types of sentencing policies, I noted that both liberals and conservatives generally support the “new wave” of mandatory minimum sentencing policies. We see a shift to combined supported for reform or repeal of mandatory sentencing policies in the 2000s. Political support for reform may be attributed to desires of the public, and thus legislative responsiveness to their constituents. There has been a clear public outcry for reform of mandatory minimums in recent years, that is particularly pronounced for drug offenders. According to a poll in early 2016, 79 percent of Americans support replacing mandatory minimums for drug offenses with judicial discretion, and 77 percent support replacing mandatory minimums with judicial discretion for all offenses (The Mellman Group and Public Opinion Strategies, 2016). It may be that the public is more supportive of reform as they have

seen no adverse effects as states and the federal government have reformed their policies throughout the 2000s, or it may be that the public agrees with the same arguments made by legislators: mandatory minimums are costly and ineffective, and contribute to the prison build-up.

### **Justification for Case Selection**

This is a relevant case because it provides a recent diffusion across the United States. It is also an important case to study what leads to mandatory sentencing reform spread because the reform of mandatory minimums is timely but also preferred by public opinion. It appears that legislators are recognizing their misgivings in prior support for mandatory minimums and ready to reform, which is a rare occurrence in the policy realm.

### **Focus on Legislators**

This work studies how state legislatures make sentencing policy. The discretion element of prosecutors and judges exercising the sentencing decisions is important as well, as these are important determinants of classifying a sentencing policy and why lawmakers pass certain policies. Yet of main interest here is how the legislature plays a role in changing sentencing policy. According to Schwartz (1983, p. 81), “The legislature can determine who can exercise discretion and at what stage of the criminal process they can exercise it. The legislature can regulate the use of consecutive sentences. It can prescribe minimum as well as maximum sentences. The legislature may also adopt or authorize an agency to adopt guidelines to regulate sentencing.”

## **Choice of State-Level Sentencing**

Rather than the federal level, state lawmakers form most sentencing policy in the criminal realm: According to Zimring (1983, p. 101), “State government is the main arena of punishment policy in the federal system.” State governments make the most critical criminal justice policy decisions (Bergin, 2011; Jones & Newburn, 2005). Also, using states as the level of analysis allows for the use of policy diffusion methodology, as detailed in Chapter 4. Diffusion across the states is interesting, as progress on mandatory sentencing policy reform is occurring mainly among the states. “Since 2000, 29 states have enacted laws increasing judicial discretion and revising when and how sentences are handed down. Thirty-two bills have been passed within the past five years alone, according to the report. States, the report shows, are becoming champions of reform, acting ahead of both Congress and the Obama administration” (Rhodan, 2014).

## **Conclusion**

Due to the widespread nature of mandatory sentencing policies across the United States beginning in the mid-1970s and lawmakers continuing to pass them into the 1990s, understanding their reform that started in the early 2000s is a timely and important case that can help illustrate the diffusion process. It is also a good case for the current study because of the nature of the policy as a topic of general interest; thus, narratives are especially important to the policy process for the reform. I discuss the theoretical framework of this dissertation, policy diffusion, in the following chapter. The process by which mandatory sentencing reform moves across the United States, and why, is of interest.

## **CHAPTER 3: THEORETICAL FRAMEWORK**

### **Introduction**

First, I focus on what policy diffusion and diffusion of innovation is as a policy process framework, including what the classic mechanisms of diffusion are. I then provide an overview of the history of policy innovation and diffusion studies within the United States. Next, I review policy diffusion studies that use states as the level of analysis, as that is the level of the current study, and some similar mechanisms operate according to the state legislative process regardless of policy differences. I then review examples of work about the diffusion of criminal justice policy. Next, I review the literature on morality policy, as mandatory sentencing policy reform is an example of this category of policy. I describe the policy type (morality) as policy characteristics matter to the spread of policy. By better understanding the characteristics of morality policy, I can better model policy diffusion for reform. Finally, I review the literature on narratives, the NPF, and how I combine the literature on policy diffusion with that of narratives.

### **Policy Diffusion**

The diffusion of innovation is a broad field of study. Political science, sociology, and economics scholars have all studied innovation, although the definition of terms varies (Nice, 1994). Diffusion of innovation scholarship is not limited to these fields: anthropology, public health, marketing, and geography are among other fields that study diffusion (Rogers, 2003). In this context, innovation/change/reform refers to adopting a new policy from the perspective of the jurisdiction adopting the policy (Nice, 1994). Although innovation research has been common, the approaches used to study it are diverse. For example, different fields use different units of analysis: such as individuals studied by sociology and education scholars; organizations

studied by economics, public administration, and other fields; and governments by political scientists as well as sociologists (Nice, 1994).

In this study, I use the political science form of policy diffusion. Political science and public administration produced nearly one thousand policy diffusion articles over the past 50 years (Shipan & Volden, 2012). Understanding policy spread between jurisdictions is of interest. The theoretical foundation of the current study is based on expectations about political party support for policy reform, as well as how I expect reform to spread. I discuss theories of policy diffusion and Lakoff's (2002) moral politics. This chapter lays out the definition used, and the mechanisms of diffusion, to help understand policy change.

According to Rogers (2003), "Diffusion is the process by which an innovation is communicated through certain channels over time among the members of a social system" (p. 35). The social system indicates shared norms, but also individuals who have opinion leadership, such as policy entrepreneurs. Scholars often discuss the elements of decision making involved when adopting policy innovations (in this study, the state legislators), and how information from other jurisdictions decreases uncertainty and risk (Rogers, 2003). The innovation is not new in general, but rather new to the jurisdiction adopting it (Rogers, 2003). In other words, policy diffusion is "one government's policy choices being influenced by the choices of other governments" (Shipan & Volden, 2012, p. 788).

The decision process moves from knowledge, persuasion, decision, implementation, to confirmation (Rogers, 2003). In this context state legislators learn of mandatory sentencing reform, form an attitude about the policy innovation, decide whether to adopt it in their own jurisdiction (based partly on whether it is compatible with the values and circumstances of the

jurisdiction), put it in place (first by going through the proposal and passage process), then confirm the decision based on the effects of implementation (Rogers, 2003).

According to Boushey (2010), the process Rogers (2003) lays out for innovation-diffusion is similar to the public policy cycle, a heuristic used to understand the non-linear process of policy making. In summary, some scholars break policy diffusion studies into stages: there are some “failure points” where innovation may fail: at the proposal stage, adoption stage, or implementation stage (Nice, 1994). Division into different stages of the policy process is necessary because different diffusion mechanisms matter more at these different stages (Karch, 2007). I focus on adoption as this is the most publicized and available data about whether state lawmakers pass a policy.

### **Mechanisms of Diffusion**

Scholars consider Walker’s 1969 study the seminal study of policy diffusion between jurisdictions (e.g. Sliva, 2016). Walker studied the question of why policy spreads quickly in some cases, slowly in others, and sometimes fails to diffuse at all. This variation is due to the nature of the networks between the jurisdictions. The jurisdictions in a policy diffusion study must be part of a social system: the choice of one state influences the policy decisions made by other states (Berry & Berry, 2014). “We can say that policy diffusion occurs if the probability of adoption of a policy by one governmental jurisdiction is influenced by the policy choices of other governments in the system” (Berry & Berry, 2014, p. 310). I discuss the mechanisms of influence because these help us understand the probability of policy change. These are competition, learning, imitation, normative pressure, competition, and coercion (Berry & Berry, 2014).

**Learning.** Learning occurs when a jurisdiction observes that a policy is effective for another jurisdiction and thus decides to adopt it (Berry & Berry, 2014; Braun & Gilardi, 2006; Levy, 1994). Various factors influence whether a state learns from another. There are inherent constraints on learning; for instance, a more professionalized legislature has the time and resources to research the policy decisions of other states, and thus learn from them. Also, it may be that states only hear of the progress made, and thus learn from, states geographically close (Berry & Berry, 2014) (although a critique of this regional approach is later in this chapter). Further, the ideological similarity to another jurisdiction, as well as preexisting beliefs about a policy solution, shape how policy actors interpret new evidence, thus changing their likelihood of adopting that idea from the other jurisdiction (Gilardi, 2010).

Learning depends on the policy itself, making learning complicated. For instance, if a policy area or proposal is complex, learning is less likely to occur (Makse & Volden, 2011; Shipan & Volden, 2011). Policies that have very observable effects are more likely to diffuse via learning (Makse & Volden, 2011). Learning has a larger effect as time goes on, as more information about a potential innovation becomes available (Gilardi, Füglistner, & Luyet, 2009). Yet according to Shipan and Volden (2011), learning may occur more because of political opportunity than the effectiveness of the policy itself, reminding us that the characteristics of the jurisdiction are also important to consider, as I will expand on later in this chapter.

Since the unit of analysis of this study is states, understanding the mechanism of learning is important. States within the U.S. are laboratories of learning, meaning states can test policies unique to their setting, abandon unsuccessful policies, and learn from the experiences of other states (Shipan & Volden, 2006; Volden, 2006). This is important to consider when discussing

diffusion as learning as a critical mechanism by which policies diffuse, particularly given the current policy case where competition and coercion are not operating.

***Imitation.*** Also known as emulation, imitation occurs when a jurisdiction copies a policy choice of another, because they want to be like the other jurisdiction, regardless of characteristics of the policy or the potential outcomes as a result of the policy adoption (Berry & Berry, 2014; Shipan & Volden, 2006, 2008, 2012). For instance, imitation is at work when a state copies word-for-word the policy adopted by another, without adapting anything for their own state's circumstances (although this is an extreme case, and a state need not copy the innovation verbatim to constitute imitation). Imitation is more likely to occur between jurisdictions that are similar in some way, such as a large city copying another similarly sized city, or jurisdictions one wants to emulate, such as smaller cities copying larger (Shipan & Volden, 2008). Early studies focused on regional or neighboring effects on imitation (Lutz, 1986; Walker, 1969), although these have fallen out of favor in recent years as the effects have failed to hold up over time. Also, the inherent weakness of this approach was a failure to distinguish between whether the mechanism was learning or imitation.

I categorize normative pressure as a specific type of imitation in this study. Normative pressure is when a jurisdiction sees other jurisdictions with which it shares norms adopting a policy and feels pressured to follow suit or conform with the other jurisdictions (Berry & Berry, 2014). In this context, as well as in several other studies, normative pressure is not distinguished from imitation as it is difficult to determine the difference empirically, and that is beyond the scope of the current study. Imitation is a shorter-term mechanism of diffusion when compared to the other types (Shipan & Volden, 2008), particularly learning, as it is a similar type of influence only on a shorter time frame due to the lack of actual learning taking place. To distinguish

further between imitation and learning, learning focuses on the policy itself and the outcome of it, while imitation focuses on the similarity of the jurisdiction or actor (Shipan & Volden, 2008).

**Competition.** Competition is operating when a jurisdiction makes the decision to pass a policy because policy makers believe they will gain an economic advantage over other jurisdictions by having the policy in place, or it will prevent other jurisdictions from gaining an advantage over them (Berry & Berry, 2014). The concept of competition stems from the early work of Tiebout (1956), who modeled local level government competition, in which the goal is to attract residents. The thought was that members of the public will select to live in the jurisdiction that aligned with their preferences for taxes and spending. This area of competition across governments has been a popular area of research since, particularly for economic-related policies (Shipan & Volden, 2011).

**Coercion.** Coercion involves a jurisdiction in a position of power over another either increasing the jurisdiction's incentive to adopt a policy or forcing the jurisdiction to adopt it (Berry & Berry, 2014). Coercion could be horizontal influence, such as one country in a stronger position coercing a weaker country to adopt a certain policy (e.g. Simmons, Dobbin, & Garrett, 2006), or vertical, such as the federal government in the United States coercing states to adopt a policy as occurred with the adoption of speed limits on highways and the drinking age being shifted to 21 from 18 (e.g. Shipan & Volden, 2006) (Berry & Berry, 2014). Coercion may take place through use of force, threats, or even incentives (Shipan & Volden, 2012, p. 791).

The diffusion mechanisms of competition and coercion are only defined, not operationalized for the study context, because they do not apply to the context of state sentencing policies, as these systems are unique and independent (Lawrence, 2015). Both competition and coercion are not hypothesized to operate given the type of policy of interest in this study.

Competition involves competing for resources resulting from a policy; the resources here would be prisoners when put in those terms, thus competition is not present. Also, criminal court jurisdiction is dependent on where one violates a state's laws; thus, there is no cross-jurisdictional concerns about competition. Coercion is not operating since mandatory sentencing reform was not a policy that the federal government had passed and was incentivizing for states to pass as well through some sort of inducement.

### **State-Level Diffusion Studies**

The United States' federal system makes state-level diffusion studies very common. This is particularly true in the realm of criminal justice studies, because the diffusion of these policies is independent of coercion from the federal government in this policy case, as there are no financial incentives or explicit communications from the federal government to the states about mandatory sentencing reform.

Early studies of diffusion debated whether the same mechanisms explain the diffusion of different policy types (Walker, 1969) or whether we must study specific policy areas (such as welfare policy) independently (Gray, 1973; Nice, 1994) (see Sliva, 2016 for further discussion). In a review of diffusion research within political science, Graham, Shipan, and Volden (2012) argue that specializing within a policy area can add to the literature by determining the key actors and mechanism of diffusion that creates a foundation for diffusion research in other policy areas. I follow this example in the current study, but some scholars such as Boushey (2010) advocate for large N policy samples, arguing aggregation is the way forward for policy diffusion work, as including various types of policy in the same study allow for determination of similarities and differences between the diffusion of different policy types. Yet here, as my focus is investigating the operation of narratives, an exploratory study, it is appropriate to focus on one policy area,

mandatory sentencing reform. Further research may expand on the incorporation of narratives to test whether the findings here stand for non-morality policies, such as governance policies.

As they sided with the proponents of policy types diffusing differently, as is accepted today, Berry and Berry used specific policy cases to exemplify the diffusion mechanisms of interest. In 1990 they studied the diffusion of state lotteries and in 1992 they studied the diffusion of income tax policies. Their first study explored whether arguments about internal determinants (political, economic, and social factors) of policy change were compatible with external, or regional diffusion, determinants. Regional diffusion indicates the adoption of those in nearby entities, in this context the influence of neighboring state adoption on a state's own policy adoption. They found internal and external determinants were compatible and advocated the use of event history analysis (EHA) models for this type of study, as it works even in the instance of rare occurrences (Berry & Berry, 1990). Although they focused on the now outdated regional effects, this finding also applies for other external determinants.

Berry (1994) posited that event history analysis (EHA) as demonstrated in Berry and Berry (1990) is the best method to use for policy innovation and diffusion studies, as prior approaches testing one of these models in isolation was subject to false positives, or finding that a model was influencing policy change when in actuality it was not. Studying the effect of these models simultaneously on policy change is the best methodological choice (Berry, 1994). Thus, the current study follows the example started by this seminal piece that established scholars of policy diffusion should incorporate both internal and external determinants in one diffusion model to better understand the spread of policy across jurisdictions. It also follows the methodology example by using an EHA model, as is still common today and viewed as the best model for studying policy diffusion (Berry & Berry, 2014).

## **Criminal Justice Policy Diffusion Studies**

To review works of policy diffusion relevant to my case, I focus on U.S.-based policies at the state level because international diffusion studies given the different mechanisms between countries versus states are not as insightful for the current approach, and also criminal justice policy is so country-specific that comparing to studies outside the context of the United States for the current approach is not as useful as those focused domestically.

*Internal state characteristics.* Sliva's (2016) review of sentencing and corrections policy diffusion studies found that internal state determinants such as economic, political, and social factors, were more influential upon policy diffusion than crime rates. This aligns with the work of Boushey (2010), who studied the diffusion of policies, including but not limited to criminal justice policies. He found that the population size, wealth, and political culture of the state shape innovation (see also Nice, 1994; Soule & Earl, 2001). Further, higher professionalization of the legislature and higher public education levels led to more likely adoption of innovation (Boushey, 2010).

This leads to a discussion of the partisan divide in a state and its influence on diffusion. A discussion of external partisan comparison is undertaken later in the chapter, as this is not an internal characteristic influencing diffusion. This divide in the state may be in the legislature or the general public, or both (Nicholson-Crotty, 2009). Although contested because they discuss inherent innovativeness, Soule and Earl (2001) found states with a history of innovativeness and with a Democratic-dominated statehouse were more likely to enact hate crime laws. Liberalism of the government decreases the likelihood of fetal killing policy adoption, making it a homicide to kill a fetus at any stage of development, equivalent to killing of a born person (Oakley, 2009). In an earlier case study of sodomy decriminalization, the states that had already abolished the

prohibitions of sodomy that had been on the books were Democratic-led states, while those keeping prohibitions longer were Republican-led, indicating the strong role of ideology in the diffusion of this moral policy change (Nice, 1994). Yet earlier work found no political party or election influence on criminal justice legislation (Heinz et al., 1969; Zalman, 1982). This lack of influence of party can be seen through both parties supporting the tough on crime movement—there is not generally a clear left and right among legislators on these issues, due to the fear of the public labeling them soft on crime. The party stances appear to move simultaneously on the issue, as we see with a shift toward accepting reform proposals. Political ideology overall is an important predictor in the general policy diffusion literature (Bergin, 2011; Berry & Berry, 1999; Nicholson-Crotty, 2009).

High turnover (or high levels of partisan competition) lead to more likely, as well as faster, policy innovation, particularly for morality policies (Boushey, 2010). Further, a jurisdiction that has high levels of partisan competition is more likely to adopt an innovation that is politically feasible to both parties (Boushey, 2016). Soule and Earl (2001) found evidence that having a governor of a different party than that in power in the state legislature (divided government) led to faster adoption of hate crime legislation, as other states notice the adoption and they in turn follow suit. Thus, there are several ways of operationalizing partisanship within a state and depending on the policy type they may influence diffusion.

Public opinion also plays a critical role in diffusion, particularly with morality policies (Boushey, 2010). “The diffusion of morality policy, with its technical simplicity, potential for high salience, and debate over basic moral values, may be driven by nonroutine decisionmaking” (Mooney & Lee, 1999b, p. 766). For instance, Mooney and Lee studied the reform of death penalty policies at the state level (1999b, 2000). Less policy learning on the part of lawmakers

and more public input drives the spread of death penalty policy across the United States (Mooney & Lee, 1999b). To expand on this, lawmakers rely differently on public opinion depending on the extent of public division or agreement on the issue. Mooney and Lee (2000) find on a closely divided issue, public opinion drives the diffusion process. Yet in the case of one-sided public opinion (such as favoring the abolishment of the death penalty), the ideology of political elites rules the diffusion process (Mooney & Lee, 2000). The level of influence public opinion has depends on the larger political climate on the policy innovation at hand.

Emmert and Traut (2003) studied the spread of policies across the states banning the execution of individuals who are mentally challenged. In this correlate of a sentencing policy change, they found both public opinion and the values of lawmakers were important predictors of state's policy change, consistent with findings on morality policy. In another example of studying the passage of a punitive policy, Traut and Emmert (2003) found citizen ideology and preferences for the death penalty to be influential. Allen and colleagues (2004) attribute truth-in-sentencing policy diffusion to increased public support for harsh punishment. Cocca (2002) also studied the role of public opinion on diffusion but found this to be an indirect influence. Legislative mechanisms, focused on in the current study, are more susceptible to public influence than the court system (Kane, 2007).

These are important contributions to the literature on criminal justice policy diffusion as they help us better understand what factors drive diffusion and under what conditions. In the context of the current study, mandatory sentencing reform is one-sided (63 percent of the public are in favor of reducing the use of mandatory sentencing policies for nonviolent offenders, Ingraham, 2014), so I can expect that ideology of lawmakers will be more influential. Yet, this

policy has shown to have both political parties in favor of reform as well. Does bipartisanship emerge as an influential factor when I study the diffusion of the policy?

Even further, public opinion becomes more influential on policy outcomes in the legislature when a policy is moral (Mooney, 2001). “Because morality can be perceived to be an issue in which everyone is an expert, state officials may become less responsive to interest groups (i.e., movements) and more responsive to general public opinion” (Kane, 2007, p. 233). “The history of sodomy law reform and these results also indicate that who argues for change matters; not just by affecting the chances of success, but by shaping the other factors that determine whether or not the policy change occurs. For example, in the case of sodomy law decriminalization, having state officials as the primary sponsors for change made elite allies (i.e., percent Democrat) less important” (Kane, 2007, p. 235). Thus, the following section describes the issue of legislative responsiveness.

A state’s likelihood of adopting a new morality policy increases when state legislators are more responsive to the public (Boushey, 2010, 2016). In addition, when the public views crime as a pressing problem, or as highly salient, state governments are more likely to respond to the public’s desires (Boushey, 2016). The study of innovation diffusion “gives primacy to the decision making of formal elected and appointed officials in state government, who identify, evaluate, and adopt emerging innovations that meet the challenges presented by interstate economic competition or address pressing social policy problems” (Boushey, 2010, p. 3). Thus, legislative responsiveness to the public’s opinion is a crucial piece that goes into the process of agenda setting; therefore, it is an important aspect of study within diffusion of innovations.

Regional diffusion is no longer thought to influence diffusion, although communication channels across jurisdictions are still critical. For instance, Boushey (2010) found improved

communication and interconnectedness has increased the speed of policy diffusion, with policies in the early twentieth century spreading much slower than those in the late twentieth and early twenty-first century. One specific way communications occur is through media. Allen and colleagues (2004) found the media's focus on crime shaped the adoption of truth-in-sentencing policies, in addition to the main influence of federal government coercion. Oakley (2009) found increased media attention to increase the likelihood of fetal killing policy adoption. Thus, media influence may matter to their ability to communicate across jurisdictions, but even more so in the context of criminal justice policy due to their focus on crime.

*External determinants: interest groups & policy entrepreneurs.* Another subset of research within the field of policy innovation focuses on the role of change agents or policy entrepreneurs (Mintrom, 1997; Nice, 1994). The early work of Schattschneider (1975) lays out the strategic expansion or contraction of conflict by political parties and interest groups to achieve their policy stance. By appealing to the general public, interest groups may garner attention to the issue and help galvanize change. For example, Cocca (2002) found elite and interest group influence were more critical than public opinion in influencing diffusion. Boushey (2010) found that both policy entrepreneurs and interest groups play a key role by transmitting innovations between jurisdictions. These external actors (external because they are outside of the formal state legislative body, or state demographic characteristics) may target states with a similar ideological preference as their own (Haider-Markel, 2001), indicating Democratic-aligned groups will be more likely to target blue states. Scholars argue that interest groups gain control over crime legislation from the specialists and agencies in charge of crime (Heinz et al., 1969; Zalman, 1982). These earlier works do not acknowledge the general appeal of having a stance on moralistic policy. For instance, Kane's (2007) study of sodomy decriminalization

analyzes over time the differences in mechanisms for policy change, finding they differ based on who the key advocates are. With morality policy diffusion, we should pay more attention to interest group influence since everyone sees themselves as an expert, so the public opinion outweighs that of vested interests (Kane, 2007). The threat of counter-mobilization by groups is also a key factor in the diffusion of innovations (Boushey, 2010, 2016), so interest group work is not only in favor of policies, but also against.

Three strikes, one example of a mandatory sentencing policy, diffused throughout the U.S. as a result of efforts by interest groups (Boushey, 2010). In another study of the spread of punitive sentencing policies, Williams (2003) found crime rates and policy entrepreneurs to be key to the process. Political entrepreneurs and concerns about crime predicted the spread of punitive sentencing policies by states in the early 1990s, including truth in sentencing and three strikes laws (Williams, 2003). These factors were more influential than characteristics of states themselves. Since scholars found political entrepreneurs and high crime were the influential variables for initial adoption of the punitive sentencing policies, will this be the case with the repeal of these policies? To some extent, I believe policy entrepreneurs will still play a role, but state characteristics will become more important and crime less important when it comes to repeal. Ideology, as discussed in the prior section on internal determinants, becomes more important when a policy has the public support united behind it. I hypothesize crime is less important as the rationale for repealing mandatory policies relies less on arguments about crime than justifications for putting these policies in place initially.

