

# PUNISHING THE “MODEL MINORITY”: ASIAN-AMERICAN CRIMINAL SENTENCING OUTCOMES IN FEDERAL DISTRICT COURTS\*

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*Research on racial and ethnic disparities in criminal punishment is expansive but remains focused almost exclusively on the treatment of black and Hispanic offenders. The current study extends contemporary research on the racial patterning of punishments by incorporating Asian-American offenders. Using data from the United States Sentencing Commission (USSC) for FY1997–FY2000, we examine sentencing disparities in federal district courts for several outcomes. The results of this study indicate that Asian Americans are punished more similarly to white offenders compared with black and Hispanic offenders. These findings raise questions for traditional racial conflict perspectives and lend support to more recent theoretical perspectives grounded in attribution processes of the courtroom workgroup. The article concludes with a discussion of future directions for research on understudied racial and ethnic minority groups.*

Social discourse on race relations in the legal system represents a major undertaking of contemporary scholarship in criminology and law. Historically, its purview has been restricted to the dichotomy between black and

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white. This limited approach is manifest in classic sociological and criminological treatments of racial inequality and discrimination in the justice system (e.g., Blumstein, 1982; Hacker, 1995; Hagan and Albonetti, 1982; Kerner Commission, 1968; Piliavin and Briar, 1964; Sellin, 1935). Although more contemporary work argues persuasively for expanding the racial ken to include Hispanic ethnicity (e.g., Albonetti, 1997; Martinez, 2002; Steffensmeier and Demuth, 2000; Zatz, 1984), conspicuously little attention is devoted to Asian-American offenders—discrimination and inequality among Asian Americans in the justice system remain virtually uninvestigated. Although shifting population demographics clearly highlight the need for broader approaches to racial dynamics in society, the traditional focus on blacks and Hispanics remains the dominant research paradigm. This persists despite widespread acknowledgment of “the need to develop better information concerning the punishment of racial and ethnic minorities other than those that are most sizable” (Ruth and Reitz, 2003: 32). The current study argues for the theoretical and empirical importance of examining criminal punishments for Asian-American offenders, and it offers the first systematic investigation of racial disparities in sentencing for this often overlooked minority group within the federal justice system.

The lack of attention paid to the treatment of Asian-American groups in the criminal justice system is noteworthy given their increasing prominence. According to recent U.S. Census figures, the population of Asian Americans has increased steadily during the past several decades, approximately doubling between 1980 and 1990 (from 3.7 to 7.3 million) and expanding to 11.9 million by 2000 (Barnes and Bennett, 2002). In fact, the percent increase in population size for Asian Americans in the past two decades has been greater than for any other racial or ethnic group.<sup>1</sup> Not only has the Asian-American population been growing rapidly, but also the population of Asian Americans in federal and state prisons has increased appreciably in recent years. Recent estimates suggest that nearly 10,000 Asian-Americans offenders are in prison (Stephan and Karberg, 2003). As the fastest growing minority group in the United States, now constituting a sizeable incarcerated population, research on the criminal processing of Asian offenders is timely and needed.

The absence of scholarship on Asian offenders is unfortunate given their unique niche in contemporary race relations in American society.

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1. The population of Asian Americans as a group increased by 204 percent between 1980 and 2000, whereas the Hispanic population increased by 141.7 percent. The African-American population increased by 30.8 percent, whereas the white majority increased by only 12.3 percent (Hobbs and Stoops, 2002).

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Whereas blacks and Hispanics occupy socially disadvantaged socioeconomic positions (McKinnon and Bennett, 2005; Ramirez, 2004), the relative standing of Asian Americans tends to be much closer to the white majority.<sup>2</sup> Relative to other minority groups, Asian Americans have a higher mean level of education, they have lower rates of poverty and unemployment, and they are underrepresented in official crime statistics (Reeves and Bennett, 2004; Sampson and Lauritsen, 1997). Unlike other minority groups who have been demonstrated to have negative stereotypes associated with them in the criminal justice system (Bridges and Steen, 1998), Asian Americans have, at least in recent years, been favorably perceived in popular discourse. As one prominent scholar has noted, “The academic achievement of [Asian] American children has gained public attention, resulting in a positive stereotype as a model minority” (Zhou, 2000: 331). This epithet carries with it different connotations from those of other racial and ethnic groups, which suggests that the treatment of Asian offenders in the justice system may differ in important ways from other minority groups. Given their unique status, an examination of the criminal processing of this understudied racial group offers an important opportunity to expand current research and theorizing on racial and ethnic disparities in criminal punishment.

Using sentencing data from the United States Sentencing Commission (USSC), the current study examines the treatment of Asian-American offenders in the federal justice system. In doing so, it contributes to the extensive literature on the sociology of punishment by broadening current discourse and conceptualizations of racial and ethnic disparities, by examining criminal sentences for a variety of offense types in U.S. federal district courts, and by clarifying the theoretical linkages among conflict, consensus, and organizational perspectives on criminal court decision making. It begins with a review of extant literature on racial and ethnic effects in sentencing, followed by a theoretical depiction of the Asian-American “model minority” stereotype. It then develops competing theoretical hypotheses about the treatment of Asian-American offenders and proceeds to test them by examining key decision-making outcomes in federal district courts.

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2. Of course the rubric “Asian American” includes a wide variety of differing ethnic groups, each of which varies in its relative social position in society. Whereas East Asians, like Japanese, Chinese, and Filipino Americans, tend to have the highest socioeconomic and educational outcomes, Southeast Asian groups, such as Vietnamese, Cambodian, Laotian, and Hmong Americans, tend to be relatively disadvantaged (Cheng, 1997; Reeves and Bennett, 2004). The use of this broad categorization is necessary given current data limitations, although as with other minority groups, such as Hispanics, additional delineations should ultimately be pursued.

## RACE/ETHNICITY AND CRIMINAL SENTENCING OUTCOMES

Few topics have received as much attention from criminal justice researchers as the presence of racial and ethnic disparities in criminal sentencing. A vast and growing literature focuses on the extent to which white offenders receive beneficial treatment at sentencing (e.g., Albonetti, 1997; Bridges and Crutchfield, 1988; Bridges and Steen, 1998; Bushway and Piehl, 2001; Hagan, 1974; Johnson, 2006; Mitchell, 2005; Peterson and Hagan, 1984; Steffensmeier, Ulmer, and Kramer, 1998; Thomson and Zingraff, 1981; Ulmer, 1997). Despite considerable theoretical and empirical advances (Zatz, 1987), extant research remains focused on black/white comparisons (e.g., Crawford, Chiricos, and Kleck, 1998; Kautt and Spohn, 2002; Kramer and Steffensmeier, 1993; Spohn, Gruhl, and Welch, 1981–1982; Steffensmeier, Ulmer, and Kramer, 1998; Unnever, Frazier, and Henretta, 1980) and, to a lesser extent, black/white/Hispanic comparisons (e.g., Albonetti, 1997, 2002; Demuth, 2003; Johnson, 2003; Spohn and Holleran, 2000; Steffensmeier and Demuth, 2000, 2001). Overviews of racial and ethnic effects in punishment exist elsewhere (e.g., Hagan and Bumiller, 1983; Kleck, 1981; Klepper, Nagin, and Tierney, 1983; Mitchell, 2005; Sampson and Lauritsen, 1997; Spohn, 2000; Zatz, 2000) and suggest that despite some inconsistencies, the weight of the evidence indicates minority groups are often disadvantaged at sentencing. Importantly, however, the effects of race and ethnicity are often subtle, indirect, and typically small relative to legal considerations like seriousness of the present offense. However, as Sampson and Lauritsen (1997: 364) opined, “we know very little about criminal justice processing other than for blacks and whites. Quite simply, there is little empirical basis from which to draw firm conclusions for Hispanic, Asian, and Native Americans.”

Recent research has answered the call for additional investigations incorporating Hispanic offenders. Findings from this work highlight important differences in court processing and criminal sanctioning by offender ethnicity (Albonetti, 1997, 2002; Johnson, 2003; LaFree, 1985; Steffensmeier and Demuth, 2000, 2001; Welch, Spohn, and Gruhl, 1985; Zatz, 1984). Recent studies of Hispanic offenders in federal district courts, for instance, concur that they are not only punished more severely than both their white and black counterparts, but also they are less likely to receive sentencing discounts such as favorable departures from the federal sentencing guidelines (Albonetti, 1997; Johnson, Ulmer, and Kramer, 2008; Mustard, 2001; Steffensmeier and Demuth, 2000). Evidence suggests that Hispanic offenders are punished at least as severely as black offenders. The limited work on Native American offenders reaches a similar conclusion (e.g., Alvarez and Bachman, 1996; Bynum, 1981; Bynum and

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Paternoster, 1984; Hagan, 1975, 1977). According to Spohn (2000: 428), these findings “suggest that race and ethnicity do play an important role in contemporary sentencing decisions,” such that “the ‘discrimination thesis’ cannot be laid to rest.”

What is conspicuously absent from modern discourse on racial and ethnic disparities in criminal punishment, however, is consideration of the way Asian Americans are processed through the justice system. Our review of contemporary research on race and sentencing revealed only one study that incorporated Asian-American offenders in any capacity.<sup>3</sup> Everett and Wojtkiewicz (2002) analyzed the relative placement of racial groups within four different strata of federal sentencing guideline recommendations. Their results suggested that, within conforming guidelines ranges, Asian offenders were punished similarly to white offenders for all offenses except immigration, where they received slightly more severe punishments. Although this study represents an important contribution, it does not focus on punishments for Asian Americans, it provides little theoretical discussion of its findings, and it is limited to sentences that conform to guideline recommendations. Because the federal sentencing guidelines comprise narrow, restrictive sentencing ranges, meaningful differences among racial and ethnic groups are likely to remain uncaptured (Mustard, 2001). Overall, little remains known about the subtleties and complexities of criminal punishments for Asian-American offenders.

