Report to the Legislature Pursuant to Penal Code Section 1170.45

2007 REPORT ON THE DISPOSITION OF CRIMINAL CASES ACCORDING TO THE RACE AND/OR ETHNICITY OF THE DEFENDANT

ADMINISTRATIVE OFFICE OF THE COURTS

EXECUTIVE OFFICE PROGRAMS DIVISION

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

**A Report to the California Legislature Under
Penal Code Section 1170.45**

2007

This report has been prepared and submitted to the California Legislature under Penal Code section 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 the 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 2005, 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 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 is an analysis of sentencing outcomes by the defendants' race/ethnicity. Controlling for prior record and type of offense, which dictate very specific sentences mandated by California's sentencing laws, allows the authors to limit the spurious effects 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 find no consistent patterns in the severity of sentence related to the defendants' race/ethnicity. In other words, no single racial/ethnic group systematically receives the most severe type of sentence. However, within offense category (e.g., drug offenses or property offenses)

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[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 (PI), is used in the analysis to refer to defendants of Asian or Native Hawaiian/other Pacific Islander ethnicity.

there are some statistically significant differences in the sentencing outcomes among the racial/ethnic groups.

While this report looks only at a single year of data, it is important to note that reports from previous years have also shown a lack of systematic bias against any one group. Moreover, although some groups are treated less harshly in some case types and situations in a certain year, these findings vary from year to year. This suggests that identifying differential judicial treatment due to race or ethnicity depends on very specific contexts that require more study and resources.

Limitations of the Findings

The lack of data on sentence length and specific type of prior record limit 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 versus drug offense) and from county to county. Thus, the vast majority of felony cases statewide reach disposition before trial, mostly by plea agreements between defense counsel and the district attorney. The trial court judge 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.

Another confounding factor is that within the 58 superior court jurisdictions in California, there may be important differences in charging practices, plea offerings, and court culture that is not captured by aggregated, statewide outcomes. Although unified by statewide statutes governing most aspects of criminal case management and processing, there will be subtle differences between jurisdictions in both court practice and a county's population characteristics.

Where possible, county-level information was used to represent some of the differences in cases coming before California courts to give some insight into the inherent diversity of legal factors that each jurisdiction faces. Nonetheless, the analysis looks at aggregated, statewide data, which necessarily obscures differences across county boundaries. A county-centric approach, in contrast, would look into factors across jurisdictions that contribute to differential treatment of criminal defendants.

Data Source and Limitations

Source of Data
The Criminal Justice Statistics Center (CJSC) of the California 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 OBTS data do not include information about sentence length. Thus it is impossible to assess the relative differences beyond outcomes such as conviction and broad categories of disposition (see diagram 1). While certain sentences may be categorically the same—a sentence to prison, for example—they can vary considerably in severity as measured by the length of the sentence.

- Comparisons of county-level data should be made with caution, since the level of reporting may vary between jurisdictions and from year to year.

- 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.

- Despite the underreporting of dispositions, CJSC is confident that the arrest disposition data received provides an accurate general description of the statewide processing of adult felony arrestees.

- 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.

- 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.
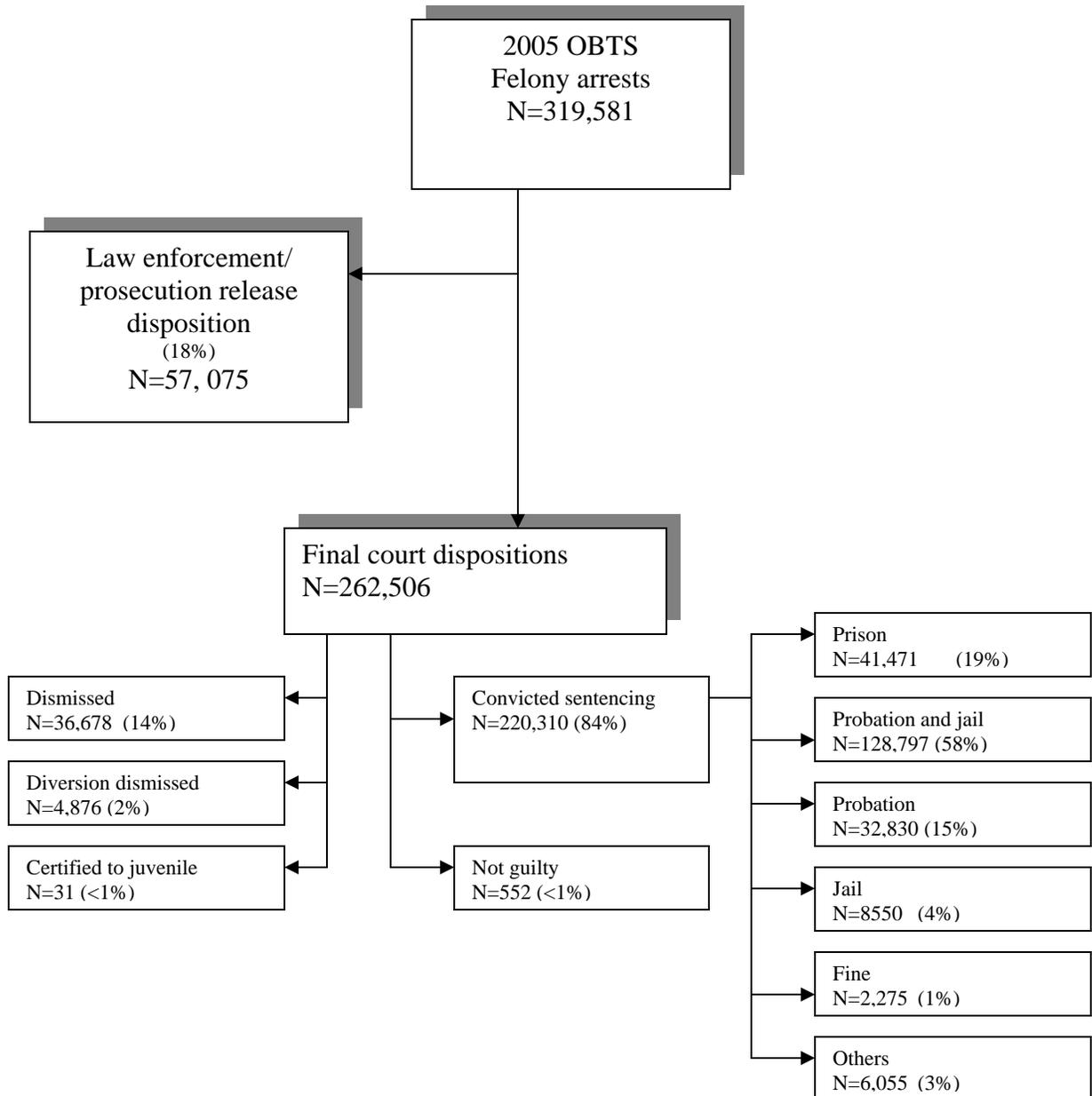
Offender Profile

