
Judicial Sentencing Decisions in Taiwanese Economic Crimes: Consequences of Swift Justice

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This study examines the effect of case-processing time on judicial sentencing decisions of economic crime in Taiwan. Studies have been conducted with cases involving misdemeanors and felony homicide, but not with serious economic offenses committed in countries outside of North America. As economic crime becomes increasingly an international problem, research from other countries will be more important. The hypotheses considered were as follows: as the time between the decision to prosecute and the judicial sentencing outcome decreases, both the likelihood of being sent to prison and the likelihood of receiving a longer prison sentence increases. Our findings indicated that case-processing time is not only an indicator of offense severity but also a factor in judicial sentencing decisions.

Judicial sentencing philosophies involve a complex balance between controlling future unlawful acts and assuring due process and individualized sentencing to address the offender's wrongful behavior. In sentencing practice, reasons for punishing criminals include gaining societal retribution and denunciation and protection for society through incarceration, decreasing the probability that others will commit the same crime through general deterrence, and decreasing the probability that individual offenders will commit future crimes through specific deterrence or rehabilitation (Nagel & Hagan 1982). Along with these punishment philosophies lies the equality principle, which requires similar punishments for like offenses and/or offenders. Judges determine case and/or offender similarity by assessing culpability, which is the level of the offender's responsibility or level of blame for the crime. The assessment of culpability lacks clear guidelines and is therefore difficult for judges to make, since they must examine conditions before, during, and after the crime activity (Wheeler et al. 1988).

Judicial sentencing decisions are complicated by the reality of reducing case-processing time and court caseload management. Judges must hear cases and dispose of them in a timely manner so as not to increase their caseload to an unmanageable size and

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so they will not violate the U.S. Speedy Trial Act of 1979. According to this Act, American courts must set the trial date within 70 days following the indictment (Doyel 1982). The American Bar Association standards for disposition time for civil cases and criminal cases are 365 days and 120 days, respectively (Miller 1991). These criteria regarding case-processing time have led to concerns about the possibility of sentencing disparity.

Sentencing Disparity

Sentencing disparity has been examined involving both street crimes (e.g., Chiricos & Waldo 1975; D'lessio & Stolzenberg 1993; Dixon 1995; Ulmer & Kramer 1996) and white-collar/economic crimes (Hagan et al. 1980; Wheeler et al. 1982). Within these studies, a broad range of variables has been investigated. These variables can be separated into three general categories: (1) extralegal factors, (2) legal factors, and (3) legal-processing factors. Early sentencing-disparity research explored bivariate relationships between extralegal variables (e.g., defendant attributes) and sentencing outcomes (e.g., type and length of sentence) without controlling for relevant legal variables (Johnson 1957). Later sentencing research (Hagan 1974; Hagan et al. 1980) focused on the relationship between race or social status and sentencing results, but added legal variables or legal-processing variables to the research model. Legal variables usually refer to offense type, offense seriousness, and prior record.

One such study found that the chances of being sent to prison increased with the number of the offender's prior convictions (Wheeler et al. 1982). In the same study, tax offenders and securities and exchange violators were more likely to go to prison than those involved in bribery, antitrust violations, or bank embezzlement.

The third type of research, regarding legal-processing variables, involved bail status, plea-bargaining, and charging decisions. Research using legal-processing variables assumed that extralegal variables interacted with the organizational context of the criminal justice system to affect sentencing outcomes (Hagan et al. 1980). The drawback of most sentencing-disparity studies is that they have not considered case-processing time, or celerity, as an issue affecting sentencing.

What is the effect of case-processing time on the legal process in general? The small number of studies that examined case-processing time and various types of offenses have produced mixed results. Some studies suggested that longer case-processing times tended to lower the probability of conviction (Farrell 1971; Luskin & Luskin 1986), especially for defendants who were denied bail before trial (Swigert & Farrell 1980). On the other hand, other findings indicated that trial delay did not signifi-

cantly favor defendants, particularly in misdemeanor cases (Feeley 1979) or felony homicide cases when the defendant was able to obtain pretrial release (Swigert & Farrell 1980). Reasons for longer time periods between arrest and case disposition were due to such factors as attorneys needing more time to prepare a case due to case seriousness (Church 1981) or case complexity, such as multiple defendants (Neubauer & Ryan 1982). Longer case-processing time tended to make it more difficult for attorneys to locate witnesses, or witness memories about the events faded (Swigert & Farrell 1980). Despite these controversial findings, prior studies on case-processing time are somewhat justice-administration-oriented and are similar to most other sentencing-disparity research. They were primarily conducted in the United States and Canada, countries based on the common legal tradition that have plea-bargaining. These limitations highlight the significance of using a data set from a country with a not-so-common legal tradition, such as Taiwan, the Republic of China (ROC), to explore the relationship between case-processing time and sentencing disparity.