Boushey (2010) and a (2009) focus on integrating policy diffusion research with that of agenda setting. Gilardi and Wasserfallen (2019) focus on the decision-making capabilities of legislators within the political system and how that influences policy diffusion. Following the

discussion of interest groups and policy entrepreneurs and the key role they play in the diffusion of innovation, it is important to make this connection. These groups and individuals are influential because of their agenda-setting capabilities. Without this influence upon the decision making of legislators, they would fail to influence innovation diffusion at the state level. To shape diffusion, though, they must overcome the status quo bias within the political system. “There are typically many advantages on the side of current programs and practices. If officials are satisfied with current performance levels, they may have little inclination to search for alternative approaches... maintaining the status quo generally involves much less uncertainty” (Nice, 1994, p. 144). Yet the more certainty that current policy is flawed, as with both major parties seeing mandatory sentencing policies as problematic (although for different reasons), the more likely change and innovation in policy is possible (Nice, 1994). Further, goal alignment on a policy problem as well as on a solution makes it more likely for policy innovation to occur (Nice, 1994).

How has mandatory sentencing reform managed to overcome the bias toward policy inertia? “Because enacting policy change is typically so difficult, with many points at which new initiatives can be defeated, the advantages of the status quo are generally very strong. Indeed, the difficulty of enacting policy changes may deter officials from even proposing innovations” (Nice, 1994, p. 16). Also, Nice (1994, p. 145) points out that, “although inertia is a powerful force in government, forces for change are sometimes stronger.” There is a bias toward status quo, yet the mechanisms of diffusion, such as learning, imitation, competition, and coercion, may help overcome this bias, depending on the policy itself, the characteristics of the jurisdiction, and interest group networks (Boushey, 2010). Thus, I discuss the modern

mechanisms of diffusion in the following section, with a focus on their testing within criminal justice state-level studies.

*Mechanisms of diffusion in criminal justice policy.* An example of a sentencing policy diffusion found coercion, an example of external influence, was the main mechanism of diffusion. Allen, Pettus, and Haider-Markel (2004) focus on understanding how the federal government influences the states, thus emphasizing the mechanism of coercion. Although coercion is not a mechanism of focus for the current study, this study examines a case of the diffusion of truth-in-sentencing laws across the U.S., one type of more punitive sentencing policy requiring certain violent offenders serve at least 85 percent of their sentences (thus reducing good time credit and earlier parole). This is because there was a 1994 policy by the federal government (Violent Offender Incarceration and Truth-in-Sentencing Incentive Grant Program of the Violent Crime Control and Law Enforcement Act) that premised grants for correctional facilities based on whether a state had a truth-in-sentencing policy in place. Although not inherently coercive, incentives such as grants can be coercive, as the authors found in this study. Allen and colleagues (2004) found that above and beyond other internal and external determinants, federal influence swayed some states to adopt this type of sentencing policy.

Sliva (2016) found that the most important determinant was external influence from other states or the federal government. This is an important finding, as a critique of the current design might be that another factor about the criminal justice system is driving the action on sentencing policy reform. Yet her finding that general state characteristics matter more than crime rates indicates this is not likely the case. Crime rate, level of incarceration, and proportion of state resources spent on incarceration are still tested in the current model, but I include these as controls rather than as key drivers of the diffusion process.

In contrast with Allen and colleagues' focus on the mechanism of coercion, Grossback, Nicholson-Crotty, and Peterson (2004) focus on learning and the role that ideology plays in state-level policy change (although they do discuss how states may learn from the federal government). Scholars assume state governments know what the ideological makeup is of other states. Thus, when a state that is similar to them ideologically adopts a policy, their likelihood of adopting the same policy increases because the state's leaders assume it is a good policy decision for their context. The adoption of a policy by a dissimilar ideological state, in contrast, lowers the likelihood of a state adopting the same policy (Grossback et al., 2004). They posit learning may occur from any other government entity, not restricted by geographic proximity or region (consistent with current established findings on the lack of geographic influence).

One of the cases used to test their model of learning is the passage of sentencing guidelines, which limit judicial discretion and intend to keep violent offenders in prison longer (and are thus part of the tough on crime wave beginning in the late 1970s). They find that states weigh information about sentencing guideline adoption more heavily if the jurisdiction is more ideologically similar to the state (Grossback et al., 2004). This study is a clear example that ideological similarities, or normative pressure/imitation, outweighs regional influences in determining how a policy diffuses. Volden (2006) finds ideological similarity as well as learning about a policy's success were influential mechanisms by which a policy diffused (in this study, the Children's Health Insurance Program (CHIP)). Grossback and colleagues (2004) call for further research into what context leads to the various mechanisms of diffusion. Their study found imitation based on ideology is most likely when there is uncertainty about policy effect, particularly when there is a clear partisan divide over the policy.

## **Morality Policy**

This section draws from literature on policy types, focusing on morality policy, because policies relating to the punishment of crime are understood as morality policies. By presenting the typology of policies, I can focus in on examples of diffusion studies with morality policies as the cases, so that results are more comparable to the current study. Policy type matters to diffusion, and characteristics of the policy or innovation itself are often understudied or not considered (Boushey, 2010; Makse & Volden, 2011). Yet policy types can help us understand which mechanisms of diffusion are most likely to be operating. For instance, morality policies that diffuse for symbolic reasons may be more likely to be diffusing due to imitation, not competition, as there is little to no economic reasoning for the policy spread (Karch, 2007). As another example, the process by which morality and economic policies is similar, yet the reasoning or mechanism behind the diffusion process is different (Mooney & Lee, 1995, 1999b). Moral policies diffuse because of public opinion, and less because of learning on the part of policymakers (Mooney & Lee, 1999b):

Because of its technical simplicity, saliency, and conflicts of basic values, morality policy may not be amenable to policy learning... When possible, policymakers make morality policy in their usual way, by incremental steps and learning from previous adoptions. But when basic moral conflicts surface, considerations other than policy learning drive reinvention. (Mooney & Lee, 1999a, p. 80)

When the public is generally in favor of a morality policy change, legislators can follow suit more quickly. Yet in the case of a divided public, more incremental change must take place (Haider-Markel & Meier, 1996; Mooney & Lee, 1999a).

Scholars define morality policies as social regulatory policies; these are non-economic policies dominated by single-issue interest groups (Boushey, 2010; Smith, 2002; Tatalovitch & Daynes, 1998). This is part of the policy typology literature and is in contrast with governance policies dealing with limitations of governmental authority and regulatory policies dealing with economic, environmental, and professional realms (Boushey, 2010). Following this, I categorize mandatory sentencing policies, and their reform, as morality policy.

Lakoff's (2002) work expands on what moral politics means, helping us to better understand the actions of liberals and conservatives when dealing with morality policy types. The work of Lakoff sets up why liberals and conservatives have different reasoning, and thus different views on, these morality policies. The current study works to understand whether there has been a true shift in conservative thought about mandatory sentencing policies, even though it goes against their principles. It may be lip service, and the results support this with Democratic legislative control influencing reform diffusion.

According to Lakoff (2002), liberals have less insight in general into their worldview than conservatives do. "But where conservatives are relatively aware of how their politics relates to their views of family life and morality, liberals are less aware of the implicit view of morality and the family that organizes their own political beliefs" (Lakoff, 2002, p. 31). This may mean the nature of narratives crafted by groups from either side are different; for instance, liberals may be less acknowledging of the issue as moral or where their views come from, whereas conservatives may be more so. The conservative underpinnings focus on self-interest and moral strength, while liberal underpinnings are nurturance and empathy (Lakoff, 2002). Thus, conservatives may be willing to support reform because it is now in their own interest, such as economic interest, whereas liberal support for reform is less dependent on circumstances as it

supports reform on the principle of the effect of the policies. Yet the reasoning for partisan support is not so simple, because if economic motive was the only factor driving conservatives, they would not have supported three strikes legislation due to the large amounts expended on prisons (Lakoff, 2002); morality policy stances are emotional and often outweigh pragmatic views. These models of political alignment are pure models, only capturing the extreme cases. Due to the concept of moral focus or priority placed on certain policy areas (Lakoff, 2002), some liberals may not be typical liberals when it comes to sentencing policy. We know there are degrees of strength of partisanship that may also affect one's views, particularly when discussing lawmakers.

Morality policies are inherently subjective. They are creating policy around issues that are low in technicality, meaning everyone is an expert on the policy (Kane, 2007). This distinctive policy type, of which mandatory sentencing reform is an example, leads to the addition of another framework to this approach, the NPF. We need this relatively new approach to understanding the policy process because policy diffusion may be better understood with a measure for interest group stories told about the proposed change. Additionally, I hypothesize traditional diffusion models can also work for the spread of policy *narratives*, not only policy change itself.

### **Gap in the Literature**

Boushey (2016) is the only study identified that applies a framing theory to a state-level diffusion study. He uses policy design theory (Schneider & Ingram, 1993) to hypothesize how criminal justice policies diffused across the United States, finding the framing of the target population, or who receives something from the policy put in place, followed stereotypes about who is deserving; this in turn led to adoption of policies that reinforced stereotypes. He found

criminal justice policies reinforcing stereotypes diffused more quickly, consistent with expectations of policy design theory. This supports the current project, as his work may help explain how mandatory sentencing reform spreads. I may contribute to this literature by seeing whether changing these policies, or shortening sentences for offenders, is in alignment with widely held stereotypes. I believe they are, as the reforms generally target sentences for nonviolent offenders with disproportionately long sentences for their offenses.

Boushey (2016) found who interest groups portray as deserving policy beneficiaries influences the diffusion of the policy. Following this reasoning, states would only be willing to reform their sentencing policies once strong interest groups advocated for those adversely affected by the mandatory sentences. Thus, it is worth exploring whether the framing of the influence of mandatory sentencing policies shifted in the early 2000s because of the criminal justice system sweeping up middle-class white men into the criminal justice system. According to Boushey (2016), the argument that mandatory minimums are detrimental to poor Black individuals and are further destabilizing their communities would not sway lawmakers, as those affected are members of “weak and politically marginalized groups” (p. 198). I will explore this in future research, as it focuses on the content of narratives.

Boushey (2016) uses social construction theory from policy design and states his work may be interesting to NPF due to taking a constructivist approach. Yet in the current study, a more explicit incorporation of narratives is undertaken to look at not only how lawmakers construct the policy but also the level of attention given by interest groups, influences its spread. The key innovation, though, is looking at narrative spread, making this the outcome variable in several models here. Further, I also distinguish my work from his using narrative presence or strength, rather than the content of these stories. Although the theories incorporated within a

diffusion study are similar in their ways of thinking about the policy process (constructivist approaches), the way I operationalize the approach is different. I do this because I hypothesize that although what interest groups say in these narratives matters, if we know the stories are all in favor of reform, the content matters less than policy environments such as those studied by Boushey where there were strong framing efforts in favor of as well as against the policy. Thus, the policy environment, where today we do not see a true for and against the reform of mandatory sentencing policies, means that operationalizing narrative attention rather than narrative content or framing is more useful to measure the effect of interest groups in the policy process.

### **Narratives and the Narrative Policy Framework**

Mainstream policy process scholars did not accept the work of post-positive, interpretivist studies of narratives occurring throughout the 1990s. The 1999 version of *Theories of the Policy Process* failed to include a chapter on social construction or narratives, demonstrating the divide within the field (McBeth, Jones, & Shanahan, 2014). The NPF arose because the creators saw room for an objective way of studying narratives within the policy process. Following the work of Stone (2012) with her model of causal stories, narratives have consistent structural elements that allow for systematic study (Jones, Shanahan, & McBeth, 2014). This set of consistent structural elements is a key division between NPF and other narrative scholars. The elements according to NPF fall into the categories of narrative form and narrative content aspect. Form includes setting, plot, characters, and moral of the story, while content includes belief system and narrative strategies (Shanahan, Jones, & McBeth, 2018). A story must have at least a character and policy preference to constitute a policy narrative

(Shanahan et al., 2013). I follow the NPF's structure due to its compatibility within a quantitative approach, diffusion, to understanding policy change, as well as its current status of growing popularity among policy process scholars. I use the NPF in this study because it hypothesizes that narratives matter to the policy process. Here, I use narratives as a predictor of policy change. I hypothesize that narratives influence the diffusion of mandatory sentencing policy change. I outline the framework's findings about the role of elites and narratives here.

*Elite and interest group narratives.* The narrative aspect of this study focuses on the crafting of stories by interest groups for and against mandatory sentencing reform. Thus, it is relevant to review the literature about what role elites play in policy making. The inclusion of narratives in diffusion studies is important because of the critical role narratives play in policy. For example, Shanahan, McBeth, and Hathaway (2011) found narratives can shift public opinion and positions on policy (see also Petridou, 2014). In the study of narratives, power and framing are common themes (e.g. Cookson, 2013; Johnson-Cartee, 2004). This power generally resides with elites and the media, rather than members of the general public (Cookson, 2013). For example, according to Karp (1998, p. 163), "the message was probably not quite as important as the messenger," which speaks to the power of elites. The media also have power that may override that of even elites, including certain interest groups. For example, Callaghan and Schnell (2001) report that the media intervened in narrative framing as the policy debate about gun control gained maturity, exhibiting power over the tone of the debate. Thus, understanding narratives necessitates an understanding of the media type used by the interest groups I am studying. The current approach attempts to avoid the issue of media intervention in the debate by selecting websites from interest groups so that newspaper and television media actors are not influencing the sample of the debate I am analyzing.

Elites encompass interest groups that play a prominent role in the policy process (Burstein & Linton, 2002; Maloney, Jordan, & McLaughlin, 1994; Richardson, 2000). Within the realm of criminal justice policy, scholars find a mixed role for interest groups. Fairchild (1981) found that professional groups are more influential than reformist groups. Stolz (2005) established the importance of non-professional groups, or groups with tangential interests such as refugee and religious groups. Also, Boushey (2016) observed civil rights organizations such as the American Civil Liberties Union (ACLU) and fiscally conservative groups such as Grover Norquist's Americans for Tax Reform were important to the reform of mandatory sentencing policies. These findings are relevant for the current study, as the focus is on the reform of a sentencing policy. Are the reformist groups disadvantaged against the professional groups? How does the reform group win in instances of successful policy reform? Are the narratives they create important to this success? Another finding was that the goals and structure of interest groups vary between state contexts (Fairchild, 1981), which is why the state is the appropriate level of analysis for diffusion of criminal justice policy studies. Do national level interest groups target certain states with messaging? The study also follows the diffusion of elements of these narratives to see if and how they spread across the states.

It is important to note, though, that in defining policy alternatives, bureaucrats outweigh the influence of interest groups and the public in criminal justice policy at the federal, state, and local levels (Miller, 2004). Thus, this study explores the role of legislators and bureaucrats in the reform process as well through inclusion of key predictor variables about state legislature demographics (proportion female and proportion African American).

***Elite narratives about mandatory sentencing policy reform.*** Researchers have not yet studied mandatory sentencing policy reform diffusion. There have not been many NPF criminal

justice studies, but this seems to be a rich area in which to apply the NPF. There are key advantages to using NPF in this context, including the contested nature of these policies, their status as morality policies, and the interest of members of the public in this realm. An example of a narrative-driven study of the field of criminal justice is O'Brien (2016), which focused on heroes and villains in the context of human trafficking. NPF studies have also looked at another related area, gun policy (Merry, 2016; Smith-Walter et al., 2016). The key gap here is the use of a policy diffusion theoretical framework to study both the movement and influence of narratives. Sentencing policy reform is a rich area for further investigation.

### **Merging Policy Diffusion and Narrative Analysis**

I add narratives to the traditional diffusion model because looking at normative pressure, competition, coercion, imitation, and policy learning alone is not enough. I posit that another important factor why policy diffuses is the stories people tell, or narratives. This follows the social construction approach of Boushey (2016), detailed earlier in this chapter. Yet it is also innovative, as most studies incorporate media attention or interest group characteristics, rather than involvement by interest groups.

Incorporating narratives enhances normative pressure, or imitation – normative pressure may take the form of observing what states with similar values, such as similar political affiliation, are doing regarding policy and then adopting a similar measure, but focusing on states that trust the same interest groups looks at a step removed from the state identity itself. By seeing what influence interest group stories have on state spread of a policy, I can answer the question of how states are learning from others as well. Narratives intertwine with the policy process. By having a quantitative measure of them, I am improving the traditional diffusion model. Future

models should incorporate more qualitative measures such as characteristics of stories, as we know based on the work of post-positivist as well as NPF narrative scholars that the content of the narratives does matter for how influential they are.

Policy diffusion is a traditional way of studying policy change, particularly at the state level. By incorporating a newer framework for studying the policy process, the NPF, with a policy diffusion model, my work is exploring how influential narratives may be to the spread of policy across the United States. Taken further, I also use a narrative count as the outcome of a diffusion model. I use policy diffusion methodology to explore how narratives are spreading across the United States. I assume narratives diffuse similar to how policies do, based on a long history of narrative studies about the nature of communication and storytelling. Narratives are critical to add to the literature because if we understand how stories about policies are spreading across states, we can better understand how policy change occurs.

## **Conclusion**

There are no studies combining narrative theories of the policy process into a policy diffusion study. The goal of this dissertation is to set the stage to merge these useful approaches to the policy process so that we may achieve better understanding of the role of narratives. Additionally, the most common mechanism of interest has been learning – I posit here that the less effortful imitation and normative pressure are worth exploring, particularly when focusing on narrative presence and strength. Are these cues from interest groups with a similar ideology what is influencing legislators? Or is it that legislators of their own party passed a similar law in a state across the country? Distinguishing between these effects is an innovation that adds to what we know about how policy diffusion occurs at the state-level.

The theoretical framework of diffusion of innovations, within political science known as policy diffusion, lays out the hypothesized mechanisms and variables thought to affect the spread of policy between jurisdictions. This chapter provided the definitions of diffusion and the mechanisms. By using this framework, my work combines this with the expectations about the role of narratives from the Narrative Policy Framework to add to the literature on policy diffusion.

## **CHAPTER 4: RESEARCH DESIGN, DATA, AND METHODOLOGY**

### **Introduction**

This chapter first reviews how I operationalize the outcome variables, then the predictor and control variables. Then, I discuss the data sources and the construction of the dataset. I present the hypotheses and the literature that informs them. Finally, I review the choice of methodology.

### **Outcome Variable Operationalization**

Following the approach of Grossback et al. (2004), I measure time of reform when lawmakers passed the policy, not at the time of implementation, due to a long lag time between the policy decision and the policy implementation. Most studies limit the outcome to adoption versus non-adoption (Boushey, 2016; Grossback et al., 2004). Yet in the current context, due to the variety of different types of mandatory sentencing reform, the type of policy reform may affect time to adoption of reform. For instance, time to adoption may be different for a reform that involved revising automatic sentence enhancements versus those that expanded judicial discretion. For this reason, I include different types of reform as binary, dummy dependent variables to compare to the models with the outcome of binary adoption/non-adoption.

Consideration of more nuanced policies, rather than adoption versus non-adoption, can further our understanding of diffusion (Shipan & Volden, 2012). The current study is working with an ambiguous policy, mandatory sentencing reform, which encompasses a variety of types of reform. Thus, categorization is necessary, and I test this system of coding against that of a binary outcome measure. These categories are addition of a safety net, general reform or repeal, and removal of automatic sentence enhancements. Addition of a safety net or valve allows

certain offenders to avoid the imposition of mandatory minimums, thus giving some discretion back to judges. A general reform or repeal either does away with a certain type of mandatory minimums completely, or at least shortens its length. Finally, removal of automatic sentence enhancements is when sentences are no longer automatically lengthened, such as because of having a firearm during the commission of a felony. A state's reform may fall into multiple categories, but this is not a methodological issue as each subtype is coded as a binary presence/absence. Also, the subtypes are only used as separate outcome variables in the models.

From the literature reviewed, Boushey (2016) is the most similar approach to data collection for the narrative outcome measure. Boushey (2016) used newspaper articles between 1960 and 2008 that pertained to 44 different state-level criminal justice policies, which allowed him to capture media and framing by other actors. This dissertation uses longitudinal data, although for a much shorter time frame since the focus is on one specific type of policy change (mandatory sentencing reform) which did not become salient until after 2000. While Boushey used newspaper articles, here I use interest group documents, as these are from the source rather than discussions *about* these groups by the media. Also, the declining relevance of newspapers in today's online society makes them a less ideal data source.

I chose to operationalize the narrative measure by using well-known interest groups in the realm of sentencing policy. By including only interest groups, rather than narratives from state-level legislators or news editorials, I am limiting the measure to only those with organized power in the policy realm in the form of an established group. I do this because I am hypothesizing that interest groups' narratives have the most power over whether state legislatures reform a policy. It is not that news editorials do not matter; rather, I am selecting the source of narratives that I am positing have the most direct influence on state-level policy process. I want

to capture a subset of narrative influence on the policy process because that will ensure that if quantification of narratives works, this is the most likely measure of narrative count to be significant.

Quantifying narratives is at odds with postpositivist approaches to studying narrative content. I choose to quantify the narratives to determine if this measure might influence or even outweigh traditional diffusion measures. I use narratives created by national-level interest groups in this dissertation. This follows the suggestion of Shanahan, Jones, and McBeth (2018) to consider feasibility in the amount of policy narratives collected. Thus, I made the choice to focus on interest group documents available online during the period of this study (2000-2017). I chose national groups known for discussing and supporting the reform of mandatory sentencing policies: American Civil Liberties Union (ACLU), Families Against Mandatory Minimums (FAMM), American Legislative Exchange Council (ALEC), and Right on Crime. The ACLU is considered a leftist organization that supports the protection of civil liberties. FAMM is an organization, also considered to be on the left, that is focused on the abolition of mandatory minimum policies at all levels in the U.S. and general criminal justice system reform. ALEC is a group of conservative legislators and private sector individuals who draft model state-level legislation, making them a key group to consider given their role in crafting criminal justice policy at this level. Finally, Right on Crime is a group founded to push for conservative solutions to criminal justice policy problems.

Following the rules of the NPF about what constitutes a policy narrative, communications must be in the form of a policy narrative, containing one character and a policy stance (Shanahan et al., 2013). Second, given the unit of analysis for this dissertation is at the state level, the policy narratives must also pertain to a named state, rather than a general statement about mandatory

sentencing policy or a commentary about a federal level policy. Although these interest groups are at the national level, the content of the narratives crafted by these groups target certain states. There are some narratives which do not indicate a state-level focus, which are excluded from the current study because of the level of analysis.

There are two levels at which I code narratives: state and group. For all narrative measures, I code for the presence/absence of a narrative in a state for each year in the sample. I use the total number of narratives as a predictor in models 1 and 2, and as the outcome in models 5 and 6. These models test the question of adoption of a narrative by and diffusion at the coalition level. Then, at the group level, I construct the narratives as separate variables for each interest group in the sample. I add these variables in models 1 and 2 as a predictor, with the outcomes being presence/absence of reform and time to reform.

### **Predictor Variable Operationalization**

I review recent suggestions made in the literature on how to improve diffusion studies are reviewed here to demonstrate the improvements adopted in the current study. In 2016, Gilardi published a call for political science scholars to improve diffusion research in four ways: use concepts consistently and improve their measurement, clarify whether the goal is to improve the understanding of diffusion itself or another phenomenon, pay more attention to research design quality, and discuss the practical implications of diffusion (p. 8). This dissertation works to follow his recommendations.

To address Gilardi's second suggestion, the purpose of this study is to better understand diffusion itself. Do we need to add a measure for narrative or interest group attention to traditional diffusion models? A second aim of this study, though, is to understand the case itself.

Why is mandatory sentencing reform adopted in the states it is, when it is? The goal is dual here and using the same models I can achieve both aims. It is important to understand the diffusion of the phenomenon of mandatory sentencing reform as this also speaks to Gilardi's last suggestion, the practical implications of diffusion research. The implications here are there are states that are early adopters, or leaders, of mandatory sentencing reform. These states have different qualities of the factors which determine this early role, and thus we can better understand what the driving forces behind reform of mandatory minimum policies are. As there are still mandatory sentencing policies on the books, it is important to understand what state-level characteristics make a state most amenable to reform. Some of these factors are malleable, whereas others are not. Yet having a better understanding of why reform is occurring at the state-level lends us better insight into the policy process in general as well. Who has the power in these state-level policy changes? Is it legislators or is it the interest groups? Or is the process driven more by the conditions of a state, economically for example? These are critical policy questions that are especially timely given the diffusion process of mandatory sentencing reform is still ongoing.