The OBTS file for 2005 contains a total of 319,581 records of arrest for felony-level offenses in calendar year 2005 or earlier that were disposed in calendar year 2005. The proportion of dispositions has remained relatively constant with small changes. Diagram 1 on the following page shows the number of dispositions at distinct case processing stages for the 319,581 OBTS felony arrests made in 2005.

Looking at the OBTS dispositions, regardless of race/ethnicity, court dispositions made up 82 percent of all dispositions, while dispositions by law enforcement agencies or the district attorney accounted for 18 percent. Dispositions by law enforcement agencies include cases 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 Agencies or the District Attorney		
Race/Ethnicity	Number Released	Percentage of Releases
Asian	1,427	2.50
White	17,368	30.43
Black	14,378	25.19
Hispanic	21,891	38.35
American Indian	293	0.51
Total	**57, 075**	**100.0**

Diagram 1
Numbers of Dispositions at Distinct
Case-Processing Stages in OBTS

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                                    ┌──────────────────────┐
                                    │  2005 OBTS           │
                                    │  Felony arrests      │
                                    │  N=319,581           │
                                    └──────────────────────┘
                                               │
        ┌──────────────────────┐               │
        │  Law enforcement/    │◄──────────────┤
        │  prosecution release │               │
        │  disposition         │               │
        │  (18%)               │               │
        │  N=57, 075           │               │
        └──────────────────────┘               │
                                               ▼
                                    ┌──────────────────────┐
                                    │  Final court         │
                                    │  dispositions        │
                                    │  N=262,506           │
                                    └──────────────────────┘
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| Prison |
| N=41,471   (19%) |

| Probation and jail |
| N=128,797 (58%) |

Convicted sentencing
N=220,310 (84%)

Dismissed
N=36,678 (14%)

Diversion dismissed
N=4,876 (2%)

Certified to juvenile
N=31 (<1%)

Not guilty
N=552 (<1%)

Probation
N=32,830 (15%)

Jail
N=8550   (4%)

Fine
N=2,275 (1%)

Others
N=6,055 (3%)

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Demographics of Felony Defendants

Following is a demographic profile of the population of felony defendants who received dispositions in 200 and are documented in the OBTS file.

Gender

Males made up 79 percent of the defendants reported to have received dispositions in 2005; 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. At 79 percent, the proportion of felony defendants in the OBTS file who are male is much higher than the proportion of males in the general population of California, which is roughly 50 percent.[2]

Figure 1: Gender of Felony Defendants

20.68%

79.32%

female   male
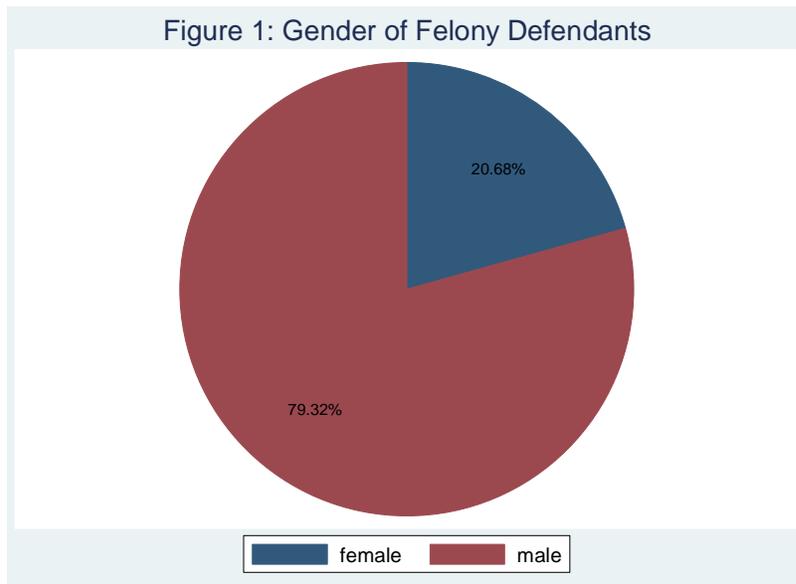
Age

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. Persons aged 20–29 (42 percent) and 30–39 (27 percent) were arrested most frequently. Figure 2 shows the complete distribution by age of all felony defendants in the OBTS file.

