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## Examining the Direct and Interactive Effects of Changes in Racial and Ethnic Threat on Sentencing Decisions

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EXAMINING THE DIRECT AND INTERACTIVE EFFECTS OF CHANGES  
IN RACIAL AND ETHNIC THREAT ON SENTENCING DECISIONS\*

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Running title: Threat Effects on Sentencing

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ABSTRACT

Minority threat theory has been used to explain sentencing decisions, but rarely has the theory's logic been assessed by examining changes in threat. Building on prior theoretical and empirical research, we develop hypotheses about the direct and interactive effects of changes in racial and ethnic threat on sentencing. We test the hypotheses using data from the Bureau of Justice Statistics' State Court Processing Statistics program and other sources. The results indicate that increased racial threat contributes to a greater probability of receiving a prison sentence when baseline levels of threat are high. Less support is found for an effect of changes in ethnic threat. We find no support for arguments that minority threat effects are greater among minority defendants, but we do find support for the argument that threat effects are greater among violent and drug offenders. We discuss the implications of the findings for theory, research, and policy.

Key words: racial ethnic threat sentencing

## INTRODUCTION

Sentencing studies increasingly have drawn on the minority threat perspective to explain variation in sentencing decisions. Increases in threat are held to result in intensified social control, including the use of more punitive sanctions. Notably, however, few studies have examined the effect of threat changes on sentencing. Rather, extant studies have primarily focused on whether threat levels are associated with sentencing severity (Fearn, 2005; Helms and Jacobs, 2002; Johnson, 2003, 2005, 2006; Johnson, Ulmer, and Kramer, 2008; Kautt, 2002; Ulmer and Johnson, 2004; Ulmer, Kurlychek, and Kramer, 2007). Over a decade ago, Liska (1992: 186, 189) called attention to the need for studies to address this research gap, one that is notable because the logic of the threat perspective emphasizes the idea that increases in threat, not just levels of it, should lead to tougher sanctioning. The gap is of interest as well because of a related idea suggested by Blalock (1967: 154)—namely, the effect of threat increases may vary depending on the baseline level of threat. It also is possible that the effect may not be diffuse. That is, it may not affect all individuals equally but instead may be targeted toward specific threat groups or toward offenses that may be associated with such groups (Bontrager, Bales, and Chiricos, 2005; Sampson and Laub, 1993; Steffensmeier and Demuth, 2000, 2001).

In addition to the relative inattention to examining how changes in minority threat influence sentencing decisions, few studies have examined the effects of ethnic threat on sanctioning practices. To date, most analyses have focused on racial threat, thus calling into question the extent to which these findings can be generalized to other populations. For example, we know little about whether ethnic threat, and, in particular, the presence of Hispanics, contributes to punitive sanctioning (Carmichael, 2005; Spohn and Holleran, 2000; Steffensmeier and Demuth, 2000, 2001; Ulmer and Johnson, 2004). A focus on Hispanics is of particular relevance for studies of change because the United States' Hispanic population increased by 13 million, or 58 percent, between 1990 and 2000 (Hobbs and Stoops, 2002).

The goal of this paper is to contribute to sentencing research aimed at understanding how social context may influence sentencing and, in particular, at furthering efforts to use the minority threat perspective to account for variation in sentencing decisions across a range of

social contexts. To this end, we develop several hypotheses to investigate whether changes in threat give rise to punitive sanctioning and whether the effects of changes in threat vary depending on baseline levels of threat, the race or ethnicity of convicted felons, or the type of offenses for which they are convicted. To test these hypotheses, we use the Bureau of Justice Statistics' State Court Processing Statistics (SCPS) data, which we combine with data from several other sources. Analytically, we follow the lead of other researchers who have called for examining both racial and ethnic threats (Carmichael, 2005; Steffensmeier and Demuth, 2000, 2001) and Holleran and Spohn's (2004) recommendation that jail and prison sentences should be modeled separately. We begin first by discussing prior sentencing research that has tested the minority threat perspective, and we then develop a series of hypotheses that build on prior theory and research. Next, we describe the data and methods, present the findings, and conclude by discussing the study's implications for theory, research, and policy.

## THEORETICAL BACKGROUND

### Sentencing and Social Context

In recent decades, considerable advances have been made in the study of sentencing disparities. This topic emerged as a prominent focus because of sentencing reforms in the 1980s and 1990s that aimed to eliminate or reduce "unwarranted" differences in sentencing (Mears, 1998; Spohn, 2000; Wilkins and Steer, 1993). To date, researchers have made many important strides in identifying legal and extra-legal factors that contribute to disparities. Recently, increased attention has turned to contextual factors and their effects on individual-level sentencing decisions (Hartley, Maddan, and Spohn, 2007). These studies have focused on a range of contextual factors, including racial or ethnic composition, unemployment, crime rates, and political party identification (Britt, 2000; Fearn, 2005; Helms and Jacobs, 2002; Johnson, 2003, 2005, 2006; Johnson et al., 2008; Kautt, 2002; Ulmer and Johnson, 2004; Ulmer et al., 2007; Weidner, Frase, and Pardoe, 2004; Weidner, Frase, and Schultz, 2005; Wooldredge, 2007; Wooldredge and Thistlethwaite, 2004). Collectively, this body of work indicates that social context can and does influence criminal sentencing decisions.

However, one prominent void that remains is research on how changes in social context affect sanctioning practices. The sole exception is Britt (2000), who found that offenders sentenced in areas with increased unemployment rates received lengthier prison sentences. This relative inattention to examining change effects is notable for at least three reasons. First, theories that are used to explain sentencing disparities often entail a “change” logic. For example, the minority threat perspective, which we draw on in this study, contends that an increase in the minority population size may result in more repressive crime-control efforts. Such an argument is distinct from the one that asserts that levels of the minority population size are correlated with levels of crime control. It may be that areas with higher levels of threat are more likely to resort to more punitive sanctioning, but, even if true, that does not necessarily mean that increased racial threat does not exert a comparable effect in low-threat versus high-threat areas or, more generally, that increased threat does not exert an independent effect.

It bears emphasizing that several studies have examined the association between changes in threat measures and such social control measures as welfare policy and incarceration rates (e.g., Chamlin, 1989, 1992; Chamlin, Burek, and Cochran, 2007; Greenberg and West, 2001), but not sentencing. In addition, a handful of studies have found that inter-group conflict, a cornerstone of minority threat theorizing, may be influenced more by changes in, rather than levels of, racial or ethnic composition (Green, Strolovitch, and Wong, 1998; King and Wheelock, 2007; Liska, 1992). For example, King and Wheelock (2007) reported that respondents residing in areas where the size of the black population increased were more punitive. In a related line of inquiry, Green et al. (1998) found that racially motivated crimes were more frequent in areas that had experienced an in-migration of minorities, while Crowder (2000) found that whites were more likely to move out of areas where minority in-migrations were greater.

Second, and more broadly, social context has been identified as an important factor in studying a range of social outcomes (Sampson, Morenoff, and Gannon-Rowley, 2002). By extension, it is important to examine not only different types of contexts but also whether the influence of social context stems from change, level, or both change and level effects. Previous sentencing research has certainly taken heed of the calls to investigate how social context may

influence sentencing decisions (e.g., Kautt, 2002; Fearn, 2005; Ulmer and Johnson, 2004; Wooldredge, 2007), but, by and large, it has not investigated changes in social context.

Third, demographic and socioeconomic transformations in the United States underscore the idea not only that change is a salient dimension to be included in sentencing studies but also that, in particular, the significant changes in racial and ethnic characteristics of communities bear investigating. To illustrate, between 1990 and 2000, the total number of people living in high-poverty neighborhoods decreased by 24 percent (Jargowsky, 2003). During that period, the foreign-born population in the United States increased by 57 percent (Suro, Fry, and Passel, 2005). And of particular relevance for this study, the Hispanic population grew by even larger amounts (Guzmán and McConnell, 2002) such that today, the Hispanic population is, as Esqueda, Espinoza, and Culhane (2008: 182) recently noted, “the largest and fastest growing minority group [in the United States], representing 14 percent of the U.S. population.”

#### Sentencing and the Minority Threat Perspective

These three considerations—the implied change logic in theoretical arguments about sentencing, the salience of social ecology to criminological research in general, and the social changes that occurred between 1990 and 2000—point to the need for studies that examine how changes in ecological conditions influence sentencing decisions. To this end, we draw on one of the most prominent theoretical explanations for variation in sentencing, the minority threat perspective, which has featured prominently in many accounts of variation in social control (Blalock, 1967; Crawford, Chiricos, and Kleck, 1998; Eitle, D’Alessio, and Stolzenberg, 2002; Kent and Jacobs, 2005; Liska, 1992; Stults and Baumer, 2007).

