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# Courtesy Stigma and Monetary Sanctions: Toward a Socio-Cultural Theory of Punishment

Alexes Harris,<sup>a</sup> Heather Evans,<sup>a</sup> and Katherine Beckett<sup>a</sup>

## Abstract

Recent research suggests that the use of monetary sanctions as a supplementary penalty in state and federal criminal courts is expanding, and that their imposition creates substantial and deleterious legal debt. Little is known, however, about the factors that influence the discretionary imposition of these penalties. This study offers a comprehensive account of the role socio-cultural factors, especially race and ethnicity, have in this institutional sanctioning process. We rely on multilevel statistical analysis of the imposition of monetary sanctions in Washington State courts to test our theory. The theoretical framework emphasizes the need to treat race and ethnicity as complex cultural categories, the meaning and institutional effects of which may vary across time and space. Findings indicate that racialized crime scripts, such as the association of Latinos with drugs, affect defendants whose wrong-doing is stereotype congruent. Moreover, all individuals accused of committing racially and ethnically stigmatized offenses in racialized contexts may experience the courtesy stigma that flows from racialization. We find that race and ethnicity are not just individual attributes but cultural categories that shape the distribution of stigma and the institutional consequences that flow from it.

## Keywords

stigma, monetary sanctions, punishment

Across the United States, financial penalties are now a common, although largely discretionary, supplement to confinement sentences in misdemeanor and felony cases (Harris, Evans, and Beckett 2010). Despite their ubiquity and discretionary nature, little is known about factors that influence imposition of these substantial and consequential penalties. Drawing on multilevel analysis of the assessment of monetary sanctions in Washington State courts, we develop a comprehensive account of the role of socio-cultural factors,

especially race and ethnicity, in this institutional sanctioning process.

Because monetary sanctions in state and federal courts are a discretionary supplement to traditional criminal justice sanctions,

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analysis of their imposition provides theoretical insight regarding institutional sanctioning processes. Our theoretical framework suggests that particular behaviors and racial and ethnic characteristics are associated with enhanced punishment because they trigger negative emotions (e.g., fear, anger, or resentment) that intensify punitive responses. Yet, as recent scholarship on race and ethnicity suggests, these effects are likely contextual and interactive. Indeed, because particular crimes and contexts (i.e., places) are themselves racialized, the degree to which a defendant's behavior is stereotype congruent may matter more than ethnic or racial background alone. Similarly, the courtesy stigma that flows from association with a stigmatized minority group or behavior may extend to white defendants accused of racially stigmatized crimes. Moreover, race and ethnicity may matter differently in diverse locales. In short, we argue that race and ethnicity are best understood not just as individual attributes, but rather as complex cultural categories, the meaning and institutional effects of which vary across time and space (see also Omi and Winant 1986).

In this article, we employ hierarchical linear modeling techniques to analyze the factors that shape imposition of monetary penalties and to test hypotheses derived from our theoretical framework. Results confirm that race and ethnicity matter in varied, complex, and contextually specific ways. The interaction of defendants' racial and ethnic identity, the type of offense of which they are convicted, and the demographic context in which they are sentenced significantly influence allocation of penalties. Presumably, this is because activation of racialized crime scripts via stereotype congruence or courtesy stigma triggers negative emotions associated with punitiveness. We also find evidence that ethnicity matters more directly than race in Washington State, where the black population is very small and stable in size, but the Latino and immigrant populations are growing rapidly.

In addition to yielding theoretical insight regarding the role of race and ethnicity in sanctioning decisions, monetary sanctions are also of substantive importance. Many studies show that the massive U.S. penal apparatus has become an important component of the stratification system. Researchers have identified several mechanisms by which the growing penal system fuels disadvantage and inequality: the impact of criminal conviction and incarceration on employment and earnings (Pager 2003, 2005, 2007; Western 2006; Western and Beckett 1999; Western and Pettit 2005); the effects of confinement on inmates' mental and physical health (Haney 2006; Massoglia and Schnittker 2009); and the widespread imposition of collateral or invisible sanctions that transform punishment from a temporally limited experience to a long-term status (Manza and Uggen 2006; Uggen, Manza, and Thompson 2006). The literature also suggests that the adverse effects of criminal conviction are not limited to the criminally sanctioned but extend to the families and communities from which they are drawn (Braman 2004; Clear 2007; Clear, Rose, and Ryder 2001; Comfort 2007; Foster and Hagan 2007; Johnson and Raphael 2006; Massoglia 2008; Massoglia and Schnittker 2009; McLanahan 2009; Sykes and Piquero 2009; Travis 2005; Western 2006; Western and McLanahan 2000). These studies have made an enormous contribution to our understanding of the role the penal system plays in the stratification process, but they ignore an additional mechanism through which the criminal justice system fuels poverty and inequality, namely, widespread imposition of monetary sanctions.

## MONETARY SANCTIONS IN THE U.S. CRIMINAL JUSTICE SYSTEM

Monetary sanctions, sometimes called Legal Financial Obligations (LFOs), include fees,

finer, restitution orders, and other financial obligations that courts and other criminal justice agencies may impose on persons accused of crimes. Use of monetary sanctions in the criminal process is not new. In many European countries, restitution was the primary criminal penalty for centuries (Mullaney 1988). In the United States and its colonial territories, monetary sanctions became common with the arrival of European settlers (Merry 2000; Miethe and Lu 2005). In the northern states, monetary penalties were used mainly in minor criminal cases; serious crimes warranted physical punishments such as flogging (Miethe and Lu 2005). In some cases, fines were coupled with corporal penalties; individuals who could not afford to pay their fines were subjected to additional physical penalties or penal servitude (Miethe and Lu 2005). Monetary sanctions were also common in the southern states, where their imposition was the foundation of the convict lease system that lasted from emancipation through the 1940s (Adamson 1983; Blackmon 2008; Oshinsky 1996; Perkinson 2008).

In recent decades, policymakers at the federal, state, county, and city levels have authorized judges to impose a growing number of monetary sanctions on people who are convicted—and sometimes just accused<sup>1</sup>—of crimes (Anderson 2009; Levingston 2008; McLean and Thompson 2007; Rosenthal and Weissman 2007). Some of these newly authorized monetary sanctions are mandatory, but many are not, and most legislatures did not create guidelines to structure their imposition.<sup>2</sup> In Washington State, for example, only two fees are mandatory: a \$500 Victim Penalty Assessment and a \$100 fee to cover the cost of including a first-time defendant's DNA in a statewide banking system.<sup>3</sup> Although some fees and fines may be imposed only on certain groups of offenders, judges retain discretion in deciding whether to impose them. For example, some fines may be assessed only on defendants who go to trial, but judges need not assess the trial fee in all such cases. A host of other fines

(some of which are for specific offenses, such as drug offense or domestic violence) and fees (e.g., for the cost of a bench warrant, a court appointed attorney, or a jury trial) may be imposed at the discretion of the sentencing judge (Beckett, Harris, and Evans 2008). Similarly, in New York State, judges may choose to impose 19 statutorily authorized fees (Rosenthal and Weissman 2007). Widespread adoption of monetary sanctions in U.S. state and federal courts represents a significant enhancement of judicial discretionary power.

Administration of these sanctions in the United States bears little resemblance to the use of fines in many European countries, for two reasons. First, in many European countries, fines serve as an alternative rather than a supplement to incarceration (Bureau of Justice Assistance 1996; Hillsman and Greene 1992; O'Malley 2009; Tonry 1998; Tonry and Lynch 1996). Second, fines are based on two ideas in Europe: fines should correspond to the seriousness of the offense, and fines should have a similar impact on people with different incomes (Bureau of Justice Assistance 1996; Hillsman and Greene 1992). To achieve these ends, fines are determined by only two factors: offense seriousness and offenders' (actual) daily income (hence the term "day-fine"). The imposition of day-fines by European judges is highly constrained and predicated on the collection of information regarding offenders' actual (rather than hypothetical) earnings. By contrast, monetary sanctions imposed in the United States are highly discretionary and may be shaped by factors other than offense seriousness; fines are also supplements to other criminal justice sanctions. Moreover, we are unaware of any statutory requirement that fee and fine assessment be based on offenders' earnings.

Recent research suggests that U.S. state and federal courts are increasingly imposing supplementary monetary sanctions. Indeed, two-thirds (66 percent) of prison inmates surveyed in 2004 had been assessed monetary

sanctions by the courts, a dramatic increase from 25 percent in 1991 (U.S. Department of Justice n.d.). Misdemeanants and felons not sentenced to prison were even more likely than felons sentenced to prison to receive monetary sanctions. Specifically, courts ordered 84.2 percent of felons sentenced to probation to pay fees or fines in 1995; 39.7 percent were also required to pay restitution to victims. Similarly, 85 percent of misdemeanants sentenced to probation were assessed fees, fines, or court costs; 17.6 percent were also assessed restitution (Harris et al. 2010). As a result of the increased use and proliferation of monetary sanctions, millions of poor residents of the United States now possess legal debt.

This legal debt is often substantial. Analysis of Washington State Superior Court data, which include all cases sentenced in the first two months of 2004, indicates that the median dollar value of the LFO assessed per felony conviction was \$1,110; the mean LFO assessment was \$1,398. These figures are clearly an underestimate: they capture the fiscal cost of only a single conviction, omit other sources of legal debt, and do not show how legal debt accumulates over the life course of persons with criminal histories. Toward these ends, we calculated total LFO amounts imposed on 500 randomly selected defendants included in our sample by juvenile, district, and superior courts over the life course. On average, these 500 individuals were assessed \$11,471 by these courts by 2008 (Harris et al. 2010). Even this much higher figure very likely underestimates the magnitude of legal debt because it does not include fees assessed by other criminal justice agencies such as departments of corrections.