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

Figure 2: Age of Felony Defendants
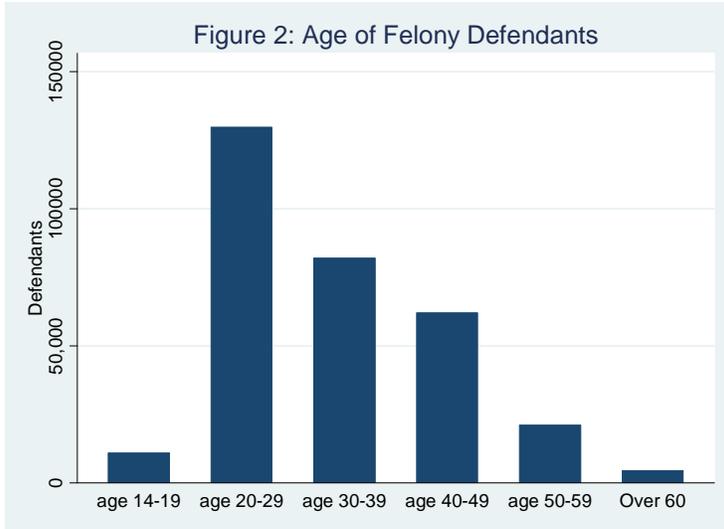
Compared to the California population as a whole, persons aged 20–29 and 30–39 were arrested for felony-level offenses at a disproportionately high rate, whereas persons aged 50–59 and 60 or older were arrested at a disproportionately low rate. Persons aged 13–19 and 40–49 years were arrested at rates only slightly higher than indicated by their proportions in the general population.[3]
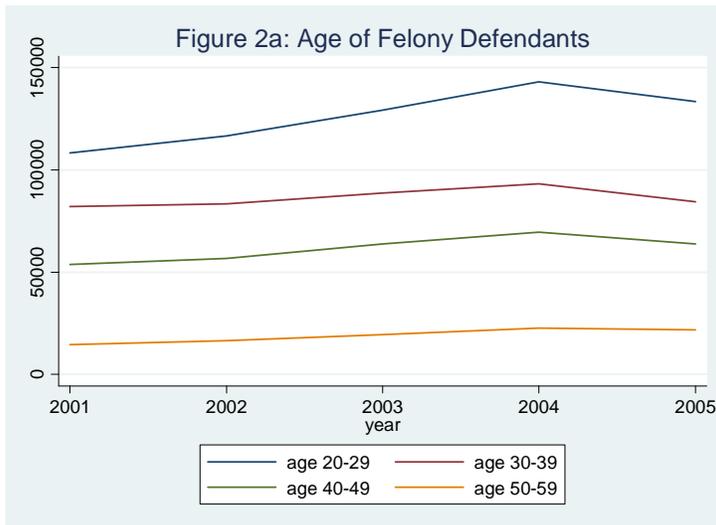

Figure 2a: Age of Felony Defendants

Figure 2a shows that while the number of OBTS entries has increased since 2001, the proportion of offenders in the different age categories has remained roughly the same. The largest proportion of felony defendants are—and have been—between the ages of 20 and 29. The percentage of felony defendants older than 29 declines steadily as the age of the population increases.

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[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 U.S. Census Bureau. These categories are identified as Asian/Pacific Islander black, white, and Hispanic.[4] (Figure 3.)

Figure 3: Race and Ethnicity of Felony Defendants

2.903%

20.34%

39.29%

37.46%
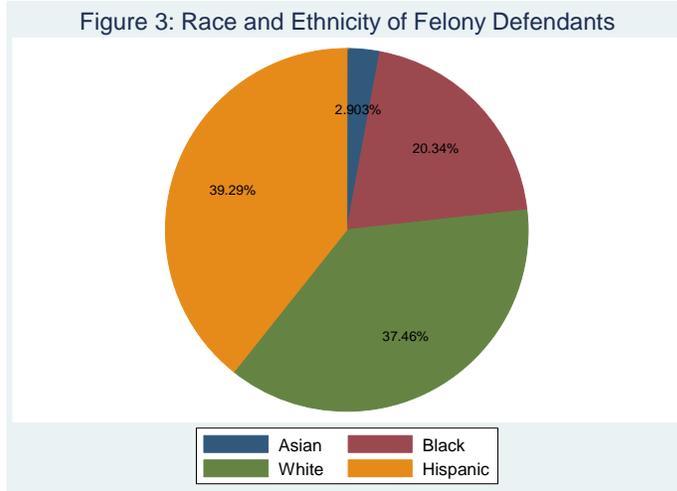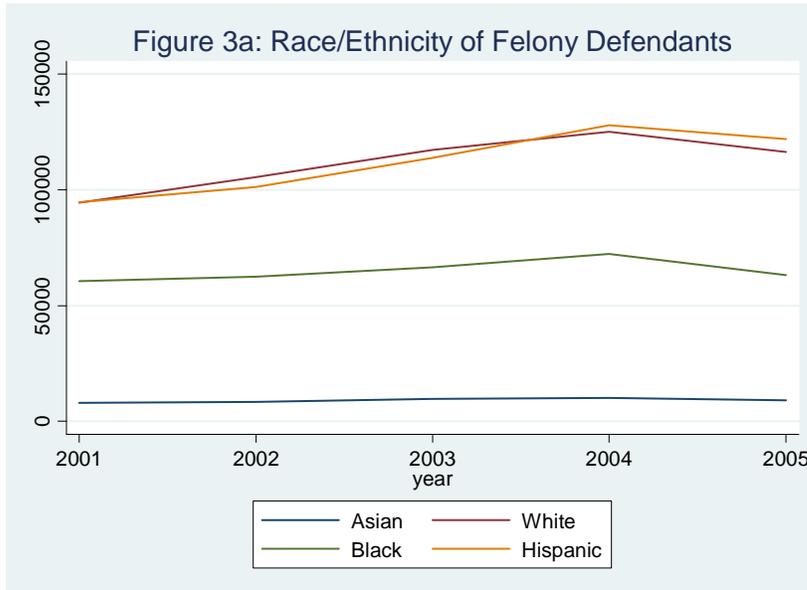
Asian   Black
White   Hispanic

Figure 3a demonstrates that, as with the age distribution, the racial composition of the OBTS data has stayed fairly consistent, in spite of an absolute growth in numbers.

Figure 3a: Race/Ethnicity of Felony Defendants

Asian   White
Black   Hispanic

Hispanics made up the largest percentage of reported felony defendants in 2004 (39 percent), followed by whites (37 percent) and blacks (20 percent). Asians/Pacific Islanders (3 percent) represent only a small proportion of the 2005 felony arrest population.