The arguments presented by Blalock (1967) have served as perhaps the major theoretical foundation for minority threat studies. Blalock argued that as the relative size of a minority group increases, the majority group will perceive a threat both to their economic interests, due to increasing competition for limited economic resources, and to their social and political dominance. As a result, whites may demand intensified social control to maintain their advantageous position. Scholars have extended and modified this argument (see, generally, Liska,



1992; Stults and Baumer, 2007), but almost all accounts focus on the idea that certain groups constitute a perceived threat to the power and position of traditional majority groups.

In a courtroom context, minority threat effects may arise through the mechanisms posited by the court community perspective (Eisenstein, Flemming, and Nardulli, 1988; Ulmer, 1997). Court communities result from prosecutors, judges, and defense attorneys operating within a shared space, their working relationships, and the distinctive legal and organizational cultures in which they work (Ulmer and Johnson, 2004: 140). Accordingly, local court communities foster their own substantive rationalities (Savelsberg, 1992; Ulmer and Kramer, 1996) that may shape sentencing outcomes and processes (Ulmer and Johnson, 2004). Agreement about the perception of, and the need to respond to, a minority threat constitutes a type of substantive rationality, one that may become embedded in the normative operations of court communities. To the extent that such agreement exists, whether articulated or not, court communities—not just judges, but the entire array of courtroom actors—may perceive an increasing minority presence as threatening. In turn, they may feel and agree that it is necessary to impose or allow tougher sanctioning to signal their responsiveness to crime and crime-related threats, such as minority populations and the crime they are presumed to cause (Chiricos, Welch, and Gertz, 2004).<sup>1</sup>

Researchers typically use the relative size of the minority population—which reflects contemporaneous, static levels of minority presence—as an indicator of threat. The studies to date have produced mixed results regarding minority threat effects on sentencing severity. For example, some studies have found that defendants were more likely to be sentenced to imprisonment in places with larger black populations (Britt, 2000; Myers and Talarico, 1987; Weidner et al., 2005), but others have found little to no support for such a relationship (Fearn, 2005; Helms and Jacobs, 2002; Kautt, 2002; Ulmer and Johnson, 2004; Weidner et al., 2004).

Conspicuously absent from prior work is the investigation of whether changes in minority threat influence sentencing. The oversight bears addressing because the theory contemplates threat-level and threat-change effects. As Liska (1992: 189) observed, changes in minority threat “may be perceived as more threatening than a stable high level [of threat].” Similarly, Blalock (1967: 154) argued that an increase in minority power may have a greater effect on social control

efforts in areas with more minorities, which suggests that level and change effects interact. Such effects, in turn, may vary according to the race or ethnicity of defendants or the types of crimes they commit. These possibilities remain, however, largely untested in the sentencing literature.

## HYPOTHESES

Drawing on the discussions above, we develop four hypotheses that focus on the influence of changes in minority threat on sentencing severity. Our first hypothesis is related to the direct effect of changes in ecological measures of minority threat. We then present competing hypotheses about the interactive effects of changes in and levels of threat. The final two hypotheses investigate how the effects of changes may depend on convicted felons' race or ethnicity or the type of offenses for which they are convicted.

*Hypothesis 1: Increased racial and ethnic threat will be associated with a greater probability of receiving a more punitive sanction, such as prison.* This hypothesis implies a diffuse threat effect: all defendants, regardless of race or ethnicity, should be more likely to receive tougher sanctioning in counties with a greater increase in threat.

*Hypothesis 2a: The effect of changes in minority threat will be more pronounced when baseline racial and ethnic threat levels are high.* From this perspective, higher baseline threat levels produce a heightened concern about crime and thus lead to what might be termed a hyper-reactivity to any real or perceived increase in crime or other factors, such as racial threat, presumed to be associated with crime. This argument is consonant with an accelerating effect argument, one posited by Blalock (1967) when he suggested that a given amount of change in minority power threat may have a greater effect on inter-group conflict in places with greater baseline levels of minority power threat. In these instances, "the need for a higher degree of mobilization of resources by the majority group to maintain dominance becomes extremely great" (p. 154). In addition, in areas characterized by higher levels of minority threat, further increases in minority presence may ultimately polarize the threatening and threatened groups (Horowitz, 1985). This change may serve as catalyst for the members of the majority group to take actions to address and reduce the threat, thereby producing tougher criminal sanctioning.

*Hypothesis 2b: The counter-hypothesis is that the effect of changes in minority threat will instead be more pronounced in low-threat areas.* From this perspective, it is precisely the fact that a perceived threat group is not widely prevalent that creates a sense of safety and a hyper-reactivity to perceived changes in the status quo. In this situation, a community largely devoid of a particular minority group may be especially sensitive, or reactive, to any influx of minorities. In writing about “white flight,” for example, Green et al. (1998: 374) have observed that “the trepidation of white home owners grows as racial minorities achieve more than a token presence in a region,” suggesting that whites in largely homogenous areas are willing to tolerate only a very limited number of minority neighbors and require relatively little by way of minority immigration to become sufficiently fearful as to leave (see also Crowder, 2000; Schelling, 1971).

Green et al.’s (1998) discussion of a tipping point is relevant here. Echoing the view of several other studies, the authors noted that “no consensus exists on the question of how high the minority fraction must be before tipping occurs, but most studies tend to find that the exodus of whites accelerates after blacks constitute at least a quarter of the population in a residential area” (374-375; see also Sampson and Raudenbush, 2004). Other studies suggest that the tipping point occurs when county minority populations are 30 percent or higher (Giles, Cataldo, and Gatlin, 1975; Valenty and Sylvia, 2004). Should the tipping point be relatively low, a change in threat might well be greater in lower-threat communities. However, should it be relatively high, then, per hypothesis 2a, the effect of threat changes might well be greater in higher-threat areas.

*Hypothesis 3: Threat change effects will be targeted at minority groups rather than diffuse.* That is, we anticipate that because blacks and Hispanics are viewed as threatening groups by members of the majority group, an increase in the presence of blacks and Hispanics should exert larger effects on punitive sentencing of blacks and Hispanics as compared with whites (Bontrager et al., 2005; Crawford et al., 1998; Ulmer et al., 2007). A threat-level variant of the hypothesis—that is, that blacks and Hispanics will be punished more harshly in areas with greater levels of minority presence—is at least partially supported by several studies. For example, Ulmer and Johnson (2004) found that “blacks were given longer sentences in counties with greater black population percentages, and Hispanics were given longer sentences in

counties with greater Hispanic population percentages” (p. 166). However, they did not find this targeted effect when they examined the “in/out” decision (i.e., the decision to incarcerate or not).

*Hypothesis 4: Threat change effects will be greater for individuals convicted of violent or drug crimes.* Here, again, the question is whether minority threat effects are diffuse or whether they are targeted solely or primarily toward certain groups. Because violent and drug crimes have been associated with minority offenders (Sampson and Laub, 1993; Sampson, Morenoff, and Raudenbush, 2005; Sampson and Wilson, 1995; Steffensmeier and Demuth, 2000, 2001), an increase in minority presence may elicit a greater concern about violent and drug-related crimes, thus leading to more punitive sanctioning of individuals convicted of such offenses. This possibility is suggested as well by the fact that many of the “get tough” sentencing policies that emerged in the 1980s and 1990s were justified on the basis of real or perceived increases in violent and drug crimes and, in turn, promoted tougher sanctioning of offenders who commit these types of crimes (Beckett and Sasson, 2004; Myers, 1989; Spohn, 2007; Tonry, 1995).

## DATA AND METHODS

### Data

For this study, we use individual-level sentencing data and contextual-level data. The 1998, 2000, and 2002 SCPS data include 46,071 felony defendants who were processed in 60 large urban counties across 23 states (Bureau of Justice Statistics, 2006). These data, used in several studies (Demuth and Steffensmeier, 2004; Fearn, 2005; Steffensmeier and Demuth, 2006; Weidner et al., 2005), have many strengths. They contain a rich body of information about the processing of defendants and their race, ethnicity, and prior criminal history (e.g., prior arrest, conviction, and incarceration). In addition, the data consist of felony cases across a wide range of counties, thus providing an opportunity to study contextual effects on sentencing.

Contextual data were culled from several sources and then merged with the SCPS data. The 1990 and 2000 U.S. Census data were used to identify levels and compute changes in racial and ethnic composition (i.e., percent black and percent Hispanic). In addition, we used the 2000 Census to generate county-level social structural measures (e.g., resource deprivation and

population density). Measures of county jail capacity and state prison capacity were obtained from the 1999 National Jail Census and the 2000 Census of State and Federal Adult Correctional Facilities, respectively. County index crime rates were obtained from the Uniform Crime Reports (UCR). Finally, we used data from the National Center for State Courts to identify sentencing guideline states (Rottman et al., 2000). Below, we describe each of the variables used in the study; the variable means and standard deviations are presented in the appendix.

