

The Dangerous Drug Offender in Federal Court

Intersections of Race, Ethnicity, and Culpability

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This study examines the complex relationships among stereotypes about crime, the offender's race/ethnicity, and sentencing decisions. Using data on White, Black, and Hispanic male drug offenders sentenced in three U.S. district courts and a definition of the dangerous drug offender appropriate to the federal sentence system, the authors explore the degree to which stereotypes about dangerous drug offenders influence sentence length. The results reveal that fitting the stereotype of a dangerous federal drug offender (i.e., a male drug trafficker with a prior trafficking conviction who used a weapon to commit the current offense) affected the length of the prison sentence for Black offenders but not for White or Hispanic offenders. Further analysis revealed that this effect was confined to Black offenders convicted of drug offenses involving crack cocaine. The results provide further evidence that the focal concerns guiding judicial decision making may vary depending on the offender's race or ethnicity.

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Social scientists have conducted dozens of studies designed to untangle the relationship between race and sentence severity (for reviews, see Chiricos & Crawford, 1995; Spohn, 2000). In fact, as Zatz (1987) notes, this issue "may well have been the major research inquiry for studies of

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sentencing in the 1970s and early 1980s” (p. 69). Many of these early studies focused on the direct effect of race on sentencing; these studies asked whether Black (and occasionally Hispanic) offenders were sentenced more harshly than White offenders. Recent research has taken a more theoretically and methodologically sophisticated approach (Albonetti, 1997, 2002; LaFrentz & Spohn, 2006; Nobiling, Spohn, & DeLone, 1998; Spohn & Holleran, 2000; Stacey & Spohn, 2006; Steen, Engen, & Gainey, 2005; Steffensmeier, Ulmer, & Kramer, 1998). This research has shifted its focus to exploring the intersecting effects of race/ethnicity, sex, age, employment status, and crime type on sentence severity. Rather than asking whether race/ethnicity makes a difference, these more recent studies attempt to identify the circumstances under which or the contexts in which race matters.

Studies testing for indirect or interactive effects of race/ethnicity on sentencing have been conducted using both state and federal sentencing data. These studies generally reveal that the combination of race/ethnicity and other legally irrelevant offender characteristics produces greater sentence disparity than race/ethnicity alone. That is, the studies demonstrate that certain racial minorities—men, the young, the unemployed, the less educated, those convicted of drug offenses—are singled out for harsher treatment. Some studies found that each of these offender characteristics had a direct effect on sentence outcomes, but the combination of race/ethnicity and one or more of the other characteristics was a more powerful predictor of sentence severity than any characteristic individually (Nobiling et al., 1998; Spohn & Holleran, 2000; Steffensmeier et al., 1998). Other studies found that race/ethnicity had an effect only when the offender was male, young, and/or unemployed or that the effects of sex, employment status, and other offender characteristics were confined to members of a particular racial/ethnic group (Albonetti, 1997, 2002; LaFrentz & Spohn, 2006; Stacey & Spohn, 2006).

The findings of these studies are consistent with Blalock’s (1967) notion of “racial threat” and with Spitzer’s (1975) theory of “social dynamite.” Blalock argued that discrimination against racial minorities is mobilized by various types of threats to the majority group. Building on this, Chiricos, Welch, and Gertz (2004) suggested that the link between race and crime, which they referred to as the “racial typification of crime” (p. 362), leads to support for more punitive measures of social control. In a related vein, Spitzer (1975) used the term *social dynamite* to characterize that segment of the problem population that is viewed as particularly dangerous and threatening to society, arguing that this group “tends to be more youthful, alienated and politically volatile” (p. 645). Building on this point, Box and Hale (1985) argued that judges will perceive unemployed offenders who are also

young, male, and members of a racial minority as particularly threatening to the social order and that this “belief alone is sufficient to propel them towards stiffening their sentencing practices” (pp. 209-210). Liska (1992), whose approach builds on Blalock’s (1967) concept of “power threat,” similarly argued that formal social control—that is, punishment—will be used against those who are seen as most threatening to the status quo. If racial minorities, especially young, unemployed Black and Hispanic men, are stereotyped—or profiled—as being “predisposed toward criminality, or at least certain sorts of crime” (Kennedy, 1997, p. 13), judges and other criminal justice officials may define them as social dynamite, with the result that they are treated more harshly than offenders who do not fit this stereotype.

Harsher treatment of young, unemployed Black and Hispanic men also has been interpreted using the focal concerns perspective (Steffensmeier et al., 1998). According to this perspective, judges’ sentencing decisions reflect their assessments of the blameworthiness or culpability of offenders, their desire to protect the community by incapacitating dangerous offenders or deterring potential offenders, and their concerns about the practical consequences, or social costs, of sentencing decisions. Because judges rarely have enough information to accurately determine a defendant’s dangerousness or threat, they develop a “perceptual shorthand” (Hawkins, 1981, p. 230; see also Bridges & Steen, 1998) based on stereotypes and attributions that are themselves linked to offender characteristics such as race, gender, and age. Thus, “race, age, and gender will interact to influence sentencing because of images or attributions relating these statuses to membership in social groups thought to be dangerous and crime prone” (Steffensmeier et al., 1998, p. 768).

The results of a recent study of sentences imposed on drug offenders in Washington state (Steen et al., 2005) further clarify the relationship among images of threat, the race of offenders, and criminal sentences. Steen and her colleagues found that offenders who matched the stereotype of a “dangerous drug offender”—that is, male drug dealers with prior convictions—were sentenced more harshly than those who did not. They also found that matching the dangerous drug offender stereotype had a more pronounced effect on the sentences imposed on White offenders than on the sentences imposed on Black offenders.

This article responds to Steen et al.’s (2005) call for additional research designed to disentangle the complex relationships among stereotypes about crime, the race/ethnicity of the offender, and sentencing decisions. Using data on White, Black, and Hispanic drug offenders sentenced in three U.S. district courts and a definition of the dangerous drug offender that is appropriate to

the federal sentencing system, we explore the degree to which images of dangerousness and threat affect the sentences imposed on drug offenders.

In the sections that follow, we review previous research examining the effects of race, gender, and other offender characteristics on federal sentencing outcomes. Because our study builds on the research conducted by Steen and her colleagues, we also present a detailed discussion of their study and its findings.

Previous Research

The goals of those who called for implementation of the federal sentencing guidelines varied. Liberals argued that structured sentencing practices would enhance fairness and hold judges accountable for their decisions, whereas conservatives asserted that the reforms would lead to harsher penalties that eventually would deter criminal behavior. Reformers on both sides of the political spectrum, however, agreed that the changes were designed to curb discretion and reduce unwarranted disparity. Reflecting this, the *Federal Sentencing Guidelines Manual* states that one of the three objectives that Congress sought to achieve in enacting the Sentencing Reform Act of 1984 was “reasonable uniformity in sentencing by narrowing the wide disparity in sentences imposed for similar criminal offenses committed by similar offenders” (U.S. Sentencing Commission, 1993, Ch. 1, Pt. A, p. 3).

