

Report to the Legislature Pursuant to Penal Code Section 1170.45

2003 REPORT ON THE DISPOSITION OF
CRIMINAL CASES ACCORDING TO THE
RACE AND/OR ETHNICITY OF THE
DEFENDANT



ADMINISTRATIVE OFFICE
OF THE COURTS

**THE DISPOSITION OF CRIMINAL CASES ACCORDING TO
THE RACE AND ETHNICITY OF THE DEFENDANT**

**A REPORT TO THE CALIFORNIA LEGISLATURE PURSUANT TO
PENAL CODE SECTION 1170.45**

May 2003

Judicial Council of California
Administrative Office of the Courts
Office of Court Research

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Please address inquiries to:

Judicial Council of California
Administrative Office of the Courts
Office of Court Research
455 Golden Gate Avenue
San Francisco, California 94102-3688

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Judicial Council of California
Administrative Office of the Courts

Hon. Ronald M. George
Chief Justice of California and
Chair, Judicial Council of California

William C. Vickrey
Administrative Director of the Courts

Pat Sweeten
Director - Executive Office Programs

Primary Author

Melissa Levitt
Research Analyst
Office of Court Research

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BACKGROUND

In 1997 the California Legislature enacted Penal Code section 1170.45, which directs the Judicial Council to report annually on the disposition of criminal cases statewide according to the race and ethnicity of defendants. The appendix of this report includes the complete text of section 1170.45.

Although the statute does not specify the types of criminal cases to be analyzed, for the 2003 report the Research and Planning unit of the Administrative Office of the Courts analyzed the disposition of felony cases. The data used in the analysis are from 2000, the last year for which complete annual data are available from the California Department of Justice (DOJ). Throughout this report, the combined term *race/ethnicity* and the phrase race or ethnicity are employed to correlate with U.S. Census Bureau's categorizations.

SUMMARY OF THE FINDINGS

The critical question for any assessment of sentencing outcomes by race/ethnicity is the degree to which "similarly situated" offenders receive dissimilar sentences on the basis of race or ethnicity. In other words, to properly assess the impact of race and ethnicity in sentencing studies, it is imperative that one control for any factors relevant to sentencing decisions (e.g., type of offense, prior record) to ensure that "like" defendants are being compared to one another. For example, one would expect that a defendant convicted of a more serious felony would receive a more severe sentence than would a defendant convicted of a less serious felony. Similarly, one would expect that a defendant with a serious prior record would receive a more severe sentence than would a defendant with no prior record who was convicted of the same crime.

The primary focus of the study was to analyze sentencing outcomes by defendants' race/ethnicity. Controlling for prior record and type of offense, which dictate very specific sentences mandated by California's sentencing laws, allowed the authors to ensure that no spurious effects would be attributed (or not) to the race or ethnicity when comparing sentencing outcomes for defendants who were convicted of similar offenses and had similar criminal histories.

When controlling for prior record and type of offense, the authors found no overall trends in either of the two types of sentencing outcomes (severity of sentence, type of sentence) related to defendants' race/ethnicity. For example, no single racial/ethnic group systematically received the most severe type of sentence. However, within each offense category (e.g., drug offenses) there were some statistically significant differences in the sentencing outcomes among the racial/ethnic groups. Hispanics, for example, were the most likely to receive prison sentences when arrested for felony-level drug offenses regardless of prior record. These differences are presented in further detail in the body of the report.

LIMITATIONS OF THE FINDINGS

The lack of data on sentence length and specific type of prior record limits the conclusions one can confidently make about any observed differences in sentencing related to race or ethnicity. More detailed information in these categories would enable control for a wider array of factors and thus a more precise comparison of sentencing outcomes for different racial and ethnic groups than is possible here. As a result, the findings contained in this report cannot be used on their own as an indication of bias or to identify the cause of differences in sentences within the California criminal justice system.

In addition, it is important to keep in mind that a sentencing outcome is the consequence of many intermediate and interdependent steps within the criminal justice system. Studies of sentencing outcomes cannot consider all the extremely complex issues that are dependent on a variety of factors external to the courts, such as federal policies (e.g., border interdictions), local law enforcement policies, and district attorney charging and plea practices. Under California's determinate sentencing law, sentencing itself is among the least discretionary stages in the adjudication of a criminal case.

An example that illustrates this important issue is the manner in which most felony cases reach disposition in the California trial courts. In California, only 5 percent of felony cases reach trial, and the majority of these are resolved by jury trial. This trial rate for felony cases varies by the type of offense (e.g., violent offense vs. drug offense) and from county to county because a variety of local factors influence decisions to try cases. Nevertheless, about 95 percent of felony cases statewide reach disposition before trial, mostly by plea agreements between defense counsel and the district attorney. The trial court judge still must review and approve many plea agreements made between defense counsel and the district attorney; however, the sentences for these cases are not determined exclusively by the judge. The findings in this report therefore reflect sentencing outcomes for felony cases that may not be based on the unilateral discretion of a trial court judge.

DATA INFORMATION AND LIMITATIONS

Source of Data

The Criminal Justice Statistics Center (CJSC) of the Department Of Justice is responsible for maintaining the Offender-Based Transaction Statistics (OBTS) report file, which tracks the processing of an individual offender from the point of entry into the criminal justice system to the point of exit. The data used for this study were obtained from the OBTS file.

Two major source documents are combined to make up the OBTS file: (1) fingerprint cards (FD249), which represent official arrests, and (2) *Disposition of Arrest and Court Action* (JUS 8715) forms, referred to in this report as “dispositions.” Approximately 1,200 agencies reported dispositions of adult felony arrests in 2000. Those agencies included law enforcement, prosecutor, and other court agencies in all 58 counties.

Limitations

CJSC highlighted the following limitations for the authors’ consideration when using its OBTS data file:

- OBTS data are based on the year of disposition regardless of when the felony arrest occurred and therefore may be reported a year or more after the actual arrest.
- The data do not represent the total number of adult felony arrests or the total number of dispositions during a given year. The Department Of Justice estimates that approximately 65 to 75 percent of total dispositions of adult felony arrests are reported annually statewide.
- Dispositions of adult felony arrests in state correctional institutions are excluded from county-level totals.
- In December 1998, the Santa Barbara County district attorney requested that the DOJ include a letter with the released Santa Barbara County data, reflecting the district attorney’s “long-standing and deep concerns about the accuracy of this [arrest and disposition] information” contained in the OBTS file.
- Despite the underreporting of dispositions, CJSC is confident that the arrest disposition data received generally describe statewide processing of adult felony arrestees.
- Comparisons of county and local data should be made with caution, since the level of reporting may vary between jurisdictions and from year to year.
- Only the final disposition of an arrest event is included in the OBTS file; intermediate dispositions, such as diversion programs, suspended proceedings, reopenings, retrials, and subsequent actions, are not included.
- OBTS data on state institutional commitments may vary from data compiled and reported by other state agencies because of differences in their data collection systems and criteria. For example, the California Department of Corrections (CDC) counts the defendants actually admitted to CDC institutions, even though a defendant may have been convicted and sentenced in two or more counties. CJSC counts each commitment as a separate disposition.

- If a person is arrested for multiple offenses, the OBTS file contains only the most serious offense based on the severity of possible punishment. If there are multiple court dispositions, the OBTS file contains only the most serious court disposition and the associated offense.
- The OBTS file indicates only the type of sentence (e.g., felony sentence, misdemeanor sentence, infraction) and a broad sentence classification (e.g., probation, jail, prison) for each conviction. There is no measure of sentence severity (e.g., length of prison sentence).
- Caution should be used when comparing conviction and nonconviction dispositions, since budget constraints necessitated the processing of conviction dispositions on the basis of priority.
- Information on prior records is incomplete since it is computed only for “new offenders”—those who had a first arrest after August 1982.
- Low counts for Los Angeles, Sacramento, San Bernardino, and Ventura counties are a result of technical difficulties.

OFFENDER PROFILE

The OBTS file for 2000 contains a total of 267,512 records; in other words, 267,512 adults arrested for felony-level offenses in calendar year 2000 or earlier received dispositions in calendar year 2000. Again, we emphasize that this number represents only about *65 percent* of the adult felony arrests that received dispositions in 2000. The appendix contains a brief description of the methodology used in this report.