Because legal debt is typically substantial relative to expected earnings and is often subject to interest, it tends to grow over time, even if legal debtors make regular payments toward their financial obligations. Washington State felons who make payments of \$100 a month (i.e., 11, 12, and 15 percent

of expected monthly earnings for formerly incarcerated white, Hispanic, and black men, respectively) toward a typical (median) legal debt will still possess legal debt 10 years later due to the accumulation of interest (Harris et al. 2010). Felons who consistently pay \$50 a month will still possess legal debt after 30 years of regular monthly payments (ibid). Interviews with 50 debtors from four Washington State counties indicate that legal debt has a variety of adverse consequences, including lost income, diminished occupational opportunities, depressed credit ratings, and heightened housing instability (ibid). Rates of payment are low, but non-payment also has negative consequences for debtors, including lost income (through garnishment), worsened credit ratings, prolonged court supervision, and issuance of an arrest warrant, which can trigger loss of social security benefits and even incarceration (ibid).

In short, legal debt carries a variety of costs; it is also an especially injurious type of debt. Unlike consumer debt, legal debt is not offset by acquisition of goods or property, it is not subject to relief through bankruptcy proceedings, and it may trigger an arrest warrant, an arrest, or incarceration. Monetary sanctions are thus another mechanism by which criminal justice expansion fuels inequality.

## PUNISHMENT AS A SOCIAL AND MORAL ACT

Socio-cultural perspectives on punishment suggest that official sanctions for criminal wrong-doing are never solely about crime control but are inherently expressive and symbolic. Indeed, theorists ranging from Durkheim (1984) to Mead (1918) to Garfinkel (1956) to Goffman (1956) emphasize the emotional and morally expressive dimension of penal rituals and the role of emotions in the judgment, condemnation, and punishment of criminal offenders. Durkheim (1984:52), for instance, emphasized

that punishment is far more than an administrative response to a particular instance of law-breaking: "punishment constitutes essentially a reaction of passionate feeling, graduated in intensity." Durkheim called the normative order that gives direction to these passionate feelings the *conscience collective*. Although many critics persuasively argue that Durkheim overstates the extent to which the conscience collective and penal norms and practices reflect widely shared and spontaneously held beliefs (see Garland 1990; Lukes and Scull 1983), his insights regarding the expressive and symbolic dimensions of punishment constitute the foundation upon which many other theorists build. For example, Mead (1918:583) also highlights the emotional nature of criminal punishment, arguing that the condemnation and punishment of criminal offenders provides an opportunity to express sublimated and destructive hostilities. For Mead, it is the release of this "righteous indignation" that reinforces in-group identity and generates punishment's characteristic heat and intensity (see also Garland 1990).

Analysts of courtroom rituals also emphasize punishment's symbolic content and emotional nature. Hay's (1975) classic account of eighteenth-century English court proceedings shows how these rituals foreground the heinousness of the criminal act while simultaneously celebrating the power of religion, the importance of local hierarchies, and the majesty of the law. Similarly, Garfinkel (1956:420–24) interprets courtroom proceedings as a "degradation ceremony" in which "moral indignation serves to effect the ritual destruction of the person denounced." Other ethnographic studies provide empirical support for this perspective, showing that court actors allocate blame based on offenders' perceived moral character (Bridges and Steen 1998; Emerson 1969; Frohmann 1991, 1997; Harris 2008).

From the socio-cultural perspective, punishment is driven by moral outrage; passion and indignation provide motivation for its

rituals and execution. This insight may help explain why recent legislative attempts to constrain judicial discretion in confinement sentencing have been only partially successful and why they have been accompanied by expansion of judges' discretionary authority to impose supplementary monetary sanctions.

### *The Socio-Cultural Theory of Punishment and the Limits of Sentencing Reform*

Since the late 1970s, at least 21 states (including Washington State, from which our data are drawn), the District of Columbia, and the federal system have enacted sentencing guidelines in an attempt to curb judicial discretion and reduce racial and other disparities in confinement sentencing outcomes (Frase 2005; Tonry 1996, 1998).<sup>4</sup> Research indicates, however, that the guidelines have failed to create what Weber (1968:657) calls a "gapless" system of rules. Substantive rationality persists even where guidelines have been adopted, for several reasons. First, determinant sentencing guidelines still allow for exercise of judicial discretion in certain cases. Second, guidelines require judges to impose confinement sentences that fall within a certain range, but variation within this range may be substantial. In Washington State, for example, judges may impose anywhere from 0 to 12 months of jail time for some nonviolent drug offenses. Third, the adoption of sentencing guidelines shifts discretionary power from judges to prosecutors (Engen and Steen 2000; Harris 2007; Miethe 1987; Tonry 1996). Finally, the guidelines themselves have been the subject of intense political negotiation, in part because determinations of offense seriousness and the relevance of offenders' criminal histories are inherently social and political judgments (Savelsberg 1992).

The socio-cultural perspective also helps to explain why efforts to eliminate

substantive rationality from the courts have been only partially successful, and why they have been accompanied by the expansion of judicial discretion in imposition of monetary sanctions. As Garland (1990) argues, the trend toward formalization and rationalization is nowhere complete, least of all in the courtroom, where the recent embrace of formal rationality coexists uneasily with the expressive and moral dimension of criminal punishment. Indeed, the decline of public displays of penal power means that expression of moral outrage and emotion central to penal rituals is increasingly confined to the courtroom (Garland 1990). From the socio-cultural perspective, efforts to formalize criminal sentencing can be only partially successful because discretion persists in the cracks and crevices of an otherwise formally rational system and punishment has an inherently expressive and moral dimension, the expression of which demands discretionary power.

Indeed, although enactment of sentencing guidelines did reduce the impact of non-legal variables on sentencing outcomes (Moore and Miethe 1986; Nagel and Schulhofer 1992), many studies find that defendant's race or ethnicity continue to influence confinement sentencing outcomes, even where guidelines have been adopted (Albonetti 1997; Bontrager, Bales, and Chiricos 2005; Engen et al. 2003; Johnson 2006; Kramer and Steffensmeier 1993; Spohn and Holleran 2000; Steffensmeier and Demuth 2000, 2001; Ulmer and Kramer 1996; Wooldredge and Thistlewaite 2004). For example, judges are more likely to depart from sentencing guidelines and impose harsher penalties when a defendant is African American or Latino (and when a defendant opts for a trial); judges are also less likely to select the lower incarceration length identified in the guidelines when a defendant is black or Latino (Engen and Gainey 2000; Engen, Gainey et al. 2003; Johnson 2005; Johnson, Ulmer, and

Kramer 2008; Steffensmeier and Demuth 2001).<sup>5</sup> In some cases, race is more salient than ethnicity; in other cases, the opposite is true.

In short, adoption of sentencing guidelines moderated but did not eliminate the effect of extra-legal factors on custodial sentencing outcomes. Courts' largely discretionary imposition of monetary sanctions provides an additional and a largely unfettered opportunity for the exercise of discretionary power. The following sections identify factors we expect will shape its expression.

### *Violence, Drugs, and the Socio-Cultural Perspective on Punishment*

Our socio-cultural theory of punishment highlights the role of emotions—especially anger, fear, and disgust—in the judgment, condemnation, and punishment of offenders. Evidence shows that particular types of criminal offenses trigger especially strong versions of negative emotions associated with punitiveness. Not surprisingly, violent crime is most strongly linked to fear (Liska, Lawrence, and Sanchirico 1982; Warr 2000). The finding suggests that violent offenders may be more severely punished than nonviolent offenders, even after controlling for offense seriousness. Evidence also shows that drug offenders trigger high levels of disgust. For example, experimental research indicates that drug addicts are seen as incompetent and unsympathetic, a pattern associated with disgust (Harris and Fiske 2006). As Miller (1997) notes, disgust figures prominently in moral discourse; indeed, moral judgment is often conveyed through the idiom of disgust. Because fear and disgust are centrally related to punitiveness, our first hypothesis predicts that violent and drug offenders will be sanctioned more severely than other (mainly property) offenders.

*Race, Ethnicity, and the Socio-Cultural Perspective on Punishment*

Research suggests that race and ethnicity are strongly linked to emotions that underlie the impulse to punish. Studies find that racial antipathy and resentment persist among whites despite widespread acceptance of abstract principles of racial equality. In this literature, symbolic racism is thought to “stem from a blend of anti-Black affect and traditional values. . . . Anti-Black affect is a spontaneous and often unacknowledged negative emotion that reflects fear, anger, distaste, or simple dislike” (Green, Staerkle, and Sears 2006:438; see also Sears 1988). This antipathy stems in part from the perception that blacks violate traditional American values such as self-reliance, the work ethic, and respect for authority (Feldman and Huddy 2005; Green et al. 2006). Similarly, hostility to Latino immigrants stems in large part from the belief that they are comparatively crime-prone and a drain on non-immigrant taxpayers (Chavez 2008).

By contrast, some researchers highlight racism’s cognitive dimensions and unconscious impact on perceptual processes (see Correll, Benard, and Paik 2007; Eberhardt and Goff 2005; Eberhardt et al. 2004; Pager and Karafin 2009; Schram et al. 2009; Soss, Fording, and Schram 2008). From this perspective (sometimes referred to as the Racial Classification Model or RCM), race may affect decision-making even in the absence of racial animus or antipathy (Schram et al. 2009; Soss et al. 2008). Indeed, some scholars refer to the unconscious impact of race on perception as implicit bias, to differentiate it from conscious racial animus (Quillian 2008; Sampson and Raudenbush 2004).