Studies of sentencing outcomes in the post-guidelines era reveal that the guidelines have not eliminated unwarranted disparity in sentencing. Spohn (2000) reviewed eight methodologically sophisticated studies of sentences imposed under the federal sentencing guidelines. She found that each of these studies revealed that racial minorities were sentenced more harshly than Whites, either for all offenses or for some types of offenses. Moreover, racial disparities were not confined to the decision to incarcerate and the length of the prison sentence. Compared to Whites, Blacks and Hispanics were less likely to be offered a sentence reduction for acceptance of responsibility (Everett & Nienstedt, 1999) or for providing substantial assistance in the prosecution of another offender (Maxfield & Kramer, 1998). Among those who did receive a departure for substantial assistance, the sentence discount that Blacks and Hispanics received was less than the discount that Whites received (Maxfield & Kramer, 1998).

These findings are confirmed by several more recent studies of federal sentencing decisions (Everett & Wojtkiewicz, 2002; Kempf-Leonard & Sample, 2001; Mustard, 2001; Pasko, 2002; Steffensmeier & Demuth,

2000; but see LaFrenz & Spohn, 2006, for contrary results). Everett and Wojtkiewicz (2002), for example, found that Blacks, Hispanics, and Native Americans received harsher sentences than Whites, and Pasko (2002) found that Hispanics were sentenced more harshly than Whites. Steffensmeier and Demuth (2000) similarly found that the likelihood of incarceration was substantially less and the mean prison sentence significantly shorter for White offenders than for racial minorities, especially Hispanics. They also found that Hispanic drug offenders received smaller sentence discounts for providing substantial assistance than did either Black or White drug offenders.

There also is substantial evidence that the sex of the offender influences federal sentence outcomes. A recent report on the first 15 years of federal guidelines sentencing by the U.S. Sentencing Commission (2004), for example, reported that "the gap in average prison terms between male and female offenders has widened in the guidelines era" (p. 127; see also Albonetti, 1997, 2002; Everett & Wojtkiewicz, 2002; Mustard, 2001). Other studies revealed that female offenders were more likely than male offenders to receive downward departures (Albonetti, 2002; LaFrenz & Spohn, 2006; Mustard, 2001; Stacey & Spohn, 2006) and that those who did get departures received bigger sentence discounts than their male counterparts (Everett & Wojtkiewicz, 2002; Maxfield & Kramer, 1998; Mustard, 2001). The results of these studies, all of which controlled for crime seriousness, the offender's criminal history, and other legally relevant factors, clearly suggest that federal judges evaluate female offenders differently from male offenders.

Only a handful of federal sentencing studies have examined the interaction of race/ethnicity and other extralegal variables; the research that does exist demonstrates that offender characteristics have both indirect and interactive effects on federal sentence outcomes. Albonetti's (1997) research on drug offenders, for example, revealed that the offender's gender affected sentencing decisions for White offenders and Black offenders, but not for Hispanic offenders, and that gender and race/ethnicity conditioned the effects of guideline departures, guilty pleas, offense seriousness, and criminal history. In a later study, Albonetti (2002) found that White women received the greatest benefit from substantial assistance departures and that the guideline offense level had a more pronounced effect on sentence length for White women than for Black women. Stacey and Spohn (2006) tested for interaction between the offender's gender, marital status, and responsibility for dependent children; they found that female offenders with children were significantly more likely than female offenders without children to receive a downward departure for providing substantial assistance. LaFrenz and Spohn (2006) found that Black and Hispanic women

received shorter sentences than their male counterparts, but White women were treated no differently from White men; they also found that unemployed Whites received longer sentences than employed Whites, but there were no differences in the sentences imposed on unemployed and employed Blacks and Hispanics.

In summary, research on the federal sentencing process, like research examining state sentencing outcomes, suggests that structured sentencing reforms have not been able to achieve the goal of eliminating unwarranted disparity in sentencing. The results of the studies conducted to date also highlight the importance of attempting to identify the contexts in which legally irrelevant factors affect sentence outcomes and suggest that stereotypes of dangerousness and threat are linked in complicated ways to race/ethnicity, gender, and other offender characteristics.

Further evidence of this comes from Steen et al.'s (2005) study of sentences imposed on drug offenders in Washington state. Steen and her colleagues build on previous research by Albonetti (1991), Steffensmeier et al. (1998), and others (Farrell & Holmes, 1991; Hill, Harris, & Miller, 1985) to examine the relationships among images of threat, the race of offenders, and criminal sentences. Drawing on both the racial stereotypes approach and the case processing approach, Steen et al. (2005) contend that judges' attributions of dangerousness, culpability, and threat will vary depending on the offender's sex, criminal history, and offense type; they expect these variables "to interact and their effects on sentencing decisions to be contextualized by race" (p. 444).

Central to the work of Steen et al. (2005) are the concepts of stereotypical offenders (Farrell & Holmes, 1991; Hill et al., 1985) and "normal" crimes (Sudnow, 1965). In previous research, Steen, Engen, and Gainey (1999) suggested that criminal justice decision makers develop stereotypes of dangerous drug offenders based on three factors: the offender's sex, the offender's prior record, and the type of drug offense for which the offender was convicted. Images of threat were most closely associated with men, lengthy criminal histories, and convictions for drug delivery. To the degree that drug offenders conform to this stereotype of a "dangerous" offender, then, they will receive harsher sentences than women, offenders with no priors, and offenders convicted of drug possession. Steen and her colleagues asserted, however, that judges' decisions concerning the appropriate sentence also would be affected by stereotypes about normal crimes (Sudnow, 1965). Cases that comport with officials' notions of normal crimes can be dealt with expeditiously using routine procedures and patterned responses; cases that are at odds with these notions, on the other hand, require different, and more complex, decision rules.

Using this integrated perspective, Steen et al. (2005) hypothesized that cases that fully matched the stereotype of the dangerous drug offender—that is, male drug dealers with prior convictions—would be treated more harshly than cases that did not. However, they also hypothesized that the effect would be larger for White offenders than for Black offenders. They reasoned that White drug dealers with priors would be seen as atypical offenders by decision makers and that “in these atypical cases, the presumed social advantage of white offenders will increase judges’ estimates of their culpability and therefore will increase their sentence severity relative to other whites” (p. 446). In contrast, Black drug dealers with prior convictions would be seen as typical drug offenders; their cases, therefore, would not merit extensive judicial scrutiny and their crimes would not be deemed worthy of harsher punishment. The results of their analyses confirmed these hypotheses. Matching the stereotype of the dangerous drug offender increased the odds of incarceration 23 times for White offenders but only 3 times for Black offenders; matching the stereotype had no effect on sentence length for Black offenders but increased sentence length by 13% for White offenders.