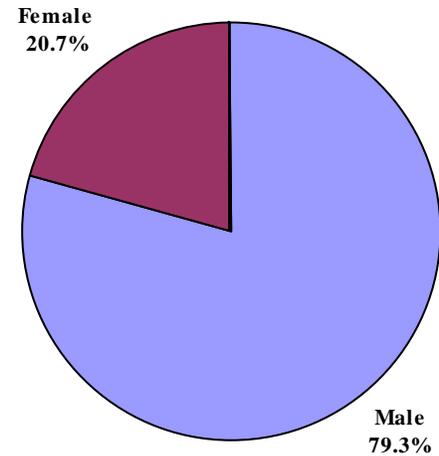
Demographics of Felony Defendants

Following is a demographic profile of the population of felony defendants who received dispositions in 2000 and are documented in the OBTS file.

Gender

Males made up 79.3 percent of the defendants reported to have received dispositions in 2000; females made up 20.7 percent (Figure 1). These proportions are consistent with those reported by other agencies, such as the Bureau of Justice Statistics of the U.S. Department of Justice for its biannual *Felony Sentences in State Courts* study. The proportion of felony defendants in the OBTS file who are male is high compared to the proportion of males in the general population of California.¹

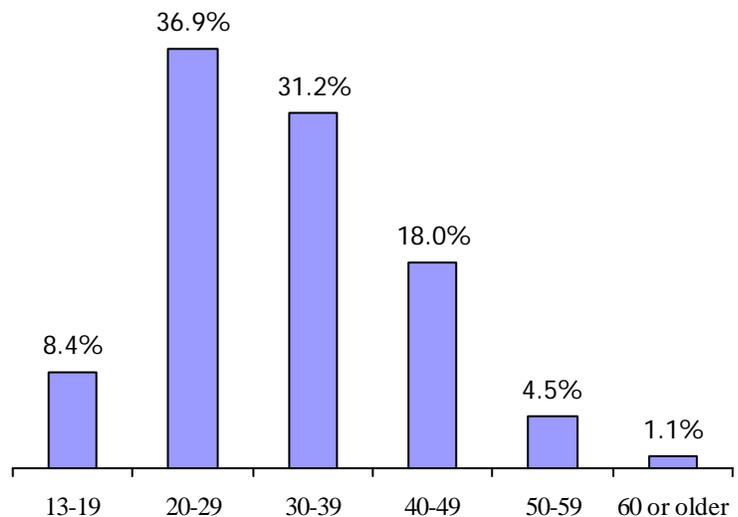
Figure 1: Gender



Age

The OBTS file contains the date of birth and date of disposition for each felony defendant. Values for “age” therefore represent age at the time of disposition. These values were classified into the following age categories used by the U.S. Department of Justice: ages 13–19, 20–29, 30–39, 40–49, 50–59, and 60 or older. The average age of a felony defendant at the time of sentencing was 32 years, with persons aged 20–29 (36.9 percent) and 30–39 (31.2 percent) being arrested most frequently. Figure 2 shows the complete distribution by age of all felony defendants in the OBTS file.

Figure 2: Age



Compared to the California population as a whole, persons aged 20–29 and 30–39 were arrested for felony-level offenses at a disproportionately high rate, whereas persons aged 50–59 and 60 or older were arrested at a disproportionately low rate. Persons aged 13–19 and 40–49 years were arrested at rates only slightly higher than indicated by their proportions in the general population.²

¹ U. S. Census Bureau, *Census 2000*, Summary File 1, Table p5.

² U.S. Census Bureau, *Census 2000*, Summary File 1, Table p13.

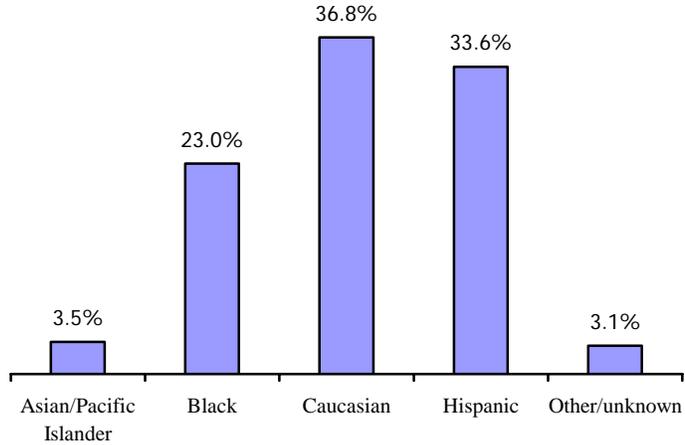
Race/Ethnicity

Racial/ethnic data on criminal defendants were reclassified according to the categories used by the Census Bureau. These categories are “Asian/Pacific Islander,” “Black,” “Caucasian,” and “Hispanic,” (Figure 3). Persons identified as “other” or “unknown” in the OBTS file were grouped into a single “other/unknown” category.

Caucasians made up the greatest percentage of reported felony defendants in 2000 (36.8 percent), followed by Hispanics (33.6 percent) and Blacks (23.0 percent). Asians/Pacific Islanders (3.5 percent) represent only a small proportion of the 2000 felony arrest population.

Blacks were arrested for felony-level offenses at rates significantly greater than their proportions in California’s population. Conversely, Asians/Pacific Islanders and Caucasians were arrested at low rates compared to their proportions in California’s population. Hispanics were arrested at rates comparable to their proportions in the state’s population.³

Figure 3: Race/ethnicity

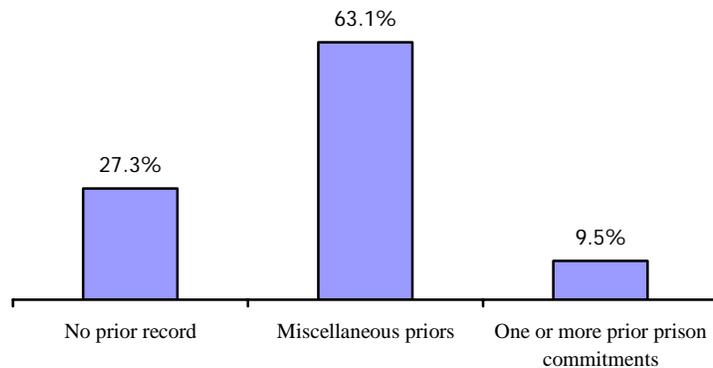


Prior Criminal Record and Type of Offense

Prior Criminal Record

The OBTS file contains a field that identifies the type of prior record, if any, for each felony arrestee. Information is limited to whether the arrestee has prior prison commitments, a miscellaneous prior record, or no prior record (Figure 4). A “miscellaneous” prior record pertains to a defendant with a criminal record that does not include a prior prison commitment.

Figure 4: Prior criminal record



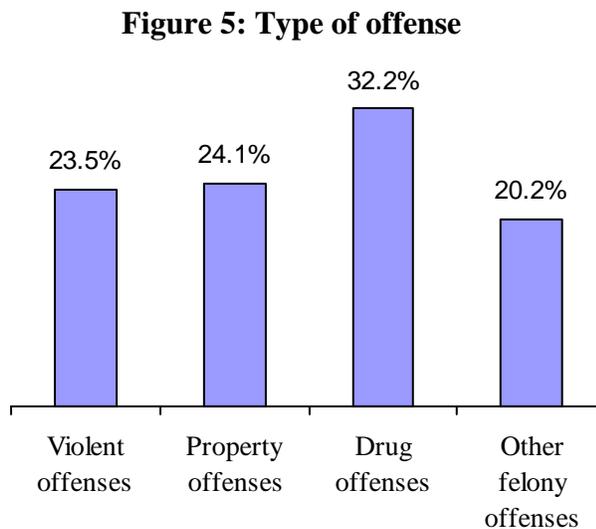
³ U.S. Census Bureau, *Census 2000*, Summary File 1, Matrices P1, P3, P4, P8, P9, P12, P13, P17, P18, P19, P20, P23, P27, P28, P33, PCT5, PCT8, PCT11, PCT15, H1, H3, H4, H5, H11, and H12.

Information was missing in the “prior record” field for a significant percentage of records (22.4 percent). Of the records containing valid information, almost two-thirds (63.1 percent) had miscellaneous prior records while almost 10 percent had one or more prior prison commitments. The remaining 27.3 percent of felony arrestees in the OBTS file had no identified prior records. In addition to these limitations, the reader is reminded that information on prior records is available only for those defendants who had a first arrest after August 1982.

Type of Offense

Offense data provided at the time of disposition in the OBTS file was reclassified into four major offense groupings: violent, property, drug, and other felony (Figure 5). These groupings were based in large part on the categories used by the Bureau of Justice Statistics of the U.S. Department of Justice for its biannual *Felony Sentences in State Courts* study. Some of the offenses included in the violent offense group are homicide, rape, robbery, and assault; offenses in the property offense group include burglary, theft, forgery, and arson; the drug offense group includes all felony-level drug offenses; and offenses in the “other” felony offense group include all weapons offenses and a range of other offenses such as DUI (driving under the influence of drugs or alcohol) and vandalism.