We agree that cognition plays a key role in decision-making processes, and that bias may be unconscious, but it is also clear that perception often triggers particular emotions that are central to punishment. Research on fear of crime, for example, consistently

indicates that perceived risk of victimization is the proximate cause of fear (Warr 2000). Similarly, the perception that blacks and Latinos are more violent than whites appears to explain why a neighborhood’s racial composition influences residents’ perceptions of dangerousness and levels of fear (Chiricos, McEntine, and Gertz 2001; Quillian and Pager 2001). Cognition, perception, and emotion are thus highly interrelated. In the context of sanctioning, we argue that decision-making is primarily affected by emotional reactions to defendants with particular characteristics. It seems likely that blacks and Latinos accused of committing criminal offenses will be especially likely to trigger the negative emotions that underlie the impulse to punish. Our second hypothesis therefore predicts that defendants’ race and ethnicity will shape the exercise of judicial discretion in imposition of monetary sanctions, with black and Latino defendants receiving more severe penalties than similarly situated white defendants.

This hypothesis suggests that blacks and Latinos will receive similar treatment in the courts. However, some studies find that race is more salient than ethnicity, while others, especially more recent studies, find the opposite (Demuth 2003; Mann and Zatz 1998; Schlesinger 2005; Steffensmeier and Demuth 2000, 2001). A prior study of Washington State court outcomes suggests that Latinos, but not blacks, receive significantly longer confinement sentences than do whites (Engen and Gainey 2000). Given this finding, as well as statewide controversy surrounding the rapidly increasing immigration from Latin America and the comparatively small and stable size of the black population in Washington State, we suspect that the presence of Latinos in a jurisdiction and a courtroom may have an especially pronounced effect on judicial decision-making.<sup>6</sup>

Racial threat literature helps to explain how the demographic context in which decisions about punishment are made might also affect penal outcomes. The literature



highlights a connection between emotions and the racial/ethnic composition of the population in which sentencing occurs. Studies explore the effect of minority population size on criminal justice outcomes; disparities are believed to reflect (white) fear or anxiety triggered by an increasing or comparatively large minority population (see Blalock 1967; Blumer 1958; King 2007; Liska et al. 1982; Spohn and Holleran 2002; Steffensmeier and Demuth 2001). Many studies find that a population's racial composition is a significant predictor of enhanced penalty (see, e.g., Beckett and Western 2001; Bridges and Crutchfield 1988; Bridges, Crutchfield, and Simpson 1987; Mosher 2001; Spohn and Holleran 2002; Steffensmeier and Demuth 2001; for negative findings see Britt 2000; Myers and Talarico 1986). In short, a population's racial and ethnic composition often influences criminal justice outcomes, presumably because the presence of blacks and Latinos triggers fear in many residents. For this reason, our third hypothesis predicts that judges in jurisdictions with comparatively large black or Latino populations will impose harsher penalties than judges in jurisdictions with comparatively small black or Latino populations. Our fourth hypothesis predicts that these effects will be larger for black and Latino defendants sentenced in jurisdictions with comparatively large black and Latino populations than for non-black and non-Latino defendants in jurisdictions with the same population characteristics.

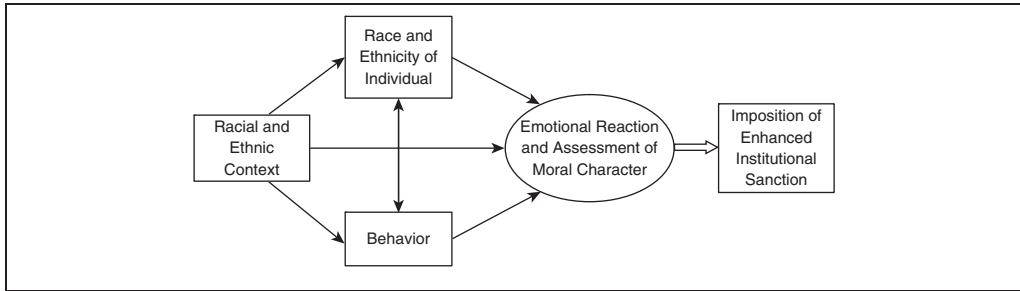
### *Racialization of Crime and Criminalization of Race*

We have argued that punishment is an inherently moral and expressive act, and that blackness, brownness, violence, and drugs are emotionally and morally laden topics. We therefore expect defendants who are associated with these qualities to be sanctioned more severely than defendants who are not. Yet matters are more complicated

than this. Popular and political discourse around violence, drugs, and race are not separate but mutually constitutive; contemporary debates about race take place in the context of, and partially through, political discussions of crime, drugs, and punishment (Beckett 1997; Bobo and Johnson 2004; Edsall and Edsall 1991). As noted previously, studies indicate that crime is racially and ethnically coded and that the presence of blacks increases fear and perceptions of danger. The relationship between race and crime is bi-directional: blacks and Latinos are associated with crime, and crime is associated with blackness and brownness (Chiricos and Eschholz 2002; Devine and Elliot 1995; Eberhardt et al. 2004; Sampson and Raudenbush 2004). The association between blacks and violence is particularly long-standing.

Discussions and images of drug problems in the United States are also intimately connected to discussions of race and ethnicity (Beckett 1997; Reinerman and Levine 1997). Many studies of media representations of crack cocaine in the 1980s and 1990s, for instance, suggest that these images were highly racialized (Beckett and Sasson 1998; Reeves and Campbell 1994; Reinerman and Levine 1997). In recent years, media attention has shifted to other drugs, especially methamphetamine, and the popular representation of methamphetamine as a white drug has given way to an emphasis on the role of Latinos, particularly Mexican nationals and immigrants, in its distribution. In Washington State, officials emphasize that narcotics are often manufactured or cultivated in Mexico and then imported via Mexican drug organizations (U.S. DEA 2009; see also Eitle and Taylor 2008). In this context, Latino men are commonly associated with the illegal drug trade in the popular press (Chavez 2008; Delgado and Stefancic 1998; Hurwitz and Pefley 1997).

In short, racialized crime scripts are to some extent offense-specific. Recent studies indicate that defendants who conform to



**Figure 1.** Theoretical Diagram of the Socio-Cultural Theory of Punishment: Factors that Influence Institutional Sanctioning

such scripts receive more severe sanctions. Experimental studies, for example, suggest that black and white defendants receive harsher penalties when they are convicted of stereotype-congruent offenses (Jones and Kaplan 2003). Similarly, Schlesinger (2005) finds that black defendants charged with violent offenses, and Latinos charged with drug offenses, are more likely to receive pre-trial incarceration than either white defendants or black or Latino defendants charged with less stereotypically-linked crimes (see also Steen, Engen, and Gainey 2005). These findings, which suggest that stereotype congruence activates certain crime scripts and associated emotional responses, are the basis of our fifth hypothesis: black defendants charged with violent crimes, and Latino defendants charged with drug offenses, will receive more severe penalties than white defendants charged with these offenses or black and Latino defendants charged with other offenses.

The literatures discussed thus far highlight the need to conceive of race and ethnicity as historically-specific cultural categories, the meaning of which varies over time and across space. They also suggest that behaviors and places, not just people, may be racially and ethnically coded. That is, the association of a stigmatized minority group with a particular place or behavior may mean that white people who commit racially stigmatized offenses in places associated with stigmatized minority groups may

experience courtesy stigma (Goffman 1963) that results from racialization. Given the contemporary association between blackness and violence, and brownness and drugs, our sixth hypothesis predicts that defendants of all races and ethnicities convicted of violent crimes in counties with relatively large black populations will receive more severe penalties than will violent offenders sentenced in counties with small black populations. Similarly, defendants of all races and ethnicities convicted of drug offenses in counties with relatively large Latino populations will receive more severe penalties than will drug offenders sentenced in counties with small Latino populations. Figure 1 depicts the theoretical model from which we derive these six hypotheses.

### *Alternatives to the Socio-Cultural Perspective*

The socio-cultural theory of punishment contrasts with two alternative perspectives. First, formal rationality in sentencing is the ideal to which many legislatures subscribe and that motivates adoption of sentencing guidelines. In a formally rational system, only legal variables such as offender history and offense seriousness affect sentencing outcomes; extra-legal factors such as race and ethnicity do not. If judges consider only legally relevant factors (i.e., offense seriousness and offender history), and the extra-legal factors and interactions among them emphasized in

our hypotheses do not influence penal outcomes, we would conclude that judicial decision-making in Washington State conforms to the ideal of formal rationality, and we would reject the socio-cultural theory.

Our socio-cultural perspective can also be contrasted with an organizational efficiency model that emphasizes the institutional need for an orderly sentencing system and the importance of the economic sustenance of the institution itself (Dixon 1995; Engen and Steen 2000). In studies of confinement sentencing, researchers interpret evidence that defendants convicted at trial receive longer prison sentences than defendants who plead guilty as evidence of an organizational need to encourage efficiency. According to this interpretation, defendants who exercise their right to a trial consume significant court resources and imperil efficient operation of the courts; they therefore receive a "trial penalty" at sentencing. By contrast, defendants who plead are rewarded with shorter confinement sentences. If applied to monetary sanctions, the organizational efficiency perspective would predict that financial penalties are assessed primarily to recoup criminal justice expenditures; counties that spend a relatively large percentage of their budgets on criminal justice would therefore impose comparatively large monetary sanctions.

## METHODS, DATA, AND ESTIMATION

This study presents multilevel analysis of conviction-level data gathered from Washington State Superior Courts and county-level data drawn from the U.S. Census Bureau and other government sources. The sample includes 3,366 Superior Court convictions sentenced in Washington State during the first two months of 2004. We supplement case-level data with criminal history data obtained through the Justice Information System (JIS) and maintained by the

Washington State Administrative Office of the Courts (AOC). The sample contains 3,256 cases without missing data on the variables analyzed.

