ABSTRACT

Title of Document: A TALE OF TWO CRIMES: AN ANALYSIS OF CRIMINAL SENTENCING OF WHITE-COLLAR AND STREET OFFENDERS

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Although a long-standing history of scholarship has sought to understand the potential for disparities in criminal punishment based on ascribed status characteristics, contemporary research has largely ignored the ways in which punishment outcomes vary across offenders convicted of offenses traditionally viewed as either white-collar or street crimes. Using data from United States federal district courts from fiscal years 2008-2010, this research expands current knowledge by comparing embezzlement and larceny offenders in federal criminal courts across a variety of punishment processes and outcomes. The findings suggest a substantial degree of variation in punishment severity between embezzlement and larceny offenders across modes of punishment. Generally, the question of whether white-collar offenders are treated severely, leniently, or about the same as non-violent property offenders is largely dependent upon the outcome of interest and the specific types of offenses included in the analysis.

A TALE OF TWO CRIMES: AN ANALYSIS OF CRIMINAL SENTENCING OF WHITE-COLLAR AND STREET OFFENDERS

By

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Chapter 1: Introduction

In wake of a series of high profile incidents of white-collar crime, corporate malfeasance, and the recent defaults and foreclosures following the subprime mortgage crisis, there has been considerable focus in the media and the general public on the issue of white-collar crime. Along with the rise in attention given to white-collar criminality, there appears to be a growing faction of public support for more severe punishment for white-collar offenders and a general sense of outrage among many at the perceived leniency given to white-collar offenders, who are thought to receive little punishment for behavior that causes immense social harm (Schoepfer et al., 2007; Piquero et al., 2008; Unnever et al., 2008; Cullen et al., 2009). Although fairness of punishment remains a core principle of the American criminal justice system that seeks to uphold the adage of Justice Potter Stewart that "fairness is what justice really is," there are concerns that the criminal justice system promotes inequality in punishment based on one's perceived status and power.

Contributing to the ongoing deliberations regarding fairness in the criminal justice system is a vast amount of criminological research on the types of characteristics that influence punishment outcomes for offenders and how public policy can be used to create a more balanced system of justice across all segments of society (Frankel, 1973; Tonry, 1996; Steffensmeier, et al., 1998; Spohn, 2000). While these sociological assessments of punishment have generated a plethora of discussion and policy changes, with the goal of ensuring punishment be both appropriate and equitable, the focus of sentencing research and theoretical developments explaining punishment outcomes largely focuses on traditional street crimes, including narcotics, violent, and property offenses. However,

these recent developments have left the question of white-collar sentences unexplored. Consequently, modern sentencing research is limited as it lacks a clear understanding of whether those convicted of white-collar crimes are treated more leniently in comparison to those convicted of offenses traditionally viewed as street crimes.

With a lack of empirical research to answer questions about the treatment of white-collar offenders, many are left to speculate and rely either on anecdotal cases of white-collar crime prosecution or the commonly held assumption that the criminal justice system treats white-collar offenders more leniently than street offenders (Taibbi, 2013; Dervan, 2014; Buell, 2014). Such an assumption is likely related to several factors. First, there is evidence lenient treatment has been given to white-collar offenders in the past, and such incidents of leniency may lead to questions of accountability and whether there is general lack of willingness among authorities to bring criminal charges against those who engage in white-collar crime (Sutherland, 1983; Breyer, 1988; Cullen et al., 2009). Second, many types of white-collar offenses have traditionally been viewed as less serious than street offenses such as property, drug, or violent crimes. This is especially true as both resources and attention among criminal justice decision-makers, as well as the general public remains heavily focused on violent and drug crimes; consequently white-collar crimes receive far less attention (Ross, 1907; Sutherland, 1983; Benson & Cullen, 1998; Rosenmerkel, 2001; Cullen et al., 2009; Hagan, 2012). Highlighting this issue, a financial fraud investigator in an interview with a local news outlet recently stated, "they [white-collar criminals] are not taken as seriously as other crimes because they're not violent, and most offenders are treated as first-timers, even if their thefts persisted for years" (Brandolph, 2014).

Yet, this general perception of leniency clashes with two major shifts indicating a movement toward increasingly severe punishment for white-collar offenders. Whereas, in the past the general public has been reluctant to view white-collar offenders as being serious in comparison to offenders who commit crimes physically against persons or property, there is evidence this trend is changing. Recent public opinion appears to be moving in a direction that views white-collar crime as a serious problem, supporting a greater devotion of resources to enforcement and more stringent punishment for white-collar offenders (Piquero et al., 2008; Unnever et al., 2008; Cullen et al., 2009; Huff et al., 2010).[1] For example, the 2010 National Public Survey on White Collar Crime found a majority of respondents' viewed white-collar crimes as more serious than traditional crimes, and that the government is not allocating enough resources to combat white-collar crime (Huff et al., 2010).[2] This is an important change as public perceptions of crime seriousness may serve to inform criminal justice decision-makers which behaviors are viewed more or less seriously, as well serve as a signal of the appropriateness of current practices and resource allocation (Wolfgang et al., 1985; Hoffman & Hardyman, 1986). Second, in recent years, there have been a series of policy changes implemented in response

[1] The term "white-collar crime" is a broad category encompassing numerous behaviors that vary based on the definitional approach used. Most public opinion surveys aim to identify the levels of public punitiveness toward a single type of "white-collar" offense, (often in comparison to some non-white-collar offense). For instance, the seriousness of knowingly shipping diseased meat compared to robbery at gunpoint that caused serious injury (Piquero et al., 2008); fraud compared to robbery (Holtfreter, 2008). Further, opinions of public punitiveness are found to vary based on demographic factors, such as class and race (Unnever et al., 2008), gender (Cullen et al., 1985; Cohn et al., 1991); or the type of crime (Blumstein & Cohen, 1980).

[2] To determine the seriousness of white-collar crime in comparison with other forms of crime "respondents were presented with 12 scenarios that included various white collar crimes as well as traditional offenses. The scenarios were grouped into eight categories. These categories were, in turn, ordered into four dichotomies: (1) white collar/traditional crime, (2) crimes involving physical harm/money, (3) crimes involving organizational/individual offenders, and (4) crimes involving high-status/low-status offenders" (Huff et al., 2010: p. 9). Regarding the allocation of resources respondents were asked: Please tell me if you agree, disagree, or neither agree nor disagree with the following statement: The government is devoting enough resources to combating white-collar crimes like fraud.

to both perceptions and some empirical findings showing the presence of lenient punishment toward white-collar offenders (Breyer, 1988; Bibas, 2005). These policy changes have sought to increase the severity of punishments for white-collar offenses in order to bring these crimes in line with punishment levels for non-violent property crimes. For instance, since the implementation of the U.S. Sentencing Guidelines, a series of legislative decisions have increased the levels of punishment at the federal level for white-collar offenses, such as fraud and embezzlement to be closely in accordance with offenses for non-violent property crimes, such as larceny and theft (U.S. Sentencing Commission, 1987; Bibas, 2005; U.S. Sentencing Commission, 2011; see also U.S. Sentencing Guidelines Manual § 2B1.1).[3] Placing attention on shifts in public policy is an important focus as changes to federal sentencing guidelines may have altered the balance from lenient treatment of white-collar crimes in the past to increasingly harsh punishments for this group in the present day. Changes to the sentencing guidelines may in fact be so great that one federal judge recently referred to the federal sentencing guidelines for white-collar offenses as "too goddamn severe" (Goodman, 2014).

Although evidence suggests the previous wave of lenient treatment of white-collar offenders may be fading, a paradox remains between perceptions of how white-collar offenders are handled by the criminal justice system and what actually occurs at time of sentencing. While the media, judges, the general public, and academics alike continue to bemoan the disparities in punishment between perpetrators of white-collar and street crimes, there remains little empirical analysis assessing the veracity of the claim that white-

[3] U.S. Sentencing Guidelines Manual § 2B1. 1 classifies both white-collar and non-violent property crimes together including**:** Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States.

collar offenders "get off easy" (Cullen et al., 2009; Hagan, 2012; Taibbi, 2013; Buell, 2014). This investigation explores this unresolved problem seeking to answer three questions.

(1) Are white-collar offenders treated more leniently than non-violent property offenders? Specifically, exploiting a growing sentiment around increased severity in punishment for white-collar offenders and changes in the U.S. Sentencing Guidelines Manual, I test for differences in punishment across a variety of sentencing processes and outcomes for the white-collar crime of embezzlement and the comparable street offense of larceny. I specifically choose to compare embezzlement with larceny for following reasons. First, the two classes of crimes share similarities. Both are economic crimes that result in financial loses to a victim without the use or threat of force. Additionally, perpetrators of both types of crimes typically seek to avoid contact with the victim and use deception in carrying out the offense. Second, several policy changes implemented by the U.S. Sentencing Commission have sought to change the punishment levels for a number of common white-collar crimes, including embezzlement to be statutorily equivalent to larceny. Third, the data from the United States Sentencing Commission support the notion of comparability as an evaluation of the distributions of the presumptive sentence recommendation for embezzlement and larceny offenders show a substantial degree of overlap (see Figure 1 below). Finally, prior research comparing punishment of white-collar offenders and street property offenders has used the crime of theft as a comparison group (see Johnson, 1986; Tillman & Pontell, 1992; Van Slyke & Bales, 2012). Therefore, results from this study can be analyzed in the context of extant literature.

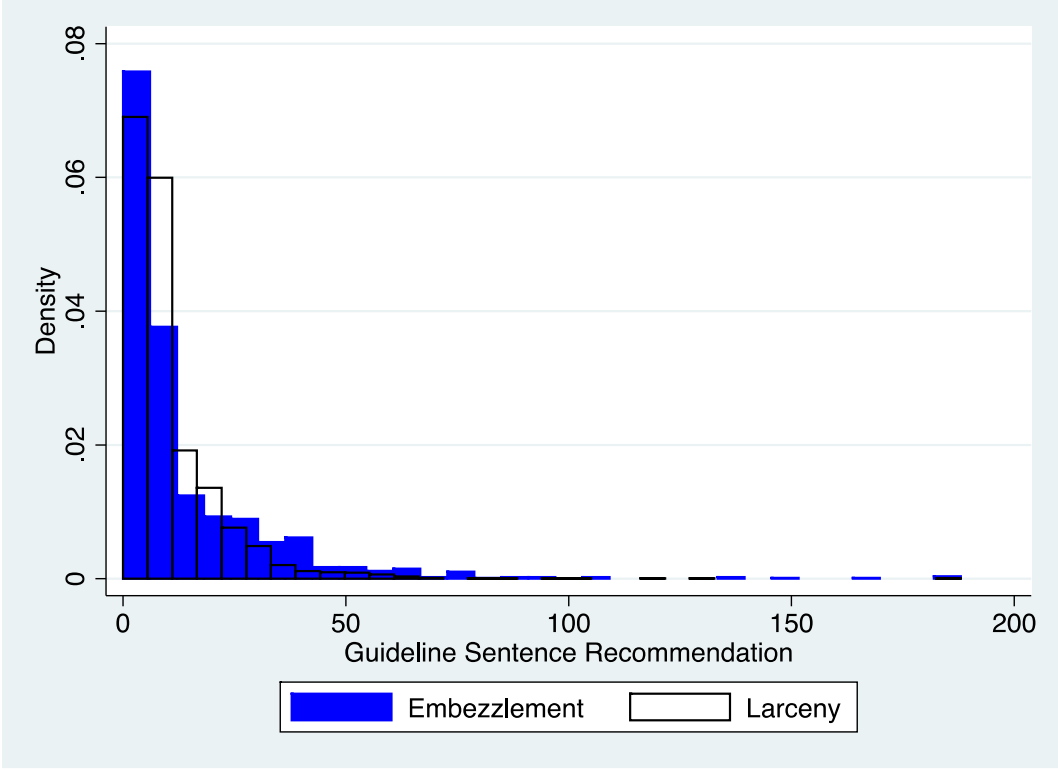
(2) To what extent does the mode of punishment condition the effect of white-collar status on final sentencing outcomes. While previous scholarship on sentencing and white-collar crime prior to the implementation of the U.S. Sentencing Guidelines focused only on the decision to incarcerate and sentence length as measures of punishment severity, (Wheeler et al., 1982; 1988), I expand this analysis by assessing a variety of processing and punishment outcomes including departures from sentencing guidelines, pretrial detainment, and financial penalties, as well as decisions to incarcerate and multiple measures of sentence length. Looking at multiple outcomes is important as it is possible that in light of increasingly severe changes to the sentencing guidelines for white-collar offenses, judges may now be increasingly likely to depart downward from the guideline recommendation for a variety of white-collar offenses.

(3) Finally, I look across specific types of embezzlement and larceny offenses to test the extent to which the specific type of offense conditions the effect of white-collar status on final sentencing outcomes. By using a more comprehensive dataset than prior research in this area, I am able to examine variation across specific types of offenses.

To explore these questions, this study uses data from the United States Sentencing Commission (USSC) on criminal proceedings in federal district courts from 2008-2010. This data source allows for a more robust analysis than prior research by accounting for a series of relevant factors of judicial decision-making previously neglected by white-collar crime research. The remainder of this study will proceed as follows. First, I discuss prior research on punishment of white-collar offenders, the definition of white-collar crime, and the differences in white-collar and traditional street offenders. In doing so I focus on the limitations of previous research and outline the unique contributions of the current analysis.

Next, I apply theories of punishment to explain criminal sentencing of white-collar offenders. Finally, I introduce a series of hypotheses and empirically test these questions using sentencing data from federal district courts. I conclude by offering interpretation of my findings and discuss areas for future research.

Figure 1: Guideline Sentence Recommendation Embezzlement and Larceny



Chapter 2: Literature Review & Theory

Punishment and the White-Collar Criminal

In his pioneering work on white-collar crime, Edwin Sutherland contended that several factors contribute to white-collar offenders' receiving preferential treatment by the criminal justice system. First, he posited the white-collar offender would be capable of using their social status and connections in society to avoid formal criminal punishment. Second, the cultural homogeneity between white-collar offenders and enforcement authorities creates sympathy, understanding, and a reluctance to pursue the harshest channels of punishment. Third, he argued that public support against white-collar offenders is less organized, thus making it more difficult to pursue criminal charges against this group of offenders. Although Sutherland's analysis was limited to the context of the early 20th century and a number of societal changes have occurred since then, over seven decades later many of Sutherland's arguments may still apply and echo similar accounts explaining why white-collar offenders get off easier (Sutherland, 1940, 1983).

In the years after Sutherland's call for attention to the behavior of the white-collar criminal, punishments for white-collar crimes have traditionally remained less severe as compared to traditional street crimes such as violent, drug, and non-violent property offenses. For instance, Bibas (2005) notes that prior to the Sentencing Guidelines there was a perception that white-collar offenders had a low-risk of recidivism and posed little danger to the community and therefore typically received "soft punishments" such as probation, community service or restitution (see also Mann et al., 1979; Mann, 1985). This notion is further supported by evidence showing white-collar offenders as having been more likely to receive probation over incarceration compared to property offenders who stole

equivalent amounts of money and white-collar offenders who are sentenced to prison received shorter sentences than comparable property offenders (Breyer, 1988). For example, research by the U.S. Sentencing Commission conducted by then-judge Stephen Breyer found, "courts granted probation to [white-collar] offenders more frequently than in situations involving analogous common law crimes; furthermore, prison terms were less severe for white collar criminals who did not receive probation…" (Breyer, 1988: cited from Richman, 2013: p. 55).

However, shifts in public perceptions and policies regulating judicial discretion and corporate behavior may contribute to a changing dynamic in the way which white-collar offenders are treated by the criminal justice system. Recent evidence suggests the long-standing pattern of leniency toward white-collar offenders may be changing (Cullen et al., 2009) and punishment for this group is becoming increasingly severe (Weissman & Block, 2007; Tucker, 2014). The potential for more severe punishment toward white-collar offenders is driven by a series of factors. First, a number of legislative changes have sought to increase punishment severity in order to bring white-collar offenses in line with those of non-violent property offenses. Specifically, since the enactment of the U.S. Sentencing Guidelines, a series of policy implementations at the federal level have been intended to enhance sentencing severity of white-collar crimes, such as fraud and embezzlement to match their street property crime equivalent of larceny and theft (Bibas, 2005; see Richman, 2013: p. 55).[4] In the early 1980s, Congress expressed interest in raising white-

[4] Richman, (2013: p. 55) notes judicial tendencies of leniency toward white-collar offenders were a concern of Congress when drafting the Sentencing Reform Act in 1984. The cited Senate report states: "[It is our] view that in the past there have been many cases, particularly in instances of major white collar crime, in which probation has been granted because the offender required little or nothing in the way of institutionalized rehabilitative measures . . . and because society required no insulation from the offender, without due consideration being given to the fact that the heightened deterrent effect of incarceration and the

collar sentences and the Sentencing Commission raised the sentencing ranges of white-collar crimes to be equivalent with larceny sentences. On this issue, one report from the U.S. Sentencing Commission states: "the sentences for 'white-collar' crimes, such as embezzlement, fraud and tax evasion, were considerably lower than those for the substantively equivalent crime of larceny. In light of the legislative history supporting higher sentences for white-collar crime, the Commission made a policy decision to adopt a guideline structure under which all of these crimes are *treated essentially identically* [emphasis added]. Average sentences for larceny were lowered slightly, while those for white-collar crimes were raised to the same level" (see U.S. Sentencing Commission, 1987: 18).