Almost one-third of the offenses at disposition were drug offenses, followed by property offenses (24.1 percent) and violent offenses (23.5 percent). The remaining offenses classified in the “other” felony offense group accounted for just over 20 percent of all offenses in the OBTS file.



Sentencing Information

The OBTS file provides two types of sentence information about the disposition of felony cases: a broad sentence categorization (e.g., prison, jail, probation) referred to hereafter in this report as “severity of sentence,” and the type of sentence (e.g., felony, misdemeanor) for each conviction. As the file does not provide data on sentence length, we ranked the two types of available sentencing information by severity in a general manner.

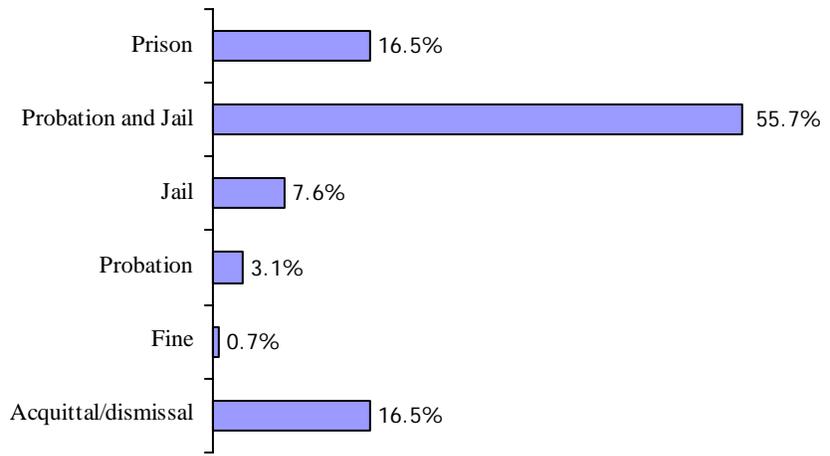
Severity of Sentence

For the severity-of-sentence variable, prison was ranked as the most severe and fine as the least severe (Figure 6). Defendants in the OBTS file whose sentence information was missing because they were acquitted or their cases were dismissed were classified in a new sentence category, “acquittal/dismissal.” To achieve sufficient sample sizes to make statistically sound comparisons, we used only the most

frequently occurring sentence categories in this study. The following sentence categories together represent less than 1 percent of the total and were excluded from analysis: “CRC [California Rehabilitation Center],” “CYA [California Youth Authority],” “Death,” “Prison term suspended,” and “Other.”

We calculated the percentages in Figure 6 without controlling for prior record or type of offense. Just over 16 percent of the defendants arrested for felony-level offenses received prison sentences, while 55.7 percent received probation and jail. The lesser sentences—jail, probation, and fine—were received in approximately 10 percent of the cases; while 16.5 percent of the defendants either were acquitted or had their cases dismissed.

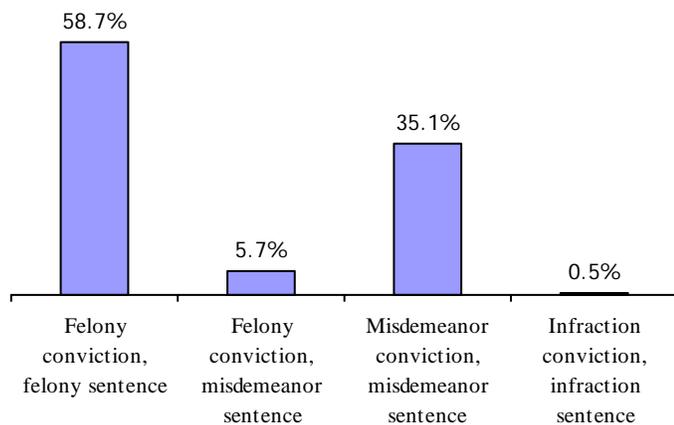
Figure 6: Severity of sentence



Type of Sentence

The OBTS file also contains a field, called “type of sentence” in this report, which provides a comparison between the level of conviction (felony, misdemeanor, or infraction) and the level of sentence (felony, misdemeanor, or infraction). Unlike the severity-of-sentence variable, which includes defendants, convicted of a crime and those who were acquitted or whose cases were dismissed or were acquitted, the type-of-sentence variable is limited to convictions only.

Figure 7: Type of sentence



An individual convicted as a felon can receive either a felony-level sentence or a misdemeanor-level sentence. Defendants convicted of misdemeanors receive misdemeanor-level sentences, while infraction convictions results in an infraction-level sentence. We ranked the available information from “felony conviction, felony sentence” to “infraction conviction, infraction sentence.” In the 2000 file, information was missing from this field in approximately 16 percent of the cases. Figure 7 shows the types of sentences for the remaining cases.

The majority of defendants arrested for a felony-level offense (58.7 percent) received felony convictions with felony-level sentences; less than 6 percent received felony convictions with a misdemeanor-level sentences. Thirty-five percent of the defendants arrested for felony-level offenses received misdemeanor convictions with misdemeanor-level sentences.

FINDINGS

Penal Code section 1170.45 mandates a report on the disposition of felony cases according to the race/ethnicity of defendants. Our analysis is based on the two kinds of sentencing information introduced in the preceding section: *severity* of sentence (e.g., prison, jail, probation) and *type* of sentence (e.g., felony sentence, misdemeanor sentence) handed down for each conviction.

For each of the two kinds of sentencing information there is a pair of analyses. The first, an analysis of sentencing outcomes by defendants' race/ethnicity without controlling for prior record or type of offense, is presented for illustrative purposes only.

The second type of analysis does control for prior record and type of offense, thereby ensuring that no spurious effects will be attributed to defendants race or ethnicity. These analyses are the primary focus of this report. By controlling for these important factors that dictate specific sentences mandated by California's sentencing laws, we could address the critical question for this mandated study, the degree to which "similarly situated" offenders receive dissimilar sentences on the basis of their race/ethnicity.

The appendix contains a brief description of the methodology used to determine whether the observed differences in sentencing based on the defendants' race/ethnicity are statistically significant. Owing in part to the large sample sizes, most of the analyses presented in this report contains statistically significant differences among racial/ethnic groups in sentencing outcomes. Because of this, all analyses are assumed to be statistically significant unless otherwise noted in the report.

Severity of Sentence

The OBTS file contains a field that provides a broad measure of sentence severity for defendants arrested for felonies. It is illustrated in Figure 6 on page 8 as "prison," "probation and jail," "jail," "probation," "fine," and "acquittal/dismissal." Nonprison sentences (intermediate sanctions) are the greatest challenge to the empirical study of sentencing. Prison sentences are measured in a uniform metric (i.e., months), and it is logical to assume that longer sentences are more severe than shorter sentences. Even without information on length of sentence, for purposes of this study a prison sentence can easily be ranked as the most severe type of sentence among those contained in the OBTS file. Intermediate sanctions are harder to compare. The difficulty in comparison emerges because there is no single continuum along which all nonprison sentences can be arrayed or ranked. Moreover, intermediate sanctions are often packaged (e.g., in the "probation and jail" category) to meet different combinations of offender risk and need, adding to the difficulty in ranking the sentence categories in order of severity. To address these issues, the authors grouped all intermediate sanctions—probation and jail, or jail, probation, and fine—into a new sentence category called "intermediate sentence." The categories for sentence severity used for all the analyses in this section are, in decreasing order of severity, prison, intermediate sentence, and acquittal/dismissal.

Not Controlling for Prior Record or Type of Offense

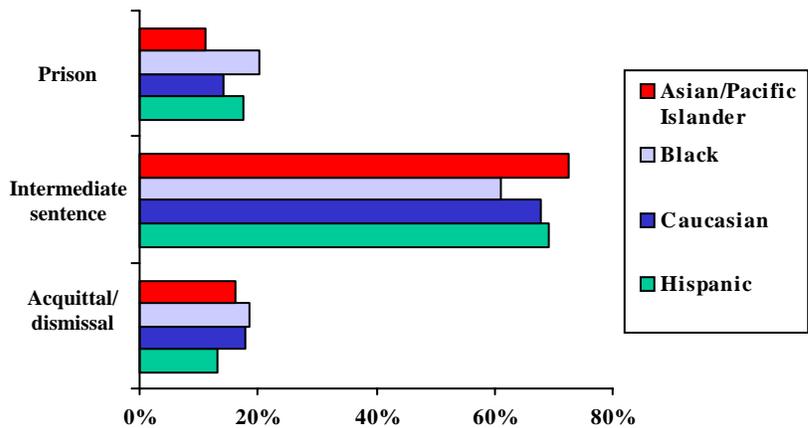
Figure 8 illustrates the proportion of defendants from each racial/ethnic group who received any one of the three severity-of-sentence outcomes with the analysis not controlling for prior record and type of offense. Black defendants arrested for felony-level offenses were the most likely to receive prison sentences among the racial/ethnic groups, while Asian/Pacific Islanders were the least likely to receive prison sentences. Hispanics were slightly more likely than were Caucasians and Asian/Pacific Islanders to receive prison sentences when arrested for felony-level offences.