### *Diagnostics and Model Specification*

Exploratory data analysis using Ordinary Least Squares (OLS) techniques on the pooled conviction data showed systematic variation in monetary sanctions across counties. This suggests that the data are structured in nested groups and lend themselves to multilevel analysis. A two-level hierarchical linear model (HLM) nests cases (i.e., convictions) within groups (i.e., counties) to statistically isolate the impact of offense and offender characteristics from the effects of county-level factors. As a result, this methodology allows us to identify legal and extra-legal variables that influence monetary outcomes regardless of characteristics of the county in which a conviction occurred. HLM also enables us to identify county characteristics that are significantly related to variation in monetary sanctions by accounting for error structure at the conviction (Level 1) and county (Level 2) levels. This method helps correct downward biased estimates of standard errors due to nesting (Raudenbush and Bryk 2002) and allows us to model cross-level interactions specified in our hypotheses.<sup>7</sup>

Diagnostics helped shape the models. Partial plots suggested that one county, King County, served as a potential outlier on a number of dimensions. We keep this county in the model for statistical and substantive reasons. Statistical tests indicate that King County, although an outlier, does not have considerable leverage, suggesting little overall influence on our results. Substantively, King County is the largest metropolitan area in Washington State and has considerable political and economic influence; excluding King County from an

analysis of Washington's justice system would be misleading. Because our model contains varying group (county) sizes (ranging from 2 to 536 cases), we conducted a sensitivity analysis by omitting each county in turn, comparing point estimate direction and significance for each variable afterward. Results indicate that no single county unduly influences the results.<sup>8</sup> We also conducted tests for heteroskedasticity and multicollinearity that guided our model selection and prompted variable transformations.

### *Variables and Measurement*

*Dependent variable: fines and fees.* Legal Financial Obligations (LFOs) include fines and fees (a single category in court records), restitution, and other monetary charges associated with arrest, court proceedings, and incarceration. Our analysis focuses on fines and fees imposed by judges at the time of sentencing. We exclude restitution from the analysis because it is driven by case-specific factors such as property replacement and victims' medical costs (Ellsworth and Weisheit 1997; Olson and Ramker 2001; Ruback, Shaffer, and Logue 2004), a source of variation for which we cannot control. In Washington State, the minimum LFO is \$500; any amount above \$500 is determined at the discretion of the presiding judge. In our sample, the maximum amount assessed was \$11,960. The variable *fines and fees* is heavily skewed to the right; fines and fees is logged in the regression analysis, further normalizing its distribution and readily lending itself to interpretation.

*Case- and conviction-level data.* We include several case-level variables in the analysis. Legal case-level factors include the Sentencing Reform Act (SRA) score, offender score, type of offense, adjudication method, and length of confinement. SRA seriousness level and offender score were established by the Washington State Sentencing Reform Act of 1981, and judges use them

to determine individuals' length of incarceration from a determinate sentencing grid.<sup>9</sup> SRA seriousness level is a numerical measure of the seriousness of the offense charge, ranging from a low of 1 to a high of 16.<sup>10</sup> Offender score is also derived from a statute-based formula that reflects the number and seriousness of defendants' previous juvenile and criminal convictions. Offender scores in our sample range from 0 to 9. We dropped all cases in which defendants did not have a legally determined offender score.<sup>11</sup> We tested confinement length, but due to multicollinearity, we do not include it in the final analysis.<sup>12</sup> Type of offense is incorporated as three dummy variables: violent offense, drug offense, and other offense.<sup>13</sup> Trial (i.e., adjudication method) is also a dummy variable indicating whether individuals pled guilty or opted to have their case taken to trial.<sup>14</sup> We also include non-legal factors, including age, gender, and race/ethnicity of the defendant associated with each conviction. Age is a continuous, logged variable in the analysis. Because court records indicate that 14 individuals in the sample were 105 years of age, we dropped these cases. After these adjustments, the sample contains 3,256 cases without missing data on the variables analyzed.

Using the U.S. Census as our guide, we use the term *race* to refer to officially designated racial categories (i.e., American Indian or Alaska Native, Asian, Black or African American, Native Hawaiian or other Pacific Islander, and White), and the term *ethnicity* to refer to subgroups within racial categories (e.g., Hispanic or Latino and Not Hispanic or Latino).<sup>15</sup> We construct race as a set of dummy variables including white, black or African American, Asian, Native American, and other. We use Hispanic Surname Analysis to estimate the proportion of white, black, and other defendants who are Latino. Using the U.S. Census Spanish Surname database, this program assigns a numeric value between 0 and 1 to all surnames in the database. These numeric values are provided by

the U.S. Census Department and represent the probability that a given surname corresponds to persons who identified themselves as Hispanic or Latino in the 1990 U.S. Census (Perkins 1993; Word and Perkins 1996). The list used to identify defendants of Hispanic origin in the Washington State Sentencing Guidelines Commission (WSSGC) data includes only Spanish surnames that the Census Bureau classifies as “Heavily Hispanic.”<sup>16</sup>

*County-level variables.* Previous research identifies contextual factors that may shape sentencing outcomes. We analyzed a variety of contextual factors to test other theoretical frameworks and to refine our own. Key demographic factors include percent of a county population that is minority (i.e., neither white nor Asian<sup>17</sup>), percent black, and percent Latino. In addition, we include county violent crime rate, property crime rate, drug arrest rate, and percent of the county budget spent on law and justice. Because research shows that political context influences incarceration rates (Beckett 1997; Jacobs and Carmichael 2001), we also include political orientation measured by percent of a county that voted Republican in the 2000 presidential election. (See Table A1 in the Appendix for each county-level independent variable). We tested logged population size, poverty rate, percent change in the Latino population, and presence/absence of a public defender system in the county. However, because none of these factors significantly improved the model, we do not present the results here. We used AIC (Akaike 1974), BIC, and other goodness-of-fit measures to guide our final model selection.

*Estimation.* Using the statistical software Stata 10, we estimated multilevel, mixed effects models using restricted maximum likelihood estimation (REML) to produce unbiased estimates. Because the dependent variable is logged, regression coefficients are interpreted as a percent change in Y for

a unit increase in X. In this analysis, we present three different sets of models. The first model is a random intercept model that includes all racial and all offense categories; contextual factors included are percent minority, percent who voted Republican, and percent of the budget spent on law and justice. The formal description of the model is written as the following:

$$\begin{aligned} \text{Set 1: } \text{Logfine} = & \alpha_{j[i]} + \beta_1(\text{SRA}) \\ & + \beta_2(\text{Offender Score}) + \beta_3(\text{LnAge}) \\ & + \beta_4(\text{Male}) + \beta_5(\text{Latino}) + \beta_6(\text{Black}) \\ & + \beta_7(\text{Asian}) + \beta_8(\text{Native American}) \\ & + \beta_9(\text{Other Ethnicity}) + \beta_{10}(\text{Drug Offense}) \\ & + \beta_{11}(\text{Other Offense}) + \beta_{12}(\text{Trial}) \quad \alpha_j \sim N(\alpha_j \\ & + \gamma_1(\% \text{ Minority}) + \gamma_2(\% \text{ Vote Republican}) \\ & + \gamma_3(\% \text{ Law \& Justice}), \sigma^2) \end{aligned}$$

where *Logfine* is fees and fines in logged dollar amounts, *SRA* is offense seriousness level, *Offender Score* is the score based on the number and seriousness of past offenses, *LnAge* is logged age, *Male* is a dummy equal to 1 for male, *Latino* is a dummy equal to 1 for Latino offenders, *Black* is a dummy equal to 1 for black or African American offenders, *Asian* is a dummy equal to 1 for Asian American offenders, *Native American* is a dummy equal to 1 for Native American offenders, *Other Ethnicity* is a dummy equal to 1 for all other racial/ethnic identified offenders, *Drug Offense* is a dummy equal to 1 for drug offenses, *Other Offense* is a dummy equal to 1 for nondrug offenses, *Trial* is a dummy equal to 1 for cases adjudicated via a judicial or jury trial, *% Minority* is non-white percentage of the population in the county, *% Vote Republican* is percentage of people in the county voting Republican in the 2000 presidential election, and *% Law & Justice* is percent of the county budget spent on law and justice.

The second and third sets of models include cross-level interactions. We construct interactions as the product of the two variables specified. Each interaction is tested separately (i.e., there is never more than

one interaction in a model). We ran these models with unstructured covariances to accommodate the additional random effects and to test our hypotheses regarding fine and fee assessment for blacks and violent offenders and Latinos and drug offenders, respectively. To fully test our theoretical framework, variables in the model remained uncentered.<sup>18</sup> In the second set of models, we include percent black and violent crime rate. In the third set, we include percent Latino and drug arrest rate. The formal description of these models, including an example interaction term, can be written as the following:

$$\begin{aligned} \text{Set2: Logfine} &= \alpha_{j[i]} + \beta_1(\text{SRA}) \\ &+ \beta_2(\text{Offender Score}) + \beta_3(\text{LnAge}) \\ &+ \beta_4(\text{Male}) + \beta_5(\text{Black}) \\ &+ \beta_6(\text{Violent Offense}) + \beta_7(\text{Trial}) \alpha_j \sim N(\alpha_j) \\ &+ \gamma_1(\% \text{ Black}) + \gamma_2(\% \text{ Vote Republican}) \\ &+ \gamma_3(\text{Violent Crime Rate}) \\ &+ \gamma_4(\% \text{ Black} * \text{Black}), \sigma^2 \end{aligned}$$

$$\begin{aligned} \text{Set3: Logfine} &= \alpha_{j[i]} + \beta_1(\text{SRA}) \\ &+ \beta_2(\text{Offender Score}) + \beta_3(\text{LnAge}) \\ &+ \beta_4(\text{Male}) + \beta_5(\text{Latino}) \\ &+ \beta_6(\text{Drug Offense}) + \beta_7(\text{Trial}) \alpha_j \sim N(\alpha_j) \\ &+ \gamma_1(\% \text{ Latino}) + \gamma_2(\% \text{ Vote Republican}) \\ &+ \gamma_3(\text{Drug Arrest Rate}) \\ &+ \gamma_4(\% \text{ Latino} * \text{Drug Offense}), \sigma^2 \end{aligned}$$

## RESULTS

We begin by presenting descriptive statistics. Table 1 shows means, medians, standard deviations, and minimum and maximum values for all variables. In Washington State, felony conviction results in a mandatory \$500 minimum charge. Fines and fees beyond \$500 are assessed at the discretion of the court. In our sample of 3,256 convictions, 10 percent were assessed the minimum; the mean amount assessed was \$1,398, the median was \$1,110, and the maximum fee and fine amount assessed was \$11,960. On a scale from 1

to 16, the mean SRA offense seriousness score is 2.9 and the mean offender score is 2.5. Average age of persons sentenced is 32 years. The majority of the sample is male (81 percent) and white (68 percent). The average sentence length was 13.5 months and the maximum was 814 months.