Following these changes, an increasing number of white-collar defendants faced imprisonment and lengthier sentences than in the past (Bibas, 2005). However, changes to the Sentencing Guidelines did not eliminate perceptions of leniency toward white-collar offenders. Despite the fact that Sentencing Guideline penalties for moderate to serious white-collar offenses had become large enough to be similar or even greater than sentences for some drug and violent offenses at the federal level, the Department of Justice and others still continued to insist that the penalties of white-collar offenses were not high enough (Bowman, 2003). The Sentencing Commission again raised sentences for both larceny and fraud in 1998 and again in 2001 through the passage of the Economic Crime Package. Following the collapse of Enron in late 2001, Congress passed the Sarbanes-Oxley Act of

readily perceivable receipt of just punishment accorded by incarceration were of critical importance. The placing on probation of [a white collar criminal] may be perfectly appropriate in cases in which, under all the circumstances, only the rehabilitative needs of the offender are pertinent; such a sentence may be grossly inappropriate, however, in cases in which the circumstances mandate the sentence's carrying substantial deterrent or punitive impact."

2002, which led the Sentencing Commission to further enhance penalties for fraud and add additional enhancements such as requirements to imprison defendants for moderate to large size frauds (Bowman, 2003; Bibas, 2005). These additional enhancements substantially effected punishments for white-collar crimes. For instance, among the most common federal white-collar crimes of wire and mail fraud, the maximum sentence length was increased from 5 years to 20 years (U.S. Sentencing Commission, 2003).

In addition, punishment of white-collar offenders may be connected to public resentment toward this group. In explaining the reasons for leniency and differential application of the law in the area of white-collar crime, Sutherland noted a key factor was the "relatively unorganized resentment of the public toward white collar crimes" (Sutherland, 1983: 59).[5] While this unorganized resentment may partially explain the scarcity of criminal charges for white-collar offenders in the past, recent evidence points to a shift in public opinion. Unnever, et al., (2008) suggest that attitudes toward white-collar and corporate offenders imply a growing consensus around the desire for more severe sanctions (see also Piquero et al., 2008). Further, Cullen et al., (2009) contends that public opinion toward white-collar crime in the United States has transitioned through waves of attentiveness about the problem of white-collar crime. Today public opinion has transformed to the extent that high profile white-collar offenders are no longer viewed as respected members of the community but are rather seen as "bad guys" marked by excessive greed and a lack of remorse for their harm on society. Such a shift in public opinion may translate to a retributive philosophy of punishment that seeks sentencing

[5] Also see E. A. Ross' claim about the lack of public resentment toward high status offenders: "there has not yet been enough time to store up strong emotions about them; and so the sight of them does not let loose the flood of wrath and abhorrence that rushes down upon the long-attainted sins" (Ross, 1907: 47).

policies that reflect a revenge-based mentality and create more severe punishment outcomes for white-collar offenders (see also Katz, 1980).[6] In light of a series of high profile white-collar crimes and perceptions of a growing threat of victimization from behaviors such as fraud, the organized public sentiment appears to be turning in support of more punitive treatment of the white-collar criminal (Cullen et al., 2009; Levi, 2009; Deevy & Beals, 2013).[7]

Defining White-Collar Crime

There remains a long standing debate on whether the definition of white-collar crime should be focused around an offense or offender characteristics and whether such a definition should incorporate only those adjudicated as criminal or any behavior eligible of receiving a criminal disposition (Sutherland, 1945; Tappan, 1947; Edelhertz, 1970; Clinard & Yeager, 1980 Benson & Simpson, 2009). This study remains in line with prior research on sentencing and white-collar crime, and employs the offense-based approach used by the Yale Studies on White-Collar Crime, defining white-collar crimes as "economic crimes committed through the use of some combination of fraud, deception or collusion" (Wheeler et al., 1988).[8] Thus, white-collar crimes are acts committed through mechanisms of

[6] Cullen et al., (2009: 42) cautions against the retributive mindset in punishment of white-collar offenders for two reasons. First, "it encourages a blood lust among the public that leads them to embrace inordinately lengthy prison sentences." Secondly, "the focus on individual 'bad guys' and their punishment potentially deflects attention away from the structural and political conditions that made many of the most egregious scandals possible."

[7] I only contend that there are perceptions of a greater threat of victimization of such behaviors detailed above. Such perceptions may stem from an actual increase in fraudulent behavior, an increase in victim awareness, or changes in criminal justice response. Regardless of the source, an increase in the perceptions of the threat of victimization should influence public sentiment toward white-collar crimes.

[8] The Yale Studies on White-Collar Crime was a series of projects led by Stanton Wheeler and supported by the Law Enforcement Assistance Administration. The project was tasked to collect empirical data on a variety topics focused around the issue of white-collar crime, including analyses of white-collar offenders themselves, judges in sentencing of white-collar offenders, interviews with white-collar defense attorneys, issues related to white-collar offenses and agencies assigned to regulate these offenses. For more information see (Johnson & Leo, 1993).

concealment and deception rather than interpersonal exchanges of physical force or intimidation.[9]

It may be argued that this version of white-collar crime does not collate with the image of a person of respectability and high social status, who violates the law in the course of his or her occupation, as proposed by Sutherland (Sutherland, 1983: 7). Instead, past sentencing research, using an offense-based definition typically yields a sample of offenders who appear more middle-class than high status (Weisburd et al., 1991). Thus, a criticism of using an offense-based definitional approach of white-collar crime is that it misses the inclusion of "powerful individuals and corporate actors who are able to avoid official labeling in the first place and never appear in the resulting samples" (Benson & Simpson, 2009; see also Sutherland, 1983). This is a limitation that may affect the sample of white-collar offenders in this study, as offenders with more resources may have a greater likelihood of avoiding detection for their offenses or having their case brought forth in civil or regulatory proceedings, rather than processing in the criminal justice system. For instance, in a recent white-collar criminal proceeding against a major financial institution involving a monetary settlement used to avoid criminal charges, prompted a federal judge to comment, "the public has very little confidence in white collar crime proceedings. The perception is that no one is treating white collar crime seriously… bank executives come into court, plead guilty, go back on the subway, go home and watch soap operas and life goes on" (Clark, 2010). Consequently, this study is limited, as it does not capture all possible offenses or offenders that may constitute the population of white-collar criminals

[9] The definition used by the Yale Studies on White-Collar Crime resulted in eight offenses being defined as white-collar crime: securities violations, antitrust violations, bribery, bank embezzlement, mail and wire fraud, tax fraud, false claims and statements, credit and lending institution fraud (see Wheeler et al., 1982; Wheeler et al., 1988).

and specifically is most likely to omit those offenders of higher social status. Moreover, among high status individuals involved in white-collar crime and corporate malfeasance, charges are often brought against company solely, with individuals in the organization spared of any formal criminal charges (Schmidt & Wayatt, 2012). Thus, the offenders in the current sample are likely to represent "run of the mill lower white-collar cases" (Wheeler et al., 1982: 657).

Yet, available evidence using an offense-based definition of white-collar crime suggests white-collar offenders adjudicated in criminal courts are generally different from ordinary street offenders. This line of research largely concludes that compared to the common street criminal, white-collar offenders are older, more likely to be male, more likely to be white, have less job instability, are more financially secure, and are better educated (Daly, 1989; Weisburd et al., 1990a, 2001; Benson & Moore, 1992; Benson & Kerley, 2000). Additional research finds that white-collar offenders' criminal careers "begin later and evidence a lower frequency of offending" when compared to traditional offenders (Weisburd et al., 1990a: 352). Evidence also suggests that white-collar offenders may take a different path all together into crime. For instance, Benson & Moore (1992), speculate that white-collar offenders follow a different route into illegality than street offenders, with a motivation that derives from a desire to avoid failure and protect one's status and relative social position (see also Cressey, 1953; Zietz, 1981).[10] Individual white-collar offenders also tend to view themselves as conventional law abiding citizens rather wrongdoers (Benson, 1985).

[10] Some theorist purport there is no difference in the underlying causes between white-collar offenders and other types of offenders. For further discussion see (Hirschi & Gottfredson, 1987; Gottfredson & Hirschi, 1990).

While these studies are limited in many regards, past research portrays an image of what the average white-collar offender may look like. Ultimately, the image arising from this picture depicts the white-collar offenders' status as closer to middle-class, rather than high social status (Weisburd et al., 1991). I argue these differences strengthen the purpose of this study in two ways. First, this evidence highlights that there is comparability between these two groups as white-collar defendants are not so socially distant as to make any comparisons of sentencing outcomes between the two groups implausible. Further, judges may be influenced by these differences in defendant characteristics, ultimately leading to more lenient punishment for white-collar offenders, as the characteristics of white-collar offenders make this group of criminals appear less risky or are perceived to be less of a safety concern, as well as are more culturally similar to the judges themselves.

Prior Work Assessing White-Collar Crime & Sentencing

To date there is a long line of research detailing disparities in criminal punishment (Hagan et al., 1973; Steffensmeier et al., 1998; Mustard, 2001; Johnson, 2003). However, research on criminal sentencing for white-collar offenders is far less extensive than scholarship on sentencing for traditional offenders. Moreover, very few studies directly compare the outcomes of white-collar offenders to comparable street offenders, such as those accused of non-violent property crimes. Among the research focusing on sentencing outcomes of white-collar offenders most use pre-sentencing guidelines data and have addressed the topic with data from only a few sources (Maddan et al., 2012; Simpson, 2013).

Currently, the most recent comparison between white-collar and street offenders at the federal level assessed outcomes for defendants processed in U.S. District Courts for

embezzlement and auto theft in the early-1990s (Maddan et al., 2012). The authors concluded that white-collar offenders and street offenders receive differential treatment, with auto theft offenders in the sample nearly four times more likely to receive a prison sentence compared to embezzlers, as well as auto theft offenders receiving sentences on average five months longer than embezzlers. As further evidence for differential treatment between white-collar offenders and street offenders, the authors found "auto thieves were sentenced more closely with the spirit of the sentencing guidelines (offense seriousness and criminal history), while the sentencing of white-collar offenders was more likely to be influenced by extralegal variables (sex, education, and acceptance of responsibility)" (Maddan et al., 2012: 16).[11]

Prior to the Sentencing Guidelines a series of research by John Hagan and colleagues compared sentencing outcomes of white-collar and street offenders in a sample of ten federal district courts. Hagan et al., (1980) found that there was *no significant difference* in punishment outcomes across white-collar offenders and common offenders.[12] Using the same data, Hagan et al., (1982) focused on income as a measure of social status and found that white-collar offenders of higher income levels received more lenient sentences in the federal courts examined. Moreover, Nagel and Hagan (1982) explored the issue of leniency of white-collar offenders compared to street offenders *across* federal

[11] Maddan et al., (2012: 9) argue auto thieves are a good comparison group for several reasons. First, embezzlement and auto theft are similar, as the offender does not physically confront a victim. Second, both of these offenses have the potential for similar financial losses to the victim; typically into the thousands of dollars. Finally, neither of these offenses receives extensive coverage in the media. Auto theft is rarely reported in the media, while white-collar crime typically has long periods of dormancy in the media until a major incident pushes it to the fore.

[12] The authors chose to measure status with education. Offenders were placed in one of four possible categories: (1) less educated common offenders, (2) college educated common offenders, (3) less educated white-collar offenders, (4) college educated white-collar offenders. Results found no significant evidence of sentencing disparity across any groups.

courts and found white-collar offenders did receive preferential treatment in one of the ten federal courts, which was characterized by its high volume of white-collar prosecutions. The findings lead the authors to conclude that there is a complex pattern of prosecution and sentencing of white-collar offenders, which may in part be influenced by different attitudes and policies toward the prosecution and treatment of white-collar offenders across jurisdictions.

Johnson (1986) used aggregate sentencing data from corporate, white-collar, and common crime from U.S. district courts, from fiscal years 1964, 1974, and 1984 to examine whether shifts in criminal justice policy influenced punishment outcomes among white-collar and street property offenders over a three-decade period. The study found that over time white-collar criminals are more being brought to court more frequently and are receiving more severe sanctions. However, at the conclusion of the study, white-collar offenders were still found to receive more lenient penalties than the comparison group of property offenders.

Other studies have sought to address the comparison of punishment outcomes among white-collar and street offenders at the state-level. Tillman & Pontell (1992), addressed the question of punishment of white-collar criminals by comparing sanctions imposed on health care providers convicted of defrauding California's Medicaid system to those convicted of grand theft in California. The authors found white-collar offenders were less likely to be incarcerated compared to those convicted of grand theft, even though the financial damages caused by the white-collar offenders were found to be significantly greater. However, the disparities were reduced when the model accounted for regulatory and administrative sanctions including civil monetary penalties imposed by the federal

government, disciplinary actions by professional boards, and temporary or permanent suspensions from the California Medicaid program. Thus, the results suggest that alternative sanctions, may serve as factors that mediate criminal punishment for white-collar offenders.

A more recent study using state-level sentencing data compared sentencing outcomes of probability of incarceration and sentence length among white-collar and street property offenders in under the sentencing guidelines in Florida from 1994 to 2004. In the study, Van Slyke & Bales (2012) compared those charged with fraud, bribery, and embezzlement to burglars and thieves and found that despite the sentencing guidelines attempt to reduce disparities between these groups, white-collar offenders were treated more leniently than the street property offenders at both sentencing stages. However, the authors note that there was considerable variation in sentencing outcomes based on the type of white-collar crime, the offender's social status, and whether the offense occurred before or after the Enron scandal.

Another line of white-collar research has not focused on a direct comparison between white-collar and street offenders; instead has primarily concentrated around two research questions: (1) whether the social status of white-collar offenders impacts sentencing disparities; (2) the ways in which the political climate influences sentencing outcomes (Simpson, 2013). Taken as a whole, the literature does not provide any clear findings on how white-collar offender's status influences their punishment outcomes. Some results indicate that white-collar offenders were more likely to be treated leniently by judges at time of sentencing. For instance, in a comprehensive qualitative study on judicial decision making as part of the Yale Studies on White-Collar Crime, Mann et al.,

(1979) conducted interviews with fifty-one federal district judges with the goal of learning about how judges reached decisions in cases involving white-collar offenders and non-white-collar cases.[13] Although using a limited sample of federal district courts, the research provided evidence that that judges view white-collar offenders differently than street offenders at sentencing, often expressing greater empathy to the circumstances of the white-collar offender (see also Wheeler et al., 1988). Akin to Sutherland's cultural homogeneity hypothesis for leniency in punishment for white-collar offenders, it appears judges may incorporate their similar social status and background as a rationalization to avoid imprisonment for white-collar defendants. As put by one judge: "… the white-collar criminal has more to lose by going to jail, reputation in the community, business as well as social community, decent living conditions, just the whole business of being put in a prison with a number on his back demeans this tremendous ego that is always involved in people who are high achievers" (Mann et al., 1979: 487).

In contrast, Wheeler et al., (1982) found a *significant positive* relationship between one's socioeconomic status and both the probability of incarceration and sentence length. In exploring this relationship the authors offer three possible explanations. First, is the possibility of a selection effect in which at early stages of processing "big fish are siphoned off, and only the losers those without smarts or at least without smart attorneys – got to jail." Second, the results may be impacted by the Watergate scandal occurring at nearly the same period as data collection for the study. This may suggest a heightened awareness and hostile sentiment toward high status offender generated an atmosphere of harsher treatment

[13] Judges were neither provided a definition of "white-collar crime" or a definition of "comparable non-white-collar crimes." Instead judges were presented with the terms and then asked to formulate their own general definition.

for white-collar offenders (see also Hagan & Parker, 1985; Hagan & Palloni, 1986; Benson & Walker, 1988). The third explanation contends both judges and the general public reflected a strong sentiment against "crimes of greed rather than crimes of need," suggesting the harshest sentences may have been reserved for high status offender who acted purely out of self-interested motivations (Wheeler et al., 1982: 657).