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

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[4] Persons identified as "other/unknown" in the OBTS file were removed from the analysis.

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.[5]

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 containing valid information, about two-thirds (69 percent) had miscellaneous prior records while almost 11 percent had one or more prior prison commitments. The remaining 20 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.

Figure 4: Prior Record of Felony Defendants

11.62%
19.61%
68.78%

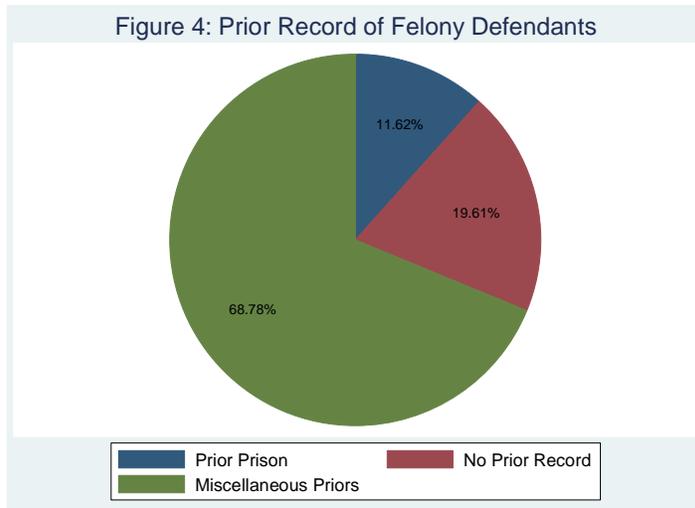Prior Prison   No Prior Record
Miscellaneous Priors

Figure 4a shows that over the past five years, there has been a 50 percent increase in arrests of those with miscellaneous priors and a slight increase in those with prior prison terms. With arrests of people with no prior record remaining flat, this means that both the total number and the proportion of cases eligible for higher sanctions and sentence severity has grown over time.

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[5] 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.

Figure 4a: Prior Record of Felony Defendants
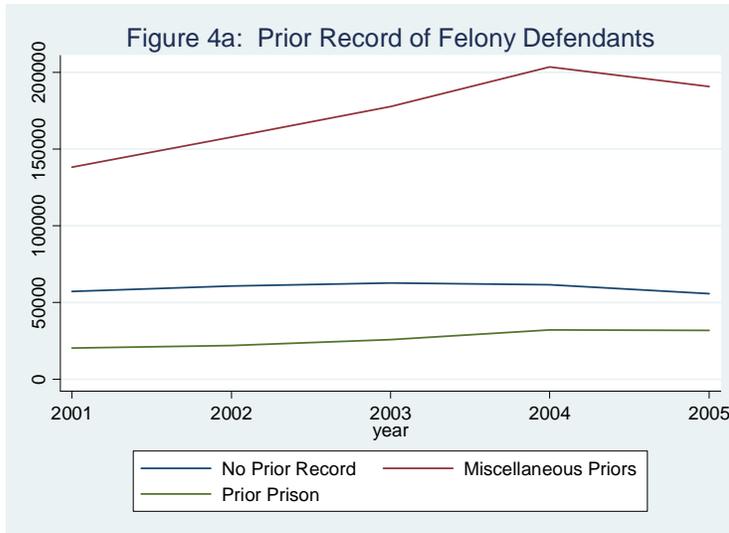
Type of Offense

For this analysis, 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. Examples 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 driving under the influence of drugs or alcohol (DUI) and vandalism.

Thirty-one 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.

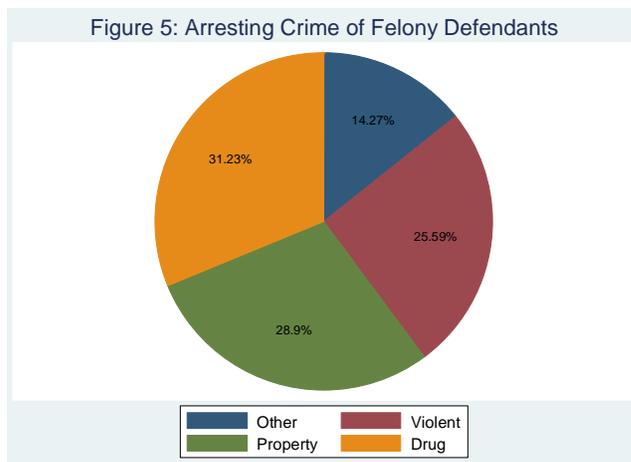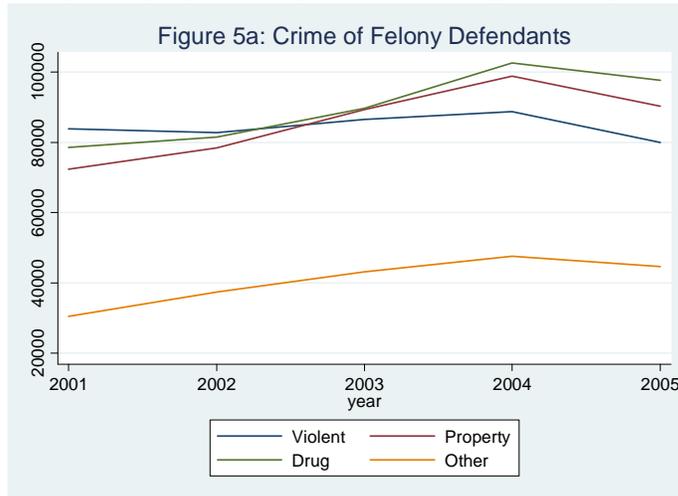Figure 5: Arresting Crime of Felony Defendants

Figure 5a shows a five-year increase in felony drug and property crimes, a more modest rise in violent crime, and a recent decline in these three filing categories. The "other" felony category has stayed flat for the past five years.