### Dependent Variable

Heeding the recommendation of Blumstein et al. (1983), Holleran and Spohn (2004), and Harrington and Spohn (2007), we separate prison sentences from jail sentences. In this study, the dependent variable—the decision to incarcerate—has three categories: jail (if the convicted felon was sentenced to any length of confinement in a county jail), prison (if the convicted felon was sentenced to any length of confinement in a state prison), and non-custodial sanction (if the convicted felon was sentenced to any combination of non-incarceration options, such as probation, fine, or other).<sup>2</sup> Non-custodial sanction was the omitted outcome category in all the models.<sup>3</sup> Among the convicted felons, most were sentenced to state prisons (38.1 percent), followed by county jails (37.3 percent) and non-incarcerative sanctions (24.6 percent).

### Contextual-Level Racial and Ethnic Threat Change Variables

In this study, our focus is on the effect of absolute changes in minority threat on individual-level sentencing decisions.<sup>4</sup> Following other studies (Green et al., 1998; King and Wheelock, 2007), we measured change by calculating the difference between each county's racial or ethnic composition in 1990 and in 2000. The racial threat change measure was operationalized as the absolute change in the size of the non-Hispanic black population between 1990 and 2000. For example, for a county that was 20 percent black in 1990 and 21 percent black in 2000, the absolute change is 1. Similarly, the ethnic threat change measure was operationalized as the absolute change in the size of the Hispanic population between 1990 and 2000.

We also included baseline levels of racial or ethnic threat in the analyses. The inclusion of

baseline levels serves two purposes. First, we want to investigate the effect of changes in racial and ethnic threat, net of baseline levels. In this respect, baseline levels serve as a statistical control. Second, we argue that the effect of changes is moderated by baseline levels of threat. In this respect, baseline threat levels function as a moderating variable.

### Control Variables

We included individual- and contextual-level controls. At the individual level, we controlled for race (1=non-Hispanic black defendants, 0=whites) and ethnicity (1=Hispanic defendants, 0=whites) because minorities typically are subject to more severe sentences (Mitchell, 2005; Spohn, 2000). We included age at arrest (in years) and sex (1=males, 0=females). Following Demuth and Steffensmeier (2004), we combined four dummy variables, including prior felony arrests, convictions, jail incarcerations, and prison incarcerations, to reflect a defendant's prior contact with the justice system (Cronbach's  $\alpha=.80$ ). In addition, we controlled for whether the convicted felon's criminal justice status was active—whether, for example, he or she was on probation or parole or in custody—at the time of arrest (Steffensmeier and Demuth 2006).

To control for offense severity, we included a dummy variable that reflects whether the defendant had multiple arrest charges. Consistent with other sentencing research (e.g., Fearn, 2005; Johnson, 2005, 2006), we included three dummy variables that capture the most serious offense type for which the defendant was convicted: violent offense (1=violent offenders, 0=others), property offense (1=property offenders, 0=others), and drug offense (1=drug offenders, 0=others), holding other offense as the reference category.<sup>5</sup> Prior research has also established that the conviction mode and pre-trial outcome have an impact on sentencing decisions (e.g., Albonetti, 1986; Ulmer and Bradley, 2006). For that reason, we introduced dummy variables for plea bargaining (1=convicted through plea bargaining, 0=convicted otherwise) and detention (1=offenders detained prior to trial, 0=not).<sup>6</sup> Defendants were processed in state courts in three different years (1998, 2000, 2002). To control for sentencing differences that might result from changes in laws, policies, and court practices from year to year, we created dummy variables for the years 1998 and 2000, and held 2002 as the reference year in

all models.

At the county level, a range of factors could influence courtroom decision-making. As prior research has established, judges may be constrained by county jail and state prison capacity levels when they decide whether to incarcerate convicted felons (D'Alessio and Stolzenberg, 1997; Ulmer and Johnson, 2004). To account for this possibility, we included a jail capacity measure (constructed by dividing the jail population by its capacity) when predicting the jail outcome and a state prison capacity measure (obtained by dividing the prison population by its capacity) when predicting the prison outcome.<sup>7</sup> Higher values on the county jail or state prison capacity measures indicate that the jail or prison systems, respectively, had less capacity to hold more inmates. Because local crime rates may affect judges' decision-making process, we also controlled for the average UCR index crime rates from 1998-2002 (Cronbach's  $\alpha=.97$ ).<sup>8</sup>

Several other controls were included. We introduced a control for population density in 2000 (we took the natural log of this measure to correct for skew). We also controlled for county-level resource deprivation, which consists of the following variables obtained from the 2000 U.S. Census: median family income, median household income, percent receiving public assistance, percent below poverty, percent unemployed in civilian populations above 16 years old, and per capita income. Using the Kaiser-Guttman (or K1) criterion (eigenvalue $>1$ ), the principal components analysis reveals that these variables load on a single latent construct. The eigenvalue is 4.77 and the absolute value of factor loadings exceeds .81 (Cronbach's  $\alpha=.73$ ). In addition, due to possible regional variation in crime control and the explanatory variables, we controlled for region of the country (1=South, 0=other). Finally, because sentencing practices may be associated with the presence of sentencing guidelines systems, we included a dummy variable which reflects whether a county was located in a state that had sentencing guidelines.

### Analytic Strategy

In the SCPS data, approximately 18 percent of the individual-level cases had missing data. To address this issue, and following the lead of researchers who have used the data (e.g., Demuth, 2003), we used multiple imputation, an approach that is considered to be "one of the most

attractive methods for general-purpose handling of missing data in multivariate analysis” (Allison, 2000: 301; see also Acock, 2005; Brown and Kros, 2003).

In the SCPS data, 27,019 (or 58.6 percent) of the 46,071 defendants were convicted. We eliminated non-convicted cases and also removed 248 cases that were closed before bail, which left 26,771 cases for multiple imputation. In this study, we performed 10 imputations using Patrick Royston’s Imputation by Chained Equations (ICE) program in Stata (see Horton and Kleinman, 2007).<sup>9</sup> To improve the imputation results, we followed Acock’s (2005: 1026) recommendation and included additional variables than were used for the subsequent analyses, including: prior misdemeanor arrest (1=yes, 0=no), prior misdemeanor conviction (1=yes, 0=no), the most serious arrest charge (dummy variables that indicate the most serious offense for which the defendant was arrested), and whether the charge was classified as “attempted” (1=yes, 0=no). After imputation, we included only defendants who were white, black, or Hispanic because of the focus of our study. In addition, we excluded defendants who were younger than age 13 at the time of arrest. Finally, following other sentencing scholars (e.g., Wooldredge, 2007), we limited our focus to convicted felons. In the end, each imputed dataset, on average, contained 21,169 convicted felons from 60 large urban counties across 23 states.

We employed hierarchical generalized linear modeling (HGLM) for the analyses because the dependent variable—the decision to incarcerate—consists of three categories (non-custodial sanction, jail, and prison) and because individual defendants are nested in counties. Following previous studies that have examined this three-category outcome (Fearn, 2005; Harrington and Spohn, 2007; Holleran and Spohn, 2004), we specified multinomial logistic regression models. Such models are indicated in a context in which courtroom actors are confronted with several different sanctioning options (Long, 1997; Harrington and Spohn, 2007). In addition, they allow for the possibility that courtroom actors focus not only on whether to incarcerate but also on whether the incarcerative sanction should be jail or prison. We applied HGLM to the imputed data because HLM 6.0 supports the analysis of multiply-imputed datasets (Raudenbush et al., 2004: 46, 179-182)<sup>10</sup> and we report model estimates with robust standard errors.<sup>11</sup> In all analyses, we included each individual- and contextual-level control, but, due to space limitations, present



only measures of theoretical interest in the tables. (Full model results are available upon request.)

## RESULTS

We start first with table 1, model 1, where the focus is on racial threat. No direct effect of threat changes on the decision to incarcerate surfaces. However, inspection of model 2 indicates that there are interactive effects of changes in racial threat and baseline levels of threat. When the focus turns to ethnic threat, there is no evidence of either direct (model 1) or interactive (model 2) threat effects. Thus, we do not find support for our first hypothesis that there would be direct effects of racial or ethnic threat, and we find only partial support for the second hypothesis. Although there is evidence of an interaction between changes in racial threat and baseline levels of threat, there is no evidence of a change-baseline interaction when the focus is on ethnic threat.

Insert table 1 about here

To facilitate discussion of the racial threat change and level interaction effect, we present the predicted probabilities of receiving a non-custodial sanction, jail, or prison at different points of change in percent black, setting all the covariates at their means and using five different baseline (1990) values for percent black (5, 10, 20, 30, and 40).<sup>12</sup> Figures 1a, 1b, and 1c present these results for each of the three sanction types, respectively.