The lack of scholarly attention to Asian offenders is partly a consequence of common data limitations, including insufficient numbers or a lack of detail on Asian Americans. However, data limitations alone cannot account for the dearth of research. The growing interest in the treatment of other ethnic groups has not spread to Asian Americans in part because of the perception that Asian Americans are not a disadvantaged racial group in society. Whereas other minority groups are equated with the socially disadvantaged, Asian Americans have been labeled an American success story. Given their underrepresentation in official crime statistics (Sampson and Lauritsen, 1997), the relative recentness of appropriate data, and the general success image associated with the “model minority” stereotype, it is not surprising that few empirical studies have focused on Asian offenders—in many ways they represent a unique racial group. Yet it is exactly this uniqueness that establishes the need for empirical research. Because Asian Americans occupy a singular niche in American

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3. Brown and Hullin (1992) also examined survey data collected from an adult magistrate court in Leeds, United Kingdom, on 3,686 white, Afro-Caribbean, and Asian offenders. They found no difference between Asians and whites, but given differences in the racial heritage and justice system of the United Kingdom, the applicability of these findings to the United States is limited, so we do not review this research here in detail.

race relations, an examination of their punishment outcomes provides a useful opportunity to expand current theoretical conceptions of the courtroom decision-making process. Some brief historical background on the model minority stereotype is provided before elaborating its theoretical importance in more detail.

### FROM YELLOW PERIL TO MODEL MINORITY

For most of American history, Asian Americans have endured similar racial subordinations as blacks and other minority groups, serving as targets of racial violence, segregation, and discrimination in housing, employment, education, and the justice system. Their early subjugation was tied to multiple factors, including nativistic anti-immigrant sentiments, language and cultural barriers, perceptions of racial and economic threat, and international relations, including U.S. military involvements in Asian countries (Ancheta, 2006). Early U.S. Supreme Court decisions ruled that Asian Americans should be legally classified as blacks.<sup>4</sup> Yet, Asians exhibit their own unique cultural legacy of contentious race relations in America. Beginning in the mid-nineteenth century with the California gold rush and the building of the transcontinental railroad, the dramatic influx of Chinese laborers into the United States fueled widespread anti-Asian prejudice in America (Fredrickson, 2003). A unique specter of racial threat, one tied to both racism and nativism, culminated in several infamous government interventions. The Chinese Exclusion Act of 1882 summarily prohibited all immigration from China. The legacy of that legislation was not fully redressed until the Immigration Act of 1965 removed national origin immigration quotas. Similar experiences characterized other Asian ethnic groups. During World War II, more than 100,000 Japanese were forcibly detained in military-style internment camps after the bombing of Pearl Harbor (Daniels, 1993).<sup>5</sup> This was emblematic of a profound sense of anti-Asian fear and prejudice that pervaded America in the early twentieth century. Much of the early anti-Asian sentiment was tied to economic threat perpetuated by early labor movements that feared

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4. In *People v. Hall* (1854), the California Supreme Court ruled that Chinese immigrants were not allowed to testify in court under the same statutes that barred blacks from testifying. Similarly, in *Gong Lum v. Rice* (1927), the High Court ruled that segregated schools were appropriate for Asian Americans because prior rulings on black/white segregation clearly held for the “yellow races” (see Ancheta, 2006).
  5. The U.S. Supreme Court upheld the constitutionality of the internment in *Korematsu v. United States* (1944), stating that although “all legal restrictions which curtail the civil rights of a single racial group are immediately suspect, that is not to say that all such restrictions are unconstitutional.”

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the influx of a foreign labor group, as well as racial threat fueled by widespread American fears associated with the rubric “yellow peril,” which according to Miller (1969: 201), conjured stereotypical images of “deceit, cunning, idolatry, despotism, xenophobia, cruelty, infanticide, and intellectual and sexual perversity.”

Despite continuing prejudices and subjugations, the post-war popular image of Asian Americans in society has been dramatically overhauled. In just a few decades, “the past negative image of the Asian population in the United States has been transformed into a positive one” (Hurh and Kim, 1989: 516). This transformation has been variously attributed to the professional employment status and upward social mobility of early Asian immigrant groups (Lyman, 1974: 119), the recent influx of more college-educated Asian groups (Hurh and Kim, 1989), and the political utility of an exemplar racial minority group during periods of racial tension (Chun, 1980). Whatever the reasons for the historic transformation, by the mid-1960s, the popular press had begun to highlight the success stories of Asian Americans, identifying them as the “model minority”—a stereotype that “represents a number of positive qualities supposedly unique to Asian Americans, such as a superior work ethic, high levels of educational achievement, and a highly refined business and economic sensibility” (Paek and Shah, 2003: 226).

Today, stereotypical attributions linking Asian Americans to social and economic success in this country are firmly entrenched in popular discourse. As Ancheta (2006: 6) argues, “contemporary race relation controversies appear to have elevated Asian Americans to the status of honorary whites.” Asian Americans as a group therefore hold a unique place in American racial relations. Although the model minority appellation has been widely criticized for being overly simplistic (Wong, 1994), at least some objective evidence supports its thesis—as a group, Asian Americans outperform other minority groups across a variety of social welfare indices (Cheng, 1997). They earn higher median salaries, are more likely to earn their Bachelor’s degree, and are more likely to be employed in management, professional and related occupations compared with the general population (Reeves and Bennett, 2004).

Criminological research substantiates these claims even more. Using data from the National Longitudinal Study of Adolescent Behavior (Add Health), McNulty and Bellair (2003) reported that Asian youth are significantly less likely to be involved in serious acts of violence, live in less structurally disadvantaged and more stable communities, and have parents with significantly more education and higher average incomes. Asian adolescents also report substantially higher levels of school attachment and higher average grades, relative to both other minority groups and the white majority (see also Jang, 2002). Official crime statistics also indicate

that Asian offenders are underrepresented in virtually all offense categories (Sampson and Lauritsen, 1997; Uniform Crime Reports, 2005). Whereas other racial and ethnic minority groups tend to be overrepresented in felony crime statistics, Asian Americans “account for 1.0 percent of all arrests, yet make up 2.9 percent of the population” (Sampson and Lauritsen, 1997: 325). Some scholars have therefore concluded, “in comparison to African-Americans and even Mexican-Americans, Asian-Americans appear to be on their way to being assimilated by the European-American majority” (Fredrickson, 2003: 10).

The unique niche occupied by Asian Americans in the racial stratification system of the United States has important theoretical implications for understanding punishment in society. Racially, Asians remain a subordinate status group, but socially and economically, they have been labeled a success story. Their unique status as a racial minority group with positive stereotypes therefore provides a rare opportunity to test competing theoretical propositions on the role of race and ethnicity in the punishment process.

### CONFLICT, CONSENSUS, AND ORGANIZATIONAL THEORY

Historically, criminal justice scholars have debated the relative merits of conflict and consensus perspectives for understanding the criminal justice system, particularly with regard to criminal sentencing (see, e.g., Albonetti, 1991; Bridges and Crutchfield, 1988; Hagan, Nagel, and Albonetti, 1980; Liska, 1994). Scholars who adopt a conflict perspective have generally interpreted significant race effects as evidence for substantive political influence in the justice system, whereas researchers operating in the consensus paradigm highlight the strong influence of legal factors as evidence for formal legal rationality (Dixon, 1995). This theoretical seesawing led Hagan (1989: 117) to conclude that “broadly framed consensus and conflict theories” are of limited use because they “fail to accommodate unique aspects of criminal justice processes and outcomes.” These approaches can be combined with more recent theoretical perspectives, however, to derive useful propositions regarding the treatment of different racial and ethnic groups in the justice system. By examining Asians in particular, new insights may be gleaned into the relative salience of conflict, consensus, and more contemporary organizational perspectives on court decision making.

#### SUBSTANTIVE POLITICAL/CONFLICT THEORY

Drawing on early Marxian ideas of class conflict, the substantive political perspective of criminal sentencing argues that those groups with the



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least social, economic, and political power in society will be punished most severely. Some perspectives emphasize differential power in the creation of laws (Quinney, 1970), whereas others focus more on differential application of the law (Chambliss and Seidman, 1971; Turk, 1969), but these perspectives uniformly suggest that power differentials between dominant and subordinate classes result in differential punishments among societal groups.<sup>6</sup> In some versions, the legal system represents a structural mechanism for controlling potentially threatening surplus populations (Spitzer, 1975). Punishment from this perspective is a form of politically organized oppression designed to use state power and authority structures to reinforce dominant class interests. This leads conflict theorists to emphasize the importance of social status characteristics such as the offender's race or ethnicity.

Many scholars therefore asseverate that racial minorities will be treated disadvantageously in the criminal justice system (e.g., Chambliss and Seidman, 1971). The justice system is conceived of as a structural tool for suppressing the social and political viability of minority groups in society while maintaining the dominant racial caste system. At a macrostructural level, lower class and minority populations may threaten the cultural and economic interests of the dominant white class, resulting in greater use of formal social control as the perceived group threat intensifies (Blalock, 1967; Bridges and Crutchfield, 1988; Turk, 1969). Although in its original formulation, conflict theory “predicts similar treatment for blacks, American Indians, Asian Americans, Hispanics, lower-class whites, and other low-status groups” (Hawkins, 1987: 722), it has been routinely applied to suggest “*blacks or other nonwhites will receive more severe punishments than whites*” (Hawkins, 1987: 724, italics in original). As Peterson and Hagan (1984: 56) argued, “The most popular theory of criminal sentencing, conflict theory, traditionally has predicted that non-white offenders would receive more severe sentences than whites.”

Although different versions of conflict theory place varying emphasis on the importance of racial group membership, its broad application emphasizes the uniform disadvantage of racial minority groups in society—membership in any subordinate racial group is expected to increase punishment at sentencing. Because some minority groups may have recourse to more social and economic resources, or because they may represent less of a threat to dominant class interests, some differences among minority

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6. Myriad versions of the conflict perspective exist accompanied by heated debate over what constitutes conflict theory per se (Hawkins, 1987). Although it recognizes these variations, the present work refers to the conflict perspective to represent the body of theoretical writing that emphasizes power differentials in society that are commonly manifest in the justice system.

groups may be expected, but because minority group membership represents a subordinate, potentially threatening racial status characteristic, more severe punishment should characterize the treatment of all minority groups relative to whites. We therefore predict the following based on racial conflict theories:

*Hypothesis 1:* All racial and ethnic minority groups, including Asian Americans, will be sentenced more severely than similarly situated white offenders.

#### FORMAL LEGAL/CONSENSUS THEORY

In contrast, legal scholars working from a Durkheimian legal tradition have argued that law in society represents the social consensus of the collective electorate. Therefore, the criminal justice system as an institution also represents the consensual values of the collective society. Scholars operating in this formal-legal tradition emphasize that legal decision making is technically rational (Weber, 1954) and that it is governed by formal legal rules “applied equally to all classes and races” (Dixon, 1995: 1161). These scholars typically highlight the strong effects that legal considerations, such as the severity of the offense, exert on criminal justice decision-making outcomes.