However, using a modified version of Yale Studies data used by Wheeler et al., (1982), Benson & Walker (1988) find conflicting results with both socio-economic status and defendant's impeccability being unrelated to the likelihood of being incarcerated. These findings imply sentencing outcomes for white-collar offenders may be impacted by the jurisdiction in which they live and their exposure to white-collar cases, with harsher sanctions coming in urban districts that experience higher caseloads of white-collar offenses. Therefore, contextual features of the court may account for variation in sentencing white-collar offenders (see also Nagel & Hagan, 1982).

Taking a Marxist theory approach to the question of status and sentencing disparities, Hagan & Parker (1985) introduced the structural theory of white-collar crime and punishment, which postulates that "class position influences involvement in white-collar criminal behavior as well as the punishment of this behavior" (p. 304). The findings indicate those of higher class positions have greater access and opportunities to benefit from their crimes but were also more successful in avoiding formal prosecution for their behavior. In a similar approach with organizational position as a measure of status, Benson (1989) explores both formal and informal sanctions taken against white-collar offender and concludes that job status does not affect the likelihood of incarceration and may have a negative effect on the length of incarceration. However, informal sanctions categorized by

the loss of a job were strongly influenced by one's position of status. Thus, those of higher status are more likely to lose their jobs following a conviction for a white-collar offense but they also remain less likely to face severe formal sanctions through the criminal justice system. Still, other analysis of the relationship between socioeconomic status, class position, and sentencing concludes class position and occupational status to be complementary rather than competing indicators. Thus, after controlling for the role of social class the effect of status on sentencing largely remains positive with those of higher status still more likely to receive prison sentences and receive longer sentences as compared to those of lower class (Weisburd et al., 1990b).

While prior research fails to identify a clear answer of whether social status corresponds to harsher treatment of white-collar offenders it is clear that the results are particularly sensitive to the definition, offense types, model specification, and a variety of contextual factors (Simpson, 2013). For instance, there may be a strong time period effect with those studies occurring after Watergate being sensitive to the political climate of the time. Hagan & Palloni (1986) examine the impact of sentences for white-collar offenders both before and after Watergate, finding that post-Watergate, convicted white-collar offenders were more likely to be sentenced to prison, but receive shorter sentences than less educated persons convicted of common crimes. However, other studies find in the aftermath of Watergate, high status offenders become less likely to suffer severe punishment under criminal code (Hagan & Parker, 1985; Benson & Walker, 1988).

Recently studies have sought to learn more about the factors influencing sentencing outcomes of white-collar offenders. Shanzenback & Yaeger (2005) find that financial penalties play a mediating role in sentencing, with white-collar offenders who received

larger fines also receiving shorter sentences. Thus, this evidence suggest an additional mechanism for which higher status offenders may avoid or reduce incarceration terms as some "defendants are able to trade fines for reductions in prison time" (Shanzenback & Yaeger, 2005: 790). Consequently, one's ability to pay fines is an important factor to consider in explaining sentencing disparities, including racial disparities, which the authors conclude are largely mediated by the ability of different groups to pay fines, as well as other factors such as wealth. Thus, on average, "whites receive shorter sentences, in part, because they have a disproportionate ability to pay a fine" (p. 792). Further, Albonetti (1998, 1999) shows factors such as pleading guilty and increased case complexity are features that may intervene in the relationship between the characteristics of the offender and final sentencing outcomes. These studies illustrate the neglect of previous research on sentencing disparities to consider factors such as the role of fines, case complexity, and guilty pleas, parallels issues in traditional sentencing research, as a major weakness of the sentencing disparity literature is the production of estimates resulting from "poorly specified models of sentencing" (Wellford, 2007: 399).

Holtfreter (2013) examines differential legal treatment among white-collar offenders based on gender. Using national survey data on white-collar crime, Holtfreter uses a focal concerns perspective to explain disparities in sentencing among white-collar offenders. Consistent with prior literature, the results find that women are limited in their role with white-collar crime based on restricted positions within the organization (see also Daly, 1989). However, the results did not provide evidence of gender-based leniency at sentencing and only provided partial evidence for the focal concerns perspective with only measures of blameworthiness being significantly related to the likelihood of incarceration.

Similarly, Steffensmeier (2013) applies a gendered focal concerns and crime opportunities framework to predict female involvement in corporate criminal networks. The findings support the gendered paradigm that women are typically not part of white-collar criminal networks and when involved in such networks women typically had more minor roles and made less of a profit than their male conspirators. Thus, the findings indicate that in along with gendered labor market that limit women's entry into employment positions, exclusion of women from corporate criminal networks is also present, which limits the opportunity for women to engage in significant white-collar crimes (see also Daly, 1989).

In summary, prior research has offered mixed results about whether white-collar offenders receive preferential treatment in punishment outcomes. However, most research to date uses data from prior to the sentencing guidelines and looks only at a limited number of punishment outcomes including the probability of incarceration and the sentence length given incarceration. Consequently, previous scholarship provides little insight about the current state of punishment for white-collar offenders under sentencing guidelines and the way in which white-collar offenders are treated in comparison to street offenders across a variety of punishment processes and outcomes.

Theoretical Perspective on Sentencing

Sentencing research continues to explore the extent to which judicial decision making is dependent on a large variety of factors that are both related and unrelated to the matter in question and may vary across groups of offenders (Kramer & Ulmer, 1996; Steffensmeier et al., 1998; Kurlycheck & Johnson, 2010). To understand whether differential treatment exists in criminal sentencing between white-collar and street offenders, this study formulates a series of hypotheses based on two theoretical

perspectives: focal concerns theory and typescript theory. These perspectives of punishment place emphasis on the ways characteristics of the crime, defendant, and the overall environment shape sentencing outcomes. Thus, the theoretical framework views the sentencing process as "a cognitive process in which information concerning the offender, the offense, and the surrounding circumstances is read, organized in relation to other information and integrated into an overall assessment of the case" (Hogarth, 1971: 279).

Focal Concerns Theory

The focal concerns theory builds on the bounded rationality thesis (Albonetti 1991), which contends judges rarely have the full information needed to make rational decisions and in absence of perfect information, will rely on past experiences and stereotypes related present situation, which serve as perceptual short hands that reduce risk in sentencing decisions. Specifically, focal concerns theory argues that in light of having limited information, judges emphasize three focal concerns when making decisions: blameworthiness, community protection, and practical constraints and consequences (Steffensmeier et al., 1998). Although not originally developed in relation to white-collar crime, the focal concerns theory of legal decision-making can be applied to explain judicial decision-making among white-collar offenders. Further, Holtfreter (2013), notes that while prior literature on white-collar crime has rarely employed a focal concerns perspective, "studies of white-collar offender sentencing have produced findings that can be interpreted though this lens" (Holtfreter, 2013: 328). In this section, I will briefly explain the components of the focal concerns theory and ways in which the theory applies to this analysis of white-collar crime.

The blameworthiness principle contends a defendant's punishment is directly influenced by the judge's perceptions of the offender's culpability and the damage caused. Accordingly, there is a positive relationship between the degree of blameworthiness and the final sentencing outcome, as offenders are seen as deserving of punishment because they have done something wrong and thus, society has a duty of punishing the offender proportionately to the seriousness of the offense (von Hirsh, 1976).

In application to white-collar crime specifically, prior research finds certain legal factors, such as offense seriousness, criminal history, and measures of defendants' culpability are associated with harsher punishment outcomes (Wheeler et al., 1982; Benson & Walker; Maddan et al., 2012; Holtfreter, 2013). For instance, Wheeler et al., (1982) found the key elements related to judges' decisions to sentence white-collar offenders more severely included legally relevant factors associated with blameworthiness such as the seriousness of the harm, the dollar loss of victims, the complexity and sophistication of the offense, and the spread of the illegality over space. More recently, Holtfreter (2013) tested the focal concerns perspective among a sample of white-collar offenders and found sentencing severity was primarily shaped by indicators of the offenders' blameworthiness, such as measures of crime seriousness. However, prior research has not specifically addressed whether being charged with a crime typically viewed as a white-collar offense rather than a street offense will affect the degree of blameworthiness attributed to the offender.

Protection of the community concentrates on the perceived need to incapacitate an offender to prevent future harm. The logic follows a utilitarian philosophy, arguing the main purpose of punishment is crime prevention. In sentencing, judges are challenged with

the issue of protecting the public and preventing future offending, but are provided limited information to predict whether or not the offender will recidivate. Consequently, judges must rely on information about the case, the offender's prior criminal history, or characteristics of the offender to gage predictions about the offender's likelihood of future offending.

In general, judges may view those charged with white-collar crimes as less of a danger to the community than the traditional street offender, as white-collar offenders typically have characteristics such as higher social status and shorter criminal histories. For instance, in comparing the decision to incarcerate white-collar offenders as compared to more traditional street offenders a judge noted, "the decision is definitely tougher. You are not putting someone away in order to safeguard the rest of the community from physical harm when you are dealing with a white-collar case, so you simply do not put people away as you do when you are dealing with violent crimes" (Mann et al., 1979: 482). According to the perspective of protection of the community, factors indicating high social status, such as high education and income would be expected to signal to a judge a lower degree of danger to the community and a reduced likelihood of recidivism. Moreover, leniency toward white-collar criminals may be a result of judges perceiving white-collar offenders as less likely to reoffend or do future harm, as white-collar offenders are often viewed as being more rational actors (Weisburd et al., 1991, 1994).[14]

Practical constraints and consequences focus on both organizational and individual factors that influence judicial decision-making. Regarding the individual offender,

[14] Alternatively, it can be argued the perception of enhanced rationality may translate into more severe punishment, as decision makers view white-collar offenders as more highly rational, and as being more susceptible to the deterrence effects of harsher modes of punishment, such a period of imprisonment.

constraints generally refer to the concerns judges may consider regarding "the offender's ability to do time, health condition, special needs, the costs to be borne to the correctional system, and the disruption of ties to children and other family members" (Steffensmeirer et al., 1998: 767).[15]

Prior research has looked to the special treatment and needs of white-collar offenders as a reason for leniency in punishment as compared to the street criminal. The "special sensitivity hypothesis" takes the perspective that judges view offenders of white-collar crimes as disproportionally susceptible to the pains of prison as compared to street offenders. From this point of view, white-collar offenders are particularly vulnerable to an environment that transplants those of higher social status into a society perceived to be ruled and overly populated by poor, minority, hardened street criminals (Benson & Cullen, 1988; Stadler et al., 2013). Thus, in employing discretion on what punishment to impose on white-collar offenders, judges may take into account the difficulty in adjusting to life in confinement and particular vulnerability to the harshness of imprisonment faced by the white-collar criminal. Furthermore, incapacitation for white-collar offenders may be viewed as unduly harsh as these individuals are seen as having more positive social capital to be lost through severe punishment. As put by one judge, "there is no getting away from the fact that the type of existence that jail provides is more hard on people who are accustomed to the better existence than it is on people who may not be fed as well in their homes as they are in jail" (Mann et al., 1979: 487).

[15] Organization constraints include the courts caseload and need to ensure a flow of cases, desire to maintain a working relationship with the courtroom workgroup, and the costs to the criminal justice system such as resource expenditures and correctional crowding. However, this study does not test the influence of organizational constraints on offenders' outcomes.

Taken together prior research and the focal concerns theory of sentencing support the notion that judges are likely to be influenced by characteristics of the case and the offender. Under the focal concerns perspective, this study proposes that despite changes to sentencing guidelines that have sought to equate levels of punishment among embezzlement and larceny at the federal level, being charged with a white-collar offense rather than a street offense will serve as a signal to decision-makers that the defendant is less of a danger to society and less capable of serving time in prison therefore.[16] Specifically, I expect the following:

- Hypothesis 1: Net of other factors, embezzlement offenders in comparison to larceny offenders will be punished less severely across all punishment outcomes.

Typescript Theory

Typescript theory contends that all individuals in society have ascribed or achieved characteristics based on identifiable traits, such as gender, race, and socioeconomic status. These characteristics are called a "type." Additionally, each "type" entails a "script", which are socially approved behaviors that the specific individual (or specific *type*) is expected to follow. Thus, these typescripts form behavioral cues which serve as the basis for the shared expectations amongst those in society as to which behavior to expect from different classes of individuals (Harris, 1977; Harris & Hill, 1986). Harris & Hill (1986) describe these typescripts as essentially conveying information about the behavior or actions to be expected from a person in a given scenario.

[16] Employing signaling theory from labor economics, this argument purports that the charge brought against you can play an important role in the way a defendant is perceived by judges even if this does not have a casual impact on the outcomes of the preceding (Spence, 1973; Bushway & Apel, 2012). In the current study, the application of signaling theory is used to further the argument that having a white-collar charge versus a charge of a street crime is a signal that judges will use in determining punishment. Specifically, the signal of a white-collar crime should result in more lenient punishment as opposed to a charge of a street crime.

Aside from defining socially accepted normal behaviors, typescripts also define expectations of deviant behavior. Those who fail to abide by their expected typescript are often viewed as countertypes. In relation to criminal behavior, Sealock and Simpson (1998), for instance, argue the archetypal countertype for delinquent involvement would involve a white female from a well-to-do socioeconomic background (see also Harris et al., 1985). Under this view, in relation to white-collar crime, the middle class white-collar offender with a stable job and family does not fit the social expectation as a criminal, which is the typescript characteristically reserved for the stereotypical street-level offender, who is a young, minority, male, of low socioeconomic status, and therefore the white-collar offender may constitute a "countertype" in the view of criminal justice decision makers.

Regarding the decision to punish, typescript theory suggests that the severity of punishment will vary across stages of criminal justice processing. Such a relationship is hypothesized to occur as rational decision makers operating in a realm of uncertainty will seek to maximize the subjective utility and minimize subjective disutility and such decisions may be influenced and even biased by the decision-makers interpretation of the offenders' typescript (Harris & Hill, 1986).[17] This perspective in part relates to the concept that different stages of punishment correspond with varying levels of the perceived subjective disutility that the punishment will have on the offender. Accordingly, different types of offenders (embezzlement and larceny) are subject to sanctions that are in accordance with the degrees of subjective disutility for the particular actor at each specific

[17] This discussion requires the defining of a number of concepts as viewed by typescripts theory. In this context rationality is "what is considered rational from the viewpoint of the decision maker". Subjective expected utility refers to "the perceived utility of choice weighted by the subjectively estimated probability of obtaining that utility if the choice were actually made." Subjective disutility refers to the assumption that "it is possible to assume… that a choice may involve a dis-incentive value or subjective expected disutility. It is sometimes assumed that the minimization of subjective expected disutility is the key rule in decision making" (Harris & Hill, 1986: p. 15).

stages of punishment. Under this view, the harshest punishments will be reserved for the offender that is perceived to be more severe and have committed crimes constituting a greater degree of harm, for whom, a more severe punishment will be necessary to enhance the degree of subjective disutility experienced by the punishment.

For instance, this model contends early in the criminal justice process, when an offender first appears in the criminal justice system, a *countertype*, such as a middle class white-collar offender is not likely to appear as a particular threat as they are not associated with the stereotypical deviant and as such a judges best estimate of the subjective disutility the offender will experience will correspond to a lower level of deprivation. Instead at the early stages, the harshest punishment is reserved for those typescripts that are associated with deviant behavior, such as those charged with an offense seen as a street crime. However, proceeding to the later stages of the criminal process, the calculus of the judge will change, and as it becomes increasingly rare to see a deviant countertype receive conviction and advance to the sentencing stage, the white-collar offender is viewed as a greater threat and as a result greater degrees of deprivation via more severe punishment are warranted. Thus, the application of typescript theory contends the differences in the degree of punishment severity between white-collar and street offenders is dependent upon the stage of punishment, with a white-collar offender who reaches the sentencing stage being more likely to stand out as a *countertype* and merit a more punitive form of punishment (Harris & Hill, 1986; Hill, et al., 1985).[18]

[18] Although not originally developed to explain variations in punishment among white-collar and street offenders, the typescript theory has been expanded to several different populations. Originally, Harris's (1977) typescript theory primarily focused on the relationship of gender and adult criminal behavior. Hill et al., (1985) further extended this theory to explain disparities in the processing of juvenile offenders. Sealock & Simpson (1998) used the theory to explain police decisions to arrest juvenile offenders. This study further expands on typescript theory by applying this perspective to explain variation in sentencing outcomes among white-collar and non-violent property offenders.

In the current discussion, the focus is on the crime type as the key element defining the typescript, where it is expected that being charged with embezzlement, regardless of other status characteristics such as gender, race, and class will directly influence the characterization as a countertype and subsequently affect punishment outcomes across various stages of the criminal justice process. However, typescripts theory also suggests that factors such as gender, race, and social class are associated with who is viewed as a typical offender and a countertype (Harris & Hill, 1986), as well as how these status characteristics may mediate the types of crimes that blacks and whites or males and females are expected to commit and what happens when the offender deviates from these expectations (see Sealock & Simpson, 1998). While this research views the crime type as the key element to be focused on, future research may also place emphasis on the interaction between the offense and offender status characteristics. For instance, future research should address the question of whether punishment outcomes varies if the white-collar offender is black or white, male or female, high or low socioeconomic status.