Figure 5a: Crime of Felony Defendants

Sentencing Information
The OBTS file provides two types of sentencing 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. Sixteen percent of the defendants arrested for felony-level offenses received prison sentences, while 53 percent received probation and jail. The lesser sentences—jail, probation, and fine—were received in approximately 13 percent of the cases, while 17 percent of the defendants were either acquitted or had their cases dismissed.

Figure 6: Severity of Sentence

■ Probation	■ Prison
■ Aquittal/Dismissed	■ Probation and Jail

(13.44%, 16.94%, 17.13%, 52.49%)
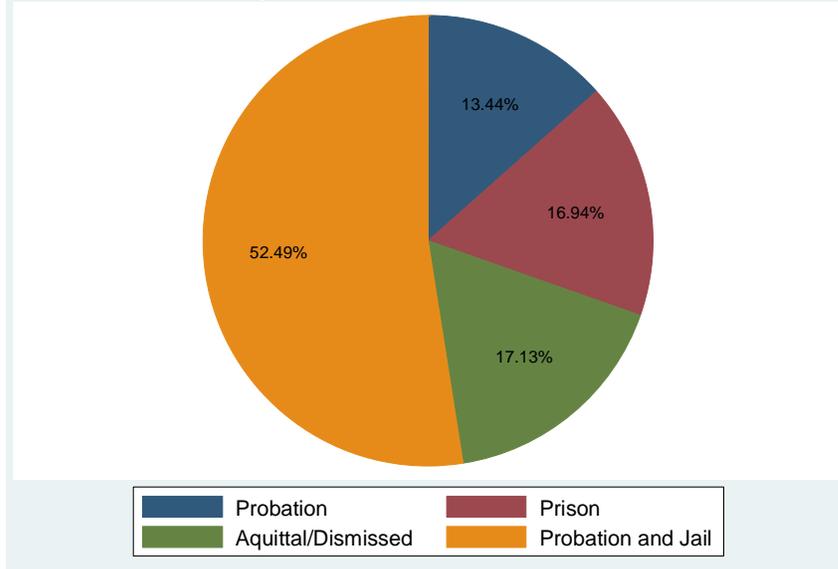
Location of Offense

Despite the statewide focus of this report, the location of arrest and case disposition is another aspect of criminal sentencing that needs to be discussed. Although difficult to control for, a county's demography plays a critical role in addressing possible forms of bias. The type of crime and a defendant's prior record are important in determining how sentences are rendered; yet each county has a different case mix and offender profile. Figure 7 shows how different the case mix and offender characteristics are in the 58 superior court jurisdictions in California. Although race/ethnicity is the focus of this report, understanding offenders in terms of several key categories in addition to race/ethnicity is necessary to more accurately compare offenders in the context of court dispositions.

Figure 7: Location of Offense
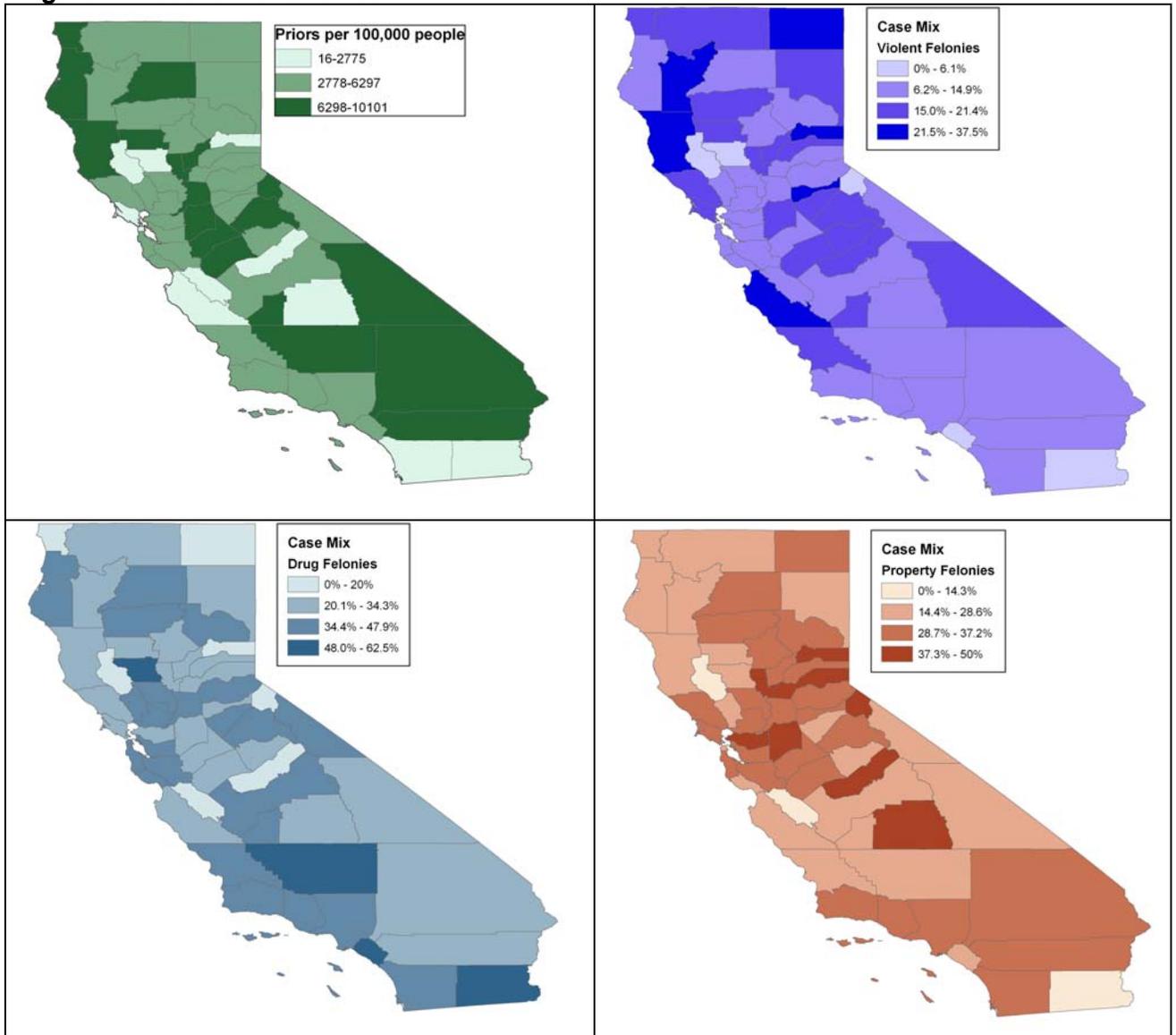
Findings

Penal Code section 1170.45 mandates a report on the disposition of felony cases according to the race/ethnicity of defendants. This analysis is based on sentencing information introduced in the preceding section: the severity of sentence (e.g., prison, jail, or probation).