Before we discuss these three figures, it bears emphasizing that decisions to sentence defendants into a non-custodial sanction or jail or prison are related. In particular, and as Harrington and Spohn (2007: 51) have argued, courtroom actors follow a series of decision rules in sentencing. They first decide whether a non-custodial sanction is an appropriate sentence; if they believe that the defendant needs to be incarcerated, they then decide whether the defendant should be sent to jail or prison. This approach has implications for what we expect to occur in a test of the first hypothesis. Specifically, although we anticipate that increased threat will be associated with a greater probability of receiving a more punitive sanction, we expect that the effect emerges through a two-step process: courtroom actors seek a custodial rather than non-custodial sanction and they then seek a prison rather than jail sentence. Accordingly, when

confronted with increased threat, courtroom actors should be more likely to choose incarceration over a non-custodial sanction. Thus, we should see a descending slope for the probability of receiving a non-custodial sanction. At the same time, when confronted with a decision about which type of custodial sanction to impose, courtroom actors should be more likely to choose prison over jail. In that event, we should see a descending slope for the probability of receiving a jail sentence but an ascending slope for the probability of receiving a prison sentence.<sup>13</sup>

In areas characterized by high baseline levels of threat (e.g., 30% or 40% black), this pattern is precisely what emerges in figures 1a, 1b, and 1c. Specifically, we see descending slopes for non-custodial sanctions (figure 1a) and jail (figure 1b) and an ascending slope for prison (figure 1c). Put differently, and as hypothesized, increases in percent black in higher-threat areas are associated with an increase in the probability of receiving the most punitive sanction (i.e., prison) and a decrease in the probability of receiving a non-custodial sanction or a jail sentence.

Insert figure 1a about here

Insert figure 1b about here

Insert figure 1c about here

A different pattern, however, emerges in low-threat areas. If we focus on the slopes for areas with low baseline levels of threat (e.g., 5% or 10% black), we can see that, contrary to what we anticipated, an increase in percent black is associated with an increase in the probability of receiving a non-custodial sanction (as indicated by the ascending slopes in figure 1a). The pattern for jail accords with the findings for high-threat areas, only the effect is more pronounced (i.e., the descending slopes in figure 1b are more steep). By contrast, and again contrary to what we anticipated, an increase in percent black is associated with only a small increase in the probability of receiving a prison sentence, and in areas where the baseline level threat is lowest (5% black), greater increases in percent black are associated with either no change in or a slight reduction in the probability of receiving a prison sentence (as indicated by the slopes in figure 1c). In short, when confronted with increased racial threat in low-threat areas, courtroom actors

are more likely to choose non-custodial sanctions over some type of incarceration, contrary to what we hypothesized. Further, the probability of receiving a prison sentence only marginally increases, if at all, while the probability of receiving a jail term decreases.

Next, we focus on figure 1c to discuss the interactive effect of changes in racial threat on prison sanctioning. Two patterns bear mention. First, negative threat changes (i.e., reductions in percent black, which appear to the left of the vertical dashed line) produce largely similar decreases in the probability of receiving a prison sentence, regardless of the baseline level of threat. Second, positive threat changes (shown to the right of the dashed line) produce different increases in the probability of receiving a prison sentence. For example, when the baseline threat level is 40 percent black, the effect of a one-percentage point increase in percent black is substantially greater than the effect of a similar increase in areas with lower baseline threat levels. In essence, then, and consistent with hypothesis 2a and contrary to hypothesis 2b, it appears that in counties where baseline racial threat levels are relatively high, criminal courts are hyper-reactive to increased threat, resulting in a stronger social control response in the form of increased probabilities of individuals receiving a prison sentence.

Notably, the tipping point for a racial threat change effect appears to coincide with what one finds in the minority threat literature (see, e.g., Sampson and Raudenbush, 2004). For example, when the percentage of black residents rises to roughly 20 to 30, the positive association between percent black and fear of crime becomes more pronounced. Much the same occurs here—the effects of changes in threat are greater for convicted felons residing in areas where percent black exceeds 20 relative to areas where percent black is lower. That is, after baseline levels of percent black exceed 20 percent, a given increase in the black population produces a more pronounced increase in the probability that convicted felons will receive a prison sentence.

Although our focus here is on change, it bears mention that the pattern in figure 1c accords with the notion that levels of racial threat do in fact influence sentencing decisions, as others have found (e.g., Britt, 2000; Weidner et al., 2005). In particular, across all levels of change, individuals residing in areas that have the highest baseline levels of threat have the highest probabilities of receiving a prison sentence. The inverse pattern is evident for jail—individuals

residing in areas that have higher baseline levels of threat have lower probabilities of receiving a jail sentence (figure 1b). Why? We speculate that in a situation where jurisdictions increasingly seek prison sentences, prosecutors may raise the stakes for defendants and thus decrease the willingness of defense counsel and their clients to plea bargain or to capitulate to sanctions. Put differently, defendants may be more inclined to fight their cases in an effort to obtain a lesser sentence, which may lead to more trials, thus potentially resulting in more prison sentences and fewer jail terms (Ulmer and Bradley, 2006).<sup>14</sup> In addition, pending trial, or, in the event that the defendant has already been sentenced to prison, pending transfer to prison, defendants typically will remain in custody and so reduce the ability of the courts to use existing jail space for jail sanctions (Shelden and Brown, 1991; Surette et al., 2006).<sup>15</sup>

To this point, we have assessed direct effects of changes in threat and their interactive effect with baseline levels of threat on incarceration decisions. We turn now to the question of whether threat change effects produce racially or ethnically targeted increases in punitive sanctioning. Consistent with research on incarceration decisions (e.g., Britt, 2000; Ulmer and Johnson, 2004), we found no substantively significant interaction between defendants' race and changes in percent black and no statistically significant interaction between defendants' ethnicity and changes in percent Hispanic (results available upon request). We also examined three-way interactions between threat changes, threat levels, and race or ethnicity and identified no statistically significant effects (results available upon request). Thus, contrary to what we anticipated in our third hypothesis, the racial threat change effects we identified appear to stem from diffuse rather than racially targeted increases in the probability of punitive sanctioning (cf. Bontrager et al., 2005; Sampson and Laub, 1993; Ulmer and Johnson, 2004; Ulmer et al, 2007).

Finally, table 2 provides a test of our fourth hypothesis—namely, the idea that changes in minority threat will interact with threat offenses such that punitive sanctioning will be disproportionately greater among violent and drug offenders in areas that have experienced increased minority threat. Inspection of the table shows that statistically significant interactions between changes in minority threat (i.e., percent black and percent Hispanic) and offense type emerge when predicting prison sentences. Here, again, to facilitate discussion on the interaction

effects, we graph the predicted probabilities of receiving a prison sentence in figures 2 (racial threat) and 3 (ethnic threat), setting all the covariates at their means. We focus here on prison because statistically significant interaction effects emerged only for this outcome.

Insert table 2 about here

Comparison of the two figures suggests that different interaction effects exist, depending on whether racial threat or ethnic threat is examined. Inspection of figure 2 indicates that defendants who are convicted for violent or drug offenses, as compared to other type of offenses, are more likely to receive a prison sentence as counties experience a rapid growth in their black population. Observe, for example, that whereas the slopes for violent and drug offenses are ascending, the slopes for property and other offending are relatively flat. This finding provides support for the fourth hypothesis. In ancillary analyses, we conducted three-way interactional analyses to determine if threat change, threat level, and offense type interacted; we found no statistically significant three-way interactions (results available upon request).

Insert figure 2 about here

When we turn to ethnic threat, a different pattern emerges. Review of figure 3 shows that violent, property, and drug offenders, compared to defendants convicted of other offenses (e.g., weapons, driving-related, and other public order offenses), are less likely to receive a prison sentence as county-level percent Hispanic increases. Here, for example, the slopes for violent, property, and drug offenses are relatively flat, whereas the slope for other offense is ascending. This finding, which we discuss in the conclusion, runs counter to what we predicted. Again, we conducted ancillary analyses to assess whether a three-way interaction existed between threat change, threat level, and offense type. For the prison outcome, we identified a marginally statistically significant three-way interaction with violent offense ( $b=.76$ ,  $s.e.=.39$ ,  $p=.053$ ) and a statistically significant three-way interaction with drug offense ( $b=1.02$ ,  $s.e.=.41$ ,  $p<.05$ ) (results available upon request). We plotted the predicted probabilities for receiving a prison sentence at different ethnic threat change values, setting all covariates at their means and using five different

baseline values of percent Hispanic (5, 10, 20, 30, and 40). Growth in threat disproportionately increased the probability of receiving a prison sentence for violent offenders and for drug offenders in areas where baseline levels of ethnic threat were high (i.e., above 30 percent Hispanic). The plotted results depicted a pattern similar to what is shown in figure 2 for racial threat. In short, when the focus is on ethnic threat, we find partial support for hypothesis 4.

Insert figure 3 about here

## DISCUSSION AND CONCLUSION

Recent sentencing studies have made important advances by incorporating social context to investigate individual-level sentencing decisions. These studies have examined a variety of contextual measures and their influence on sentencing severity. Yet, what remains unknown is how and to what extent changes in social context may affect courtroom decision-making. Heeding calls for testing the threat perspective using measures of change (Green et al., 1998; King and Wheelock, 2007; Liska, 1992) and calls for contextual analyses of sentencing (e.g., Britt, 2000; Fearn, 2005; Ulmer and Johnson, 2004), this study contributes to the emerging literature on multilevel sentencing research by examining changes in minority threat and the potential interaction of such changes with baseline levels of minority threat, defendants' race or ethnicity, or the type of offenses for which the defendants are convicted.