Conversely, Asian Pacific Islanders were the most likely and Blacks the least likely to receive intermediate sentences (i.e., probation and jail, or jail, probation, and fine). Caucasian and Hispanic defendants received some type of intermediate sentence at similar rates.

Finally, Blacks and Caucasians were acquitted or had their cases dismissed at a higher rate than were Asian/Pacific Islanders or

Hispanics. Hispanic defendants arrested for felony-level offenses were the least likely among the racial/ethnic groups to be acquitted or have their cases dismissed. In addition, Caucasians and Asians/Pacific Islanders were more likely to be acquitted or have their cases dismissed than to receive a prison sentence, while Blacks and Hispanics were more likely to receive prison sentences than to be acquitted or have their cases dismissed.

Figure 8: Severity of sentence



The preceding analysis is presented for illustrative purposes and is not the primary focus of this report. Controlling for prior record and type of offense, which dictate specific sentences mandated by California’s sentencing laws, ensures that no spurious effects will be attributed (or not) to the defendants’ race or ethnicity in comparison of sentencing outcomes for defendants convicted of similar offenses and having similar criminal histories.

Controlling for Prior Record and Type of Offense

The primary focus of this study was to analyze severity of sentence by defendants’ race/ethnicity while controlling for prior record and the type of offense. As already stated, to properly assess the impact of race and ethnicity in sentencing studies, it was imperative that we control for these factors, which dictate specific sentences mandated by California’s sentencing laws.

Unlike the preceding analysis, made without controlling for prior record or type of offense, the analysis of sentence severity by race/ethnicity controlled for these factors showed no overall

trends. For example, no single racial/ethnic group systematically received the most severe sentence (i.e., prison) regardless of the defendants' prior records or the type of offense. However, Hispanics were generally more likely to receive prison sentences and less likely to be acquitted or have their case dismissed than defendants from the other racial/ethnic groups. In addition, within each offense category (e.g., drug offenses) there were some statistically significant differences in the severity of sentences received among the racial/ethnic groups.

As a reminder, in the analysis not controlling for prior record and type of offense (see Figure 8 on page 11), Black defendants were significantly more likely than defendants from the other racial/ethnic groups to receive prison sentences. In many of the later analyses controlling for prior record and type of offense, however, Black defendants are shown to be no more likely to receive prison sentences than defendants from the other racial/ethnic groups. This apparently inconsistent result can be attributed to Blacks being less likely than defendants from the other racial/ethnic groups to have no prior records and more likely to have serious prior records, according to the data in the OBTS file. This example illustrates the importance of controlling for all factors relevant to sentencing decision making in properly assessing the impact of race/ethnicity on sentencing outcomes.

Figure 9: Severity of sentence by violent offense, controlling for prior record

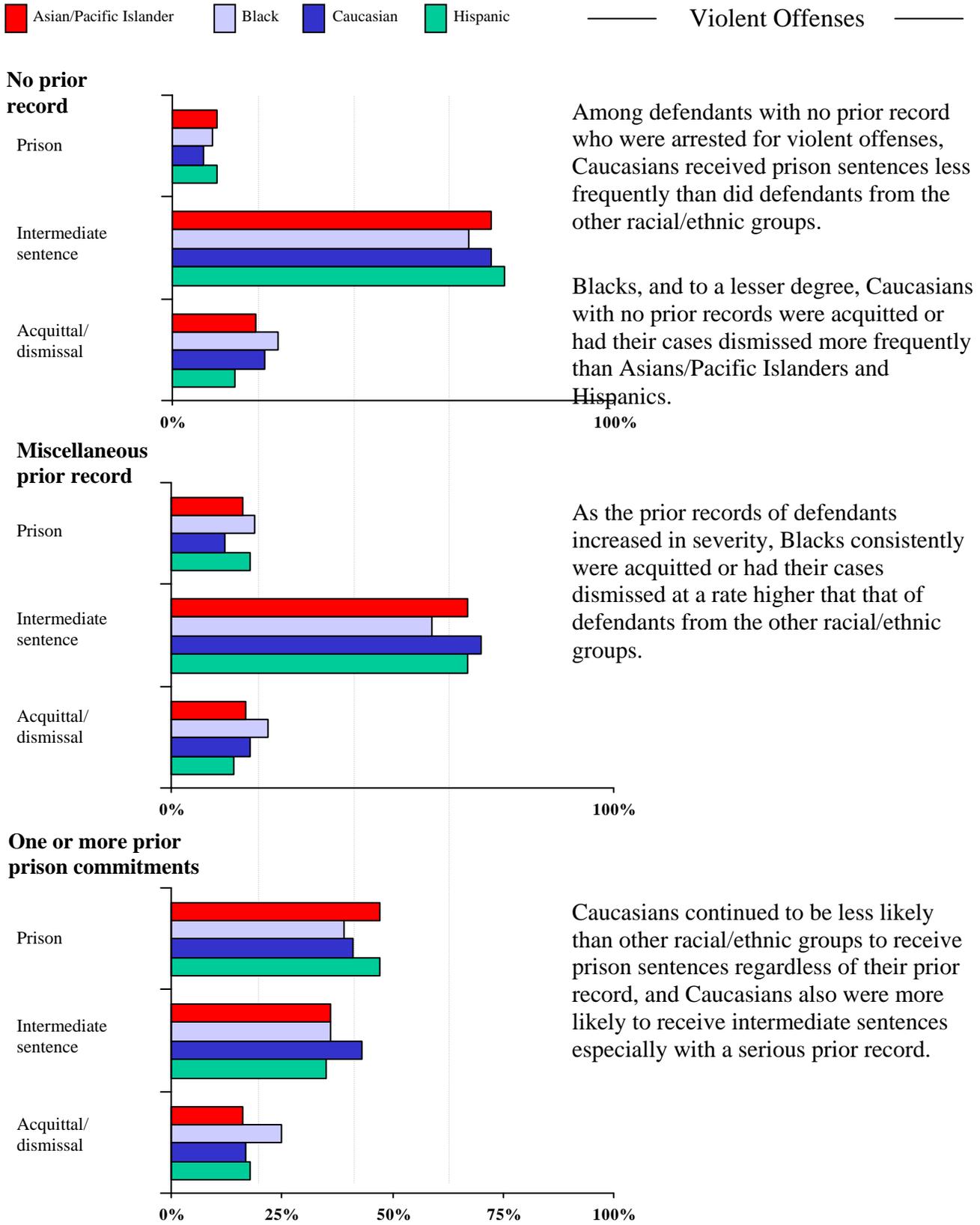


Figure 10: Severity of sentence by property offense, controlling for prior record