In his classic review of racial disparities, Kleck (1981) concluded that offender characteristics such as race add little to our understanding of criminal sentencing differences among offenders. Rather, any observed differences between groups are thought to result from differences in the legal characteristics of the crimes committed. Some scholars have therefore labeled this the “no discrimination” (Wilbanks, 1987) or “differential involvement” thesis (Engen, Steen, and Bridges, 2002).

Whereas conflict theorists emphasize the role that race, ethnicity, and social class characteristics play in criminal processing, consensus scholars maintain that the fundamental constitutional values of equal treatment and equality before the law form the social bedrock of the criminal justice system. Whereas conflict theory suggests that minority groups are likely to be treated more severely in the criminal sentencing process, consensus theorists maintain that racial and ethnic effects are likely to be minimal or nonexistent—because the criminal justice system is premised on consensual values of fairness and equality, minority group affiliation should not influence criminal justice case processing. As Randall Kennedy (1997: 136) expressed this idea, “all persons and all groups should be accorded equality before the law with no privileged or subordinated castes.” According to traditional formal legal consensus perspectives, then, one would expect the following:

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*Hypothesis 2:* After controlling for legal considerations, all racial groups, including Asian Americans, will be sentenced similarly to white offenders.

## ORGANIZATIONAL PERSPECTIVES: ATTRIBUTION AND FOCAL CONCERNS

Although conflict and consensus perspectives have been widely used as a theoretical vehicle in research on criminal punishment, recent theoretical developments increasingly emphasize organizational perspectives for understanding court actor behavior. For instance, Albonetti's (1991) uncertainty avoidance/causal attribution perspective argues that judges, qua organizational actors, are forced to make decisions under time and information constraints (see also Albonetti, 1997; Wheeler, Weisburd, and Bode, 1982). Under these conditions, a "bounded rationality" emerges leading court actors to make "satisficing" decisions based on their limited information (March and Simon, 1958). When faced with insufficient decision-making resources, courtroom actors rely on attributional decision-making processes that invoke societal stereotypes (Albonetti, 1991). Courtroom actors are therefore likely to use "perceptual shorthands" (Hawkins, 1981) that tie offender characteristics to stereotypical beliefs about key sentencing criteria such as offender blameworthiness and likelihood of recidivism. Steffensmeier, Ulmer, and Kramer (1998) build on this perspective arguing that sentencing involves three primary "focal concerns": 1) the blameworthiness and culpability of the offender, 2) concerns over offender dangerousness and community protection, and 3) individual and organizational constraints and considerations. Although the judicial reliance on these three criteria is expected to be universal, their relative emphasis and interpretation is likely to vary across courtroom communities and organizational contexts (Eisenstein, Flemming, and Nardulli, 1988; Ulmer and Johnson, 2004).

Although the specific focus of organizational attribution and focal concerns perspectives differs, both argue for the importance of stereotypical attributions in the courtroom decision-making process. The former particularly highlights the utility of attributions for assessments of blameworthiness and future criminality, and the latter extends the argument to capture individual and organizational concerns of the court. Together, these perspectives suggest that racial and ethnic disparities in sentencing should reflect societal stereotypes that tie courtroom actor perceptions of dangerousness and culpability to offender characteristics like race and ethnicity. In the case of Asian Americans, the perception of this minority group as a "model minority" suggests that they should be treated favorably relative to other minority groups in the justice system. To the extent that Asian-American stereotypes do revolve around the concept of a "model minority"—that is, to the extent that Asian stereotypes are relatively

favorable—one would expect Asian-American offenders to be treated less severely than other, more stigmatized minority groups. Therefore, contemporary theoretical perspectives suggest a third proposition:

*Hypothesis 3:* Sentencing severity will vary across racial and ethnic groups, with less severe sanctions applied to Asian Americans compared with other minority groups.

The first three hypotheses represent competing predictions about the direct effect of Asian-American racial status on sentencing outcomes. In addition to these core predictions, we also examine select hypotheses about theoretically-driven interaction effects. Prior research suggests that stereotypical attributions of offender dangerousness and/or culpability are likely to reflect the coincidence of age, gender, and racial/ethnic status, with young male black and Hispanic offenders singled out for particularly harsh punishment (Albonetti, 2002; Spohn and Holleran, 2000; Steffensmeier, Ulmer, and Kramer, 1998). However, no research examines the confluence of these factors for Asian-American offenders. Among male offenders, it is likely that young Asian Americans will be viewed as less threatening than young black or Hispanic offenders—the positive “model minority” stereotype of Asians is likely to mitigate overall perceptions of dangerousness for this group. However, it is also likely that among Asian offenders, young males will still be perceived as the most dangerous, blameworthy, and crime prone. We expect the following:

*Hypothesis 4:* Among male offenders, sentence severity will be less for young Asian offenders relative to young black or Hispanic offenders.

*Hypothesis 5:* Among Asians, sentence severity will be greatest for young, male offenders.

In the case of Asian Americans, citizenship may also be a particularly important indicator of racial threat attributions in criminal courts. Census data indicate that as of 2000, about two thirds of Asian Americans were foreign born. Illegal aliens are likely to invoke stereotypical attributions tied to perceptions of racial threat, xenophobia, and offender dangerousness. To the extent that this is the case, noncitizens may be particularly stigmatized, leading to severer punishments. We expect the following:

*Hypothesis 6:* Asian offenders who are non-U.S. citizens will receive more severe punishment relative to Asian-American citizens.

Finally, prior research also highlights the importance of examining racial and ethnic disadvantages across divergent offense types (Albonetti, 2003). Because federal criminal caseloads are unique in many ways, and because sentencing considerations may vary by offense type, it is important to examine offense-specific models of race effects. Moreover, there may be compelling theoretical reasons for expecting differences in the effects of race and ethnicity across offense types. Although relatively little work

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examines the issue, some scholars suggest workgroup perceptions of crime are likely to be influenced by racial typing (Farrell and Holmes, 1991; Steen, Engen, and Gainey, 2005; Sudnow, 1965). Hawkins (1987: 728) suggests that “Certain types of crime in multiracial societies are perceived by the public at large and by agencies of social control as race-specific or race-appropriate” and “A member of a given racial group will receive the harshest punishment for committing those crimes perceived to be racially inappropriate.”

However, some prior research alternatively suggests that greater perceived threat accrues for racially typified crimes—that is, “race-appropriate” crimes may be viewed as emblematic of social problems surrounding particular racial and ethnic groups, resulting in harsher punishments in those cases. For instance, Steffensmeier and Demuth (2000: 710) argued that Hispanic offenders are labeled with the “particularly heinous stereotype of ‘drug pusher’ or ‘narcotics trafficker,’” which results in their harsher sentencing for drug offenses. Although race effects are likely to vary by offense, then, it is unclear whether punishments should be expected to be greatest for “racially appropriate” or “racially inappropriate” crimes. This issue remains largely unexamined, and no research explores its relevance for Asian offenders, but their model minority appellation and status as a relatively recent immigrant group suggest white-collar/fraud and immigration offenses may be viewed as race-appropriate Asian crimes. We investigate this issue through the following nondirectional hypothesis:

*Hypothesis 7:* Asian-American punishments will vary significantly across offense types, with particular salience for fraud and immigration crimes.

## DATA AND METHODS

Data for this study come from the USSC for FY1997–FY2000. These data collate information from presentence reports, court orders, and reports on sentencing hearings and are particularly apt to the present purposes because they contain information on a relatively large number of Asian-American offenders. The data were limited to the 88 federal districts that had sentenced Asian offenders (excluding foreign territories and the District of Columbia), resulting in a total sample size of 188,937 federal offenders.<sup>7</sup> Consistent with prior research (e.g., Johnson, 2005), analyses of guidelines departures are limited to cases that are eligible for these

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7. The only federal district that was not a foreign territory and that sentenced no Asian offenders during the timeframe of our study was the Northern District of Mississippi ( $n = 588$ ). Several important changes have occurred in federal sentencing in recent years, including the passage of the PROTECT Act in 2003 and the Supreme Court decision in *United States v. Booker/Fanfan* in 2005. We examine data that predate these events, in part because work on this project began several years ago, before more recent data were available; studies that

discounts, resulting in a reduced sample size of 165,632 cases (cases in Zone A of the guidelines cannot receive downward departures; see appendix A).<sup>8</sup> For analyses of sentence length, we examine only the 157,276 cases that received incarceration. Table 1 provides a summary of our dependent and independent variables.

## DEPENDENT VARIABLES

We examine Asian-American sentencing disparities using three dependent variables: federal guidelines departures, incarceration, and sentence length. Although guidelines departure decisions precede final sentencing, they are enormously consequential for federal punishments. We therefore examine them as a distinct decision-making outcome in the sentencing process. Downward departures from the federal guidelines can occur in two distinct ways. First, under Federal Rule 5K1.1, defendants who are judged to have provided “substantial assistance” to the government in the prosecution of another federal case are eligible for downward departures. These departures require a formal motion by the prosecutor, but once granted, the judge may not only sentence below guideline recommendations but also below applicable mandatory minima that are often associated with drug and gun cases. Second, under Federal Rule 5K2, judges also retain discretionary power to sentence offenders outside of guidelines recommendations when circumstances arise that are deemed to have been not adequately considered by the sentencing commission in its formulation of the guidelines. Both types of departure are subject to appeal. Downward departures are analyzed with a multinomial outcome that distinguishes substantial assistance departures, downward departures, and upward departures from the referent no departure.<sup>9</sup>

Incarceration is measured with a dummy variable capturing whether the offender was sentenced to federal prison. Because sentence lengths are positively skewed, with a limited number of offenders receiving very long terms of incarceration, we follow prior work and use a logged measure of

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replicate the current findings with updated federal sentencing data would represent a useful contribution to future research.

8. This sample size does not include 3,409 cases that were missing information on departure status or were otherwise ineligible for guidelines departures.
9. Although technically guidelines departures represent part of the sentencing process rather than separate punishment outcomes, considerable prior work identifies the departure decision as a key, consequential decision-making stage in the federal punishment process (e.g., Albonetti, 1997; Hartley, Maddan, and Spohn, 2007; Johnson, Ulmer, and Kramer, 2008; Mustard, 2001; Steffensmeier and Demuth, 2000). We therefore perform separate analyses of departures as important intermediate decision-making outcomes.

