



Report to the Legislature Pursuant to Penal Code Section 1170.45

2006 REPORT ON THE DISPOSITION
OF CRIMINAL CASES ACCORDING TO
THE RACE AND ETHNICITY OF THE
DEFENDANT

**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**

2006

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

This report has been prepared and submitted to the California Legislature pursuant to Penal Code 1170.45.

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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.

The Administrative Office of the Courts' Office of Court Research analyzed felony cases for this study, although the statute does not specify the types of criminal cases to be used. The data used in the analysis are from 2004, 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 categorizations.¹

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 to control for any factors relevant to sentencing decisions (e.g., type of offense or 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 consistent patterns in either of 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 offense category (e.g., drug offenses or property

¹ In 1997 the Office of Management and Budget announced a revised standard for federal data on race and ethnicity. The revision established a minimum of five categories: American Indian or Alaskan Native, Asian; black or African American, Native Hawaiian or other Pacific Islander (PI), and white. See U.S. Census Bureau, Population Division, Special Population Staff, www.census.gov/population/www/socdemo/race/racefactcb.html. Due to the small percentage of American Indian defendants in the data set used for this study, this group is included only in descriptive analyses. In addition, a combined category, Asian/Pacific Islander, is used in the analysis to refer to defendants of Asian or Native Hawaiian/other Pacific Islander ethnicity.

offenses) there were some statistically significant differences in the sentencing outcomes among the racial/ethnic groups. Hispanics, for example, were the least likely to have their case dismissed or receive an acquittal for felony-level drug offenses, regardless of prior record. These findings 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 take into account all factors 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 stage in the adjudication of a criminal case.

An example that illustrates this important point is the manner in which most felony cases reach disposition in the California trial courts. In California, less than 2 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, more than 98 percent of felony cases statewide reach disposition before trial, mostly by plea agreements between defense counsel and the district attorney (DA). 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 are rarely, if ever, based on the unilateral discretion of a trial court judge.

Data Source 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.”

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.
- 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.

Offender Profile

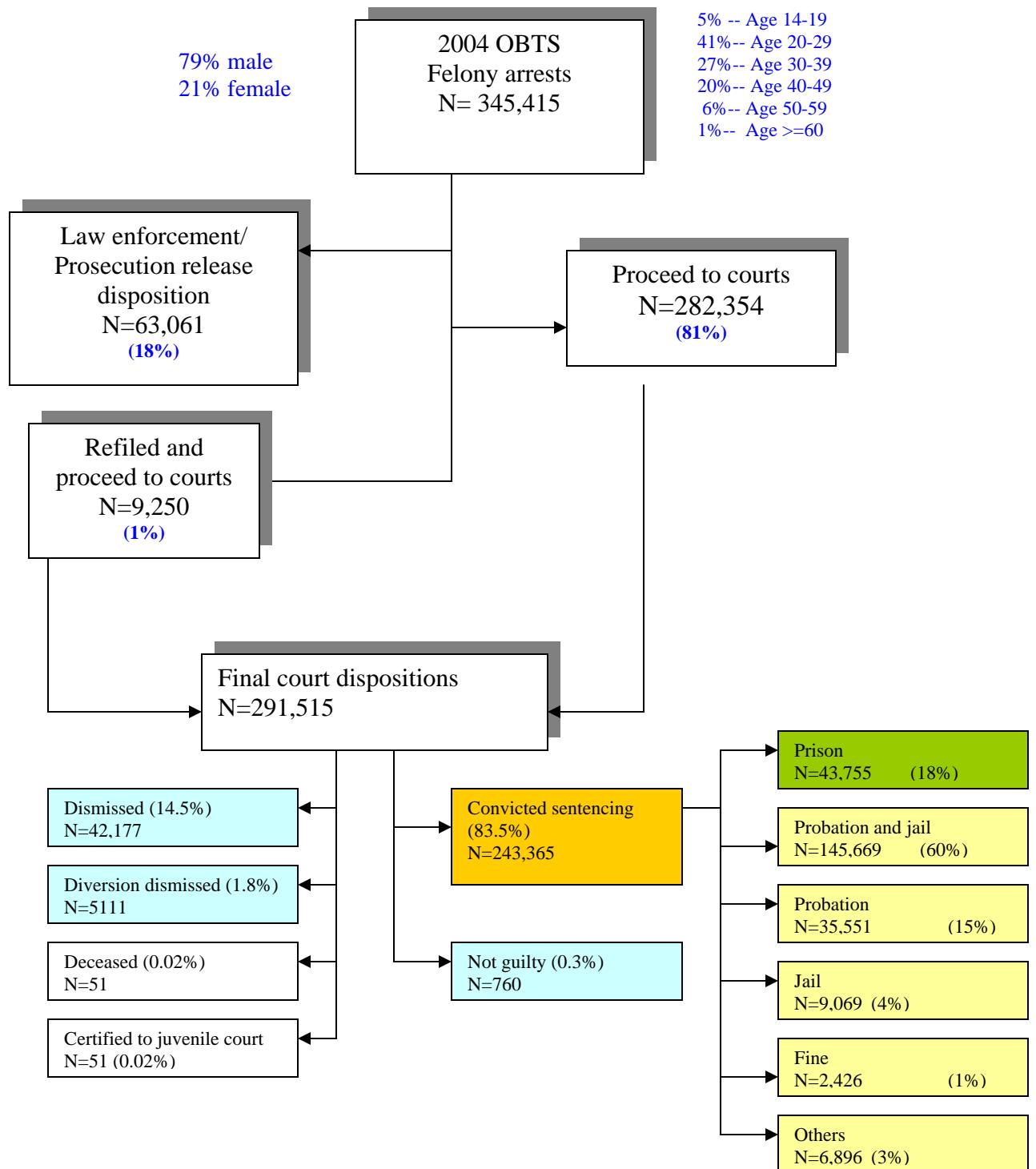
The OBTS file for 2004 contains a total of 345,415 records of arrest for felony-level offenses in calendar year 2004 or earlier that were disposed in calendar year 2004. From this data, the number of arrests has increased by 10 percent from 2003 to 2004. However, the proportion of dispositions has stayed relatively constant with small changes. Diagram 1 on the following page shows the number of dispositions at distinct case processing stages for the 345,415 OBTS felony arrests made in 2004.

Looking at the OBTS dispositions, regardless of race/ethnicity, court dispositions made up 81 percent of all dispositions, while dispositions by law enforcement agencies or the DA took up 18 percent. In addition to this, 1 percent of cases were refiled after the initial felony arrest and sent back to the courts. Dispositions by law enforcement include cases that were dropped for reasons such as insufficient evidence. The breakdown by race/ethnicity for this disposition type is found in table 1 below.