In summary, an application of typescript theory to white-collar crime contends that being charged and being subsequently convicted and sentenced of a white-collar crime leads to a label as a *countertype* and the punishment associated with this countertype becomes increasingly severe as an offender progresses through the criminal justice system. Therefore, using typescript theory I expect the following:

- Hypothesis 2: Net of other factors, at the early processing stage of pretrial detainment embezzlement offenders in comparison to larceny offenders will be less likely to receive pretrial detention
- Hypothesis 3: Net of other factors, at the later sentencing stages of embezzlement offenders in comparison to larceny offenders will be punished more severely across all outcomes.

Chapter 3: Data and Methods

Sentencing in Federal Context

Sentencing research at the federal level is distinguished by a number of unique characteristics. The federal system contains 94 separate district courts, within 11 circuits that cover the entire United States, as well as several foreign territories. As compared to state courts, the federal system is not only large, but also handles different types of caseloads, with dockets more heavily composed of immigration, narcotics, fraud, and weapons offenses.

Moreover, sentencing at the federal level is administered through a separate set of federal sentencing guidelines. The federal guidelines were originally drafted to limit the discretion given to judges and reduce unwarranted sentencing disparities by implementing a rigid system of punishment outcomes based on offense levels and prior criminal history, along with the possibility for aggravating and mitigating sentencing adjustments. While the sentencing guidelines vastly limited the discretion available to judges that was available under the previous system of indeterminate sentencing, some discretion is still provided the federal judges. For instance, federal punishments are based on "real offense" sentencing, which allows judges to consider relevant conduct or actual offense behavior during the sentencing process (Tonry, 1996).[19] Under real offense sentencing, judge may consider as an aside from the seriousness of the conviction offense, conduct that landed the defendant in court including "uncharged conduct, acquitted conduct, conduct in dismissed

[19] Real offense sentencing was adopted by the U.S. Sentencing Commission as a measure to reduce prosecutorial discretion in charging (for discussion see Wilmont & Spohn, 2004)

counts, and conduct of coconspirators" (Wilmont & Spohn, 2004: p. 325). Thus, under real offense sentencing, "sentences can be influenced by virtually any information about the offense or the offender [and] the decision about what factors to emphasize and how much weight to give to those facts rest with each sentencing judge" (Yellen, 2005: p. 267). Additionally, the potential for discretion was expanded in the *United States v. Booker*, in which the United States Supreme Court ruled that the mandatory nature of the federal guidelines violated the 6th Amendment right to jury trial, as it enabled the sentencing of offenders for crimes not proven beyond a reasonable doubt. As a result, the Court struck down the mandatory component of the federal guidelines and instructed federal judges to consider the guidelines as advisory (see *United States v. Booker/FanFan* 543 U.S. 220, 264 (2005)).

Data

This study uses federal criminal sentencing data from the United States Sentencing Commission (USSC) for fiscal years 2008-2010.[20] The data contain information about defendants in criminal cases filed in United States Federal District Court, who were sentenced under the provisions of the Sentencing Reform Act (SRA) of 1984, and subsequently reported to the United States Sentencing Commission by U.S. district courts and U.S. magistrates.[21] The dataset also contains additional variables added for research purposes by the United States Sentencing Commission's Office of Policy Analysis'. The USSC data contain detailed information, including variables from the Judgment and Conviction order (J&C), information on the defendants background collected from the

[20] Data from the Federal Justice Statistics Program are available from fiscal years 1994-2010. The present study only uses the three most recent years available at the time of the analysis (2008-2010).
[21] The data are compiled by the Urban Institute and Bureau of Justice Statistics (BJS) and maintained by the National Archive of the Criminal Justice Data (NACJD).

presentencing report, as well as variables regarding defendant and case characteristics including, criminal history and basic demographic information. Given the wealth of information available, scholars have noted the USSC data to be "arguably one of the richest data sources available for studying criminal sentencing" (O'Neill & Johnson, 2010: 407; see also Steffensmeier & Demuth, 2000).

The current sample includes data from 94 federal districts resulting in a total sample size of 4,210 embezzlement and larceny cases in federal district court. For the analysis of guideline departures, the sample is limited to cases that are eligible to receive discounts (Johnson, 2005; Johnson & Betsinger, 2009). Therefore, cases in zone A of the guidelines are excluded, as these cases are unable to receive departures resulting in a total sample of 2,908 cases (See Appendix D). For analyses with sentence length, only those who received an incarceration sentence are analyzed, resulting in a sample of 1,701 cases. Below I present a description of the variables used to analyze sentencing disparities. Table 1, provides a description, along with the coding scheme for the variables included in the model.

Table 1: Variable Definitions, USSC Data, FY 2008-2010

Variable	Coding Scheme	Description
Dependent Variables		
Pretrial detainment	1 = detained	Dummy indicator for offenders detained prior to trial
Substantial assistance departure	1 = yes	Offender received 5K1.1 downward departure for substantial assistance to government
Downward departure	1 = yes	Offender received judicial downward departure.
In/Out	1 = incarceration	Offender sentenced to incarceration
Ln financial sanction	Log (total dollar)	Natural logarithm of the dollar amount of fine/cost of supervision, and restitution ordered on the defendant
Ln sentence length	Log (months)	Natural logarithm of the total number of months of imprisonment (capped at 470)
Distance from Presumptive	Months	Offenders actual Sentence – offenders presumptive Sentence.
Offense Types		
White-collar offense	1 = white-collar offense	Dummy indicator for whether the offender was charged with embezzlement or larceny.
Control Variables		
Presumptive sentence	Months	Adjusted minimum months of incarceration recommended by the guidelines (capped at 470)
Ln presumptive sentence	Log (months)	Natural logarithm of adjusted minimum months of incarceration recommended by the guidelines (capped at 470)
Criminal history	USSC scale	United States Sentencing Commission scale rating prior criminal history from 1 to 6
Pretrial detainment	1 = detained	Dummy indicator for offenders detained prior to trial

Table 1: Continued

Variable	Coding Scheme	Description
Guilty plea	1 = plead guilty	Dummy indicator for whether offender was convicted by guilty plea or trial.
Multiple Counts of Conviction	1 = multiple	Dummy indicator for offenders convicted of multiple offenses
Race/ethnicity	4 dummy variables	Dummy indicator for white, black, and Hispanic, race unkown/missing
Male	1 = male	Dummy indicator if defendant is male
Age	Years	Continuous measure of age of offender at time of sentencing
U.S. Citizen	1 = U.S. Citizen	Dummy indicator of whether the offender is a U.S. citizen
Education	4 dummy variables	Level of defendant's educational attainment at time of sentencing measured as: less than high school, high school graduate, some college, and college graduate, education missing
Financial dependents	1 = dependents	Dummy indicator for offender with financial dependents (missing data are coded as 0)
Sentence year	3 dummy variable	Dummy indicator for sentence year, with 2008 the reference category

Dependent Variables

I examine disparities in punishment among the sample of embezzlement and larceny across a variety of outcomes including: pretrial detainment, federal guideline departures, incarceration, financial sanctions, sentence length and distance from the presumptive sentence. *Pretrial detainment* is coded as a dummy indicator of whether the offender was in detention prior to sentence. *Downward departures* in federal guidelines can occur in two ways. First, defendants who provided "substantial assistance" to the state

in the investigation or prosecution of other federal cases are eligible for departures under federal rule 5K1.1. Second, judges retain the discretion to sentence offenders outside the recommendations of the guidelines. Downward departures will be assessed using a multinomial outcome in order to distinguish from substantial assistance departures, downward departures, upward departures, and a reference group of no departure (see Johnson & Betsinger, 2009).[22]

In/Out is coded as a dummy variable, indicating a value of 1 if the offender is sentenced to any length of confinement and coded as 0 for any alternative sentence not involving a period of incarceration in a federal prison (probation, fine or restitution, alternative confinement, ect.). *Financial sanctions* encompass all monetary punishments imposed on the offender at time of sentencing, including fines, restitution, and all court fees and costs. As the distribution has a positive skew, I assess the financial sanctions outcome by using the natural logarithm. *Sentence length* is a continuous measure of the months an offender is sentenced to incarceration.[23] As the distribution of sentence length has a positive skew, I report the analysis as the natural logarithm of sentence months. *Distance from presumptive sentence* is a continuous variable and is coded as the difference between the actual number of months of incarceration that the offender is ordered to serve in an incarceration facility and the number of months of incarceration recommended by the presumptive sentence.[24]

[22] To date there are no known studies that explicitly measure guideline departures as a punishment outcome among a sample of white-collar offenders. However, sentencing literature focusing on traditional street offenders commonly uses guideline departures as an outcome variable to model decision making in federal criminal proceedings (see Albonetti, 1997; Steffensmeier & Demuth, 2000; Johnson et al., 2008; Johnson & Betsinger, 2009).

[23] Following U.S. Sentence Commission guidelines length of confinement is capped at 470 months (i.e. life imprisonment is coded as 470 months).

[24] Distance from Presumptive = Sentence Length (months) – Presumptive Sentence Length (months).

Independent Variables

To compare sentencing outcomes between these two groups of offenders, this study measures white-collar offenders as those charged with embezzlement and street offenders as those charged with larceny or theft. *White-collar offense* is measured as a dummy indicator of whether the primary offense was with either embezzlement or larceny. Both embezzlement and larceny are broad categories that encompass a number of specific offense charges within the label. Table 2 displays the disaggregated distribution of offense types and number of offenders in either the white-collar offender or street offender category. The disaggregated distribution will be examined separately in later analyses.

Table 2: Summary of Disaggregated Offense Types

Offense Type	Obs.	Percentage
Embezzlement Offenses (White-Collar)		
Bank Embezzlement	387	27.49
Postal Embezzlement	467	33.17
Embezzles of Public Money and Properties	45	3.20
Embezzlement – Lending, Credit, Insurance	72	5.11
Embezzlement – Veterans Relief	5	.36
Embezzle- Government Officer or Employee	8	.57
Embezzlement – Other	424	30.11
Total Embezzlement	***1,408***	
Larceny Offenses (Street)		
Larceny & theft – Bank	145	5.17
Larceny & theft – Postal	618	22.06
Larceny & theft – Interstate Commerce	87	3.10
Theft of U.S. Property	1,869	66.70
Theft of Maritime Property	65	2.32
Larceny & theft – Other Felony	18	.64
Total Larceny	***2,802***	

Control Variables

I take into account a number of legal and demographic factors that have been found to be associated with sentencing outcomes by prior research. To control for legally relevant considerations under sentencing guidelines, I control for *presumptive sentence length*, which is the minimum number of months of incarceration recommended by the sentencing guidelines and adjusted for mandatory minimums. Presumptive sentence takes into account the 43-point offense severity scaled and the 6-point criminal history scale, as well as accounts for sentencing adjustments (see Engen & Gainey, 2000; Hofer & Blackwell, 2001). In line with prior research, and per the recommendations of the U.S. Sentencing Commission I also include an additional control for the offender's 6-point *criminal history score* (see Ulmer, 2000; United States Sentencing Commission, 2006; Johnson et al., 2008; Johnson & Betsinger, 2009). *Pretrial detainment* is coded as a binary variable and measured as whether the defendant was detained in-custody prior to trial. I also include a dummy variable for observations where pretrial detainment status is missing. *Multiple counts of conviction* are coded as a dummy indicator for whether the offender was convicted on more than one charge. *Guilty plea* is coded as a dummy variable to indicate whether to offender was convicted through a guilty plea or a trial.[25] *Financial sanctions* is coded as a continuous variable rounded to the nearest whole dollar and is included in the model as prior research has found financial sanctions to be a key mediating variable in white-collar crime sentencing research (Schanzenbach & Yaeger, 2006).

I also control for several demographic factors related to the offender. *Race/ethnicity* is coded as series of dummy variables indicating whether the offender is white, black,

[25] Jury trial and bench trial are combined into one variable for conviction by trial.

Hispanic or other race.[26] A dummy variable is also included for cases where the offenders' race is missing or is unknown. *Age* is measured at the time of sentencing and is coded as a continuous variable. *Male* is a dummy indicator for male offenders. U.S. *Citizen* is a dummy variable that measures whether the offender is a U.S. citizen. A dummy variable is included for citizenship cases that are missing. *Educational attainment* is coded as three dummy variables indicating whether the highest level of education was high school graduate, some college, and college graduate, with less than high school graduate serving as the reference category.[27] An additional dummy variable is included for whether the offenders' educational status was missing or unknown. *Financial dependent is* a dummy indicator of whether the offender claims any financial dependents (excluding self). *Year* is coded as a series of dummy indicators for the year in which the offender was sentenced.

Table 3 presents descriptive statistics examining for the full sample, as well as the sample disaggregated by embezzlement and larceny offenders. In the sample there are 1,408 embezzlement cases and 2,802 larceny cases totaling 4,210 cases in the full sample. Between the samples there is variation across punishment outcomes. For instance, at the early stage of pretrial detainment there are 32 percent of larceny cases that are detained compared to just 15 percent of embezzlement cases. However, comparing across the decision to incarcerate, white-collar offenders are more frequently incarcerated with approximately 44 percent of embezzlement offenders being sentenced to prison, whereas 38 percent of offenders convicted of larceny faced prison. Furthermore, among white-collar

[26] Other race include Asian, American Indian, Multi-Racial, or Non-US American Indian

[27] Technical, military, vocational training, and course work at community colleges are coded as *Some College*. A general equivalency degree (GED) is coded as *High School Graduate.*

offenders, the average length of sentence was slightly more than 2.74 logged months, significantly greater than larceny offenders who had an average of 2.62 logged months.

Regarding control variables across both of offenders the majority are U.S. citizens, male, and white. White-collar offenders are slightly older, and are more likely to be female, white, claim financial dependents, and have lower criminal history scores, than larceny offenders, on average. Additionally, there are large differences in the levels of education between the two groups. Offenders with less than a high school education are more highly concentrated as street offenders, with 40 percent having less than a high school diploma versus only 13 percent among white-collar offenders. Further, embezzlement offenders are more highly educated with 17 percent having graduated college, compared to only 9 percent of larceny offenders.

Table 3: Descriptive Statistics, FY 2008-2010

	Full Sample (n = 4,210)		Embezzlement (*n* = 1,408)		Larceny (*n* = 2,802)	
Variable	**Mean**	**SD**	**Mean**	**SD**	**Mean**	**SD**
Pretrial Detainment (N = 4,182)	.26	.44	.15*	.36	.32*	.47
Substantial assistance departure (N = 2,908)	.05	.22	.07*	.26	.05*	.23
Downward departure (N = 2,908)	.25	.43	.35*	.48	.26*	.44
Incarceration (N = 4,210)	.40	.49	.44*	.50	.38*	.49
Ln financial sanction (N = 3,599)	1.34	1.15	1.53*	1.38	1.25*	.99
Ln sentence length (N = 1,701)	2.67	.83	2.74*	.90	2.62*	.79
Distance from Presumptive (N = 4,210)	-2.91	7.90	-4.13*	8.75	-2.48*	7.62
Control Variables						
Presumptive sentence	10.65	14.85	13.64*	19.15	9.16*	11.87
Ln presumptive sentence	1.74	1.31	1.89*	1.4	1.67*	1.25
Criminal history	1.68	1.37	1.11*	.48	1.97*	1.57
Pretrial detainment	.26	.44	.15*	.36	.32*	.47
Pretrial detainment info missing	.02	.13	.01	.12	.01	.10
Guilty plea	.97	.18	.95*	.22	.98*	.15
Counts of conviction	.17	.38	.17	.38	.17	.38
Ln financial sanction	1.14	1.16	1.33*	1.39	1.05*	1.02
No departure	.68	.47	.64*	.48	.69*	.46
Upward departure	.02	.14	.01*	.08	.03*	.16
Substantial assistance departure	.04	.20	.05*	.22	.04*	.19
Downward departure	.20	.40	.24*	.43	.18*	.38
Departure information missing	.01	.08	.00*	.03	.01*	.06
White	.52	.50	.62*	.49	.48*	.50
Black	.29	.46	.20*	.40	.34*	.48
Hispanic	.10	.30	.07*	.26	.11*	.32
Other Race	.06	.24	.10*	.30	.05*	.21
Race Missing/Unknown	.02	.13	.01	.13	.02	.14

Table 3: Continued

	Full Sample (n = 4,210)		Embezzlement (*n* = 1,408)		Larceny (*n* = 2,802)	
Variable	**Mean**	**SD**	**Mean**	**SD**	**Mean**	**SD**
Male	.55	.50	.49*	.50	.58*	.49
Age	42.46	12.81	43.29*	11.7	42.06*	13.32
U.S. Citizen	.96	.19	.98*	.13	.95*	.22
U.S. Citizen info Missing	.01	.11	.01	.09	.01	.08
Less than high school	.31	.46	.13*	.35	.40*	.49
HS Graduate	.26	.44	.30*	.46	.24*	.43
Some College Education	.30	.46	.39*	.49	.26*	.44
College Graduate	.11	.32	.17*	.37	.09*	.28
Education information missing	.02	.15	.02*	.12	.02*	.13
Dependents	.56	.50	.62*	.49	.54*	.50
Year dummies	-	-	-	-	-	-

*Indicates difference between embezzlement and larceny categories is statistically significant at the $p < .05$ level
SD = Standard Deviation

Analytic Strategy

The subsequent analysis will proceed in the following stages. First, as typescript theory hypothesizes differential punishment outcomes dependent upon the stage of sentencing, I begin by analyzing the early process decision of pretrial detainment through a logistic regression. Next, I turn to the actual sentencing stage and model several outcomes of interest. For the analyses of downward and substantial assistance departures, I use a multinomial logistic regression. This method enables the separate comparison of the likelihood of receiving each type of downward departure compared to receiving no departure (see Johnson & Betsinger, 2009).[28]

[28] Federal departures can occur both above and below the guidelines recommendations, therefore, the multinomial logistic regression estimates a four-category model (substantial assistance, downward departure, upward departure, and no departure). However, similar to method used by Johnson & Betsinger (2009), I only report the outcomes for the downward departures as upward departures occur in less than 1 percent of all cases occurring in the sample.