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**Table 1. Summary of Dependent and Independent Variables, USSC Data FY1997–FY2000**

Variable	Coding Scheme	Description
<b>Dependent Variables</b>		
Substantial assistance departure	1 = yes	Offender received 5K1.1 downward departure for substantial assistance to government
Downward departure	1 = yes	Offender received 5K2 downward departure
Incarceration	1 = yes	Offender sentenced to incarceration
Ln sentence length	Log (months)	Natural log of the total number of months of imprisonment (capped at 470)
<b>Independent Variables</b>		
Race	5 dummy variables	Dummy indicators for offender race/ethnicity, with Asian-American the reference category
Multiple convictions	1 = multiple	Dummy indicator for offenders convicted of multiple offenses
Criminal history	USSC scale	United States Sentencing Commission scale rating prior criminal history from 1 to 6
Presumptive length	Months	Adjusted minimum number of months of incarceration recommended by the guidelines
Ln presumptive length	Log (months)	Natural log of adjusted minimum months of incarceration recommended by the guidelines
Presentence detention	1 = detained	Dummy indicator for offenders detained prior to trial
Trial	1 = trial	Dummy indicator for offenders convicted at bench or jury trial
Age*	Years	Continuous measure of age of offender at time of sentencing
Noncitizen	1 = noncitizen	Dummy indicator for offenders who are not U.S. citizens
Dependents	1 = dependents	Dummy indicator for offenders with financial dependents (missing data are coded 0)
Gender	1 = male	Dummy indicator for sex
Education	5 dummy variables	Dummy indicators for education level, with high-school graduate the reference category
Offense type	6 dummy variables	Dummy indicators for offense types with drug offense the reference category
Sentence year	4 dummy variables	Dummy indicators for sentence year, with 1998 the reference category
District	87 dummy variables	Dummy indicator for Federal District, with District 45 the reference category

*ABBREVIATION:* Ln = natural logarithm.

\* Young (less than 30 years of age) is substituted for offender age in analyses involving race  $\times$  age  $\times$  sex interactions.

sentence length (e.g., Bushway and Piehl, 2001; Johnson, 2006; Wool-dredge, 2007).<sup>10</sup>

#### INDEPENDENT VARIABLES

The federal sentencing data provide detailed information on a broad host of relevant sentencing considerations. Our analyses incorporate a wide range of offense and offender characteristics. Racial minority status is captured with four dummy variables identifying white, black, Hispanic, and “other” offenders, with Asian Americans serving as the reference category. The reference is strategically selected to allow comparison of each other racial group to Asian offenders. These data include 4,334 Asian offenders, providing sufficient power to investigate racial disparities among this understudied group.

To control for legally relevant sentencing considerations, we incorporate the presumptive guidelines sentence (Engen and Gainey, 2000), which is equal to the minimum months of incarceration recommended by the sentencing guidelines after adjusting for any mandatory minimum trumps. This variable combines the 43-point offense severity scale with the 6-point criminal history scale (see appendix A) and accounts for sentencing adjustments that affect the final presumptive sentence under the federal guidelines (Hofer and Blackwell, 2001). In line with prior work, we include an additional control for the offender’s criminal history score.<sup>11</sup> For our analysis of the logged sentence length outcome, we use a logged measure of

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10. A recurrent theme in analyses of sentence lengths is the potential for selection bias in estimates of sentence length. Because the subset of offenders who receive incarceration is likely to be nonrandom, these coefficients may represent biased estimates for the unconditional population of interest. We follow Bushway, Johnson, and Slocum (2007) and conduct sensitivity analyses to determine the relative costs and benefits of including Heckman’s (1976) correction for selection bias. We began by calculating the inverse Mills ratio using the Heckman Two-Step procedure in Stata 9.2 (StataCorp, College Station, TX). We then examined collinearity diagnostics for models with and without this correction for potential selection bias. The model including the lambda term surpassed recommended ranges of tolerable collinearity (condition index = 35.53), suggesting that the uncorrected estimates were preferable. We therefore report estimates from the simple two-part model. Although this means that our sentence length estimates are uncorrected for possible selection bias, in the federal data, this is unlikely to be overly problematic because there is a relatively low level of censoring (Stolzenberg and Relles, 1990) as most offenders (84 percent) receive some term of confinement. This approach is consistent with other recent analyses of federal sentencing (e.g., Johnson, Ulmer, and Kramer, 2008).
  11. The decision to include a separate measure of prior record along with the presumptive sentence recommendation is consistent with prior research on federal sentencing (e.g., Albonetti, 2002; Johnson, Ulmer, and Kramer, 2008; Ulmer, 2005), and with the recommendations of the USSC’s *Final Report on the Impact*



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this presumptive guidelines score. For our analyses of incarceration and sentence length, we include dummy variables for departures from the guidelines. The type of crime is measured with a series of dummy variables distinguishing violent, property, firearm, fraud, and immigration offenses from the reference drug crimes. Finally, cases involving multiple counts of conviction are captured with a dummy variable. Taken together, these measures provide strong controls for the major legal considerations relevant at sentencing.

Select case-processing characteristics also are incorporated into the statistical model. Presentence release is captured by a dummy variable measuring whether an offender was detained prior to sentencing. The mode of conviction is measured with a dummy variable distinguishing offenders convicted through bench or jury trials from those who pled guilty.<sup>12</sup> Furthermore, dummy variables for sentencing year also are included to control for potential time trends, with 1998 serving as the referent.

In addition to race and ethnicity, we control for additional offender characteristics of interest. These characteristics include the age of the offender, measured in years at sentencing, the gender of the offender, captured by a dummy variable, and the offender's citizenship, distinguishing U.S. citizens from non-U.S. citizens.<sup>13</sup> The highest level of education for the offender is measured with dummy variables separating offenders with less than a high-school degree, those with at least some college education, and those with a college degree or more from the reference high-school graduates. An additional dummy variable is included for offenders with missing or unknown information on educational attainment. Finally, a dummy variable for whether the offender had any financial dependents is also included.

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*of United States v. Booker on Federal Sentencing* (2006) (see also Hofer and Blackwell, 2001). It did not result in any problematic collinearity.

12. Federal offenders also can receive a two- or three-guidelines level sentencing discount for “acceptance of responsibility,” but a separate variable for this adjustment is not included in the model because it is highly dependent on entering a guilty plea and because it is already accounted for in our measures of the final presumptive sentence.
13. Not surprisingly, U.S. citizenship was significantly related to Hispanic ethnicity ( $\lambda = .54$ ). The consequence of this is that the standard errors for these variables may be somewhat inflated, but given our theoretical interests in both race/ethnicity and citizenship, along with our concern that omission of citizenship would introduce specification error in the model, we retain both measures in our analysis. The tolerance statistic for the citizenship variable did not fall below .40 in any of our models, which suggests that collinearity associated with its inclusion was not overly problematic.

## ANALYTIC STRATEGY

Our analysis proceeds in three stages. First, to evaluate our first three hypotheses regarding the existence of disparate racial treatment, we examine each outcome for the entire sample. Second, we assess the validity of hypotheses 4, 5, and 6 by incorporating relevant interaction terms. Third, because we are interested in examining whether punishment disparities vary across crime types, we restrict our analyses to four primary offenses: violent, drug, fraud, and immigration.<sup>14</sup> These are the four most prevalent offense categories in the data, representing 85 percent of all federal offenses.

For our analyses of downward and substantial assistance departures, we employ multinomial logistic regression and separately compare the likelihood of receiving each type of downward departure to the likelihood of receiving no departure.<sup>15</sup> For our analyses involving the likelihood of incarceration, we employ logistic regression. For our analyses of logged sentence length, we use ordinary least-squares regression. Because our dependent variable is logged to reduce positive skew in sentence lengths, the coefficients for these models can be interpreted as the percent change in the dependent variable that is associated with a 1-unit change in the independent variable.<sup>16</sup> Because extant research emphasizes the importance of controlling for jurisdictional variations in federal punishments (e.g., Albonetti, 1997, 2002; Hagan, Nagel, and Albonetti, 1980; Johnson,

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14. The "fraud" category encompasses a variety of criminal behavior, including fraud, embezzlement, forgery/counterfeiting, bribery, tax offenses, money laundering, racketeering, and gambling/lottery offenses. We also completed separate analyses with the singular offense of fraud. We do not report this alternative specification here, but these findings also are available by request.
  15. Because federal departures can occur above or below guideline recommendations, we estimate models with a four-category multinomial outcome (substantial assistance, downward departure, upward departure, and no departure), but we only report our results for downward and substantial assistance departures because less than 1 percent of all cases receive upward departures from the federal guidelines. Because downward and substantial assistance departures follow different procedural and legal protocols (e.g., the latter require a motion from the U.S. Attorney), we also replicated these analyses with separate logistic regressions comparing downward departure with no departure and substantial assistance with no departure rather than combining them into a multinomial outcome. Our substantive conclusions were in no way affected by this alternative modeling strategy.
  16. Often, regression coefficients in models with logged dependent variables are directly interpreted as proportional changes without any transformation. When effect sizes are small and coefficients are close to 0, this approach yields reasonable results, but as effect sizes increase, this approximation performs poorly and it becomes necessary to take the antilog of the coefficient to produce valid estimates of percent change (Agresti and Finlay, 1997: 556-9).

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Ulmer, and Kramer, 2008; Steffensmeier and Demuth, 2000), we also include a series of dummy variables to capture any potentially important interdistrict variations in sentencing. These “fixed effects” capture all stable, unmeasured characteristics of district court communities, and they remove any intraclass correlation that might exist among individual cases sentenced in the same district courts (see, e.g., Helms and Jacobs, 2002).<sup>17</sup> This approach effectively captures district-level variations in federal punishments without necessitating more complicated hierarchical modeling techniques. Given our focus on individual-level disparities among Asian Americans, this is both the most appropriate and most parsimonious analytic approach. We summarize our basic statistical models below:

$$X_i = \log \left( \frac{\pi_i = j}{\pi_i = J} \right) = \beta_0 + \beta_j B_{ij} + \beta_k C_{ik} + \beta_l D_{il} + \beta_m E_{im} \quad (1)$$

$$Z_i = \log \left( \frac{\pi}{1 - \pi} \right) = \beta_0 + \beta_j B_{ij} + \beta_k C_{ik} + \beta_l D_{il} + \beta_m E_{im} \quad (2)$$

$$Y_i = \log(\hat{\mu}) = \beta_0 + \beta_j B_{ij} + \beta_k C_{ik} + \beta_l D_{il} + \beta_m E_{im} + e_i \quad (3)$$

where  $X_i$  represents the log odds of individual  $i$  receiving a  $j$  departure (downward departure or substantial assistance departure) compared with the referent  $J$ , no departure, in the multinomial model,  $Z_i$  represents the log odds of incarceration for individual  $i$  in the logistic regression model, and  $Y_i$  represents the natural log of the number of months of imprisonment ( $\hat{\mu}$ ) for individual  $i$  sentenced to incarceration. In all models,  $B_{ij}$  represents a vector of  $j$  legal case characteristics,  $C_{ik}$  a vector of  $k$  case processing characteristics,  $D_{il}$  a vector of  $l$  defendant characteristics, and  $E_i$  a block of  $m$  fixed effects for federal districts in the analysis.