Table 1: Offenders Released by Law Enforcement or District Attorney		
Race / Ethnicity	Number Released	Percentage of Releases
Hispanic	22,822	36.2
White	19,217	30.5
Black	16,949	26.9
Asian/PI	1,770	2.8
Other/Unknown	2,303	3.6
Total	63,061	100.0

Diagram 1:

Numbers of dispositions at distinct case processing stages in OBTs



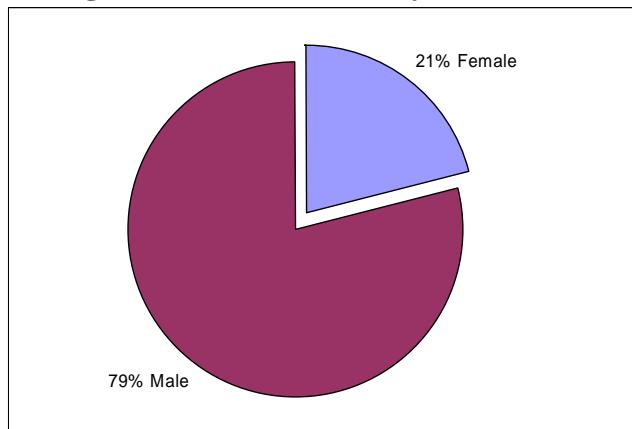
Demographics of Felony Defendants

Following is a demographic profile of the population of felony defendants who received dispositions in 2004 and are documented in the OBTS file.

Gender

Males made up 79 percent of the defendants reported to have received dispositions in 2004 females made up 21 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.²

Figure 1: Gender of Felony Defendants



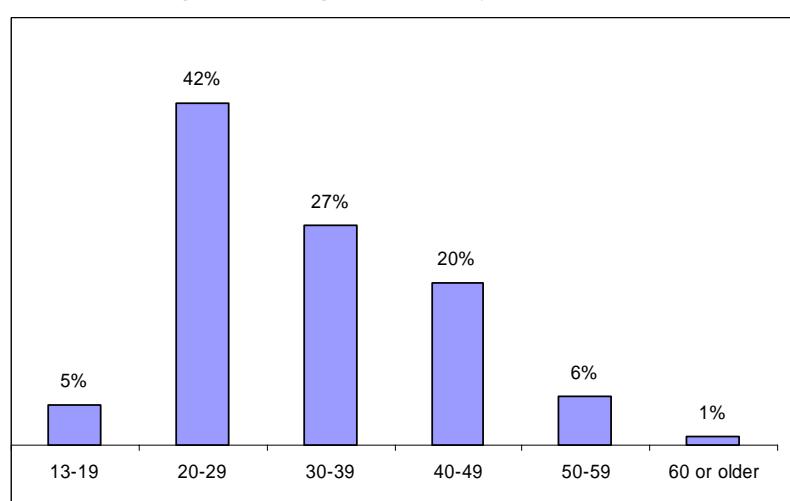
Age

The OBTS file contains the date of birth and date of disposition for each felony defendant. Values for “age” therefore were calculated as 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 (42 percent) and 30–39 (27 percent) being arrested most frequently. Figure 2 shows the complete distribution by age of all felony defendants in the OBTS file.

Figure 2: Age of Felony Defendants



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.³

² U. S. Census Bureau, *Census 2000*, Summary File 1, Table P5.

³ 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 identified as Asian/Pacific Islander (PI), Black, White, and Hispanic, (figure 3). Persons identified as other or unknown in the OBTS file were grouped into a single “other/unknown” category.

Hispanics made up the greatest percentage of reported felony defendants in 2004 (38 percent), followed by whites (37 percent) and blacks (22 percent). Asians/Pacific Islanders (3 percent) represent only a small proportion of the 2004 felony arrest population.

Blacks were arrested for felony-level offenses at rates significantly greater than their proportion in California’s population. Conversely, Asians/Pacific Islanders and whites 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.⁴

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.

Information was missing in the “prior record” field for a significant percentage of records (13 percent). For the records

Figure 3: Race/ethnicity

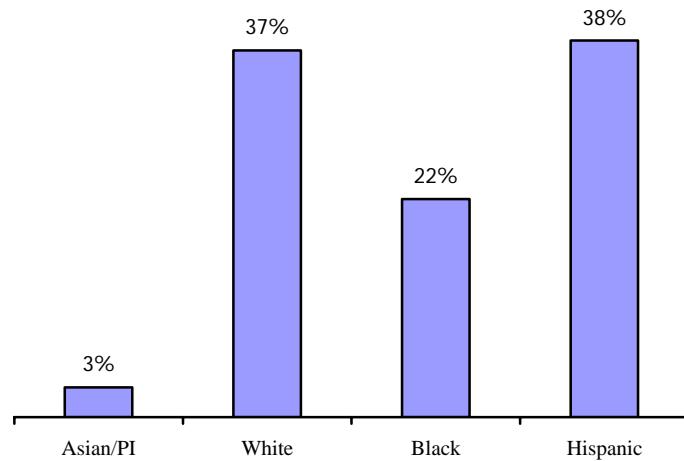
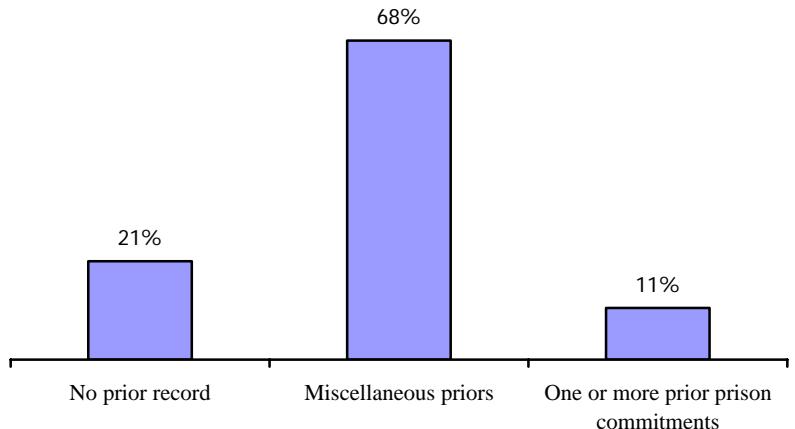


Figure 4: Prior criminal record



⁴ 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.

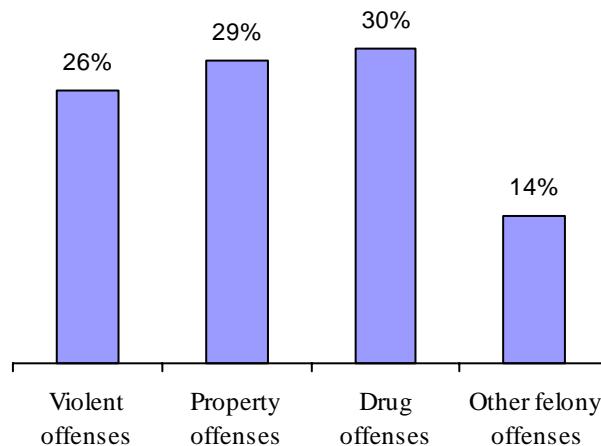
containing valid information, about two-thirds (68 percent) had miscellaneous prior records while almost 11 percent had one or more prior prison commitments. The remaining 21 percent of felony arrestees in the OBTS file had no identified prior records. In addition to these limitations, the reader is 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 were 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.

Thirty percent of the offenses at disposition were drug offenses, followed closely by property offenses (29 percent) and violent offenses (26 percent). The remaining offenses, classified as other felony offenses, accounted for 14 percent of all offenses in the OBTS file.