Next, the decision to sentence can be broken down into either a one-stage or a two-stage process. In the two-stage process, sentencing is modeled first by the decision of whether or not to incarcerate, and, second the length of imprisonment given incarceration (Wheeler et al., 1982). This approach is widely used in prior research for sentencing of white-collar offenders (Wheeler et al., 1982; Hagan & Paker, 1985; Hagan & Palloni, 1986), as well as criminal sentencing research more generally (Steffensmeier, 1998; Ulmer & Johnson, 2004; see also Bushway et al., 2007).[29] However, Bushway & Piehl (2001) argue that the assumption of sentencing occurring in two separate stages became substantially less valid after the introduction of presumptive sentencing guidelines and instead recommend modeling both the decision to incarcerate and sentence length together through use of a Tobit model (Stolzenberg & Relles, 1997; Albonetti, 1997; Bushway & Piehl, 2001; Kurlycheck & Johnson, 2004). In sum, the two approaches differ in the assumptions about the sentencing process. The assumption of the Tobit analysis is the judges use the same processes to decide the incarceration decision, as well as sentence length. In contrast, the two stage-processes assume the processes may not be the same.

This study relies primarily on the two-stage model, but also uses a Tobit analysis as an alternative method (see Steffensmeier & Demuth, 2000; Steffensmeier & Demuth 2001). The decision to rely primarily on the two-stage model is based on the following reasoning.[30] First, this is an exploratory study to understand disparities in sentencing outcomes among white-collar offenders and comparable street offenders under

[29] The conceptual basis to model sentencing as a two-stage process grew out of interviews conducted with federal judges in the Yale Studies on White-Collar, which revealed that judges viewed sentencing as a two-stage process. For instance, wheeler et al., (1982) contended that "the first and hardest decision the judge makes is whether the person will go to prison or not" and secondly a judge must make a qualitatively different decision related to how long the offender should be incarcerated. (Wheeler et al., 1982: 642).
[30] Ulmer and Johnson (2004), note the decision to model based on either a one-stage or two-stage process should be based on the research question and nature of the data.

contemporary sentencing guidelines. As such, it is important to assess whether factors differentially impact the decision to incarcerate, as well as the sentence length given incarceration. Second, past research and perspectives of white-collar crime punishment, such as the special sensitivity hypothesis, explicitly contend that the decision to incarcerate white-collar offenders is of heightened concern for judges (Mann, 1985, Wheeler et al., 1988; Stadler et al., 2013). Thus, as this study aims to understand how punishment severity differs across the samples of white-collar and street offenders for different punishment outcomes, I proceed by separately analyzing the decision to incarcerate and sentence length given incarceration.

Following the two-stage process, I first model the binary outcomes of whether the offender was sentenced to a period of incarceration using a logisitic regression analysis. Next, I model sentence length in months for subsample of those sentenced to prison using ordinary least squares regression (OLS). As the distribution of sentence length is positively skewed I use the natural logarithm in analyzes (Wheeler et al., 1982). I also assess the sentencing outcome for financial sanctions, which can be modeled using OLS. The outcome is logged to reduce skew, the results can be interpreted as the percent change in the dependent variable associated with a 1-unit change in the independent variable.

Using the two-stage method, sampling bias becomes an issue as the sample of offenders who are sentenced to incarceration is likely a nonrandom subset of the population. Consequently, coefficients from estimates on sentence length may be biased. As a sensitivity analysis, I follow the procedure recommended by Bushway et al., (2007) to determine the costs and benefits of using Heckman's (1976) correction for selection bias. Using Stata 13 (StataCorp, College Station, TX), I calculate the inverse Mills ratio using

the Heckman Two-Step procedure. The collinearity diagnostic for the model including the lambda term reported a condition index = 38.23 exceeding the recommended ranges for collinearity. Ultimately, this suggests that the uncorrected estimates from the simple two-part model are preferable.

Finally, I include an alternative measurement of sentencing severity by creating a new variable that takes the difference of the actual sentence length given to the offender and the presumptive sentence. This new variable provides a measure of distance judges deviate from the presumptive sentence and provides several advantages. Using this new measure is advantageous as it allows cases to remain in the modeling of sentence length imposed on the offender and provides a standardized outcome to compare white-collar and street offenders by showing whether judges deviate further from the presumptive sentence for either group. The difference from the presumptive guidelines is a continuous variable and is normally distributed allowing the use of ordinary least squares regression (See Appendix E). The coefficients can be interpreted as a 1-unit increase in the independent variable corresponding to the amount in the months the offender is sentenced above or below the presumptive guideline recommendations.

Table 4a and Table 4b report the results for the full sample across all outcomes. The findings demonstrate that differences in the severity of punishment between embezzlement and larceny offenders vary across outcomes. For instance, in accordance with hypothesis 2, at the earlier stage of criminal justice processing, white-collar offenders are treated more leniently compared to larceny offenders, being 29 percent less likely to be detained prior to sentencing. Generally, this finding may be the result of several factors. From a theoretical perspective, typescript theory argues that at the early stages of the

criminal justice process, street offenders, as compared to the white-collar offenders, are perceived to be of greater threat and thus, are more likely to face detention. In support of this theory, Appendix F shows that embezzlement offenders are significantly more likely to be released on their own recognizance (RoR), with 25 percent of embezzlement offenders, but just 19 percent of larceny offenders receiving a RoR release. Moreover, these results may in part be explained by the ability to afford or obtain bail. Appendix F shows 57 percent of embezzlement offenders are released on bail/bond, whereas only 47 percent of larceny offenders are granted a bail/bond release.[31] This difference in the ability to obtain bail can be partly explained by the differences in individual characteristics across the two samples of offenders. While the current sample lacks data on income and employment, the sample of white-collar offenders are better educated. Additionally, in order to commit embezzlement the offender must have been employed at the time of the offense. As both employment and higher education are factors that are logically correlated with higher income, it may be plausible that the sample of white-collar offenders are more able to obtain bail than the larceny offenders and are therefore less likely to face pretrial detainment.

Next, turning to the later stages of criminal processing, the results suggest the relationship between white-collar status and punishment severity changes upon the outcomes of interest. The results of the multinomial logistic regression for downward departures report no statistically significant difference in the decision to grant substantial

[31] Under United States Code 18 U.S.C. § 3142(b) a judicial officer may release a defendant upon their own personal recognizance or upon execution of an unsecured bond "unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community" (for further discussion see Oleson et al., 2014).

assistance or downward departures across either embezzlement or larceny offenders. While the coefficient for embezzlement offenders is positive in both models, indicating embezzlement offenders are more likely to receive both substantial assistance and judicial downward departures, the relationship is not statistically significant. Accordingly, the findings are inconclusive as to whether there is differential treatment for substantial assistance or judicial downward departures.

On the decision of incarceration, embezzlement offenders are treated more punitively, with the results showing embezzlement offenders to be 33 percent more likely to be incarcerated than larceny offenders. Thus, these results support the hypothesis 3, as typescript theory suggests those charged with a white-collar offense, who appear at later stages of criminal justice processing are most likely to stand out as *countertype* and be viewed as a greater threat or more serious offenders; thus, will warrant more severe punishment.

To model sentencing severity for those convicted, I use three measures. First, using an ordinary least squares regression on the natural logarithm of financial sanction, I find white-collar offenders receive significantly lower financial penalties than larceny offenders, with results showing being convicted of embezzlement corresponds to a 14 percent decrease in the dollar amount of financial sanction compared to those convicted of larceny. Next, turning to the OLS model of the natural logarithm of sentence length on the subsample of those who received a period of incarceration this study finds no significant difference in the sentence length between embezzlement and larceny offenders.[32]

[32] I repeat these analyses through the use of the tobit model. Appendix C show results are substantively the same for the outcome of financial sanction. For the outcome of sentence length the tobit model suggests a positive and significant relationship for embezzlement offenders. However, it is likely the change in

Finally, using a measure of distance from the presumptive sentence, I find embezzlement offenders are significantly more likely to receive sentences that are higher than the presumptive sentence recommendation. The results of the OLS model show embezzlement offenders are sentenced, on average, .38 months longer than the presumptive sentence range. Thus, while the results did not show a significant difference between embezzlement and larceny offenders across downward departures from sentencing guidelines, the findings imply that judges are more likely to sentence embezzlement offenders above the presumptive sentence recommendations.

In sum, differences in sentencing severity for embezzlement offenders compared to larceny offenders varies across the type of punishment outcome observed, with some outcomes revealing positive, negative, or null effects. While the application of focal concerns theory projects a consistent negative relationship of having a white-collar charge and punishment outcomes, the model does not support hypothesis 1 as several measures find a significant positive relationship. However, typescript theory receives partial support as white-collar offenders treated more leniently at the early stage or presentence detention and more harshly in the decision for incarceration and distance from presumptive sentence. However, typescript theory fails to explain the analogous finding that larceny offenders receive financial sanctions that are significantly greater than embezzlement offenders.

Results presented in Tables 4a and 4b also present an interesting pattern regarding the effect of legal and extralegal characteristics on outcomes. For instance, in previous research, Schanzenbach & Yaeger (2006) found that observed racial disparities in prison sentences for white-collar offenders are largely the result of the offenders' ability to pay

significance level is driven by the significant positive effect of probability of incarceration, which is also has a strong positive relationship for white-collar offenders.

fines. Using data on sentencing from federal criminal courts the authors found that paying a fine significantly reduces the amount of prison time, and that whites received disproportionately shorter prison times largely due to the ability of this group to afford fines. However, the current study presents findings that conflict with these results. In particular, the imposition of financial sanctions did not significantly reduce the amount of prison time received. Moreover, the current study also finds that the sample of embezzlement offenders received significantly lower financial sanctions than larceny offenders during the years 2008-2010.[33] It is possible that the results between these two studies diverge for a number of reasons. First, the current study uses data from 2005-2007 and 2008-2010, whereas Schanzenbach & Yaeger use data from 1992-2001, and as a result the findings may represent a trend over time where the ability to pay fines matters less in mediating sentencing severeity. Second, the current study uses data on all financial sanctions, whereas Schanzenbach & Yaeger only account for fines. Finally, this study is a comparison *between* embezzlement and larceny offenders, whereas Schanzenbach & Yaeger focus on disparities *within* white-collar offenders only. Still, despite these differences in the two studies, the divergence in findings bring to light an important contradiction, and as a result future research should continue to explore the link between financial sanctions and sentencing among white-collar offenders, as well as other groups of offenders more generally.

Regarding the effect of demographic characteristics the results show the effects of race vary across different punishment outcomes. In comparison to the reference group of

[33] In FY 2005-2007, there was no statistically significant difference in the amount of fines between embezzlement and larceny offenders.

black offenders, the results show both white and Hispanic offenders are significantly more likely to be detained before trial, and more likely to be sentenced to a period of incarceration. Further, Hispanic offenders are also significantly more likely to receive longer prison sentences, on average, compared to black offenders. However, across measures of downward departures, financial sanctions, and difference from the presumptive sentence, the results show no significant difference across racial and ethnic groups. Further, legally relevant factors also show a strong influence on offender outcomes. Criminal history score exhibits a significant positive association with the likelihood of pretrial detainment, being sentenced to incarceration, sentence length, and the difference from the presumptive sentence. However, criminal history score also has a negative relationship with the amount of financial sanctions, possibly indicating that those with greater prior criminal involvement are more likely to be incarcerated instead of receiving a financial punishment in lieu of imprisonment.

Table 4a: Main Results Logistic Regressions

	Pretrial Detainment	**Substantial Assistance Departure**	**Downward Departure**	**In/Out**
	Exp(*b*) *(SE)*	**Exp(*b*) *(SE)***	**Exp(*b*) *(SE)***	**Exp(*b*) *(SE)***
White-Collar Offense	.71***	1.26	1.14	1.33***
	(.08)	(.29)	(.14)	(.14)
Presumptive Sentence	-	1.03***	1.01***	1.33***
	-	(.01)	(.01)	(.02)
Ln Presumptive Sentence	-	-	-	-
	-	-	-	-
Upward Departure	-	-	-	16.45***
	-	-	-	(8.02)
Substantial Assistance	-	-	-	.03***
Departure	-	-	-	(.01)
Downward Departure	-	-	-	.09***
	-	-	-	(.02)
Other Departure	-	-	-	.07***
	-	-	-	(.02)
Criminal History	1.66***	.91	.84***	1.38***
	(.05)	(.07)	(.04)	(.07)
Pretrial Detainment	-	.57***	.68***	1.79***
	-	(.12)	(.08)	(.19)
Pretrial Detainment Missing	-	1.53	.89	.74
	-	(1.31)	(.74)	(.46)
Multiple Counts of Conviction	1.29**	1.12	.70**	.89
	(.14)	(.30)	(.10)	(.13)
Guilty Plea	-	-	-	.57*
	-	-	-	(.18)
Financial Sanction	-	-	-	1.00
	-	-	-	(.01)
Ln Financial Sanction	-	-	-	-
	-	-	-	-
White	1.52***	.85	.90	1.42***
	(.18)	(.21)	(.10)	(.16)
Hispanic	1.81***	.61	.90	1.38**
	(.32)	(.20)	(.15)	(.21)
Other Race	1.37	.37**	.73	1.34
	(.28)	(.18)	(.18)	(.34)
Race Missing	1.31	.23*	.49	1.32
	(.64)	(.19)	(.22)	(.55)

Table 4a: Continued

	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out
	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*
Age	.98***	.99	1.02***	.98***
	(.00)	(.01)	(.00)	(.00)
Male	1.29***	1.73***	.71***	1.27**
	(.12)	(.36)	(.066)	(.12)
U.S. Citizen	.36***	1.08	1.00	.52***
	(.07)	(.35)	(.23)	(.13)
U.S. Citizen Missing	1.96	.00***	2.46	.38
	(2.25)	(.00)	(2.46)	(.34)
HS Graduate	.62***	1.10	1.03	1.22
	(.08)	(.21)	(.13)	(.15)
Some College	.61***	.78	.98	1.28**
	(.07)	(.20)	(.15)	(.15)
College Graduate	.70**	.80	1.04	1.11
	(.11)	(.22)	(.19)	(.19)
College Information Missing	1.72	2.41	1.53	1.69
	(.86)	(1.67)	(.67)	(.80)
Dependents	.89	1.26	.89	.96
	(.08)	(.21)	(.08)	(.09)
Year dummies	-	-	-	-
Constant	.82	.08***	.30***	.35**
	(.24)	(.06)	(.09)	(.16)
Observations	4,182	2,908	2,908	4,210
R2/Model Fit	0.18	0.05	0.05	0.48