Table 2 shows descriptive statistics for the outcome and key independent variables by racial and ethnic categories. A larger share of black offenders were convicted of violent offenses (15 percent) than were Latinos (13 percent) or whites (8 percent); black defendants also had higher average SRA scores (3.3) than Latinos (3.2) or whites (2.8). Black offenders had the highest mean offender score (3.2) compared with Latinos (1.6) and whites (2.6). Black offenders in the sample tended to be older (33.7 years) than whites (32.6) and Latinos (29.4). Black offenders had the longest average confinement sentence length (19.4 months) compared with whites (13.1 months) and Latinos (11.8 months). Nonetheless, Latinos had the highest average assessment of fines and fees (\$1,666), followed by whites (\$1,458), and then blacks (\$978). These descriptive data provide preliminary evidence that offense seriousness is not the main driver of monetary sanctioning.

Before describing the results of our regression analyses, we reiterate our hypotheses:

*Hypothesis 1:* Drug offenders and violent offenders will receive more severe financial penalties than will other (mainly property) offenders.

*Hypothesis 2:* Latino and black defendants will receive more severe financial penalties than will their white counterparts.

*Hypothesis 3:* Judges in jurisdictions with larger black or Latino populations will impose more severe monetary penalties than will judges in jurisdictions with comparatively small black or Latino populations.

*Hypothesis 4:* The effect of the size of the black or Latino population will be greater for black and Latino defendants sentenced

**Table 1.** Description of Variables and Summary Statistics

	Mean	Median	SD	Min.	Max.	Obs.
Dependent Variable: Fines and Fees	\$1,398	\$1,110	\$984	\$500	\$11,960	3,256
Level 1: Case Covariates						
SRA Score	2.91	2	2.38	1	15	3,256
Offender Score	2.50	2	2.73	0	9	3,256
Age	32.36	31	9.84	17	72	3,256
Male	.81		.40	0	1	3,256
Black	.13		.33	0	1	3,256
White	.68		.46	0	1	3,256
Latino	.10		.30	0	1	3,256
Asian	.02		.15	0	1	3,256
Native American	.02		.15	0	1	3,256
Other	.04		.19	0	1	3,256
Trial	.03		.16	0	1	3,256
Drug Offense	.34		.47	0	1	3,256
Violent Offense	.09		.29	0	1	3,256
Other Offense	.57		.49	0	1	3,256
Superior Court Priors	1.74	1	2.82	0	40	3,256
Other Court Priors	6.19	3	7.91	0	75	3,255
Months Sentenced	13.55	5	30.79	0	814	3,256
Level 2: County Covariates						
Population 2004	159,155	57,238	315,354.2	2,313	1,777,746	39
Percent Minority <sup>a</sup>	16.32	11.30	12.63	3.6	51.6	39
Percent Latino	10.89	5.80	12.44	2.1	50.9	39
Percent Black	1.27	.70	1.45	0	7.1	39
Percent Poverty	13.18	13.00	2.76	8.3	18.8	39
Political Orientation <sup>b</sup>	54.44	54.86	10.46	34.39	73.89	39
Violent Crime Rate <sup>c</sup>	2.39	2.43	1.09	.46	5.41	39
Property Crime Rate <sup>c</sup>	39.62	36.79	15.38	5.18	67.24	39
Drug Arrest Rate <sup>c</sup>	3.28	3.19	1.82	0	7.2	39
Percent Budget on Law and Justice <sup>d</sup>	24.69	24.70	5.91	10.73	37.33	39
Percent Change in Latino Population <sup>e</sup>	99.98	98.33	58.35	-50.7	212.40	39

<sup>a</sup>Measure includes the percentage of non-white and non-Asian inhabitants in 2005.

<sup>b</sup>Percent of county who voted Republican in 2000 presidential election.

<sup>c</sup>Rate = number of incidents per 1,000 people in 2004.

<sup>d</sup>Percent of county's budget spent on law and justice in 2003.

<sup>e</sup>Percent change in Latino population from 1990 to 2000.

in counties with relatively large black or Latino populations.

*Hypothesis 5:* Black defendants charged with violent crimes, and Latino defendants charged with drug offenses, will receive more severe monetary penalties than will black and Latino defendants charged with less stereotype-congruent offenses.

*Hypothesis 6:* All defendants convicted of violent offenses in counties with larger black populations, and all defendants convicted of drug offenses in counties with larger Latino populations, will receive more

severe monetary penalties than will their counterparts in counties with smaller black or Latino populations.

### Case- and County-Level Factors

Several case-level factors influence imposition of monetary sanctions. As Hypothesis 1 predicts, offense type significantly affects assessment of monetary sanctions (see Table 3). Drug offenders are assessed substantially (34 percent) greater fines and fees than are

**Table 2.** Descriptive Statistics, Comparing Racial and Ethnic Groups

	Blacks	Latinos	Whites	All
Dependent Variable				
Fines and Fees	\$978 (699)	\$1,666 (1,008)	\$1,458 (1,030)	\$1,399 (984)
Key Covariates				
Age	33.70 (10.33)	29.35 (8.88)	32.63 (9.76)	32.36 (9.84)
Males	.86 (.35)	.89 (.32)	.79 (.41)	.81 (.40)
SRA Score	3.34 (2.48)	3.20 (2.48)	2.78 (2.33)	2.91 (2.38)
Offender Score	3.16 (2.86)	1.60 (2.07)	2.55 (2.77)	2.50 (2.73)
Drug Offense	.30 (.46)	.39 (.49)	.34 (.47)	.34 (.47)
Violent Offense	.15 (.36)	.13 (.33)	.08 (.27)	.09 (.29)
Other Offense	.55 (.49)	.49 (.50)	.58 (.49)	.57 (.49)
Superior Court Priors	1.94 (2.61)	1.16 (2.41)	1.78 (2.81)	1.74 (2.82)
Trial	.019 (.14)	.018 (.14)	.027 (.16)	.026 (.16)
Months Sentenced	19.47 (39.24)	11.82 (24.89)	13.15 (31.04)	13.55 (30.80)
N	417	327	2,231	3,256

Note: Data shown are means with standard errors in parentheses.

property offenders and violent offenders (31 percent). Contrary to our expectations, however, violent offenders do not receive significantly greater fines and fees than non-violent offenders after controlling for offense seriousness. The results provide partial support for Hypothesis 2. Latinos are assessed 6.7 percent greater fees and fines than similarly situated white defendants, although blacks do not receive harsher assessments than whites. In short, these results suggest that Latinos and drug offenders receive significantly more severe monetary penalties than do non-Latino and nondrug offenders. Consistent with prior findings on confinement sentencing outcomes, individuals convicted at trial are assessed 30 percent greater fines and fees, on average, than defendants who plead guilty, and men are assessed greater monetary sanctions than women.<sup>19</sup>

At the county level, Hypothesis 3 highlights the effect of county demographics on monetary sanctions. The initial test does not support Hypothesis 3, as the share of a county population that is comprised of people of color (i.e., black, Latino, or Native American) does not significantly predict the dollar value of monetary sanctions assessed by judges. We do find evidence, however, that more conservative counties impose greater monetary sanctions. The share of the budget devoted to the criminal justice system does not significantly predict LFO assessment. Our model explains roughly 22 percent of the variation at each level.

### *Cross-Level Interactions*

Hypotheses 4, 5, and 6 are more complex and predict that case-level characteristics will interact with contextual factors to enhance



**Table 3.** HLM Results of Fines and Fees Assessed

Fines and Fees (Logged)	
Case Level	
SRA Score	.011*** (.003)
Offender Score	.003 (.002)
Ln Age	.005 (.019)
Male	.036* (.015)
Black	-.019 (.019)
Latino	.067*** (.021)
Asian	-.039 (.040)
Native American	-.051 (.039)
Other	-.011 (.036)
Trial	.302*** (.038)
Drug Offense	.314*** (.024)
Other Offense	-.026 (.023)
Intercept	6.59 (.404)
County Level	
Percent Minority	-.003 (.005)
Percent Vote Republican	.013* (.006)
Percent Law and Justice	-.008 (.010)
Level-1 Variance	.117
Level-1 Explained Variation	.217
Level-2 Variance	.108
Level-2 Explained Variation	.226
Level-1 N	3,256
Level-2 N	39

Note: Data shown are hierarchical linear model (HLM) regression coefficients; standard errors are in parentheses. Reference categories: race = white; offense = violent.

