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The Joint Effects of Gender and Race/Ethnicity on Sentencing Outcomes in Federal Courts

Jill K. Doerner

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Using data from the U.S. Sentencing Commission, the present study examines the interaction effects of gender and race/ethnicity on sentencing outcomes of male and female offenders in federal courts. Findings indicate that female offenders in all racial/ethnic categories receive less severe sentence outcomes than male offenders in the same categories, even after legal, extralegal, and contextual factors are controlled. In addition, racial/ethnic differences are found within gender groups, such that Hispanic males are more likely to be incarcerated and Black males receive longer sentence terms compared to White male offenders. However, contrary to expectations, the analysis indicates that White females are more likely to be incarcerated than Black and Hispanic females and receive longer sentence terms than Hispanic females. Gender and racial/ethnic interactions are also explored across offense type (drug vs. non-drug) and type of sentencing departure (no departure, downward, or substantial assistance). Implications for future research are also discussed.

Keywords gender, race/ethnicity, sentencing

A concern for gender discrimination in the law and its application has been especially slow to develop in comparison to issues surrounding race and ethnicity. Whereas race was identified early as an inappropriate consideration, an acknowledgment of gender as similarly inappropriate has not yet been fully resolved. Furthermore, unlike claims of racism in the application of laws and sanctions, there is no general presumption that women have historically been subjected to a consistent pattern of discrimination resulting in unwarranted harsher punishments (Nagel & Hagan, 1983). Although the connection between sexism and the law continues to receive attention from researchers, policymakers, and agents of the criminal justice system, attention to the relationship between gender and patterns of offending and official sanctioning is still especially lacking, even after several decades of research.

The federal sentencing guidelines were designed to encourage the uniform and proportional treatment of offenders based on legally relevant factors. A main goal of the guidelines is to produce fair and honest outcomes and minimize unwarranted disparities based on offenders’ social characteristics. In other words, the guidelines were meant to reduce the discretion of legal agents in order to ensure that persons with comparable criminal records convicted of the same criminal charges receive similar sentences under the law (Tonry, 1996). However, even with sentencing
guidelines in place, extralegal disparities appear not to have been eliminated (Everett & Wojtkiewicz, 2002).

Overall, a persistent finding in the gender and sentencing literature is that female offenders are treated more leniently than male offenders (Bickle & Peterson, 1991; Brennan, 2002; Daly & Bordt, 1995; Doerner & Demuth, 2014; Nagel & Johnson, 1994; Rodriguez, Curry, & Lee, 2006; Spohn, 2002; Steffensmeier, Kramer, & Streifel, 1993). More specifically, gender seems to play a more important role during the decision to incarcerate rather than the sentencing length decision (Doerner & Demuth, 2014; Nagel & Johnson, 1994; Steffensmeier et al., 1993). The effects of race and race/ethnicity have also been shown to be important at the sentencing stage. Chiricos and Crawford (1995) concluded that “race is a consistent and frequently significant disadvantage for blacks when in/out decisions are concerned” (p. 297). However, they reported no consistent Black disadvantage regarding sentence length decisions. Findings from state and federal courts found that Black offenders received harsher sentences than similarly situated White offenders (Albonetti, 1997; Demuth & Steffensmeier, 2004; Doerner & Demuth, 2010; Mitchell, 2005; Spohn, 2000; Steffensmeier & Demuth, 2000, 2001; Steffensmeier, Ulmer, & Kramer, 1998). In addition, Steffensmeier and Demuth (2000) found that White offenders are least likely to be incarcerated in federal court, and they receive shorter sentences than Black and especially Hispanic offenders, particularly in drug cases (for a discussion of Hispanic offenders, also see Albonetti, 1997, and Everett & Wojtkiewicz, 2002).

Race/ethnicity and gender have also been shown to jointly affect the sentencing outcomes (in/out and length) of offenders at both the state and federal levels (Albonetti, 1997; Brennan & Spohn, 2009; Doerner & Demuth, 2010; Griffin & Wooldredge, 2006; Steffensmeier & Demuth, 2006; Steffensmeier et al., 1998), reinforcing the need to examine the intersection of these characteristics. For example, Steffensmeier and Demuth (2006) examined sentencing outcomes in 54 large urban counties throughout the United States and found that White women were less likely to be incarcerated—and, if incarcerated, received shorter sentence length terms—than White men, Black men, and Hispanic men. Brennan and Spohn (2009), examining federal data from three courts (Iowa, Minnesota, and Nebraska), found that Black and Hispanic males received longer sentence length terms than White females and that Black males received longer sentences than all other offenders (with the exception of Hispanic males). Furthermore, Doerner and Demuth (2010) examined the three-way interaction of race/ethnicity, gender, and age and found that young Hispanic male offenders were the most likely to be sentenced to prison and that young Black male offenders received the longest sentence lengths. In addition, although racial/ethnic differences were smaller overall among women than among men, the youngest Hispanic women received sentences that were more similar to those received by male offenders than other female offenders. In contrast, compared to the harsher punishments given to Black men in relation to White men, Black women were treated similar to or more leniently than White women.

Given the various findings from previous research on the effects of gender and race/ethnicity (in both additive and interaction models), it is important to explore how these characteristics operate together to influence the types of sentencing outcomes offenders are likely to receive. The present study continues to explore the interaction of gender with race/ethnicity on the outcomes of sentencing decisions for male and female offenders in U.S. federal courts while also exploring these interaction effects across various offense categories and types of sentencing departure (factors that have not always been included in previous studies or that have been
examined individually). In order to do this, I analyze the data in several steps. First, I briefly outline the descriptive statistics for all offenders, partitioned by gender and racial/ethnic groups. Second, I examine the main effects model, partitioned by race/ethnicity, in order to provide a side-by-side comparison of the legal and extralegal variables in the model. Third, I replicate the comparisons made in the previous model but partition the offenders by gender. Fourth, I examine the interaction effects of gender and race/ethnicity for drug and non-drug defendants. Finally, I examine the outcomes of offenders by type of sentencing departure (including those who do not receive a departure).

PRIOR RESEARCH

Zatz (1987) argued that the nature of racial and ethnic biases in sentencing has changed over time. As U.S. society is now more sensitive socially and legally to the equal treatment of different racial/ethnic groups, it is much less likely that large, uniform differences in the treatment of minority groups in the courts will emerge today than in the past. Instead, biases will emerge in more subtle and indirect ways, some detectable as main or direct effects but others only visible through indirect or interaction effects of race/ethnicity with other factors or at certain stages of the criminal justice system (Zatz, 2000; see also Zatz & Rodriguez, 2006).

Research has also suggested that the more complex interaction of race and gender may disrupt the patterns of leniency toward women that were found in previous studies. Women of color have historically not benefited from judicial chivalry to the same degree as White women (Feinman, 1986; Rafter, 1990). Courts often sentenced White women to reformatory institutions and Black women to traditional penal institutions. Racial bias in court processing also resulted in more women of color being sentenced to prison for longer terms (Farrell, 2004). Other research has shown that Black women are overrepresented in the prison population and are serving longer prison terms than White women (Chilton & Datesman, 1987; Kruttschnitt, 1982). However, these studies are limited because they did not control for many important variables, such as prior history or type of crime. More systematic studies have found that race alone fails to explain sentencing disparities between White and Black female offenders (Daly, 1989; Gruhl, Welch, & Spohn, 1984).