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

Table 4b: Main Results Ordinary Least Squares Regression

	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	b	***b***	***b***
	(SE)	***(SE)***	***(SE)***
White-Collar Offense	-.14***	.02	.38**
	(.04)	(.03)	(.18)
Presumptive Sentence	-	-	-.06**
	-	-	(.03)
Ln Presumptive Sentence	0.62***	0.67***	-
	(.02)	(.03)	-
Upward Departure	-.065	.88***	19.35***
	(.09)	(.05)	(1.60)
Substantial Assistance Departure	-.22*	-.57***	-13.20***
	(.11)	(.06)	(.78)
Downward Departure	-.02	-.55***	-9.01***
	(.05)	(.03)	(.34)
Other Departure	-.18***	-.60***	-8.36***
	(.06)	(.07)	(.47)
Criminal History	-.27***	.042***	.50***
	(.02)	(.01)	(.11)
Pretrial Detainment	-.13***	.12***	.71***
	(.04)	(.03)	(.25)
Pretrial Detainment Missing	.18	-.08	-.96*
	(.24)	(.12)	(.50)
Multiple Counts of Conviction	.05	.14***	.07
	(.06)	(.03)	(.29)
Guilty Plea	.26*	-.18***	-2.32***
	(.13)	(.04)	(0.88)
Financial Sanction	-	-	-.01
	-	-	(.01)
Ln Financial Sanction	-	.09***	-
	-	(.02)	-
White	.02	.03	.02
	(.04)	(.03)	(.22)
Hispanic	-.04	.11**	.30
	(.07)	(.05)	(.32)
Other Race	.02	.01	-.42
	(.06)	(.04)	(.42)
Race Missing	.13	.15	.45
	(.12)	(.14)	(.48)

Table 4b: Continued

	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	b ***(SE)***	***b*** ***(SE)***	***b*** ***(SE)***
Age	.01***	-.01***	-.04***
	(.00)	(.00)	(.01)
Male	-.12***	.05**	.01
	(.03)	(.03)	(.18)
U.S. Citizen	.15	-.01	-.97*
	(.16)	(.05)	(.57)
U.S. Citizen Missing	.09 (.26)	.20 (.35)	-.38 (.94)
HS Graduate	.05	-.07**	.18
	(.04)	(.03)	(.26)
Some College	.08** (.03)	-.08*** (.03)	.17 (.22)
College Graduate	.18*** (.06)	-.04 (.03)	-.21 (.26)
College Information Missing	-.06 (.10)	-.03 (.08)	.09 (.55)
Dependents	.01	-.03	-.26
	(.03)	(.02)	(.19)
Year dummies	-	-	-
Constant	-.21	1.00***	4.16***
	(.19)	(.14)	(1.15)
Observations	3,599	1,701	4,210
R2/Model Fit	0.54	0.74	0.56

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

Offense Specific Analyses

As demonstrated in Table 2, there are a number of specific offenses embedded within the categories of embezzlement and larceny offenders. For instance, Table 2 displays the distribution of offenses across both embezzlement and larceny offenses. Among the larceny category there are seven specific offenses, however, the three most frequently appearing types of embezzlement composes over 90 percent of the sample: postal embezzlement (33%), other embezzlement (30%), and bank embezzlement (27%). Similarly, among the larceny category there are six specific offense types. The modal category is theft of U.S. property, which makes up over 66 percent of the sample. Additionally, there is a high frequency of postal theft cases (22%). To assess the sensitivity of main results to specific types of offenses included in the crime categories of embezzlement and larceny, I run additional analysis by omitting specific offense types from embezzlement and larceny categories.

Table 5 displays the mean and standard deviation across all punishment outcomes for the disaggregated offense types. The table highlights the large degree of variation in outcomes both across different offenses and the outcome variables. Generally, among the embezzlement offenses, bank embezzlement and lending & credit embezzlement warrant the harshest outcomes on incarceration decision, sentence length, and financial sanctions. However, these offenses are also among the most likely to receive downward departures and receive sentences that are below the presumptive recommendation. Similarly, among the larceny category, interstate commerce theft has the more severe punishment outcomes on the categories of incarceration decision, sentence length, and financial sanction, but is also the group with the highest proportion of substantial assistance departures, and on

average has sentences that are nearly three months below the presumptive recommendation.

Table 5: Punishment Outcomes for Disaggregated Embezzlement Offenses

Offense Type Removed	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)
Bank	.12	.03	.45	.62	1.95	1.65	-4.72
Embezzlement	(.32)	(.17)	(.50)	(.49)	(1.38)	(1.49)	(7.43)
Postal	.17	.02	.28	.14	.37	.29	-1.79
Embezzlement	(.38)	(.13)	(.45)	(.35)	(.65)	(.77)	(3.75)
Embezzlement	.11	.12	.19	.33	1.16	1.07	-1.62
Public Money	(.32)	(.33)	(.40)	(.48)	(1.37)	(1.63)	(8.92)
Embezzlement	.13	.07	.37	.69	2.43	1.92	-5.11
Lending/Credit	(.33)	(.26)	(.49)	(.46)	(1.35)	(146)	(7.09)
Embezzlement	.20	-	.60	.40	1.33	1.24	-5.40
Veterans Relief	(.45)	-	(.54)	(.55)	(1.13)	(1.72)	(6.84)
Embezzlement	-	.25	.25	.25	1.23	.88	1.25
Gov't Officer	-	(.50)	(.50)	(.46)	(1.59)	(1.66)	(21.67)
Embezzlement	.17	.14	.29	.59	1.65	1.74	-6.33
Other	(.37)	(.35)	(.46)	(.49)	(1.39)	(1.57)	(12.31)

Table 5: Continued: Punishment Outcomes for Disaggregated Larceny Offenses

Offense Type Removed	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)	Mean (SD)
Bank Larceny	.31	.09	.28	.41	1.28	1.18	-1.95
	(.47)	(.29)	(.45)	(.49)	(1.19)	(1.56)	(14.72)
Postal Larceny	.59	.06	.14	.55	.23	1.46	-.24
	(.49)	(.23)	(.35)	(.50)	(.51)	(1.42)	(7.90)
Larceny	.36	.20	.16	.76	1.59	2.32	-2.93
Interstate Commerce	(.48)	(.40)	(.36)	(.43)	(1.44)	(1.44)	(7.26)
Theft of U.S.	.23	.04	.31	.31	1.29	.78	-3.29
Property	(.42)	(.20)	(.46)	(.46)	(.96)	(1.25)	(6.57)
Larceny	.37	.03	.12	.29	.62	.75	-.37
Maritime Property	(.49)	(.17)	(.33)	(.46)	(.66)	(1.24)	(4.16)
Other Larceny	.33	.14	.29	.56	1.37	1.43	-5.39
	(.49)	(.36)	(.470	(.51)	(1.49)	(1.40)	(10.19)

SD = Standard Deviation

Based on this variation in the sample, I repeat the analysis reported in Table 4a and Table 4b but remove each specific offense category from the model. The results in Table 6 indicate that the removal of a specific embezzlement or larceny offense can generate a substantial degree of variation across outcomes. For instance, by omitting the offense of the bank embezzlement the coefficient for substantial assistance departures increased and became statistically significant. Similarly, the coefficient for sentence length gained statistical significance and tripled in size from .02 to .07. However, the coefficient for incarceration decision decreased and the relationship lost statistical significance, as did the relationship for distance from presumptive recommendation. As bank embezzlement constitutes 27 percent of all white-collar cases, it is not particularly surprising to see such substantial changes in the model based on removal of this offense. Thus, the sensitivity of the results demonstrates how findings white-collar crime research may vary dramatically based on definitional approach and the inclusion or exclusion or certain types of offenses that may alter nature of the sample used in research.

While, the results in Table 6 highlight that model is sensitive to changes in types of crime included in the analysis, the removal of certain offense categories, such as embezzlement of public money has relatively little impact on the results. Yet the removal of other types of offenses, such as of bank embezzlement or postal embezzlement, as well as a larceny offenses, such as theft of U.S. property could dramatically change the outcomes. These patterns are meaningful given that specific types of offenses embedded within overarching crime categories such as embezzlement or larceny can have a large effect on the distribution of the crime category and the results of the analysis. As such,

future research should continue to disaggregate measures of primary crime types to understand the influence of specific charges on the underlying distribution.

In order to obtain the sample of offenses, this study relies on an offense-based definition of white-collar crime used in the Yale Studies on White-Collar Crime and subsequently includes all cases defined as either embezzlement or larceny by the U.S. Sentencing Commission. Still, the finding that the results are sensitive based on the types of offenses included in the analysis and a different set of offenses under the definition used may provide different results. This findings, thus, has important implications as the definition of white-collar crime is a highly debated topic (Benson & Simpson, 2009). As selecting a definition sets the parameters for the inclusion of specific types of offenses, researchers should remain conscious of the ways including different types of offenses may alter results. Consequently, transparency should remain a central theme in future analysis, and researchers should clearly justify the definition used, why certain cases were included or omitted, and should conduct further analyses to determine the ways in which results may change based on the inclusion or exclusion of a certain offense category.

Table 6: Results with Removal of Specific Offenses

Offense Type Removed	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	*b* *(SE)*	*b* *(SE)*	*b* *(SE)*
Full Sample	.71***	1.26	1.14	1.33***	-.14***	.02	.38**
	(.08)	(.29)	(.14)	(.14)	(.04)	(.03)	(.17)
Bank	.78**	1.45*	.86	1.04	-.24***	.07**	.15
Embezzlement	(.09)	(.30)	(.12)	(.12)	(.05)	(.03)	(.19)
Postal	.65***	1.57*	1.23	2.04***	.08	.03	.60**
Embezzlement	(.08)	(.37)	(.16)	(.27)	(.06)	(.03)	(.28)
Embezzlement	.73***	1.20	1.14	1.37***	-.14***	.02	.41**
Public Money	(.08)	(.27)	(.14)	(.15)	(.04)	(.29)	(.17)
Embezzlement	.72***	1.22	1.12	1.30**	-.16***	.03	.36*
Lending/Credit	(.08)	(.28)	(.14)	(.14)	(.04)	(.03)	(.19)
Embezzlement	.71***	1.27	1.13	1.34**	-.13***	.02	.38**
Veterans Relief	(.07)	(.29)	(.14)	(.15)	(.04)	(.03)	(.18)
Embezzlement	.73***	1.24	1.14	1.35***	-.13***	.02	.37**
Gov't Officer	(.08)	(.28)	(.14)	(.15)	(.04)	(.03)	(.18)
Embezzlement	.68***	.61	1.37*	1.28**	-.15***	-.02	.59***
Other	(.09)	(.19)	(.18)	(.14)	(.04)	(.03)	(.13)

Table 6: Continued

Offense Type Removed	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	*b* *(SE)*	*b* *(SE)*	*b* *(SE)*
Bank Larceny	.71***	1.25	1.17	1.31**	-.12**	.02	.35*
	(.08)	(.32)	(.14)	(.14)	(.04)	(.03)	(.19)
Postal Larceny	.82**	1.30	1.18	1.41***	-.22***	.05*	.41**
	(.08)	(.28)	(.14)	(.17)	(.04)	(.03)	(.19)
Larceny	.71***	1.46*	1.11	1.36***	-.13***	.03	.46**
Interstate Commerce	(.08)	(.31)	(.14)	(.15)	(.04)	(.03)	(.19)
Theft of U.S.	.53***	.67	1.37*	1.15	.07	-.17***	.23
Property	(.09)	(.21)	(.26)	(.16)	(.06)	(.04)	(.23)
Larceny	.71***	1.24	1.13	1.32**	-.13***	.02	.36**
Maritime Property	(.08)	(.28)	(.14)	(.15)	(.04)	(.03)	(.18)
Other Larceny	.71***	1.29	1.14	1.33**	-.13***	.02	.36**
	(.08)	(.29)	(.14)	(.14)	(.04)	(.03)	(.18)

Note that the analyses in Table 6 are performed with the same set of control measures reported in Table 3
However, for space limitations I only report the outcomes for the dependent variables in the model.
Robust standard error in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

Sensitivity Analysis: Fiscal Years 2005-2007

A potential limitation confounding the results of the study is related to the time period used for the analysis. In 2008, at the start of series of data used in the current analysis, the United States was entering what later became known as the Global Financial Crisis. Prior research has offered mixed results as to how widely publicized events related to white-collar crime or political scandals, such as Watergate or the collapse of Enron may impact sentencing of white-collar offenders (see Hagan & Palloni, 1986; Benson & Walker, 1988; Van Slyke & Bales, 2012). As the onset of the Global Financial Crisis is often in part attributed to the malfeasant behavior of white-collar employees, such as Wall Street bankers and mortgage lenders, the results may be sensitive to the time period selected (Barak, 2012). To assess this possibility, I repeat the main analysis in this study using the U.S. Sentencing Commission for the three years preceding the Global Financial Crisis, from fiscal years 2005-2007.

Table 7a and Table 7b show the results for punishment severity for white-collar offenders remain relatively stable across outcomes between fiscal years 2005-2007 and 2008-2010, although small variation does exist (See also Appendix H for descriptive statistics). First, the effect of pretrial detainment remains the same, with the results in the years prior to the Global Financial Crisis finding that the sample of embezzlement offenders are significantly less likely to face pretrial detainment. Next, the results of both substantial assistance and downward departures remain substantively similar with both models findings a non-significant difference of the likelihood of receiving either type of downward departure for white-collar offenders. Similarly, the results across both models find that embezzlement offenders are significantly more likely to be sentenced to prison

and find no significant effect for the sentence length for the subsample who received a period of incarceration across the two samples.

Still, the results do diverge on two outcomes. The model of 2008-2010 finds a significant negative effect between the amount of financial sanctions imposed and being charged with embezzlement. However, in the model using years 2005-2007, the results of the financial sanctions coefficient is no longer significant and the magnitude of the coefficient is approaching zero. Further, the main results report that embezzlement offenders are significantly more likely to be sentenced above the presumptive guideline recommendation. However, the model using years 2005-2007, there is no significant difference between the groups of offenders in the difference from the presumptive sentence. Thus, these two outcomes suggest that in the years following the Global Financial Crisis, embezzlement offenders were punished less severely in terms of financial sanctions, but more severely by being sentenced above the presumptive sentence recommendation.

Overall, the comparison of results from both before and after the global financial crisis show slight variation across outcomes between embezzlement and larceny offenders. While most outcomes remained similar across the two models, I find changes in the coefficients and significance level for the amount of financial sanctions distance of sentence length from the presumptive guideline recommendation between the models using fiscal years 2005-2007 and 2008-2010. The current analysis is too limited to draw any conclusions as to whether the political climate stemming from the global financial crisis directly affected punishment outcomes for embezzlement offenders in federal criminal proceedings. I encourage future research to continue to explore this association and gain greater understanding of the ways in which large scale events, such as the economic

recession brought on by the global financial crisis may impact punishment outcomes of different groups of offenders.