Figure 5: Type of offense



Sentencing Information

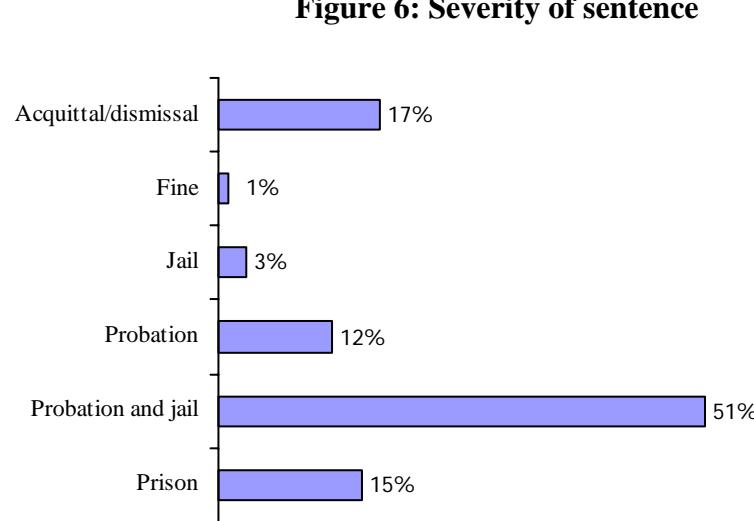
The OBTS file provides two types of sentence information about the disposition of felony cases: a broad sentence categorization (e.g., prison, jail, probation) referred to hereafter in this report as “severity of sentence,” and the type of sentence (e.g., felony, misdemeanor) for each conviction. As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

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

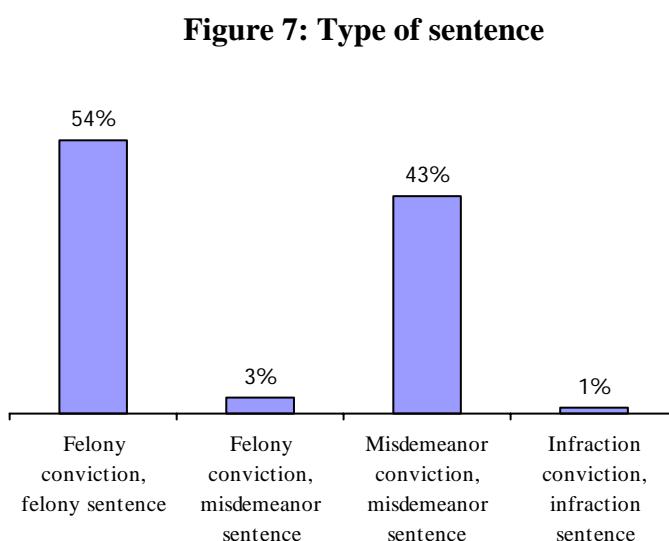
frequently occurring sentence categories in this study. The following sentence categories together represent less than 1 percent of the total and were excluded from analysis: “CRC [California Rehabilitation Center],” “CYA [California Youth Authority],” “Death,” “Prison term suspended,” and “Other.”

The percentages in figure 6 were calculated without controlling for prior record or type of offense. Fifteen percent of the defendants arrested for felony-level offenses received prison sentences, while 51 percent received probation and jail. The lesser sentences—jail, probation, and fine—were received in approximately 16 percent of the cases; while 17 percent of the defendants were either acquitted or had their cases dismissed.



Type of Sentence

The OBTS file also contains a field, called “type of sentence” 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.



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 result in infraction-level sentences. This report ranks the available information from “felony conviction, felony sentence” to “infraction conviction, infraction sentence.” In the 2004 file, information was missing from this field in approximately 8 percent of the cases. Figure 7 shows the types of sentences for the remaining cases.

More than half of defendants arrested for a felony-level offense (54 percent) received felony convictions with felony-level sentences; 3 percent received felony convictions with misdemeanor-level sentences. Forty-three 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 analysis controls for prior record and type of offense, thereby ensuring that a correlation between severity of offense and severity of sentence is not mistakenly interpreted as a correlation between severity of sentence and a defendant’s race or ethnicity. These analyses are the primary focus of this report. Controlling for the important factors that dictate specific sentences mandated by California’s sentencing laws, we can begin to 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.

Owing in part to the large sample sizes, most of the analyses presented in this report show statistically significant differences among racial/ethnic groups in sentencing outcomes. Because of this, all of the findings discussed in this report should be considered statistically significant unless otherwise noted.

Severity of Sentence

Nonprison sentences (intermediate sanctions) pose 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

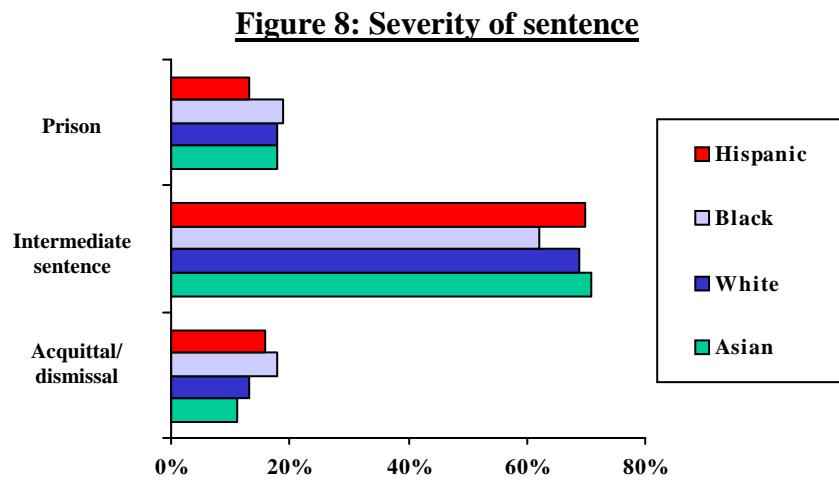
are often packaged (e.g., in the “probation and jail” category) to meet different combinations of offender risk and need, adding to the difficulty in ranking the sentence categories in order of severity. To address these issues, all intermediate sanctions shown in figure 6—probation and jail, or jail, probation, and fine—are grouped 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.

Overall Results 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 without 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. Hispanics were the least likely to receive prison sentences.

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



Finally, blacks and Hispanics were acquitted or had their cases dismissed at a higher rate than did Asian/Pacific Islanders or whites. Asian 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, whites and Asian/Pacific Islanders were more likely to receive a prison sentence than be acquitted or have their cases dismissed, while Hispanics were more likely to be acquitted or have their cases dismissed than to receive prison sentences.

The preceding analysis is presented for illustrative purposes and is not the primary focus of this report. Only by controlling for prior record and types of offense, which dictate specific sentences mandated by California’s sentencing laws, is it possible to ensure that sentencing outcomes are not spuriously attributed to the defendants’ race or ethnicity. These statistical controls allow for the comparison of sentencing outcomes for defendants convicted of similar offenses and having similar criminal histories.