Interaction Effects at the State Level

Research conducted in Pennsylvania courts by Steffensmeier and colleagues (1998) discussed several conclusions from an examination of the main and interactive effects of race, gender, and age on sentencing outcomes. First, and most pertinent to the study of gender and race, female offenders received more lenient treatment in court decisions than similarly situated male offenders. Second, the authors found that Black offenders were sentenced more severely than similarly situated White offenders and that within-sex comparisons showed that Black males were sentenced more severely than White males and Black females were sentenced slightly more severely than White females (the race effect was weaker for female offenders). Third, a consistent gender effect was found for more lenient treatment of female offenders at the sentencing stage that persisted not only across racial groups but also across race/age groups.
Crawford (2000) found that among offenders eligible for habitual sentencing in Florida, the odds of habitualization were nearly twice as large for Black female offenders as for White female offenders. A similar race effect was also found among male offenders in a previous study conducted by Crawford, Chiricos, and Kleck (1998). In this study, the authors concluded that “Black status” similarly disadvantaged both male and female offenders. In contrast to the studies by Crawford, Spohn and Beichner (2000) found that Blacks were sentenced more harshly than Whites among male offenders convicted of felonies in Chicago, Kansas City, and Miami, but this was not found among female offenders. Spohn and Beichner also found that women were treated more leniently than men regardless of their racial status.

Steffensmeier and Demuth (2006) found that female offenders in Pennsylvania received more favorable sentencing outcomes than males across all racial/ethnic groups. They also found that the gender difference in both the decision to incarcerate and the sentence length decision was smallest among White offenders. For both sentencing outcome decisions, there were no statistically significant racial/ethnic differences among female offenders, but differences did exist for male offenders. The authors also ran z tests of the differences between race/ethnicity coefficients across gendered models and found that the effects of race/ethnicity on the decision to incarcerate were greater among male offenders than females. For sentence length decisions, only the Black effect was statistically different for male and female offenders. Overall, the main effect of race/ethnicity masked the conditioning effect of gender in that Black and Hispanic offenders were sentenced more harshly than White offenders among male but not female offenders.

Freiburger and Hilinski (2013), using urban county data from Michigan, examined how race, gender, and age interact to affect defendants’ sentences using a trichotomized dependent variable (probation vs. jail vs. prison). Their results indicated that women were more likely than men to receive a sentence of probation but were equally likely to receive a sentence of prison as opposed to jail. White offenders were more likely to receive probation as opposed to jail; there were no Black/White differences. When interaction effects were examined, significant race and gender influences were found in that Black men were sentenced more harshly than either White men or Black and White women. However, the authors also found that the harsher treatment of Black offenders was only found in the decision to sentence to probation as opposed to jail.

Interaction Effects at the Federal Level

Using federal data, Albonetti (2002) set out to explore whether offender gender and ethnicity, considered together, conditioned the effect of guideline departures, guilty pleas, and legally relevant variables on the length of imprisonment. She found that, regardless of ethnicity, females experienced greater sentence reductions from a substantial assistance departure compared to males. Overall, ethnicity made a difference, to the disadvantage of Hispanic and Black females. White females received the greatest sentence advantage from a substantial assistance departure. In addition, ethnic differences in the effect of substantial assistance departures on length of imprisonment were also observed among male offenders. However, compared to Hispanic and Black males, White males received the strongest sentence reduction from a substantial assistance departure.

Brennan and Spohn (2009), examining federal data from three courts (Iowa, Minnesota, and Nebraska), found that females received shorter prison sentences than their male counterparts, but
there were no differences between White and minority offenders. However, when sentence length outcomes were partitioned by sex, Black males received longer prison sentence terms than White males. When the data were partitioned by race/ethnicity, White females were treated similarly to White males, Black females received shorter sentences than Black males, and Hispanic females received shorter sentences than Hispanic males. Furthermore, Black and Hispanic males received longer sentence length terms than White females, and Black males received longer sentences than all other offenders (with the exception of Hispanic males).

Doerner and Demuth (2010), also examining federal data, found that Hispanic and Black offenders received harsher sentences than White offenders and that males received harsher sentences than females. In addition, younger offenders received harsher sentences than older offenders, and race/ethnicity differences in sentencing were larger among men than among women. When these factors were examined in combination, the results indicated that young Hispanic male offenders were the most likely to be sentenced to prison and that young Black male offenders received the longest sentence lengths. In addition, although racial/ethnic differences were smaller overall among women than among men, the youngest Hispanic women received sentences that were more similar to those received by male offenders than other female offenders. In contrast, compared to the harsher punishments given to Black men in relation to White men, Black women were treated similar to or more leniently than White women. Furthermore, substantial differences in sentencing outcomes existed when comparisons were made between the most dissimilar groups. For example, the odds of incarceration were more than 6 times greater for young Hispanic males than for the oldest female offenders, and the youngest Black males received prison sentences that were 80% longer than those of similarly situated older Black females.

In their examination of federal drug offenders, Spohn and Brennan (2011) examined the additive and interactive effects of race/ethnicity and gender on the likelihood of receiving a substantial assistance departure. Using data from three U.S. district courts (Minnesota, Nebraska, and Southern District of Iowa), the authors found that female offenders were more likely to receive this type of departure compared to male offenders, and, among those who did receive a departure, females received larger sentence discounts than their male counterparts. In addition, the authors found that race did not affect the likelihood of receiving a departure and that neither race nor ethnicity affected the size of the sentence discount. When race/ethnicity and gender were examined together, female offenders, regardless of race/ethnicity, were treated more leniently than Black and Hispanic males but were treated no differently than White males or females in other racial/ethnic categories. Although no differences were found between Black and Hispanic males, these two groups had lower odds of receiving a substantial assistance departure and received smaller sentence discounts than all other offenders.

Spohn (2013) examined the interactive effects of race, ethnicity, and sex on federal sentencing outcomes and found that there were racial and ethnic differences in outcomes for male offenders but not for females. More specifically, race and ethnicity influenced the likelihood of pretrial detention and length of sentence for male offenders but not for female offenders. In addition, Black and Hispanic male offenders were more likely than White males to be detained prior to trial, and Black and Hispanic males also received longer sentence length terms than their male counterparts.
THEORETICAL FRAMEWORK

The focal concerns perspective developed by Steffensmeier (1980; Steffensmeier et al., 1993, 1998) provides a useful framework for understanding why extralegal factors such as gender, race/ethnicity, and age might influence sentencing decisions despite the implementation of formal guideline systems. Other researchers have expanded on this theory in the course of their studies (Spohn & Holleran, 2000; Steffensmeier & Demuth, 2001; Steffensmeier et al., 1998; Ulmer, 1997; Ulmer & Johnson, 2004). The theory outlines three focal concerns that are important to judges and other criminal justice actors in reaching sentencing decisions: blameworthiness, protection of the community, and practical constraints and consequences (such as prison overcrowding and the offender’s ability to do time). Grounded in research on organizational decision making, inequality and stratification, and criminal stereotyping, Steffensmeier and colleagues argue that offender status characteristics may influence sentencing decisions insofar as stereotypes and behavioral expectations linked to these characteristics relate to the focal concerns of legal agents.