Finally, because geographic variation exists in the prevalence of Asian offenders in federal courts, we reanalyze our data under an alternative sampling strategy, selecting only those federal districts in which at least 20 Asian offenders were sentenced.<sup>18</sup> The substantive conclusions regarding

17. For some analyses conducted on restricted subsamples of the data (e.g., only Asian-American offenders), it was necessary to identify and remove problematic jurisdictions that had few or no observations. To protect against any additional violations of our model assumptions, we report robust standard errors, although replications of our models without corrected standard errors did not affect our substantive findings.

18. In total, 39 districts met this criterion: Alaska, Arizona, California Central, California East, California North, California South, Colorado, Florida Middle, Florida South, Georgia North, Hawaii, Illinois North, Kansas, Kentucky West, Louisiana East, Maryland, Massachusetts, Michigan East, Michigan West, Minnesota, Missouri East, Nevada, New Jersey, New York East, New York North, New

racial differences in punishment for this subsample were substantively the same, so we report only the results from the full sample below. This similarity provides some confidence that our reported results are not an artifact of the spatial concentration of Asian offenders in some federal districts, although future work is needed to explore geographic variation in Asian punishments in greater detail.

## THE ASIAN PUNISHMENT EFFECT

### DESCRIPTIVE ANALYSES

Table 2 reports descriptive statistics for our variables of interest. The first column presents the descriptive statistics for the full sample with subsequent columns disaggregated by racial/ethnic group. In terms of federal guideline conformity, the percentage of Asians who receive substantial assistance departures (29 percent) is greater than for any other racial/ethnic group. Downward departures are used least for African Americans and most for Hispanic offenders (26 percent), with Asians and whites in the middle, although the Hispanic percentage likely reflects the use of early disposition programs in Southwestern districts with heavy immigration caseloads.<sup>19</sup> In terms of incarceration, most federal offenders receive some period of imprisonment. The proportion incarcerated is smaller among Asian offenders (71 percent), only slightly larger for whites (74 percent), and substantially larger for blacks (85 percent) and Hispanics (93 percent). Asian Americans also receive significantly shorter sentence lengths than other racial/ethnic groups, particularly compared with black offenders. Thus, the basic descriptive statistics intimate less severe outcomes for Asian Americans relative to other minority groups in the federal system.

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York South, New York West, North Carolina West, Ohio North, Oklahoma West, Oregon, Pennsylvania East, Texas North, Texas South, Texas West, Utah, Virginia East, Washington West, and Wisconsin West. The pattern of findings was remarkably similar for this subsample, although a few isolated effects became statistically insignificant because of the reduced sample size. The full results for these supplemental analyses are available from the authors by request.

19. Early disposition "fast track" departures are commonly used to expedite case processing for large immigration caseloads in Southwestern districts (USSC, 2003). According to the USSC, "Fast track programs were established in judicial districts along the southwest border to accommodate burgeoning immigration related caseloads" (USSC, 2003: v). "The premise on which fast track programs are based is that defendants who promptly agree to participate in such a program save the government significant scarce resources that can be used in prosecuting other defendants" (USSC, 2003: 16). It is difficult to isolate fast-track departures from other downward departures because they are not reported consistently across districts, but the high percentage of downward departures for Hispanic offenders is consistent with the use of these types of dispositions.

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**Table 2. Descriptive Statistics for USSC Federal Sentencing Data, FY1997–FY2000**

Dependent Variables	All Cases N = 188,937		Asian n = 4,334		White n = 62,481		Black n = 49,790		Hispanic n = 68,999	
	Mean	SD	Mean	SD	Mean	SD	Mean	SD	Mean	SD
Substantial assistance departure (N = 165,632)	.21	.41	.29	.45	.26	.44	.25	.43	.14	.35
Downward departure (N = 165,632)	.17	.37	.11	.32	.13*	.34	.08	.27	.26	.44
Incarceration (N = 188,937)	.84	.37	.71	.45	.74	.44	.85	.35	.93	.26
Ln sentence length (N = 157,276)	3.47	1.16	3.17	1.19	3.30	1.17	3.92	1.20	3.31	1.05
<b>Independent Variables</b>										
Asian	.02	.15	—	—	—	—	—	—	—	—
White	.33	.47	—	—	—	—	—	—	—	—
Black	.26	.44	—	—	—	—	—	—	—	—
Hispanic	.37	.48	—	—	—	—	—	—	—	—
Other race	.02	.13	—	—	—	—	—	—	—	—
Multiple convictions	.20	.40	.28	.45	.24	.43	.25	.43	.12	.33
Criminal history	2.26	1.68	1.49	1.06	2.00	1.55	2.71	1.81	2.25	1.66
Presumptive length	60.03	76.51	45.14	72.53	46.20*	64.15	89.73	99.45	52.64	60.88
Ln presumptive length	3.28	1.53	2.76	1.64	2.99	1.51	3.67	1.61	3.33	1.40
Presentence detention	.17	.38	.13	.34	.11	.31	.16	.37	.25	.43
Trial	.06	.24	.06	.24	.06*	.24	.09	.28	.04	.18
No departure	.63	.48	.63	.48	.63*	.48	.67	.47	.61	.49
Substantial assistance departure	.19	.39	.23	.42	.23*	.42	.23*	.42	.13	.33
Downward departure	.15	.36	.09	.29	.11	.32	.07	.26	.24	.43
Upward departure	.01	.08	.01	.08	.01*	.10	.01*	.08	.00	.06
Departure information missing	.02	.14	.04	.19	.02	.14	.02	.14	.02	.15
Age of defendant	34.31	10.82	35.44	11.00	38.79	11.97	31.79	9.37	32.08	9.25
Defendant is a noncitizen	.32	.47	.50	.50	.05	.21	.08	.28	.74	.44
Offender has dependents	.59	.49	.54	.50	.53*	.50	.65	.48	.61	.49
Male	.85	.36	.82	.38	.82*	.39	.83*	.38	.90	.30
No high-school diploma	.42	.49	.32	.47	.25	.43	.39	.49	.62	.49
High-school graduate	.30	.46	.27	.44	.38	.49	.36	.48	.17	.38
Some college	.17	.38	.22	.42	.24	.43	.21*	.41	.08	.28
College graduate	.07	.25	.17	.38	.13	.33	.04	.20	.02	.15
Education information missing	.04	.20	.02	.13	.01	.08	.00	.07	.10	.30
Violent offenses	.06	.23	.06	.24	.06*	.24	.08	.27	.01	.11
Property offenses	.05	.22	.07	.26	.08*	.27	.06	.24	.01	.11
Drug offenses	.43	.49	.19	.39	.33	.47	.51	.50	.48	.50
Fraud offenses	.21	.41	.47	.50	.35	.48	.22	.41	.07	.26
Firearms offenses	.05	.22	.03	.18	.07	.25	.08	.28	.02	.13
Immigration offenses	.15	.36	.09	.28	.02	.13	.02	.14	.38	.49
Other offenses	.05	.22	.08	.28	.09*	.29	.03	.18	.02	.15
Offense category missing	.00	.03	.00	.03	.00*	.04	.00*	.01	.00*	.03
Block of year dummies	—	—	—	—	—	—	—	—	—	—
Block of district dummies	—	—	—	—	—	—	—	—	—	—

ABBREVIATIONS: Ln = natural logarithm; SD = standard deviation.

\* Indicates contrasts with Asians that are *not* statistically significant at the  $p < .05$  level.

However, these results also indicate that Asian offenders differ from other minority groups in several important ways. Relative to the pooled sample, Asians have shorter criminal histories, are given shorter presumptive sentence lengths, and are less likely to be detained prior to sentencing. They are also significantly more likely to be convicted of fraud and are less likely to be convicted of drug offenses relative to other racial minority groups. Moreover, only 50 percent of Asian offenders are U.S. citizens. In line with the model minority stereotype, Asian offenders are most likely to hold a college degree. Given the relative uniqueness of federal Asian offenders, we turn next to our multivariate analyses to investigate whether racial differences in punishment remain after accounting for these differences.

#### MULTIVARIATE ANALYSES

Table 3 reports results for the total sample across outcomes. Offenders convicted of multiple counts, detained prior to sentencing, or convicted through trial are all disadvantaged in terms of the likelihood of favorable departures and in terms of incarceration and sentence length. Generally speaking, male offenders and offenders with more extensive criminal pasts are treated more punitively, and offenders with more education are treated more leniently, although not all contrasts are statistically significant. The type of crime exerts some important influences on sentencing as well, with property offenders being the least likely to serve time, violent offenders receiving the longest sentences, and drug offenders (the omitted category) being the most likely to receive substantial assistance.