Opposition to mandatory sentencing policies may be political, or even regionally driven, following traditional diffusion mechanisms. For example, scholars have established that penal reforms vary depending on the political and cultural context (Jones & Newburn, 2005; Melossi, 2001; Tonry, 1999). Arguments against mandatory sentencing are also associated with arguments in favor of supporting people of color, because research shows that these communities are disproportionately affected by these policies. In contrast with racial aspects of mandatory sentencing policy, gender aspects have been little discussed or studied. Here, I explore whether the percentage of women in the legislature influences the diffusion process. Both representation

in the legislature measures are added to the dataset, although they are not traditional diffusion mechanisms.

In their study of sentencing guidelines, Grossback and colleagues (2004) based their analysis on data between 1981 and 1994. This dissertation uses several of the same predictor variables thought to influence criminal justice policy adoption at the state level, such as violent crime, government ideology, and adoption by neighboring states. The ideology and neighboring states also represent tests of the diffusion mechanisms of normative pressure and learning/imitation. The predictor variables are adoption by neighboring states, coded by membership in the same sub-region of the country (e.g. New England, Middle Atlantic) (Allen et al., 2004); government ideology, measured by percentage of Democratic advantage in the state legislature (divided by the total number of state legislators) (Makse & Volden, 2011), presence of a Democratic governor (Allen et al., 2004; Makse & Volden, 2011), and percentage of state registered as Democratic voters; percentage of women legislators in the state; percentage of African American legislators in the state; and level of violent crime in the state.

Shor and McCarty (2011) developed an ideological map of the states, such as comparing which states have the highest legislative polarization (e.g. California) and the lowest (Rhode Island). In the aggregate, states follow the national level of growing polarization. This measure is not used here because this follows more of the outdated model of diffusion variables that posit certain states are “innovators” and others “laggards” – avoiding this labeling of states and recording a moving measure of Democratic advantage in each time frame, rather than a static or average measure, is a better measure for state ideology.

Additionally, money spent on corrections (including both incarceration and community-based) (Allen et al., 2004; Stemen, 2007), prison overcrowding (Nicholson-Crotty, 2004), and

proportion of those incarcerated held in privatized prisons are variables related to the level of strain on a state's prison system in how they relate to the outcome of mandatory sentencing reform. (See Appendix C for imprisonment rate by state and Appendix D for total state money spent on corrections.) First, the more money spent on corrections, the more of a priority or problem corrections is, so thus the state may have less motivation to buy into reform. In contrast, higher spending might indicate a desire to decrease the spending load, and thus increase the likelihood of state reform. The more overcrowded, the more incentive to reform because of the strain on the system, and reform may decrease the number incarcerated. The more privatized a system is, the less likely for reform because this takes some of the strain off the state system, and thus decreases the incentive for reform.

Control variables include the percentage of the population that is African American (Allen et al., 2004), percentage of the population that is female, the unemployment rate (Stemen, 2007), percentage of people with less than a high school education (Makse & Volden, 2011), percentage of people between the age of 18 and 29, and percentage of people living below the federal poverty line (Stemen, 2007). Failure to control for core population demographics may result in biased effects, given that population demographics likely shape the composition of the legislature and diffusion. The other controls focus on correlates of higher crime; high levels of unemployment, low educational attainment, a higher proportion of young people, and higher poverty create conditions where crime is more likely due to these characteristics (Peterson & Krivo, 2010; Sampson, 2012). In turn I believe higher crime will decrease the likelihood of mandatory sentencing reform, or the perception of the state as being able to reform these policies. Additionally, I include the state's fiscal health, as a less healthy state will have more

incentive to fix or reform their mandatory minimum sentencing policies since these create a strain on the resources of the state.

According to Enns (2014), changes in the level of incarceration correlates with public support for being tough on crime. (See Appendix E for a visual of public support for tough on crime policy.) Since public support is driving the level of incarceration, these measures would be multicollinear should I include both in the model. Thus, I include a measure for level of incarceration, with the recognition that this incorporates public opinion within the measure. An explicit public opinion measure is not included in the models. See Table 4-1 for a summary of the variables in the dataset and their sources.

Table 4-1 Variables and Sources.

<b>Variable</b>	<b>Description</b>	<b>Source</b>
DV models 1-4: policy reform, type of reform	State reform/repeal of mandatory sentencing policy; type of reform	Families Against Mandatory Minimums (FAMM)
IV models 3-4, DV models 5-6: policy narratives	State presence/absence of a policy narrative from a certain group (indicator for each group, as well as count measure for frequency)	Various interest group websites
IV: women representation	Proportion of women legislators	State legislative records (National Conference of State Legislatures)
IV: African American representation	Proportion of African American legislators	State legislative records (National Conference of State Legislatures)
IV: political affiliation	Advantage of Democratic party in the legislature, divided by the total number of legislative seats; presence of Democratic governor; percentage of state registered as Democrats	State legislative records
IV: geographic proximity	Subregion of nation to which state belongs (e.g. New England, Plains); proportion of subregion members who have adopted reform as of time period	Bureau of Economic Analysis (BEA)
IV: crime & corrections	Violent crime rate Corrections spending Prison overcrowding Proportion of prisons privatized	Federal Bureau of Investigation, Uniform Crime Reports; Bureau of Justice Statistics (BJS)
Controls: demographic	-Percentage women -Percentage African American -Percentage unemployed -Percentage with less than a high school education -Percentage between the age of 18 and 29 -Percentage in poverty -State fiscal health	U.S. Census Bureau (American Community Survey, Statistical Abstracts Series);

## **Data Overview**

I base the analysis on an original dataset I built for the years 2000 through 2017. The dataset consists of the outcome variable, a reform or repeal of a mandatory sentencing policy. There are also versions of this outcome variable, coded as dummy variables for type of reform (for example, expansion of judicial discretion) with the reference category all other types of sentencing reform. The unit of analysis is a state, and there are covariates including those measuring political affiliation of the state (presence or absence of a Democratic governor and Democratic ratio of the legislative bodies). As the unit of analysis is state, missing data are not of concern for this analysis as it includes the whole population. Since the data represent a census of all states, all reported results, whether weak or strong, are significant. Yet this does not discount the issue of making conclusions based on a small number of observations (for example, if only a small number of states have a larger proportion of female legislators). I report the results with necessary cautions about the prevalence of a trend in the population.

## **Descriptive Statistics**

The following tables (4-2 and 4-3) demonstrate the frequencies of all variables in the dataset, as well as the collinearity values.

Table 4-2 Descriptive Statistics.

<b>Variable</b>	<b>Min-Max</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Valid N (Max 900)</b>
State ID	1 - 50	25.50	14.439	900
Year	2000 – 2017	2008.50	5.191	900
Reform	0 – 1	0.07	0.248	900
Reform subtype, addition of safety net	0 – 1	0.03	0.164	900
Reform subtype, general reform/peel	0 – 1	0.03	0.180	900
Reform subtype, removal of automatic enhancement	0 – 1	0.02	0.144	900
Violent crime rate, per 100,000 people	98 – 829	384.89	164.150	900
Democratic governor (dummy variable with 1 Democratic governor, 0 Republican)	0 – 1	0.43	0.495	900
Democratic advantage in statehouse	-40 – 40	3.33	14.451	898
Democratic proportion in state	20 – 57	41.46	6.758	900
African American proportion in state	0 – 66	10.40	9.745	900
Female proportion in state	47.4 – 52	50.64	1.828	900
Proportion of African American legislators	0 – 29	7.99	7.881	899
Proportion of female legislators	8 – 42	23.40	7.084	900
High school education or less	6 – 36	15.82	4.825	900
Unemployment	2 – 15	6.47	2.199	900
Age between 18 and 29 in state	13 – 23	16.44	1.224	900
Poverty proportion	6 – 24	13.11	3.341	900
Subregion	1 – 8	4.26	2.199	900
Proportion of subregion adopted reform	0 – 1	0.342	0.259	900
Imprisonment rate	120 – 881	395.31	144.755	897
Prison overcrowding, population in custody minus operational capacity	-18781 – 36744	1330.26	4690.186	820
Proportion of prisons privatized	0 – 46	7.66	11.048	894
Corrections expenditures, total amount spent at state level	28856 – 9512603	878333.73	1211639.327	800

Table 4-2 (continued).

<b>Variable</b>	<b>Min-Max</b>	<b>Mean</b>	<b>Standard Deviation</b>	<b>Valid N (Max 900)</b>
State fiscal health	0.397 – 2.08	1.035	0.114	749
Right on Crime narratives	0 – 9	0.14	0.627	900
ALEC narratives	0 – 6	0.10	0.485	900
FAMM narratives	0 – 6	0.10	0.548	900
ACLU narratives	0 – 2	0.04	0.220	900
Narrative total	0 – 14	0.37	1.239	900

The descriptive statistics demonstrate the occurrence of reform is very rare, particularly for the subtypes, but given there are 18 years in the dataset and only 50 entities (states) which may reform this is expected. The narratives are also relatively rare, with the largest number of narratives targeting a state in one year 14, and many years and states experiencing zero narratives. For an example of a narrative from each organization, see Appendices F through I.

Table 4-3 Collinearity Statistics.

<b>Variable</b>	<b>Variance Inflation Factor (VIF)</b>
Violent crime	1.695
Democratic governor	1.262
Democratic advantage in statehouse	5.450
Democratic proportion in state	6.208
African American proportion in state	8.277
Female proportion in state	1.180
African American proportion in statehouse	7.135
Female proportion in statehouse	1.860
High school education or less	2.401
Unemployment	1.731
Age between 18 and 29 in state	1.493
Poverty proportion	2.598
Subregion	2.666

Table 4-3 (continued).

<b>Variable</b>	<b>Variance Inflation Factor (VIF)</b>
Proportion of subregion adopted reform	1.907
Imprisonment rate	3.458
Prison overcrowding	1.294
Proportion of prisons privatized	1.401
Corrections expenditures	1.643
State fiscal health	1.365
Right on Crime narratives	1.566
ALEC narratives	1.315
FAMM narratives	1.324
ACLU narratives	1.358
Narratives Overall, Binary	2.427

VIF values between 5 and 10 indicate moderate collinearity. The variables that fall in this category are: Democratic advantage in the statehouse, Democratic proportion of the state, African American proportion of the state, and African American proportion in the statehouse. No variables in the dataset fall within the category of 10 or higher VIF, which indicates problematic collinearity. In exploring the correlation table output, Democratic advantage and Democratic proportion in the state are highly correlated, with a coefficient of 0.869. For African American proportion in the statehouse and African American proportion in the state, these are also very highly correlated, with a coefficient of 0.912. For this reason, I drop these state-level variables out of the models, leaving the statehouse-level variables.

## **Hypotheses**

Tables 4.4 and 4.5 lay out the hypotheses for each of the variables included in the models. I describe the mechanisms for each variable following.

Table 4-4 Hypotheses about Reform.

Research Questions	Hypotheses
<p>1. What factors lead to the <i>adoption</i> of mandatory sentencing reform policies at the state level?</p>	<p>1a. States that are members of a geographic sub-region with higher proportions of member states that have adopted reform are more likely to adopt mandatory sentencing reform than states that are members of a geographic sub-region with a lower proportion of member states that have adopted reform, controlling for all other variables.</p> <p>1b. States with a higher proportion of Democratic advantage in the legislature and with a Democratic governor are more likely to adopt mandatory minimum sentencing reform than states with a lower proportion of Democratic advantage in the legislature and with a Republican governor, controlling for all other variables.</p> <p>1c. States with higher proportions of women in the legislature are more likely to adopt mandatory minimum sentencing reform than states with lower proportions of women in the legislature, controlling for all other variables.</p> <p>1d. States with higher proportions of racial minorities in the legislature are more likely to adopt mandatory minimum sentencing reform than states with lower proportions of racial minorities in the legislature, controlling for all other variables.</p> <p>1e. States with higher corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate are more likely to adopt mandatory minimum sentencing reform than states with lower corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, controlling for all other variables.</p> <p>1f. States with higher violent crime rates are less likely to adopt mandatory minimum sentencing reform than states with lower violent crime rates, controlling for all other variables.</p> <p>1g. States with higher numbers of narratives about mandatory sentencing reform are more likely to adopt mandatory minimum sentencing reform than states with lower numbers of narratives about mandatory sentencing reform, controlling for all other variables.</p>

Table 4-4 (continued).

Research Questions	Hypotheses
<p>2. What factors lead to the <i>diffusion</i> of mandatory sentencing reform policies at the state level?</p>	<p>2a. States that are members of a geographic sub-region with higher proportions of member states that have adopted reform are more likely to be earlier adopters of mandatory sentencing reform than states that are members of a geographic sub-region with a lower proportion of member states that have adopted reform, controlling for all other variables.</p> <p>2b. States with a higher proportion of Democratic advantage in the legislature and with a Democratic governor are more likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with a lower proportion of Democratic advantage in the legislature and with a Republican governor, controlling for all other variables.</p> <p>2c. States with higher proportions of women in the legislature are more likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with lower proportions of women in the legislature, controlling for all other variables.</p> <p>2d. States with higher proportions of racial minorities in the legislature are more likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with lower proportions of racial minorities in the legislature, controlling for all other variables.</p> <p>2e. States with higher corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate are more likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with lower corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, controlling for all other variables.</p> <p>2f. States with a higher violent crime rate are less likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with lower violent crime rates, controlling for all other variables.</p> <p>2g. States with higher numbers of narratives about mandatory sentencing reform are more likely to be an early rather than late adopter of mandatory minimum sentencing reform than states with lower numbers of narratives about mandatory sentencing reform, controlling for all other variables.</p>

Table 4-5 Hypotheses about Narratives.

<p>3. What factors lead to the <i>presence</i> of sentencing reform policy narratives at the state level?</p>	<p>3a. States that are members of a geographic sub-region with higher proportions of member states that have adopted reform are more likely to have narratives than states that are members of a geographic sub-region with a lower proportion of member states that have adopted reform, controlling for all other variables.</p> <p>3b. States with a higher proportion of Democratic advantage in the legislature and with a Democratic governor are more likely to have narratives than states with a lower proportion of Democratic advantage in the legislature and with a Republican governor, controlling for all other variables.</p> <p>3c. States with higher proportions of women in the legislature are more likely to narratives than states with lower proportions of women in the legislature, controlling for all other variables.</p> <p>3d. States with higher proportions of racial minorities in the legislature are more likely to have narratives than states with lower proportions of racial minorities in the legislature, controlling for all other variables.</p> <p>3e. States with higher corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, the more likely they are to have narratives than states with lower corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, controlling for all other variables.</p> <p>3f. States with a higher violent crime rate, the less likely they are to have narratives than states with lower violent crime rates, controlling for all other variables.</p> <p>3g. States that have reformed their mandatory sentencing policies are more likely to have narratives than states that have not reformed their mandatory sentencing policies, controlling for all other variables.</p>
---	---

Table 4-5 (continued).

<p>4. What factors lead to the <i>diffusion</i> of sentencing reform policy narratives at the state level?</p>	<p>4a. States that are members of a geographic sub-region with higher proportions of member states that have adopted reform are more likely to have earlier narratives than states that are members of a geographic sub-region with a lower proportion of member states that have adopted reform, controlling for all other variables.</p> <p>4b. States with a higher proportion of Democratic advantage in the legislature and with a Democratic governor are more likely to have earlier narratives than states with a lower proportion of Democratic advantage in the legislature and with a Republican governor, controlling for all other variables.</p> <p>4c. States with higher proportions of women in the legislature are more likely to have earlier narratives than states with lower proportions of women in the legislature, controlling for all other variables.</p> <p>4d. States with higher proportions of racial minorities in the legislature are more likely to have earlier narratives than states with lower proportions of racial minorities in the legislature, controlling for all other variables.</p> <p>4e. States with higher corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, the more likely they are to have earlier narratives than states with lower corrections expenditures, prison overcrowding, proportion of prisons privatized, and imprisonment rate, controlling for all other variables.</p> <p>4f. States with a higher violent crime rate, the less likely they are to have earlier narratives than states with lower violent crime rates, controlling for all other variables.</p> <p>4g. States that have reformed their mandatory sentencing policies are more likely to have earlier narratives than states that have not reformed their mandatory sentencing policies, controlling for all other variables.</p>
--	--

The first two hypotheses predicting the outcome of either occurrence of mandatory sentencing reform or time to mandatory sentencing reform (1a, 1b, 2a, and 2b) stem from the theoretical foundation of policy diffusion. Geographic proximity and political affiliation are classic drivers of diffusion, so I test them in this context. For geographic proximity, being in the same region increases emulation, meaning states in the same subregion of the U.S. are more likely to draw from the policy choices of their subregion members (Berry & Berry, 2014; Mooney & Lee, 1995). For political affiliation, having a Democratic advantage in the state

legislature and a Democratic governor are drawn from the literature on punitiveness. Liberals are less supportive of mandatory minimum sentencing policies and are also less punitive than conservatives (Flanagan, Brennan, & Cohen, 1991; Frost, 2010). Since most elected Democrats are liberal, I hypothesize this effect will be present. The narrative describing the context of mandatory sentencing policy change discusses bipartisan support. Since the principles of hypothesis testing necessitate testing a relationship, rather than a lack of a relationship, I choose to rely on literature from outside this specific policy which establishes criminal justice reform more generally as a liberal issue.

I draw hypotheses 1c, 1d, 2c, and 2d regarding the influence of female and minority legislators from the literature on sentencing attitudes, with women less punitive than men (Applegate, Cullen, & Fisher, 2002) and black people less punitive than white people (Bobo & Johnson, 2004). African Americans are less likely than white individuals to support mandatory minimum policies (Sundt, Schwaeble, & Merritt, 2019). Women legislators in general vote more liberally than men (Welch, 1985) and most African American state legislators are Democrats and more liberal than white state legislators (Button & Hedge, 1996; Conyers & Wallace, 1976; Nelson, 1991). These tendencies may extend to support for mandatory sentencing reform. Yet the effect for women has not remained in studies of Congress with more recent polarization and election of conservative women (Frederick, 2009).

I expect hypotheses 1e and 2e to have a positive relationship with reform, as they all indicate strains on the criminal justice system that increase the likelihood of a state being willing to reform. Hypotheses 1f and 2f about crime influence are also drawn from the literature on where the motivation for mandatory minimum policies come from—proponents believe they reduce crime, so if crime is higher, they are more likely to remain in place (Pfaff, 2017; Simon,

2007). Finally, I draw hypotheses 1g and 2g about narratives from the literature on the NPF—we know narratives play a key role in the policy process (McBeth, Jones, & Shanahan, 2014). In turn, interest groups craft narratives around potential areas for policy change and influential in the realm of policy change, so it follows that they will influence change as well as speed up time to change.

I discuss the narrative predictors next. The first two hypotheses predicting the outcome of either occurrence of narratives or time to narratives (3a, 3b, 4a, and 4b) stem from the policy diffusion literature. Here, I hypothesize states that are close or politically similar will be more likely to spread policy narratives between them, or interest groups may target similar states. Like the reasoning about the outcome of policy change, hypotheses 3c, 3d, 4c, and 4d on women and minority legislators pertains to their willingness to support these changes. I hypothesize that interest groups may target states for these narratives that are more amenable to policy change in the first place. Hypotheses 3e and 4e indicate strains on the criminal justice system, with interest groups potentially identifying strains as a push factor for states to be willing to reform. Hypotheses 3f and 4f about crime indicate that these groups would perceive areas with high crime as less amenable to change, and thus be less likely to target these areas with pro-reform narratives. Finally, hypotheses 3g and 4g represent the opposite relationship from narratives influencing reform: it is also possible that a state having reformed leads to more likelihood of narratives targeting the state after the fact, or being earlier targets of narratives by interest groups if they have reformed.

## **Methodology Overview**

There are six models in this dissertation (see Table 4-5). All the models employ a stepwise approach, adding the key predictors one at a time, then the demographic controls as a group to culminate in the full multivariate model. Model 1 is a logistic regression, testing what variables influence whether a state reforms mandatory minimum sentencing. Model 2 is an event history analysis (EHA) (or survival analysis), testing time to reform of mandatory minimum policies. Mirroring the first two models, model 3 will be logistic regressions analyses for each of the three subtypes of reform while model 4 will be event history analyses for each of the three subtypes of reform.

Next, models 5 and 6 will remove the outcome of policy change and replace it with binary narrative measures. The benefits of using a binary measure in these initial models include establishing a baseline for what predictors influence narrative adoption more generally. The drawbacks include a lack of understanding about what influences specific elements of narratives. Model 5 will explore presence of reform narratives using a logistic regression model. Model 6 uses EHA to explore whether typical diffusion predictors can explain the diffusion or spread of policy narratives.

Table 4-6 Models.

<b>Model</b>	<b>Content of Model</b>
Model 1	Presence/absence of <i>policy adoption</i>
Model 2	Time to <i>policy adoption</i>
Model 3	Presence/absence of <i>policy adoption</i> , by policy subtype (a through c)
Model 4	Time to <i>policy adoption</i> , by policy subtype (a through c)
Model 5	Presence/absence of <i>policy narrative</i>
Model 6	Time to <i>policy narrative</i>

### **Event History Analysis**

This study contributes to the understanding of what conditions at the state level contribute to mandatory sentencing reform and that contribute to the failure of reform efforts. It also adds to our understanding about time to reform. By studying the mechanisms by which some states followed or did not follow the trend of reform during the 2000s, I make a useful contribution to the policy diffusion literature. The key contribution is the addition of narratives to the diffusion model. The NPF has established the importance of narratives to the policy process, and here I explore their influence on reform and time to reform. Further, I trace the diffusion of the narratives themselves (as well as certain narrative elements), allowing for a more nuanced understanding of the creation and spread of policy narratives that is currently lacking.

As the variables that contribute most to early adoption of reform may not be the same as those that contribute most to adopting or not adopting reform, I use event history analysis to answer the first question and logistic regression to answer the second. Doing both analyses allows me to compare the results and discuss differences in factors leading to adoption itself, as well as time to the adoption of reform. I use a logistic regression in models 1, 3, and 5, while models 2, 4, and 6 use event history analysis.

I use discrete event history analysis to answer the question of what influences early adoption, as this is the most used approach and the most appropriate for policy diffusion studies

since it allows for the modeling of both internal and external policy determinants (Buckley & Westerland, 2004). Event history analysis was chosen because the intent of this study is to explore the outcome of binary adoption or non-adoption of reform in particular years in each state, as well as presence or absence of a narrative by a particular group, and what factors may influence these outcome variables. With binary outcomes and panel data, and a desire to model what influences both a yes and a no outcome, event history analysis is the ideal choice for this study (Allison, 2014). Further, using the “whether and/or when test” suggested by Singer and Willett (2003), since the interest of the current study is both whether a state adopted a reform or repeal of a mandatory sentencing policy, as well as when such a reform did occur if a state adopted it, event history analysis is an appropriate choice.

Event history analysis, or survival analysis, models the length of time until some event occurs using longitudinal data (Long, 1997). An event is “a change or transition from one state or condition of interest to another” (Box-Steffensmeier & Jones, 2004, p. 8). In this context the shift is from having mandatory sentencing policies in place to reforming or repealing those policies. EHA predicts the length of time (survival or duration time) until the event occurs (Box-Steffensmeier & Jones, 2004), which in this context is time a state adopted a reform or repeal of a mandatory sentencing policy. Event history analysis allows for analysis of this time to event and how a covariate may influence event adoption (Box-Steffensmeier & Jones, 2004). Covariates in this dissertation are some of the traditional predictors of policy diffusion as well as demographic factors about the state legislatures. The model allows for the determination of trends in variables as hypothesized, while controlling for the crime-related and demographic factors that are also thought to influence the adoption of a reform/repeal of mandatory sentencing. Specifically, I use a Cox proportional hazards model. For this type of model, the

baseline hazard function, or the relative risk of reform for each state in 2000, does not require specification. Since this is unknown, this is an appropriate model choice to minimize the assumptions made. Although 33 states have reformed mandatory sentencing as of 2017, each of the 50 states has an observation for every year in the sample (18 years). This yields an N of 900.