\* $p < .05$ ; \*\*  $p < .01$ ; \*\*\*  $p < .001$  (two-tailed tests).

the effect of racialized scripts and stereotypes on sentencing outcomes. Because we think it is possible that race and ethnicity matter differently, the models compare blacks with

non-blacks and Latinos with non-Latinos. Table 4 presents results of four multilevel mixed effects models in which race is measured as black or non-black, and offense type is measured as violent or nonviolent. County-level factors include percent of the population that is black, percent voting Republican, and violent crime rate. Results from Model 1 indicate that SRA score, adjudication method (i.e., trial versus plea), and offense type are important predictors of fine and fee assessment. Contrary to our expectations, violent offenders are assessed roughly 11 percent lower fees and fines than their nonviolent counterparts, and black defendants do not receive significantly greater sanctions than non-blacks (the coefficient is negative but not significant). Without interactions, our model explains roughly 10 percent of the variation at the case level and 16 percent at the county level.

Results shown in Models 2 through 4 in Table 4 add important caveats to these findings. They provide additional evidence that there is no direct penalty for being black, and that size of the black population alone does not influence imposition of monetary sanctions. On the other hand, findings regarding all three hypothesized interactions are positive, and two of these are significant. Consistent with Hypothesis 4, assessment of monetary sanctions depends on size of the black population in the county in which a black defendant is convicted. Put differently, these findings indicate that the effect of race depends on size of the black population in a given county. A black defendant convicted in Garfield County, which has no black residents, would be assessed 11.8 percent less than a non-black defendant. By contrast, in Pierce County, where 7.1 percent of the population is black, a black defendant could expect to pay 3.1 percent more in fines and fees than a non-black defendant.<sup>20</sup>

The interaction between being black and being convicted of a violent crime is positive but not significant. Consistent with Hypothesis 6, however, monetary sanctions

**Table 4.** Blacks and Violence: HLM Results of Fines and Fees Assessed

Fines and Fees (logged)	Model 1	Model 2	Model 3	Model 4
<b>Case Level</b>				
SRA Score	.017*** (.003)	.017*** (.003)	.017*** (.003)	.017*** (.003)
Offender Score	-.004 (.002)	-.005 (.002)	-.004 (.002)	-.005 (.002)
Ln Age	.063** (.022)	.063** (.022)	.063** (.022)	.065** (.022)
Male	.014 (.017)	.014 (.017)	.014 (.017)	.015 (.017)
Black	-.014 (.020)	-.118* (.048)	-.022 (.022)	-.013 (.020)
Trial	.327*** (.042)	.326*** (.042)	.327*** (.042)	.328*** (.042)
Violent Offense	-.109*** (.025)	-.106*** (.025)	-.120*** (.027)	-.200*** (.039)
Intercept	6.54 (.397)	6.55 (.397)	6.54 (.397)	6.54 (.397)
<b>County Level</b>				
Percent Black	-.079 (.054)	-.081 (.054)	-.078 (.054)	-.080 (.054)
Percent Vote Republican	.007 (.006)	.007 (.006)	.007 (.006)	.007 (.006)
Violent Crime Rate	.052 (.068)	.053 (.068)	.052 (.068)	.051 (.068)
<b>Interactions</b>				
Percent Black x Black		.021* (.009)		
Violent Offense x Black			.057 (.056)	
Violent Offense x Percent Black				.027** (.009)
Level-1 Variance	.131	.131	.131	.131
Level-1 Explained Variation	.102	.102	.102	.101
Level-2 Variance	.127	.127	.127	.127
Level-2 Explained Variation	.163	.163	.163	.160
Level-1 <i>N</i>	3,256	3,256	3,256	3,256
Level-2 <i>N</i>	39	39	39	39

Note: Data shown are hierarchical linear model (HLM) regression coefficients; standard errors are in parentheses. Reference categories: race = non-black; offense = nonviolent.

\* $p < .05$ ; \*\* $p < .01$ ; \*\*\* $p < .001$  (two-tailed tests).

for violent offenders depend on size of the black population: counties with larger black communities monetarily penalize violent offenders more severely. For example, a violent offender in Garfield County can expect to receive a fine and fee assessment 20 percent lower than a nonviolent offender. By contrast, in Pierce County, where a larger share of the population is black, a violent

offender (regardless of his race or ethnicity) can expect to pay .83 percent less than a nonviolent offender (see Table 4, Model 4). Adjudication by trial continues to positively and significantly increase the severity of monetary penalties in all models.

In short, the findings presented in Table 4 indicate that blacks sentenced in counties with larger black populations, and all

**Table 5.** Latinos and Drugs: HLM Results of Fines and Fees Assessed

Fines and Fees (logged)	Model 1	Model 2	Model 3	Model 4
<b>Case Level</b>				
SRA Score	.012*** (.002)	.012*** (.002)	.012*** (.002)	.012*** (.002)
Offender Score	.003 (.002)	.003 (.002)	.003 (.002)	.003 (.002)
Ln Age	.004 (.019)	.004 (.019)	.006 (.019)	.013 (.19)
Male	.036* (.015)	.036* (.015)	.037* (.015)	.033* (.015)
Latino	.072*** (.021)	.060* (.031)	.019 (.025)	.068*** (.020)
Trial	.303*** (.038)	.303*** (.038)	.306*** (.038)	.306*** (.038)
Drug Offense	.337*** (.013)	.337*** (.013)	.321*** (.013)	.245*** (.017)
Intercept	6.15 (.321)	6.15 (.321)	6.15 (.321)	6.15 (.324)
<b>County Level</b>				
Percent Latino	-.005 (.005)	-.005 (.005)	-.005 (.005)	-.008 (.005)
Percent Vote Republican	.013* (.006)	.013* (.006)	.013* (.006)	.013* (.006)
Drug Arrest Rate	.067* (.031)	.067* (.031)	.067* (.031)	.067* (.031)
<b>Interactions</b>				
Percent Latino x Latino		.001 (.001)		
Drug Offense x Latino			.142*** (.404)	
Drug Offense x Percent Latino				.009*** (.001)
Level-1 Variance	.108	.108	.107	.106
Level-1 Explained Variation	.259	.259	.258	.256
Level-2 Variance	.105	.105	.106	.108
Level-2 Explained Variation	.304	.305	.300	.288
Level-1 N	3,256	3,256	3,256	3,256
Level-2 N	39	39	39	39

Note: Data shown are hierarchical linear model (HLM) regression coefficients; standard errors are in parentheses. Reference categories: race = non-Latino; offense = nondrug.

\* $p < .05$ ; \*\*  $p < .01$ ; \*\*\*  $p < .001$  (two-tailed tests).

defendants convicted of violent charges in counties with larger black populations, receive significantly greater monetary penalties. For black defendants, we find support for Hypotheses 4 and 6, but only weak support for Hypothesis 5.

A similarly complex dynamic plays out for Latinos. Table 5 presents results from

models that include the proportion of Latinos in a county; ethnicity is measured as Latino or non-Latino, and offense type as drug offense or nondrug offense. Because stigma related to drugs is relevant to our hypotheses, we include the county drug arrest rate rather than violent crime rate in these models. Results of Model 1 support Hypotheses 1

and 2: drug offenders can expect, on average, to be assessed 34 percent higher fines and fees than nondrug offenders, and Hispanic defendants are assessed 7 percent more than their non-Latino counterparts. As in previous models, adjudication by trial is significantly and positively associated with monetary sanctions. Without interactions, variables included in the model explain 26 percent of the variation at the individual level and 30 percent at the county level.

Given consistency across findings presented thus far regarding the significance of ethnicity and drugs, it is not surprising that the intersection of these variables is significantly associated with more severe financial sentences. On the one hand, we find only weak evidence that the penalty for being Latino varies according to the demographic composition of the county in which one is convicted (Hypothesis 4): the interaction between being Latino and percent Latino in a county is positive but not statistically significant. However, consistent with Hypothesis 5, if a defendant is convicted of a drug offense, being Latino will increase fine and fee assessment by 14 percent. In total, a Latino defendant convicted of a drug crime can expect to pay 46.3 percent more than a non-Latino, nondrug offender. And, as Hypothesis 6 predicts, the impact of the stigma associated with drugs depends on the size of the Latino community. That is, all defendants convicted of a drug offense (regardless of their race or ethnicity) in a county with a large Latino population receive significantly greater fines and fees than do defendants convicted of drug crimes in counties with small Latino populations. To make this concrete: in Washington counties, the Latino population ranges from 2.1 to 50.9 percent. At the two extremes, a person convicted of a drug crime in a county whose population is 2.1 percent Latino would receive a monetary penalty 26.4 percent higher than if the person was convicted of a nondrug related felony; a comparable person convicted in the county with the largest

share of Latinos would receive a penalty 70.3 percent higher than someone convicted of a nondrug offense in that county. The presence of a relatively large Latino population appears to heighten concern about drug offenders, regardless of individual defendants' race or ethnicity.

In summary, we find strong but not universal support for our hypotheses as they pertain to Latino defendants. Consistent with Hypotheses 1 and 2, drug offenders and Latino defendants receive significantly greater fees and fines than do nondrug and non-Latino offenders. Contrary to Hypotheses 3 and 4, we do not find that size of the Latino population alone matters, or that Latino defendants in jurisdictions with larger Latino populations receive higher monetary sanctions. However, consistent with Hypotheses 5 and 6, Latinos convicted of drug offenses received greater monetary sanctions than non-Latinos convicted of drug offenses, and drug offenders sentenced in jurisdictions with large Latino populations received greater LFOs than those in counties with smaller Latino populations.