Turning to the race and ethnicity findings, the results suggest a partial pattern of leniency in punishment for Asian offenders relative to other minority groups. Asian offenders are overwhelmingly more likely to receive substantial assistance; they are 30 percent more likely than whites and more than twice as likely as blacks or Hispanics to get these departures. This finding is important because, as the subsequent models demonstrate, substantial assistance reduces both the odds of incarceration and the final sentence length dramatically. On average, offenders are only one fifth as likely to be incarcerated, and their sentence lengths are reduced by a factor of .54 when given substantial assistance. However, Asian offenders are not as likely to be given other downward departures. White and Hispanic offenders, respectively, are 46 percent and 36 percent more likely to receive these sentencing discounts, although the Hispanic effect may reflect the use of early disposition programs in Southwestern districts (see footnote 19). After controlling for departures, however, Asian offenders are still substantially less likely to be incarcerated than all other racial groups. The odds of incarceration are 37 percent greater for blacks and 80

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**Table 3. Models of Case-Level Factors for Substantial Assistance, Downward Departure, Incarceration, and Sentence Length**

	Substantial Assistance vs. No Departure			Downward vs. No Departure			Incarceration			Ln Sentence Length		
	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)
Constant	.62	.14	***	-2.03	.21	***	-.65	.13	***	.47	.04	***
Asian	—	—	—	—	—	—	—	—	—	—	—	—
White	-.36	.10	.70***	.38	.06	1.46***	.30	.07	1.35***	-.04	.02	.96*
Black	-.76	.11	.47***	.11	.07	1.12	.31	.08	1.37***	.03	.02	1.03
Hispanic	-.85	.12	.43***	.31	.10	1.36**	.59	.09	1.80***	-.02	.02	.98
Other race	-.99	.22	.37***	-.13	.24	.88	.16	.12	1.18	.00	.02	1.00
Multiple convictions	-.21	.08	.81*	-.45	.05	.64***	.51	.05	1.67***	.11	.01	1.12***
Criminal history	-.11	.01	.89***	-.03	.02	.97	.52	.02	1.69***	.05	.00	1.05***
Presumptive length	.01	.00	1.01***	.00	.00	1.00*	.08	.01	1.08***	—	—	—
Ln presumptive length	—	—	—	—	—	—	—	—	—	.79	.01	2.20***
Presentence detainment	-.44	.05	.64***	-.33	.06	.72***	1.27	.08	3.57***	.09	.01	1.10***
Trial	-3.94	.15	.02***	-.39	.09	.68***	.72	.07	2.05***	.17	.01	1.19***
5K1.1 departure	—	—	—	—	—	—	-1.64	.08	.19***	-.62	.03	.54***
Downward departure	—	—	—	—	—	—	-.85	.10	.43***	-.48	.02	.62***
Upward departure	—	—	—	—	—	—	2.48	.30	11.93***	.58	.02	1.78***
Age	-.00	.00	1.00**	.01	.00	1.01***	-.010	.00	.99***	.00	.00	1.00
Noncitizen	-.40	.06	.67***	.26	.08	1.30***	1.00	.09	2.72***	.03	.01	1.03***
Dependents	.12	.02	1.12***	.00	.03	1.00	-.04	.03	.96	-.00	.00	1.00
Male	-.28	.04	.76***	-.46	.06	.63***	.44	.05	1.56***	.17	.01	1.19***
No high-school diploma	-.12	.03	.89***	.02	.02	1.20	.24	.03	1.28***	.01	.00	1.01*
Some college	.13	.02	1.13***	.12	.03	1.13***	.01	.03	1.01	-.03	.00	.97***
College graduate	.26	.03	1.30***	.34	.05	1.40***	.06	.03	1.06	-.04	.01	.96***
Violent	-1.32	.08	.27***	.06	.16	1.06	.05	.14	1.05	.09	.02	1.09***
Property	-1.07	.11	.34***	-.33	.20	.72	-.82	.12	.44***	-.10	.01	.90***
Fraud	-.55	.08	.57***	-.12	.16	.89	-.16	.14	.85	-.17	.01	.85***

**Table 3. Continued**

	Substantial Assistance vs. No Departure			Downward vs. No Departure			Incarceration			Ln Sentence Length		
	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )
Firearms	-1.05	.07	.35***	.00	.15	1.00	.09	.14	1.09	-.04	.01	.96***
Immigration	-1.04	.12	.35***	.41	.43	1.51	.07	.21	1.07	.02	.02	1.02
Other	-.87	.09	.42***	.13	.20	1.14	-.67	.13	.51***	-.09	.01	.91***
Block of year dummies	—	—	—	—	—	—	—	—	—	—	—	—
Block of district dummies	—	—	—	—	—	—	—	—	—	—	—	—
Model accurate prediction/R <sup>2</sup>	—	66.90%	—	—	66.90%	—	—	90.10%	—	—	.85	—
N	—	165,632	—	—	165,632	—	—	188,937	—	—	157,276	—

NOTES: *b* = unstandardized regression coefficient

ABBREVIATIONS: Ln = natural logarithm; SE = standard error.

References = Asians, No Departure, High-School Graduate, Drug Offense, 1998, and District 45.

\**p* ≤ .05; \*\**p* ≤ .01; \*\*\**p* ≤ .001.



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percent greater for Hispanics. Among incarcerated offenders, few differences emerge in sentence lengths, where whites received nominally shorter sentences (4 percent). In part, this may reflect the fact that the sentence length analysis controls for departures and is estimated on only incarcerated offenders. Overall, Asian offenders tend to fare better than other minority groups, at least with regard to receipt of substantial assistance departures and the likelihood of incarceration. This pattern of findings is consistent with the theoretical argument that relative to other racial minority groups, Asians benefit from more positive and less stigmatizing stereotypes in society.

## INTERACTION ANALYSES

Table 4 presents the results for analyses investigating the interactive effects of Asian racial status with age, gender, and citizenship. These models include the same control variables in table 3, but we report only the interaction coefficients in the interest of space.<sup>20</sup> Panel A tests the proposition in hypothesis 4 that punishments among young male Asians will be less severe than for other young male minority groups. The regression is limited to the subsample of males, and therefore, it investigates the joint influence of age and racial/ethnic status among male offenders. Regarding departures, young Hispanic males are .68 times less likely than young Asian males to receive substantial assistance, but white and Hispanic males, regardless of age, are more likely to receive other downward departures. Controlling for departures, the odds of imprisonment are 42 percent greater for young black males and 106 percent greater for young Hispanic males relative to young Asian males. Young black males also receive sentences that are nominally longer (4 percent) than young Asians, whereas white offenders receive slightly shorter sentences, although most racial contrasts for sentence length are substantively small and statistically insignificant. Taken together, these results provide little systematic evidence that young Asian males are singled out for particularly harsh treatment in federal courts.

Panel B investigates the expectation in hypothesis 5 that among Asian Americans, young males will receive especially harsh punishment. The data provide limited support for this proposition. Instead, the few significant contrasts are driven primarily by a gender effect. Older female Asian offenders are 76 percent more likely to benefit from downward departures

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20. Full results including all coefficients for all interaction models are available from the authors by request. To simplify the investigation of three-way interactions, we substitute a dichotomous age variable with young offender defined as those under the age of 30 years and old offenders (the reference) defined as 30 years old or older.

**Table 4. Models of Statistical Interactions for Age, Race, Gender, and Citizenship**

Panel A	Age/Race*Gender Interactions (Subsample of Male Offenders)															
	Substantial Assistance vs. No Departure				Downward vs. No Departure				Incarceration				Ln Sentence Length			
	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	
Young Asian	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Young white	.25	.19	1.29	.43	.19	1.53*	.17	.07	1.18*	—	—	—	—	.02	.94**	
Young black	-.22	.19	.80	.10	.18	1.11	.35	.07	1.42***	.04	.02	1.04*	—	.02	1.04*	
Young Hispanic	-.39	.19	.68*	.44	.22	1.55*	.72	.07	2.06***	-.04	.02	.96	—	.02	.96	
Old Asian	.47	.16	1.60***	.19	.17	1.21	-.18	.09	.84*	-.02	.03	.98	—	.03	.98	
Old white	.10	.19	1.10	.57	.17	1.76***	.09	.06	1.09	-.05	.02	.96*	—	.02	.96*	
Old black	-.28	.19	.76	.29	.18	1.33	.15	.07	1.17*	.01	.02	1.01	—	.02	1.01	
Old Hispanic	-.36	.20	.70	.40	.20	1.49*	.38	.09	1.46***	-.02	.02	.98	—	.02	.98	
	(n = 143,606)				(n = 143,606)				(n = 160,780)				(n = 139,069)			
Panel B	Age/Gender*Race Interactions (Subsample of Asian Offenders)															
	Substantial Assistance vs. No Departure				Downward vs. No Departure				Incarceration				Ln Sentence Length			
	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	b	SE	Exp(b)	
Young male	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	
Young female	-.21	.21	.81	.14	.27	1.15	-.32	.20	.73	—	—	—	—	.05	.81***	
Old male	-.16	.14	.85	.18	.11	1.20	-.14	.14	.87	.07	.03	.98	—	.03	.98	
Old female	-.03	.14	.97	.56	.25	1.76*	-.51	.14	.60***	-.20	.04	.82***	—	.04	.82***	
	(n = 3,012)				(n = 3,012)				(n = 4,334)				(n = 3,050)			

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**Table 4. Continued**

Panel C	Race*Citizenship Interactions (Full Sample)															
	Substantial Assistance vs. No Departure				Downward vs. No Departure				Incarceration				Ln Sentence Length			
	<i>b</i>	SE	Exp( <i>b</i> )		<i>b</i>	SE	Exp( <i>b</i> )		<i>b</i>	SE	Exp( <i>b</i> )		<i>b</i>	SE	Exp( <i>b</i> )	
Asian noncitizen	-.13	.20	1.14	—	.44	.15	1.56**	—	.40	.11	1.49***	—	-.00	.02	1.00	
White noncitizen	-.78	.19	.46***	.19	.18	1.21	—	.73	.20	2.08***	—	.03	.02	1.03		
Black noncitizen	-.74	.18	.48***	.61	.22	1.84***	—	1.24	.16	3.47***	—	-.02	.02	.98		
Hispanic noncitizen	.29	.18	1.34	.20	.17	1.23	—	-.31	.09	.73***	—	-.06	.02	.95***		
Asian citizen	.18	.18	1.20	.41	.15	1.51**	—	-.18	.07	.84***	—	-.07	.01	.93***		
White citizen	-.18	.18	.83	.16	.15	1.17	—	-.18	.07	.83*	—	.00	.01	1.00		
Black citizen	-.25	.19	.78	.23	.17	1.26	—	-.06	.10	.94	—	-.04	.01	.96***		
Hispanic citizen							( <i>N</i> = 165,632)				( <i>N</i> = 188,937)				( <i>N</i> = 157,276)	

NOTES: *b* = unstandardized regression coefficient. All models include the full list of variables in table 3. Young (less than 30 years) is substituted for Age in panels A and B. ABBREVIATIONS: Ln = natural logarithm; SE = standard error. \**p* ≤ .05; \*\**p* ≤ .01; \*\*\**p* ≤ .001.

and .60 times less likely to be incarcerated compared with young, male Asian offenders, and both young and old females receive significantly shorter sentences, but no differences emerge between young and old males in the sample. In other words, these results provide evidence that among Asian offenders, females (and especially older females) are punished less severely than males, but there is little evidence of systematic bias against young male Asians specifically. This finding is contrary to prior work that finds significant disparities for young, male minority offenders of other racial and ethnic backgrounds, which suggests that the apparent “high cost of being black, young and male” or Hispanic, young, and male (Albonetti, 2002; Spohn and Holleran, 2000; Steffensmeier, Ulmer, and Kramer, 1998: 789) does not readily translate to Asians in federal courts. The stereotypical attributions of dangerousness and criminality purportedly ascribed to young, male minorities, at least in these data, seem largely limited to blacks and Hispanics.