The analysis looks first at outcomes by the defendants' race/ethnicity without controlling for a prior record or the type of offense. This is presented for illustrative purposes only. The second analysis controls for a prior record and the 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 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. All of the findings discussed in this report are 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, 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 a Prior Record or the 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 a prior record and the type of offense.

Black defendants arrested for felony-level offenses were the most likely to receive prison sentences among the racial/ethnic groups. Asians and whites were the least likely to receive prison sentences. Asian/Pacific Islanders and whites were the most likely and blacks were the least likely to receive intermediate sentences (i.e., probation and jail or jail, probation, and fine).

Whites and Asians were acquitted or had their cases dismissed at a higher rate than did black or Hispanic defendants. In addition, whites and Asian/Pacific Islanders were less 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.

Figure 8: Severity of Sentence
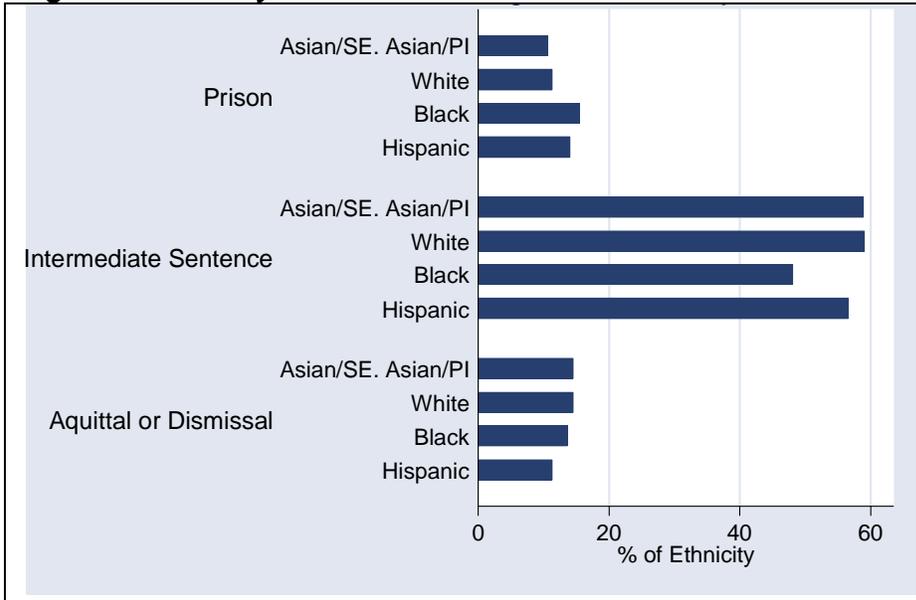
This data is presented to illustrate the importance of controlling for factors relevant to sentencing, such as prison record and offense type, as the data presented here is not for arrestees "similarly situated." Only by controlling for a prior record and the type of offense, which dictate specific sentences 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 categorical controls allow for the comparison of sentencing outcomes for defendants convicted of similar offenses and having similar criminal histories.

Overall Results Controlling for a Prior Record and the Type of Offense
The primary focus of this report is to analyze severity of sentence by defendants' race/ethnicity while controlling for a 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 in the preceding graphic, made without controlling for a prior record or the type of offense, the analysis of sentence severity when controlling for these factors showed that no single racial/ethnic group systematically received the most severe sentence. 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 a prior record and the type of offense (see Figure 8), black defendants were more likely than defendants from the other racial/ethnic groups to receive prison sentences. In many of the later analyses controlling for a prior record and the type of offense, however, the effects on sentencing outcomes of race become more complex.

The graphics and supporting text focus on specific variations within groupings of crime type and prior record (Figure 9). At the statewide level, the relationships between categories and legal indicators are volatile, indicating that no one group is systematically given more or less severe sentences than any other group. Even within some of the discrete categories, there is not a tremendous amount of difference between groups for the specified outcome.

In addition to the volatility of outcomes when controlling for similarly situated offenders, it should be noted that the difference in outcomes for any ethnic group is generally quite small—only a few percentage points in range from the highest to the lowest for specific outcomes and situations. These differences are highlighted in the explanation of the charts that follow. The interaction with other situational groupings will also be discussed.

These methods of analysis illustrate both crime types and offender legal profiles that are shown to have a statistically significant relationship both within ethnic groups and crime type as well as between categorical indicators of a prior record.

Although each control is slightly different in its distribution and its effect on ethnic groups, we expect the proportion of incarcerations to increase with a prior record. Since this report is analyzing the proportional effect on an ethnic group, the increase in incarcerations will be highly correlated with a decrease in intermediate sentences. The degree of change from one control to the next comes from case characteristics such as strike-status, type of crime, and crime circumstances.