## DISCUSSION AND CONCLUSIONS

The findings, summarized in Table 6, are largely supportive of our socio-cultural theory of punishment. This theory suggests that decisions about sanctions are shaped by emotions that are especially likely to be triggered by certain defendants accused of certain crimes in certain contexts. Because prior studies indicate that blackness, brownness, violence, and drugs are associated with particularly negative emotions and moral judgments, we hypothesized that these qualities would be significantly associated with the severity of monetary sanctions. Consistent with our conception of race and ethnicity as complex and shifting cultural categories rather than just individual attributes, we further hypothesized that these associations

**Table 6.** Hypotheses by Expected and Observed Impact and Statistical Significance

	Expected Impact on Monetary Sanctions	Observed Impact on Monetary Sanctions	Statistically Significant Confirmation of Hypothesis
<i>Hypothesis 1: Offense Type</i>			
Violent offenders will receive greater LFOs	Positive	Negative	No
Drug offenders will receive greater LFOs	Positive	Positive*	Yes
<i>Hypothesis 2: Race/Ethnicity of Defendant</i>			
Black defendants will receive greater LFOs	Positive	Negative	No
Latino defendants will receive greater LFOs	Positive	Positive*	Yes
<i>Hypothesis 3: Racial/Ethnic Composition of County</i>			
Counties with larger black populations will impose greater LFOs	Positive	Negative	No
Counties with larger Latino populations will impose greater LFOs	Positive	Negative	No
<i>Hypothesis 4: Interaction of County Demographics and Defendant Race/Ethnicity</i>			
Black defendants in counties with larger black populations will receive greater LFOs	Positive	Positive*	Yes
Latino defendants in counties with larger Latino populations will receive greater LFOs	Positive	Negative	No
<i>Hypothesis 5: Interaction of Defendant Race/Ethnicity and Offense Type</i>			
Black violent offenders will receive greater LFOs	Positive	Positive	No
Latino drug offenders will receive greater LFOs	Positive	Positive*	Yes
<i>Hypothesis 6: Interaction of Size of Black/Latino Population and Offense Type</i>			
Violent offenders in counties with large black populations will receive greater LFOs	Positive	Positive*	Yes
Drug offenders in counties with large Latino populations will receive greater LFOs	Positive	Positive*	Yes

Note: Asterisk signifies a statistically significant correlation.

would be interactive and triggered by key contextual variables. Because the meaning of race and ethnicity vary across space and time, and because the Latino population is expanding rapidly, we suggested that ethnicity may be more salient than race in Washington State.

Overall, our findings provide support for this perspective. Specifically, we find that ethnicity (being Hispanic) and drug charges (associated with being Hispanic) directly increase penal severity. We also find that Latinos convicted of drug charges and drug offenders convicted in counties with larger Latino populations receive significantly greater LFOs than do other defendants. Thus, ethnicity appears to matter in direct and interactive ways. Although there is no direct financial penalty for being black or being convicted of the type of offense most strongly associated with blackness (i.e., violent), black defendants sentenced in counties with comparatively large black populations also receive more severe monetary penalties. Moreover, monetary sanctions for violent offenders depend on size of the black population. Race appears to matter, but in more complex and interactive ways than ethnicity in Washington State. Several control variables also significantly influence assessment of fees and fines: counties with more politically conservative voters impose harsher financial penalties<sup>21</sup> (see also Jacobs and Carmichael 2001), and male defendants receive greater monetary sanctions than do females. Finally, as in studies of confinement sentencing outcomes, adjudication method significantly predicts penal outcomes: defendants who exercise their right to a trial receive greater monetary penalties than do individuals who plead guilty.<sup>22</sup>

These findings are consistent with an emerging body of evidence that suggests ethnicity has become a comparatively salient factor in decisions to punish. Indeed, several recent studies indicate that Latinos now receive longer prison sentences than either whites or blacks (Demuth 2003; Mann and

Zatz 1998; Schlesinger 2005; Steffensmeier and Demuth 2000, 2001). Steffensmeier and Demuth (2000:708) suggest that in the context of heated debate about immigration, Latinos may be viewed as more “culturally dissimilar and threatening” than either blacks or whites (see also Hagan and Palloni 1999; Martinez 1996; Zatz 1985). Our findings are consistent with this argument.

Two factors may help to explain why neither black nor violent offenders receive greater monetary sanctions than do non-black and nonviolent offenders. First, the absence of a direct black effect likely reflects the small and stable size of the black population in Washington State, which can be contrasted with the comparatively large and growing size of the Latino and immigrant populations.<sup>23</sup> Second, the fact that violent offenders do not receive greater monetary sanctions than nonviolent offenders may reflect a tendency to see incarceration as the appropriate response to individuals who engender fear, while financial penalties may seem more appropriate for defendants seen as disgusting or morally corrupt (i.e., drug offenders).

In summary, we find strong evidence that ethnicity and its interaction with offense type significantly impact imposition of monetary sanctions in Washington State. Latino defendants whose charges are stereotype congruent are penalized most harshly. We also find robust evidence of racial and ethnic courtesy stigma: all defendants, regardless of their race or ethnicity, are punished more severely when they are convicted of racially or ethnically coded crimes in counties with comparatively large black or Latino populations. By contrast, we find no evidence that counties that spend a comparatively large share of their budgets on law and justice impose greater monetary penalties, as the organizational efficiency model predicts. Moreover, only one of the two legal factors allowable in a formally rational sentencing system (i.e., SRA score) significantly predicts imposition of monetary sanctions, and many socio-legal factors retain significance

after taking these two legal factors into account. It thus appears that judicial decisions about monetary sanctions are shaped by many of the socio-cultural processes we foreground—ethnic dynamics in particular—rather than by an organizational imperative to recoup criminal justice costs.

Like other sentencing studies, our analysis is limited by the absence of data regarding unobserved individual-level characteristics. For example, our models do not include information about defendants' legal representation or pretrial release status (e.g., bail), education, employment status, or income level. In addition, although results of the HLM regression analysis identify the factors that significantly influence punishment severity, they do not reveal *how* each of the significant explanatory factors influences these outcomes. We theorize that offense type, race, ethnicity, and demographic context interact to influence penal outcomes by triggering the negative emotions and moral judgments associated with heightened punitiveness, but we do not have direct measures of emotions or judgments.

As a result, some of our findings are subject to multiple interpretations. In particular, the finding that Latinos are assessed comparatively greater monetary sanctions could be construed as evidence that judges perceive Latino defendants as better able or more likely to pay than white or black defendants. Although we cannot definitively disprove this interpretation, we think it is incorrect, for two reasons. First, as noted previously, judges are not required by statute to assess or even consider defendants' ability to pay when imposing fees or fines, and our interviews with court actors and observations of courtroom proceedings indicate that they do not. Second, we think it is unlikely that judges believe Latinos are better able or more likely to pay than whites, given comparatively high poverty rates among Latino residents of Washington State.<sup>24</sup>

This study has important implications for theories of racial and ethnic stigma and their

impact on institutional outcomes such as sanctions. Prior studies suggest that particular racial and ethnic groups are culturally associated with certain offense types, and that activation of these scripts by stereotype-congruent defendants triggers enhanced punishment (Jones and Kaplan 2003; Schlesinger 2005; Steen et al. 2005). Similarly, we find that Latinos convicted of stereotype-congruent offenses (i.e., drug crimes) receive significantly greater financial penalties than do Latinos convicted of other crimes and non-Latinos convicted of drug crimes. Results further indicate, however, that racialized crime scripts affect not only defendants whose ethnicity is consistent with the stereotype in question, but all defendants convicted of racially or ethnically stigmatized behavior. That is, counties with comparatively large Latino populations penalize *all* drug offenders significantly more severely than do counties with small Latino populations. Similarly, counties with relatively large black populations penalize *all* violent offenders (of all racial and ethnic backgrounds) significantly more severely than do counties with small black populations. It appears that even white people who commit racially or ethnically stigmatized offenses in jurisdictions with comparatively large black or Latino populations will experience the courtesy stigma (Goffman 1963) that flows from racialization, and they will be penalized more severely as a result. Race and ethnicity, then, are not just individual attributes, but cultural categories that shape the distribution of stigma and institutional consequences that flow from it.

The theoretical framework we develop here, and especially our findings regarding courtesy stigma, may be useful for understanding decision-making processes in other institutional settings in which clients are labeled, processed, and punished. Indeed, studies indicate that race and ethnicity affect decision-making processes in a number of institutions that are central to the stratification system, including schools, welfare

offices, and penal institutions (Bridges and Steen 1998; Morris 2005; Schram et al. 2009). For example, comparatively high rates of suspension among black students are in part a function of race-inflected assessments of students' behavior and character (Gregory 1995; Morris 2005). Similarly, beliefs about blacks and Latinos inform welfare agents' sanctioning decisions (Schram et al. 2009), as well as probation officers' assessments of juveniles' blameworthiness and amenability (Bridges and Steen 1998). These institutional processes have important consequences for individuals' life chances and quality of life, but they remain poorly understood. The possibility that courtesy stigma plays an important role in these processes has not been explored; our findings suggest that it should be.

Recent developments underscore the need for such research. Even as mass incarceration fuels inequality, the logic of penal control

and surveillance has spread to non-criminal justice institutions, as the "technologies, discourses, and metaphors of crime and criminal justice" have permeated politics, policies, and institutions that are seemingly unrelated to crime-fighting (Simon 2007:4). Schools, for example, are increasingly subject to drug sweeps, K-9 units, metal detectors, zero-tolerance rules, and detention and expulsion (Lyons and Drew 2006; Simon 2007). Similarly, welfare agencies are increasingly oriented toward surveillance and sanctioning, as "disciplinary approaches to poverty management are ascendant in the United States today" (Schram et al. 2009:398; see also Soss et al. 2008). In this context, identifying and understanding the complex ways that race, ethnicity, and other sources of stigma interact to influence institutional decision-making processes and the allocation of sanctions is of utmost importance.