The final interaction involves the unique role citizenship plays in Asian-American punishments. Relatively large proportions of federal offenders are non-U.S. citizens, particularly among Asians and Hispanics. Panel C reports the results investigating the interaction between race and citizenship. Black and Hispanic noncitizens are less than half as likely to receive substantial assistance departures compared with Asian noncitizens. Hispanic noncitizens, however, are particularly likely to receive other downward departures. This is understandable given that downward departures represent one structural mechanism for managing large immigration caseloads in Southwestern districts. For incarceration, citizenship has strong effects across all racial groups. Asian offenders who are citizens are .73 times as likely to be incarcerated as Asian noncitizens. Among noncitizens, Asians receive a substantially reduced “citizenship penalty.” That is, the odds of incarceration are substantially higher for other racial groups, with black and Hispanic noncitizens being 2.08 and 3.47 times more likely to be incarcerated than Asian noncitizens, respectively. Even white noncitizens are 49 percent more likely than Asian noncitizens to be imprisoned. Less pronounced results emerge for sentence lengths, where Asian noncitizens receive slightly (5 percent) longer sentences than Asian citizens, although none of these effects are of large magnitude. Overall, these results do not suggest any systematic disadvantage for noncitizens of Asian heritage; if anything, Asian offenders are less disadvantaged by noncitizenship status relative to other racial/ethnic minority groups. This may indicate that the positive attributions tied to the model minority stereotype at least partially transcend xenophobic concerns over Asian citizenship with regard to punishment in society.

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## OFFENSE-SPECIFIC ANALYSES

Given the nature of the federal justice system, as well as the racial patterning of offense behavior, it is instructive to disaggregate federal sentencing analyses by offense type (Albonetti, 2003). Theoretically, courtroom attributions of blameworthiness and dangerousness may vary by the type of crime. Because the model minority stereotype invokes images of socioeconomic success, for instance, white-collar or fraud crimes may be perceived as more normative for Asian offenders, resulting in differential treatment. We therefore investigate racial variations in punishment across offense categories as well.

Table 5 presents these results. Many offense-specific contrasts produced null findings, which in part reflect the reduced sample sizes in the disaggregated models. For violent crimes, the only statistically significant findings indicate that white and Hispanic offenders are about half as likely to receive substantial assistance as Asian offenders. The findings for drug crimes are more pronounced.<sup>21</sup> Black and Hispanic offenders are about two thirds as likely to receive departures for substantial assistance as Asians in drug cases, and they have dramatically increased odds of incarceration. The decreased odds of incarceration for Asians in the aggregate analysis (table 3) seem to be largely driven by racial differences in incarceration for drug offenses. Blacks and Hispanics are more than twice as likely to be sent to federal prison for drug crimes. These effects are substantively large and consistent with prior work that emphasizes racial disparities in federal drug offenses (e.g., Albonetti, 1997; Hartley, Maddan, and Spohn, 2007; Steffensmeier and Demuth, 2000). However, these findings indicate that racial disparity in drug cases is not extended to Asian offenders, at least not with regard to substantial assistance or the use of incarceration.

For fraud cases, Asians are substantially more likely than all other racial groups to be granted departures for substantial assistance to the government. They are also 17 percent less likely than whites to be incarcerated for these crimes, and they receive sentences that are 10 percent shorter than Hispanics on average. Although Asians are less likely than white offenders to receive other downward departures in fraud cases, the overall pattern of results suggests a degree of leniency in Asian punishments for fraud cases. For immigration offenses, significant differences are limited to

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21. The model for drug offenses also includes a dummy variable to identify cases in which the federal safety valve (5C1.2) was applied. A comparison of models with and without this additional drug-specific control produced equivalent results for our racial contrasts.

**Table 5. Offense-Specific Models for Violent, Drug, Fraud, and Immigration Offenses**

	Substantial Assistance vs. No Departure			Downward vs. No Departure			Incarceration			Ln Sentence Length		
	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )	<i>b</i>	SE	Exp( <i>b</i> )
<b>Violent Cases</b>												
Asian	—	—	—	—	—	—	—	—	—	—	—	—
White	-.59	.23	.55**	.07	.22	1.07	-.72	.49	.49	.04	.04	1.04
Black	-.29	.24	.75	-.05	.22	.95	-.60	.51	.55	.06	.04	1.06
Hispanic	-.61	.23	.54**	.25	.22	1.28	-.76	.49	.47	.05	.04	1.05
			( <i>n</i> = 9,481)			( <i>n</i> = 9,481)			( <i>n</i> = 10,075)			( <i>n</i> = 9,854)
<b>Drug Cases</b>												
Asian	—	—	—	—	—	—	—	—	—	—	—	—
White	.06	.13	1.06	.08	.11	1.09	.40	.29	1.48	-.05	.02	.95**
Black	-.51	.13	.60***	.05	.11	1.05	.83	.30	2.29**	.02	.02	1.02
Hispanic	-.46	.13	.63***	.08	.11	1.09	.90	.29	2.45**	.00	.02	1.00
			( <i>n</i> = 76,822)			( <i>n</i> = 76,822)			( <i>n</i> = 80,263)			( <i>n</i> = 75,388)
<b>Fraud Cases</b>												
Asian	—	—	—	—	—	—	—	—	—	—	—	—
White	-.33	.12	.72**	-.27	.10	1.32**	.16	.07	1.17*	-.01	.03	1.01
Black	-.51	.13	.60***	-.17	.10	.84	.11	.08	1.12	.03	.02	1.03
Hispanic	-.60	.14	.55***	.03	.13	1.03	.17	.11	1.18	.10	.03	1.10***
			( <i>n</i> = 32,478)			( <i>n</i> = 32,478)			( <i>n</i> = 40,544)			( <i>n</i> = 26,309)
<b>Immigration Cases</b>												
Asian	—	—	—	—	—	—	—	—	—	—	—	—
White	-.54	.26	.58*	1.15	.40	3.15**	-.19	.24	.83	.02	.04	1.02
Black	-1.16	.36	.31***	1.28	.42	3.59**	-.20	.23	.82	.03	.04	1.03
Hispanic	-.87	.29	.42**	1.22	.43	3.39**	.26	.22	1.30	-.02	.04	.98
			( <i>n</i> = 22,726)			( <i>n</i> = 22,726)			( <i>n</i> = 28,487)			( <i>n</i> = 26,422)

NOTES: *b* = unstandardized regression coefficient. All models include the full list of variables in table 3. The drug-specific model also includes a dummy variable identifying application of the safety valve (5C1.2) in drug cases. ABBREVIATIONS: Ln = natural logarithm; SE = standard error. \**p* ≤ .05; \*\**p* ≤ .01; \*\*\**p* ≤ .001.

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departure decisions. Asians are substantially more likely to receive substantial assistance but are less likely to receive other downward departures, which highlights the importance of examining multiple mechanisms of guidelines circumvention. Interestingly, the Asian advantage in substantial assistance is manifest across all offense types, whereas the detriment in other downward departures is limited to immigration crime. This suggests the aggregate downward departure findings in table 3 are driven primarily by immigration cases. It is also possible that Asian offenders may congregate in districts that have cultural norms emphasizing the liberal use of substantial assistance rather than other downward departures, but additional research is needed to disentangle the potential offsetting effects of different types of federal guideline circumvention.<sup>22</sup>

Although some evidence indicates that racial effects vary by offense type, the pattern that emerges does not map neatly to theoretical expectations grounded in either “race-appropriate” behaviors or “racially typified” crimes. Asians, for instance, seem to experience some sentencing leniency for fraud crimes, whereas blacks and Hispanics received relatively severe sentences for drug crimes. This suggests that the attribution process surrounding racial threat, dangerousness, and culpability is inherently complex and may differ across racial and ethnic groups. As Steen, Engen, and Gainey (2005) have argued, the meaning of race in the justice system, and the way it is conditioned by factors like crime type, entails a complicated interpretational process that is difficult to capture with broad predictions encompassing entire racial groups or crime categories. Future research and more nuanced theoretical development are needed to delve deeper into the situational meaning of Asian-American racial status across crime categories, but the current research indicates the importance of expanding the racial ken to include Asian offenders in contemporary dialog on federal criminal punishments.

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22. Because federal districts develop different techniques for achieving locally desirable outcomes in the shadow of the federal sentencing guidelines (Johnson, Ulmer, and Kramer, 2008; Nagel and Schulhofer, 1992), any association between racial composition and method of guidelines circumvention may introduce a statistical artifact. To investigate this issue, we reanalyzed these departure models both for the subsample of 39 districts where at least 20 Asian offenders were sentenced and for the 5 federal districts with the largest proportions of Asian offenders (California North, California Central, Oregon, Washington West, and New York South all included at least 5 percent Asian offenders; Hawaii and Alaska were omitted because they are heavily composed of Pacific Islanders). These alternative results (available by request) produced substantively similar conclusions. Although some effects became statistically insignificant because of decreased sample sizes, the overall findings suggest that the reported results are not caused by the clustering of Asian offenders in specific federal districts.

## DISCUSSION

For nearly a century, social researchers have studied racial disparities and racial discrimination in the criminal justice system; yet, this voluminous scholarship has paid virtually no attention to the growing population of Asian offenders, despite their unique position in the racial strata of society. Drawing from multiple theoretical frameworks, the current work offers an investigation of Asian sentencing in the federal justice system. According to traditional conflict perspectives, racial minority groups occupy a subordinate position in America's system of social stratification—one that should translate into harsher punishment in the justice system. Traditional consensus theories, however, argue that racial status has minimal impact on punishment decisions. Rather, consensual values of fairness and equality translate into similar punishments among groups. More contemporary perspectives collectively argue for a more nuanced and situational interpretation of race and ethnicity in the justice system. Racial attributions are expected to influence court actor perceptions of dangerousness and culpability in ways that vary across racial groups and decision-making contexts. The relatively positive stereotypes of Asians as a minority group should result in less punitive outcomes than for other racial and ethnic minority groups in society.