## **Conclusion**

For the narrative measures, I apply the NPF to the case of criminal justice sentencing policy, which led to the collection of a sample of interest group communications. This dissertation is innovative in its combination of NPF assumptions and approaches to the study of narratives with a policy diffusion study design. I am testing the NPF in a non-traditional way in this dissertation to establish whether, at a basic level, the presence or absence of a narrative in a state influences the reform efforts. I use a count of narratives so that it incorporates the strength of narratives, as I expect one narrative versus ten narratives would have a different influence on the policy process given the strength of attention. Rather than using the NPF measures of characters or other parts of the narrative, this study is focusing on whether the narrative is present because there is a well-established body of literature on interest group attention that leads to the expectation that before exploring the content of the narratives (which according to NPF is very important to explore), I should first establish whether the presence matters. Since I am extending the study of narratives into the context of policy diffusion, it is important to start with a basic understanding of their influence to have a baseline. I will use the same narratives in later work to study the content of the narratives and how these may influence the policy outcomes in the spread of reform.

I use event history analysis, a Cox proportional hazards model, for the policy diffusion models in this dissertation, which provides the answer to why states reform their mandatory sentencing policies in particular years. Logistic regression models are used to explore general factors leading to reform, without utilizing the time element within the dataset. These models help answer the question: What leads to state mandatory sentencing policy reform? Further, I establish the question of what role narratives play in predicting reform, as well as whether the same variables that lead to reform also lead to narrative presence, using these models.

## CHAPTER 5: RESULTS AND FINDINGS

### Introduction

The main results of the study pertain to the speed at which mandatory sentencing reform spreads across the United States as well as what factors influence the spread. Although not an original question of this dissertation, diffusion research generally looks at or models the trend at which a diffusion process occurs. I discuss the speed of diffusion in the last section of this chapter, after answering the preliminary research questions, to foreshadow future research. To reiterate, the research questions of this dissertation are:

1. What factors lead to the adoption of mandatory sentencing reform policies at the state level?
2. What factors lead to the diffusion of mandatory sentencing reform policies at the state level?
3. What factors lead to the adoption of policy narratives at the state level?
4. What factors lead to the diffusion of policy narratives at the state level?

Thus, the following sections take each question in turn to provide the answer and discuss these further.

### Adoption of Mandatory Sentencing Reform Policies

This section provides the findings from the logistic regression model. What factors lead to the decision of a state to adopt or not adopt mandatory sentencing reform? For narrative variables, all except those of the Right on Crime group significantly influenced the likelihood of reform in a positive direction. This means that regardless of whether a narrative is from the right, ALEC, or the left, ACLU or FAMM, it can positively influence the likelihood of reform. The

higher the proportion of the subregion adopted reform, the more likely a state was to adopt reform, meaning there is some geographical influence on reform. The only control variable that reached significance in this model was unemployment, with higher unemployment corresponding to more likelihood of a state reforming. Finally, the unemployment control is significant, with higher unemployment leading to a higher likelihood of a state reforming their policy.

Hypotheses about narratives, the innovation of this dissertation, was supported in this initial model. The initial model is for whether a state reforms, without considering the time element of a traditional diffusion model, though, so the results are not yet conclusive. See Table 5-1.

Table 5-1 Model 1 (DV reform, logistic regression model).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	-0.025	0.003	0.082	0.244	0.243	0.446	0.507
Democratic advantage in statehouse	0.009	0.006	0.005	0.007	0.002	-0.003	-0.006
Subregion		0.047	0.085	0.061	0.106	0.034	0.036
Proportion of subregion adopted reform		2.292*	2.225*	1.432*	1.475*	1.470	2.301*
African American proportion in statehouse			0.027	0.017	0.019	0.013	-0.006
Female proportion in state			0.038	0.028	0.023	0.002	0.024
Female proportion in statehouse			0.004	0.009	0.013	0.039	0.030
Narrative total				0.296*			
Right on Crime narratives					-0.143	-0.296	-0.243
ALEC narratives					0.349	0.409	0.551*
FAMM narratives					0.603*	0.761*	0.949*
ACLU narratives					1.399*	1.332*	1.225*
Violent crime						0.000	-0.002
Imprisonment rate						0.002	0.002
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.026	0.026
Corrections expenditures						0.000	0.000
High school education or less							0.094
Unemployment rate							0.341*
Proportion between age 18 and 29 in state							0.166
Proportion in poverty							-0.122
State fiscal health							-0.430
-2 log likelihood (-2LL)	434.341	414.222	411.904	396.171	378.549	245.868	208.755

\*indicates a p-value of 0.05 or less

### **Adoption of Subtypes of Mandatory Sentencing Reform**

The only significant control of adoption of the first subtype of reform, addition of a safety net returning some judicial discretion, is unemployment. As unemployment goes up, the likelihood of adopting a safety net reform in the state goes up. This may be because unemployment is an effect of more people in the community having felonies on their records and being taken out of their communities for long periods of time, thus adopting this reform becomes pressing. Like the general reform, the proportion of subregion adopted is positively related to this type of reform. The only narrative variable significant is that of FAMM, with FAMM narratives leading to more likelihood of reform. See Table 5-2.

Table 5-2 Model 3a (DV subtype 1, addition of safety net, logistic regression model).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	-0.040	-0.023	0.001	0.041	0.071	0.418	0.529
Democratic advantage in statehouse	0.011	0.008	0.006	0.006	0.001	-0.007	-0.004
Subregion		0.038	0.087	0.079	0.118	0.108	0.142
Proportion of subregion adopted reform		2.025*	1.990*	1.794*	2.062*	1.517	4.254*
African American proportion in statehouse			0.007	0.004	0.001	0.063	0.045
Female proportion in state			0.201	0.190	0.249	0.016	0.126
Female proportion in statehouse			0.002	0.003	0.004	0.026	0.020
Narrative total				0.086			
Right on Crime narratives					-0.172	-0.217	-0.038
ALEC narratives					-16.860	-16.263	-15.521
FAMM narratives					0.456*	0.627*	0.913*
ACLU narratives					0.561	-0.307	-0.339
Violent crime						0.000	-0.003
Imprisonment rate						-0.001	-0.001
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.034	0.041
Corrections expenditures						0.000	0.000
High school education or less							0.156
Unemployment rate							0.479*
Proportion between age 18 and 29 in state							0.511
Proportion in poverty							-0.179
State fiscal health							0.361
-2 log likelihood (-2LL)	227.785	220.736	220.248	219.723	209.176	133.805	95.558

\*indicates a p-value of 0.05 or less

For the second subtype of reform, general repeal of the policy, one significant predictor of adoption is the total narratives measure. It may be as more narratives target a state, the more likely a state is to adopt general repeal of mandatory sentencing policy. FAMM, ALEC, and ACLU narratives have significant positive effects on general reform, so the only narrative type not influential is Right on Crime. Subregion membership and proportion of subregion adopted reform are significant in earlier iterations of the model, although once I added additional variables, they were no longer significant. See Table 5-3.

Table 5-3 Model 3b (DV subtype 2, general reform/ repeal, logistic regression model).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	-0.186	-0.137	-0.060	0.280	0.290	0.140	-0.217
Democratic advantage in statehouse	0.007	-0.014	-0.010	-0.011	-0.018	0.011	0.011
Subregion		0.251*	-0.182	-0.310	-0.242	-0.237	-0.138
Proportion of subregion adopted reform		1.998*	2.092*	0.510	0.371	0.924	0.989
African American proportion in statehouse			0.007	-0.010	-0.007	-0.021	-0.045
Female proportion in state			0.239	0.165	0.255	0.084	0.270
Female proportion in statehouse			-0.024	-0.026	-0.018	-0.058	-0.089
Narrative total				0.450*			
Right on Crime narratives					-0.032	-0.265	-0.210
ALEC narratives					0.678*	0.750*	0.944*
FAMM narratives					0.667*	0.815*	0.977*
ACLU narratives					1.300*	0.694	0.613
Violent crime						0.001	0.001
Imprisonment rate						0.002	0.001
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.014	0.021
Corrections expenditures						0.000	0.000
High school education or less							0.005
Unemployment rate							0.314
Proportion between age 18 and 29 in state							-0.504
Proportion in poverty							-0.011
State fiscal health							-3.338
-2 log likelihood (-2LL)	262.486	246.003	244.055	219.569	208.467	121.844	105.516

\*indicates a p-value of 0.05 or less

Finally, for the third subtype, removal of automatic enhancements, several variables significantly predict whether a state adopts this type of reform. Having a Democratic governor increases the likelihood of removing automatic enhancements, indicating Democratic governors may be instrumental in enacting this type of mandatory sentencing reform (although this finding only holds up in the fully saturated model). Subregion is positively related to the likelihood of removing sentence enhancements in some of the iterations of the model. African American proportion in the legislature and female proportion in the statehouse are both positively related to this type of reform, although only in a few of the model iterations. The higher their proportions, the more the likelihood of a state adopting the removal of automatic sentence enhancements. As the imprisonment rate goes up, the likelihood of removing automatic sentence enhancements goes up as well, indicating it becomes a more pressing problem and this is one potential solution. Corrections expenditures is almost negligible, but it does significantly predict the removal of automatic sentence enhancements. The only narrative variable significant is that of ACLU, with more ACLU narratives in the state leading to more likelihood of state reform. Finally, for controls that significantly predict removal of automatic sentence enhancements, having a higher unemployment rate increases the likelihood of adopting this reform type. This may be due to risk of rising crime, and this policy change as a potential solution to deal with it. See Table 5-4.

Table 5-4 Model 3c (DV subtype 3, removal of automatic sentence enhancements, logistic regression model).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	0.462	0.503	0.824	0.817	0.783	1.350	1.937*
Democratic advantage in statehouse	-0.009	-0.008	-0.026	-0.027	-0.027	-0.032	-0.044
Subregion		0.191	0.305*	0.307*	0.300*	0.039	-0.058
Proportion of subregion adopted reform		1.647	1.420	1.502	1.577	2.248	3.485
African American proportion in statehouse			0.095*	0.096*	0.088*	0.028	-0.011
Female proportion in state			-0.005	-0.004	-0.005	-0.007	0.030
Female proportion in statehouse			0.047	0.047	0.054	0.119*	0.112
Narrative total				-0.040			
Right on Crime narratives					0.029	-0.375	-0.587
ALEC narratives					-0.112	-0.136	0.176
FAMM narratives					-0.630	-0.616	-0.217
ACLU narratives					1.288*	1.711*	1.737*
Violent crime						0.001	0.000
Imprisonment rate						0.006	0.006
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.004	0.005
Corrections expenditures						0.000*	0.000
High school education or less							0.176
Unemployment rate							0.518*
Proportion between age 18 and 29 in state							0.564
Proportion in poverty							-0.196
State fiscal health							-0.690
-2 log likelihood (-2LL)	183.145	177.121	170.618	170.566	166.721	103.544	88.159

\*indicates a p-value of 0.05 or less

A narrative measure is only significant in predicting the subtype of general reform of mandatory sentencing policies, apart from FAMM involvement in addition of a safety net and ACLU involvement in removal of automatic sentencing enhancements. This is an important finding. The other subtypes, addition of a safety net and removal of automatic sentence enhancements, are more technical, evidence-based changes. Yet general reform or repeal is broad and non-technical, opening it up to narrative influence much more than the other types. It may be that these particular groups focus on technical reforms, while general reform is influenced by all narratives except that of Right on Crime.

### **Diffusion of Mandatory Sentencing Reform Policies**

This section provides the findings from the event history analysis (EHA) model. What factors lead to the spread of mandatory sentencing reform across the United States? Democratic advantage in the statehouse increases the likelihood of a state being an early adopter of mandatory sentencing reform, which pushes back against the general point that these policies are bipartisan. This may be the case, but a larger Democratic seat advantage in the legislature means a state is more likely to adopt reform earlier in the 2000s. The proportion of states in the subregion having adopted reform significantly influences being an earlier adopter, so as this proportion increases a state is more likely to reform early.

The narrative measures that reached significance were in the hypothesized direction: the presence of a narrative from FAMM or ACLU increased the likelihood of a state reforming their mandatory minimum sentencing policy in that year. The same holds for the presence of the overall narrative total, meaning higher narrative attention in a year increases the likelihood a state reforms. It is interesting that when comparing the logistic regression and EHA models,

certain groups' narratives significantly predicted whether a state reforms, but the timing of these do not matter.

A higher imprisonment rate leads to more likelihood of being an early adopter of mandatory sentencing reform, perhaps due to a more pressing issue addressed partially via reform. Three control variables significantly influence the spread of mandatory sentencing reform: proportion of the state with a high school education or lower, proportion of the state unemployed, and the proportion of the state in poverty. Higher poverty rates lead to a lower likelihood of a state reforming in a particular year, which may indicate a focus on other policy areas other than criminal justice policy in such contexts. The remaining variables all have significant relationships with the outcome. Education and unemployment align with hypotheses about conditions potentially leading to crime raising the likelihood of reform (although violent crime as a measure is nonsignificant in the model). See Table 5-5.

Table 5-5 Model 2 (DV reform, event history analysis).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	0.012	-0.107	0.014	0.123	0.072	0.075	0.322
Democratic advantage in statehouse	0.023*	0.038*	0.049*	0.049*	0.043*	0.052*	0.051*
Subregion		0.003	0.082	0.077	0.114	-0.045	-0.036
Proportion of subregion adopted reform		-2.054*	-2.578*	-2.792*	-2.694*	-3.004*	-1.846
African American proportion in statehouse			0.039	0.034	0.032	0.006	-0.024
Female proportion in state			0.077	0.055	0.119	-0.013	-0.004
Female proportion in statehouse			-0.030	-0.029	-0.023	-0.003	-0.025
Narrative total				0.123*			
Right on Crime narratives					-0.095	-0.231	-0.117
ALEC narratives					0.179	0.213	0.146
FAMM narratives					0.171	0.315*	0.501*
ACLU narratives					0.691*	0.434	0.626
Violent crime						0.000	-0.002
Imprisonment rate						0.034*	0.003
Prison overcrowding						0.000	0.000
Proportion of prisons privatized							0.038
Corrections expenditures							0.000
High school education or less							0.327*
Unemployment rate							0.482*
Proportion between age 18 and 29 in state							-0.026
Proportion in poverty							-0.341*
State fiscal health							-0.280
-2 log likelihood (-2LL)	661.880	651.599	642.710	638.086	631.595	386.744	314.478

\*indicates a p-value of 0.05 or less

Narratives significantly affect the reform diffusion process. The history of narrative scholarship before the NPF would say that the content, rather than presence or absence of narratives, matter. This dissertation shows that coding for mere presence can indeed predict reform timing by states, though, which is a significant finding for the field of policy process. Additionally, Democratic advantage in the statehouse helps influence a state to be an early adopter. This pushes back against the claim that reform is bipartisan.

### **Diffusion of Subtypes of Mandatory Sentencing Reform**

Democratic advantage in the statehouse reaches significance in one iteration of the model, with a higher number of Democratic seats leading to earlier addition of a safety net. Regarding narrative variables, FAMM narratives reach significance for a few iterations. As the number of FAMM narratives increases, the likelihood of being an early reformer of adding a safety net increases. For the first subtype, addition of a safety net, the significant variables are controls, high school education or less, unemployment, and poverty. As unemployment and proportion of the population with a high school education or less goes up, the likelihood of adding a safety net increases, indicating conditions for a potential increase in crime thus opening for reform. As the level of poverty decreases, the likelihood of being an early reformer of adding a safety net increases, perhaps because of the possibility to focus on the criminal justice policy reform rather than other social issues. See Table 5-6.

Table 5-6 Model 4a (DV subtype 1, addition of safety net, event history analysis).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	-0.050	-0.122	-0.056	-0.044	0.030	0.381	0.413
Democratic advantage in statehouse	0.026	0.036*	0.039	0.039	0.033	0.036	0.043
Subregion		0.009	0.118	0.118	0.146	0.051	0.206
Proportion of subregion adopted reform		-1.442	-1.708	-1.741	-1.416	-2.241	0.022
African American proportion in statehouse			0.013	0.012	0.010	0.062	0.022
Female proportion in state			0.388	0.386	0.425	-0.011	0.606
Female proportion in statehouse			-0.021	-0.021	-0.016	-0.003	-0.026
Narrative total				0.020			
Right on Crime narratives					-0.147	-0.186	0.055
ALEC narratives					-12.717	-12.680	-12.055
FAMM narratives					0.243	0.431*	0.672*
ACLU narratives					0.378	-0.494	-0.339
Violent crime						0.001	-0.005
Imprisonment rate						0.000	0.002
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.039	0.052
Corrections expenditures						0.000	0.000
High school education or less							0.383*
Unemployment rate							0.588*
Proportion between age 18 and 29 in state							0.539
Proportion in poverty							-0.486*
State fiscal health							0.243
-2 log likelihood (-2LL)	295.633	293.227	291.036	291.005	281.441	164.715	108.910

\*indicates a p-value of 0.05 or less

For the second subtype, general reform, the more narratives, the more likely for this reform type in that year. This makes intuitive sense: the more narrative attention, the more likely this type of reform is to occur. The same holds for the groups FAMM and ALEC. As the subregion's proportion adopted decreases, the more likely to adopt general reform sooner. Thus, fewer in the area having reformed increases the chance that a general, non-technical reform will occur. This is an interesting finding, as it may be that the non-technical, general reform occurs earlier, followed by the more technical reforms in the subregion. For one iteration of the model, subregion membership is significantly and negatively related to being an early adopter of general reform. Finally, the control significant is unemployment, with higher unemployment leading to more likelihood of general reform, again perhaps due to a desire to address the potential for higher crime before it takes root in the state. See Table 5-7.

Table 5-7 Model 4b (DV subtype 2, general reform/repeal, event history analysis).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	-0.117	-0.059	0.067	0.275	0.312	0.281	0.088
Democratic advantage in statehouse	0.020	0.015	0.027	0.021	0.009	0.052	0.057
Subregion		-0.321*	-0.143	-0.165	-0.177	-0.319	-0.132
Proportion of subregion adopted reform		-2.585*	-3.102*	-3.488*	-3.960*	-3.932*	-3.116
African American proportion in statehouse			0.011	-0.007	-0.011	-0.025	-0.039
Female proportion in state			0.679	0.760	0.910	0.355	0.475
Female proportion in statehouse			-0.047	-0.047	-0.041	-0.081	-0.140
Narrative total				0.206*			
Right on Crime narratives					-0.005	-0.242	-0.095
ALEC narratives					0.494*	0.479*	0.421*
FAMM narratives					0.280	0.460*	0.571*
ACLU narratives					0.531	-0.195	0.307
Violent crime						0.002	0.000
Imprisonment rate						0.000	0.001
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.028	0.034
Corrections expenditures						0.000	0.000
High school education or less							0.243
Unemployment rate							0.447*
Proportion between age 18 and 29 in state							-0.676
Proportion in poverty							-0.237
State fiscal health							-0.071
-2 log likelihood (-2LL)	330.494	317.77 1	309.955	300.398	292.959	161.035	134.842

\*indicates a p-value of 0.05 or less

For the third subtype, removing automatic sentence enhancements, a higher proportion of the subregion having adopted reform decreases the likelihood of being an early adopter, perhaps because of the nature of the variable with rising proportions occurring later in the 2000s. In a few iterations, subregion membership has a positive and significant relationship, meaning certain regions may be more likely to remove automatic sentence enhancements, indicating some geographic influence. In a few iterations, the higher the proportion of African Americans in the state legislature, the more likely a state is to be an early remover of automatic sentence enhancements.

The higher the imprisonment rate in one iteration, the more likely a state is to be an early reformer. The significant controls are education, unemployment, and poverty. As the proportion of the state with a high school education or less increases, the more likely a state will be an early adopter of removing automatic sentence enhancements. This may address a potential for rising crime rates. Increasing unemployment leads to a higher likelihood of being an early adopter, another potential indicator of rising crime. Finally, as poverty decreases, the likelihood of being an early adopter increases, meaning there is not policy pressure elsewhere to address poverty, opening the likelihood of criminal justice reform. See Table 5-8.

Table 5-8 Model 4c (DV subtype 3, removal of automatic sentence enhancements, event history analysis).

Predictor Variable	1 Political	2 Geo-graphic	3 Demo-graphic	4 Narrative Total	5 Narratives by Group	6 Prison System	7 Controls
Democratic governor	0.579	0.214	0.489	0.460	0.413	0.639	1.846
Democratic advantage in statehouse	0.002	0.033	0.033	0.032	0.035	0.078	0.050
Subregion		0.149	0.319*	0.319*	0.313*	-0.042	0.015
Proportion of subregion adopted reform		-2.779*	-3.871*	-3.668*	-3.551*	-3.657*	-1.999
African American proportion in statehouse			0.111*	0.116*	0.103*	-0.010	-0.039
Female proportion in state			-0.039	-0.038	-0.039	-0.057	-0.051
Female proportion in statehouse			0.003	0.000	0.003	0.068	0.017
Narratives total				-0.167			
Right on Crime narratives					-0.013	-0.479	-0.559
ALEC narratives					-0.144	-1.196	-0.297
FAMM narratives					-0.882	-0.880	-0.782
ACLU narratives					0.891	1.562	1.631
Violent crime						0.005	-0.001
Imprisonment rate						0.007*	0.009
Prison overcrowding						0.000	0.000
Proportion of prisons privatized						0.009	0.039
Corrections expenditures						0.000	0.000
High school education or less							0.516*
Unemployment rate							0.718*
Proportion between age 18 and 29 in state							0.072
Proportion in poverty							-0.563*
State fiscal health							-1.913
-2 log likelihood (-2LL)	214.269	205.307	196.407	195.603	192.376	106.453	80.688

\*indicates a p-value of 0.05 or less

The only type for which narratives were influential were the general reform or repeal. The findings on proportion of women are also interesting, as this variable did not significantly influence reform in general but does matter depending on the subtype of reform.

### **Presence of Mandatory Sentencing Narratives**

Democratic advantage in the statehouse had a negative relationship with likelihood of interest groups targeting them with narratives. This makes intuitive sense, as interest groups may be less likely to target statehouses already dominated by Democrats, who are more likely to align with reform sentiments. The subregion measures increased the likelihood of reform narratives. Being in a subregion with a higher proportion adopting reform already leads to a higher likelihood of interest groups targeting them with narratives, due to the desire to keep the momentum going in a particular area of the country. The occurrence of reform increased the likelihood of a narrative being present for the state. African American proportion in the statehouse had a positive relationship, meaning the higher the proportion of African Americans in the statehouse the more likely interest groups targeted the state with narratives.

For prison privatization, the lower the proportion privatized, the more likely narratives will target that state. This on second examination also makes sense. It is not the original thought that more privatization indicates taking part of the burden from the state, but rather the stake that private industry has which matters. The less privatization in a state, the lower the potential opposition to reform, and thus a state is more worthwhile for interest groups to target. The corrections expenditures measure had very small, almost negligible effect on the outcome, but was a positive relationship. The higher a state's corrections expenditure, the higher the likelihood

interest groups target a state with narratives. Prison overcrowding had a negligible but positive effect on likelihood of interest groups targeting the state with narratives.

The higher the proportion of the state with a high school education or less, the less likely interest groups targeted it. This does make intuitive sense, though, following the reasoning of narrative targeting by subtype, as they argue for more generic reform to a more educated public, which is more likely to activate and pressure lawmakers to change policy. Thus, a more educated public is the more likely target of reform narratives. The higher the level of poverty in the state, the more likely interest groups will target a state with narratives. It may be that the groups see the issue as more pressing, as they do not want to let fear of crime sentiment run rampant. See Table 5-9.

Table 5-9 Model 5 (DV narratives, logistic regression).