Table 7a: Sensitivity Analysis Logistic Regressions FY 2005-2007

	Pretrial Detainment	**Substantial Assistance Departure**	**Downward Departure**	**In/Out**
	Exp(*b*) ***(SE)***	**Exp(*b*)** ***(SE)***	**Exp(*b*)** ***(SE)***	**Exp(*b*)** ***(SE)***
White-Collar Offense	.63***	1.05	1.23	1.31**
	(.07)	(.27)	(.18)	(.16)
Presumptive Sentence	-	1.04***	1.03***	1.40***
	-	(.01)	(.01)	(.03)
Ln Presumptive Sentence	-	-	-	-
	-	-	-	-
Upward Departure	-	-	-	-
	-	-	-	-
Substantial Assistance Departure	-	-	-	.02***
	-	-	-	(.01)
Downward Departure	-	-	-	.07***
	-	-	-	(.02)
Other Departure	-	-	-	.08***
	-	-	-	(.02)
Criminal History	1.93***	1.06	.99	1.42***
	(.08)	(.10)	(.05)	(.09)
Pretrial Detainment	-	.53**	.61***	1.68***
	-	(.17)	(.09)	(.27)
Pretrial Detainment Missing	-	4.64***	1.59	.78
	-	(2.67)	(.86)	(.51)
Multiple Counts of Conviction	1.05	.83	.75	1.04
	(.12)	(.27)	(.16)	(.17)
Guilty Plea	-	-	-	1.21
	-	-	-	(.42)
Financial Sanction	-	-	-	.99***
	-	-	-	(.00)
Ln Financial Sanction	-	-	-	-
	-	-	-	-
White	1.59***	.86	1.20	.95
	(.21)	(.19)	(.19)	(.11)
Hispanic	1.68***	1.70	1.96***	.99
	(.33)	(.56)	(.45)	(.25)
Other Race	1.57***	.61	.47**	1.01
	(.27)	(.22)	(.15)	(.27)
Race Missing	.99	.96	1.45	.77
	(.51)	(.47)	(.87)	(.31)

Table 7a: Continued

	Pretrial Detainment	Substantial Assistance Departure	Downward Departure	In/Out
	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*	Exp(*b*) *(SE)*
Age	.97***	1.00	1.03***	.98***
	(.01)	(.01)	(.01)	(.01)
Male	1.49***	1.55**	.80*	1.29**
	(.13)	(.32)	(.09)	(.13)
U.S. Citizen	.44***	.67	.81	.51**
	(.08)	(.27)	(.21)	(.17)
U.S. Citizen Missing	1.07	.00***	.47	.21
	(.73)	(.00)	(.48)	(.22)
HS Graduate	.85	.78	1.11	1.34***
	(.09)	(.22)	(.18)	(.15)
Some College	.76**	.76	1.16	1.19
	(.09)	(.17)	(.14)	(.13)
College Graduate	.91	.67	1.25	1.11
	(.14)	(.26)	(.26)	(.23)
College Information Missing	1.56	2.43	1.74	2.22*
	(.53)	(1.61)	(.75)	(.92)
Dependents	.96	1.02	.86	1.05
	(.07)	(.22)	(.12)	(.13)
Year dummies	-	-	-	-
Constant	.44***	.06***	.05***	.12***
	(.13)	(.03)	(.03)	(.06)
Observations	3,558	2,761	2,761	3,589
R2/Model Fit	.23	.07	.07	.48

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

Table 7b: Sensitive Analysis Ordinary Least Squares Regressions FY 2005-2007

	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	b ***(SE)***	***b*** ***(SE)***	***b*** ***(SE)***
White-Collar Offense	-.04	-.01	-.01
	(.03)	(.04)	(.30)
Presumptive Sentence	-	-	-.05
	-	-	(.03)
Ln Presumptive Sentence	.62***	.69***	-
	(.02)	(.04)	-
Upward Departure	.03	.91***	19.22***
	(0.08)	(.11)	(2.06)
Substantial Assistance Departure	-.03	-.49***	-13.38***
	(.13)	(.05)	(.99)
Downward Departure	-.12**	-.58***	-8.71***
	(.06)	(.05)	(.34)
Other Departure	-.31***	-.51***	-8.24***
	(.09)	(.05)	(.52)
Criminal History	-.29***	.04***	.39***
	(.02)	(.01)	(.10)
Pretrial Detainment	-.16***	.13***	.70***
	(.04)	(.03)	(.22)
Pretrial Detainment Missing	.10	.23	-.50
	(.17)	(.18)	(.85)
Multiple Counts of Conviction	.07	.053**	-.43
	(.05)	(.02)	(.33)
Guilty Plea	.07	-.27***	-3.02***
	(.18)	(.04)	(.88)
Financial Sanction	-	-	.00
	-	-	(.00)
Ln Financial Sanction	-	.06***	-
	-	(.01)	-
White	.95	.02	.02
	(.11)	(.04)	(.03)
Hispanic	.99	-.01	.06
	(.25)	(.07)	(.05)
Other Race	1.01	-.08	.10**
	(.27)	(.07)	(.05)
Race Missing	.77	.57	.13
	(.31)	(.40)	(.15)

Table 7b: Continued

	Ln Financial Sanction	Ln Sentence Length	Difference from Presumptive
	b	***b***	***b***
	(SE)	***(SE)***	***(SE)***
Age	.01***	-.00	-.02***
	(.00)	(.00)	(.01)
Male	-.09***	.18***	.84**
	(.03)	(.02)	(.34)
U.S. Citizen	.05	-.09*	-1.09**
	(.13)	(.05)	(.47)
U.S. Citizen Missing	-.35	.08	-.82
	(.28)	(.26)	(1.15)
HS Graduate	-.05	-.04	.54
	(.04)	(.03)	(.46)
Some College	.06	-.06*	-.01
	(.04)	(.03)	(.21)
College Graduate	.092	-.036	-.456
	(.07)	(.05)	(.44)
College Information Missing	-.14	.09	-.077
	(.15)	(.10)	(.67)
Dependents	.08***	-.01	.29
	(.03)	(.03)	(.29)
Year dummies	-	-	-
Constant	.02	.93***	3.75***
	(.21)	(.12)	(1.15)
Observations	2,863	1,608	3,589
R2/Model Fit	.55	.72	.26

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

Chapter 5: Conclusion and Discussion

Scholars interested in disparities in punishment continue to study ways in which status characteristics of individuals and groups of offenders may influence punishment outcomes. However, sentencing research remains limited as the majority of empirical scholarship focuses on disparities across the generic group all criminal offenders or instead concentrates specifically on violent, drug, or property offenders. Receiving significantly less attention from researchers of criminal punishment are white-collar offenders. The lack of research on punishment of white-collar offenders represents a particularly substantial limitation, as the appropriate levels of punishment for white-collar offenses remains an issue generating a large degree of focus among criminal justice practitioners and policymakers (see Bibas, 2005; Richman, 2013; Dervan, 2014; Tucker, 2014)

This research specifically sought to address this gap in the literature and assess whether punishment outcomes among a sample of criminal offenders in federal district courts differed among those convicted of the white-collar charge of embezzlement or the street crime offense of larceny. The rationale to compare these two groups of offenders was rooted in a series of policy changes explicitly aimed at linking the punishment outcomes of certain white-collar crimes, including embezzlement with non-violent property offenses, such as larceny at the federal level, as well as shifts in public opinion expressing a desire for more severe punishment toward white-collar offenders. To expand upon prior research in this area, this study added a series of punishment processes and outcomes not previously used in sentencing research on white-collar crime, as well as explored the variability within the all-encompassing categories of embezzlement and larceny by investigating differences in outcomes across specific offense charges.

The results of the study illustrate that the answer to the question of whether white-collar offenders are treated leniently, severely, or about the same in comparison to larceny offenders in federal district courts varies based on the outcomes of interest and the specific type of offense included in the analysis. The main results report that in some regards, the sample of larceny offenders are treated more severely. The findings illustrate that larceny offenders are significantly more likely to receive pretrial detention, as well as significantly higher financial sanctions at sentencing. However, across other outcomes, embezzlement offenders are found to experience harsher punishment, with embezzlers being more likely to be sentenced to a period of incarceration and also receiving sentences higher than the presumptive recommendation in comparison to larceny offenders. Still, across measures of downward departures and sentence length, this study finds no significant difference across the sample of embezzlement and larceny offenders.

Ultimately, the results suggests that although policies focusing on sentence length between these white-collar and non-violent property offenders may have in part succeeded in reducing differences in sentence length, there remain several other types of outcomes that must be considered when seeking to understand differences in punishment outcomes. Research only looking to the actual sentence length provided to the offender only uncovers a small piece of the puzzle. Future researchers should consider these findings and look across several outcomes to gage punishment severity. Moreover, the findings have implications for the debate around the appropriate definition of white-collar crime, as the analysis reveals that the results remain sensitive when specific types of embezzlement or larceny offenses included or excluded from the analysis. This is an important implication, as the definition of white-collar crime is an unresolved topic with multiple definitions

focusing on either the offense or the offender commonly employed in academic research (Benson & Simpson, 2009). As, the selection of one definition instead another can alter the sample and subsequently the results of the analysis, future research should be cognizant of this issue and provide thoughtful consideration when defining white-collar crime.

The findings also present an interesting result regarding downward departures. Specifically, there is a positive but non-significant effect indicating that embezzlement offenders may be more likely to receive downward departures than larceny offenders. This is a particularly important finding as policy changes enacted since the implementation of the sentencing guidelines have often increased severity levels for white-collar offenses, such as embezzlement, while decreasing the severity levels for comparable non-violent property offenses (see Bibas, 2005). An implication of this findings may be that judges are seeking to alter a pattern of white-collar sentencing levels that have become increasingly severe since the 1980s (Podgor, 2007; Richman, 2013). For instance, a Congressional report on sentencing disparities following *U.S. v. Booker*, found evidence for an increasing frequency of downward departures in the favor of fraud offenders (Richman, 2013). Regarding these findings, a major factor driving these results appeared to be concern from judges that fraud guidelines were inappropriate to the crime committed often providing punishment recommendations that were viewed as too severe.[34] It appears then that in light

[34] For instance, on this matter, Preet Bharara the U.S. Attorney for the Southern District of New York stated "There is concern, based on the experience of some Districts, that more and more, particularly in the context of high-loss, large-scale fraud cases, there are not consistently tough and fair outcomes. We have observed—and the Commission's data have confirmed—that district courts are relying less and less on the sentencing guidelines, which are now advisory. Some are voicing concern that the fraud guidelines counsel sentences that are inappropriate to the crime committed . . . Others have expressed frustration that the guidelines provide inadequate assistance in developing intelligent and consistent sentencing decisions in certain white collar cases" (Richman, 2013: p. 61).

of increasingly severe punishment for this class of offenders, judges may become more likely to depart downward from guideline recommendations.

Although this study provides insight into differences in punishment outcomes across offenders convicted of embezzlement and larceny in federal criminal proceedings, there are several important limitations of the current analysis. First, the findings are strictly limited to those offenders charged with either embezzlement or larceny in federal criminal courts. This is an important limitation for research on white-collar crime as the particular analysis deals with a very unique portion of all white-collar offenders. Specifically, those white-collar offenders included in this study most likely represent "run of the mill" white-collar crimes (Wheeler et al., 1982). Largely omitted from this sample are large-scale white-collar offenders and those offenses appearing in civil or regulatory proceedings instead of criminal court. As criminal punishment constitutes only one option in pursuit of justice against white-collar offenders, future research should expand upon this analysis and consider sentencing outcomes for white-collar offenders charged with civil or regulatory proceedings.

Additionally, the current analysis only includes two types of crime: embezzlement and larceny. Although these two types of crime are selected because their comparability for the purpose of the study, they are certainty not representative of all white-collar and non-violent property offenses tried in federal court. As such, any findings of this study are limited to this specific group of embezzlement and larceny offenders in this sample. There remain many other types of white-collar crime prosecuted in criminal courts and researchers in this area should continue explore punishment outcomes for different types of white-collar offenses.

Third, the current analysis is limited in the model specification. While U.S. Sentencing Commission data allows for a robust analysis of the sentencing decision, a number of important variables are not available, which may limit the current analysis. For instance, the USSC data lack information on plea-bargaining or specific variables indicating case complexity, which may be an important moderating factors to consider in sentencing outcomes of white-collar cases (see Albonetti 1997, 1998). Moreover, the data do not have information on income or the type of counsel used, which could be key factors in explaining differences in punishment between white-collar and street offenders. Researchers should continue to explore this issue and seek additional case information and data on prosecution of white-collar crime in order more fully tests hypotheses and better understand the progression of white-collar offenders through the criminal justice system.

Additionally, aside from potential issues arising from omitted variables, another limitation stems from the fact that the current model omits prosecutorial decision making in charging decisions and how this process may affect outcomes of white-collar offenders. For instance, looking at federal prosecutorial charging decisions in federal criminal proceedings, Shermer & Johnson (2010) find that extralegal characteristics are related the likelihood of receiving charges reductions. Moreover, the findings suggest that disparities may operate in offense-specific ways, with certain extralegal characteristics interacting the offense-specific charges to alter the likelihood of receiving a charge reduction (see also Albonetti, 2003). If certain groups of white-collar offenders receive differential treatment in prosecutorial charging decisions, then selection bias will affect the cases that are in the judicial pipeline and typescripts theory would suggest that the analysis in this thesis will have missed an important decision point at which subjective utility/dis-utility will be

operating.[35] Future research should explore prosecutorial decision making among white-collar offenders and how that process may affect final sentencing outcomes.

Finally, there are methodological limitations of the current analysis. The main methodological constraint is that sentencing in the current sample is highly censored at a value of zero. In other words, for the subset of offenders who are convicted but not sent to prison, all that is observed on the outcomes is that the sentence severity falls below the threshold of interest (i.e. imprisonment), and thus, sentence severity for these censored individuals are not observed on the sentence length outcome.

This censoring at zero-months incarceration creates methodological issues as under such conditions ordinary least squares regression only on those offenders above the censoring threshold may produces invalid inferences (see Maddala, 1983; Greene, 1997; Smith & Brame, 2003). As an alternative approach sentencing scholars have often turned to Tobit estimation, which allows censored cases to remain in the statistical model by censoring cases falling below the threshold of zero-months of incarceration (Albonneti, 1997; Bushway & Phiel, 2001; Kurlycheck & Johnson, 2004).[36] However, Smith & Brame (2003), demonstrate the Tobit method is heavily constrained by a proportionality assumption and conclude that "when the Tobit proportionality assumption is violated, the Tobit estimator can be highly misleading" (p. 379). Given the high amount of censoring in

[35] For instance, Albonetti, (1998: p. 374) notes "the increased uncertainty of successfully obtaining a trial conviction in these complex white-collar crimes increases the value to the prosecuting attorney of obtaining a guilty plea. As such, I suggest that defendants charged with a complex white-collar crime are in an advantageous position to negotiate and to receive a shorter length of imprisonment."

[36] It is well known that ordinary least squares will produce inconsistent estimates of the regression parameters if the dependent variable is censored…Tobit and other limited dependent variable models is being employed with increasing frequency to avoid this inconsistency. But the assumptions required of these models are quite strong and any violation, such as heteroscedasticity or nonnormality, may result in an asymptotic bias as severe as in the naıve OLS formulation (Nelson, 1981: p. 1317; quoted in Sullivan et al., 2008: 406).

the current sample, it is possible the Tobit model (as well as OLS) are prone to producing invalid inferences on the highly censored outcome of sentence length, and thus results should be interrupted with an understanding of this potential limitation.[37] However, this study has attempted the use of number of diagnostic techniques and alternative methods, and due limitations based on the nature of the data and alternative approaches available, I consider the approach used in the analysis to be appropriate. Additionally, aside from sentence length, I include a number of other outcomes not effected the methodological issues related to high degrees of censoring. Nevertheless, future research should continue to clarify the questions addressed in this analysis using different data and research techniques.

In conclusion, this study moved beyond a simple comparison of differences in incarceration and sentence length between a sample of white-collar and street offenders (see Wheeler et al., 1982; Maddan et al., 2013). In light of shifts in public opinion toward white-collar crime and multiple policy implementations to the U.S. Sentencing Guidelines focusing on punishment of white-collar offenders over the past 30 years, this study sought to deeper understanding of differences in punishment across offenses traditionally viewed as white-collar and street crimes. By drawing on several punishment outcomes not previously addressed in white-collar sentencing research, I find a substantial degree of variation in punishment severity between the sample of embezzlement and larceny offenders. These findings highlight the importance of including multiple outcomes of interest, as well as carefully considering the definition of white-collar crime and the ways in which different definitions may alter the scope of the sample and subsequent findings.

[37] Under the tobit proportionality assumption "processes generating the censoring even and the conditional density of y_i are equal up to a constant of proportionality, σ" (Smith & Brame, 2003: 383).

Thus, while the current analysis constitutes progress in understanding punishment for white-collar criminals, scholars of white-collar crime and criminal punishment should continue work in this area to more fully develop a theoretical framework and understanding criminal justice decision making in regards to the white-collar criminal.

As the concept of "equality before the law" serves as a cornerstone of the American criminal justice system and remains a primary indicator of which types of behaviors are not tolerated, this study argues there is vital need to focus greater attention on punishment of white-collar crimes. In light of the limited knowledge in this area and recent changes to laws regulating judicial discretion and corporate activity, coupled with a series of major incidents of white-collar and corporate crime, it is necessary to expand scholarship regarding criminal justice decision-making and punishment for white-collar offenders. As recognized over three decades ago, "the examination of the prosecution and sentencing of white-collar crime can tell us much about how the social organization of a particular type of crime can influence the way it is controlled. In turn, this type of understanding may do much to enlighten a long tradition of research on status characteristics and sentencing (Hagan et al., 1980: 817)." Thus, this research begins to fills an important gap in the literature.