Table 6 summarizes support for our specific predictions, which is varied and often dependent on the outcome of interest. Taken as a whole, these findings suggest that membership in a racial minority group exerts neither uniformly detrimental nor null effects on punishment outcomes. Instead, punishments seem to be race graded; that is, black and Hispanic offenders typically receive more severe outcomes than their similarly situated white counterparts, whereas Asian offenders do not. Although Asians are somewhat less likely to receive downward departures from federal judges, they are substantially more likely to receive substantial assistance motions from U.S. attorneys. This is consequential because 5K1.1 departures exert strong effects on incarceration and sentence lengths, and they even allow judges to "demandatorize" federal sentences (Kramer and Ulmer, 2002). Taken together, our findings are largely consistent with the interpretation that positive stereotypes associated with the model minority image translate into more favorable outcomes for Asian offenders in the federal justice system relative to other racial minority groups like blacks and Hispanics.

Moreover, in line with theoretical predictions, young males tend to receive the harshest punishments among Asian offenders, but young Asian males are not punished as severely as young male black or Hispanics offenders, particularly in the case of federal incarceration decisions. Somewhat surprisingly, citizenship status also exerted more deleterious



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**Table 6. Summary of Support for Hypotheses of Asian Offenders in Federal Sentencing**

Hypothesis	Prediction	Outcome			
		Substantial Assistance	Downward Departure	Incarceration	Ln Sentence Length
1	Asian offenders will be sentenced more severely than white offenders.	-	+	-	+
2	Asian offenders will be sentenced no differently than white offenders.	-	-	-	-
3	Asian offenders will be sentenced less severely than other minority groups.	+	+ / -	+	ns
4	Young, male, Asians will be sentenced less severely than other young, male, minorities.	+/-	+/-	+	+/-
5	Young, male, Asians will be sentenced more severely than other Asian offenders.	ns	+/-	+/-	+/-
6	Asian noncitizens will be sentenced more severely than Asian citizens.	ns	ns	+	+
7	Asian-American punishments will vary across offense types.	+/-	+	+	+/-

ABBREVIATIONS: Ln = natural logarithm; ns = no significant effects.  
 KEY: + = hypothesis supported; - = hypothesis not supported; +/- = hypothesis partially supported.

effects on blacks and Hispanics compared with Asian offenders. The influence of racial status across offense types was varied and complex. Few significant differences emerged for violent crimes, and racial differences in immigration were constrained to offsetting effects for downward and substantial assistance departures. For drug crimes, however, blacks and Hispanics clearly fared worse, whereas Asians fared best for fraud crimes.

This pattern of results suggests that racial identity is an important conditioner of punishments across crime type, but the pattern is not simply one of greater punishments for less typical crimes, as suggested by Hawkins (1987). It may be that heterogeneous categories such as fraud or violent crime are simply too broad to capture meaningful differences among offenses, or it may be that the specific meaning and interpretation of racial identities varies in more complex ways with additional factors such as situational and organizational contexts (Steen, Engen, and Gainey, 2005). Future research is clearly needed to disentangle interrelationships among race, ethnicity, and offense types in the federal justice system.

Still, the current results indicate that federal punishments are race graded in important ways. Although this observation gives pause for concern, it also may provide reason for optimism. Even though important variation exists among Asian subgroups, and prejudice, racism, and racial violence remain prevalent today,<sup>23</sup> as an aggregate group, Asian Americans can in many ways be viewed as a socioeconomic and educational success story in the United States (Reeves and Bennett, 2004). It may be, then, that economic equality is a precursor to social justice—that is, striving to improve the relative socioeconomic standing of other racial and ethnic minority groups may have important ripple effects that translate into more favorable societal stereotypes and greater equality of punishment within the American justice system itself (cf. Wilson, 1980).

## CONCLUSION

Given the prodigious scholarly attention devoted to the importance of racial stratification in the justice system, it is unfortunate that so little work examines ethnic minority groups other than blacks and Hispanics. Asians represent the fastest growing minority group in America, and they

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23. Between 1995 and 2002, there were more than 3,500 racially motivated incidents of violence against Asian Americans in the United States (Ancheta, 2006: 7). Moreover, several highly publicized incidents of anti-Asian violence have occurred, such as in 1982, when two disgruntled automobile workers mistakenly identified Vincent Chen as Japanese and beat him to death in response to the perceived loss of jobs in the automobile industry.

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now constitute a sizeable number of federal inmates. Moreover, their unusual position in the racial hierarchy of society provides a unique opportunity to assess competing theoretical perspectives vis-à-vis the intersection of race and punishment in society. The current research, therefore, broadens contemporary debates on racial disparity by systematically examining sentencing decisions for Asian offenders in U.S. federal courts.

Our findings lend credence to contemporary theoretical perspectives that emphasize the situational meaning of race and ethnicity in the justice system, but they also provide overarching evidence that broad patterns of racialized justice continue to characterize contemporary punishment decisions. In the aggregate, Asian offenders often, although not always, are treated similarly to or even more leniently than their white counterparts, and they are often sentenced to less severe punishments than black and Hispanic offenders. Although these race effects are typically small in comparison with the cumulative effects of legal case characteristics, they are sizeable enough to be substantively important. Whereas this offers evidence of differential punishment, it is important to note it does not necessarily equate with discrimination on the part of federal justice personnel. Federal judges and U.S. attorneys may well have valid reasons for giving individual punishments that appear as a disparity in aggregate statistical analyses. Future work incorporating qualitative methods represents an important next step in understanding the role of model minority stereotypes in federal punishment decisions.

Although the current study provides an important foundation for future research on understudied racial and ethnic groups, it also raises several additional research questions. Paramount among them is the role that social context plays in conditioning individual race disparities. Future research is needed that delves into this issue more acutely. Like other minority groups, Asian offenders tend to be spatially grouped, with high concentrations in a limited number of federal districts. If the meaning of racial identity is locally varying, then punishment outcomes are also likely to demonstrate geographic variation. We capture district-level differences using fixed effects that control for, but preclude examination of, interdistrict variation in sentencing. Future work examining differences in the treatment of Asian and other offenders across federal districts therefore provides an important opportunity to expand our understanding of racial variations in punishment.

Another productive avenue for future work is the examination of within-group differences in punishment. As with Hispanic offenders, Asian Americans vary widely in their national origins and immigration experiences. Some groups have arrived recently, whereas others have long-standing histories in the United States. Broad variation also characterizes the socioeconomic, social, and political backgrounds of different

Asian-American groups. Far East Asians like Chinese and Japanese may receive different punishments from more socioeconomically disadvantaged Southeast Asians groups. Although the current work includes proxies for socioeconomic status (SES), such as educational attainment, it does not have direct measures of SES. This is an important limitation that characterizes most research on criminal sentencing (Zatz, 2000), and it should clearly be a priority of future research to develop more refined measures of SES along with finer racial and ethnic distinctions.

Finally, future research is needed that examines the extent to which relative leniency for Asian minorities is maintained across additional decision-making outcomes. Both offender and court actor decisions that predate sentencing outcomes are of cardinal significance, stretching back all the way to the causes of crime (Bushway and Piehl, 2007). With few exceptions (e.g., Jang, 2002; McNulty and Bellair, 2003), studies of racial differences in offending suffer from the same myopic focus on two or three racial groups, and we are aware of no studies that include Asian Americans in analyses of arrests or prosecutorial charging practices. Because sentencing decisions are intricately tied to earlier decision-making stages, the ultimate goal should be to track the treatment of Asian offenders and other racial/ethnic groups across decision-making phases of punishment. Only by accurately accounting for cumulative racial group differences in case processing can we begin to identify the collective influence of racial identity and societal stereotypes in the punishment process of American courtrooms.

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APPENDIX A. THE FEDERAL SENTENCING GUIDELINES

Offense Level	Criminal History Category (Criminal History Points)					
	I (0 or 1)	II (2 or 3)	III (4, 5, 6)	IV (7, 8, 9)	V (10, 11, 12)	VI (13 or more)
1	0-6	0-6	0-6	0-6	0-6	0-6
2	0-6	0-6	0-6	0-6	0-6	1-7
3	0-6	0-6	0-6	0-6	2-8	3-9
4	0-6	0-6	0-6	2-8	4-10	6-12
5	0-6	0-6	1-7	4-10	6-12	9-15
6	0-6	1-7	2-8	6-12	9-15	12-18
7	0-6	2-8	4-10	8-14	12-18	15-21
8	0-6	4-10	6-12	10-16	15-21	18-24
9	4-10	6-12	8-14	12-18	18-24	21-27
10	6-12	8-14	10-16	15-21	21-27	24-30
11	8-14	10-16	12-18	18-24	24-30	27-33
12	10-16	12-18	15-21	21-27	27-33	30-37
13	12-18	15-21	18-24	24-30	30-37	33-41
14	15-21	18-24	21-27	27-33	33-41	37-46
15	18-24	21-27	24-30	30-37	37-46	41-51
16	21-27	24-30	27-33	33-41	41-51	46-57
17	24-30	27-33	30-37	37-46	46-57	51-63
18	27-33	30-37	33-41	41-51	51-63	57-71
19	30-37	33-41	37-46	46-57	57-71	63-78
20	33-41	37-46	41-51	51-63	63-78	70-87
21	37-46	41-51	46-57	57-71	70-87	77-96
22	41-51	46-57	51-63	63-78	77-96	84-105
23	46-57	51-63	57-71	70-87	84-105	92-115
24	51-63	57-71	63-78	77-96	92-115	100-125
25	57-71	63-78	70-87	84-105	100-125	110-137
26	63-78	70-87	78-97	92-115	110-137	120-150
27	70-87	78-97	87-108	100-125	120-150	130-162
28	78-97	87-108	97-121	110-137	130-162	140-175
29	87-108	97-121	108-135	121-151	140-175	151-188
30	97-121	108-135	121-151	135-168	151-188	168-210
31	108-135	121-151	135-168	151-188	168-210	188-235
32	121-151	135-168	151-188	168-210	188-235	210-262
33	135-168	151-188	168-210	188-235	210-262	235-293
34	151-188	168-210	188-235	210-262	235-293	262-327
35	168-210	188-235	210-262	235-293	262-327	292-365
36	188-235	210-262	235-293	262-327	292-365	324-405
37	210-262	235-293	262-327	292-365	324-405	360-life
38	235-293	262-327	292-365	324-405	360-life	360-life
39	262-327	292-365	324-405	360-life	360-life	360-life
40	292-365	324-405	360-life	360-life	360-life	360-life
41	324-405	360-life	360-life	360-life	360-life	360-life
42	360-life	360-life	360-life	360-life	360-life	360-life
43	life	life	life	life	life	life