Blameworthiness follows the principle that sentences should depend on the offender’s culpability and the degree of injury caused. This focal concern is usually associated with the retributive philosophy of punishment, including the view that any punishment should fit the crime. Hence, the primary factors influencing perceptions of blameworthiness are legal factors such as the seriousness of the offense, the offender’s criminal history or prior victimization at the hands of others, and the offender’s role in the offense (Steffensmeier et al., 1998). However, Albonetti (1997) suggested that court officials attempt to achieve rational outcomes in the face of incomplete knowledge by relying on stereotypes that differentially link offender groups to recidivism. Research by Daly (1994) indicated that judges, at least to some extent, share common beliefs portrayed by the media and are influenced by them in their sentencing decisions. For instance, women are thought to be less dangerous, less blameworthy, less likely to recidivate, and more likely to be deterred (Spohn, 2002). Therefore, the more lenient sentences that are imposed on them might reflect the fact that judges believe them to possess these qualities more than men. Research by Albonetti (1997) argued that offenders who are male, of minority status, and less well educated will receive harsher sentences compared with their counterparts.

Protection of the community typically focuses on the need to incapacitate the offender or to deter future crime. Albonetti (1991) argued that sentencing is an arena of bounded rationality in which court actors, particularly judges, confront the goal of protecting the public and preventing recidivism in the context of high uncertainty about offenders’ future behavior. Judges’ assessments of offenders’ future behavior are derived from attributions based primarily on the nature of the offense and the offender’s criminal history but may also be influenced by extralegal characteristics of the offender, such as gender, race/ethnicity, age, and socioeconomic status.

Practical constraints and consequences relate to how sentencing decisions impact the functioning of the criminal justice system as well as the circumstances of individual offenders and their families and communities. Organizational concerns include maintaining working relationships among courtroom actors, ensuring the stable flow of cases, and being sensitive to local and state correctional crowding and resources (Dixon, 1995; Flemming, Nardulli, & Eisenstein, 1992; Steffensmeier et al., 1998; Ulmer, 1995; Ulmer & Kramer, 1996). Individual concerns include the offender’s ability to do time, health conditions, and special needs; the cost to the
correctional system; and disruption to the offender’s children and family (Daly, 1987; Hogarth, 1971; Steffensmeier, 1980; Steffensmeier, Kramer, & Ulmer, 1995).

To summarize, one might expect that judges may share in the general stereotyping predominant in the community and that gender, racial/ethnic, and/or age attributions will combine with the focal concerns outlined previously to influence judges in deciding whether to incarcerate an offender and, subsequently, the length of incarceration he or she will receive. The use of stereotypes in decision making is, to a certain extent, probable, as judges often have limited time and information when rendering sentencing outcomes. Specifically, judges’ outlooks on offenders’ ability to do time play a major role in the decisions they make.

EXPECTATIONS

Given the findings of previous research on the interaction effects of gender and race/ethnicity (Albonetti, 2002; Brennan & Spohn, 2009; Crawford, 2000; Doemer & Demuth, 2010; Freiburger & Hilinski, 2013; Spohn, 2013; Spohn & Beichner, 2000; Spohn & Brennan, 2011; Steffensmeier & Demuth, 2006; Steffensmeier et al., 1998), I find it important to continue to examine these joint influences on sentencing outcomes. Thus,

Hypothesis 1: I expect that there will be an interaction between gender and race/ethnicity such that female offenders will be less likely to be incarcerated and will receive shorter sentences than male offenders in each racial/ethnic group. In addition, the differences between males and females will be larger for Black and Hispanic offenders than for White offenders.

Hypothesis 2: There will be differences within racial/ethnic groups by gender such that White male offenders will be less likely to be incarcerated and will receive shorter sentences than Black and Hispanic male offenders. This will also hold true for female offenders such that White female offenders will be less likely to be incarcerated and will receive shorter sentences than Black and Hispanic female offenders.

Hypothesis 3: Prior research on race and sentencing has produced mixed findings on the effects of race across offense type (see Mitchell’s [2005] meta-analysis for a discussion of various studies), indicating that unwarranted racial disparities were greater among property offenses than drug offenses. However, when the time period was controlled, data after 1987 (when the guidelines were implemented) showed that the unwarranted disparities were greater among drug offenders. In addition, gender may also play a role in the sentencing outcomes of offenders involved with drugs (for a detailed discussion, see Brennan & Spohn, 2009) in that females received shorter sentences than males. Given these previous findings, I expect that an interaction will occur between gender and race/ethnicity such that the differences between
male and female drug offenders will be larger for Blacks and Hispanics than for Whites. However, I expect that male and female non-drug offenders will be sentenced similarly across all racial/ethnic groups.

The federal sentencing statutes include provisions that permit judges to depart either above or below the sentence prescribed by the guidelines (however, the overwhelming direction of departures is downward). Judges may award these sentencing departures based on legitimate reasons if they feel offenders do not deserve the sentence stated under the prescribed guidelines. Downward departure sentences are those initiated by judges in accordance with the guidelines, whereas substantial assistance departures are initiated by prosecutors in cases in which the offender can provide assistance, usually in the form of information, to the government. On average, prosecutorial departures are much less restrictive than regular downward departures.

Previous research has reported that there are differences by gender and race/ethnicity across departure categories (see Doerner, 2012; Hartley, Maddan, & Spohn, 2007; Spohn & Brennan, 2011). More specifically, Doerner (2012) found that female offenders were more likely than their male counterparts to receive a sentencing departure. In addition, for the incarceration decision, smaller gender differences were found between males and females who were sentenced according to the guidelines, but for the sentence length decision, the smallest gender differences were found between male and female offenders who received substantial assistance departures. Spohn and Brennan (2011) found that female offenders were more likely than male offenders to receive substantial assistance departures and that female offenders received larger discounts when these departures were applied. Furthermore, female offenders, regardless of race/ethnicity, were treated more leniently than Black and Hispanic male offenders but were treated the same as White male offenders or females of other races/ethnicities. Hartley et al. (2007) also found that White offenders, female offenders, and more educated offenders were more likely to receive substantial assistance departures.

Hypothesis 4: Given the findings stated previously, I hypothesize that larger gender differences will exist for Black and Hispanic offenders who receive sentencing departures compared to White offenders. In addition, smaller gender differences will be found among Whites who are sentenced according to the guidelines (do not receive a sentencing departure) compared to Black and Hispanic offenders.

DATA AND METHODS

In the present study, I use data from 3 years (2001–2003) of the Monitoring of Federal Criminal Sentences program compiled by the U.S. Sentencing Commission (USSC). The data include all cases received by the USSC that had sentencing dates between October 1, 2000, and September 30, 2003, and were assessed as constitutional (total = 194,521 cases). Data from the 3 years were combined to create one large data set, thus providing larger case sizes for both male and female offender groups. These data are especially appropriate for this study as they contain some of the richest and most detailed information available on the processing
of cases at the sentencing stage. Having these variables available enables a more adequate elimination of alternative explanations for extralegal effects on sentencing outcomes (e.g., Demuth & Steffensmeier, 2004; Spohn & Holleran, 2000). Furthermore, the federal sentencing guidelines provide a more rigid and conservative test of the impact of extralegal factors on sentencing outcomes.