Predictor Variable	1 Political	2 Geographic	3 Demographic	4 Reform	5 Prison System	6 Controls
Democratic governor	-0.146	0.117	0.340	0.341	0.195	0.138
Democratic advantage in statehouse	-0.004	-0.029*	-0.024*	-0.026*	-0.025	-0.022
Subregion		0.000	0.085	0.076	0.214*	0.232*
Proportion of subregion adopted reform		5.594*	5.678*	5.608*	5.335*	3.993*
African American proportion in statehouse			0.056*	0.055*	0.062*	0.064*
Female proportion in state			-0.051	-0.051	-0.034	-0.044
Female proportion in statehouse			-0.022	-0.020	-0.041	-0.032
Reform				0.894*	0.940*	1.058*
Violent crime					-0.001	-0.001
Imprisonment rate					-0.001	-0.002
Prison overcrowding					0.000*	0.000*
Proportion of prisons privatized					-0.039*	-0.038*
Corrections expenditures					0.000	0.000*
High school education or less						-0.129*
Unemployment rate						-0.036
Proportion between age 18 and 29 in state						-0.154
Proportion in poverty						0.138*
State fiscal health						-1.096
-2 log likelihood (-2LL)	799.165	598.613	578.723	571.907	451.818	433.370

\*indicates a p-value of 0.05 or less

## **Diffusion of Mandatory Sentencing Narratives**

Two key predictors of the spread of narratives about mandatory sentencing policies were the proportion of females in the statehouse and proportion of females in the state. These were both in the opposite direction as predicted with their relationship to mandatory sentencing reform. As the proportion of females in the statehouse goes up, the likelihood of interest groups targeting the state with a reform narrative goes down. The reasoning behind this needs further exploration. It may be that interest groups perceive statehouses with more women as already interested in or engaged with the process of reforming, so they do not need additional interest group pressure. As the proportion of females in the state increases, the likelihood of being an early target of narratives decreases. It is possible that areas with more women are more likely to already be in favor of reform, so interest groups do not waste time and resources on them. For proportion of subregion adopted, a similar mechanism may be operating. As more of the subregion adopts, it is more likely that a state is receiving more informal pressure or even formal pressure from other channels other than interest groups, so once a subregion is actively adopting reform, they can shift resources to another area of the country.

The higher the Democratic advantage in the statehouse, the more likely an interest group is to target the state with an earlier narrative. The higher the proportion of African Americans in the statehouse, the more likely an interest group is to target the state with an earlier narrative. This may be because these groups are more amenable to the argument in favor of reform, and thus groups target them first with reform narratives.

The controls that significantly predicted narratives about mandatory sentencing were education, unemployment, and poverty. As the proportion of the state with a high school education or less goes up, the more likely an interest group is to target the state with an earlier

narrative. This may be that interest groups perceive a lower educated public as more susceptible to interest group intervention in favor of reform. As the rate of unemployment goes up, the more likely an interest group is to target the state with an earlier narrative. It may be that more unemployment demonstrates conditions at risk of leading to higher crime in the state; thus, interest groups feel pressured to target a state for reform before fear of crime can take over the sentiment of the state and make reform infeasible. As poverty increases, the likelihood of a narrative targeting the state in that year decreases. This is in the direction hypothesized for reform; if a large segment of the state population is in poverty, it is not likely that they would be receptive to or focused on the problem of poverty rather than criminal justice reform. See Table 5-10.

Table 5-10 Model 6 (DV narratives, event history analysis).

Predictor Variable	1 Political	2 Geographic	3 Demographic	4 Reform	5 Prison System	6 Controls
Democratic governor	0.045	0.005	0.095	0.071	-0.001	0.028
Democratic advantage in statehouse	0.012	0.016*	0.046*	0.044*	0.043*	0.044*
Subregion		-0.033	0.055	0.040	0.008	0.001
Proportion of subregion adopted reform		-0.775	-2.016*	-1.986*	-1.956*	-2.109*
African American proportion in statehouse			0.049*	0.047*	0.031*	0.002
Female proportion in state			-0.060*	-0.060*	-0.061*	-0.062*
Female proportion in statehouse			-0.066*	-0.062*	-0.052*	-0.066*
Reform				0.318	0.127	0.165
Violent crime					0.000	-0.001
Imprisonment rate					0.001	0.001
Prison overcrowding					0.000	0.000
Proportion of prisons privatized					-0.009	-0.009
Corrections expenditures					0.000	0.000
High school education or less						0.132*
Unemployment rate						0.601*
Proportion between age 18 and 29 in state						-0.184
Proportion in poverty						-0.188*
State fiscal health						1.233
-2 log likelihood (-2LL)	1501.289	1498.365	1451.112	1449.492	1236.540	1147.425

\*indicates a p-value of 0.05 or less

## Narratives and Reform Trends

Six states, only two of which reformed their mandatory minimum sentencing policies, received no narrative attention from the interest groups sampled. 44 states were the subject of at least one narrative about mandatory sentencing reform. Interest groups targeted most narratives at states that had already reformed: a 1 to 5 ratio represents the before to after reform ratio of narratives. Eight states received 15 or more narratives directed at them by interest groups sampled during the timeframe studied (2000 through 2017). Texas, Florida, and Georgia were the target of the highest number of narratives. The states that did not reform their mandatory minimums received very small amounts of narrative attention. This follows the finding that most narratives occurred after states reformed.

*Table 5-11 States Not Targeted by Narratives.*

<b>States Not Targeted by Narratives</b>	<b>Reformed Mandatory Minimum Sentencing Policy?</b>
Colorado	Yes
Idaho	No
New Mexico	Yes
Vermont	No
Wisconsin	No
Wyoming	No

Table 5-12 Highest Narrative Attention by State.

State	Number of Narratives
Texas	40
Florida	39
Georgia	24
Oklahoma	20
Maryland	18
Massachusetts	18
South Carolina	16
Iowa	15

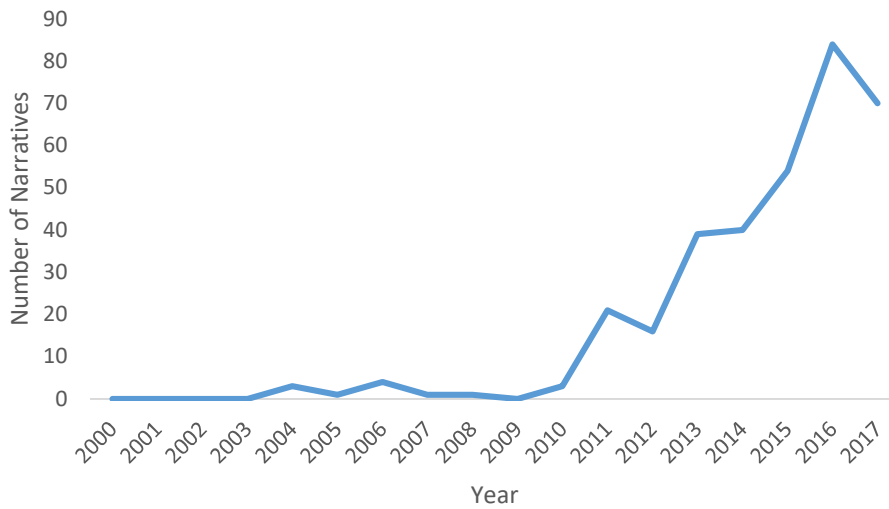
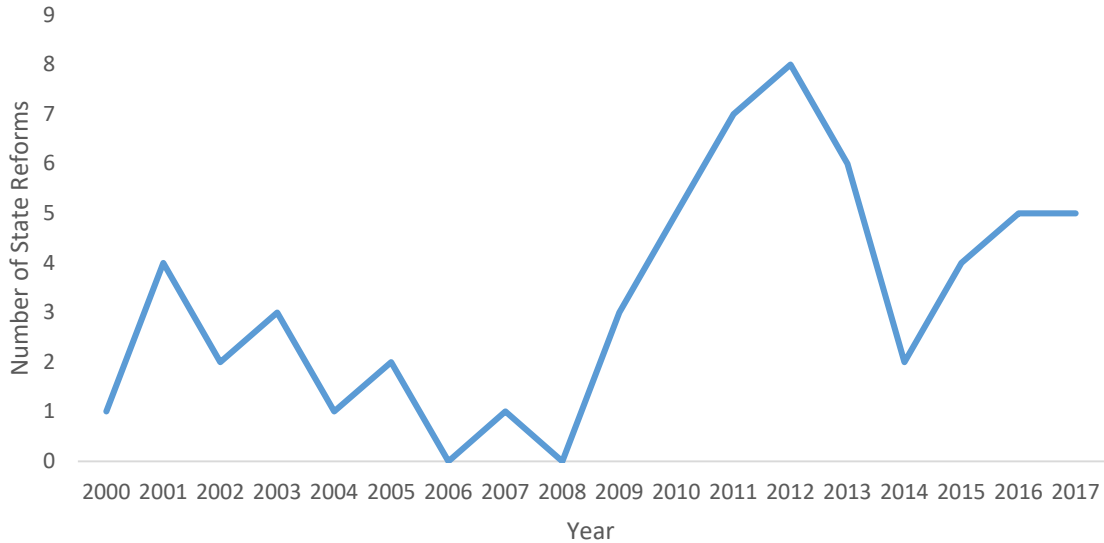


Figure 5-1 Level of Narrative Attention by Year.

The higher attention in recent years may in part be due to the records kept by interest groups. If these groups removed some or all their earlier media releases from their sites, I would be undersampling those years compared to more recent years.



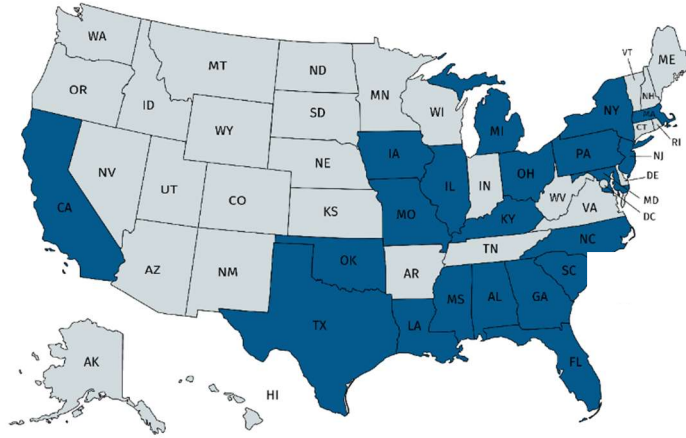
*Figure 5-2* Number of State Reforms per Year.

Comparing the occurrence of reform to the prior line graph on narrative timing, it appears that reforms are spurring the conversations by and attention from interest groups. Rather than narratives predicting reform, reform may lead to narrative attention.

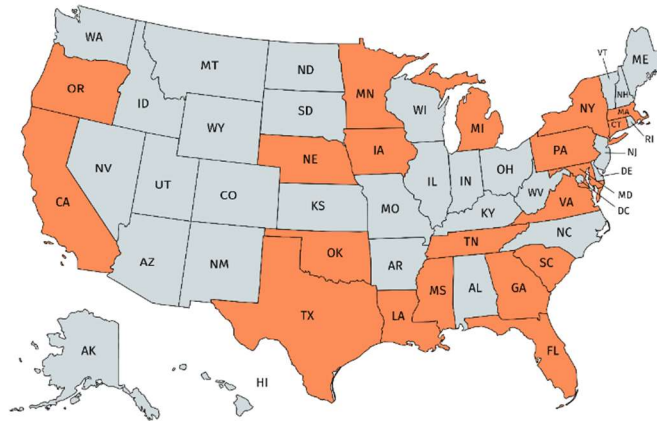
Table 5-13 States That Did Not Reform & Narrative Trends.

<b>State</b>	<b>Number of Narratives</b>
Alabama	1
Alaska	1
Arizona	1
Idaho	0
Kansas	1
Minnesota	1
Nebraska	1
New Hampshire	1
North Carolina	1
South Dakota	1
Tennessee	1
Utah	1
Vermont	0
Washington	1
West Virginia	1
Wisconsin	0
Wyoming	0

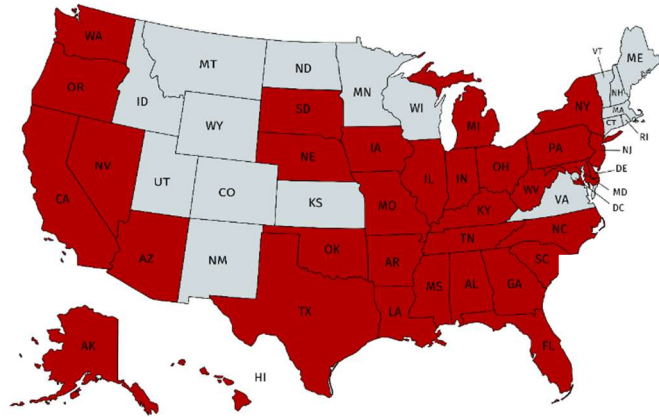
*Figure 5-3 Interest Group Targeting by State, 2000-2017.*



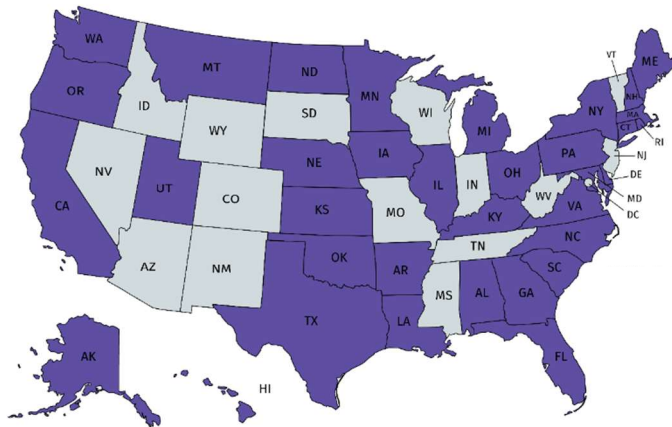
ACLU Narratives



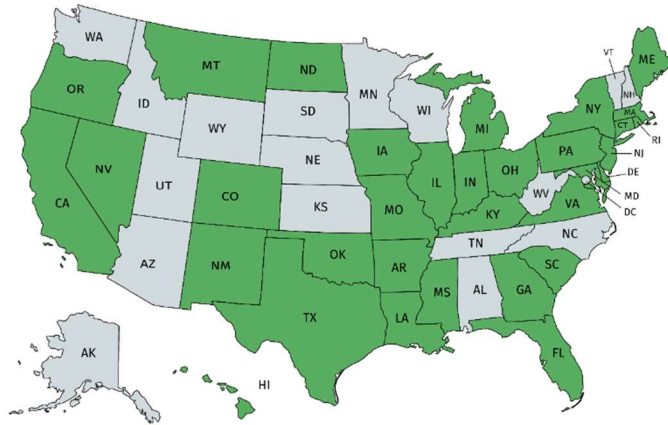
FAMM Narratives



Right on Crime Narratives



ALEC Narratives



*Figure 5-4 States That Reformed Mandatory Minimum Sentencing Policies, 2000-2017.*

### **Findings Regarding Speed of Diffusion**

The leader-laggard model posits that there are states that are innovative and thus natural leaders, whereas others lag in adoptions (Rogers, 2003). Yet Boushey (2010) finds that state innovativeness varies when looking at subtypes of policy: morality, governance, and regulatory. Clement (2001) found it took 6.5 years for half of all states to adopt a mandatory sentencing policy. Comparing to three strikes, it took under two years for 50 percent of states to adopt this policy (although this is a smaller pool of potential adopters, since only 24 states instituted Three Strikes). The important takeaway here is that the speed of diffusion varies, even among similar policy types. This is important when looking at the expected outcomes for the current study. I expect mandatory sentencing reform to have different predictors shaping the diffusion process, as each policy generally has unique influences. Yet, as discussed in the morality policy section, knowing the type of policy helps us better understand what factors we should test for their influence.

S-shaped curves are generally found when graphing time against the cumulative proportion of adopters (Rogers, 1962). Yet the current study found a cumulative proportion graph more akin to a linear model than s-shaped curve (see Figure 5-5 and Figure 5-6). This supports the hypothesis that interest group involvement spread state-level mandatory sentencing reform (see Boushey, 2010), as well as through the mechanism of imitation more so than learning. If learning were the predominant diffusion mechanism, there would be more of a lag as other states waited to observe the results from early adopters, then a larger proportion of states would adopt in the middle, creating the steep upward middle portion of the “S,” then a few laggards late to the adoption would adopt, but the number of states would be fewer.

The lack of s-shape curve is particularly interesting when compared to other morality policy models. Boushey (2010) found the original diffusion of a type of mandatory sentencing policy in the 1990s has an extreme S-shape, with a very steep middle portion. He hypothesizes that morality policies due to their emotional appeal may lead to faster diffusion. Yet the current study is looking at the *rollback* of mandatory sentencing policies. The reform may be evidence-based rather than emotionally driven, which would explain why the reform is much steadier and more based on imitation. It might also be possible that reform reached a ceiling: those states that have yet to reform are unwilling to do so (Boushey, 2010). This finding is an interesting opportunity for future research into the speed of reform occurrence, in comparison to the original policy adoption.

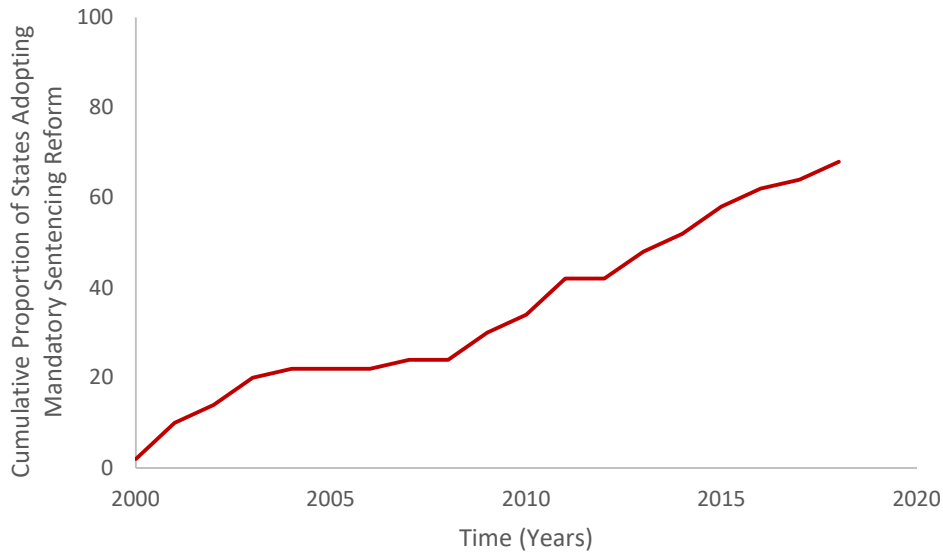


Figure 5-5 Diffusion of State Mandatory Sentencing Reform.

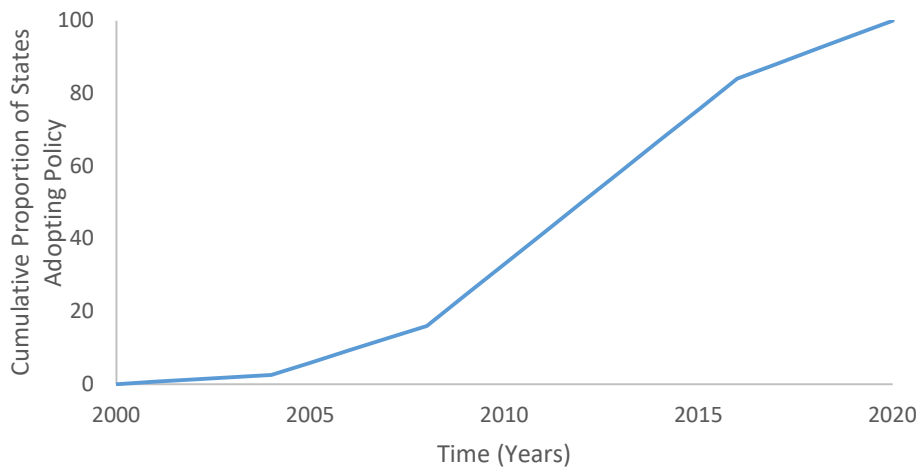


Figure 5-6 Normal Diffusion of Innovation S-Shaped Curve.

## **Conclusion**

Narratives significantly and positively predict whether a state adopts reform, and the timing of that reform. Further, when I model the reform types, narratives mainly significantly predict the non-technical repeal category, not the safety net establishment or removal of automatic enhancements. This is important for our understanding of the contexts in which narratives matter most. When a reform is generally proposed, narratives play a role. When the repeal at hand is a technical adjustment to mandatory sentencing policies on the books, narratives are not as significant of a predictor. This is critical for the study of interest groups, as it may be that the groups themselves are choosing to become involved only when the policy change at hand is non-technical, something more easily explained and argued to the public. When the policy change at hand is more technical (shifting discretion back to judges for certain offenses, known as creating a safety net, and removing automatic enhancements for certain circumstances related to the offense, such as adding five years for possession of a firearm during the commission of the offense), the interest groups may choose to leave this technical argument to the legislature, as it is more reliant on evidence and less on opinion. The vaguer “reform” category is more opinion-driven, thus appealing to the public and pressuring legislatures via narrative attention becomes an effective strategy.

## CHAPTER 6: DISCUSSION AND CONCLUSION

### Major Innovations of the Dissertation

This dissertation is innovative because it combines traditional methods of studying policy diffusion with insights from the NPF. By combining these approaches, I am addressing two areas: (1) How far does the empirical study of narratives established by the NPF extend? Can we simply count narratives, or are the elements of the narratives such as characters critical to leverage to understand the nature of narrative influence on policy change? This dissertation begins to explore these questions. (2) Can and should we incorporate narratives into a traditional diffusion study? I conclude after testing a basic count measure that this is a potential form in which we can incorporate narratives into diffusion studies. Narratives provide the explanation behind the mechanism of policy diffusion found to operate in the context.

Further innovation rests in the choice to use traditional diffusion variables to model the spread of narratives about the reform. This presents a basic model that we may use in future research and other contexts to determine whether this holds up outside this specific context (mandatory sentencing policy reform) and policy type (morality policy). The generalizability of this study, without further confirmation, is to other types of morality policy diffusion. If we conducted a similar study on a morality policy change using key interest groups in the space, in a context in which the momentum is all or mostly in favor of reform, I would expect similar results. I need to determine the extent to which this study's findings hold up outside the context of policies with one-sided interest group pressure in future research. Yet the contribution is important for better understanding those policy changes with momentum behind them nationally: despite general favoring of the change, why do some states adopt earlier than others? Why do some states fail to reform, at least during the first two decades of change?

## **Review of the Findings**

What hypotheses were supported, and what is their effect size? (Tables 4.4 and 4.5 present the hypotheses in full.) Table 6.1 presents the results in summary.

Table 6-1 Summary of Findings by Hypothesis.

Hypothesis	Significant	Direction	Effect Size <sup>1</sup>
<b>LOGISTIC REGRESSION REFORM MODEL</b>			
1a: subregion higher proportion adopting →	✓	+	Large
1b: Democratic advantage in legislature →	x		
1b: Democratic governor → likelihood of reform	x		
1c: proportion women in legislature → likelihood	x		
1d: proportion African Americans in legislature →	x		
1e: corrections expenditures → likelihood of	x		
1e: prison overcrowding → likelihood of reform	x		
1e: proportion of prisons privatized → likelihood	x		
1e: imprisonment rate → likelihood of reform	x		
1f: violent crime rate → likelihood of reform	x		
1g: number of narratives → likelihood of reform	✓	+	Medium
<b>EHA REFORM MODEL</b>			
2a: subregion higher proportion adopting → time	✓	-	Large
2b: Democratic advantage in legislature → time to	✓	+	Small
2b: Democratic governor → time to reform	x		
2c: proportion women in legislature → time to	x		
2d: proportion African Americans in legislature →	x		
2e: corrections expenditures → likelihood of	x		
2e: prison overcrowding → time to reform	x		
2e: proportion of prisons privatized → time to	x		
2e: imprisonment rate → time to reform	x		
2f: violent crime rate → time to reform	x		
2g: number of narratives → time to reform	✓	+	Medium
<b>LOGISTIC REGRESSION NARRATIVES MODEL</b>			
3a: subregion higher proportion adopting →	✓	-	Large
3b: Democratic advantage in legislature →	✓	-	Small
3b: Democratic governor → likelihood of	x		
3c: proportion women in legislature → likelihood	x		
3d: proportion African Americans in legislature →	✓	+	Small
3e: corrections expenditures → likelihood of	x		
3e: prison overcrowding → likelihood of	x		
3e: proportion prisons privatized → likelihood of	✓	-	Small
3e: imprisonment rate → likelihood of narratives	x		
3f: violent crime rate → likelihood of narratives	x		
3g: reform → likelihood of narratives	✓	+	Medium

Table 6-1 (continued).

Hypothesis	Significant	Direction	Effect Size <sup>1</sup>
<b><i>EHA NARRATIVES MODEL</i></b>			
4a: subregion higher proportion adopting → time	✓	-	Large
4b: Democratic advantage in legislature → time	✓	+	Small
4b: Democratic governor → time to narratives	x		
4c: proportion women in the legislature → time	✓	-	Small
4d: proportion African American in legislature →	✓	+	Small
4e: corrections expenditures → time to narratives	x		
4e: prison overcrowding → time to narratives	x		
4e: proportion of prisons privatized → time to	x		
4e: imprisonment rate → time to narratives	x		
4f: violent crime rate → time to narratives	x		
4g: reform → time to narratives	x		

<sup>1</sup>For effect size, small <0.1, medium 0.1<1, and large >1 correlation coefficient.