Although the research conducted by Steen and her colleagues (2005) provides insight into the circumstances under which race influences sentencing decisions and evidence that “decision makers make distinctions within as well as between racial groups” (p. 464), their findings also suggest additional avenues for research. For instance, given the contextualized effects of minority status for Black drug offenders, one would expect similar results for Hispanics. Hispanics, specifically Mexican Americans, have long been associated with the marijuana trade in the United States (Sloman, 1998). More recently, Hispanics have come to be seen as the most active importers and dealers of methamphetamines in the United States (Gaines, 2003; National Drug Intelligence Center, 2006). Like Blacks, Hispanics have also been associated with gang violence (Howell, 2004; Howell & Decker, 2003). If attributions of dangerousness, culpability, and likelihood of recidivism are associated with membership in minority groups perceived to be prone to violence and known to be key players in the drug trade, the treatment of Hispanic drug offenders should mirror that of Black drug offenders.

It also is possible that judges’ conceptions of dangerousness and threat will vary by type of jurisdiction, type of court, and type of drug. This would be consistent with Dixon’s (1995) assertion that research should take into account the “contexts in which sentencing takes place” (p. 1190; see also Eisenstein, Flemming, & Nardulli, 1988). Steen and her colleagues (2005) raised the possibility of contextual effects, noting that their results “should

not be taken as definitive of a universal stereotype of dangerous drug offenders” (p. 463). The Steen et al. (2005) study was conducted in a state with presumptive sentencing guidelines and drug caseloads made up of possession and delivery of methamphetamine, cocaine, heroin, and marijuana. Judges in court systems with different drug caseloads may define dangerousness and culpability differently from judges in Washington state. Judges in jurisdictions with few trafficking cases might differentiate among possession cases involving various types of drugs and judges in U.S. district courts, where most drug cases involve trafficking offenses, might incorporate possession or use of a weapon into their images of danger and threat.

Another possibility is that stereotypes of dangerous drug offenders will vary depending on the type of drug and the degree to which involvement with particular types of drugs is viewed as typical for offenders in each racial/ethnic group. If the Black drug offenders who routinely appear before judges for sentencing are convicted of crack cocaine offenses, whereas Hispanic and White offenders are convicted of offenses involving marijuana or methamphetamine, the typescripts that judges develop to guide their sentencing decisions may incorporate these race-linked realities of drug involvement.

This Study

This study responds to Steen et al.’s (2005) call for additional research designed to disentangle the relationships among stereotypes about crime, the race of offenders, and sentencing decisions. Using data on White, Black, and Hispanic male and female drug offenders sentenced in three U.S. district courts, we explore the degree to which stereotypes about dangerous drug offenders influence sentence length. We extend Steen et al.’s research by (a) using data on federal, rather than state, drug offenders, (b) including Hispanics as well as Blacks in the analyses, (c) using a definition of the dangerous drug offender that reflects the nature of the drug caseload in these three courts, and (d) examining whether the effects of stereotypes of dangerousness vary by type of drug.

Steen et al.’s (2005) definition of the most dangerous drug offender differentiated between offenders convicted of drug delivery and those convicted of simple possession. Although this made sense in Washington state, and would be appropriate in most state court systems, it is not applicable to the federal courts, which handle very few simple possession cases.¹ From October 2004 through January 2005, for example, only 2% of the drug

offenders sentenced in federal courts were convicted of simple possession (U.S. Sentencing Commission, 2005). Consistent with these figures, only 23 drug offenders in this three-district data file were convicted of an offense other than drug trafficking. Our data, then, do not allow us to differentiate between offenders convicted of drug trafficking and those convicted of simple possession. Instead, we define the dangerous drug offender in federal court as a male offender with a prior conviction for drug trafficking who used a weapon during the current offense.

Our use of the prior trafficking conviction variable reflects the fact that, under the federal sentencing guidelines, a prior conviction for felony drug trafficking has the potential to significantly increase the sentence for an offender whose current conviction is for drug trafficking. If the assistant U.S. attorney handling the case files a notice of the defendant's prior conviction(s), the maximum sentence is increased; one prior conviction generally doubles the statutory penalty and two prior convictions result in the possibility of a life sentence, depending on statutory maximums.² Our use of the weapon variable reflects the fact that this factor is one of the "specific offense characteristics" that increase the offense seriousness score for drug trafficking offenses. The commentary accompanying §2D1.1(a)(3) in the *Federal Sentencing Guidelines Manual*, in fact, states that "the enhancement for weapon possession reflects the increased danger of violence when drug traffickers possess weapons" (U.S. Sentencing Commission, 1993). It is clear, then, that the guidelines regard both a prior conviction for a drug trafficking offense and use of a weapon as aggravating factors that determine the dangerousness of the offender and the likelihood of recidivism.

It is important to point out that using two factors that the guidelines specify are to be taken into consideration in calculating the presumptive sentence actually provides a more conservative test of our expectations concerning the influence of stereotypes of offender dangerousness. These legally relevant factors, in other words, are already built into the guidelines; offenders with prior drug trafficking convictions and those who used a weapon during the commission of a crime are supposed to receive more severe sentences. Controlling for the presumptive sentence in effect controls for these two elements of our definition of dangerousness. Thus, a finding that prior drug trafficking convictions or use of a weapon affect the sentence imposed, net of the presumptive sentence, would suggest that these factors affect sentencing over and above their effect on the presumptive sentence.

Consistent with the first hypothesis proffered by Steen et al. (2005), we hypothesize that offenders who match the stereotype of the dangerous drug offender will be sentenced more harshly than those who do not. Thus, male

offenders, offenders with prior trafficking convictions, and offenders who used a weapon will receive longer sentences than female offenders, offenders without prior trafficking convictions, and offenders who did not use a weapon. We also hypothesize that offenders who perfectly match the stereotype—that is, men with prior trafficking convictions who used a weapon—will receive longer sentences than all other offenders.

Contrary to Steen et al., we hypothesize that the effect of matching the stereotype of a dangerous drug offender will not vary by race/ethnicity. Our decision to depart from the approach taken by Steen and her colleagues reflects the nature of our sample. Whereas Steen et al.'s study included offenders convicted of both drug possession and drug dealing, all of the offenders in our sample were convicted of drug trafficking offenses. Moreover, as shown in Table 1, White offenders were less likely than Black offenders, but more likely than Hispanic offenders, to have a prior drug trafficking conviction. In addition, White offenders and Black offenders were equally likely to have used a weapon during the commission of the offense; they were twice as likely as Hispanic offenders to have used a weapon. In these three district courts, in other words, White drug dealers with priors who used or possessed weapons would not be atypical offenders. Thus, there is no reason to expect that they would be treated more harshly than other offenders if they matched the stereotype of the dangerous drug offender.