For this analysis, I eliminate several offender groups from the sample. First, noncitizens are deleted from the analysis \((n = 54,909)\). Federal sentencing of noncitizen offenders often differs greatly from sentencing of citizen offenders in many ways and, as a result, makes comparisons of sentencing outcomes between them difficult (Demuth, 2002). For instance, a large proportion of noncitizen cases involve immigration violations that cannot be directly compared to citizen cases. Furthermore, because noncitizens can be deported, the sentencing process for noncitizens is often qualitatively different (the goal being to send the offender back to his or her country of origin and not to punish) from that for U.S. citizens. Finally, case information provided for noncitizens may be incomplete, and this will most likely result in an underestimation of prior criminal history.

Second, offenders younger than the age of 18 are excluded from the analysis because their cases are substantively and legally different because of their juvenile status \((n = 6)\). Third, offenders who receive upward departures are deleted from the analysis as they make up only 0.8% of departure cases and make comparisons across departure type very difficult. And fourth, using listwise deletion, I delete all cases with missing information for all variables used in the analysis. The number of missing values is small and the exclusion of these cases from the analysis does not significantly change the findings. The final analytic sample for the present study is 111,123.

### Dependent Variables

Sentencing outcomes are the result of a two-stage decision-making process: the decision to incarcerate and, once incarceration is selected, the sentence length decision (for a discussion, see Spohn, 2002). In the present study, I use logistic regression to model the incarceration decision. The in/out decision variable is coded dichotomously, with 1 indicating a prison sentence and 0 indicating a non-incarceration sentence (e.g., probation, community service). The sentence length decision is modeled using ordinary least squares regression and includes only those defendants who receive a prison sentence. Sentence length is a continuous variable representing the logged length of the prison sentence in months. Logging the sentence length helps to normalize the distribution, and taking the antilog of the coefficient in the logged sentence length model provides a useful proportional interpretation. Sentence length is capped at 470 months. Any sentence length beyond that duration is considered to be life in prison.3

### Extralegal Variables

Defendant gender is a dummy variable coded 1 if the defendant is female and 0 if the defendant is male. Race/ethnicity is coded as four dummy variables: White non-Hispanic, Black non-Hispanic, Hispanic of any race, and other.4 Defendant age is a continuous variable representing the age of the defendant at the time of sentencing and ranges from 18 to 100. These
age categories are consistent with Steffensmeier et al. (1998) and are coded as a series of dummy variables (18–20, 21–29, 30–39, 40–49, 50–59, and 60 and older). Education level is coded as three dummy variables (less than high school, high school, and more than high school), with those who graduated high school as the reference category.

Legal Variables

Under the federal guidelines, judges retain discretion for sentencing individuals within the range determined by the offense level and criminal history of the offender. Sentence ranges are determined using a grid that takes these two variables into account, one on each axis. However, it has been argued (see Engen & Gainey, 2000) that a variable representing the presumptive guideline sentence, in which criminal history and offense severity are combined into a single measure, is a more appropriate strategy and actually explains more of the variation in sentencing outcomes. This analytic strategy is also used by the USSC (2004). Therefore, I include a variable representing the guideline minimum sentence in months. I also include a measure of criminal history, which ranges from 1 to 6 and indicates the final criminal history category of the offender as assigned by the court. According to Ulmer (2000), measures of offense severity and prior record have important main, curvilinear, and interactive influences on incarceration and sentence length that cannot be reduced to the effect of presumptive sentence measures. This suggests that it is statistically and substantively important to include offense severity and prior record even if one is including a presumptive sentence measure. However, Ulmer (2000) also pointed out that including all three legally prescribed variables results in problematic multicollinearity in ordinary least squares models of sentence length. As a result, an offense severity score variable is not included in the analysis because it is highly collinear with the guideline minimum sentence variable.

Case disposition is a dichotomous variable that indicates whether the offender’s case is settled by plea agreement or trial. It is coded 1 for trial and 0 for guilty plea. I also include a measure of multiple counts. A dummy variable is coded 0 for cases involving a single count and 1 for cases that involve multiple counts. The analyses also include a dummy variable indicating whether the defendant was in custody prior to the sentencing stage. It is coded 1 if the defendant was detained and 0 if the defendant was released prior to sentencing. Offense type indicates the primary offense type for the case generated from the court of conviction with the highest statutory maximum sentence (in the case of a tie, the count with the highest statutory minimum is used). For this analysis, offense type is broken down into two dummy variables: drug (i.e., trafficking, simple possession) and non-drug (all other offense types in the federal data).

The variable departure indicates the offender’s departure status. Departure status is coded 0 for no departure, 1 for a downward departure, and 2 for a substantial assistance departure. Upward departure cases are deleted from the sample as they only make up 0.8% of the sample and deleting them does not significantly change the findings. The federal sentencing statutes include provisions that permit judges to depart either above or below the sentence prescribed by the guidelines. Judges may award these sentencing departures based on a legitimate reason if they feel the offender does not deserve the sentence stated under the prescribed guidelines. Overall, however, the overwhelming direction of departures is downward. If and when judges issue a sentencing departure, they must indicate their reasoning for said departure.
The narrow range of factors that judges may consider when sentencing either above or below the prescribed guideline range makes the federal sentencing guidelines much more rigid than similar state structured sentencing systems (Farrell, 2004). Consequently, federal courts are prohibited from departing from the guidelines based on the race, gender, religion, or class of an individual defendant. However, the USSC has deferred to the courts to interpret how extensively judges may use offender characteristics to justify departures from the guideline range.

Several control variables are also included in the models. Because multiple years of data are used in the present study, a dummy variable for each of the 3 years is constructed. Prior studies have indicated that the judicial circuit, as well as other court contextual variables, may have important influences on sentencing outcomes (Peterson & Hagan, 1984; Steffensmeier & Demuth, 2000). One cause of disparities is that not all states or judicial circuits have implemented guideline systems. The variable judicial circuit indicates the judicial circuit is which the offender was sentenced and is broken down into 11 categories. In addition, even though guidelines do exist in federal courts, judicial discretion has not been completely eliminated. Examining differences between circuits is beyond the scope of this study; however, judicial circuit and year are included in the models but are not shown in the tables.

Descriptive Statistics

Table 1 shows the descriptive statistics for this stage of the analysis. They are partitioned by both gender and race/ethnicity. For males (left side of the table), a higher percentage of Black male offenders are incarcerated (roughly 91%) compared to Whites and Hispanics (79% and 90%, respectively). When these Black offenders are sent to prison they receive average sentence lengths of around 92 months compared to 56 months for Whites and 59 months for Hispanics. The harshness in sentencing outcomes for Black male offenders can be partially explained by legal characteristics. Overall, a larger percentage of Black males go to trial and are sentenced on multiple counts. In addition, they have more extensive criminal histories and longer guideline minimum sentences. Furthermore, a higher percentage of Black and Hispanic male offenders are detained prior to the sentencing stage compared to Whites. A higher percentage of Black male offenders are sentenced according to the specified guidelines (receive no sentencing departure), whereas more Hispanics receive downward departures and Whites receive substantial assistance departures. In terms of extralegal variables, a higher percentage of Hispanic male offenders completed less than a high school education, with more White male offenders completing high school and/or beyond.