### **Hypotheses about Reform Adoption**

For reform of mandatory sentencing policies (Model 1), only hypotheses 1a and 1g were supported. I found 1a was significant and in the direction hypothesized, with states located in a subregion of the country with a higher proportion having already reformed their mandatory sentencing policy being more likely to reform. This aligns with my expectations based on the findings of Berry and Berry (2014) and Mooney and Lee (1995). Hypothesis 1g also was significant and in the direction hypothesized. The more narratives in favor of mandatory sentencing reform, the more likely a state is to adopt reform. This held true for the narrative measure, which was an aggregation of the four interest groups, the two liberal groups, and one of the conservative groups in one of three model iterations. (I provide the full results in Table 5-1.)

Hypotheses were not written by subtype as I thought similar factors driving reform in the full model would influence the three subtypes of reform. Yet when I split the outcome variable is

into three categories (Model 3), the variables that predicted the type of reform did vary. (I provide the full results by subtype in Tables 5-2, 5-3, and 5-4.) For the first subtype, adding a safety net, the geographic findings were the same as for general reform. States with a higher proportion of adoption in their subregion were more likely to adopt the reform type of adding a safety net. This finding was present only in a few iterations for the second subtype, general reform or repeal. For the third subtype, removal of automatic sentence enhancements, only subregion membership, not proportion in the subregion having adopted, was positive and significant, meaning being a member of a particular subgroup increases the probability of a state adopting reform.

The subtypes also varied on narrative findings. For subtype 1, addition of a safety net, only the narratives from FAMM, one of the liberal interest groups, were significantly related to this reform type. For subtype 3, removal of automatic sentence enhancements, only narratives from ACLU, the other liberal interest group, were significantly related to this reform type. Yet the results for subtype 2, general reform or repeal, are more similar to the results above for reform overall. Total narratives, those from FAMM and ACLU, the liberal groups, and ALEC, one of the conservative groups, although the other group than what was significant for overall reform.

Finally, several hypotheses were supported for a few iterations only, and only for the third subtype of reform, removal of automatic sentence enhancements. Having a Democratic governor increases the likelihood of enacting the removal of automatic sentence enhancement reform. Having a higher proportion of women in the state legislature increases the likelihood of enacting the removal of automatic sentence enhancement reform. Finally, having a higher

proportion of African Americans in the state legislature increases the likelihood of enacting the removal of automatic sentence enhancement reform.

In summary, for research question 1, what factors lead to the adoption of mandatory sentencing policy reform, the variables that most consistently predict reform are being in a subregion with a higher proportion adopting reform and narrative measures, particularly in total and from those of liberal interest groups.

### **Hypotheses about Reform Spread**

For diffusion of mandatory sentencing reform (Model 2), hypotheses 2a, 2b, and 2g were supported. (I provide the full results in Table 5-5.) Being in a subregion with a higher proportion having adopted reform was significant, but in the opposite direction hypothesized. States in a subregion with a higher proportion having adopted were less likely to be early adopters of reform. Upon reflection, this makes sense. Subregions may reach a point of saturation where no more states may be willing to reform.

Having a higher proportion of Democratic advantage in the state legislature increased the likelihood of a state being an early rather than late adopter of mandatory sentencing reform. This was in the direction hypothesized, as I believed that despite rhetoric that reform is bipartisan, having a more Democratic statehouse would lead to more likelihood to push for reform (Flanagan, Brennan, & Cohen, 1991; Frost, 2010). The political affiliation variables only significantly predicted time to reform, rather than presence or absence of reform, for the overall reform measure, meaning these only influences time to reform. Thus, democratic presence leads to an earlier adoption of reform.

The measure for total narratives was positive and significantly related to a state being an early versus late adopter of reform, as hypothesized. Also, for two iterations the FAMM measure

was significant and for one iteration the ACLU measure was significant, indicating some positive influence from the liberal groups, to the exclusion of the conservative groups.

The results are now presented by subtype of reform (Model 4): subtype 1, addition of a safety net; subtype 2, general reform or repeal; and subtype 3, removal of automatic sentence enhancements. (I provide the full results by subtype in Tables 5-6, 5-7, and 5-8.) The finding of a negative relationship between proportion of subregion adopting reform and likelihood of being an early reform adopter were supported for subtypes 2 and 3, but not subtype 1. This means that having a higher proportion of the state's subregion already adopting reform decreased the likelihood of a state being an early adopter of either general reform or repeal or removal of automatic sentence enhancements. For the Democratic advantage finding, this was only supported for type 1. This means that as the proportion of Democrats in the statehouse increased, the likelihood of being an early adopter of adding a safety net increased. Narratives influence subtype 2, general reform or repeal, most similarly to overall reform. The measure for total narratives and that of ALEC, one of the conservative groups, had a positive relationship with the likelihood of being an early adopter of general reform or repeal, along with FAMM narratives in two iterations. For subtype 1, addition of a safety net, the narrative measure for FAMM was significant in two iterations as well. No narrative variables significantly predicted subtype 3, removal of automatic sentence enhancements.

Additionally, I found several variables significantly predicted subtype 3 that were not significant for overall reform. Having a higher proportion of African Americans in the state legislature led to a higher likelihood of being an early adopter of the reform removing automatic sentence enhancements. Having a higher imprisonment rate led to a higher likelihood (although a small value) of being an early adopter of the reform removing automatic sentence enhancements.

In summary, for the research question of what factors lead to the diffusion of mandatory sentencing reform policies, the hypotheses about subregion having adopted reform, Democratic advantage, and narratives were supported to the greatest extent, although subregion was in the opposite direction hypothesized. Again, I found narratives influenced the reform outcome.

### **Hypotheses about Narrative Presence**

In the results for what predicts narrative presence in a state (Model 5), hypotheses 3a, 3b, 3d, 3e, and 3g reached significance. (See Table 5-9 for the full results.) The finding about subregion was in the hypothesized direction. The higher proportion of states in the subregion having adopted reform, the more likely a state is to have a narrative. For the partisanship hypothesis, this occurred in the opposite direction hypothesized. Having a larger proportion of Democrats in the statehouse decreased the likelihood of a state having a narrative. This may indicate either interest groups see states with Democratic advantage as already more likely to reform, even without their influence, or it might be the opposite: states with Republican advantage are more amenable to reform because they are not as afraid of the public labeling them soft on crime.

The higher the proportion of African Americans in the legislature, the more likely a state is to have narratives. It may be that interest groups perceive these legislators as more likely to support reform, so they decide to target these states. This aligns with the findings in the literature that black people are generally less punitive than white people and less supportive of mandatory minimums (Bobo & Johnson, 2004; Sundt et al., 2019). Black legislators are more likely to be supportive of mandatory sentencing reform. The higher the prison privatization rate, the lower the likelihood of a state having a narrative, which is in the opposite direction hypothesized. Finally, states that have reformed their mandatory sentencing policies are more likely to have

narratives. This may be evidence of a reciprocal relationship between these variables which I will explore in future research.

In summary, the variables predictive of narrative presence in a state are subregion, Democratic governor, African Americans in the legislature, proportion of prisons privatized, and whether a state reformed their mandatory minimum sentences.

### **Hypotheses about Narrative Spread**

In the results for what predicts the spread of policy narratives (Model 6), hypotheses 4a, 4b, 4c, and 4d reach significance. (See Table 5-10 for the full results.) For the subregion proportion adopted, this was in the opposite direction from what I hypothesized. States in a subregion with a higher proportion who have adopted reform are less likely to have earlier narratives than later narratives. But this may be because earlier on, states in regions that have not yet started picking up on the reform effort are more likely to be targets of narratives, not those in regions that are already adopting. States with a higher proportion of Democrats in the legislature are more likely to have earlier narratives. This makes sense if interest groups are targeting these states because they view this legislative breakdown as more amenable to their cause.

The higher the proportion of females in the legislature, the less likely a state is to have earlier narratives, opposite from the direction hypothesized. This may be that women are more likely to sympathize with the cause of mandatory sentencing reform, so interest groups are not as likely to target their states. Or this may be because of a more polarized system with women no longer consistently more liberal than men (Frederick, 2009), thus they are not seen as sympathetic to the reform cause and are therefore not targeted by interest groups.

In contrast, though, having a higher proportion of African Americans in the legislature increases the likelihood of having an earlier narrative. This may be that interest groups choose to

target them as they are more amenable to reform. These mechanisms are in direct conflict. I need to further investigate this in future research to determine the reasoning behind why interest groups are targeting their narratives at more diverse statehouses in terms of race, but not gender.

In summary, the variables that predict narrative spread are proportion of states in the subregion, Democratic advantage in the statehouse, and demographics of the statehouses (proportion female and African American).

### **Key Findings of the Dissertation**

This dissertation establishes that narratives indeed matter to policy diffusion. Further, and even more importantly, scholars can use methods and predictors of diffusion to model the spread of narratives. This is an advantage to the study of narratives, as better understanding the nature of their spread is critical to understanding their role in the policy process. Narratives in general do influence whether a state reforms their policy, and whether they are an early adopter. This is a key finding, because if we can first trace narrative involvement by key interest groups, we have a better chance of predicting and understanding how, why, and when policy reform is able to occur.

An interesting finding is that narratives are generally targeting states *after* they reform. Upon examination of the content of the policy narratives, this makes intuitive sense. The interest groups commend the progress made in certain states and call for others to follow their lead. Recognizing state progress was the most common tactic used in the narratives collected. I did not expect this though, as I hypothesized that interest groups would lead the charge in shifting the focus to new states that have yet to reform. It appears, though, they are following the trend of reform, which the finding that presence of reform in a state significantly increasing the

likelihood a state would be the subject of a policy narrative supports. This reciprocal relationship needs further exploration.

Narratives matter most for the subtype of general reform. For the other subtypes, addition of a safety net and removal of automatic sentence enhancements, generally only one group at the most predicted them. This makes sense given that public desires are more likely to drive non-technical morality policy, rather than the more technical types of safety net addition and automatic sentence enhancements. Thus, it makes sense that interest groups would choose to focus their energies on general reform or repeal.

The regional influence on narrative spread makes intuitive sense, as interest groups make narrative decisions that may leverage regional effects and pressures from neighbors to reform. There is also a regional influence found for predicting the spread of reform. The higher the proportion of subregion members who have reformed, the more likely a state is to reform. This is interesting and needs explored in further research, as more recent diffusion studies have failed to observe a clear geographic influence among improvements in technology and interconnectedness (e.g. Mallinson, 2019). The proportion of subregion having adopted reform was supported much more in the models than expected, as recent research has not generally found a very strong geographic element of diffusion given changing communication channels in modern society. Yet this proportion significantly influenced both whether a state reformed and time to reform, indicating there is a geographic influence when scholars operationalize it using more nuanced regions of the nation (here, I used eight regions).

Finally, Democratic advantage in the statehouse does lead to states adopting reform earlier, although following the context of this specific sentencing policy change being largely bipartisan, there were only a few instances of it affecting reform and narratives. This offers some

evidence for mandatory sentencing reform being bipartisan. Yet having Democratic advantage in the statehouse influence speed of reform, for instance, does dispel this bipartisan myth to some degree. This means that although reform may be bipartisan, Democrats are still leading in pushing reform. This is a somewhat surprising finding, as reform of mandatory minimum sentencing policies is discussed as a bipartisan endeavor. Yet it fits with this image that Democrats may be leaders of the reform effort, although it is still a result of cooperation across the aisle.

### **Limitations**

One limitation of this study is the operationalization of predictor variables. The choice of these measures might influence whether and to what extent they influence the outcomes of policy change, time to policy change, narrative presence, and time to narrative appearance. Another limitation of the dissertation is the use of the same predictors of policy change for narrative diffusion. It is possible that other, narrative-specific factors are operating and more influential upon the movement of the narratives.

A related limitation is that this only accomplishes a proximate understanding of narrative diffusion. By only looking at presence or absence of a policy narrative in favor of reform (due to the lack of interest group motivation against reform), the model does not get at causality or more precise narrative tracking their movement across states and time. Further, the narrative measures are from only a sample of national-level interest groups. It is possible that more of this movement is at the state level, as these are state policies, or that national interest group messaging diffuses to state organizations. I will address this level of analysis issue in future studies through careful selection of organizations or groups for narrative collection. Finally, the

current study only used interest group narratives. It is possible that a more comprehensive measure of narratives in this policy area, such as those from legislators as well, might influence the spread of the policy differently.

Finally, I assume that the risk of reform begins similarly for all states in 2000 because of the political context. States were enacting new mandatory minimum policies even in the late 1990s. Yet by the early 2000s, the landscape shifted, making it politically feasible for reform to occur.

### **Future Research**

I will focus on determining the nature of the relationship between narratives and policy reform further. This dissertation revealed a potential reciprocal relationship, so an instrumental variable approach may be used to determine the extent of influence (e.g. Levitt, 2002).

I will use decision trees to compare the output to that of the EHA models completed here. Although EHA is traditionally used by policy scholars and demonstrates what factors may lead to reform, decision trees provide what combination of factors are most contributing to reform at different time periods. For instance, what factors lead to early adopters, middle adopters, and late adopters? By clarifying what factors are most influential at different times of reform, we will have an even better understanding of the circumstances leading to the reform of mandatory minimum sentencing policies.

The research angle of combining policy diffusion and narratives is a rich vein of study. In future research beyond this dissertation project, I will collect social media data to expand the findings based on interest group data. By using a combination of Twitter data and interest group documents, this work will follow that of scholars such as Merry (2016, 2018, and 2019) using

Twitter and Facebook data, as well as Lybecker, McBeth, Brewer, and De Sy (2016) using YouTube. These studies found new media, particularly social media, are suitable sources of narratives about public policies. Future research will also code the content of the narratives according to the practice of the NPF which is a more accurate way of operationalizing their framework. This will allow me to model the spread of certain narrative strategies, such as a certain character use, that might significantly drive reform efforts.

I will also use the interest group literature to explore further the groups involved in the effort to reform mandatory minimum sentencing policies at the state level. I will add more groups to get a more holistic picture of the types of groups involved in pushing for reform and their level of involvement. For instance, the groups included were activist/reformist groups. I will add professional groups, such as the American Correctional Association (ACA), American Jail Association (AJA), American Bar Association (ABA), and International Association of Chiefs of Police (IACP). Then, I can compare the strategic targeting of states by the groups studied in this dissertation to that of the professional groups. Exploring variation in interest group organization and strategic behavior, of which their narratives are one example, can help give more context to the network of groups working in this policy space. I will measure interest group presence or strength of involvement in mandatory sentencing reform as a proportion of their efforts (such as a measure of proportion of their attention and resources spent on mandatory sentencing reform). This can also improve on and expand the current study.

Finally, I will create a set of diffusion mechanisms unique to predicting narrative spread, rather than relying on the same set of variables for predicting policy change. Modeling narrative spread using a more robust set of variables can improve the modeling of narrative diffusion, and thus increase our understanding of this phenomenon. This may also help in further determining

the nature of the reciprocal relationship between narratives and policy change. This line of research will help us better understand policy change, as we know narratives are critical to the policy process.

## REFERENCES

- Alexander, M. (2010). *The new Jim Crow: Mass incarceration in the age of colorblindness*. New York, NY: New Press.
- Allen, M. D., Pettus, C., & Haider-Markel, D. P. (2004). Making the national local: Specifying the conditions for national government influence on state policymaking. *State Politics and Policy Quarterly*, 4, 318-44.
- Allison, P. D. (2014). *Event history and survival analysis*. Thousand Oaks, CA: Sage.
- Applegate, B. K., Cullen, F. T., & Fisher, B. S. (2002). Public views toward crime and correctional policies: Is there a gender gap?. *Journal of Criminal Justice*, 30(2), 89-100.
- Beckett, K., Reosti, A., & Knaphus, E. (2016). The end of an era? Understanding the contradictions of criminal justice reform. *The Annals of the American Academy of Political and Social Science*, 664(1), 238-259.
- Benavie, A. (2009). *Drugs: America's holy war*. New York, NY: Routledge.
- Bergin, T. (2011). How and why do criminal justice public policies spread throughout U.S. states? A critical review of the diffusion literature. *Criminal Justice Policy Review*, 22(4), 403-21.
- Berk, R., Brackman, H., & Lesser, S. (1977). *A measure of justice: An empirical study of changes in the California Penal Code, 1955-1971*. New York, NY: Academic Press.
- Berk, R. A., & Rossi, P. H. (1977). *Prison reform and state elites*. Cambridge, MA: Ballinger Publishing Company.
- Berry, F. S. (1994). Sizing up state policy innovation research. *Policy Studies Journal*, 22, 442-56.

- Berry, F. S., & Berry, W. D. (1990). State lottery adoptions as policy innovations: An event history analysis. *American Political Science Review*, 84(2), 395-415.
- Berry, F. S., & Berry, W. D. (1992). Tax innovation in the states: Capitalizing on political opportunity. *American Journal of Political Science*, 36(3), 715-42.
- Berry, F. S., & Berry, W. D. (2014). Innovation and diffusion models in policy research. In P. A. Sabatier & C. M. Weible (Eds.), *Theories of the policy process*, 3rd ed. (pp. 307-59). Boulder, CO: Westview Press.
- Blumstein, A., & Beck, A. J. (1999). Population growth in US prisons, 1980-1996. *Crime and Justice*, 26, 17-61.
- Blumstein, A., & Wallman, J. (2006). The crime drop and beyond. *Annual Review of Law and Social Science*, 2, 125-146.
- Bobo, L. D., & Johnson, D. (2004). A taste for punishment: Black and white Americans' views on the death penalty and the war on drugs. *Du Bois Review*, 1(1), 151-180.
- Boushey, G. (2010). *Policy diffusion dynamics in America*. New York, NY: Cambridge University Press.
- Boushey, G. (2016). Targeted for diffusion? How the use and acceptance of stereotypes shape the diffusion of criminal justice policy innovations in the American states. *American Political Science Review*, 110(1), 198-214.
- Box-Steffensmeier, J. M., & Jones, B. S. (2004). *Event history modeling: A guide for social scientists*. Cambridge, UK: Cambridge University Press.
- Braun, D., & Gilardi, F. (2006). Taking 'Galton's problem' seriously: Towards a theory of policy diffusion. *Journal of Theoretical Politics*, 18(3), 298-322.

- Buckley, J., & Westerland, C. (2004). Duration dependence, functional form, and correct standard errors: Improving EHA models of state policy diffusion. *State Politics and Policy Quarterly*, 4, 94-114.
- Burstein, P., & Linton, A. (2002). The impact of political parties, interest groups, and social movement organizations on public policy: Some recent evidence and theoretical concerns. *Social Forces*, 81(2), 380-408.
- Button, J., & Hedge, D. (1996). Legislative life in the 1990s: A comparison of black and white state legislators. *Legislative Studies Quarterly*, 199-218.
- Bynum, T. S. (1982). Prosecutorial discretion and the implementation of a legislative mandate. In M. Morash (Ed.), *Implementing criminal justice policies*, Sage research progress series in criminology, vol. 26 (pp. 47-59). Beverly Hills, CA: Sage Publications.
- Callaghan, K., & Schnell, F. (2001). Assessing the democratic debate: How the news media frame elite policy discourse. *Political Communication*, 18(2), 183-213.
- Clear, T. R. (2009). *Imprisoning communities: How mass incarceration makes disadvantaged neighborhoods worse*. Oxford University Press.
- Clement, K. E. (2001). *Patterns of sentencing reform adoption in American states*. The University of Tennessee: ProQuest Dissertations Publishing.
- Cocca, C. E. (2002). The politics of statutory rape laws: Adoption and reinvention of morality policy in the states, 1971-1999. *Polity*, 35(1), 51-72.
- Coffee, J. C., Jr., & Tonry, M. (1983). Hard choices: Critical trade-offs in the implementation of sentencing reform through guidelines. In M. Tonry & F. E. Zimring (Eds.), *Reform and punishment: Essays on criminal sentencing* (pp. 155-203). Chicago, IL: The University of Chicago Press.

- Conyers, J., & Wallace, W. L. (1976). *Black elected officials: Study of black Americans holding government office*. Russell Sage Foundation.
- Cookson, P. W., Jr. (2013). The power discourse: Elite narratives and educational policy formation. In G. Walford (Ed.), *Researching the powerful in education* (pp. 116-30). New York, NY: Routledge.
- Cullen, F. T., Clark, G. A., & Wozniak, J. F. (1985). Explaining the get tough movement: Can the public be blamed. *Federal Probation*, 49, 16.
- Doob, A. N., & Cesaroni, C. (2001). The political attractiveness of mandatory minimum sentences. *Osgoode Hall Law Journal*, 39, 287.
- Doob, A. N., & Webster, C. M. (2003). Sentence severity and crime: Accepting the null hypothesis. In M. Tonry (Ed.), *Crime and Justice* (volume 30). Chicago, IL: University of Chicago Press.
- Emmert, C. F., & Traut, C. A. (2003). Bans on executing the mentally retarded: An event history analysis of state policy adoption. *State and Local Government Review*, 35(2), 112-122.
- Enns, P. K. (2014). The public's increasing punitiveness and its influence on mass incarceration in the United States. *American Journal of Political Science*, 58(4), 857-872.
- Fairchild, E. S. (1981). Interest groups in the criminal justice process. *Journal of Criminal Justice*, 9(2), 181-94.
- Fairchild, E. S., & Webb, V. J. (Eds.). (1985). *The politics of crime and criminal justice*. Beverly Hills, CA: Sage.
- Families Against Mandatory Minimums (FAMM). (2017a). FAMM praises Louisiana for repeal of mandatory minimums. Retrieved from <https://famm.org/famm-praises-louisiana-for-repeal-of-mandatory-minimums/>

- Families Against Mandatory Minimums (FAMM). (2017b). FAMM's statement on Massachusetts Senate criminal justice reform package. Retrieved from <https://famm.org/famms-statement-on-massachusetts-senate-criminal-justice-reform-package/>
- Families Against Mandatory Minimums (FAMM). (2017c). Recent state-level reforms to mandatory minimum laws. Retrieved from <https://famm.org/wp-content/uploads/Recent-State-Reforms.pdf>
- Federal Bureau of Prisons. (2019). An overview of the First Step Act. Retrieved from <https://www.bop.gov/inmates/fsa/overview.jsp>
- Flanagan, T. J., Brennan, P. G., & Cohen, D. (1991). Crime control ideology and policy positions in a state legislature (revisited). *Criminal Justice Policy Review* 5(3), 183–206.
- Frederick, B. (2009). Are female House members still more liberal in a polarized era? The conditional nature of the relationship between descriptive and substantive representation. *Congress & the Presidency*, 36, 181-202.
- Frost, N. A. (2010). Beyond public opinion polls: Punitive public sentiment and criminal justice policy. *Sociology Compass*, 4(3), 156–168.
- Frost, A. (2014). The politics of punishment in the War on Drugs: Race and racial language in policy shifts. University of Washington: ProQuest Dissertations Publishing.
- Gertner, J. N. (2010). A short history of American sentencing: Too little law, too much law, or just right. *The Journal of Criminal Law and Criminology*, 100(3), 691-708.
- Gilardi, F. (2010). Who learns from what in policy diffusion processes? *American Journal of Political Science*, 54(3), 650-66.