Appendices

Appendix A: Distribution of Cases by District
FY 2008-2010

District	Full Sample	Larceny Only	Embezzlement Only
Maine	24	12	12
Massachusetts	35	18	17
New Hampshire	4	3	1
Rhode Island	8	5	3
Puerto Rico	19	15	4
Connecticut	22	15	7
New York North	12	8	4
New York East	35	19	16
New York South	104	84	20
New York West	46	36	10
Vermont	16	10	6
Delaware	2	0	2
New Jersey	71	41	30
Penn. East	35	25	10
Penn. Mid	45	32	13
Penn. West	30	21	9
Maryland	45	36	9
N Carolina East	44	38	6
N Carolina Mid	28	17	11
N Carolina West	31	17	14
South Carolina	137	113	24
Virginia East	98	75	23
Virginia West	27	17	10
W Virginia North	17	9	8
W Virginia South	24	10	14
Alabama North	84	57	27
Alabama Mid	79	62	17
Alabama South	48	36	12
Florida North	45	26	19
Florida Mid	133	114	19
Florida South	88	72	16
Georgia North	35	23	12
Georgia Mid	40	29	11
Georgia South	25	15	10
Louisiana East	74	60	14
Louisiana West	48	26	22
Miss. North	8	1	7
Miss. South	110	92	18
Texas North	145	114	31

Texas East	49	36	13
Texas South	63	27	36
Texas West	78	43	35
Kentucky East	51	27	24
Kentucky West	27	10	17
Michigan East	51	29	22
Michigan West	29	3	26
Ohio North	126	79	47
Ohio South	46	26	20
Tennessee East	34	16	18
Tennessee Mid	23	12	11
Tennessee West	41	25	16
Illinois North	102	60	42
Illinois Cent.	23	8	15
Illinois South	21	9	12
Indiana North	37	25	12
Indiana South	39	16	23
Wisconsin East	29	16	13
Wisconsin West	16	5	11
Arkansas East	26	15	11
Arkansas West	15	11	4
Iowa North	9	7	2
Iowa South	33	17	16
Minnesota	28	10	18
Missouri East	48	26	22
Missouri West	48	31	17
Nebraska	20	10	10
South Dakota	68	44	24
Arizona	168	140	28
California North	38	29	9
California East	68	57	11
California Cent.	158	137	21
California South	33	24	9
Hawaii	15	12	3
Idaho	18	9	9
Montana	55	27	28
Nevada	44	33	11
Oregon	46	31	15
Washington East	14	7	7
Washington West	39	16	23
Colorado	59	32	27
Kansas	31	15	16
New Mexico	40	29	11
Oklahoma North	44	25	19
Oklahoma East	26	7	19
Oklahoma West	53	22	31

Utah	41	31	10
Wyoming	9	3	6
Dist. Of Columbia	49	30	19
Virgin Islands	2	1	1
Guam	19	17	2
N Mariana Island	6	2	4
Alaska	18	7	11
Louisiana Middle	16	13	3
Total	**4,210**	**2,802**	**1,408**

Appendix B: Tobit Analysis, FY 2008-2010

	Ln Financial Sanction	Ln Sentence Length
	b	***b***
	(SE)	***(SE)***
White-Collar Offense	-.17***	.38***
	(.05)	(.08)
Presumptive Sentence	-	-
	-	-
Ln Presumptive Sentence	.62***	1.51***
	(.02)	(.06)
Upward Departure	-.02	1.57***
	(.12)	(.19)
Substantial Assistance	-.37***	-1.67***
Departure	(.12)	(.13)
Downward Departure	-.07	-1.72***
	(.04)	(.08)
Other Departure	-.27***	-2.05***
	(.08)	(.15)
Criminal History	-.30***	.17***
	(.02)	(.02)
Pretrial Detainment	-.21***	.45***
	(.05)	(.07)
Pretrial Detainment	.13	-.15
Missing	(.21)	(.47)
Multiple Counts of	.01	.13*
Conviction	(.07)	(.07)
Guilty Plea	.35**	-.39***
	(.16)	(.13)
Financial Sanction	-	-
	-	-
Ln Financial Sanction	-	.17***
	-	(.03)
White	-.06	.19***
	(.05)	(.07)
Hispanic	-.22**	.22**
	(.09)	(.09)
Other Race	-.01	.22
	(.07)	(.16)
Race Missing/Unknown	-.14	.33
	(.15)	(.28)
Age	.02***	-.02***
	(.00)	(.00)
Male	-.18***	.23***
	(.03)	(.07)

Appendix B: Continued

	Ln Financial Sanction	Ln Sentence Length
	b	***b***
	(SE)	***(SE)***
U.S. Citizen Missing	.36	-.49
	(.39)	(.71)
HS Graduate	.06	.04
	(.04)	(.08)
Some College	.07*	.06
	(.04)	(.07)
College Graduate	.11*	.03
	(.06)	(.09)
College Information Missing	-.23	.22
	(.18)	(.34)
Dependents	-.00	-.07
	(.04)	(.06)
Year dummies	-	-
Constant	-.59**	-1.53***
	(.23)	(.34)
Sigma	.95***	1.39***
	(.03)	(.04)
Observations	4,210	4,210
R2/Model Fit	.18	.33

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

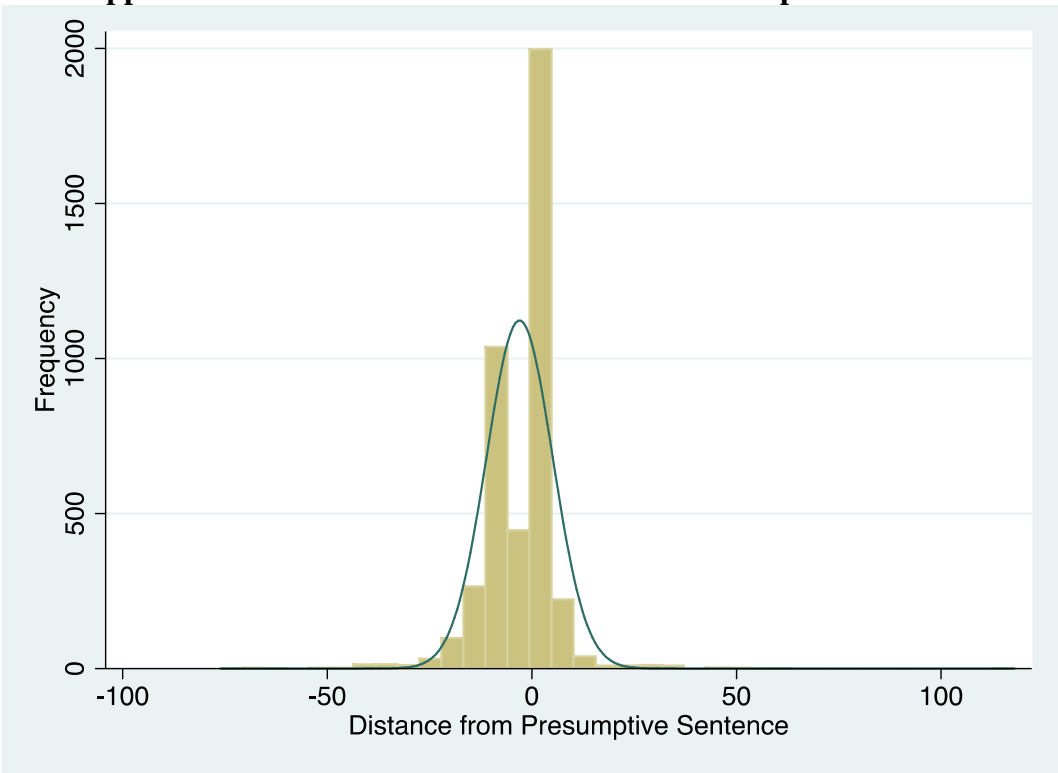
Appendix C: Correlation Matrix, FY 2008-2010

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23
1. Pretrial Detention	1.00																						
2. Substantial Assistance Departure	-.01	1.00																					
3. Downward Departure	-.08	-.11	1.00																				
4. Incarceration	.24	.05	-.04	1.00																			
5. Sentence Length	.25	.05	-.06	.93	1.00																		
6. Financial Sanction	-.14	.07	.26	.28	.36	1.00																	
7. Distance from Presumptive	.16	-.30	-.45	.22	.28	-.22	1.00																
8. Presumptive Sentence	.11	.18	.18	.50	.68	.52	-.25	1.00															
9. Criminal History	.41	.02	-.06	.31	.34	-.20	.16	.17	1.00														
10. Multiple Counts of Conviction	.05	.07	.01	.16	.23	.13	-.04	.30	.00	1.00													
11. Guilty Plea	.01	.04	-.04	-.13	-.19	-.09	-.02	-.25	.05	-.28	1.00												
12. White	.00	.01	.04	.05	.04	.08	-.05	.04	-.03	-.05	.02	1.00											
13. Black	-.06	.01	-.01	-.08	-.07	-.03	.02	-.06	.02	.04	-.01	-.70	1.00										
14. Hispanic	.11	-.01	-.02	.05	.05	-.06	.04	.03	.05	.04	.00	-.35	-.21	1.00									
15. Other Race	-.01	-.03	-.04	-.01	-.01	-.04	.01	-.02	-.04	-.02	-.02	-.28	-.17	-.09	1.00								
16. Age	-.16	.00	.16	-.05	-.03	.31	-.19	.11	-.16	.07	-.09	.16	-.05	-.11	-.07	1.00							
17. Male	.13	.07	-.05	.14	.14	-.05	.02	.10	.18	.03	-.02	.02	-.06	.07	-.01	.04	1.00						
18. U.S. Citizenship	-.12	.00	.01	-.10	-.11	.01	-.02	-.08	.00	-.10	.05	.14	.07	-.27	-.07	.05	-.10	1.00					
19. Less than High School	.22	-.01	-.07	.02	.02	-.16	.10	-.04	.30	.02	.05	-.04	-.01	.11	-.02	-.12	.04	-.08	1.00				
20. High School Graduate	-.08	.02	.01	-.03	-.03	.02	-.02	-.02	-.10	-.02	.01	.02	-.01	-.01	-.01	-.01	-.04	.04	-.41	1.00			
21. Some College	-.11	-.03	.01	-.02	-.03	.04	-.01	-.04	-.12	-.02	.00	.01	.02	-.06	.01	.02	-.04	.06	-.45	-.40	1.00		
22. College Graduate	-.06	.02	.07	.04	.06	.15	-.10	.15	-.13	.04	-.09	.02	.00	-.05	.03	.16	.05	-.03	-.24	-.22	-.24	1.00	
23. Financial Dependents	-.03	.03	-.04	-.01	-.01	-.04	.00	-.01	-.04	.01	.03	-.10	.05	.05	.03	-.20	-.04	-.01	.01	.00	.01	-.03	1.00

Appendix D: The Federal Sentencing Guidelines

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

Appendix E: Distribution of Distance from Presumptive Sentence



Appendix F: Pretrial Detainment Categories

	Full Sample (*n* = 4,210)		Embezzlement (*n* = 1,408)		Larceny (*n* = 2,802)	
Variable	**Mean**	**SD**	**Mean**	**SD**	**Mean**	**SD**
In custody	.26	.44	0.15*	0.36	0.32*	0.47
Released on bail/bond	.50	.22	0.57*	.50	0.47*	0.49
Released on own recognizance	.21	.43	0.25*	0.43	0.19*	0.39
Released – other	.01	.49	0.02*	0.17	0.01*	0.14
Pretrial detainment info missing	0.02	0.13	0.01	0.12	0.01	0.1

* Indicates difference is statistically significant at the $p < .05$ level
SD = Standard Deviation

Appendix G: Summary of Disaggregated Offense Types
FY 2005-2007

Offense Type	Obs.	Percentage
Embezzlement Offenses (White-Collar)		
Bank Embezzlement	478	36.43
Postal Embezzlement	340	25.91
Embezzles of Public Money and Properties	57	4.34
Embezzlement – Lending, Credit, Insurance	56	4.27
Embezzlement – Veterans Relief	9	.69
Embezzle- Government Officer or Employee	11	.84
Embezzlement – Other	361	27.52
Total Embezzlement	***1,312***	
Larceny Offenses (Street)		
Larceny & theft – Bank	171	7.51
Larceny & theft – Postal	697	30.61
Larceny & theft – Interstate Commerce	90	3.95
Theft of U.S. Property	1,231	54.06
Theft of Maritime Property	75	3.29
Larceny & theft – Other Felony	13	.57
Total Larceny	***2,277***	

Appendix H: Descriptive Statistics FY, 2005-2007

	Full Sample (*n* = 3,589)		Embezzlement (*n* = 1,312)		Larceny (*n* = 2,277)	
Variable	**Mean**	**SD**	**Mean**	**SD**	**Mean**	**SD**
Pretrial Detainment (N = 3,558)	.27	.45	.13*	.34	.36*	.48
Substantial assistance departure (N = 2,761)	.05	.22	.05	.21	.05	.22
Downward departure (N = 2,761)	.15	.36	.20*	.40	.13*	.34
Incarceration (N = 3,589)	.45	.50	.47*	.50	.44*	.49
Ln financial sanction (N = 2,863)	1.08	1.156	1.55*	1.36	1.10*	.98
Ln sentence length (N = 1,608)	1.48	1.45	2.63*	.91	2.63*	.81
Distance from Presumptive (N = 3,589)	-2.16	10.50	-3.24*	7.02	-1.48*	12.23
Control Variables						
Presumptive sentence	10.40	15.27	12.30*	16.02	9.64*	15.33
Ln presumptive sentence	1.71	1.30	1.86*	1.34	1.65*	1.27
Criminal history	1.81	1.46	1.14*	.51	2.12*	1.64
Pretrial detainment	.28	.45	.13*	.34	.36*	.48
Pretrial detainment info missing	.02	.13	.01	.11	.01	.08
Guilty plea	.97	.17	.95*	.21	.98*	.15
Counts of conviction	.18	.38	.17*	.37	.19*	.39
Ln financial sanction	.98	1.14	1.30*	1.37	.85*	.97
No departure	.74	.44	.71*	.46	.76*	.43
Upward departure	.02	.13	.01*	.08	.02*	.15
Substantial assistance departure	.04	.20	.04*	.21	.04*	.20
Downward departure	.14	.35	.18*	.39	.12*	.33
Departure information missing	.06	.27	.06	.27	.06	.27
White	.54	.50	.63*	.48	.50*	.50
Black	.28	.45	.21*	.41	.33*	.47
Hispanic	.09	.29	.06*	.24	.10*	.30
Other Race	.07	.26	.08*	.28	.06*	.24
Race Missing/Unknown	.02	.13	.01	.12	.01	.12
Male	.55	.50	.48*	.50	.58*	.49
Age	40.01	12.19	41.70*	11.12	39.26*	12.62
U.S. Citizen	.95	.21	.98*	.13	.94*	.24
U.S. Citizen info Missing	.01	.11	.00	.06	.01	.08
Less than high school	.31	.47	.11*	.32	.41*	.50

Appendix H: Continued

	Full Sample (n = 3,589)		Embezzlement (*n* = 1,312)		Larceny (*n* = 2,277)	
Variable	**Mean**	**SD**	**Mean**	**SD**	**Mean**	**SD**
HS Graduate	.28	.45	.33*	.47	.25*	0.44
Some College Education	.29	.45	.38*	.49	.25*	0.43
College Graduate	.10	.30	.17*	.38	.07*	0.25
Education information missing	.02	.14	.01*	.07	.02*	0.12
Dependents	.60	.49	.66*	.47	.58*	0.49
Year dummies	-	-	-	-	-	-

* Indicates difference between embezzlement and larceny categories is statistically significant at the $p < .05$ level

Appendix I: Tobit Analysis, FY 2005-2007

	Ln Financial Sanction	Ln Sentence Length
	b	***b***
	(SE)	***(SE)***
White-Collar Offense	.01	.28***
	(.05)	(.08)
Presumptive Sentence	-	-
	-	-
Ln Presumptive Sentence	.54***	1.46***
	(.02)	(.05)
Upward Departure	.14	1.71***
	(.15)	(.27)
Substantial Assistance	-.09	-1.70***
Departure	(.14)	(.18)
Downward Departure	-.09	-1.64***
	(.06)	(.09)
Other Departure	-.36***	-1.55***
	(.11)	(.11)
Criminal History	-.30***	.16***
	(.02)	(.02)
Pretrial Detainment	-.31***	.36***
	(.06)	(.10)
Pretrial Detainment	.05	.25
Missing	(.23)	(.37)
Multiple Counts of	.16***	.10
Conviction	(.05)	(.07)
Guilty Plea	.19	-.12
	(.21)	(.15)
Financial Sanction	-	-
	-	-
Ln Financial Sanction	-	.11***
	-	(.02)
White	-.14**	.05
	(.05)	(.06)
Hispanic	.14	.14
	(.09)	(.14)
Other Race	-.14*	.15
	(.08)	(.18)
Race Missing/Unknown	.34	.15
	(.43)	(.18)
Age	.02***	-.01***
	(.00)	(.00)
Male	-.13***	.25***
	(.04)	(.06)

Appendix I: Continued

	Ln Financial Sanction	Ln Sentence Length
	b	***b***
	(SE)	***(SE)***
U.S. Citizen Missing	.35**	-.37**
	(.14)	(.16)
HS Graduate	-.03	.12*
	(.04)	(.06)
Some College	.09**	.03
	(.04)	(.07)
College Graduate	.04	.04
	(.07)	(.10)
College Information	-.21	.36
Missing	(.16)	(.26)
Dependents	.05	.02
	(.03)	(.06)
Year dummies	-	-
Constant	-.70***	-1.84***
	(.26)	(.31)
Sigma	1.04***	1.3***
	(.04)	(.03)
Observations	3,589	3,589
R2/Model Fit	.15	.33

Robust standard errors in parentheses, clustered on District
*** p<0.01, ** p<0.05, * p<0.1

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