For female offenders (right side of the table), a larger percentage of Hispanic female offenders are incarcerated (about 70%), and these offenders receive slightly longer sentence length outcomes (32 months on average). By comparison, 62% of White females and 59% of Black females are incarcerated and, if incarcerated, receive 34-month and 36-month sentences, respectively. More White and Black female offenders are sentenced on multiple counts. Hispanic females receive the longest guideline minimum sentences and have a larger percentage of offenders being detained prior to sentencing. A larger percentage of Black offenders do not receive sentencing departures, and more Hispanic females receive downward departures. In terms of education, a higher percentage of Hispanic females completed less than a high school education, whereas a larger percentage of Black females continued their education beyond high school. White female offenders fall in the middle, having the highest percentage of offenders completing a high school education.
### TABLE 1
Descriptive Statistics for Race/Ethnicity Interactions by Gender

<table>
<thead>
<tr>
<th>Variable</th>
<th>White males</th>
<th></th>
<th>Black males</th>
<th></th>
<th>Hispanic males</th>
<th></th>
<th>White females</th>
<th></th>
<th>Black females</th>
<th></th>
<th>Hispanic females</th>
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*Sentence length is for those who received an incarceration sentence.*
RESULTS

Effects of Gender Partitioned by Race/Ethnicity

In/Out Decision

Table 2 shows the effects of gender on sentencing outcomes for each of the racial/ethnic subgroups in the sample. Across the board, female offenders have lower odds of incarceration compared to their male counterparts. The largest difference in the odds of incarceration is found between male and female Hispanic offenders. Hispanic females have odds of incarceration roughly 45% lower than similarly situated Hispanic males. The smallest gender difference is found for White defendants. Z scores of difference (p < .05) indicate that the offender’s gender has a significantly stronger effect on the decision to incarcerate for White offenders than for Black or Hispanic offenders.

Overall, across all racial/ethnic groups, those offenders with more extensive criminal histories, who were sentenced on multiple counts, and who went to trial have a higher likelihood of being incarcerated. Black offenders stand out from the other racial/ethnic groups in terms of the substantial penalty paid for being convicted at trial and, to a certain extent, being sentenced on multiple counts. Z scores of difference (p < .05) indicate that going to trial plays a stronger role in the odds of incarceration for Black offenders than White offenders. Black offenders who go to trial are between 2.5 and 3 times more likely to be incarcerated and about 60% more likely if they are sentenced on multiple counts (compared to their Black counterparts who take a plea or are sentenced on only a single count). Offenders who were detained prior to sentencing are more likely to be incarcerated than their respective counterparts who were released prior to this stage of the criminal justice process. This finding is especially pronounced for Hispanic offenders, indicating that being detained has a stronger influence on the decision to incarcerate for Hispanics than it does for White and Black offenders (supported by z tests of difference; p < .05). Across all categories, offenders receiving downward or substantial assistance departures have significantly lower odds of incarceration than similarly situated offenders who receive no sentencing departure. However, being sentenced for a drug offense increases the likelihood of incarceration across all racial/ethnic categories compared to non-drug offenders, but the effect is significantly stronger for Hispanic offenders compared to Blacks (z tests; p < .05). Offenders with less than a high school education are more likely to be incarcerated than those with at least a high school education. Z scores of difference (p < .05) indicate that having less than a high school education has a significantly stronger effect on the decision to incarcerate for Hispanic offenders than for White and Black offenders.

Sentence Length Decision

Table 2 also shows the interaction effects of gender by race/ethnicity for the sentence length decision. Much like the results for the incarceration decision, all of the female offenders receive shorter sentence length terms than their respective male counterparts. In terms of the gender difference between racial/ethnic groups, Black female offenders show the largest difference from similarly situated Black males, receiving terms about 16% shorter, whereas White and Hispanic offenders receive sentence lengths roughly 11% shorter than their respective counterparts.
Overall, the offender’s gender has a significantly stronger effect on the sentence length decision for Black offenders compared to White or Hispanic offenders (z test; p < .05).

Being sentenced on multiple counts, as well as having a more extensive prior criminal history, increases the length of sentence terms for offenders in all racial/ethnic groups. For Black offenders, z scores of difference (p < .05) indicate that being sentenced on multiple counts has a stronger influence on longer length outcomes than it does for White or Hispanic offenders.
Offenders who go to trial also receive longer sentence lengths than their counterparts who plead guilty, and this effect has a stronger influence on sentence length for Hispanic offenders than Whites \((z\text{ test}; p < .05)\). Furthermore, offenders in all racial/ethnic categories who were detained prior to sentencing receive longer sentence length outcomes. Similar to the decision to incarcerate, sentence lengths for offenders who receive downward or substantial assistance departures are significantly shorter than terms given to the reference category (no departure) for each racial/ethnic group. Receiving a sentencing departure (downward or substantial assistance) has a significantly stronger effect on the sentence length outcome for Hispanic or White offenders compared to Blacks \((z\text{ test}; p < .05)\).

Overall, female offenders are not sentenced on par with men. Female offenders have odds of incarceration ranging from 24% to 45% lower than those of male offenders depending on their race/ethnicity. When female offenders are incarcerated, they receive sentences 11% to 16% shorter than those of their male counterparts. Thus, the first part of Hypothesis 1 is supported in that female offenders in all racial/ethnic categories receive less severe sentence outcomes (lower odds of incarceration and shorter sentence lengths) than their respective male counterparts. The second part of Hypothesis 1 is only partially supported, as gender differences for Black and Hispanic offenders are larger than for White offenders for the decision to incarcerate, but only Black offenders have larger gender differences than Whites for the sentence length decision (Hispanic offenders receive term lengths similar to those of Whites).

### Effects of Race/Ethnicity Partitioned by Gender

**In/Out Decision**

Table 3 shows the results of the regression model partitioned by gender. Hispanic male offenders have higher odds of incarceration compared to their White counterparts. In addition, Black and Hispanic female offenders are significantly less likely (roughly 14% less likely) to be sent to prison than White female offenders. Z scores of difference \((p < .05)\) indicate that the offender’s race plays a significantly different role for male and female offenders. Being sentenced on multiple counts, going to trial, and having a more extensive criminal history increases the likelihood of incarceration for both male and female offenders. Being detained prior to sentencing significantly increases the likelihood of incarceration for both males and females, as does being sentenced for a drug offense. However, being detained has a significantly stronger influence on this decision for male offenders \((z\text{ tests}; p < .05)\). Receiving a sentencing departure decreases the likelihood of incarceration for all offenders. Male offenders with less than a high school education are more likely to be given an incarceration term than those male offenders who finish high school (26% higher odds).

**Sentence Length Decision**

Black male offenders receive slightly longer, and Hispanic male offenders receive slightly shorter, sentence length terms compared to their White counterparts. In addition, Hispanic female offenders receive slightly shorter sentence length terms than similarly situated White females. Being sentenced on multiple counts, going to trial, having a more extensive criminal
history, and being detained prior to sentencing result in longer sentence length terms for both male and female defendants. Being sentenced on multiple counts is more pronounced for male offenders, resulting in longer sentences, whereas being detained plays a stronger role in the terms given to female offenders ($z$ tests; $p < .05$). In addition, drug offenders receive longer sentence length outcomes than their non-drug offender counterparts, with offense type playing a slightly stronger role for female offenders (finding supported by $z$ tests of difference; $p < .05$). For both

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Note: Controls for circuit and year are included in all models.

$^{a}$Represents the reference category. $^{b}$Coefficients are different between male and female defendants at $p < .05$ (two-tailed $z$ tests).