Using data from the SCPS program and contextual-level data from other sources, we tested a series of four hypotheses that build on prior research on minority threat. We anticipated that increased minority threat would increase punitive sanctioning (hypothesis 1); we anticipated that the threat change effect would be greater in areas where baseline threat levels were high (hypothesis 2a) and also presented the counter-argument of greater change effects in areas where baseline threat levels were low (hypothesis 2b); and we anticipated that the effects of changes in minority threat would be more pronounced for blacks and Hispanics (hypothesis 3) and for felons convicted of violent or drug crimes (hypothesis 4).

We tested the hypotheses using a sample of convicted felons from 60 large urban counties in 23 states. Briefly, we found support for racial threat effects but not, by and large, ethnic threat

effects. Thus, the results of our study, when combined with the results of a number of other studies that focus solely on levels of minority threat (e.g., Britt, 2000; Myers and Talarico, 1987; Weidner et al., 2005), suggest support for the notion that racial threat increases punitive sanctioning but that ethnic threat effects either do not exist or are weaker or manifest in other ways. With respect to hypothesis 1, we found no evidence of a direct effect of racial threat changes on the decision to incarcerate convicted felons in large urban counties. However, consistent with hypothesis 2a, we found support for the argument that racial threat change effects are greater in urban areas where baseline threat levels are high. Contrary to hypothesis 3, we found support for arguments that racial threat effects are racially diffuse rather than racially targeted. That is, increased racial threat appears to increase punitive sanctioning equally among both convicted white and black felons. We found no evidence that ethnic threat exerts an effect on convicted Hispanic felons but not on whites. Finally, in partial support of hypothesis 4 that minority threat effects are expressed, or targeted, toward more serious or “threatening” crimes, we found that convicted violent and drug offenders were disproportionately more likely to be sent to prison as county-level racial threat increased. A variant of this finding emerged when we focused on ethnic threat. In high-threat areas, growth in ethnic threat disproportionately increased the probability of receiving a prison sentence for convicted violent and drug offenders.

Before turning to the implications of the study, we first discuss two anomalous findings. First, we found that non-custodial sanctions were more likely in low-threat areas that experienced increased racial threat (i.e., an in-migration of blacks). One reason may involve the meaning, or the severity, of non-custodial sanctions. We speculate that in high-threat areas, prison terms are the primary vehicle through which punitive social control efforts are exerted (see figure 1c). Indeed, the emphasis on prison sanctioning may become so great that it largely precludes the use of jail or non-custodial sanctions as alternative forms of sentencing. In addition, in high-threat areas, jail space for sanctioning may be limited. At the same time, non-custodial sanctions (e.g., probation) may be viewed as largely “toothless” in the sense of involving few or minimal restrictions and little contact with probation officers.

By contrast, in low-threat areas, probation (the predominant non-custodial sanction) may

actually constitute a more severe punishment relative to jail or prison. Indeed, several studies suggest not only that possibility but also that probation tends to be tougher in communities that have more resources (Crouch, 1993; Petersilia, 1990; Petersilia and Deschenes, 1994). As Petersilia (1997: 189) has noted, a wider range of programs may be available in better-resourced, lower-caseload communities and may be required as a condition of probation, and, in this vein, has commented that “such programs may have more punitive bite than prison.” Accordingly, we conducted ancillary analyses, which indicated that baseline level racial threat (i.e., percent black) was negatively correlated with per capita income ( $r = -.28, p < .05$ ) and the number of convicted felons processed annually ( $r = -.10, p > .05$ ). The correlations suggest that low-threat areas indeed may have more resources and fewer caseload pressures, although that inference must remain speculative in the absence of more direct measures of system resources and probation caseloads.

Second, we found that increases in racial threat were associated with tougher sanctioning of convicted violent and drug offenders and that, in areas where baseline levels of ethnic threat were high, increases in ethnic threat were also associated with tougher sanctioning of such offenders. By contrast, in areas where baseline levels of ethnic threat were low, increases in ethnic threat were associated with less tough sanctioning of violent and drug offenders and tougher sanctioning of offenders who committed other, generally public order, offenses.

One possible explanation for the latter effect may be that in low-threat areas where Hispanic in-migration increases, concern about public order crimes may be greater. Why? Such areas may have more undocumented immigrants, who may be less likely to engage in violent or drug crime given the risk of deportation (Martinez, Rosenfeld, and Mares, 2008) and yet be targeted for the public order crimes they commit precisely because the public may equate immigration with a decline in social order. Arguing against that explanation, however, is the fact that the public consistently views immigrants as offenders and immigration as increasing crime (Mears, 2001). Thus, it may be that some other factor provides a more reasonable explanation. For example, Hispanics’ views toward crime and how best to address it substantially differ from those of whites (Gerber and Engelhardt-Greer, 1996). Perhaps, then, in areas that have experienced increased in-migration of Hispanics, sentencing patterns come to reflect sentencing preferences



of Hispanics. By contrast, in high-threat contexts, the overriding concern may be with more serious offending and so lead to a shift in emphasis from public order to violent and drug crimes.

We turn now to the implications of this study. One important question largely unaddressed in prior research concerns threat-level versus threat-change effects. The assumption to date has been that the minority threat perspective argues for level effects. We suggest, however, that the logic of this perspective, as Blalock (1967) and others (e.g., Liska 1992) have emphasized, points squarely to the importance of minority threat change and its effects on sentencing.

In addition, we suggest that the logic also points to the notion that change effects should be variable. The direction of variability is not, however, necessarily straight-forward. Increased threat in a low-threat context may exert little effect on social control efforts because there may be a greater perceived ability to withstand the change. However, it also is possible in such a context that there exists a hyper-reactivity to perceived changes in the social order, and so, accordingly, social control responses may be greater than in high-threat communities. Although our study investigated some of these possibilities, further research on such mechanisms is needed.

The findings of this study underscore the importance of examining interactions between changes in and levels of minority threat. This line of inquiry merits important attention because investigation of the contingent nature of threat effects creates opportunities to test arguments about processes through which threat effects emerge (Liska, 1992: 177). It also merits attention because in situations where interactions do exist, it is possible that direct effect analyses will produce null results, creating the misleading impression that there are no threat effects. In this study, for example, we found no evidence of a direct effect of changes in racial threat. However, when we modeled change and level interactions, a significant racial threat effect emerged.

The study's findings underscore the importance of examining racial threat and ethnic threat separately (Carmichael 2005; Steffensmeier and Demuth 2000, 2001; Harrington and Spohn, 2007; Ulmer et al., 2007). Such research is not indicated simply because different results may emerge but, as Liska (1992: 176) has emphasized, because variation in the effects of different "threat" populations provides an opportunity to develop more powerful and nuanced theoretical accounts of social control (see also Steffensmeier et al., 1998).

In reviewing the results presented here, we are led to echo Holleran and Spohn's (2004) call for disaggregating prison and jail sentences. They argued that the two outcomes differ in several important respects and so should not be combined in sentencing studies (see also Harrington and Spohn, 2007). Even so, the use of multiple categories of outcomes brings with it a corresponding need to develop more precise accounts of what the sanctions mean. For example, as discussed above, in some areas, probation and other such non-custodial sanctions may have more "teeth" and so may be viewed as viable, and possibly even tougher, sanctions as compared with prison or jail. By extension, it is conceivable that in such areas threat effects are expressed in part through an increased use of non-custodial sanctions. More broadly, they also may be expressed through conviction decisions and other social control efforts (see, generally, Liska, 1992). Future research thus should investigate if minority threat effects, especially change effects, are manifested in other measures of social control, such as the decision to convict.

A focus on system constraints also is indicated. Future research ideally should explore ways in which local jail capacity may influence sanctioning decisions. Jail capacity, as traditionally measured, does not capture the actual capacity to mete out jail sanctions because it does not take into account the fact that jail bed space can be used for two purposes—to sanction individuals or to hold them in pre-trial or pre-sentencing detention or prior to transfer to prison. How jail space gets used may influence the extent to which prison and non-custodial sanctions are employed.

Finally, the results here suggest a policy recommendation that emanates from other studies of minority threat effects on sentencing. Specifically, since racial or ethnic threat clearly constitutes a non-legal basis for tougher sentencing, a positive association between minority threat and punitive sanctioning would suggest that policymakers and courts need to take steps to ensure that only legal factors influence sentencing. To this end, a basic first step is for jurisdictions to monitor their decision-making process and how their decisions vary, if at all, with a range of extra-legal factors, including such community factors as racial and ethnic composition (Gaes et al., 2004). Should variation be identified that points to effects of social ecology, and in particular racial and ethnic composition, the next step then would be to undertake studies aimed at identifying why such variation exists. Certainly, such studies require considerable investments in

data collection, monitoring, and analysis. But the failure to undertake them risks allowing legally and ethically questionable sanctioning practices—should they exist—to continue.