- Gilardi, F. (2016). Four ways we can improve policy diffusion research. *State Politics & Policy Quarterly*, 16(1), 8-21.
- Gilardi, F., Füglistner, K., & Luyet, S. (2009). Learning from others: The diffusion of hospital financing reforms in OECD countries. *Comparative Political Studies*, 42(4), 549-573.
- Gilardi, F., & Wasserfallen, F. (2019). The politics of policy diffusion. *European Journal of Political Research*, 58(4), 1245-56.
- Graham, E. R., Shipan, C. R., & Volden, C. (2012). Review article: The diffusion of policy diffusion research in political science. *British Journal of Political Science*, 43, 673-701.
- Gray, V. (1973). Innovation in the states: A diffusion study. *American Political Science Review*, 67(4), 1174-1185.
- Grossback, L. J., Nicholson-Crotty, S., & Peterson, D. (2004). Ideology and learning in policy diffusion. *American Politics Research*, 32, 521-45.
- Haider-Markel, D. (2001). Policy diffusion as a geographical expansion of the scope of political conflict: Same-Sex marriage bans in the 1990s. *State Politics and Policy Quarterly*, 1, 5-26.
- Heinz, J. P., Gettleman, R. W., & Seeskin, M. A. (1969). Legislative politics and the criminal law. *Northwestern University Law Review*, 64, 277-358.
- Ingraham, C. (2014, Oct. 10). Americans overwhelmingly agree it's time to end mandatory minimum sentencing. *The Washington Post*. Retrieved from <https://www.washingtonpost.com/news/wonk/wp/2014/10/10/americans-overwhelmingly-agree-its-time-to-end-mandatory-minimum-sentencing/>
- Johnson-Cartee, K. S. (2004). *News narratives and news framing: Constructing political reality*. Lanham, MD: Rowman & Littlefield.

- Jones, T., & Newburn, T. (2005). Comparative criminal justice policy-making in the United States and the United Kingdom: The case of private prisons. *British Journal of Criminology*, 45(1), 58-80.
- Jones, M., Shanahan, E., & McBeth, M. (Eds.). (2014). *The science of stories: Applications of the narrative policy framework in public policy analysis*. Springer.
- Kaine, T. (2019, Nov. 18). Kaine, Durbin, Lee introduce Smarter Sentencing Act. *Tim Kaine: United States Senator from Virginia*. Retrieved from <https://www.kaine.senate.gov/press-releases/kaine-durbin-lee-introdufuce-smarter-sentencing-act>
- Kane, M. D. (2007). Timing matters: Shifts in the causal determinants of sodomy law decriminalization, 1961–1998. *Social Problems*, 54(2), 211-239.
- Karch, A. (2007). Emerging issues and future directions in state policy diffusion research. *State Politics and Policy Quarterly*, 7(1), 54-80.
- Karch, A., & Cravens, M. (2014). Rapid diffusion and policy reform: The adoption and modification of Three Strikes laws. *State Politics & Policy Quarterly*, 14(4), 461-91.
- Karp, J. A. (1998). The influence of elite endorsements in initiative campaigns. In S. Bowler, T. Donovan, & C. J. Tolbert (Eds.), *Citizens as legislators: Direct democracy in the United States* (pp. 149-65). Columbus, OH: The Ohio State University.
- Kilgore, J. (2015). *Understanding mass incarceration: A people's guide to the key civil rights struggle of our time*. New York, NY: The New Press.
- Lakoff, G. (2002). *Moral politics: How liberals and conservatives think* (2nd ed.). Chicago, IL: The University of Chicago Press.

- Larkin, P., Jr., & Bernick, P. (2014). Reconsidering mandatory minimum sentences: The arguments for and against potential reforms. *The Heritage Foundation*. Retrieved from <https://www.heritage.org/crime-and-justice/report/reconsidering-mandatory-minimum-sentences-the-arguments-and-against>
- La Vigne, N. G., Samuels, J., & Beiler, S. (2016). *The Justice Reinvestment Initiative: Experiences from the states*. Washington, D.C.: Bureau of Justice Assistance.
- Lawrence, A. (2015). Making sense of sentencing: State systems and policies. *National Conference of State Legislatures*. Retrieved from <https://www.ncsl.org/documents/cj/sentencing.pdf>
- Levitt, S. D. (2002). Using electoral cycles in police hiring to estimate the effects of police on crime: Reply. *American Economic Review*, 92(4), 1244-1250.
- Levy, J. 1994. Learning and foreign policy: Sweeping a conceptual minefield. *International Organization*, 48(2), 279-312.
- Loflin, C., Heumann, M., & McDowall, D. (1983). Mandatory sentencing and firearms violence: Evaluating an alternative to gun control. *Law and Society Review*, 287-318.
- Long, J. S. (1997). *Regression models for categorical and limited dependent variables*. Beverly Hills, CA: Sage.
- Loo, D. D., & Grimes, R. M. (2004). Polls, politics, and crime: The “law and order” issue of the 1960s. *Western Criminology Review*, 5(1), 50-67.
- Lowery, W. 2015. The bipartisan push for criminal justice gets a Koch funded boost. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/blogs/post-politics/wp/2015/02/19/the-bipartisan-push-for-criminal-justice-gets-a-koch-funded-boost>

- Lutz, J. M. (1986). The spatial and temporal diffusion of selected licensing laws in the United States. *Political Geography Quarterly*, 5(2), 141-159.
- Lybecker, D. L., McBeth, M. K., Brewer, A. M., & De Sy, C. (2018). The social construction of a border: The US–Canada border. *Journal of Borderlands Studies*, 33(4), 529-547.
- Makse, T., & Volden, C. (2011). The role of policy attributes in the diffusion of innovations. *The Journal of Politics*, 73(1), 108-124.
- Mallinson, D. J. (2019). Who are your neighbors? The role of ideology and decline of geographic proximity in the diffusion of policy innovations. *Policy Studies Journal*.
- Maloney, W. A., Jordan, G., & McLaughlin, A. M. (1994). Interest groups and public policy: The insider/outsider model revisited. *Journal of Public Policy*, 14(1), 17-38.
- Mauer, M., & Nellis, A. (2018). *The meaning of life: The case for abolishing life sentences*. New York, NY: The New Press.
- Mauer, M. (2002). State sentencing reforms: Is the get tough era coming to a close. *Federal Sentencing Review*, 15, 50.
- Mauer, M. (2011). Sentencing reform: Amid mass incarcerations-guarded optimism. *Criminal Justice*, 26, 27.
- McBeth, M. K., Jones, M. D., & Shanahan, E. A. (2014). The Narrative Policy Framework. In P. A. Sabatier & C. M. Weible (Eds.), *Theories of the policy process*, 3rd ed. (pp. 225-266). Boulder, CO: Westview Press.
- The Mellman Group and Public Opinion Strategies. (2016). National survey key findings - Federal sentencing & prisons. *The Pew Charitable Trusts*. Retrieved from [https://www.pewtrusts.org/-/media/assets/2016/02/national\\_survey\\_key\\_findings\\_federal\\_sentencing\\_prisons.pdf](https://www.pewtrusts.org/-/media/assets/2016/02/national_survey_key_findings_federal_sentencing_prisons.pdf)

- Melossi, D. (2001). The cultural embeddedness of social control: Reflections on the comparison of Italian and North-American cultures concerning punishment. *Theoretical Criminology*, 5(4), 403-424.
- Merry, M. (2016). Constructing policy narratives in 140 characters or less: The case of gun policy organizations. *Policy Studies Journal*, 44(4), 373-95.
- Merry, M. K. (2018). Narrative strategies in the gun policy debate: Exploring proximity and social construction. *Policy Studies Journal*, 46(4), 747-770.
- Merry, M. K. (2019). Angels versus devils: The portrayal of characters in the gun policy debate. *Policy Studies Journal*, 47(4), 882-904.
- Miller, L. L. (2004). Rethinking bureaucrats in the policy process: Criminal justice agents and the national crime agenda. *Policy Studies Journal*, 32(4), 569-88.
- Mintrom, M. (1997). Policy entrepreneurs and the diffusion of innovation. *American Journal of Political Science*, 41, 738-70.
- Mooney, C. Z. (Ed.) (2001). *The public class of private values*. New York, NY: Chatham House.
- Mooney, C. Z., & Lee, M. H. (1995). Legislative morality in the American states: The case of pre-Roe abortion regulation reform. *American Journal of Political Science*, 599-627.
- Mooney, C. Z., & Lee, M. (1999a). Morality policy reinvention: State death penalties. *ANNALS, The American Academy of Political & Social Science*, 566, 80-92.
- Mooney, C. Z., & Lee, M. (1999b). The temporal diffusion of morality policy: The case of death penalty legislation in the American states. *Policy Studies Journal*, 27(4), 766-80.
- Mooney, C. Z., & Lee, M. H. (2000). The influence of values on consensus and contentious morality policy: US death penalty reform, 1956–82. *Journal of Politics*, 62(1), 223-239.

- Morris, N. (1977). Punishment, desert, and rehabilitation. In U.S. Department of Justice, *Equal justice under law*. Washington, D.C.: Government Printing Office.
- Nagin, D. S. (2013). Deterrence in the twenty-first century. *Crime and Justice*, 42(1), 199-263.
- National Institute of Justice. (2016). Five things about deterrence. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/247350.pdf>
- National Research Council. (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. Washington, D.C.: The National Academies Press.
- Nelson, A. J. (1991). *Emerging influentials in state legislatures: Women, blacks, and Hispanics*. New York: Praeger.
- Newburn, G. (2016). Mandatory minimum sentencing reform saves states money and reduces crime rates. *American Legislative Exchange Council: The State Factor*. Retrieved from <https://www.alec.org/app/uploads/2016/03/2016-March-ALEC-CJR-State-Factor-Mandatory-Minimum-Sentencing-Reform-Saves-States-Money-and-Reduces-Crime-Rates.pdf>
- Newell, W. (2013). The legacy of Nixon, Reagan, and Horton: How the tough on crime movement enabled a new regime of race-influenced employment discrimination. *Berkeley Journal of African American Law & Policy*, 15, 3.
- Nice, D. C. 1994. *Policy innovation in state government*. Ames, IA: Iowa State University Press.
- Nicholson-Crotty, S. (2004). The politics and administration of privatization: Contracting out for corrections management in the United States. *Policy Studies Journal*, 32, 41-57.
- Nicholson-Crotty, S. (2009). The politics of diffusion: Public policy in the American states. *The Journal of Politics*, 71(1), 192-205.

- Oakley, M. R. (2009). Agenda setting and state policy diffusion: The effects of media attention, state court decisions, and policy learning on fetal killing policy. *Social Science Quarterly*, 90(1), 164-78.
- Obbie, M. (2016). Oklahoma struggles with its tough-on-crime past. *TakePart*. Retrieved from <http://www.takepart.com/feature/2016/09/19/violence-and-redemption-oklahoma>
- O'Brien, E. (2016). Human trafficking heroes and villains: Representing the problem in anti-trafficking awareness campaigns. *Social & Legal Studies*, 25(2), 205-224.
- Parent, D., Dunworth, T., McDonald, D., & Rhodes, W. (1997). Key legislative issues in criminal justice: Mandatory sentencing. *National Institute of Justice*. Retrieved from <https://www.ncjrs.gov/pdffiles/161839.pdf>
- Peterson, R. D., & Krivo, L. J. (2010). *Divergent social worlds: Neighborhood crime and the racial-spatial divide*. New York, NY: Russell Sage Foundation.
- Pfaff, J. (2017). *Locked in: The true causes of mass incarceration-and how to achieve real reform*. Basic Books.
- Petridou, E. (2014). Theories of the policy process: Contemporary scholarship and future directions. *Policy Studies Journal*, 42(S1), 12-32.
- Porter, N. D. (2012). The state of sentencing 2011: Developments in policy and practice. *The Sentencing Project*. Retrieved from <https://www.sentencingproject.org/publications/the-state-of-sentencing-2011-developments-in-policy-and-practice/>
- Rhodan, M. (2014, Feb. 14). States lead the way on sentencing reform. *Time.com*. Retrieved from <http://swampland.time.com/2014/02/14/mandatory-minimum-sentences-states-reform/>

- Richardson, J. (2000). Government, interest groups, and policy change. *Political Studies*, 48, 1006-25.
- Roberts, D. E. (2003). The social and moral cost of mass incarceration in African American communities. *Stanford Law Review*, 56, 1271.
- Roche, D. (1999). Mandatory sentencing. *Trends and Issues in Crime and Criminal Justice*, Australian Institute of Criminology, 138, 1-6.
- Rogers, E. M. (1962). *Diffusion of innovations*. New York, NY: Free Press.
- Rogers, E. M. (2003). *Diffusion of innovations* (5th ed). New York, NY: Free Press.
- Rosch, J. (1985). Crime as an issue in American politics. In E. S. Fairchild & V. J. Webb (Eds.), *The politics of crime and criminal justice* (pp. 19-34). Beverly Hills, CA: Sage.
- Sabol, W. J., Rosich, K., Mallik, K., Kane, D. K., & Dubin, G. (2002). Influences of truth-in-sentencing reforms on changes in states' sentencing practices and prison populations. Washington, D.C.: Urban Institute.
- Sampson, R. J. (2012). *Great American city: Chicago and the enduring neighborhood effect*. Chicago, IL: The University of Chicago Press.
- Schattschneider, E. E. (1975). *The semisovereign people: A realist's view of democracy in America*. Hinsdale, IL: Dryden Press.
- Schneider, A., & Ingram, H. (1993). Social construction of target populations: Implications for politics and policy. *American Political Science Review*, 87(2), 334-347.
- Schwartz, L. B. (1983). Options in constructing a sentencing system: Sentencing guidelines under legislative or judicial hegemony. In M. Tonry & F. E. Zimring (Eds.), *Reform and punishment: Essays on criminal sentencing* (pp. 71-100). Chicago, IL: The University of Chicago Press.

- Shanahan, E. A., Jones, M. D., & McBeth, M. K. (2018). How to conduct a Narrative Policy Framework study. *The Social Science Journal*, *55*(3), 332-345.
- Shanahan, E. A., Jones, M. D., McBeth, M. K., & Lane, R. R. (2013). An angel on the wind: How heroic policy narratives shape policy realities. *Policy Studies Journal*, *41*(3), 453-483.
- Shanahan, E. A., McBeth, M. K., & Hathaway, P. L. (2011). Narrative policy framework: The influence of media policy narratives on public opinion. *Politics & Policy*, *39*(3), 373-400.
- Shane-DuBow, S., Brown, A. P., & Olsen, E. (1985). Sentencing reform in the United States: History, content, and effect. Washington, D.C.: Government Publishing Office.
- Shor, B., & McCarty, N. (2011). The ideological mapping of American legislatures. *American Political Science Review*, *105*(3), 530-51.
- Shipan, C. R., & Volden, C. (2006). Bottom-up federalism: The diffusion of anti-smoking policies from U.S. cities to states. *American Journal of Political Science*, *50*(4), 825-43.
- Shipan, C. R., & Volden, C. (2008). The mechanisms of policy diffusion. *American Journal of Political Science*, *52*(4), 840-57.
- Shipan, C. R., & Volden, C. (2012). Policy diffusion: Seven lessons for scholars and practitioners. *Public Administration Review*, *72*(6), 788-96.
- Simmons, B. A., Dobbin, F., & Garrett, G. (2006). Introduction: The international diffusion of liberalism. *International Organization*, *60*(4), 781-810.
- Simon, J. (2007). *Governing through crime: How the War on Crime transformed American democracy and created a culture of fear*. New York, NY: Oxford University Press.
- Singer, J. D., & Willett, J. B. (2003). *Applied longitudinal data analysis: Modeling change and event occurrence*. Oxford, UK: Oxford University Press.

- Sliva, S. M. (2016). Determinants of state innovations in American sentencing and corrections policy: A systematic review. *Criminal Justice Policy Review*, 27(7), 702-22.
- Smith, C. (2016). New report shows benefits of mandatory minimum sentencing reform at state level. *American Legislative Exchange Council*. Retrieved from <https://www.alec.org/article/new-report-shows-benefits-of-mandatory-minimum-sentencing-reform-at-state-level/>
- Smith, K. B. (2002). Typologies, taxonomies, and the benefits of policy classification. *Policy Studies Journal*, 30(3), 379-95.
- Smith-Walter, A., Peterson, H. L., Jones, M. D., & Marshall, A. N. R. (2016). Gun evidence: How evidence shapes firearm policy in the United States. *Politics & Policy*, 44(6), 1053-88.
- Soule, S. A., & Earl, J. (2001). The enactment of state-level hate crime law in the United States: Intrastate and interstate factors. *Sociological Perspectives*, 44(3), 281-305.
- Stemen, D. (2007). Policies of imprisonment: Sentencing and corrections policy innovation in the United States, 1970–2002. New York University: ProQuest Dissertations Publishing.
- Stemen, D., Rengifo, A., & Wilson, J. (2006). Of fragmentation and ferment: The impact of state sentencing policies on incarceration rates, 1975–2002. Final report to the National Institute of Justice. Washington, D.C.: National Institute of Justice.
- Stolz, B. (2005). Educating policymakers and setting the criminal justice policymaking agenda: Interest groups and the ‘Victims of Trafficking and Violence Act of 2000.’ *Criminal Justice*, 5(4), 407-30.
- Stone, D. (2012). *Policy paradox: The art of political decision making* (3rd ed.). New York, NY: W. W. Norton & Company.

- Sundt, J., Schwaeble, K., & Merritt, C. C. (2019). Good governance, political experiences, and public support for mandatory sentencing: Evidence from a progressive US state. *Punishment & Society*, 21(2), 141-161.
- Tatalovitch, R., & Daynes, B. W. (Eds.) (1998). *Moral controversies in American politics*. New York, NY: M. E. Sharpe.
- Tiebout, C. M. (1956). A pure theory of local expenditures. *Journal of Political Economy*, 64(5), 416-424.
- Tonry, M. (1992). Mandatory penalties. *Crime and Justice*, 16, 243-273.
- Tonry, M. (1999). *The fragmentation of sentencing and corrections in America* (No. 1). US Department of Justice, Office of Justice Programs, National Institute of Justice.
- Tonry, M. (2009). The mostly unintended effects of mandatory penalties: Two centuries of consistent findings. In M. Tonry (Ed.), *Crime and justice* (volume 38). Chicago, IL: University of Chicago Press.
- Tonry, M. (2013). "Nothing" works: Sentencing "reform" in Canada and the United States. *Canadian Journal of Criminology and Criminal Justice*, 55(4), 465-479.
- Traut, C. A., & Emmert, C. F. (2003). Death penalty exemptions for juveniles: An event history analysis of state policy adoption. *Politics & Policy*, 31(2), 296-312.
- Travis, J., & Western, B. (2017). Poverty, violence, and black incarceration. In A. J. Davis (Ed.), *Policing the black man: Arrest, prosecution, and imprisonment* (pp. 294-321). New York, NY: Pantheon Books.
- Vera Institute of Justice. (2014). Playbook for change? States reconsider mandatory sentences. Retrieved from <https://www.prisonpolicy.org/scans/vera/mandatory-sentences-policy-report-v2b.pdf>

- Vera Institute of Justice. (2018). The state of sentencing. Retrieved from <https://www.vera.org/state-of-justice-reform/2018/state-of-sentencing>
- Volden, C. (2006). States as policy laboratories: Emulating success in the Children's Health Insurance Program. *American Journal of Political Science*, 50(2), 294-312.
- Walker, J. L. (1969). The diffusion of innovations among the American states. *American Political Science Review*, 63, 880-99.
- Webster, C. M., & Doob, A. N. (2012). Searching for Sasquatch: Deterrence of crime through sentence severity. In J. Petersilia & K. Reitz (Eds.), *Oxford handbook on sentencing and corrections*. New York, NY: Oxford.
- Welch, S. (1985). Are women more liberal than men in the U.S. Congress? *Legislative Studies Quarterly*, 125-134.
- Wicharaya, T. (1995). *Simple theory, hard reality: The impact of sentencing reforms on courts, prisons, and crime*. Albany, NY: SUNY Press.
- Williams, J. (2003). Criminal justice policy innovation in the states. *Criminal Justice Policy Review*, 14, 401-22.
- Witayapanyanon, T. (1989). Criminal justice policy in the United States: A pooled time series analysis of sentencing reform impacts. Northern Illinois University: ProQuest Dissertations Publishing.
- Zalman, M. (1982). Mandatory sentencing legislation: Myth and reality. In M. Morash (Ed.), *Implementing criminal justice policies*, Sage research progress series in criminology, vol. 26 (pp. 61-9). Beverly Hills, CA: Sage Publications.

Zimring, F. E. (1983). Sentencing reform in the states: Lessons from the 1970s. In M. Tonry & F. E. Zimring (Eds.), *Reform and punishment: Essays on criminal sentencing* (pp. 101-121). Chicago, IL: The University of Chicago Press.

## APPENDICES

## **Appendix A.** The Effect of Mandatory Sentencing Policies.

The effects of mandatory minimum policies include discrimination against people of color and of lower socioeconomic status. These policies also contributed to the mass incarceration crisis in the United States.

The work of Michelle Alexander (2010) highlights today's criminal justice system as a system of oppression against people of color. Black men are disproportionately affected by the War on Drugs, and in turn the loss of this segment of the population devastates their communities. Mandatory sentencing policies detrimentally influence the social and financial circumstances of individuals and communities (e.g. Roberts, 2003). Mandatory sentences remove males from their households, leading to an increase in single-parent, female-headed households. An individual with a long sentence influences themselves, their family, and their community financially. The economic influence decreases the possibility of non-illicit employment. These long sentences lead to a low likelihood of successful community reintegration (Newell, 2013; Travis & Western, 2017). Harsh sentencing policies also influence the political circumstances of individuals with practices such as felony disenfranchisement (Travis & Western, 2017).

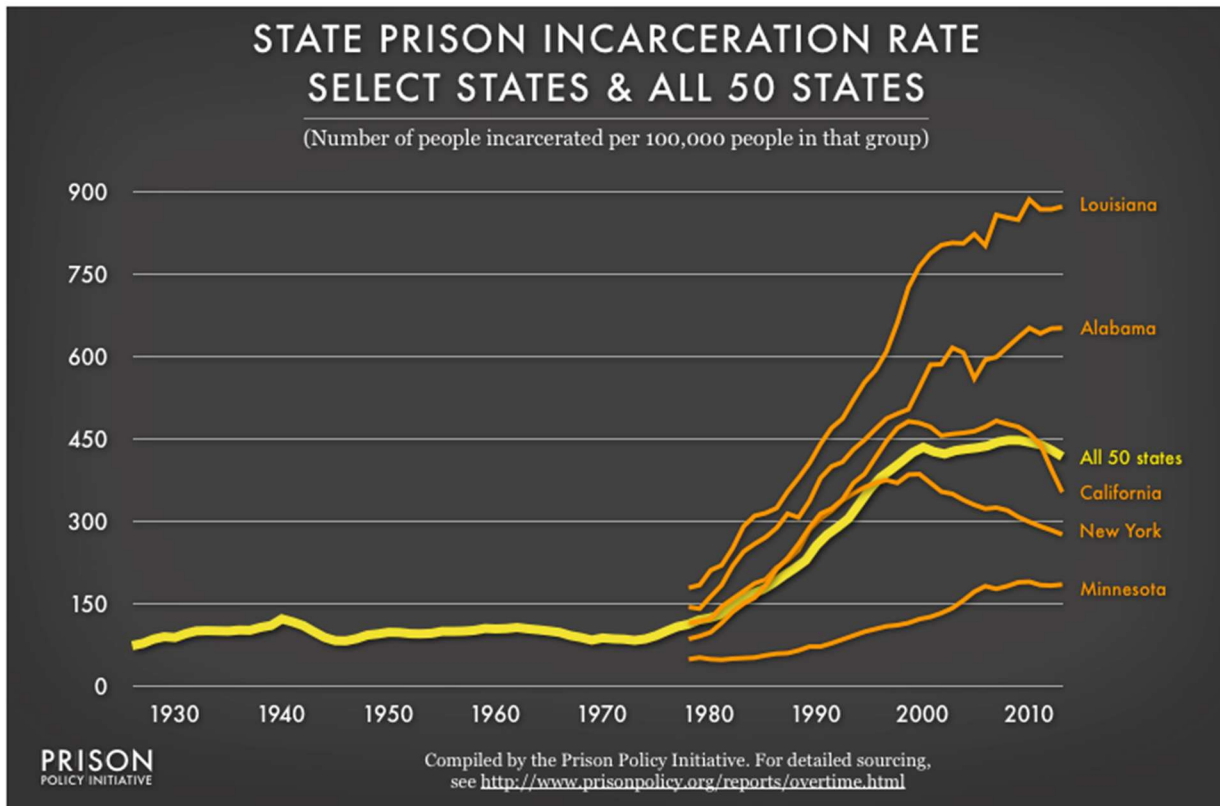
Alexander labels the War on Drugs the new Jim Crow, as the system of sentencing put in place that has led to the mass incarceration of a disproportionate number of black people and other people of color is a perpetuation of black systemic oppression (Alexander, 2010). For instance, drug-related offenses under mandatory sentencing policies lead to longer sentences for black people than white people for a comparable offense (Benavie, 2009), because the drug wars were mainly waged in communities of color, even though illegal substance use is similar across racial groups (Mauer & Nellis, 2018). Another example is under California's 1994 three-strikes law, about half were serving time for a current property or drug crime. 46 percent on their third

strike were black, compared to 29 percent in the population who were black (Mauer & Nellis, 2018).