$p < .05$.
male and female offenders, receiving a sentencing departure significantly decreases the length of
the sentence. Receiving a sentencing departure (downward or substantial assistance) has a sig-
ificantly stronger effect on the sentence length outcome for female offenders compared to
males, producing shorter overall terms. Female offenders with less than a high school education
receive longer sentence terms (4% longer) than those offenders who complete high school,
whereas male offenders with more than a high school education receive shorter sentence length
terms (4% shorter).

For men, Black/White differences are nonexistent at the incarceration stage, but Hispanics
are treated more harshly than Whites. When it comes to sentence length outcomes, Black male
offenders receive slightly longer terms, whereas Hispanic males receive slightly shorter terms.
For females, Blacks and Hispanics are treated more leniently than their White counterparts
during the decision to incarcerate, and Hispanic females receive slightly shorter sentence length
terms than similarly situated White females. In terms of legal factors, being detained prior to
sentencing has a significantly stronger effect on the decision to incarcerate for male offenders.
In addition, having less than a high school education has a significantly stronger effect on the
sentence length outcome for male offenders, ultimately producing longer terms. Overall, there
is very mixed support for Hypothesis 2. The first part of the hypothesis is partially supported,
as, along the predicted path, White male offenders are significantly less likely to be incarcerated
than Hispanic males, but there are no Black/White differences. In addition, only Black male
offenders receive longer sentence length outcomes than White male offenders. The second part
of the hypothesis is not supported, as, contrary to expectations, White females are more likely to
be incarcerated than Black or Hispanic female offenders. In addition, White female offenders
receive slightly longer sentence length terms than Hispanic females; however, there are no
Black/White differences for female offenders.

Interaction Effects for Drug Versus Non-Drug Offenders

Table 4 presents the effects of gender separately for each racial/ethnic group for drug and
non-drug offenders. For the top portion of the table (drug offenders), the largest gender dif-
ference is found for Black drug offenders. More specifically, Black female drug offenders have
odds of incarceration roughly 49% lower than Black males. In addition, in terms of the sentence
length outcomes, Black female drug offenders receive sentences approximately 14% shorter than
their Black male counterparts. Z scores of difference (\(p < .05\)) indicate that the offender’s gender
has a significantly different effect on the sentence length decision for Black drug offenders com-
pared to White or Hispanic offenders.

For non-drug offenders, the results are slightly different. The largest gender difference in the
odds of incarceration is found for Hispanic non-drug offenders. Hispanic female non-drug offen-
ders are 43% less likely to be incarcerated than male offenders in the same category. However, in
terms of sentence length, Black female non-drug offenders receive terms about 16% shorter than
Black male non-drug offenders. Once again, the offender’s gender has a significantly different
effect on the decision to incarcerate for White non-drug offenders compared to Black or Hispanic
offenders (finding supported by \(z\) tests of difference; \(p < .05\)). In addition, \(z\) scores of difference
\((p < .05)\) indicate that the offender’s gender has a significantly different effect on the sentence
length decision for Black non-drug offenders compared to White or Hispanic offenders. Thus,
the first part of Hypothesis 3 is supported in that the gender differences between male and female drug offenders in both sentencing outcomes are larger for Blacks compared to Whites. Gender differences are also larger for Hispanic drug offenders, but only for the incarceration decision. The second part of Hypothesis 3 is not supported, as significant gender differences are found across all racial/ethnic categories of nonoffenders for both the decision to incarcerate and the sentence length outcomes.

Interaction Effects by Type of Departure

Table 5 shows the gender by race/ethnicity interaction effects for each type of sentencing departure. The top third of the table shows offenders who do not receive sentencing departures. In other words, these offenders are sentenced according to the sentencing guidelines. For the decision to incarcerate, the largest difference between males and females is found for Hispanic offenders. Hispanic female offenders are approximately 40% less likely to be incarcerated than Hispanic male offenders. In contrast, White female offenders in this category are only 23% less likely to be incarcerated than their White male counterparts. The offender’s gender has a significantly different effect on the decision to incarcerate for White offenders compared to Black or Hispanic offenders (finding supported by z tests of difference; \( p < .05 \)). However, when the sentence length decision is examined, the largest gender difference is found for Black offenders. Black female offenders receive sentence length terms about 13% shorter than those of Black

<table>
<thead>
<tr>
<th>Variable</th>
<th>White</th>
<th></th>
<th>Black</th>
<th></th>
<th>Hispanic</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In/out</td>
<td>Ln(length)</td>
<td>In/out</td>
<td>Ln(length)</td>
<td>In/out</td>
<td>Ln(length)</td>
</tr>
<tr>
<td>Drug offenders Gender</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
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<td>0.67*</td>
<td>−0.12(^b)</td>
<td>0.51*</td>
<td>−0.15(^bd)</td>
<td>0.56*</td>
<td>−0.12(^d)</td>
</tr>
<tr>
<td>Female</td>
<td>0.12</td>
<td></td>
<td>0.18</td>
<td></td>
<td>0.15</td>
<td></td>
</tr>
<tr>
<td>Max-rescaled ( R^2 )</td>
<td>.62</td>
<td>.79</td>
<td>.60</td>
<td>.82</td>
<td>.54</td>
<td>.82</td>
</tr>
<tr>
<td>Adjusted ( R^2 )</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-drug offenders Gender</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>0.80(^bc)</td>
<td>−0.12(^b)</td>
<td>0.62(^b)</td>
<td>−0.18(^bd)</td>
<td>0.57(^c)</td>
<td>−0.11(^d)</td>
</tr>
<tr>
<td>Female</td>
<td>0.18</td>
<td></td>
<td>0.11</td>
<td></td>
<td>0.12</td>
<td></td>
</tr>
<tr>
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<td>.73</td>
<td>.67</td>
<td>.82</td>
<td>.57</td>
<td>.82</td>
</tr>
<tr>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>( N )</td>
<td>30,973</td>
<td>21,485</td>
<td>20,310</td>
<td>15,605</td>
<td>7,013</td>
<td>5,196</td>
</tr>
</tbody>
</table>

\(^a\)Represents the reference category. \(^b\)Coefficients are different between White and Black defendants at \( p < .05 \) (two-tailed \( z \) test). \(^c\)Coefficients are different between White and Hispanic defendants at \( p < .05 \) level (two-tailed \( z \) test). \(^d\)Coefficients are different between Black and Hispanic defendants at \( p < .05 \) (two-tailed \( z \) test). \(^*\)\( p < .05 \).
male offenders. Whereas Hispanic gender differences are largest for the decision to incarcerate, Hispanic males and females are given the most similar sentence length outcomes (only 8% difference). In addition, z scores of difference (p < .05) indicate that the offender’s gender has a significantly different effect on the sentence length decision for Black offenders compared to White or Hispanic offenders.

For offenders who receive downward sentencing departures, the gender difference in the odds of incarceration is largest for Hispanic offenders. Hispanic female offenders are roughly 42% less likely to receive an incarceration term than their male counterparts. The offender’s gender has a significantly different effect on the decision to incarcerate for Hispanic offenders compared to White offenders (finding supported by z tests of difference; p < .05). The largest gender difference in sentence length outcome is found between Black male and female offenders. Black females in the downward departure category are sentenced to terms 22% shorter than those of Black male offenders. In addition, z scores of difference (p < .05) indicate that the offender’s gender has a significantly different effect on the sentence length decision for Black offenders compared to Whites.