## APPENDIX

**Table A1.** County-Level Variables, Description, and Data Sources

Variable	Description	Source
Population 2004	Population (2004)	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>
Percent Minority	Percent non-white and non-Asian (2005)	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>
Percent Latino	Percent Hispanic/Latino (2005)	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>
Percent Black	Percent black (2005)	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>
Percent Poverty	Percent people living below poverty (2004)	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>
Political Orientation	Percent people who voted Republican in 2000 presidential election	David Lublin and D. Stephen Voss. 2001. "Federal Elections Project." American University, Washington, DC and the University of Kentucky, Lexington, KY, <a href="http://spa.american.edu/ccps/pages.php?ID=12">http://spa.american.edu/ccps/pages.php?ID=12</a>
Violent Crime Rate	Violent crimes per 1,000 people (2004)	Office of Financial Management, Washington State, <a href="http://www.ofm.wa.gov/sac/cjdatabook/default.asp">http://www.ofm.wa.gov/sac/cjdatabook/default.asp</a>
Property Crime Rate	Property crimes per 1,000 people (2004)	Office of Financial Management, Washington State, <a href="http://www.ofm.wa.gov/sac/cjdatabook/default.asp">http://www.ofm.wa.gov/sac/cjdatabook/default.asp</a>
Drug Arrest Rate	Drug arrests per 1,000 people (2004)	Office of Financial Management, Washington State, <a href="http://www.ofm.wa.gov/sac/cjdatabook/default.asp">http://www.ofm.wa.gov/sac/cjdatabook/default.asp</a>
Percent Budget Spent on Law and Justice	Percent of county expenditures allocated to law and justice (2003)	Local Government Financial Reporting System, Washington State Auditor, <a href="http://www.sao.wa.gov/applications/lgfrs/">http://www.sao.wa.gov/applications/lgfrs/</a>
Percent Change in Latino Population	Percent change in Latino population from 1990 to 2000	U.S. Census Bureau, State and County Quick Facts, <a href="http://quickfacts.census.gov/qfd/states/53/53001.html">http://quickfacts.census.gov/qfd/states/53/53001.html</a>

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### Notes

1. In Washington State, for example, some jails assess booking fees and charge inmates up to \$100 a day

- for the cost of their detention, even prior to adjudication. Sentencing judges are also allowed to assess a fee for indigent defense counsel, and they may not waive this fee even if the defendant is not convicted or if his conviction is reversed upon appeal (Anderson 2009).
2. In Pennsylvania, an effort is underway to structure imposition of economic sanctions based on an offender's ability to pay (see Act 2007-37 [SB 116, PN1323]).
  3. See the Revised Code of Washington 7.68.035 and 43.43.74.
  4. U.S. Sentencing Commission National Association of State Sentencing Commissions website (<http://nasc2010.alacourt.gov/NASC/Membership%20List.pdf>, visited January 12, 2011). Information on this website may not be current (Frase 2005).
  5. Some scholars interpret these findings as evidence that decisions to punish are guided by judges' focal concerns. According to this argument, court actors must make decisions quickly, yet they possess minimal amounts of information and time. As a result, their adjudication and sentencing decisions are guided by assessments of defendants' blameworthiness and dangerousness (Albonetti 1987, 1991, 1997; Emerson 1969; Johnson 2006; Kurlychek and Johnson 2004; Savelsberg 1992; Steffensmeier, Ulmer, and Kramer 1998; Ulmer and Bradley 2006). We agree that judicial decisions are shaped by judges' focal concerns and that these concerns may be influenced by local environments, but the conceptual notion of focal concerns does not shed light on why certain extra-legal variables, such as race, are central to perceptions of blameworthiness.
  6. Between 1980 and 2007, the proportion of the Washington State population that identified as Hispanic rose from 2.9 to 9.4 percent. By contrast, the black population grew much more slowly, from 2.6 percent in 1980 to 3.6 percent in 2007 (U.S. Census n.d.).
  7. Alternatively, we could use a fixed effects model to account for the specific effects of the 39 counties. However, this would preclude analysis of the cross-level interactions that are central to our hypotheses.
  8. We found that when removing just under half of the counties, each one at a time, *political orientation* frequently shifted from significant to nonsignificant or marginally significant, although the direction and relative size of the coefficient remained unchanged. The shift does not appear to stem from the number of observations in these counties, as it occurred when removing very small ( $n = 7$ ) and large ( $n = 536$ ) counties. This variable's wavering significance does not surprise us, as political orientation is not a consistently significant predictor in our models.
- No other variable was sensitive to the omission of any one county, increasing our confidence in the narrative we present.
9. RCW 9.94(A).
  10. RCW 9.94(A).515.
  11. Unranked offenses are crimes that are rarely charged or were recently created by the Washington State legislature ( $n = 95$ ). These offenses do not have a seriousness level and do not require sentence calculations based on the sentencing grid. Courts are required to impose a sentence ranging from 0 to 365 days of confinement for persons convicted of unranked offenses. A sentence of more than a year may be imposed, but it is considered an exceptional sentence and requires a written justification by the judge (RCW 9.94A.505(2)(b); RCW 9.94A.535). In some cases, no SRA score was recorded, but the offense type was classified by the SRA. In such cases, we imputed the SRA score associated with the charges in other cases ( $n = 88$ ).
  12. The vast majority (98.7 percent) of defendants in our sample received at least some confinement time. We tested confinement length, measured in months, in our early models. When included, we added 1 to all values (44 cases were sentenced to zero months) and logged the variable to normalize its distribution. However, because sentencing guidelines that determine confinement length are governed by SRA score and offender score, confinement length is highly correlated with both (.5 with SRA and .7 with offender score). When substituted with SRA or offender score, months had a small but positive association with fine and fee assessment. To avoid problems associated with multicollinearity, we dropped months from the final analyses.
  13. Correlation between violent offense and SRA is .459. To our surprise, certain drug offenses have higher SRA scores than certain violent crimes. For example, manufacturing methamphetamine (10) and the delivery or possession with intent to distribute methamphetamine (8) have higher SRA scores than do violent offenses such as child molestation in the second degree (7), rape in the third degree (5), and kidnapping in the second degree (5). Variation in SRA is thus not directly correlated to our offense categories (i.e., violent, drug, and other).
  14. We tested models with number of superior and other court convictions (with and without SRA). Results show that neither of these measures has a significant impact on the outcome or other independent variables. We therefore do not include prior convictions in the models presented here.
  15. Treating race and ethnicity as analytic categories is, of course, problematic. Race and ethnicity are social constructs that were created to manipulate, control, and conquer populations (Almaguer 1994; Omi and

- Winant 1986). On the other hand, the consequences of racial and ethnic ideologies become tangible when reified through governments, institutions, and economic structures (Marx 1998; Takaki 1990). Thus, beliefs about race and ethnicity have very real consequences over time, although they are also fluid and subject to change (Omi and Winant 1986). We treat race and ethnicity as social constructs and identities that carry real social consequences.
16. It is possible that applying this methodology led to the misidentification of some (mainly white) defendants as Hispanic. It is also possible that some Hispanics were unidentified as such, as many Hispanics have surnames that are not on the list generated by the Census Bureau. However, by classifying only individuals with surnames considered to be "heavily Hispanic," we presumably err on the side of undercounting Hispanics.
  17. We group Asians and whites together because studies have not found that either group is overrepresented in the criminal justice system or receives comparatively severe penalties. We do recognize that the Asian category comprises multiple ethnic groups and that these groups have varying outcomes and experiences.
  18. Our hypotheses drove our decision not to center variables (see Snijders and Bosker 1999). Cross-level interactions comprised of levels one and two variables include dichotomous variables (e.g., black/nonblack) and proportions, such as percent of the county population that is Latino. Our theoretical framework predicts that it is the relative size of the population of color in a particular county that triggers a perception of threat, not the size of the population of color relative to populations of color in other counties. Thus, the true value of the proportion, rather than deviation from the county average (or grand mean), allows a more meaningful interpretation of our results.
  19. Adults with dependent children are more likely to receive leniency in sentencing; other researchers suggest that this pattern largely accounts for gender differences in sentencing (Daly 1987; Daly and Tonry 1997; Griffin and Wooldredge 2006; Koons-Witt 2002).
  20. Interaction coefficients can be interpreted as  $\beta' = \beta_1 + \beta_3 X_2$ . Because the dependent variable is logged,  $\beta'$  should be interpreted as a percent change in fines and fees, not as a dollar amount.
  21. For reasons described in note 8, we ran numerous models with varied constellations of variables. Unlike the other significant variables discussed here, the political orientation result is significant roughly half of the time.
  22. The theoretical significance of our finding that defendants convicted at trial receive greater

financial penalties than those who plead guilty is debatable. In studies of confinement sentencing, evidence of a trial penalty is often seen as indicative of the court's effort to enhance organizational efficiency by avoiding lengthy and costly trials (Dixon 1995; Engen and Steen 2000). This interpretation makes sense in the context of confinement sentences: reduced sentences are offered as an incentive to plead guilty; defendants who agree to a plea are rewarded with less prison time, while those who go to trial are not. In the context of monetary sanctions, the theoretical significance of a trial penalty is less clear. In Washington State, monetary sanctions are imposed *after* adjudication at the sentencing hearing. For this reason, assessing defendants who go to trial greater LFOs provides no incentive for defendants to plead guilty. It therefore does not appear that a financial trial penalty in this context is evidence of concerns about organizational efficiency.

23. See note 6.

24. U.S. Census data for 2006 from the American Community Survey indicate that 23.9 percent of Hispanics, compared with 9.5 percent of non-Hispanic whites, had incomes that fell below the poverty line in the previous 12 months (see U.S. Census Bureau American Community Survey 2006, Tables B17020H and B17020I). Formerly incarcerated white males have slightly greater earnings than formerly incarcerated black or Hispanic males (Western 2006).

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