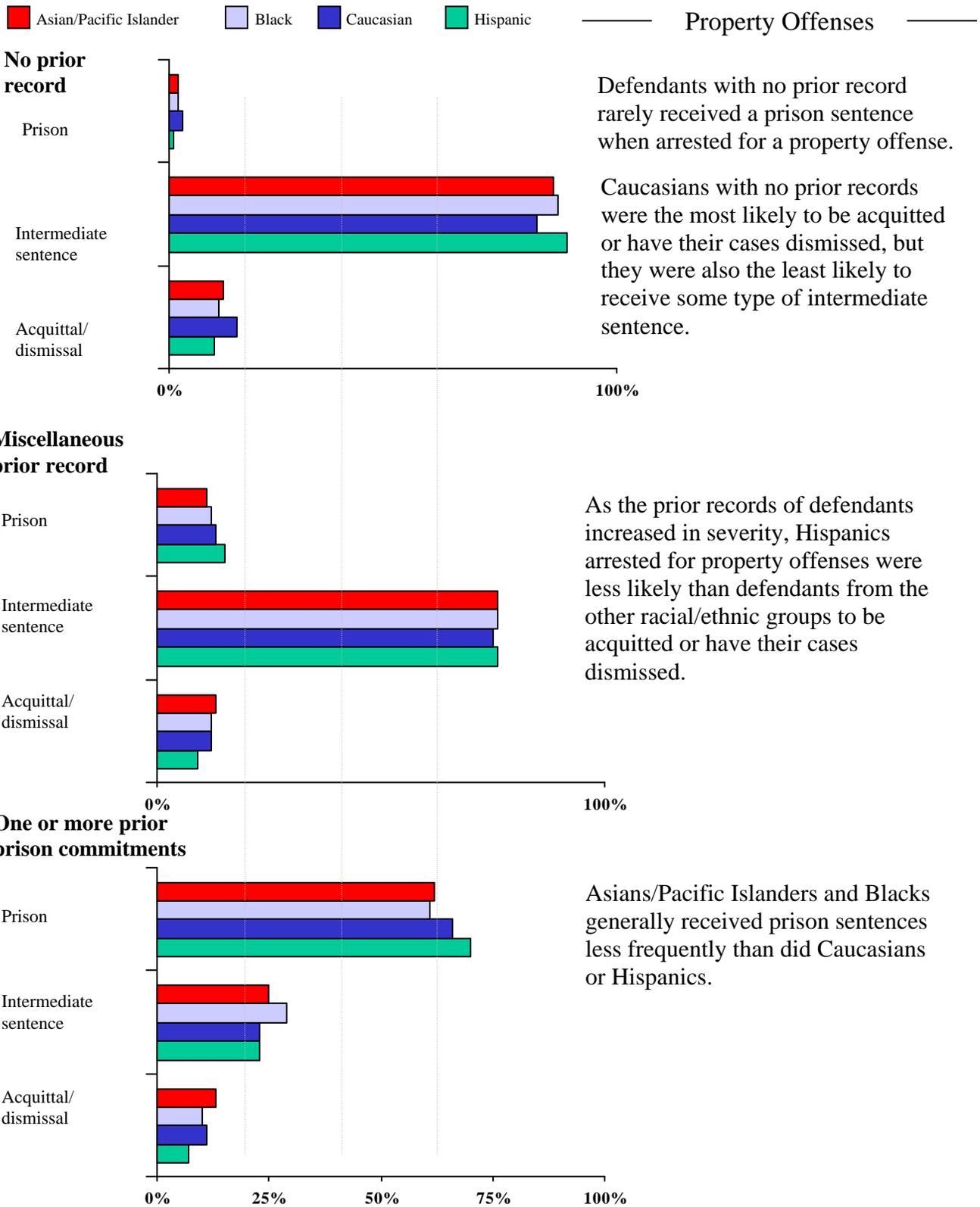
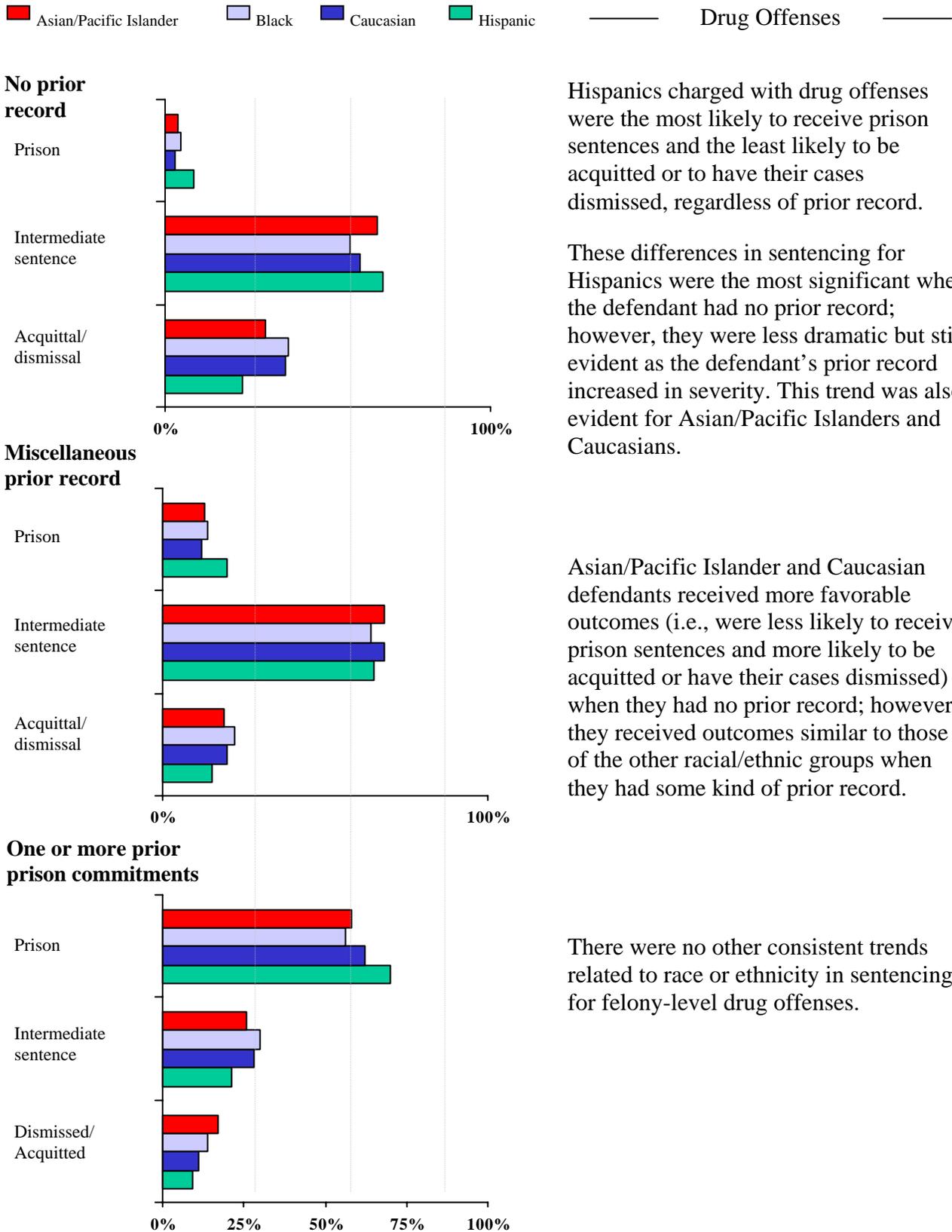


Figure 11: Severity of sentence by drug offense, controlling for prior record



Hispanics charged with drug offenses were the most likely to receive prison sentences and the least likely to be acquitted or to have their cases dismissed, regardless of prior record.

These differences in sentencing for Hispanics were the most significant when the defendant had no prior record; however, they were less dramatic but still evident as the defendant's prior record increased in severity. This trend was also evident for Asian/Pacific Islanders and Caucasians.

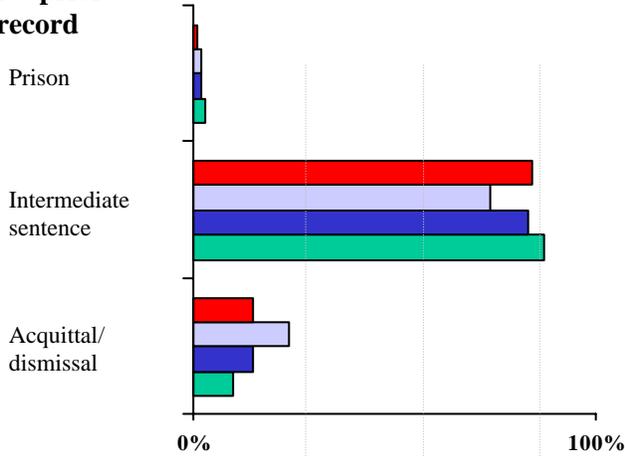
Asian/Pacific Islander and Caucasian defendants received more favorable outcomes (i.e., were less likely to receive prison sentences and more likely to be acquitted or have their cases dismissed) when they had no prior record; however they received outcomes similar to those of the other racial/ethnic groups when they had some kind of prior record.

There were no other consistent trends related to race or ethnicity in sentencing for felony-level drug offenses.