Figure 9: Severity of Sentence—Violent Offenses, Controlling for a Prior Record
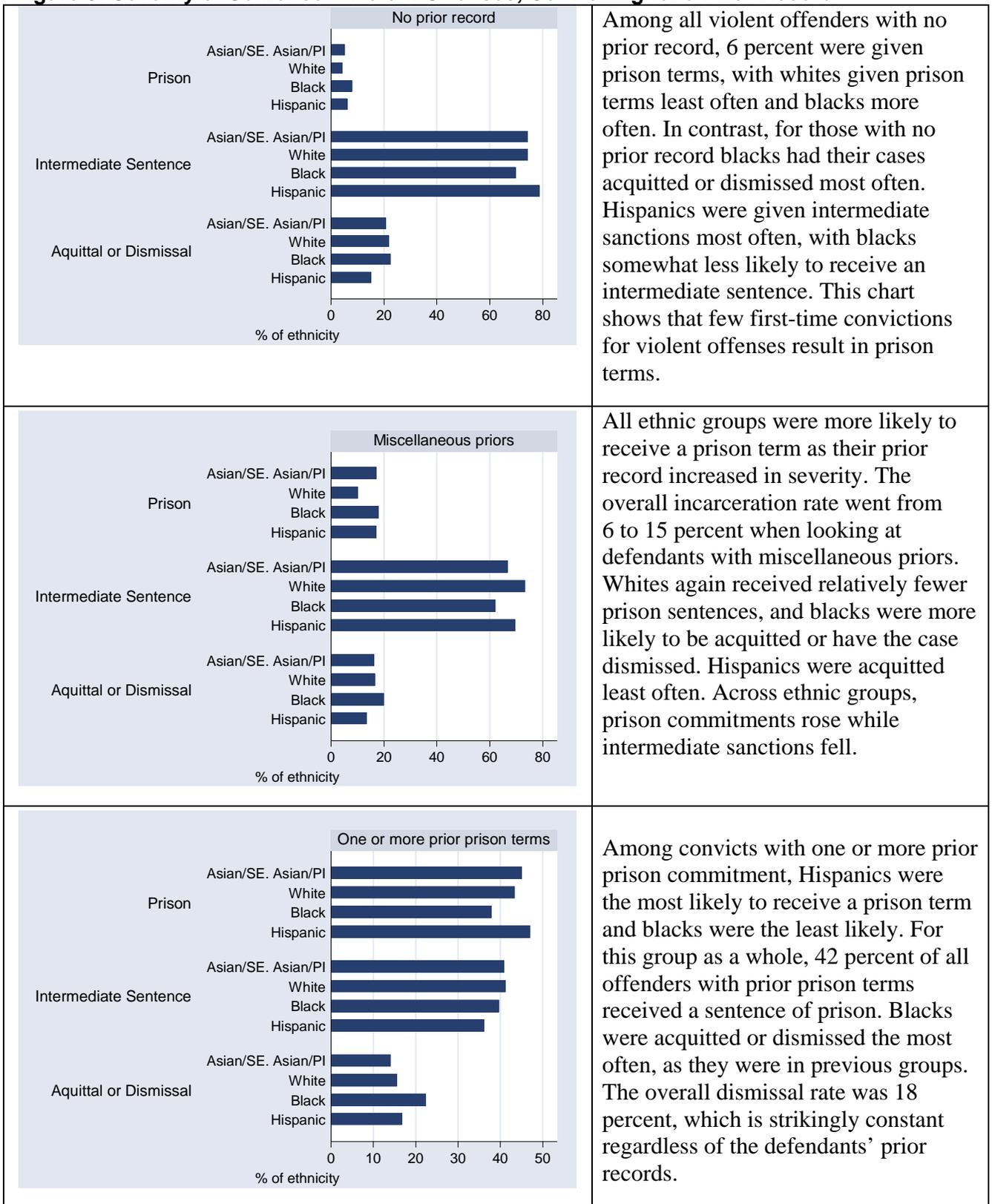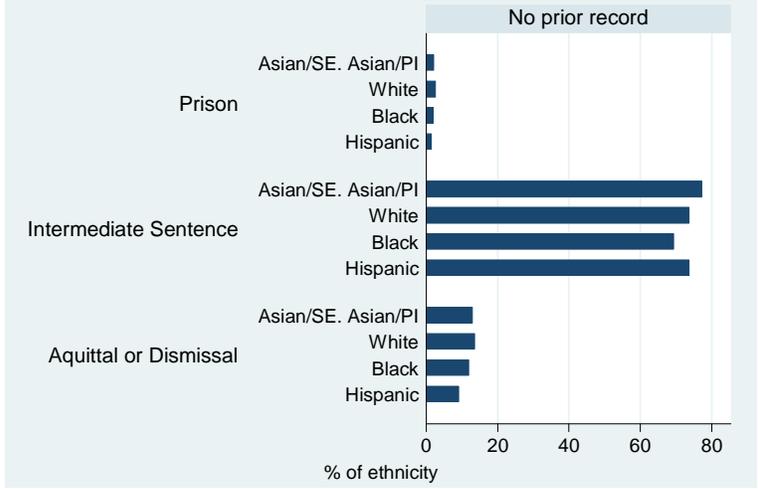

No prior record

Among all violent offenders with no prior record, 6 percent were given prison terms, with whites given prison terms least often and blacks more often. In contrast, for those with no prior record blacks had their cases acquitted or dismissed most often. Hispanics were given intermediate sanctions most often, with blacks somewhat less likely to receive an intermediate sentence. This chart shows that few first-time convictions for violent offenses result in prison terms.
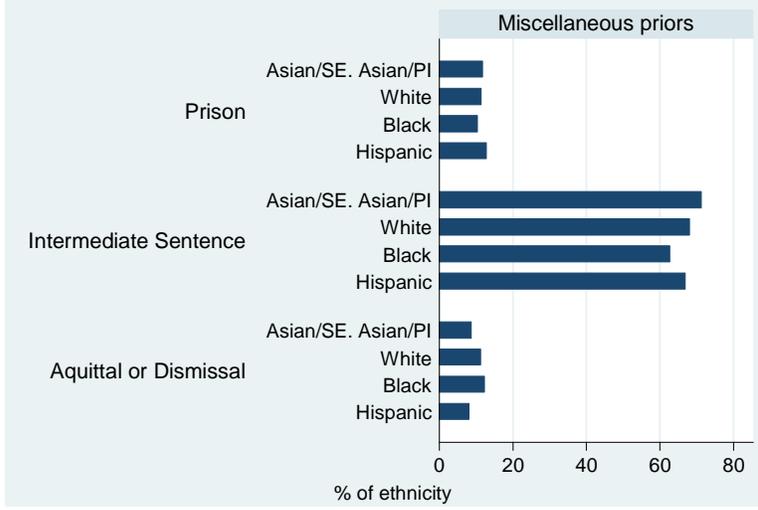