We also hypothesize that the effect of being a dangerous drug offender will vary by the type of drug involved in the case and by the race/ethnicity of the offender. As shown in Table 1, there are substantial racial/ethnic differences in the types of drugs involved in the offenses prosecuted in these three U.S. district courts. Whereas 81% of the Black offenders were convicted of offenses involving crack cocaine, 76% of the White offenders and 72% of the Hispanic offenders were convicted of offenses involving methamphetamine. We, therefore, hypothesize that the effect of being a dangerous drug offender will be confined to crack cocaine cases for Black offenders and methamphetamine cases for White and Hispanic offenders.

Research Design and Methods

The data for this study are a subset of data collected for a study of charging and sentencing decisions in three U.S. district courts: the District of Minnesota, the District of Nebraska, and the Southern District of Iowa. The data file includes detailed information on all offenders sentenced in these courts during fiscal year 1998, fiscal year 1999, and fiscal year 2000.³ The

Table 1
Descriptive Statistics

	Whites (<i>N</i> = 705)		Blacks (<i>N</i> = 443)		Hispanics (<i>N</i> = 544)	
	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>
Offender characteristics						
Male	77	545	86	380	90	492
Prior drug trafficking conviction	23	164	44	194	12	66
Used a weapon during offense	21	148	25	109	12	67
Offender groups						
Male prior conviction weapon	5	39	14	60	2	10
Male prior conviction no weapon	14	97	27	119	10	53
Male no prior conviction weapon	13	89	10	43	10	54
Male no prior conviction no weapon	45	320	36	158	69	375
Female prior conviction or weapon	6	43	4	19	1	6
Female no prior conviction no weapon	17	117	10	44	8	46
Control variables						
Type of drug						
Powder cocaine	11	79	12	54	19	104
Crack cocaine	3	19	81	359	2	13
Methamphetamine	76	536	5	20	72	391
Marijuana	10	71	2	10	7	36
Offender's age (in years)	34.64		29.73		29.76	
Offender pled guilty	96	673	90	394	90	490
Presumptive sentence (in years)	102.44		162.53		122.47	
[Presumptive sentence, logged] (in years)	4.41		4.80		4.22	
Substantial assistance departure	49	347	38	169	27	148
Downward departure	9	65	12	54	9	51
Minnesota	21	150		167		174
Nebraska	40	284		129		207
Southern Iowa	38	271		147		163
Dependent variable						
Length of prison sentence (in years)	74.31		128.66		88.21	
[Length of prison sentence, logged] (in years)	3.97		4.51		4.22	

original data file included 1,188 cases from Minnesota, 1,027 cases from Nebraska, and 924 cases from Southern Iowa. For this study, we selected all cases in which the offender was convicted of a drug trafficking offense⁴ involving powder cocaine, crack cocaine, methamphetamine, or marijuana.⁵ We eliminated cases (*N* = 24) involving offenders who were Asian

or Native American. This resulted in a data file with 1,692 cases: 581 from the Southern District of Iowa, 491 from the District of Minnesota, and 620 from the District of Nebraska.

We use the data from these three district courts, rather than data from all district courts in the United States, for two reasons. First, one of the key variables used to define a dangerous drug offender—whether the offender had a prior drug trafficking conviction—is not included in the publicly available data files from the U.S. Sentencing Commission. Because we had access to the presentence reports in these three district courts, we were able to collect this information. Second, and perhaps more important, there is mounting evidence that sentence outcomes vary significantly among the district courts (Hofer, Blackwell, & Ruback, 1999; Kautt, 2002; LaCasse & Payne, 1999; Spohn, 2005). This calls into question the conclusions of studies of federal sentencing decisions that use data aggregated across all district courts.⁶ As Weisselberg and Dunworth (1993) have noted, “It is extremely difficult, and perhaps unhelpful, to draw general, system-wide conclusions about the effect of the guidelines upon the district courts” (p. 27). Because of these concerns, we use data from three relatively homogeneous U.S. district courts and we control for the district in which the case was adjudicated.

Dependent and Independent Variables

Descriptive statistics for the dependent and independent variables are presented in Table 1. We present separate statistics for each of the three racial/ethnic groups included in the analysis. Whereas Steen et al. (2005) examined both the decision to incarcerate or not and the length of the sentence, we limit our analysis to the length of the prison sentence. This is because there were only 33 drug offenders who were not sentenced to prison. These offenders are not included in the analyses. The original dependent variable was sentence length, measured in months. Because the distribution of the values was positively skewed, we logged the sentence length variable.

Our indicators of dangerousness/threat are the offender's sex (male = 1; female = 0), whether the offender had a prior drug trafficking conviction (yes = 1; no = 0), and whether the offender used or possessed a weapon during the commission of the current offense (yes = 1; no = 1). We also control for other offender and case characteristics that have been shown to affect sentence severity. The offender characteristics include the offender's race/ethnicity and age. Age is an interval variable and race/ethnicity is measured by three dummy variables (White, Black, Hispanic); White offenders are the reference category. The case characteristics include the type of drug involved in the offense,

the presumptive sentence, whether the offender pled guilty or went to trial (plea = 1; trial = 0), whether the offender received a downward departure (yes = 1; no = 0), whether the offender received a downward departure for providing substantial assistance in the prosecution and conviction of another offender (yes = 1; no = 0), and the jurisdiction in which the case was adjudicated.⁷ The type of drug is measured by four dummy variables (powder cocaine, crack cocaine, methamphetamine, and marijuana); marijuana is the reference category. Jurisdiction also is measured by dummy variables (Southern Iowa, Minnesota, and Nebraska); Southern Iowa is the reference category.

Although most prior research on federal sentence outcomes controlled for the offense seriousness score and the offender's criminal history score, this study controls for the presumptive sentence, which is the approach recommended by the U.S. Sentencing Commission (2004; for a detailed discussion of this issue, see Engen & Gainey, 2000). The presumptive sentence, which is based on the offense seriousness score and the criminal history score, is the minimum sentence that the judge could impose without departing. To account for mandatory minimum sentences that are prevalent in drug cases, the presumptive sentence was measured as the guideline minimum unless a mandatory minimum sentence was triggered and indicated a longer sentence than the guideline minimum. In such cases, the presumptive sentence was measured as the mandatory minimum sentence. If there was a mandatory minimum sentence but the safety valve was applied, the presumptive sentence was the guideline minimum. Because deviance statistics indicated a significantly better model fit when the metric (logged or not) was the same for both the actual sentence and the presumptive sentence, we transformed the presumptive sentence using a log transformation.