Overall Results Controlling for Prior Record and Type of Offense

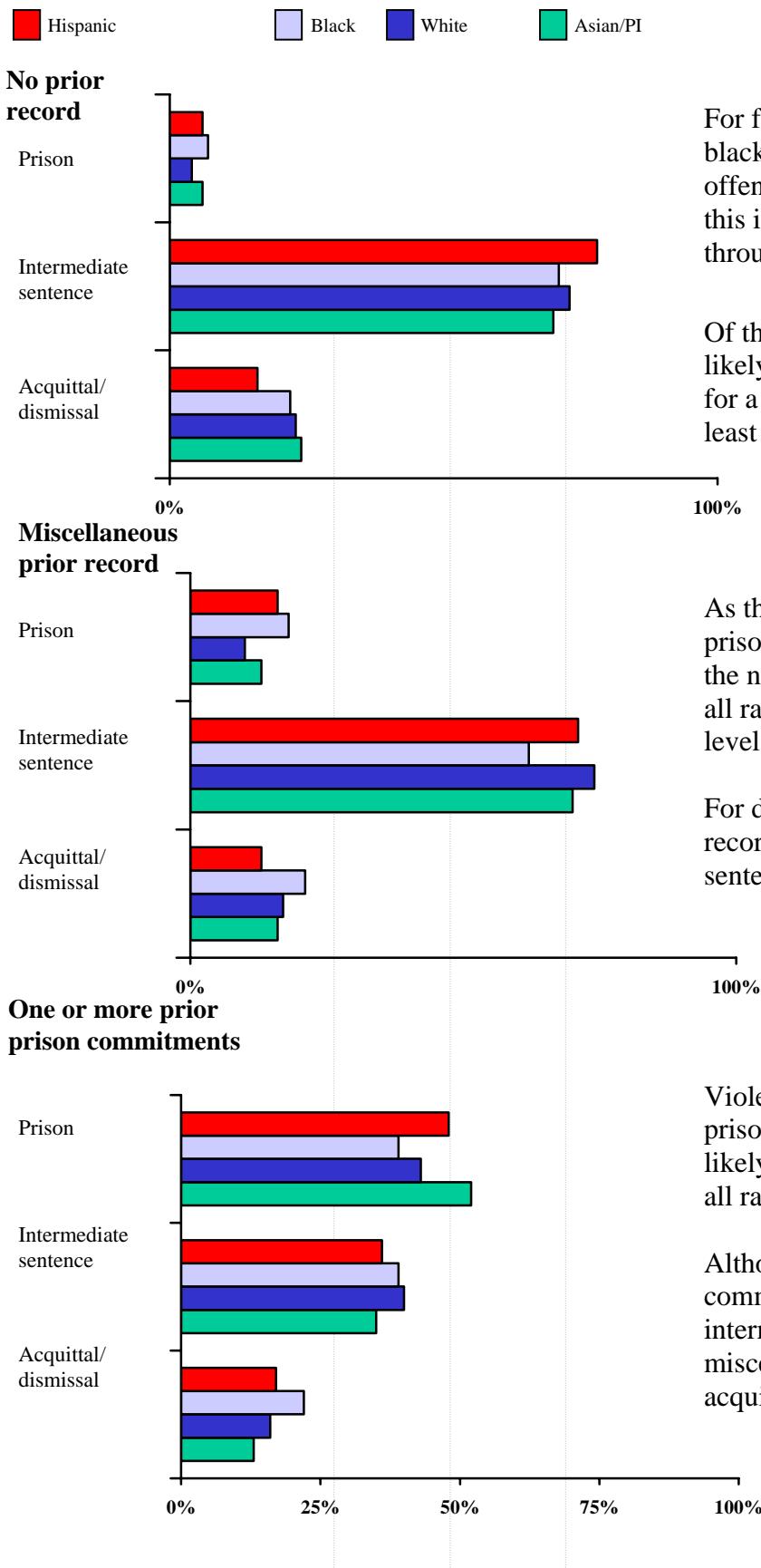
The primary focus of this report is to analyze severity of sentence by defendants’ race/ethnicity while controlling for prior record and the type of offense. As already stated, to properly assess the impact of race and ethnicity in sentencing studies, it is imperative to control for these factors, which 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 controlling for these factors showed that no single racial/ethnic group systematically received the most severe sentence. Whites and Asians/Pacific Islanders were generally more likely to receive prison sentences than 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), 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, the effects on sentencing outcomes of race become more complex. For example, among defendants with no prior record who were arrested for violent offenses, black defendants were the most likely to receive a prison sentence compared to the other racial/ethnic groups while whites were the least likely to receive a prison sentence. As the prior records of defendants increased in severity, however, blacks in the sample were often acquitted or had their cases dismissed more frequently than defendants from other racial/ethnic groups. Among those defendants with one or more prior prison commitments, blacks were less likely than other racial/ethnic groups to receive prison sentences and more likely to receive an acquittal or a dismissal.

These examples illustrate 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 – Violent Offenses, Controlling for Prior Record



For first offenses, the data suggest that blacks receive prison sentences for violent offences more often than other groups, but this is a relatively uncommon occurrence throughout the data.

Of this group, Hispanics were the most likely to receive an intermediate sentence for a first violent offense and were the least likely to be acquitted.

As the number of prior offenses increased, prison sentences occurred more often and the number of acquittals decreased across all racial/ethnic groups arrested for felony-level offenses.

For defendants with miscellaneous prior records, whites received intermediate sentences more often than other groups.

Violent offenders with one or more prior prison commitments were much more likely to be given prison sentences across all racial/ethnic groups.

Although those offenders with prior prison commitments were less likely to receive intermediate sentences than offenders with miscellaneous prior records, the rate of acquittals remained roughly the same.

Figure 10: Severity of Sentence – Property Offenses, Controlling for Prior Record

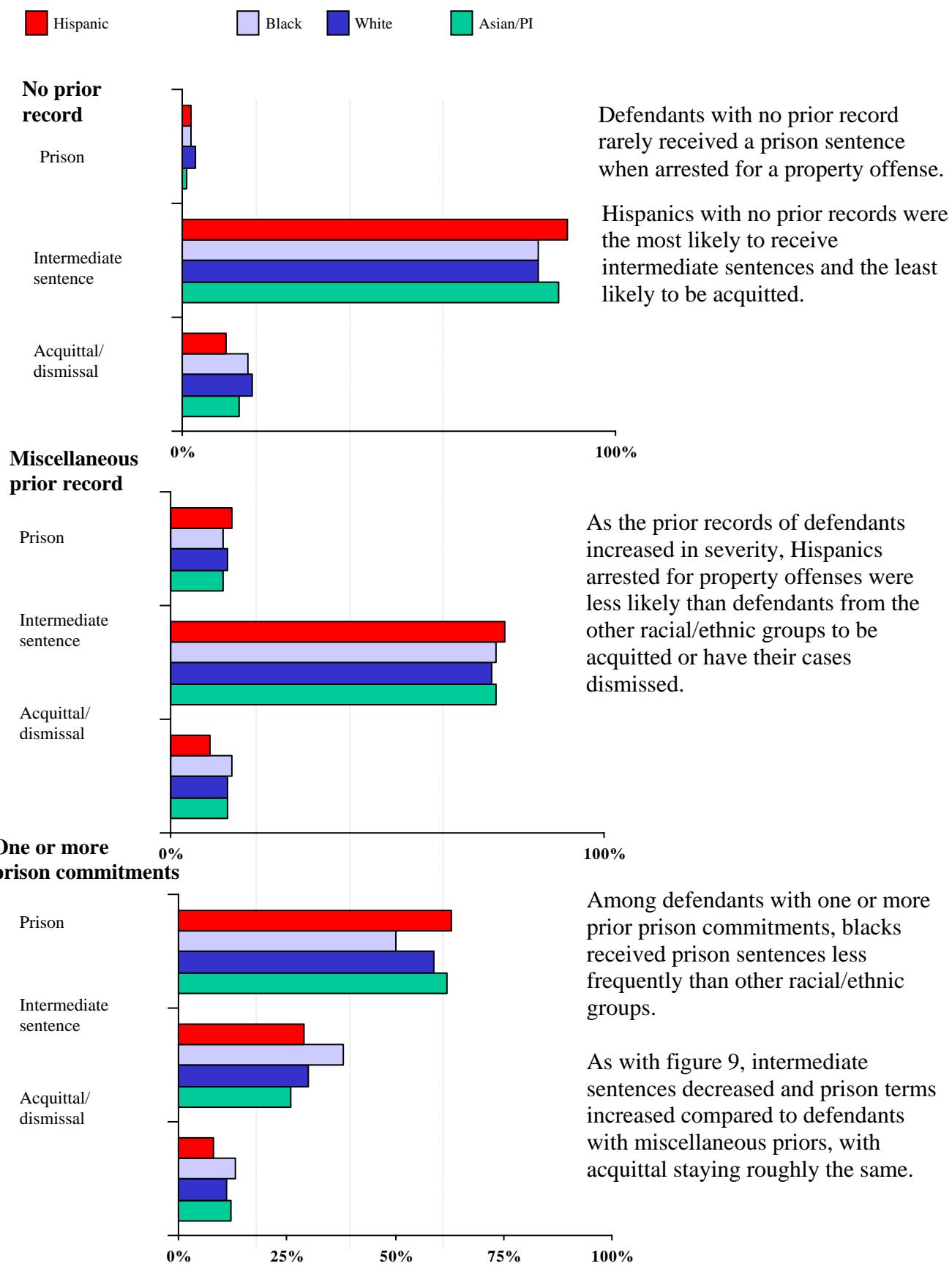
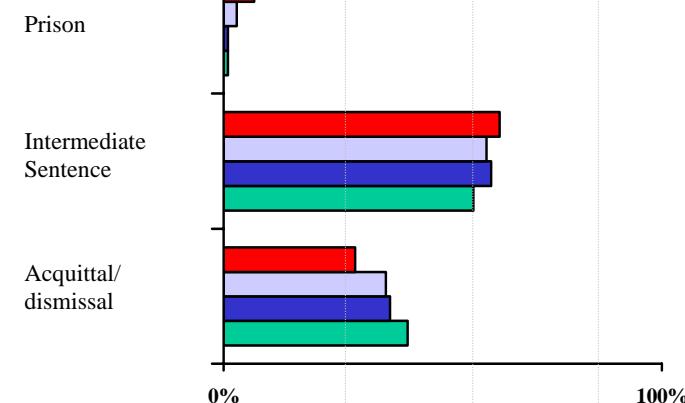