Miscellaneous priors

All ethnic groups were more likely to receive a prison term as their prior record increased in severity. The overall incarceration rate went from 6 to 15 percent when looking at defendants with miscellaneous priors. Whites again received relatively fewer prison sentences, and blacks were more likely to be acquitted or have the case dismissed. Hispanics were acquitted least often. Across ethnic groups, prison commitments rose while intermediate sanctions fell.

One or more prior prison terms

Among convicts with one or more prior prison commitment, Hispanics were the most likely to receive a prison term and blacks were the least likely. For this group as a whole, 42 percent of all offenders with prior prison terms received a sentence of prison. Blacks were acquitted or dismissed the most often, as they were in previous groups. The overall dismissal rate was 18 percent, which is strikingly constant regardless of the defendants' prior records.

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

No prior record

For all defendants with no prior record convicted of felony property offenses, 2 percent were sent to prison. This is about a third of the rate at which all defendants with no prior record were sent to prison for violent felonies. The majority of all convictions led to intermediate sentences with the Asian group receiving this outcome 78 percent of the time. Hispanics were acquitted less often than other groups.

Miscellaneous priors

Among those with miscellaneous priors, all groups were more likely to receive a prison term though blacks were somewhat less likely to receive a prison term. Blacks were also given fewer intermediate sentences.

One or more prior prison commitments
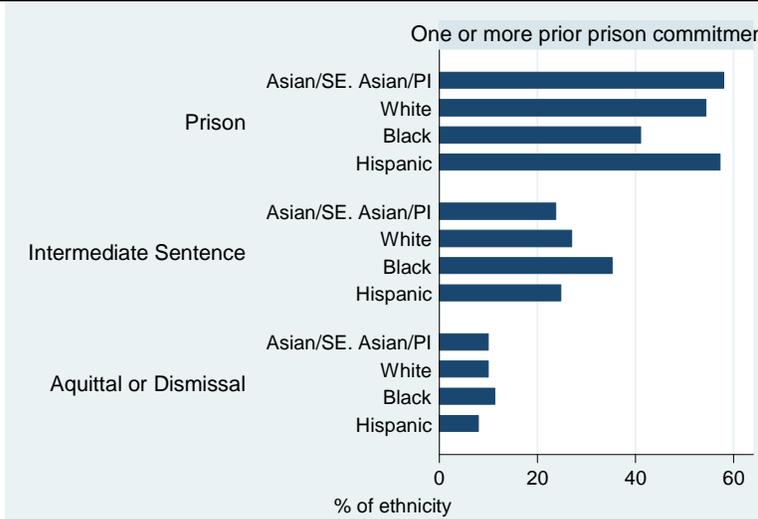
Blacks in this category received fewer prison terms while Asians and Hispanics received roughly the same percentage of prison terms. For their fewer prison terms, they received more intermediate sentences than other groups. The overall acquittal/dismissal rate was somewhat lower for property crimes than other crimes at 11 percent.

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

No prior record Prison: Asian/SE. Asian/PI, White, Black, Hispanic Intermediate Sentence: Asian/SE. Asian/PI, White, Black, Hispanic Aquittal or Dismissal: Asian/SE. Asian/PI, White, Black, Hispanic x-axis: 0, 20, 40, 60, 80 — % of ethnicity	As with the other offense types, defendants in felony drug cases with no prior record were sentenced to prison at a very low rate, about 3 percent. The Hispanic group had a slightly higher rate of incarceration than the mean for drug offenses. Asians and whites received relatively more acquittals/dismissals while blacks and Hispanics received more intermediate sanctions and fewer acquittals/dismissals. Compared to other defendants with no priors in offense types, acquittals/dismissals were the most common in drug cases.
Miscellaneous priors Prison: Asian/SE. Asian/PI, White, Black, Hispanic Intermediate Sentence: Asian/SE. Asian/PI, White, Black, Hispanic Aquittal or Dismissal: Asian/SE. Asian/PI, White, Black, Hispanic x-axis: 0, 20, 40, 60, 80 — % of ethnicity	Among defendants with miscellaneous priors, whites and Asians were less likely to be sentenced to prison while blacks and Hispanics received prison sentences more often and were acquitted or dismissed less often than other groups. Among defendants in this group, Asians were acquitted more often but incarcerated less and received intermediate sanctions at about the same rate.
One or more prior prison terms Prison: Asian/SE. Asian/PI, White, Black, Hispanic Intermediate Sentence: Asian/SE. Asian/PI, White, Black, Hispanic Aquittal or Dismissal: Asian/SE. Asian/PI, White, Black, Hispanic x-axis: 0, 10, 20, 30, 40, 50 — % of ethnicity	Among defendants with one or more prior prison commitment, Hispanics were incarcerated at the highest rate for drug offenses and whites at the lowest rate. Whites received intermediate sentences more often than other racial/ethnic groups—more than 10 percentage points above the rate at which Hispanics received intermediate sentences. Whites and blacks in this group were acquitted or had their cases dismissed at about the same rate while Asians and Hispanics were acquitted or had their cases dismissed less frequently.

Conclusions

When controlling for a prior record and the type of offense, there were no consistent patterns in the severity 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 of the offense categories and using the limited controls that are available to take into account the prior record of the defendants, there were some statistically significant differences in the sentencing outcomes among racial/ethnic groups.

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. Data on sentence length and specific type of prior record 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 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.

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.