To measure the dangerousness of the drug offender, we created six dummy variables that combined the offender's sex, whether the offender had a prior drug trafficking conviction, and whether the offender possessed or used a weapon. These variables are male/prior trafficking/weapon (the most dangerous drug offender); male/prior trafficking/no weapon; male/no prior trafficking/weapon; male/no prior trafficking/no weapon; female/prior trafficking or weapon; and female/no prior trafficking/no weapon. We were able to create only two categories of female offenders due to the small number of women who either had a prior drug trafficking conviction ($N = 46$) or used a weapon during the offense ($N = 29$); there were only seven female offenders who both had a prior conviction and used a weapon. Because we expect that offenders who completely match the stereotype of the dangerous drug offender—that is, male offenders with a prior drug

trafficking conviction who used a weapon to commit the crime—will receive longer sentences than all other offenders, we compare these offenders with offenders in the five other categories.

We use OLS regression to analyze the logged sentence length variable. We begin by testing for the direct effects of the offender's race/ethnicity and our three indicators of dangerousness. To determine whether the effects of these variables differ depending on the race/ethnicity of the offender, we then partition the data by race/ethnicity. To test our hypothesis concerning the stereotype of the dangerous drug offender, we re-run the analyses, substituting the dummy variables described above for the individual indicators of the offender's sex, prior record, and weapon use. We test for the effects of the offender groups in the full sample and in the sample partitioned by race/ethnicity. To test our hypothesis concerning the role of the dangerous drug offender stereotype for different types of drug offenses, we partition the data by both the race/ethnicity of the offender and the type of drug involved in the offense. For Black offenders, we compare offenders convicted of crack cocaine offenses with offenders convicted of offenses involving other drugs; for White and Hispanic offenders, we compare offenders convicted of methamphetamine offenses with offenders convicted of offenses involving other drugs.

Results of the Analyses

The descriptive statistics presented in Table 1 reveal that Black offenders were more likely than either White offenders or Hispanic offenders to have the characteristics of a dangerous drug offender. Table 1 also reveals that White offenders were more likely than Hispanic offenders to match the characteristics of a dangerous drug offender. Consistent with these findings, Blacks were overrepresented in the most serious category of the offender groups. Fourteen percent of the Black offenders, but only 5% of the White offenders and 2% of the Hispanic offenders, were male offenders with prior drug trafficking convictions who used weapons in the current offense.

Length of the Prison Sentence

The results of the regression analyses testing for the direct effects of the offender characteristics on the length of the prison sentence are shown in Table 2. When we analyzed the full sample, we found that sentence length was affected by the offender's race/ethnicity and sex; Black and Hispanic offenders received longer sentences than White offenders and men received

longer sentences than women. Sentence length, however, was not affected by either the offender's prior drug trafficking conviction or use of a weapon during the offense. The primary predictors of the length of sentence imposed by the judge were legally relevant factors: the presumptive sentence, whether the offender received a downward departure, and whether the offender received a substantial assistance departure. It is not surprising that the strongest predictor of the actual sentence was the presumptive sentence ($Beta = .77$). In addition, offenders who pled guilty received shorter sentences than those who went to trial; offenders convicted of offenses involving powder cocaine, crack cocaine, and methamphetamine received longer sentences than those convicted of offenses involving marijuana; and offenders sentenced in Minnesota and Nebraska received shorter sentences than those sentenced in the Southern District of Iowa.

These data provide little support for the hypothesis that judges impose longer sentences on dangerous drug offenders. This is confirmed by the results of the analysis of the data partitioned by the race/ethnicity of the offender. The offender's sex affected the sentences imposed on Black and Hispanic offenders but did not affect the sentences imposed on White offenders; moreover, the offender's prior drug trafficking convictions and use of a weapon did not affect sentence severity for any racial/ethnic group.

To test our hypothesis concerning the effect of matching the stereotype of a dangerous drug offender, we ran the analysis using the offender categories rather than the individual indicators of offender dangerousness and threat. Like Steen et al. (2005), we began by estimating separate models for White, Black, and Hispanic offenders in which we compared the sentences imposed on *the most dangerous drug offenders* with the sentences imposed on *all other offenders*. These models (not shown) revealed that matching the stereotype of the dangerous drug offender had a strong and statistically significant effect for Black offenders ($b = .203$; $SE = .054$; $t = 3.78$), but did not affect sentence length for Hispanic offenders ($b = -.023$; $SE = .082$; $t = -0.28$) or White offenders ($b = .018$; $SE = .081$; $t = 0.23$). Black offenders who fit the stereotype of the dangerous drug offender received sentences that were significantly longer than those imposed on Black offenders who did not completely match the stereotype.

The next step in the analysis was to estimate models that included the dummy variables for the various combinations of sex, prior record, and use of a weapon. The results of these analyses are summarized in Table 3.⁸ When we ran the analysis on the full sample, controlling for the offender's race/ethnicity, we found partial support for our hypothesis that offenders who matched the stereotype of the dangerous drug offender would be

Table 2
Ordinary Least Squares Regression Results:
Sentence Length, Direct Effects

	Full Sample <i>B</i> (Beta)	Whites <i>B</i> (Beta)	Blacks <i>B</i> (Beta)	Hispanics <i>B</i> (Beta)
Offender characteristics				
Black	.09* (.05)			
Hispanic	.10* (.05)			
Male	.12* (.05)	.06 (.03)	.24* (.10)	.18* (.07)
Prior drug trafficking conviction	.03 (.02)	.03 (.01)	.03 (.02)	.03 (.01)
Used a weapon during offense	-.03 (-.01)	-.01 (-.003)	.07 (.03)	.02 (.01)
Control variables				
Type of drug				
Powder cocaine	.17* (.07)	.25* (.08)	.07 (.03)	.08 (.04)
Crack cocaine	.11* (.06)	.04 (.01)	.07 (.04)	.06 (.01)
Methamphetamine	.13* (.08)	.18* (.08)	.08 (.02)	.04 (.03)
Marijuana (ref)				
Age of offender	.01 (.01)	.00 (.00)	.003 (.03)	.00 (.00)
Guilty plea	-.06* (-.02)	-.13 (-.03)	-.07* (-.03)	-.03 (-.01)
Presumptive sentence	.97* (.77)	.99* (.72)	.92* (.76)	.95* (.86)
Substantial assistance departure	-.74* (-.42)	-.82* (-.45)	-.67* (-.40)	-.65* (-.40)
Downward departure	-.29* (-.10)	-.26* (-.08)	-.34* (-.14)	-.25* (-.10)
Jurisdiction				
District of Minnesota	-.20* (-.11)	-.24* (-.11)	-.22* (-.13)	-.15* (-.10)
District of Nebraska	-.18* (-.10)	-.21* (-.11)	-.22* (-.12)	-.11* (-.08)
Southern District of Iowa (ref)				
Adjusted R^2	.80	.73	.82	.88

* $p \leq .05$.

treated more harshly than other offenders. Although there were no differences between the most dangerous category of offender and two of the three categories involving male offenders, male offenders who did not have a prior trafficking conviction or use a weapon to commit the offense received significantly shorter sentences. Both types of female offenders also received shorter sentences than male offenders with prior trafficking convictions who used weapons during the offense.