## ENDNOTES

<sup>1</sup> From the court community perspective, sentencing decisions result from the dynamics within the court and not purely from the decisions of judges or prosecutors. As a result, the race or ethnicity of judges may not be especially influential in, say, tempering minority threat effects. In line with this view, Zatz (2000) has concluded that few differences in sentencing patterns have been found based on the race or ethnicity of the judge (see also Holmes et al., 1993; Spohn, 1990a, 1990b). Notably, although minority judges may sentence convicted felons more leniently than white judges, they still sentence minority defendants more harshly than they sanction white defendants of similar characteristics (Johnson, 2006; also see Spohn, 1990a).

<sup>2</sup> Our focus is on punitiveness as a gauge of minority threat effects. Convictions by themselves do not necessarily capture increased punitiveness. By contrast, sanction severity (e.g., prison vs. jail vs. non-custodial sanction) provides a relatively direct measure of punitiveness.

<sup>3</sup> Among non-custodial sanction cases, 98 percent received probation. In ancillary analyses, we included only probation cases. The main findings, available upon request, were almost identical.

<sup>4</sup> If longitudinal data on the sentencing of specific individuals were available, panel models would be useful for assessing whether changes in minority threat exert any effects on the sentencing of such individuals over time. The SCPS data were not created using a panel design.

<sup>5</sup> These include weapons-related offenses (e.g., unlawful sale, distribution, manufacture, alteration, transportation, position, or use of a deadly weapon or accessory), driving-related offenses (e.g., driving under the influence of drugs or with a revoked license), and such offenses as flight or escape, parole or probation violations, obstruction of justice, prostitution, pandering, bribery, and tax law violations (Bureau of Justice Statistic, 2006).

<sup>6</sup> Some research has separated jury and bench trials and found that trial penalties are more severe in the former (Ulmer, 1997; Ulmer and Bradley, 2006). To investigate this issue, we created two dummy variables, one for each type of trial, and held guilty plea as the reference category. Our main findings, discussed below, remained unchanged (results available upon request).

<sup>7</sup> In the 1999 National Jail Census, New York had four counties that did not provide county jail

information; in these instances, we substituted New York City's listed jail capacity.

<sup>8</sup> Seven offenses, including homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft, are included in the UCR crime index.

<sup>9</sup> According to Shaffer (1999: 7), "unless rates of missing information are unusually high, there tends to be little or no practical benefit to using more than five to ten imputations."

<sup>10</sup> When using listwise deletion, we found that the main findings concerning the effects of changes in minority threat were largely the same as when using the imputed data.

<sup>11</sup> The multicollinearity diagnostics indicated that the variance inflation factors for all the county-level variables were below 4, and inspection of condition indices and variance proportions revealed acceptable levels of collinearity (Hair et al., 1998: 220). We also performed a multicollinearity test on the offender-level variables and identified no problems.

<sup>12</sup> We used Holleran and Spohn's (2004: 219-220) formula to compute the predicted probabilities.

<sup>13</sup> We thank one of the anonymous reviewers for suggesting this line of reasoning.

<sup>14</sup> Several ancillary analyses suggest support for that argument. We calculated the percent of cases that were pled in each county and obtained the bivariate correlation between this measure and baseline levels of percent black. The correlation coefficient was  $-.26$  ( $p < .05$ ), indicating that in higher-threat areas (i.e., areas with a higher baseline level of racial threat), fewer cases in fact were pled. We also examined the association between trial/plea and the decision to incarceration. The Chi-Square test indicated that these two variables were significantly correlated ( $\chi^2=265$ ,  $df=2$ ,  $p < .001$ ); in particular, whereas 58.8% of those who went to trial received a prison sentence, 37.0% of those who pled guilty received a prison sentence.

<sup>15</sup> We controlled for jail capacity and this measure was not statistically significant in any of the models. However, our jail capacity measure, similar to what is used in sentencing studies in general, did not capture the actual capacity of jails to mete out sanctions. For example, it did not take into account the fact that jail bed space can be used for two purposes: to sanction individuals or to hold them prior to sentencing or transfer to prison.

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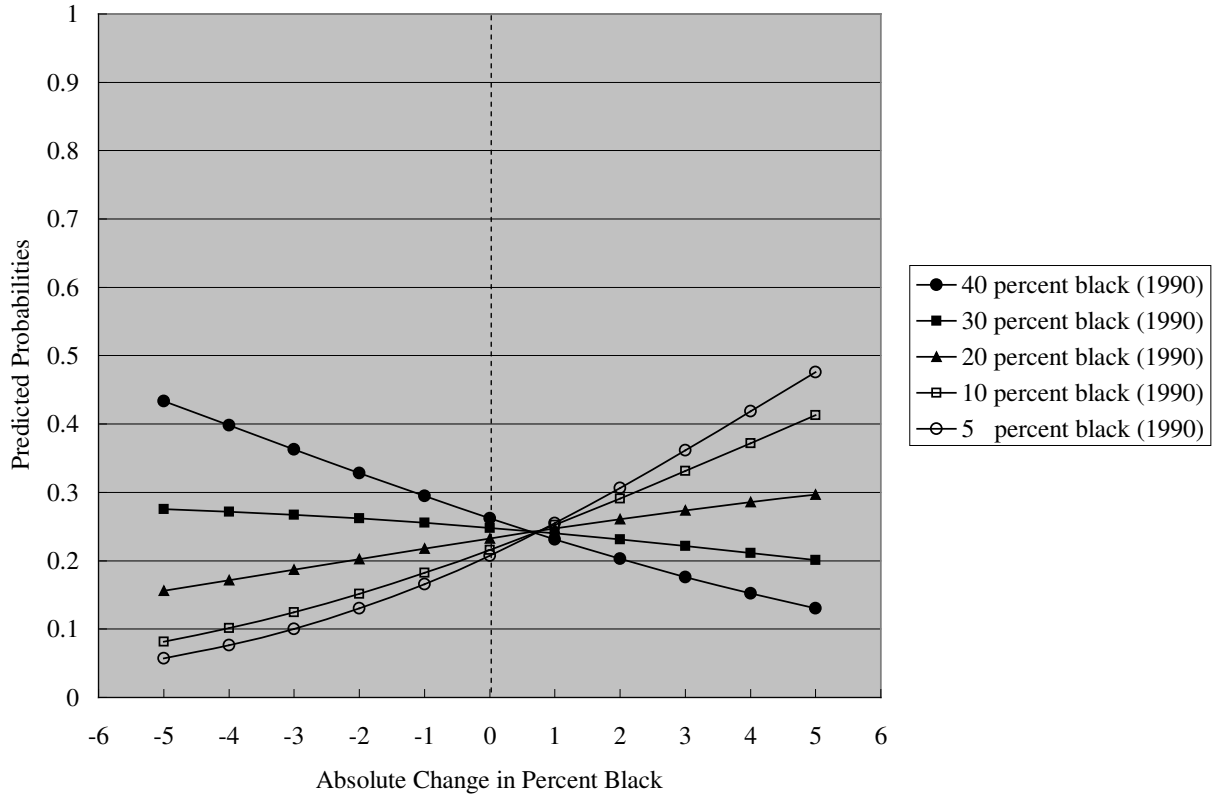
**Table 1. Regression of Threat Change and the Interaction of Threat Change and Threat Level on the Decision to Incarcerate<sup>a</sup>**

	Racial Threat: Change in Percent Black				Ethnic Threat: Change in Percent Hispanic			
	Model 1: Main Effect		Model 2: Interaction Effect		Model 1: Main Effect		Model 2: Interaction Effect	
	Jail	Prison	Jail	Prison	Jail	Prison	Jail	Prison
Intercept	.15 (1.48)	-2.11 (1.30)	.42 (1.41)	-1.89 (1.30)	-1.01 (1.51)	-2.09 (1.22)	-.62 (1.62)	-1.94 (1.28)
Threat—change (1990-2000)	-.09 (.09)	.06 (.07)	-.41** (.12)	-.21* (.09)	.08 (.07)	.02 (.05)	.14 (.09)	.01 (.06)
Threat—level (1990)	-1.08 (2.28)	.90 (1.86)	-1.94 (1.56)	.16 (1.18)	.70 (1.93)	-.70 (1.22)	4.36 (3.37)	-1.08 (2.95)
Threat—change x level			1.25** (.30)	1.07** (.29)			-.60 (.52)	.06 (.38)
Random effect								
Intercept	1.43**	.81**	1.25**	.67**	1.41**	.83**	1.40**	.84**
$\chi^2$	1,846	1,102	1,799	1,103	1,825	1,107	1,872	1,104