Figure 11: Severity of Sentence – Drug Offenses, Controlling for Prior Record

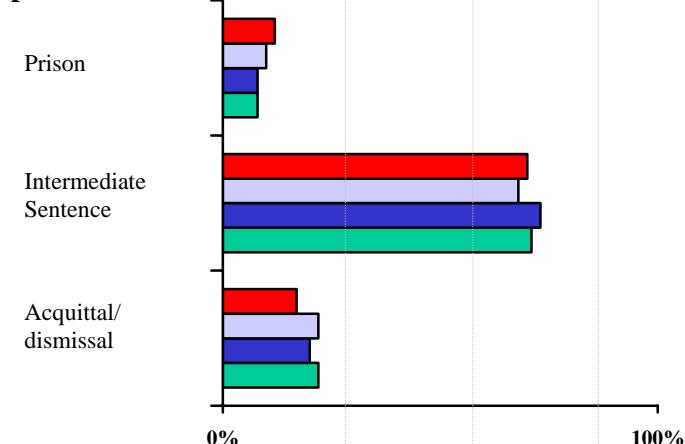
Hispanic Black White Asian/PI

No prior record



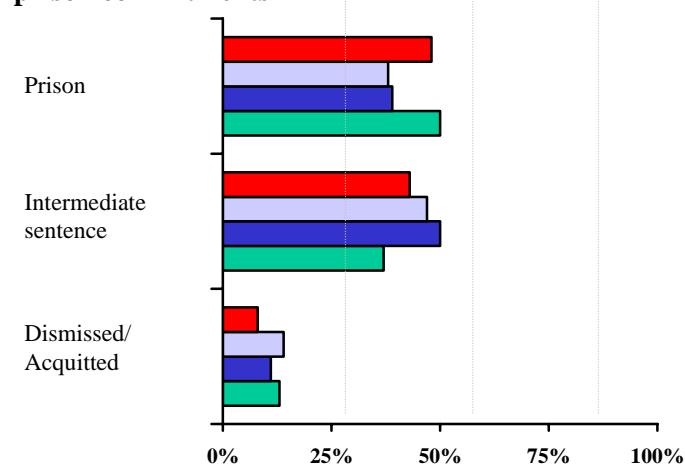
Hispanics charged with drug offenses were the most likely to receive prison sentences and the least likely to be acquitted or to have their cases dismissed, regardless of prior record.

Miscellaneous prior record



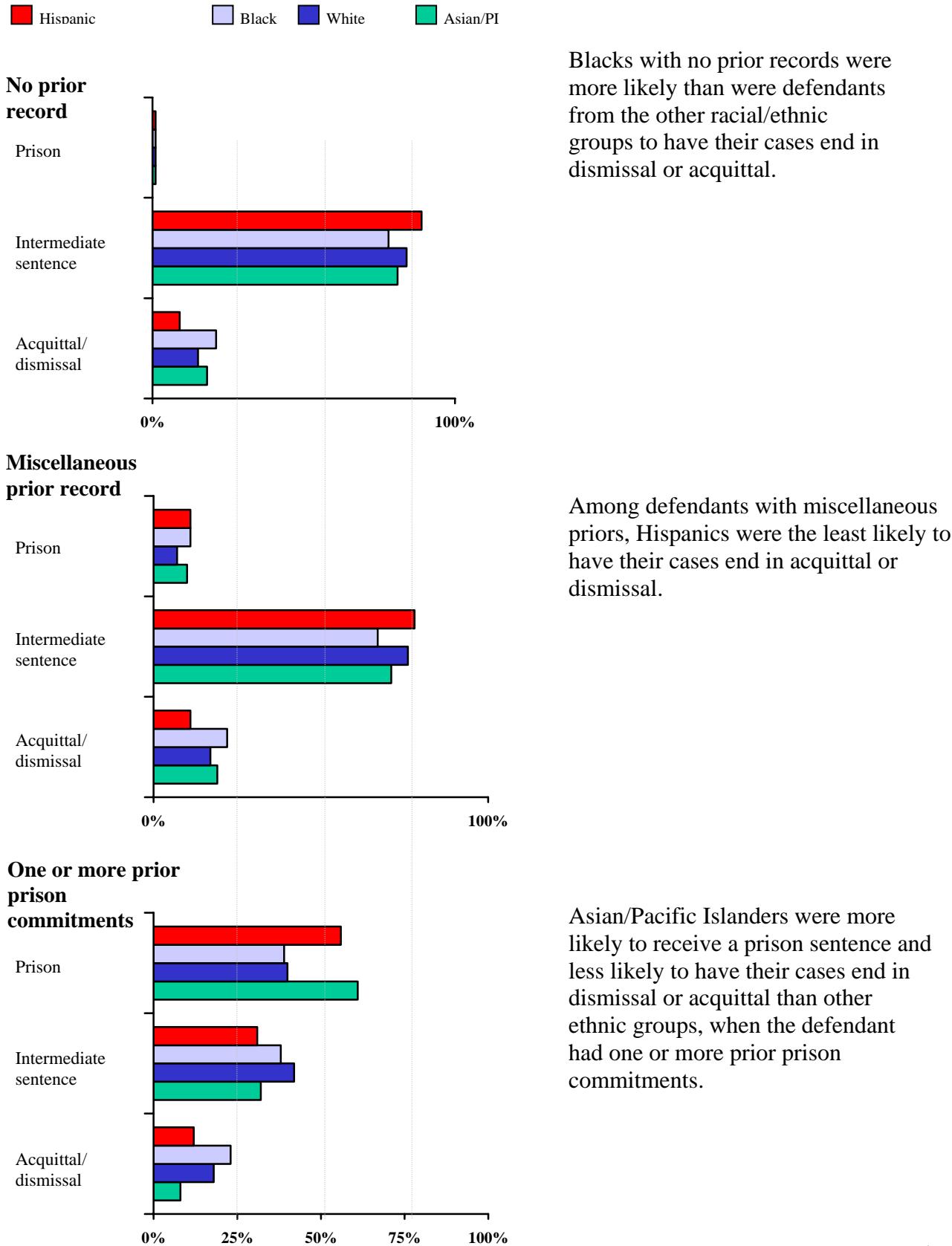
Among defendants with miscellaneous priors, sentencing differences for Hispanics were less dramatic than for those with no prior record, but still evident: Hispanics remained more likely to receive a prison sentence and less likely to be acquitted.