The results of our analysis of the data partitioned by offender race/ethnicity also are shown in Table 3. Contrary to our hypothesis, which predicted that the effect of matching the stereotype of a dangerous drug offender would not vary by race/ethnicity, we found significant differences only for Black offenders. Compared with Black offenders who had prior

Table 3
Ordinary Least Squares Regression Results:
Sentence Length, Using Offender Groups

Offender Characteristic	Full Sample <i>B</i> (Beta)	Whites <i>B</i> (Beta)	Blacks <i>B</i> (Beta)	Hispanics <i>B</i> (Beta)
Black	.09* (.05)			
Hispanic	0.10* (.05)			
Male/prior trafficking/ weapon (ref)				
Male/prior trafficking/ no weapon	-.08 (-.03)	.03 (.01)	-.20* (-.11)	.07 (.03)
Male/no prior trafficking/ weapon	-.08 (-.03)	-.02 (-.01)	-.19* (-.07)	.07 (.03)
Male/no prior trafficking/ no weapon	-.09* (-.05)	-.02 (-.01)	-.16* (-.09)	.03 (.02)
Female/prior trafficking or weapon	-.16* (-.04)	-.08 (-.02)	-.22* (-.05)	-.16 (-.02)
Female/no prior trafficking/ no weapon	-.23* (-.08)	-.06 (-.03)	-.49* (-.18)	-.15 (-.06)

* $p \leq .05$.

trafficking convictions and used a weapon, all of the less serious categories of Black offenders received significantly shorter sentences. Even after controlling for the presumptive sentence and whether the offender received a sentence discount for a downward departure or a substantial assistance departure, Black offenders (but not White or Hispanic offenders) who matched the stereotype of a dangerous drug offender received significantly longer sentences than their counterparts who did not have all of the characteristics of a dangerous drug offender.

To determine whether our results for Whites and Hispanics reflected the fact that there were very few White or Hispanic offenders who fully matched the stereotype of the dangerous drug offender, we reestimated the White and Hispanic models using a different definition of the most dangerous drug offender—a male who had a prior conviction for drug trafficking (regardless of whether the offender used or possessed a weapon). These results (not shown) were very similar to the results presented in Table 3. For Hispanics, the only offenders whose sentences were significantly different were female offenders with no prior trafficking convictions and no weapon ($b = -.22$; $SE = .11$; $t = -2.02$). For Whites, there were no significant differences between the dangerous offender and any of the other types of offenders.

Dangerous Drug Offenders and Type of Offense

Our last hypothesis predicted that the effect of being a dangerous drug offender would be significantly greater for Black offenders in crack cocaine cases and would be significantly greater for White and Hispanic offenders in methamphetamine cases. The results of our analysis of the data partitioned by the race/ethnicity of the offender and the type of drug offense provide partial support for this hypothesis. We found no differences between the most dangerous drug offenders and other drug offenders in cases involving methamphetamine and cases involving other drugs for either White offenders or Hispanic offenders. These results (not shown), in other words, suggest that having the characteristics of a dangerous drug offender does not influence the sentences imposed on White or Hispanic drug offenders, regardless of the type of drug involved in the case.

The results of our analysis of sentence outcomes for Black offenders, which are shown in Table 4, are consistent with our hypothesis. Whereas there were statistically significant differences in the sentences imposed on the most dangerous Black drug offenders and each of the other categories of Black offenders for crack cocaine cases, there were no differences in the sentences handed out to the most dangerous Black offenders and other Black offenders in cases involving other types of drugs. Stereotypes of dangerous drug offenders, in other words, affected only Black offenders who were convicted of drug trafficking offenses involving crack cocaine.

Images of Dangerousness and the Presumptive Sentence

The results discussed thus far suggest that the effects of prior drug trafficking convictions and use of a weapon are largely captured by the presumptive sentence, especially for White and Hispanic offenders. Neither variable had a significant direct effect on the length of the sentence for all offenders or for offenders in any of the three racial/ethnic groups. This suggests that neither prior drug trafficking convictions nor use of a weapon exert independent effects—that is, effects over and above their effects on the presumptive sentence—on the length of the sentence. To test this, we analyzed the effects of our indicators of dangerousness on the logged presumptive sentence. In this model, we controlled for all of the variables in Table 2, with the exception of the two departure variables⁹; we also controlled for the two primary factors that determine the presumptive sentence—the offender’s criminal history category and the offense gravity score. Consistent with the approach used previously, we first modeled the

Table 4
Ordinary Least Squares Regression Results:
Black Offenders Convicted of Offenses Involving
Crack Cocaine and Offenses Involving Other Drugs

Offender Characteristic	Crack Cocaine <i>B</i> (Beta)	Other Drugs <i>B</i> (Beta)
Male/prior trafficking/weapon (ref)		
Male/prior trafficking/no weapon	-.22* (-.13)	.03 (.02)
Male/no prior trafficking/weapon	-.19* (-.08)	-.10 (.03)
Male/no prior trafficking/no weapon	-.20* (-.12)	.11 (.06)
Female/prior trafficking or weapon	-.25* (-.06)	-.001 (.00)
Female/no prior trafficking/no weapon	-.58* (-.22)	-.06 (-.02)

* $p \leq .05$.

presumptive sentence for all offenders and we then partitioned the data by race/ethnicity. We ran the analyses using both the individual measures and the dummy variables for the five categories of dangerous drug offenders. The results of our analyses are presented in Table 5; to conserve space, we present only the results relevant to the indicators of dangerousness (full results are available from the first author).

The data displayed in Table 5 reveal that both indicators of dangerousness affected the presumptive sentence: Offenders with prior drug trafficking convictions had longer presumptive sentences than offenders without prior convictions, and offenders who used a weapon had longer presumptive sentences than offenders who did not use a weapon. As Table 5 also reveals, these variables had a more consistent effect on the presumptive sentences of Black offenders than on the presumptive sentences of White or Hispanic offenders. Both factors had statistically significant effects on Black offenders' presumptive sentences; in contrast, having a prior drug trafficking conviction did not affect the presumptive sentences of Whites and neither variable affected the presumptive sentences of Hispanics.