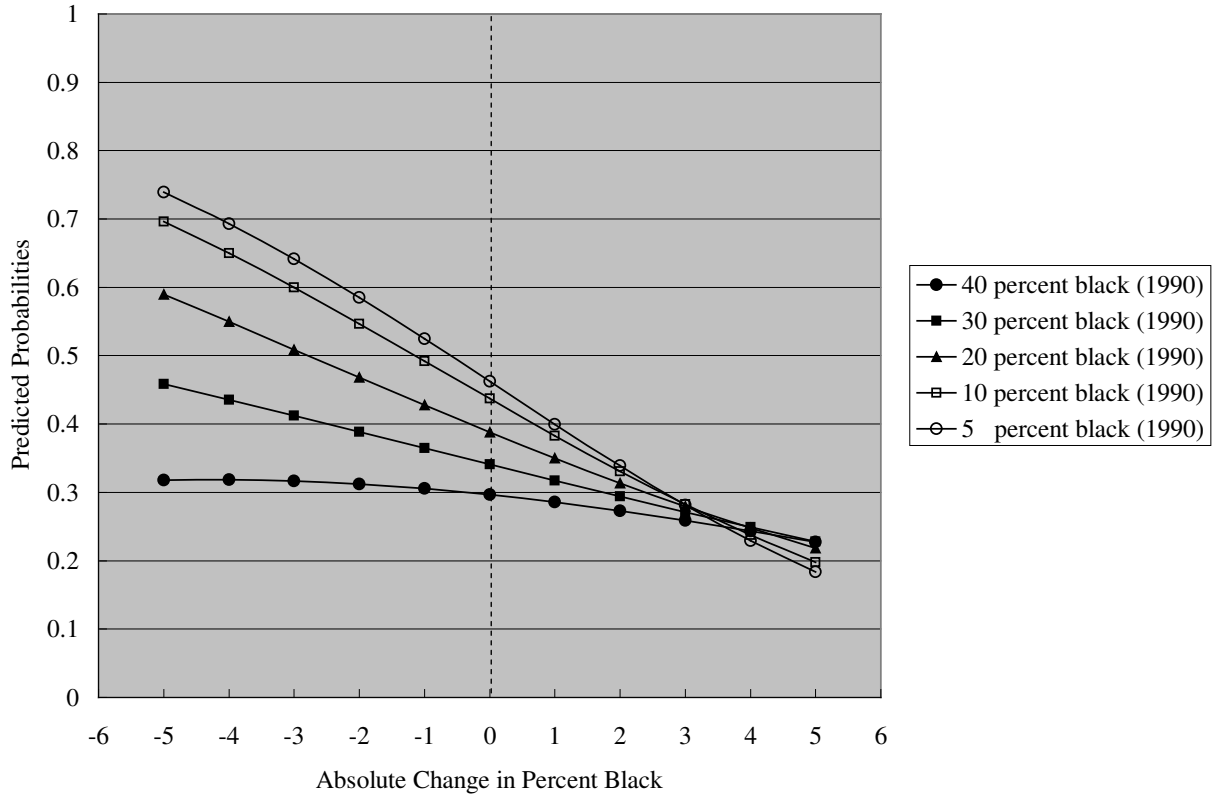
\*p<.05 \*\*p<.01

a. We employed hierarchical multinomial logistic regression because the dependent variable—the decision to incarcerate—consists of three categories (non-custodial sanction, jail, and prison sentences) and because individual felons are nested in counties. In the models above, we used non-custodial sanction as the omitted outcome category. Although not shown here, the models include all individual-level variables (black, Hispanic, male, age, criminal history scale, criminal justice status, multiple arrest charges, violent offense, property offense, drug offense, detention, plea bargaining, year 1998, and year 2000) and county-level controls (county jail capacity, which was used for the jail outcome; state prison capacity, which was used for the prison outcome; UCR crime rate; population density; resource deprivation; southern county; and sentencing guideline state).

**Figure 1a. Predicted Probabilities of Receiving a Non-custodial Sanction, Given Different Change and Baseline Levels of Percent Black**

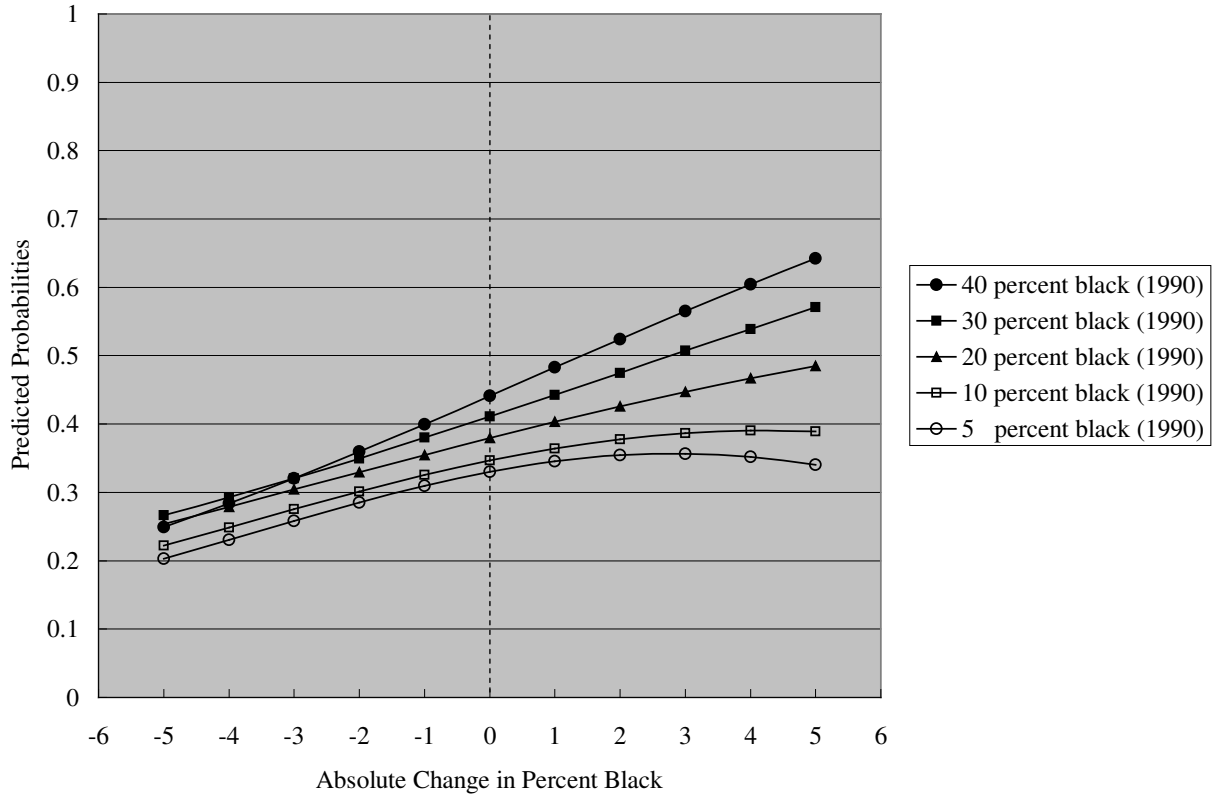


**Figure 1b. Predicted Probabilities of Receiving a Jail Sentence, Given Different Change and Baseline Levels of Percent Black**





**Figure 1c. Predicted Probabilities of Receiving a Prison Sentence, Given Different Change and Baseline Levels of Percent Black**



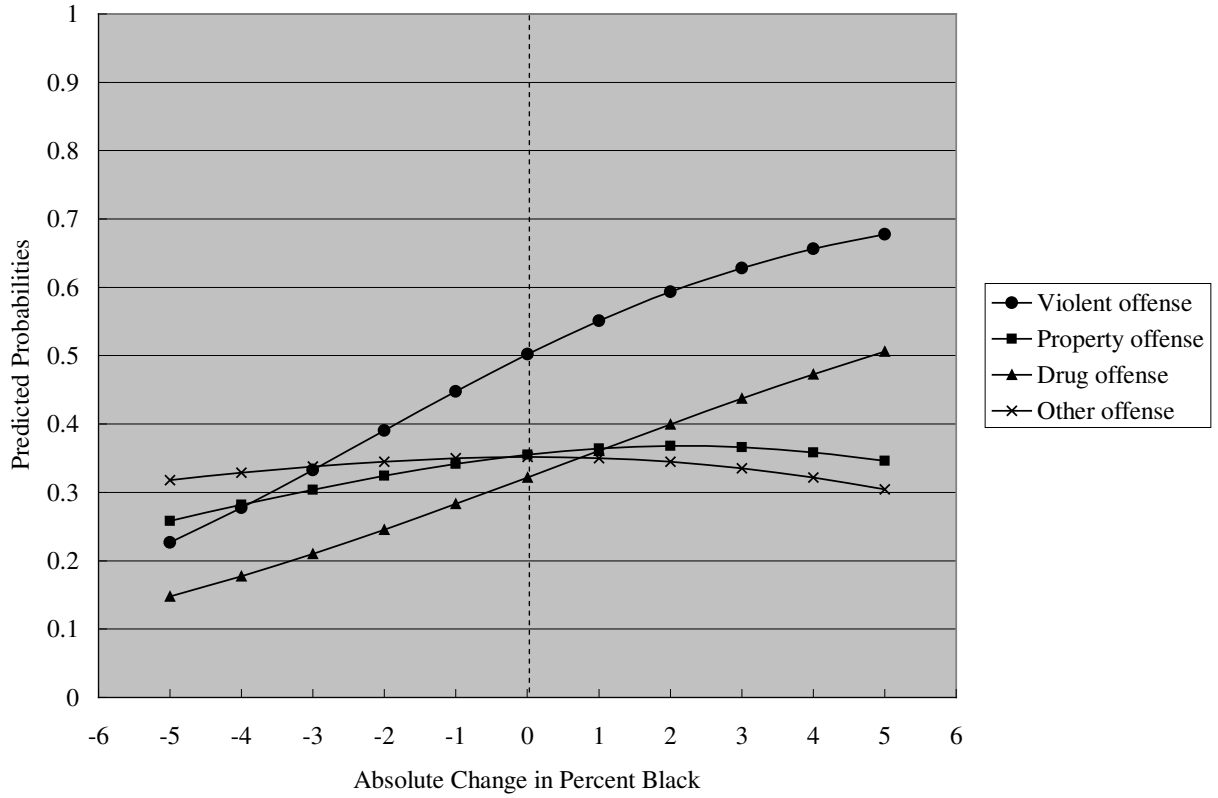
**Table 2. Regression of Threat Change, Threat Level, and Offense on the Decision to Incarcerate<sup>a</sup>**