Mandatory sentences influence people of color more because they are more likely than white people to have a prior record, either due to their socioeconomic status or policing practices (Mauer & Nellis, 2018). Conditions of poverty foster violence and illicit economies, which in turn led to police focus during the War on Drugs. People of color are more likely to be in poverty due to historical disadvantages, making them the main targets of these policies, that were mainly carried out in the inner cities (Benavie, 2009; Clear, 2009; Travis & Western, 2017).

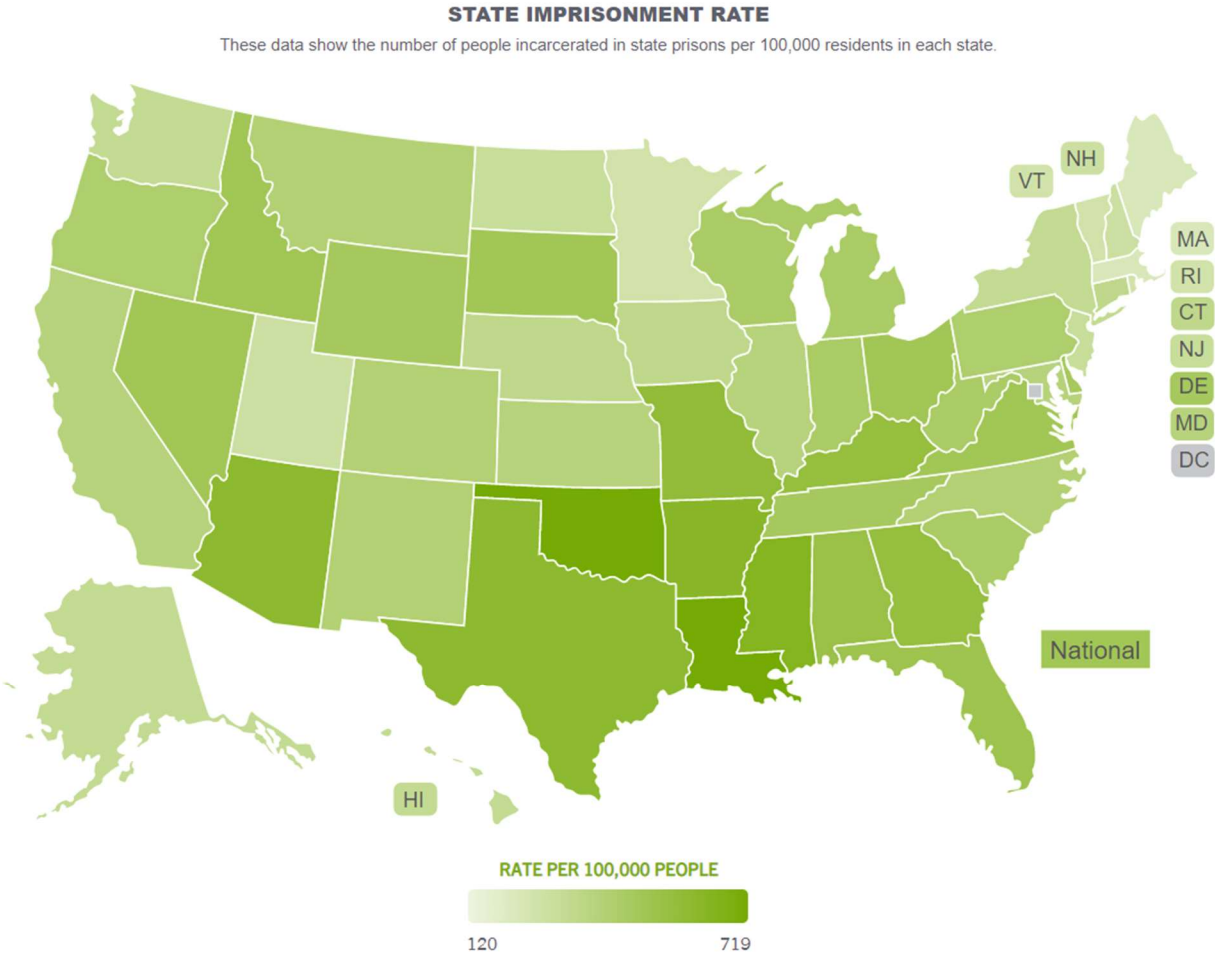
Mandatory sentencing policies are one of many factors leading to the mass incarceration crisis. (See Appendix J for a visual of how these policies relate to mass incarceration). Harsher punishments, longer sentences, and a crackdown on drug offenses are among these factors causing mass incarceration (Blumstein and Beck 1999; Blumstein and Wallman 2006; Tonry, 2013). “The 222 percent growth in the rate of state imprisonment between 1980 and 2010 was entirely explained by changes in sentencing policy. Half of this effect was produced by an increased likelihood of incarceration per arrest and half by increases in time served in prison” (Mauer & Nellis, 2018, p. 113). Mass incarceration in general disproportionately affects black people (Clear, 2009; Mauer & Nellis, 2018; Roberts, 2003; Tonry, 2009; Travis & Western, 2017).

**Appendix B.** State Prison Incarceration Rate, Select States & All 50 States.



Wagner, P. (2014). State prison incarceration rate, select states & all 50 states. *Prison Policy Initiative*. Retrieved from <https://www.prisonpolicy.org/reports/overtime.html>

**Appendix C. State Imprisonment Rate in 2017.**

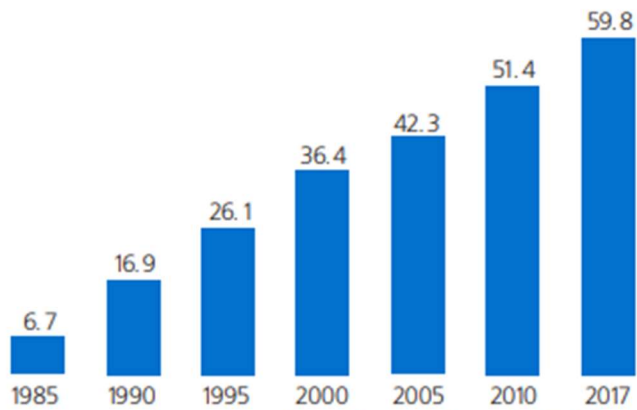


Source: U.S. Bureau of Justice Statistics data for 2017.

Retrieved from <https://www.sentencingproject.org/the-facts/#map?dataset-option=SIR>

**Appendix D.** State Expenditures on Corrections in Billions, 1985-2017.

**State Expenditures on Corrections in Billions,  
1985-2017**

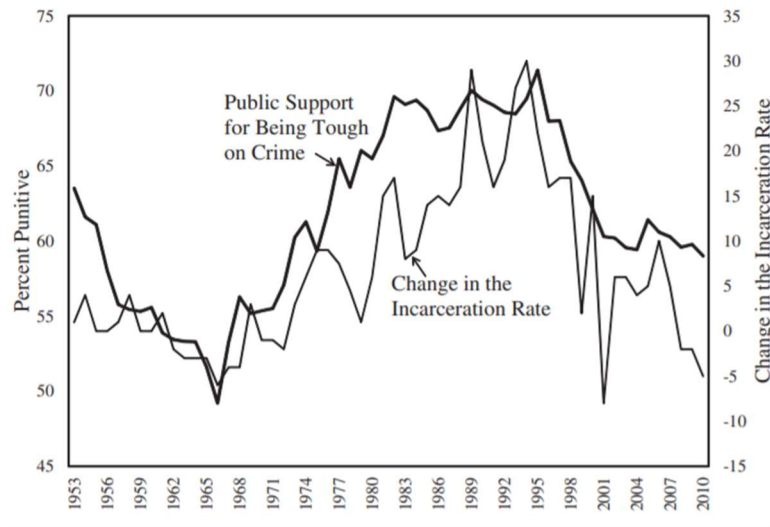


Source: National Association of State Budget Officers (1985-2017). *State Expenditure Report Series*. Washington, DC: National Association of State Budget Officers.

Retrieved from <https://www.sentencingproject.org/wp-content/uploads/2016/01/Trends-in-US-Corrections.pdf>

**Appendix E.** Public Support for “Tough on Crime” Policy, 1953-2010.

**FIGURE 2 Public Support for Being Tough on Crime and Changes in the Incarceration Rate, 1953–2010**



Retrieved from Enns, P. K. (2014). The public's increasing punitiveness and its influence on mass incarceration in the United States. *American Journal of Political Science*, 58(4), 857-872.

## Appendix F. Policy Narrative from ACLU.



[About](#) [Issues](#) [Our work](#) [News](#)

[Donate](#)

[Take action](#)

### ACLU CALLS FOR REPEAL OF MANDATORY MINIMUM DRUG SENTENCING FOLLOWING SJC RULING

OCTOBER 14, 2016

BOSTON – The Supreme Judicial Court held today that existing law does not provide a "safety valve" from mandatory minimum sentences, while calling on the legislature to consider reforms to the mandatory minimum drug laws that have produced harsh racial disparities in Massachusetts. In the wake of today's ruling, the American Civil Liberties Union of Massachusetts calls on state lawmakers to repeal the mandatory minimum sentences.

"Our elected leaders on both sides of the aisle now acknowledge that we cannot arrest our way out of the problem of substance abuse, despite prosecutors' ongoing efforts to do so. Today's ruling confirms that, as long as the mandatory minimum statute is on the books, excessive and racially discriminatory sentencing will continue year after year, injustice after injustice," said Matthew Segal, legal director of the ACLU of Massachusetts.

In *Commonwealth v. Laltaprasad*, the ACLU defended a sentencing judge's authority to impose a below-minimum sentence in the case of Imran Laltaprasad, a disabled Black man convicted of possessing for distribution an amount of drugs weighing less than a five-gram packet of sugar. Mr. Laltaprasad had received a 2.5-year sentence from Middlesex Superior Court Judge Shannon Frison. That sentence departed from the statutory minimum of 3.5 years in recognition of the small drug amounts involved and Mr. Laltaprasad's dire physical condition. The Court's ruling will require Mr. Laltaprasad to serve out his 3.5-year term.

"Our client in this case is like many other people who are imprisoned each year on drug charges: disabled, Black, and a drug user," said Rahsaan Hall, ACLU of Massachusetts Racial Justice director. "Mr. Laltaprasad's case illustrates the failure of the war on drugs, and the outsized sentencing power that mandatory minimums give prosecutors."

"As decades of experience confirm, harsh sentences for drug offenses do not reduce the availability of drugs or make our communities safer," added Carol Rose, executive director of the ACLU of Massachusetts. "If Massachusetts is going to take the problem of drug addiction seriously, it must meet lofty rhetoric with concrete action, and begin to unwind the damage to our justice system caused by nearly forty years of treating a public health problem with handcuffs and prison bars."

## CONTACT INFORMATION

[media@aclu.org](mailto:media@aclu.org)  
125 Broad Street  
18th Floor  
New York, NY 10004  
United States  
(212) 549-2666

## RELATED ISSUES

Drug Law Reform

Criminal Law Reform

Smart Justice

## Appendix G. Policy Narrative from FAMM.

### **FAMM praises Missouri legislature for passing sentencing reform**

May 15, 2019

Categories: Blog (<https://famm.org/category/blog/>), Featured (<https://famm.org/category/featured/>), Missouri (<https://famm.org/category/missouri/>), Newsroom (<https://famm.org/category/general/>), Press Release (<https://famm.org/category/press-release/>)

Contact:

Rabiah Burks, 202-822-6700

[rburks@famm.org](mailto:rburks@famm.org) (<mailto:rburks@famm.org>)

#### **FAMM PRAISES MISSOURI LEGISLATURE FOR PASSING SENTENCING REFORM**

**JEFFERSON CITY, MO** – In a last-minute push to pass sentencing reform, the Missouri House of Representatives passed HB 192 on Monday by a vote of 138-11, sending the bill to Governor Mike Parson for signature and enactment into law. HB 192, sponsored by Rep. Bruce DeGroot (R-Chesterfield), passed in the Missouri Senate unanimously on May 9.

FAMM Vice President of Policy Molly Gill issued the following statement in response to the bill's passage by the Missouri Legislature:

Like many states, Missouri has mandatory minimum prison terms for repeat offenders, and these sentences apply even if the person's current crime is a minor or nonviolent one. HB 192 is crystal clear about which crimes trigger these longer sentences and which ones don't, and that means that low-level offenders won't serve too much time away from their families. Best of all, this reform is retroactive, so people stuck with excessive sentences now will get earlier parole eligibility.

Since getting a fair sentence shouldn't depend on the day you went to court, we applaud the bill and urge the governor to sign it. We're especially grateful for the hard work of Reps. Cody Smith (R-Carthage) and Shamed Dogan (R-Ballwin) and Sen. Ed Emery (R-Lamar), who brought these reforms to life and fought to pass them.

The sentencing reforms in HB 192 would eliminate many convictions for minor offenses from triggering the longer, minimum prison term sentences required by the state's current habitual offender law. The bill would apply retroactively, making people eligible for parole sooner if they received minimum prison terms before August 28, 2019, for an offense that would no longer be included in the habitual offender law.

In March, FAIM Justice Fellow and President Donald Trump's 2019 State of the Union Guest Matthew Charles visited Missouri (<https://themissouritimes.com/58630/matthew-charles-president-trumps-state-of-the-union-guest-advocates-for-criminal-justice-reform-in-missouri/>) and urged lawmakers to pass sentencing reforms. Charles was the first beneficiary of the First Step Act, a bipartisan bill that reformed federal repeat offender sentences for drug crimes and was signed into law by President Trump in December 2018.

###

***FAMM (<https://famm.org/>) is a national nonpartisan advocacy organization that promotes fair and effective criminal justice policies that safeguard taxpayer dollars and keep our communities safe. Founded in 1991, FAMM is helping transform America's criminal justice system by uniting the voices of impacted families and individuals and elevating the issues all across the country.***

FAMM.org (<http://famm.org/>) | [www.facebook.com/FAMMFoundation](http://www.facebook.com/FAMMFoundation)  
(<http://www.facebook.com/FAMMFoundation>) | [@FAMMFoundation](https://twitter.com/FAMMFoundation) (<https://twitter.com/FAMMFoundation>)

1100 H Street NW, Suite 1000, Washington, D.C. 20005 | 202-822-6700

## Appendix H. Policy Narrative from ALEC.



www.alec.org

CRIMINAL JUSTICE

# President and Congress follow States' Lead on Criminal Justice Reform

SEN. MICHAEL HOUGH / JULY 16, 2015

---

This morning, President Obama visited a federal prison in Oklahoma and remarked about the need to reform America's criminal justice system.

Before flying to Oklahoma, President Obama said the following:

*"I tend not to have a lot of sympathy when it comes to violent crime," he said. "But when it comes to nonviolent drug offenses, is there work that we can do to reduce mandatory minimums, create more diversion programs like drug courts?"*

*"Can we do a better job on the rehabilitation side inside of prisons, so that we are preparing these folks who are eventually going to be released to re-enter the work force? On the back end, are we doing more to link them up with re-entry programs that are effective?"*

The President's remarks follow the introduction of a number of bipartisan criminal justice reform bills in congress, including the Smarter Sentencing Act by Senators Mike Lee and Dick Durbin and the SAFE Justice Act by Congressmen Jim Sensenbrenner and Bobby Scott.

These federal reforms are similar to ALEC model policies and to legislation that has been enacted in the states.

To date, a majority of states have enacted evidenced-based criminal justice reforms aimed at reducing recidivism and focusing resources on high-risk violent offenders.

The greatest reforms have taken place in conservative states like Texas, Georgia, and most recently Utah. Instead of continuing to throw money at their criminal justice system and get the same failing results, a bipartisan group of lawmakers instituted reforms that called for accountability, not only from criminal offenders, but also for taxpayer dollars.

After watching their prison population grow uncontrollably, in 2007 the State of Texas implemented reforms aimed at reducing recidivism. Texas implemented graduated sanctions for those who violate the conditions of their community supervision and they improved treatment for individuals with substance abuse and mental health issues. Texas lawmakers realized that drug and alcohol addiction are often the core reason individuals commit crime in order to gain money to feed their addiction. In many cases, treatment instead of incarceration is the correct answer.

As a result of their reforms, Texas now has their lowest crime rate since 1973 and saved \$2 billion by not having to build two new prisons.

In Georgia, Governor Nathan Deal has been a strong advocate for criminal justice reform. In 2012, Georgia implemented a number of reforms, including revising mandatory minimum sentences, revising drug and non-violent sentences and reforming parole and probation programs.

The states have been functioning as a laboratory for democracy and have proven that smart criminal justice reforms can succeed in reducing crime and saving taxpayer dollars –now it's time for the federal government to follow the states' lead.

---

Published: July 16, 2015   Issues: Criminal Justice   Categories: Uncategorized   Tags: Criminal Justice Reform

## Appendix I. Policy Narrative from Right on Crime.



[Publications](#) [Issues](#)  
[About](#) [Contact](#)



FILED IN: [OKLAHOMA](#) | [PRISONS](#)

# Efforts to make Oklahoma laws fit the crime

April 28, 2015

TWEET

SHARE

EMAIL

Oklahoma imprisons a larger percentage of its population than 47 other states. The state's prison population grew 7.4 percent, or close to 2,000 inmates in the last 12 months. This growth rate will likely mean Oklahoma is now one of the top three fastest-growing prison systems in the country.

While much of this growth can be attributed to the shift in policy initiated by Department of Corrections Director Robert Patton to move offenders from county jails into DOC facilities, the fact remains the Oklahoma justice system relies on imprisonment far more than the rest of the country. Our already overcrowded prison system is now at 111.36 percent capacity, meaning we're housing over 2,100 inmates beyond the "operating capacity" of our prisons, which includes temporary beds placed in dayrooms and common areas.

The situation is even more urgent when we consider that our prison facilities are now holding significantly more inmates than their "rated design capacity" or the number of inmates the facility was originally designed and built to safely house. We must acknowledge the impact of our growing prison population and recognize the urgent need for change.

We can look to other states that have successfully reduced their prison populations without sacrificing public safety. Texas has closed three state prisons and eight juvenile facilities since 2007 while also bringing about the lowest crime rates the state has seen since 1968. The reforms passed by the Texas legislature affected many areas of the criminal justice system but focused primarily on diverting suitable nonviolent offenders from state prisons to cost-effective alternatives such as drug courts. The reforms began with eight bills and were followed by another round of legislation two years later, which illustrates these legislators understood that in order to bring about meaningful change, they would need multiple levers to address various aspects of their criminal justice system that contributed to their incarceration crisis.

During the current legislation session, Oklahoma policymakers have a few opportunities to stem the prison overcrowding tide while maintaining public safety. House Bill 1518 and House Bill 1574 are pieces of legislation that aim to do just that.

HB 1518, the Justice Safety Valve Act, would not apply to violent or sex offenses but would allow judges to seek a lesser sentence for crimes requiring a mandatory minimum sentence if the court determines based on the defendant's background that the sentence would be unjust and the defendant does not pose a risk to public safety. The bill would also allow judges, based on a risk and needs assessment, to sentence these offenders to an alternative court, a diversion program, or community sentencing. The barriers to avoiding the mandatory minimum sentence are still high, but this bill provides a valuable recourse for judges to take the relevant factors of the case into account and administer a correctional tool that will result in savings for the state and better address the crime.

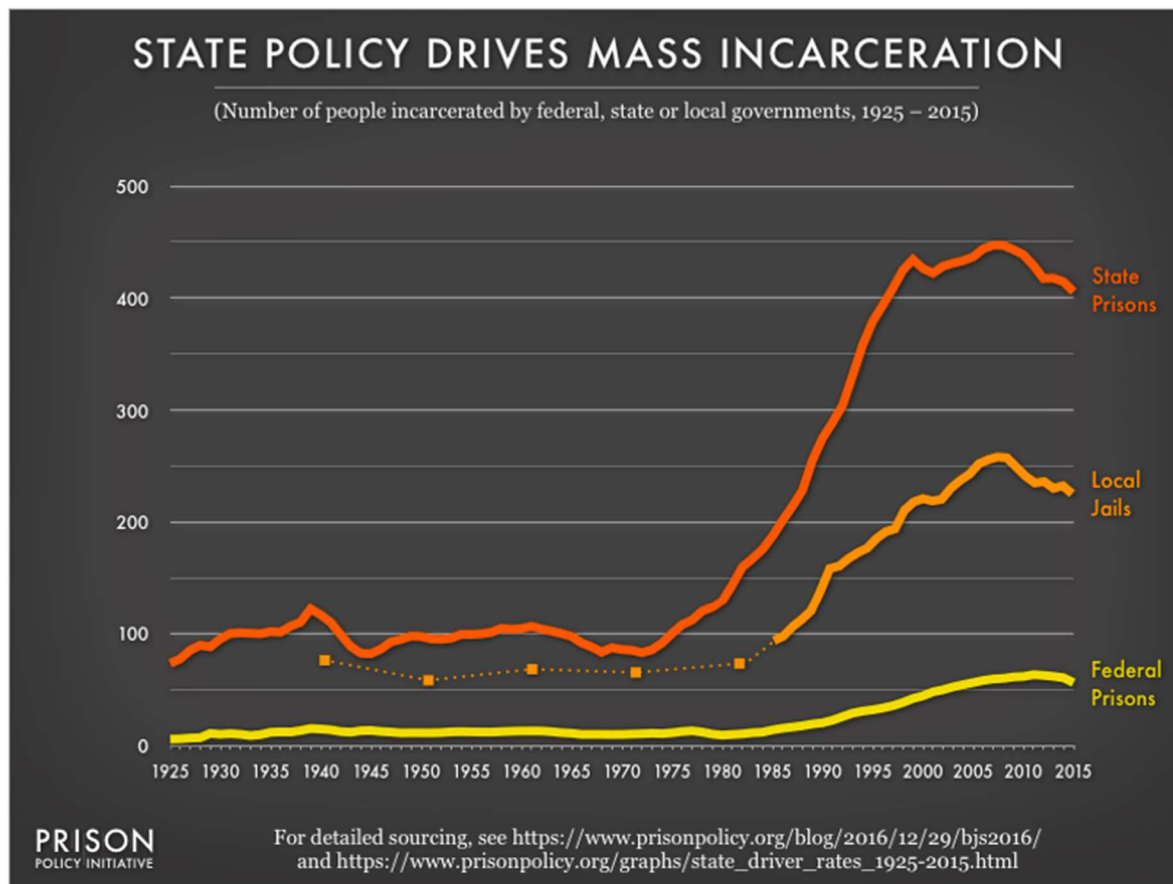
HB 1574 has a similar aim in that it adds an additional sentencing option for persons convicted of two or more felony drug violations. While judges could still use the life without parole option, this bill would also give judges the option of assigning a sentence of no less than 20 years to life in prison, penalties which remain stiffer than nearly any other state.

Mandatory minimum sentences were enacted to address repeat offenders and deter future criminals; these bills do not alter this original purpose. The Justice Safety Valve Act and HB 1574 simply provide judges with an alternative option in the case that a mandatory minimum sentence does not fit the crime.

Policymakers have long been on notice that these proposals as well as additional reforms are needed. A 2007 audit of the Department of Corrections commissioned by the Legislature found that “virtually all of the projected (prison population) growth is a consequence of longer periods of imprisonment associated with ‘85 percent’ sentencing laws, accompanied by a very low parole grant rate.”

In addition to allowing for a more appropriate sentence, these bills represent an approach that Oklahoma must take to realize the budgetary and public safety gains that states like Texas, Georgia, and South Carolina have seen from prioritizing prisons for violent and dangerous offenders while strengthening proven alternatives for nonviolent offenders. Legislation that could save the state money by avoiding unnecessary lengthy prison sentences while still effectively addressing the crime is fiscally responsible, smart policy, and another step in the right direction.

**Appendix J. State Role in Mass Incarceration Crisis.**



Sawyer, W., & Wagner, P. (2016). State policy drives mass incarceration. *Prison Policy Initiative*. Retrieved from <https://www.prisonpolicy.org/profiles/US.html>