The data presented in the second panel of Table 5 reveal that matching the stereotype of the dangerous drug offender did not affect the presumptive sentence in the full model; with the exception of female offenders who did not have a prior trafficking conviction and did not use a weapon, none of the less dangerous drug offenders had shorter presumptive sentences than the most dangerous drug offenders. In fact, as the data partitioned by the race/ethnicity of the offender reveal, the effect of matching the stereotype of a dangerous drug offender was, with only one exception, confined

Table 5
Summary of Ordinary Least Squares Regression Results:
Analysis of the Presumptive Sentence

	Full Sample <i>B</i> (Beta)	Whites <i>B</i> (Beta)	Blacks <i>B</i> (Beta)	Hispanics <i>B</i> (Beta)
Direct effects of dangerous variables				
Prior drug trafficking conviction	.04* (.03)	.03 (.02)	.06* (.04)	.05 (.02)
Used a weapon during offense	.03* (.02)	.02* (.01)	.04* (.02)	.03 (.02)
Effects of dummy dangerous variables				
Male/prior trafficking/ weapon (ref)				
Male/prior trafficking/ no weapon	-.01 (-.01)	-.01 (-.00)	-.15* (-.07)	-.01 (-.003)
Male/no prior trafficking/ weapon	-.02 (-.01)	-.01 (-.01)	-.17* (-.08)	.02 (.01)
Male/no prior trafficking/ no weapon	-.05 (-.03)	-.02 (-.02)	-.18* (-.13)	-.06* (-.04)
Female/prior trafficking or weapon	.04 (.01)	.03 (.01)	-.20* (.03)	.02 (.01)
Female/no prior trafficking/ no weapon	-.06* (-.03)	-.06 (-.03)	-.16* (-.07)	-.07 (-.03)

Note: Variables included in the models were offense gravity score, criminal history score, type of drug involved in the offense (crack cocaine, powder cocaine, methamphetamine, marijuana), age of offender, offender’s sex, offender’s race/ethnicity, whether offender pled guilty or not, and the jurisdiction in which the case was adjudicated.

to Blacks. All of the Black offenders—male as well as female—who did not completely fit the stereotype of dangerousness had significantly shorter presumptive sentences than Black men who did match the stereotype.

Discussion

The purpose of this study was to further our understanding of the ways in which indicators of dangerousness and images of threat contextualize the effect of race/ethnicity on sentencing decisions. Our results are largely inconsistent with those of Steen and her colleagues (2005). Their study of

sentence outcomes in Washington state revealed that offenders were sentenced more harshly for possessing the attributes of stereotypical dangerous drug offenders. In contrast, our study of federal sentencing outcomes found that, with only one exception, the individual factors associated with dangerousness had no significant effect on the length of imprisonment for offenders overall or for any of the three racial/ethnic groups. Although female offenders received shorter sentences than male offenders, sentence length was not affected by whether the offender had a prior drug trafficking conviction or used a weapon during the commission of the offense. Instead, the primary determinants of the length of the sentence were the presumptive sentence and whether the offender received a downward departure or a substantial assistance departure.

There are other inconsistencies between our findings and those of Steen et al. (2005). They found that fully matching the stereotype of the dangerous drug offender influenced sentence severity for both Black offenders and White offenders but that doing so had a significantly greater effect for Whites than for Blacks. In contrast, we found that fitting the stereotype of a dangerous federal drug offender affected the length of the prison sentence for Black offenders but had no effect on sentence length for White or Hispanic offenders. Further analysis using the dichotomous indicators of dangerousness confirmed this finding. There were no significant differences in the sentences imposed on the most dangerous offenders and the five categories of less dangerous offenders for Whites or Hispanics. There were, on the other hand, significant differences in the prison sentences imposed on the most dangerous Black offenders and offenders in all five categories of less dangerous offenders. Partitioning the data by type of drug further clarified these relationships. Matching the stereotype of the dangerous drug offender had no effect on sentence severity for White or Hispanic offenders in either methamphetamine cases or cases involving other types of drugs or for Black offenders in cases involving drugs other than crack cocaine. In contrast, fitting the dangerousness stereotype significantly affected the length of the prison sentence for Black offenders convicted of offenses involving crack cocaine. At least in these three U.S. district courts, images of dangerousness and threat affected the length of the prison sentence only for Black offenders who were convicted of trafficking in crack cocaine.

Our finding that two of our indicators of dangerousness—a prior drug trafficking conviction and use of a weapon—did not directly affect the length of the prison sentence, either for all offenders or for offenders in any of the three racial/ethnic groups, is not particularly surprising. The effects of these legally relevant factors should be accounted for by the presumptive sentence, which

is included in our models of sentence length. Our analysis of the presumptive sentence, in fact, confirmed this; both variables had positive and statistically significant effects on the presumptive sentence. Our analysis of the data partitioned by race/ethnicity, however, revealed that the effects of these variables on the presumptive sentence varied by race. Both variables had large and statistically significant effects on the minimum sentences that Black drug offenders faced, but Whites' minimum sentences were not affected by a prior drug trafficking conviction and Hispanics' minimum sentences were not affected by either factor. This suggests that these two indicators of dangerousness, which the guidelines regard as *legitimate reasons* for increasing the presumptive sentence and which should affect the minimum sentences faced by all offenders, are not applied in a racially neutral manner.

Further evidence of this surfaced when we compared the presumptive sentences of offenders who fully fit the stereotype of the dangerous drug offender with the presumptive sentences of other offenders. Having all of the characteristics of the dangerous drug offender only affected the minimum sentences faced by Black offenders. Again, this suggests that the combination of being male, having a prior drug trafficking conviction, and using a weapon during the offense is taken into consideration when the presumptive sentence is calculated for Black offenders but not when calculating the presumptive sentence for White offenders or Hispanic offenders. This may reflect the fact that prosecutors use their discretion and file a notice of the prior drug trafficking conviction (which then triggers the longer minimum sentence) only when the offender is Black, male, and seen as a threat by virtue of his use of a weapon during the offense.

Considered together, the results of our analyses of the presumptive sentence and the actual sentence suggest that Black drug offenders who fit the stereotype of a dangerous drug offender pay a "double penalty." At least in these three U.S. district courts, Black offenders who match the stereotype face longer presumptive, or minimum, sentences, as well as longer terms of imprisonment (net of the presumptive sentence). Stated another way, for Black offenders, images of dangerousness and threat have a cumulative effect—they affect the calculation of the presumptive sentence, which has a large and statistically significant effect on the actual sentence, but they also affect the actual sentence, over and above their effect on the presumptive sentence. The fact that these effects were found only for Black offenders suggests that perceptions of dangerousness are linked to race in subtle, but important, ways.

Although the results of our study conflict with the substantive findings of Steen et al.'s (2005) research, they are nonetheless consistent with their conclusion that "the meaning of race . . . will vary depending on other

offender and offense characteristics, and that differences in treatment within race may therefore be as large as differences between races” (p. 435). We found no within-race/ethnicity differences in sentence length based on stereotypes of dangerousness and threat for either White or Hispanic offenders but substantial within-race differences in sentence length linked to attributions of dangerousness for Black offenders. In these federal courts, judges sentence Black offenders who match the stereotype of a dangerous drug offender more harshly than other Black offenders. Coupled with our findings concerning the presumptive sentence, these results highlight the importance of testing for interactive as well as direct effects.