One or more prior prison commitments



As the defendant's prior record increased in severity, Hispanics were still the least likely to receive an acquittal or dismissal.

Figure 12: Severity of Sentence – Other Felony Offenses, Controlling for Prior Record



Type of Sentence

The OBTS file provides a broad measure of sentence types, as shown in figure 7 on page 9: felony conviction, felony sentence; felony conviction, misdemeanor sentence; misdemeanor conviction, misdemeanor sentence; and infraction conviction, infraction sentence. Because of the infrequency of infraction conviction combined with infraction sentences (0.5 percent), defendants convicted of infractions are omitted from all analyses of type of sentence.

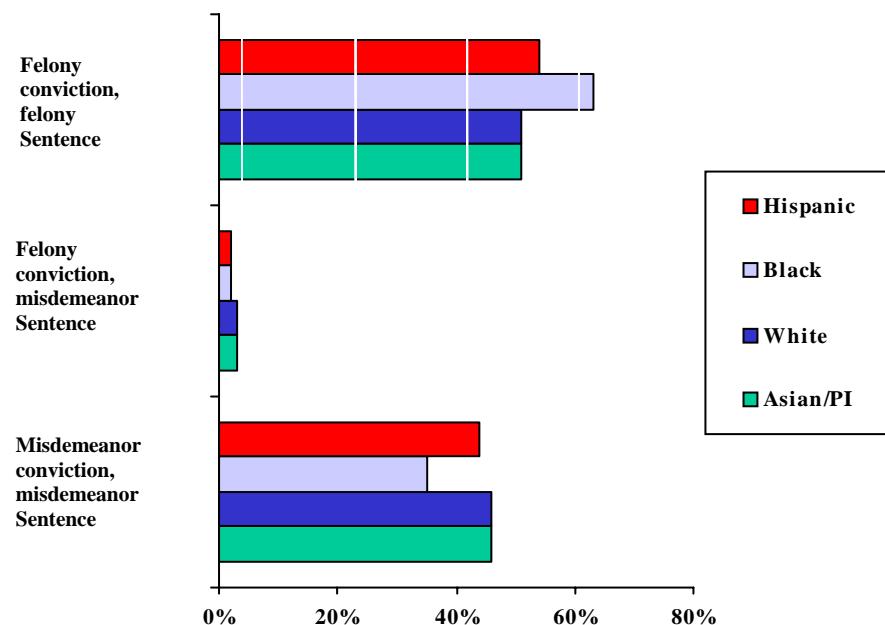
The difficulty with analyzing the OBTS file by type of sentence is that without information about sentence length, it is necessary to assume that a felony conviction, felony sentence is the most severe type of sentence and that a misdemeanor conviction, misdemeanor sentence is the least severe.

Overall Results 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 the 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. Blacks were also less likely to receive the least severe type of sentence, misdemeanor conviction, misdemeanor sentence, than defendants from the other racial/ethnic groups. Hispanics convicted of felonies received felony-level sentences at a slightly higher rate than did whites or Asians/Pacific Islanders convicted of felonies.

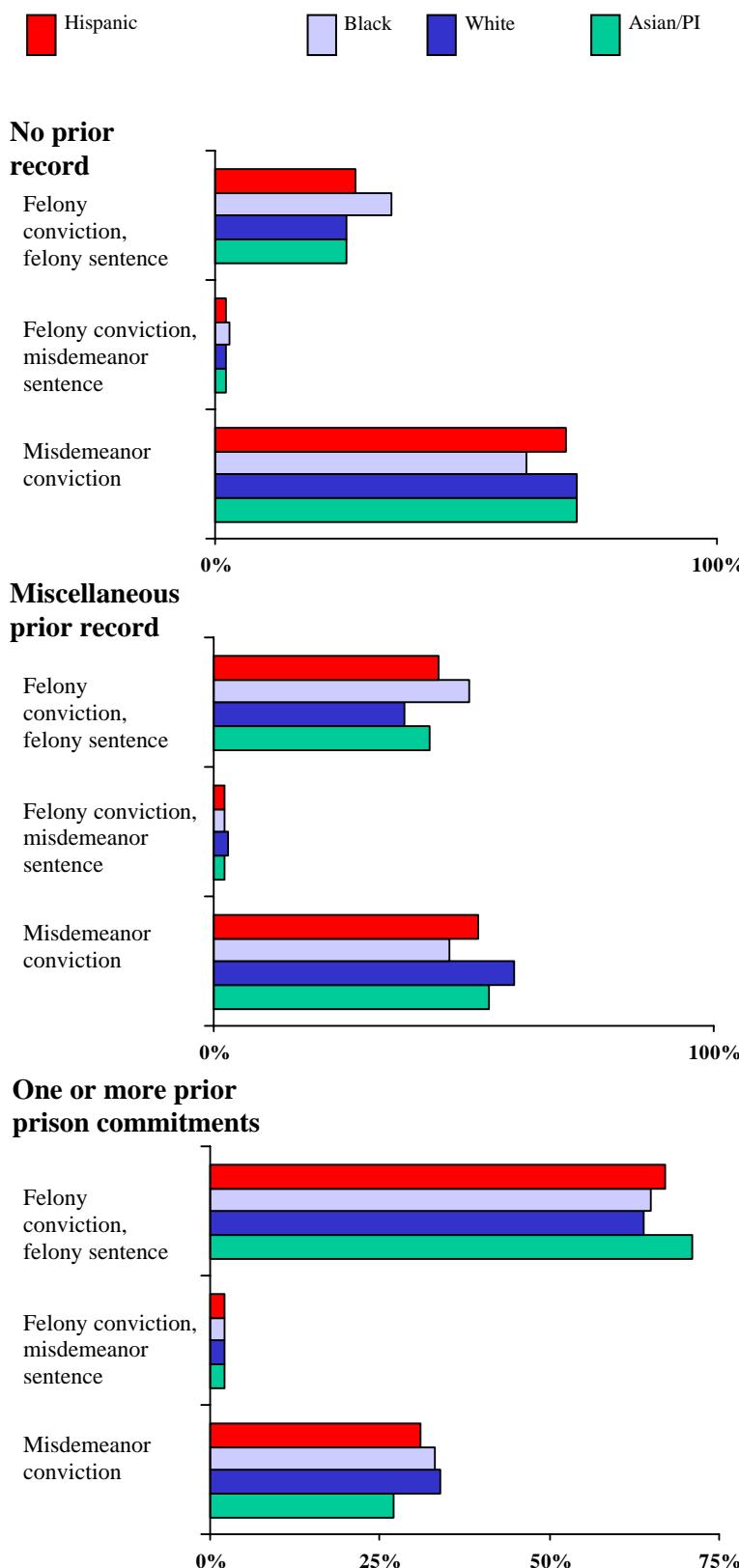
Figure 13: Type of Sentence



Overall Results Controlling for Prior Record and Type of Offense

Controlling for prior record and type of offense makes it possible to compare “similarly situated” defendants. Once these controls are in place, no consistent patterns appear in the analysis. Different racial/ethnic groups received the most severe sentence depending on the type of offense and also depending on the prior record of the defendant.