	Model 1: Racial Threat (Change in Percent Black)		Model 2: Ethnic Threat (Change in Percent Hispanic)	
	Jail	Prison	Jail	Prison
Intercept	2.47 (1.28)	-.27 (1.16)	1.05 (1.48)	-1.05 (1.14)
Threat—change (1990-2000)	-.46** (.15)	-.36** (.09)	.14 (.10)	.13* (.07)
Threat—level (1990)	.48 (1.63)	1.21 (1.07)	8.81* (3.48)	-.96 (2.75)
Threat—change x level	1.20** (.29)	1.00** (.19)	-1.06 (.55)	.01 (.39)
Violent offense	-.10 (.15)	.55** (.14)	-.06 (.25)	1.37** (.23)
Viol. off. x threat—change	-.04 (.07)	.18* (.07)	-.02 (.04)	-.14** (.03)
Property offense	-.36** (.11)	-.24 (.13)	-.36 (.18)	.26 (.23)
Prop. off. x threat—change	-.03 (.05)	.05 (.06)	-.01 (.03)	-.09* (.04)
Drug offense	-.58** (.16)	-.53** (.19)	-.46* (.18)	.37 (.26)
Drug off. x threat—change	.08 (.07)	.26** (.07)	-.01 (.04)	-.14** (.05)
Random effects				
Intercept	1.88**	.98**	1.94**	.97**
$\chi^2$	321	223	347	197
Violent offense	.43**	.40**	.38**	.35**
$\chi^2$	111	100	114	90
Property offense	.20**	.34**	.21**	.24*
$\chi^2$	88	97	90	84
Drug offense	.51**	.98**	.51**	1.04**
$\chi^2$	128	188	130	180

\*p<.05 \*\*p<.01

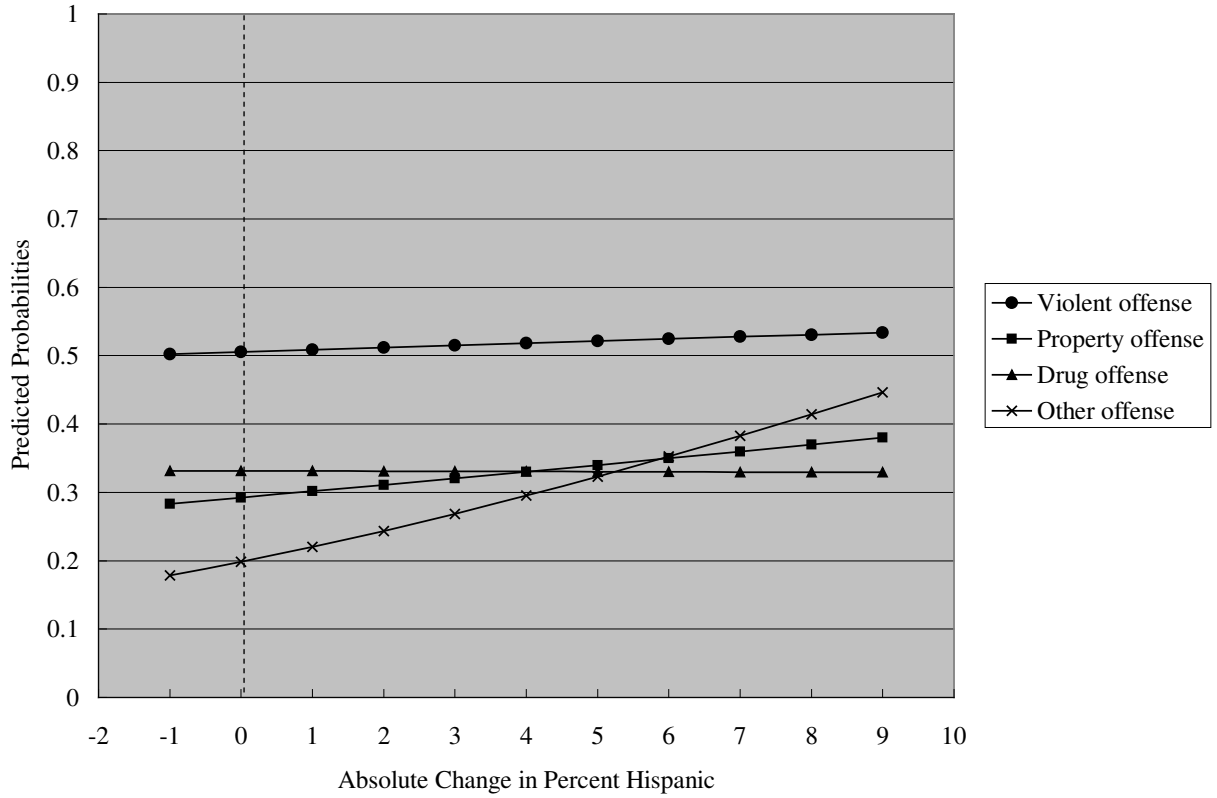
a. We employed hierarchical multinomial logistic regression because the dependent variable—the decision to incarcerate—consists of three categories (non-custodial sanction, jail, and prison sentences) and because individual felons are nested in counties. In the models above, we used non-custodial sanction as the omitted outcome category. Although not shown here, the models include all individual-level variables (black, Hispanic, male, age, criminal history scale, criminal justice status, multiple arrest charges, violent offense, property offense, drug offense, detention, plea bargaining, year 1998, and year 2000) and county-level controls (county jail capacity, which was used for the jail outcome; state prison capacity, which was used for the prison outcome; UCR crime rate; population density; resource deprivation; southern county; and sentencing guideline state).

**Figure 2. Racial Threat and Predicted Probabilities of Receiving a Prison Sentence for Different Offense Types\***



\* Based on results from the racial threat model in Table 2.

**Figure 3. Ethnic Threat and Predicted Probabilities of Receiving a Prison Sentence for Different Offense Types\***



\* Based on results from the ethnic threat model in Table 2.

## Appendix 1. Descriptive Statistics

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	<i>N</i>	<i>Percent</i>
3-Category Outcome Measure		
Non-custodial sanction (e.g., probation, restitution, fine)	5,201	24.57%
Jail	7,903	37.33%
Prison	8,065	38.10%
	<i>Mean</i>	<i>S.D.</i>
Offender-Level Measures (N=21,169)		
Black	.41	.49
Hispanic	.27	.44
White (reference category)	.32	.47
Male	.83	.38
Age	30.95	10.09
Criminal history scale	1.93	1.49
Criminal justice status	.39	.49
Multiple arrest charges	.59	.49
Violent offense	.17	.38
Property offense	.31	.46
Drug offense	.40	.49
Other offense (reference category)	.11	.32
Detention	.51	.50
Plea bargain	.95	.22
Year 1998	.35	.48
Year 2000	.30	.46
Year 2002 (reference category)	.35	.48
County Level (N=60)		
Racial threat		
Change in percent black (1990-2000)	.98	2.20
Percent black (1990)	.15	.13
Ethnic threat		
Change in percent Hispanic (1990-2000)	4.31	3.20
Percent Hispanic (1990)	.13	.13
Controls		
County jail capacity	1.21	0.84
State prison capacity	1.03	.13
UCR crime rate	5,126.55	1,853.69
Population density (natural log)	6.57	1.23
Resource deprivation	.00	1.00
Southern county	.32	.47
Sentencing guideline state	.35	.48

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