Our finding of within-group differences in the sentences imposed on Blacks, but not in the sentences imposed on Hispanics, is surprising. We expected, based on attributions linking Hispanics to drug dealing and involvement in gang violence (Portillos, 2006) and the results of previous research showing that both Black and Hispanic drug offenders are sentenced more harshly than White drug offenders (Bontrager, Bales, & Chiricos, 2005; Demuth & Steffensmeier, 2004), that the treatment of Hispanics would mirror that of Blacks. The fact that it did not lends credence to Steen et al.’s (2005) assertion that “stereotypes about both crimes and criminals affect the way cases are perceived and decisions are made” (p. 464). It also provides further evidence that the focal concerns (Steffensmeier et al., 1998) that guide judicial decision making may vary depending on the race or ethnicity of the offender.

Our finding that sentences varied by jurisdiction and that these differences were found for the full sample and for all three racial/ethnic groups also merits comment. Even after controlling for the presumptive sentence and for sentence discounts due to two types of downward departures, we found that offenders, regardless of race, who were adjudicated in Minnesota and Nebraska received shorter sentences than did offenders adjudicated in the Southern District of Iowa. These jurisdictional differences in sentence length raise questions about the uniformity of sentences imposed under the federal sentencing guidelines, which were specifically created to bring about proportionality and equity in sentences for similarly situated offenders. Although the guidelines are not inflexible, they still should create some level of consistency across jurisdictions if for no other reason than that they provide a common point from which sentencing judges should start. The existence of jurisdictional differences within the federal system may lend credence to Steen et al.’s (2005) and Sudnow’s (1965) suggestion that local court actors create notions of normal crimes. This finding also has implications for the idea that local court actors set

“going rates” for typical crimes (Nardulli, Flemming, & Eisenstein, 1988). The fact that sentence length varied significantly across these jurisdictions, despite the presence of a rather rigid sentencing scheme, implies that local court actors develop varying perceptions and assumptions of dangerousness, which influence the sentencing process.

Conclusion

The results of our research add to a growing body of research suggesting that race and ethnicity interact with other offender and case characteristics to produce harsher sentences for certain types of minority offenders. We found significant within-race differences in the presumptive and actual sentences imposed on drug offenders that were linked to stereotypes of dangerousness and threat. These differences, however, were found only for Black offenders and not for White or Hispanic offenders. Moreover, the sentence differences for Black offenders were found only for those convicted of trafficking in crack cocaine. These findings raise questions about Steen et al.’s (2005) assertions with regard to the role that “typescripts” play in judges’ decisions concerning the appropriate sentence. Although it may be true that federal judges view the typical crack dealer/trafficker as a Black man, our results suggest that they nonetheless differentiate among these offenders based on their prior criminal records and weapon use.

Our finding of within-race differences in sentencing only for Blacks convicted of trafficking in crack cocaine is intriguing. It suggests that judges’ attributions of dangerousness and threat reflect a complex interplay among offender characteristics, crime seriousness, and type of drug. Although we can only speculate, the linkage between Blacks and crack cocaine may create a more vivid and powerful metaphor of dangerousness in the minds of judges. If, in other words, judges regard crack as a particularly harmful drug and believe that the typical crack offender is Black, they may believe that it is appropriate to impose especially punitive sentences on offenders who accumulate more of the characteristics of a dangerous offender. It is clear that this merits additional investigation by researchers examining the federal sentencing process.

Notes

1. Federal and state courts share jurisdiction over drug-related offenses. Although a federal statute (21 U.S.C. sec. 844) provides for the adjudication of simple drug possession cases, these cases are most often investigated and prosecuted by state law enforcement agencies.

2. At Title 21, U.S.C. § 851, the process by which to establish prior convictions is set forth. Information must be filed by the U.S. attorney, prior to a defendant's guilty plea or trial, that delineates the previous convictions on which the government will be relying. Title 21 U.S.C. § 841 sets forth that if a person commits a violation under subsection (b)(1)(A) after a prior conviction for a felony drug offense has become final, such a person shall not be sentenced to a term of imprisonment of less than 20 years, and if a person commits a violation under (b)(1)(A) after two or more prior convictions for a felony drug offense, such a person shall be sentenced to a mandatory term of life imprisonment without release. Similarly, if a person commits a violation under T.21:841(b)(a)(B), which involves lesser quantities of drugs, and does so after a prior conviction for a felony drug offense, the penalty range doubles from 5 to 40 years imprisonment to 10 years to life imprisonment.

3. We obtained the U.S. Sentencing Commission's offender data file for each district for each year. This data file contained detailed information on the offender, the case, and the sentence; it also included a unique identifier that was used to match the case to case files maintained by the district court. We supplemented the offender data file with information contained in the presentence report and the order of judgment. From the case files, trained data collectors collected detailed data on the charges that were filed, the disposition of each charge, the terms of the plea agreement, and whether an amended judgment was filed. From the presentence reports, we collected data on offender characteristics that are not included in the U.S. Sentencing Commission data files: the offender's current marital status, the number of children that the offender had and the number that he or she was providing financial support for, the offender's substance abuse history, and whether the offender was under any type of criminal justice control at the time of his or her arrest.

4. There were only 16 offenders convicted of a drug offense involving use of a communications facility and only 7 convicted of drug possession.

5. There were only 19 offenders convicted of drug trafficking offenses involving heroin and 50 offenders convicted of offenses involving other drugs.

6. These studies assume, either explicitly or implicitly, that there is little interdistrict variation in case processing policies and procedures and that findings with regard to sentence outcomes at the national level therefore reflect the reality of decision making in each of the U.S. district courts. Although it is certainly true that decision makers in the federal criminal justice system are guided by a more uniform set of statutes and policies than those in the states, it does not necessarily follow that this will eliminate interdistrict disparity or produce national uniformity in sentencing. Like courts at the state level, U.S. district courts may differ on a number of dimensions (i.e., caseload, the type and seriousness of cases on the docket, rate of downward departures, policies instituted by the U.S. attorney concerning such things as departures for substantial assistance) and these differences may influence case processing procedures and case outcomes.

7. Researchers analyzing the length of the prison sentence typically include the predicted probability of being incarcerated (i.e., the hazard rate), which corrects for sample selection bias (Berk, 1983; Heckman, 1974). Because there were only 33 cases that did not result in a prison sentence, we do not include the hazard rate in our analysis.

8. We present the results for the offender's race/ethnicity and for the offender dangerousness dummy variables. The other results (which are available from the first author) were very similar to the results presented in Table 2.

9. The presumptive sentence is the minimum sentence that the judge could impose without departing; therefore, it would be inappropriate to include departures in the model of the presumptive sentence.

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