Figure 14: Type of Sentence – Violent offenses, Controlling for Prior Record



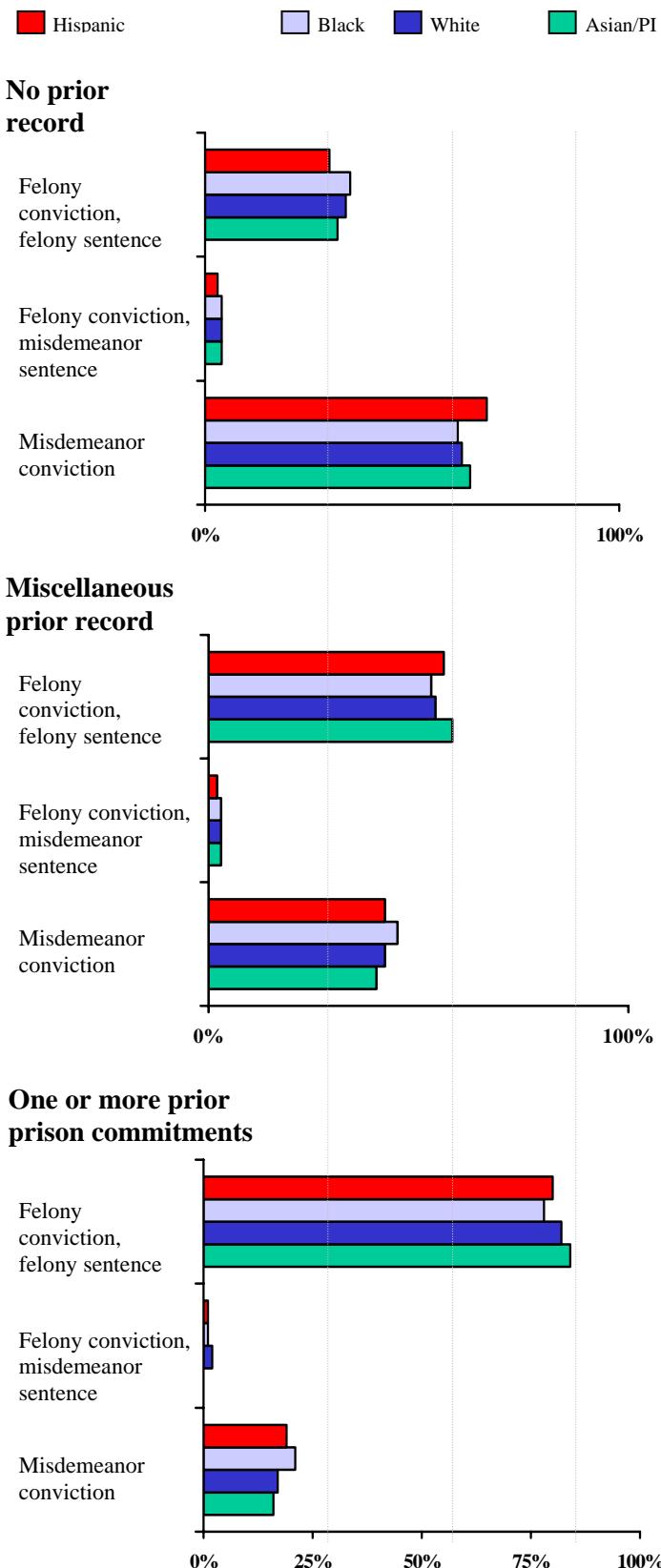
Blacks with no prior records were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence when arrested for violent offenses.

This pattern continued when defendants had miscellaneous prior records.

Among defendants with one or more prior prison commitments, Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence.

Whites with one or more prior prison commitments were the least likely to receive a felony conviction, felony sentence.

Figure 15: Type of Sentence – Property Offenses, 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 by a slight margin.

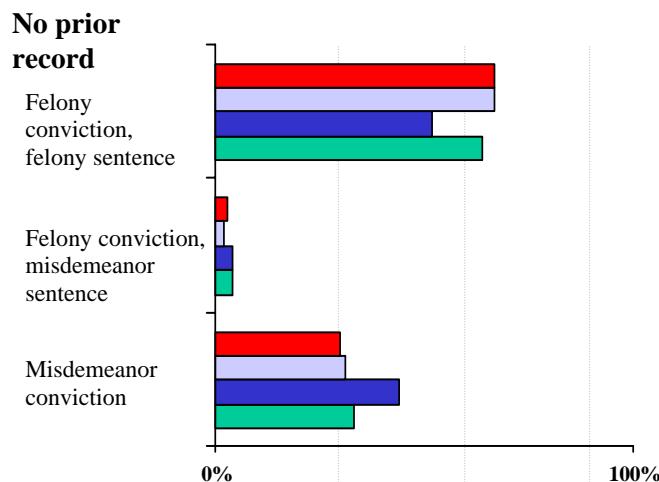
Among defendants with no prior record, Asians/Pacific Islanders and Hispanics were less likely than both blacks and whites to receive a felony conviction, felony sentence and more likely to receive a misdemeanor conviction, misdemeanor sentence.

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

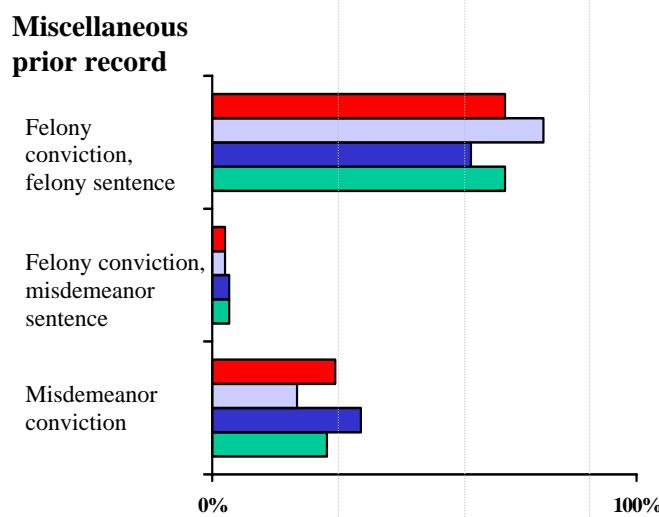
Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence when the defendants' prior record included one or more prior prison commitments.