For those offenders who receive substantial assistance departures, the largest gender difference in the odds of incarceration is found for Hispanic offenders. Hispanic female offenders

<table>
<thead>
<tr>
<th>Variable</th>
<th>White</th>
<th></th>
<th>Black</th>
<th></th>
<th>Hispanic</th>
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<td></td>
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<td>Ln(length)</td>
<td>In/out</td>
<td>Ln(length)</td>
<td>In/out</td>
<td>Ln(length)</td>
</tr>
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<td>No departure Gender Male</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
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<td>−0.10−b</td>
<td>0.63−b</td>
<td>−0.14−bd</td>
<td>0.60−c</td>
<td>−0.08−d</td>
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<tr>
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<td>.77</td>
<td>.72</td>
<td>.89</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted $R^2$</td>
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<td>.91</td>
<td>.72</td>
<td>.89</td>
<td></td>
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<tr>
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<td>26,826</td>
<td>23,252</td>
<td>12,651</td>
<td>11,279</td>
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<tr>
<td>Downward departure Gender</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
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<td>−0.16−b</td>
<td>0.63−b</td>
<td>−0.25−b</td>
<td>0.58−c</td>
<td>−0.17−c</td>
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<tr>
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<td>.59</td>
<td>.79</td>
<td>.80</td>
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<td></td>
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<tr>
<td>Adjusted $R^2$</td>
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<td>.79</td>
<td>.80</td>
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<tr>
<td>N</td>
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<tr>
<td>departure Gender Male</td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Female</td>
<td>0.69±bc</td>
<td>−0.14−b</td>
<td>0.52−b</td>
<td>−0.21−b</td>
<td>0.48−c</td>
<td>−0.17−c</td>
</tr>
<tr>
<td>Max-rescaled $R^2$</td>
<td>.57</td>
<td>.65</td>
<td>.71</td>
<td>.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Adjusted $R^2$</td>
<td>.68</td>
<td>.71</td>
<td>.71</td>
<td>.56</td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>11,064</td>
<td>8,121</td>
<td>8,324</td>
<td>7,093</td>
<td>3,688</td>
<td>3,073</td>
</tr>
</tbody>
</table>

Note. All variables are included in the models.

*a*Represents the reference category. *b*Coefficients are different between White and Black defendants at $p < .05$ (two-tailed z test). *c*Coefficients are different between White and Hispanic defendants at $p < .05$ (two-tailed z test). *d*Coefficients are different between Black and Hispanic defendants at $p < .05$ level (two-tailed z test).

*p < .05*
have odds of incarceration roughly 52% lower than similar Hispanic male offenders. The offender’s gender has a significantly different effect on the decision to incarcerate for White offenders compared to Black or Hispanic offenders (finding supported by $z$ tests of difference; $p < .05$). Furthermore, in terms of sentence length outcomes, Black female offenders receive terms about 19% shorter than those of their Black male counterparts. In addition, $z$ scores of difference ($p < .05$) indicate that the offender’s gender has a significantly different effect on the sentence length decision for Black offenders compared to White offenders.

Across all departure categories, the largest gender differences exist for Hispanic offenders during the incarceration decision and for Black offenders during the sentence length decision. Therefore, the first part of Hypothesis 4 is fully supported, as minority offenders who receive sentencing departures are found to have larger gender differences during the sentencing process. However, the second part of Hypothesis 4 is only partially supported, in that smaller gender differences exist for White offenders who are sentenced according to the guidelines, but only for the incarceration decision. Hispanic female offenders who do not receive sentencing departures are sentenced most similarly to their male counterparts during the sentence length decision.

DISCUSSION

This work contributes to a growing body of research that considers the impact of gender and race/ethnicity on sentencing outcomes. In this article, I examine the interaction effects of gender and race/ethnicity on sentencing outcomes using federal court data collected by the USSC. It is important to note that the data used in the present study are some of the best available for this kind of examination, as they are rich with important legal control variables and contain sufficient numbers of both female and Hispanic offenders to enable a more robust analysis of offender subgroups.

Consistent with prior research, I find that overall female offenders receive less severe sentence outcomes than male offenders, even after legal, extralegal, and contextual factors are controlled. In addition, racial/ethnic differences are found when male and female offenders are examined separately. In line with expectations, Hispanic males are more likely to be incarcerated and Black males receive longer sentence length terms than White male offenders. However, the current study reveals interesting within-gender differences across racial/ethnic groups for female offenders. Contrary to expectations, White females are more likely to be incarcerated than Black and Hispanic females and receive longer sentence length terms than Hispanic females. Furthermore, gender and racial/ethnic differences are found across offense type (drug vs. non-drug) and type of sentencing departure (no departure, downward, or substantial assistance).

First, the results of the current study indicate that female offenders in all racial/ethnic categories receive less severe sentence outcomes than male offenders in the same categories. This holds true for both the incarceration decision and the sentence length decision. Therefore, the first part of Hypothesis 1 is fully supported by the findings of the analysis. However, the second part of Hypothesis 1 is only partially supported. The findings in Table 2 show that gender differences for Black and Hispanic offenders are larger than for White offenders for the incarceration decision, but gender differences are larger only for Blacks, compared to Whites, for the sentence length decision.

Second, I find that there are differences within each racial/ethnic group for male and female offenders (see Table 3), ultimately producing very mixed support for Hypothesis 2. Overall, the
first part of the hypothesis is supported in that Hispanic male offenders are more likely to be incarcerated than their White counterparts, but no Black/White differences are found. In addition, only Black male offenders receive longer sentence length outcomes than White males. However, the second part of the hypothesis is not supported, as White females are more likely to be incarcerated than Black or Hispanic females. Furthermore, White females also receive longer sentence length outcomes than Hispanic female offenders (there are no Black/White differences).

Third, I find an interaction effect between gender and race/ethnicity that influences the sentencing outcomes of drug and non-drug offenders. Overall, the first part of Hypothesis 3 is supported by the findings of the analysis in that the gender differences in sentencing outcomes are larger for Black drug offenders compared to White drug offenders. Differences between males and females are larger for Hispanic drug offenders as well, but only for the incarceration decision (see Table 4). The second part of Hypothesis 3 is not supported. Contrary to expectations, there are significant genders differences found across all racial/ethnic categories for both sentencing outcomes.

Fourth, much like the findings from previous research (Doerner, 2012; Hartley et al., 2007; Spohn & Brennan, 2011), gender and race/ethnicity combine to create differences across departure categories (see Table 5). I expected to find that larger gender differences would exist for Black and/or Hispanic offenders who received sentencing departures. Furthermore, I predicted that gender differences would be smaller among White offenders who did not receive sentence departures. Overall, the findings are consistent with my expectations for the first part of Hypothesis 4. However, with respect to the second part of the hypothesis, smaller gender differences are found only for White offenders sentenced according to the guidelines during the decision to incarcerate.