Figure 12: Severity of sentence by other felony offense, controlling for prior record

■ Asian/Pacific Islander
 ■ Black
 ■ Caucasian
 ■ Hispanic
 — Other Felony Offenses —

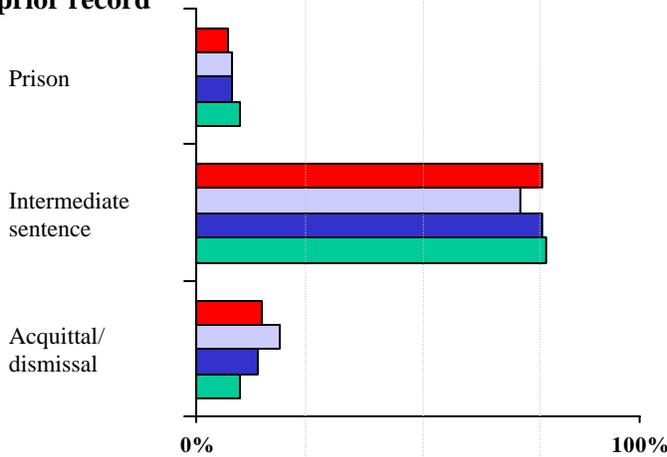
No prior record



As with drug offenses, Hispanics arrested for “other” felony offenses were the most likely to receive prison sentences and the least likely to have their cases end in dismissal or acquittal, regardless of prior record.

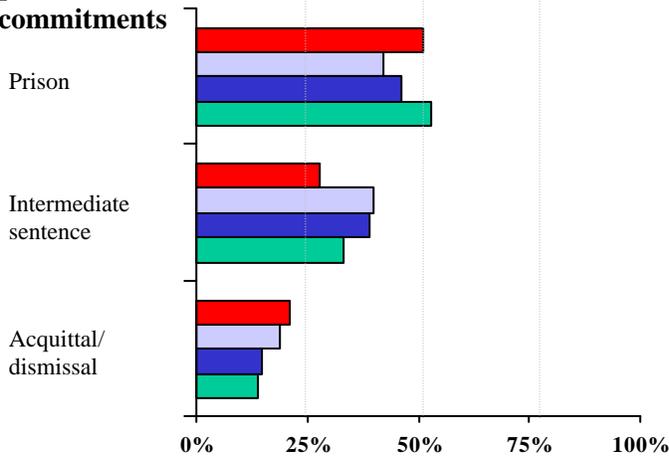
Blacks with no prior records were significantly more likely than were defendants from the other racial/ethnic groups to have their cases end in dismissal or acquittal.

Miscellaneous prior record



However, as in previous analyses, these differences diminished as the defendants’ prior records increased in severity.

One or more prior prison commitments



Type of Sentence

The OBTS file provides a broad measure of sentence types, as shown in Figure 7 on page 8: “felony conviction, felony sentence”; “felony conviction, misdemeanor sentence”; “misdemeanor conviction, misdemeanor sentence”; and “infraction conviction, infraction sentence.” Owing to the infrequency of the sentence type “infraction conviction, infraction sentence” (0.5 percent), defendants convicted of infractions are omitted from all analyses of type of sentence.

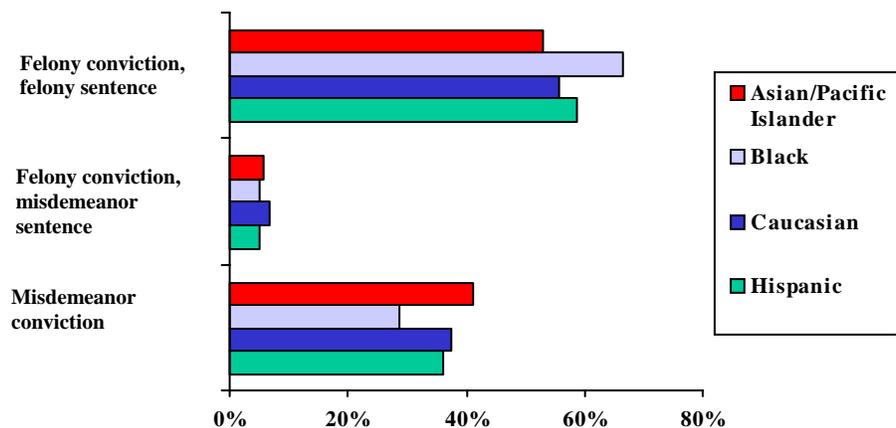
The difficulty with analyzing the OBTS file by type of sentence is that, without information about sentence length, we are forced to assume that a “felony conviction, felony sentence” is the most severe type of sentence and that a “misdemeanor conviction, misdemeanor sentence” is the least severe.

Not Controlling for Prior Record or Type of Offense

Figure 13 illustrates the distribution by racial/ethnic group for the three most frequent types of sentences in the OBTS file: “felony conviction, felony sentence”; “felony conviction, misdemeanor sentence”; and “misdemeanor conviction, misdemeanor sentence.”

Based on our analysis of type of sentence by racial/ethnic group, Blacks received the most severe type of outcome (a felony conviction with a felony-level sentence) more often than did the other racial/ethnic groups. Hispanics convicted of felonies received felony-level sentences at a slightly higher rate than did Caucasians or Asians/Pacific Islanders convicted of felonies.

Figure 13: Type of sentence



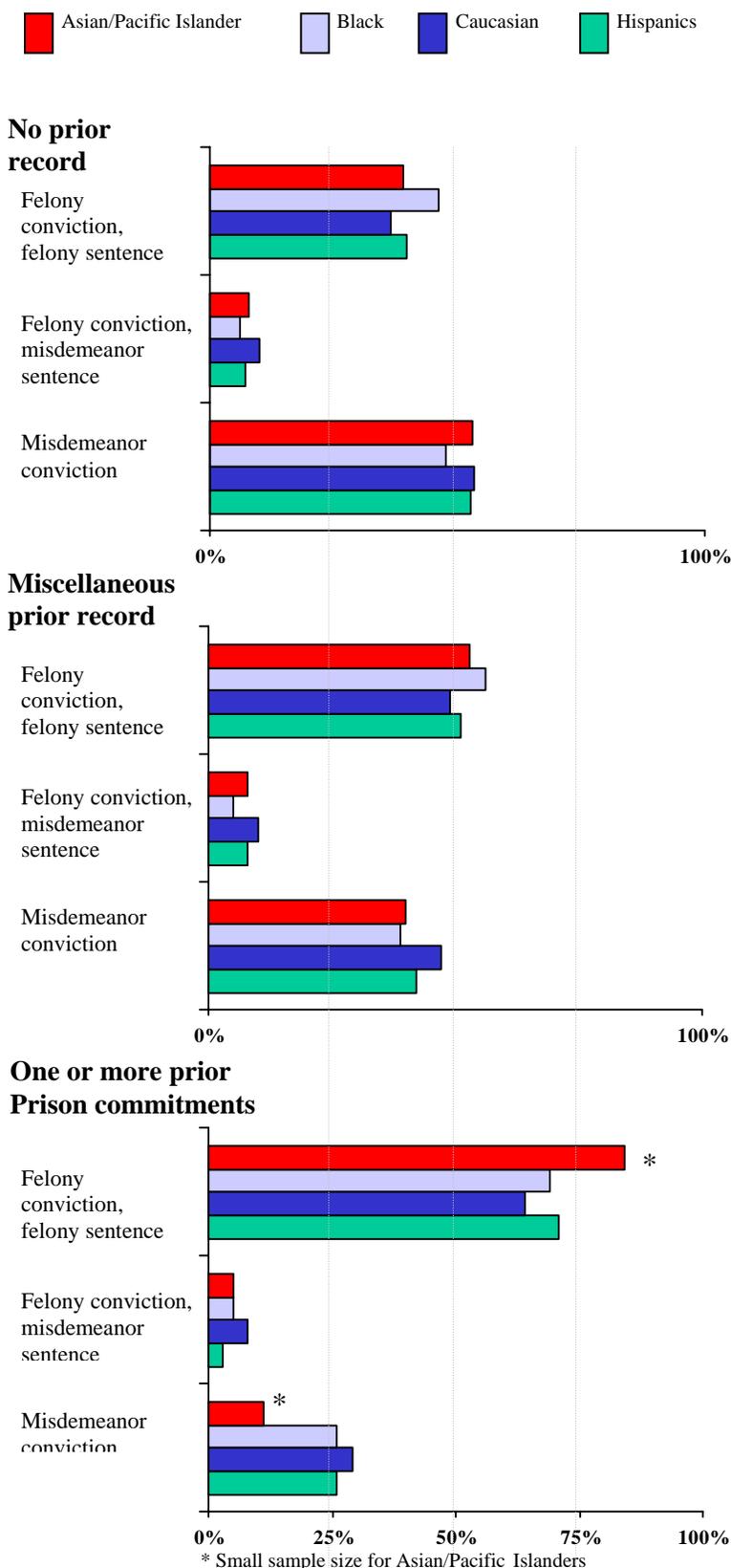
Asians/Pacific Islanders convicted of felonies were the least likely to receive a felony-level sentence. In addition, Asians/Pacific Islanders received the least severe type of sentence, “misdemeanor conviction, misdemeanor sentence,” more often than defendants from the other racial/ethnic groups.

