The Effects of Mitigating Evidence on Sentencing Outcomes in Cases of Sexual and Nonsexual Offenses

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Background
Mitigating evidence is presented during the sentencing phase of a trial and is meant to argue for leniency in sentencing. In some states, a new form of psycho-legal professional, called a mitigation specialist, is being relied upon to assemble the diverse array of psychosocial factors that comprise mitigation into coherent arguments for less severe sentences. While of particular importance in the cases involving death sentences, mitigating evidence can also have life-altering consequences in the case of non-capital cases. Unfortunately, while there is a large body of evidence around sentencing and capital offenses, there is a noted lack of empirical evidence upon which such professionals can base their work when it comes to other felonies. This is of particular concern in the context of sex offenses— where strong negative attitudes may overwhelm legal instruction. While some research has been done examining the relationship between certain victim, offender, and case characteristic and sentencing outcomes, none has explored the efficacy of focused mitigation reports.

Current Investigation
In collaboration with a state public defender in the Southwest, the current investigation utilized 209 cases; half involving sex offenses, half involving violent non-sexual offenses, and half utilizing professional mitigation, half not utilizing professional mitigation, to better elucidate the effects of professional mitigation reports on sentences in cases involving sexual and violent nonsexual crime. The investigation further examined the effect of other forms of mitigating and aggravating evidence (including defense and prosecution memorandums and risk assessments) as well as individual mitigating factors and lexical characteristics of the reports.

Results
Results revealed that the effectiveness of mitigation reports was heavily moderated by case type. While mitigating evidence was effective in reducing sentence length for violent nonsexual offenses, it had the opposite effect in the cases involving sex offenses, actually leading to longer sentences. The same pattern was also present for defense memorandums, though the effect (negative or positive) was neutralized when a prosecutor memorandum was also present. Additionally, psychological reports were effective in reducing sentence lengths for cases involving sex offenses. Individual mitigating factors and lexical characteristics (examined through Linguistic Inquiry and Word Count software) did not show any consistent relationship with sentence length, suggesting that the effect of
the mitigation reports as a whole cannot necessarily be discerned from its parts. Limitations, future directions, and possible clinical implications are explored.

Goals of the Poster Presentation:
1. Introduction to the process of preparing professional mitigation reports, and how they are similar and different to a formal psychological risk assessment.
2. Learning about the differences between the effectiveness of mitigation reports in cases involving sex offenses vs. violent nonsexual offenses, and possible explanations for the differences.
3. Exposure to the use of linguistic software to analyze and understand forensic documents in law and psychology research.