The finding that stands out the most from the analysis comes from Table 3, in which the data are partitioned by gender. Although the findings are in the predicted direction for male offenders (White males are less likely to be incarcerated than Hispanics and receive shorter sentences than Blacks), the results for female offenders stand contrary to expectations. Findings indicate that White females are more likely to be incarcerated than Black or Hispanic females. In addition, White females receive longer sentence length terms than Hispanic females. There are, however, no significant differences found between Black and White females for the second part of the sentencing process. These findings regarding female offenders are contrary to some previous research that has found advantages at sentencing for Whites (Albonetti, 2002; Crawford, 2000; Crawford et al., 1998; Steffensmeier et al., 1998), but they do correspond to findings of other studies that have found similar differences (Doerner & Demuth, 2010) or no differences across race/ethnicity for female offenders (Brennan & Spohn, 2009; Spohn, 2013; Spohn & Brennan, 2011; Steffensmeier & Demuth, 2006).

Future research should continue to explore gender and racial/ethnic interactions to determine what is taking place in the lives of these Black and Hispanic female offenders and what factors are specifically influencing these more lenient sentencing outcomes. Some prior research (Spohn, 1990; Ulmer & Kramer, 1996) has included supplemental qualitative interviews (along with quantitative analyses) that have shown that although judges do not specifically mention factors such as race and gender, the examination of a defendant’s character may involve the use of gender and racial/ethnic stereotypes. This may be especially true when it comes to the lack of time and information available to make important sentencing decisions (see Albonetti, 1991,
Gaining access to individual case files from the USSC, including notations made by lawyers, probation and parole officers, and judges, would allow for a more complete understanding of each offender and his or her prior and current behavior. These files may also bring to light other factors that could influence differences in sentencing outcomes. Furthermore, qualitative interviews with offenders have the potential to add to researchers’ understanding of the life events and circumstances that brought these individuals into contact with the criminal justice system. Male and female offenders enter into the system through different avenues, and this is key to understanding their involvement in criminal behavior.

The results of the current study are consistent with the focal concerns perspective (Steffensmeier, 1980; Steffensmeier et al., 1993, 1998), which argues that legal decision making is organized around concerns of blameworthiness, protection of the community, and practical constraints and consequences. Overall, the primary influences of sentencing decisions are legal factors (e.g., prior criminal history, offense seriousness); however, the data from this study demonstrate that extralegal characteristics also play an important role in an offender’s outcome. The findings support the idea that judges attribute meaning to the past and present behavior of offenders as well as stereotypes associated with various gender or racial/ethnic groups. These extralegal sources of sentencing disparity indicate that these stereotypes may be very influential and that inequalities in the application of the law and subsequent court proceedings may be taking place, despite the existence of sentencing guidelines designed to avoid such unequal treatment.

There are several limitations associated with the current study that should be noted. One limitation of this study is that socioeconomic status information was not available in the data set (Monitoring of Federal Criminal Sentences) and thus could not be included in the current analysis. It is not unusual for measures of socioeconomic status to be missing from sentencing research. In prior years of federal data, a variable representing offender income was available; however, more than 50% of offenders listed their incomes as $0, making it difficult to analyze the true effects of this variable and how it might interact with gender or race/ethnicity (see Steffensmeier & Demuth, 2000). Future research should explore the extent to which gender and racial/ethnic disparities are truly a function of societal perceptions and stereotypes versus economic constraints that limit the ability of offenders to resist legal sanctions and to acquire appropriate counsel.

Another limitation of the current study is that I was only able to examine the outcomes of citizen offenders. Noncitizen offenders, because of the incomplete nature of their background information, were eliminated from the analysis. Furthermore, their prior criminal history is often underestimated and the nature of their cases is often quite different, making comparisons of sentencing outcomes difficult between the two groups. Because Hispanic offenders make up the majority of noncitizen cases in the federal system, future research would benefit from a thorough examination of these individuals to explore interactions of gender and race/ethnicity in conjunction with their illegal or resident alien status.

CONCLUSION

The analysis of gender and racial/ethnic interactions in federal courts explored in the current study provides insight into the important influence of these extralegal factors on sentencing outcomes, even with strict sentencing guidelines in place. Overall, the findings of the current study...
are consistent with those of past research on gender and sentencing (Bickle & Peterson, 1991; Brennan, 2002; Daly & Bordt, 1995; Doerner & Demuth, 2014; Nagel & Johnson, 1994; Rodriguez et al., 2006; Spohn, 2002; Steffensmeier et al., 1993), indicating that female offenders are sentenced to less severe sentence outcomes than similarly situated male offenders. The findings of my research also align with the findings of prior research on racial/ethnic differences at sentencing (Albonetti, 1997; Chiricos & Crawford, 1995; Demuth & Steffensmeier, 2004; Doerner & Demuth, 2010; Mitchell, 2005; Spohn, 2000; Steffensmeier & Demuth, 2000, 2001; Steffensmeier et al., 1998), which finds that minority offenders are sentenced more severely than their White counterparts. In addition, the current study adds to the existing literature on the interaction of gender and race/ethnicity on sentencing (Albonetti, 1997; Brennan & Spohn, 2009; Doerner & Demuth, 2010; Griffin & Wooldredge, 2006; Steffensmeier & Demuth, 2006; Steffensmeier et al., 1998) by finding that there are within-gender differences across racial/ethnic categories, offense type, and type of sentencing departure.

The finding that White female offenders are more likely to be incarcerated than Blacks or Hispanics and that, when incarcerated, these White female offenders receive longer sentences than Hispanic females is contrary to previous studies on the interaction of gender and race/ethnicity (Albonetti, 2002; Crawford, 2000; Crawford et al., 1998; Steffensmeier et al., 1998). Nevertheless, these results help establish the importance of continued consideration of the combined impact of multiple defendant characteristics on sentencing outcomes. Examining just the main effect of gender or race/ethnicity tells only part of the story. There is still a great deal that can be discovered about the impact of extralegal factors on the sentencing process as well as other decision-making stages of the criminal justice system.

NOTES

1. A substantial assistance departure is one in which defendants provide information that leads to the prosecution and conviction of another offender. If this departure is granted, the defendant is given a downward sentencing departure or reduction in sentence length.

2. Data from 2001–2003 are used to examine sentencing outcomes under the mandatory federal sentencing guidelines (prior to the Booker decision). Future research will allow for the comparison of pre- and post-Booker sentencing outcomes.

3. Many sentencing studies model the sentence length decision including a correction term for selection bias stemming from the decision to incarcerate (Berk, 1983). This involves controlling for the hazard of incarceration (estimated in the in/out model) in the sentence length model. The hazard variable represents for each observation the instantaneous probability of being excluded from the sample conditional on being in the pool at risk. However, Stolzenberg and Relles (1997) and Bushway, Johnson, and Slocum (2007) found that this correction term can often introduce more bias into the sentence length model than it eliminates due to high levels of collinearity between the correction term and other predictors of sentencing length. This is especially likely when predictors of incarceration are very similar to the predictors of sentencing length, as in the present study. Also, Stolzenberg and Relles (1997) argued that a correction term is often unnecessary when there is a low level of selection. In the current data, because only 19% of defendants avoid incarceration, it is unlikely that a selection bias will strongly influence the sentence length findings. For these reasons, I do not include a correction term for selection bias in the sentence length model.

4. Defendants in the “other” racial category are included in the analysis models but are not included in the regression tables as they are not the focus of this study and only constitute a small percentage of the sample (3.9%).

5. Guideline minimum sentence is logged to help normalize the distribution of this variable.
REFERENCES