Controlling for Prior Record and Type of Offense

California's sentencing laws mandate specific sentences based on prior record and the type of offense. Controlling for prior record and type of offense enabled us to compare "similarly situated" defendants. It also ensured that these two factors would not have extraneous effects on the analysis.

No overall trends emerged within the analysis controlling for prior record and type of offense. In each offense group a different racial/ethnic group received the most severe sentence, controlling for prior record and type of offense. This is not what would be expected based on the two-way analysis of type of sentence by ethnic group, in which Blacks received "felony conviction, felony sentence" more often than other racial/ethnic groups. This finding is consistent with the one described earlier in this report for the other type of sentencing information—severity of sentence (i.e., prison, intermediate sentence, acquittal/dismissal).

Figure 14: Type of sentence by violent offense, controlling for prior record



Blacks with no prior records were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence” when arrested for violent offenses.

Caucasians convicted of violent felonies with no prior record were the least likely to receive a felony-level sentence.

However, this pattern diminished somewhat when defendants had either miscellaneous prior records or one or more prior prison commitments.

Blacks were still the most likely and Caucasians the least likely to receive a “felony conviction, felony sentence” when they had miscellaneous prior records.

Among defendants with one or more prior prison commitments, Blacks were not the most likely to receive a “felony conviction, felony sentence” or the least likely to receive a “misdemeanor conviction, misdemeanor sentence.”

Caucasians still were the least likely to receive a “felony conviction, felony sentence” with one or more prior prison commitments.

Figure 15: Type of sentence by property offense, controlling for prior record



Blacks convicted of a property offense with no prior record were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence.”

Among defendants with no prior record, Asians/Pacific Islanders and Hispanics were less likely than both Blacks and Caucasians to receive a “felony conviction, felony sentence” and more likely to receive a “misdemeanor conviction, misdemeanor sentence.”

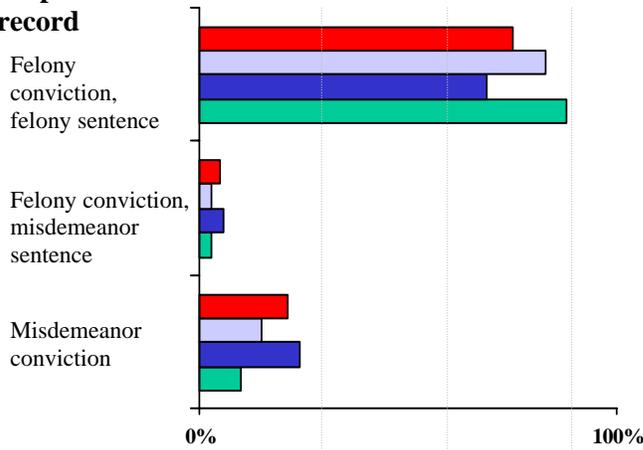
As the defendants’ prior records become more serious, the differences in sentencing outcomes among the racial/ethnic groups diminish.

For defendants convicted of property offenses who have had one or more prior prison commitments, there are no statistically significant differences in the type of sentence received among racial/ethnic groups.

Figure 16: Type of sentence by drug offense, controlling for prior record

■ Asian/Pacific Islander
 ■ Black
 ■ Caucasian
 ■ Hispanic
 ——— Drug Offenses ———

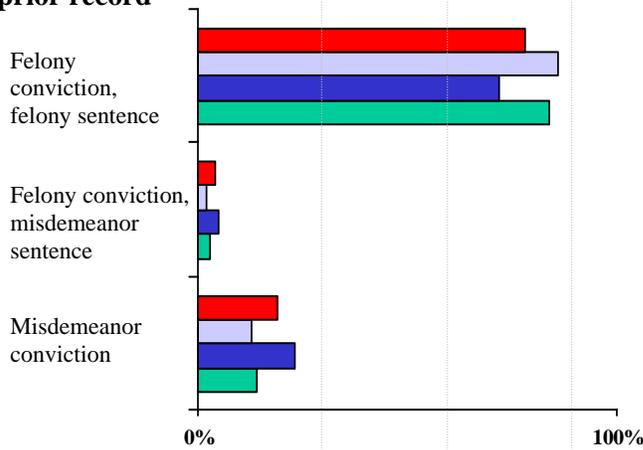
No prior record



The overwhelming majority of individuals convicted of drug offenses received a “felony conviction, felony sentence” regardless of prior record or race/ethnicity.

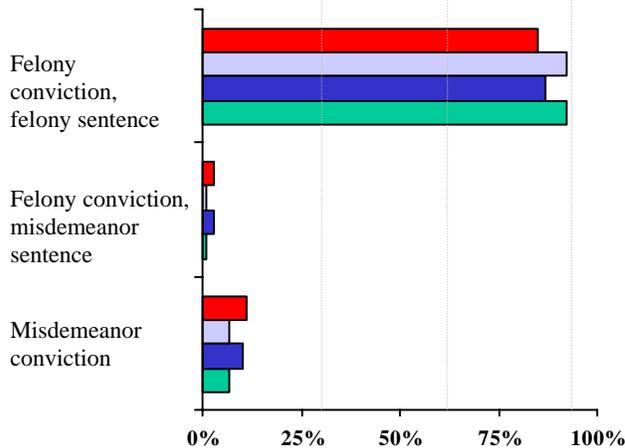
Hispanics were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence.”

Miscellaneous prior record



Among those with miscellaneous prior records, Caucasians were still the least likely to receive “felony conviction, felony sentence” and the most likely to receive a “misdemeanor conviction, misdemeanor sentence”.

One or more prior prison commitments



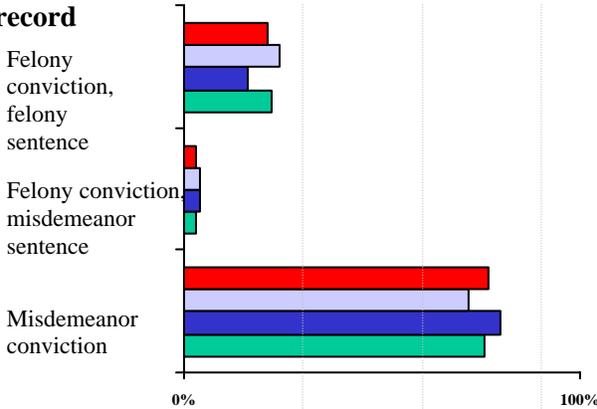
Blacks and Hispanics with either a miscellaneous prior record or one or more prior prison commitments were more likely than Asians/Pacific Islanders or Caucasians to receive a “felony conviction, felony sentence” and less likely to receive either of the two less severe types of sentences (“felony conviction, misdemeanor sentence” or “misdemeanor conviction, misdemeanor sentence”).

Figure 17: Type of sentence by other felony offense, controlling for prior record



Other Felony Offenses

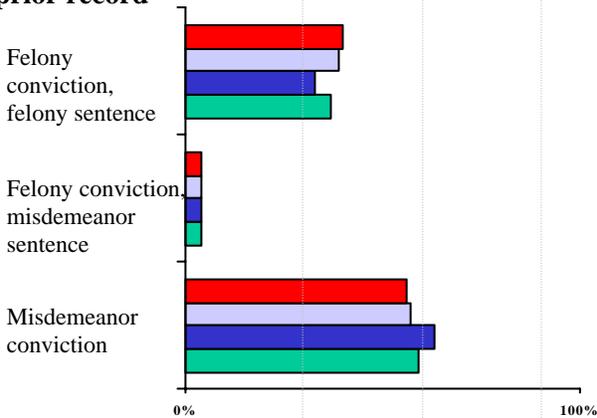
No prior record



The majority of individuals convicted of “other” felony offenses who had no prior records or miscellaneous prior records received a “misdemeanor conviction, misdemeanor sentence” regardless of racial or ethnic group.