Figure 16: Type of Sentence – Drug Offenses, Controlling for Prior Record

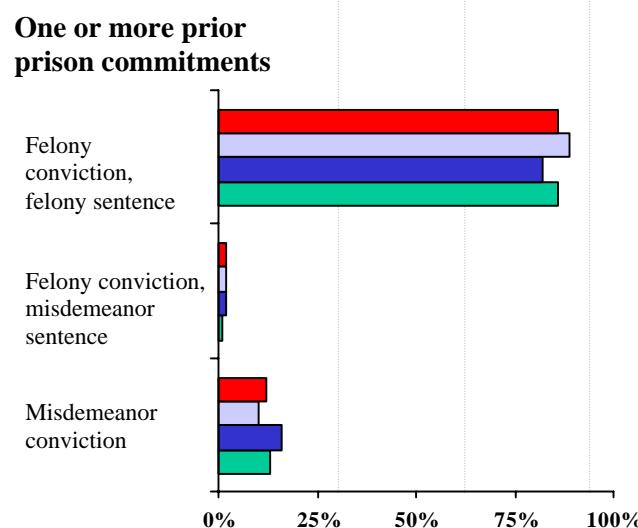
Hispanic Black White Asian/PI



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



As prior record severity increased, whites were still the least likely to receive felony conviction, felony sentence and the most likely to receive a misdemeanor conviction, misdemeanor sentence.

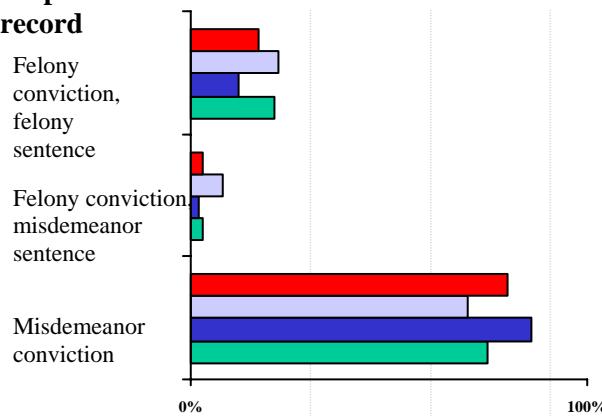


With one or more prior prison convictions, black defendants were the most likely to receive felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence.

Figure 17: Type of Sentence – Other Felony Offenses, Controlling for Prior Record

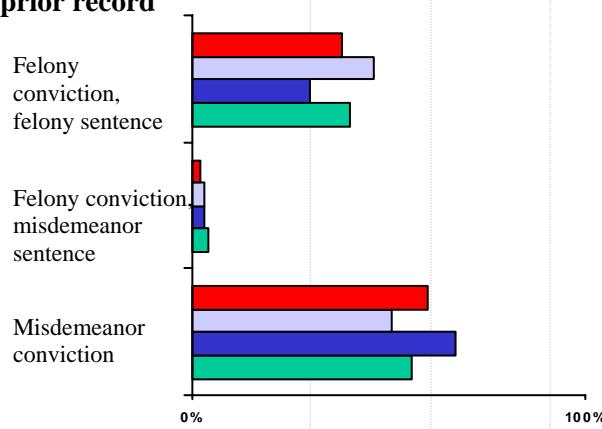
Hispanic Black White Asian/PI

No prior record



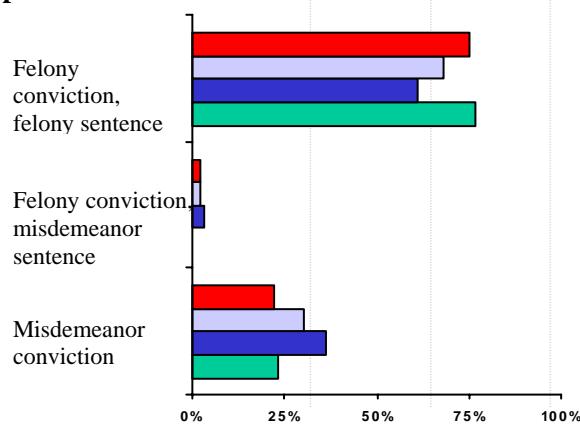
The majority of individuals convicted of “other” felony offenses who had no prior records or miscellaneous prior records received a misdemeanor conviction, misdemeanor sentence regardless of racial or ethnic group.

Miscellaneous prior record



For those with no prior records or miscellaneous prior records, whites were the least likely to receive a felony conviction, felony sentence and the most likely to receive a misdemeanor conviction, misdemeanor sentence.

One or more prior prison commitments



For defendants convicted of “other” felony offenses who had one or more prior prison commitments, Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence.

Conclusions

The lack of data on sentence length and on specific type of prior records limits the conclusions that can confidently be made 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 summarize only 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 attribute causes for the observed differences in sentencing among racial/ethnic groups.

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.

Summary of Major Findings in This Study

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

The following sections summarize other major findings of this study.

Severity of Sentence

Controlling for Prior Record and Type of Offense

- Among defendants with no prior records who were arrested for a violent offense, whites received prison sentences less frequently than did defendants from the other racial/ethnic groups;
- Asian/Pacific Islanders and, to a lesser degree, whites with no prior records were acquitted or had their cases dismissed more frequently than blacks and Hispanics.
- As defendants' prior record increased in severity, blacks consistently were acquitted or had their cases dismissed at a rate higher than did defendants from the other racial/ethnic groups.
- For defendants arrested for property crimes, Hispanics with no prior records were the least likely to be acquitted or have their cases dismissed.

- For defendants with one or more prior prison commitments arrested for property crimes, blacks received prison sentences less frequently than other racial/ethnic groups.
- Regardless of prior record, Hispanics charged with drug offenses were the most likely to receive prison sentences and the least likely to be acquitted or have their cases dismissed.
- As with drug offenses, Hispanics arrested for “other” felony offenses were the least likely to be acquitted or have their cases dismissed regardless of prior record.
- Regardless of prior record, Blacks arrested for “other” felony offenses were more likely than defendants from the other racial/ethnic groups to be acquitted or have their cases dismissed.

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 including the following:

- 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.
- Among defendants with one or more prior prison commitments, Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence for violent offenses and the least likely to receive a misdemeanor conviction, misdemeanor sentence.
- As 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.
- For defendants with miscellaneous prior offenses, there were no statistically significant differences in the sentencing outcomes for property offenses among the racial/ethnic groups.
- However, among defendants with one or more prior prison commitments, Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence for a property offense.
- The overwhelming majority of individuals convicted of drug offenses received a felony conviction, felony sentence regardless of prior record or race/ethnicity.

- However, whites with no prior records were the least likely to receive a felony conviction, felony sentence and the most likely to receive a misdemeanor conviction, misdemeanor sentence.
- Blacks with one or more prior prison commitments were more likely than other ethnic/racial groups to receive a felony conviction, felony sentence and less likely to receive a misdemeanor conviction, misdemeanor sentence for drug offenses.
- 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.
- Regardless of a defendant’s prior record, whites were the least likely to receive a felony conviction, felony sentence and the most likely to receive a misdemeanor conviction, misdemeanor sentence for “other” felony offenses.
- For defendants convicted of “other” felony offenses who had one or more prior prison commitments, Asian/Pacific Islanders were the most likely to receive a felony conviction, felony sentence and the least likely to receive a misdemeanor conviction, misdemeanor sentence.

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.