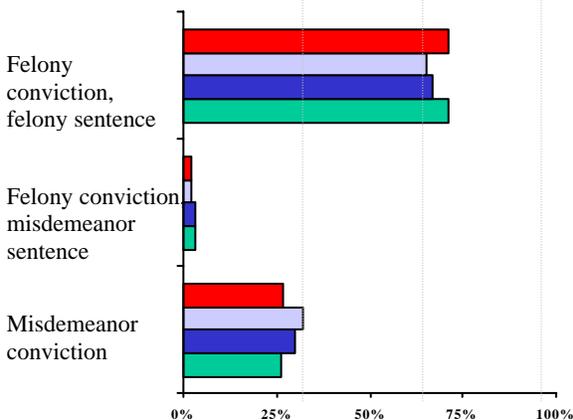
Among these individuals, Caucasians were the least likely to receive a “felony conviction, felony sentence” and the most likely to receive a “misdemeanor conviction, misdemeanor sentence.”

Miscellaneous prior record



Blacks with miscellaneous prior records received a “felony conviction, felony sentence” more often than did defendants from the other racial/ethnic groups.

One or more prior prison commitments



For defendants convicted of “other” felony offenses who had one or more prior prison commitments, there are no statistically significant differences in the type of sentence received among racial/ethnic groups.

CONCLUSIONS

The lack of data on sentence lengths and on specific type of prior records limits the conclusions one can confidently make about any observed differences in sentencing based on race or ethnicity. Such data would allow for analysis controlling for a wider array of factors and a more precise comparison of sentencing outcomes for different racial and ethnic groups. As a result, the findings contained in this report cannot be used on their own as an indication of bias, or the lack thereof, in the California criminal justice system. The findings only summarize the broad sentencing information that is available in the OBTS file maintained by the California Department of Justice. Because of these limitations and those highlighted by CJSC, the reader should exercise caution in attempting to identify causes for the observed differences in sentencing among racial/ethnic groups.

It is important to keep in mind that, a sentencing outcome is the consequence of many intermediate and interdependent steps within the criminal justice system. Studies of sentencing outcomes cannot consider all the extremely complex issues that are dependent on a variety of factors external to the courts, such as federal policies (e.g., border interdictions), local policing activities, and district attorney practices.

With the limitations of the data currently available, it is not possible to identify whether sentencing differences are attributable to one cause or another in the criminal justice system. This report is intended only to be descriptive. Additional research is needed to help explain some of the findings.

Major Findings of this Study

When controlling for prior record and type of offense, the authors found no overall trends in either of the two types of sentencing outcomes (severity of sentence, type of sentence) related to the defendants' race/ethnicity. For example, no single racial/ethnic group systematically received the most severe type of sentence. However, within each offense category there were some statistically significant differences in the sentencing outcomes among the racial/ethnic groups.

The following sections summarize other major findings of this study.

Severity of Sentence

Controlling for Prior record and Type of Offense

There were no consistent, overall trends in the analysis of sentence severity by race/ethnicity when controlling for prior record and type of offense. For example, no single racial/ethnic group systematically received the most severe sentence (i.e., prison) regardless of the defendants' prior records or the type of offense. Nevertheless, Hispanics were generally more likely to receive the prison sentence and less likely to be acquitted or have their case dismissed than defendants from the other racial/ethnic groups. Within each offense category there were some statistically significant differences in the severity of sentences among the racial/ethnic groups. However, many of these differences diminished as the prior records of defendants increased in severity.

- ❖ Among defendants with no prior records who were arrested for a violent offense, Caucasians received prison sentences less frequently than did defendants from the other racial/ethnic groups—see page 13.
- ❖ Blacks and, to a lesser degree, Caucasians with no prior records who were charged with violent felonies were acquitted or had their cases dismissed more frequently than Asians/Pacific Islanders and Hispanics—see page 13.
- ❖ As the defendants' prior record increased in severity, Blacks consistently were acquitted or had their cases dismissed at a rate higher than that of defendants from the other racial/ethnic groups—see page 13.
- ❖ Although Hispanics arrested for a violent felony with no prior records were the least likely to be acquitted or have their case dismissed, this was not the case for Hispanics with serious prior records—see page 13.
- ❖ For defendants arrested for property crimes, Caucasians with no prior records were the most likely to be acquitted or have their cases dismissed, but they were also the least likely to receive some type of intermediate sentence—see page 14.
- ❖ As defendants' prior records increased in severity, Hispanics arrested for property offenses were less likely than were defendants from the other racial/ethnic groups to be acquitted or have their case dismissed—see page 14.
- ❖ Regardless of prior record, Hispanics charged with drug offenses were the most likely to receive a prison sentence and the least likely to be acquitted or have their cases dismissed or be acquitted—see page 15.
- ❖ Asians/Pacific Islanders and Caucasians received more favorable outcomes (i.e., were less likely to receive prison sentences and more likely to be acquitted or have their cases dismissed) when they had no prior records, but they received outcomes similar to those of the other racial/ethnic groups when they had some kind of prior record—see page 15.

- ❖ As with drug offenses, Hispanics arrested for “other” felony offenses were the most likely to receive prison sentences and the least likely to be acquitted or have their cases dismissed regardless of prior record—see page 16.
- ❖ Blacks arrested for “other” felony offenses with no prior records were significantly more likely than were defendants from the other racial/ethnic groups to be acquitted or have their cases dismissed. However, as in previous analyses, these differences diminished as defendants’ prior records increased in severity—see page 16.

Type of Sentence

Controlling for Prior Record and Type of Offense

As in the other analyses controlling for prior record and type of offense, within each offense category there were statistically significant differences among racial/ethnic groups.

- ❖ Among those with no prior records who were convicted of violent offenses, Blacks were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence”—see page 19.
- ❖ Caucasians convicted of violent offenses with no prior record were the least likely to receive felony-level sentences when convicted of a felony—see page 19.
- ❖ However, this pattern diminished somewhat when defendants had either miscellaneous prior records or one or more prior prison commitments—see page 19.
- ❖ As was the case with violent offenses, Blacks convicted of property offenses who had no prior records were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence”—see page 20.
- ❖ As the defendants’ prior records become more serious, there are relatively no differences in the sentencing outcomes for property offenses among the racial/ethnic groups—see page 20.
- ❖ In fact, for defendants with one or more prior prison commitments who were convicted of property offenses, there are no statistically significant differences in the type of sentence received among racial/ethnic groups—see page 20.
- ❖ The overwhelming majority of individuals convicted of drug offenses received a “felony conviction, felony sentence” regardless of prior record or race/ethnicity—see page 21.
- ❖ However, Caucasians with no prior records were the least likely to receive a “felony conviction, felony sentence” (the most severe type of sentence) and the most likely to receive a “misdemeanor conviction, misdemeanor sentence” (the least severe type of

sentence). Conversely, Hispanics were the most likely to receive a “felony conviction, felony sentence” and the least likely to receive a “misdemeanor conviction, misdemeanor sentence”—see page 21.

- ❖ Blacks and Hispanics with either miscellaneous prior records or one or more prior prison commitments were more likely than Asians/Pacific Islanders or Caucasians to receive a “felony conviction, felony sentence” and less likely to receive either of the two less severe types of sentencing outcomes (“felony conviction, misdemeanor sentence” or “misdemeanor conviction, misdemeanor sentence”)—see page 21.
- ❖ The majority of individuals who were convicted of “other” felony offenses with no prior records or with miscellaneous prior records received a “misdemeanor conviction, misdemeanor sentence” regardless of racial or ethnic group—see page 22.
- ❖ For defendants with one or more prior prison commitments who were convicted of “other” felony offenses, there are no statistically significant differences in the type of sentence received among racial/ethnic groups— see page 22.

Appendix

TEXT OF PENAL CODE SECTION 1170.45

Collection of Data and Report to the Legislature Relating to Disposition According to Race and Ethnicity of Defendant.

The Judicial Council shall collect data on criminal cases statewide relating to the disposition of those cases according to the race and ethnicity of the defendant, and report annually thereon to the Legislature beginning no later than January 1, 1999. It is the intent of the Legislature to appropriate funds to the Judicial Council for this purpose.

METHODOLOGY

The Chi-square test was the statistical method used in this report to analyze the sentencing outcomes of felony cases by defendants' race/ethnicity. The Chi-square test measures whether any relationship exists between a pair of categorical variables. It is the most appropriate test to use when both variables are measured on a nominal scale—that is, when the variables have no inherent order or ranking to the variables. Even though the two sentencing variables (sentence classification, type of sentence) are described in a ranked order by severity, this order was essentially a construct of the authors of this report and was not inherent in the variables to a degree that would warrant a different statistical test.

Differences in sentencing among racial/ethnic groups identified as statistically significant in this report were based on a Chi-square test at $p \leq .05$ level of significance. In other words, the reader can be at least 95 percent (0.95 , or $1.0 - p$) confident that the differences observed in this report are real and cannot be attributed to chance alone.