Case-processing time on sentencing decisions may be a function of court backlog or complexity of cases. That is, complex cases or cases handled by courts with heavy caseloads are more likely to have longer case-processing times. While American prosecutors use plea-bargaining to secure a conviction or to shorten the processing time, adversarial lawyers of common legal tradition frequently contribute to a long case-processing time in the name of due process. The Republic of China is based on a civil law tradition in which the courts emphasize the inquisitorial system, and plea-bargaining is not used. To allow for the efficient processing of cases in Taiwan, prosecutors are granted discretion based on pre-defined guidelines that allow the prosecutor to release certain offenders without prosecution. These offenders include first-time offenders, misdemeanants, crimes that are found to be "accidental," criminals that are presumed to be at a low risk of recidivism, physically ill offenders, and offenders who are otherwise "not suitable" for incarceration (Bureau of Justice Statistics 1993). It is estimated that 20% of all suspects who are arrested are released without prosecution because of these guidelines. The remaining 80% of all suspects arrested are charged and attend an inquisitorial trial in front of a judge. The national conviction rate of those who go to trial is 90% (Bureau of Justice Statistics 1993). Thus, as a country without plea-bargaining, Taiwan serves as an ideal place for studying the effect of case-processing time on sentencing disparity.

In sum, a review of the literature on case-processing time shows that studies have been conducted with cases involving misdemeanors and felony homicide, with mixed results. The studies of judicial sentencing outcome on white-collar/economic crime

have not as yet addressed the issue of case-processing time. In addition, most case-processing time and sentencing research have been conducted in North America, where the length of time it takes for cases to be prosecuted may be confounded by the factors of plea-bargaining being used frequently by zealous prosecutors and the due-process rights advocated by defense lawyers. As economic crime increasingly becomes an international problem, research from other countries will be more important. Thus, our study fills a void in the literature by our examination of the effect of case-processing time on judicial sentencing decisions of economic crime in Taiwan.

We examined the following two hypotheses: (1) as the duration between the decision to prosecute and the judicial sentencing outcome decreases, the likelihood of being sent to prison increases; and (2) as the duration between decision to prosecute and judicial sentencing outcome decreases, the likelihood of receiving a longer prison sentence increases.

Because the data were collected in the Republic of China, in the next section we briefly review the judicial system and the criminal procedure of the ROC.

Taiwan as a Research Site

Taiwan, an island located in the western Pacific, is governed by the administration of the Republic of China, which moved from mainland China in 1949 after the defeat in a civil war between it and the Chinese Communists. Taiwan is about 3,600 square kilometers, which is slightly smaller than the Netherlands or the combined area of Maryland and Delaware. Taiwan has a population of more than 21 million Han Chinese and approximately 380,000 aborigines (2% of total population).

Taiwan is similar to the United States economically and politically, but its legal system differs from that of the United States. Taiwan maintains a dynamic capitalist economic system with less government intervention than in the past. It is ranked fourteenth in the amount of goods traded worldwide, with a per capita gross domestic product of US\$16,100 in 1999 (CIA 2000). In politics, Taiwan upholds a multiparty democratic regime headed by a popularly elected president. The ROC Constitution is based on Dr. Sun Yat-sen's Three Principles of the People: Nationalism, Democracy, and Social Well-being. However, Taiwan's legal system is based on a civil law tradition rather than on common law. We briefly discuss the ROC judicial system and its criminal procedures in the next section.

ROC Judicial System

The legal system in Taiwan is based on the civil law tradition, but the court levels are similar to the U.S. system: district courts, high courts, and the Supreme Court. There are 20 district courts that have original jurisdiction over civil and criminal cases in Taiwan. Each district court is divided into summary, civil, criminal, and specialized divisions that deal with juvenile, family, traffic, financial, and labor cases. Each district case is commonly tried and decided by a single judge. At the intermediate appellate level, there is one high court and four branches that hear district court procedural appeals. The appellate panel is made up of three judges. The highest appellate court in Taiwan is the Supreme Court. Five Supreme Court judges review lower courts' judgments concerning their compliance with pertinent laws and regulations. The Supreme Court has original jurisdiction in rebellion, treason, and offenses against foreign state cases (ROC Ministry of Justice 1997:9).

Becoming a judge or prosecutor in Taiwan differs slightly from the American experience. Most Taiwanese judges and prosecutors hold a bachelor's degree in law from four-year universities. After graduation, they need to take the entrance exam to the judicial school run by the Ministry of Justice. This exam is very competitive; usually less than 10% of all law students pass it each year. Individuals who succeed in this exam will receive 18 months of practical training from the judicial school, where they learn the application of law and judicial administrative knowledge. After training completion, they need to pass the Judicial Personnel Exam in order to be qualified as judges or prosecutors. Since the problems used on exams are comparable in structure and difficulty to the teaching materials of the judicial school, almost all students of the judicial school can pass it. College graduates with a major in law must pass the National Bar Examination (which is more competitive than the entrance exam to the judicial school), and then must complete a 6-month internship at a law firm prior to receiving their license to practice.

ROC Criminal Procedures

Criminal procedures in Taiwan start with police investigations. In the course of a criminal investigation, all police forces in Taiwan are subject to prosecutorial supervision. When the police obtain "sufficient evidence" (equivalent to the American standard of proof of "beyond a reasonable doubt") to show that the suspect has committed an offense, the police typically consult with the district prosecutor's office on an informal basis prior to formally referring a case. Since the prosecutors are liable to "aduce evidence to prove the fact of the crime charged of an ac-

cused" (Article 161 of ROC criminal procedure, in Tao et al., 1997), prosecutors have the authority to supervise police officers, military police officers, and other judicial police officers (e.g., special agents of the Ministry of Justice, Investigation Bureau) in investigating offenses (Articles 230 and 231, in Tao et al., 1997). If the case involves arrested suspects, the police must bring them to the prosecutor's office immediately. Suspects have the right to counsel during interrogation for the protection of their human rights. The prosecutor must make a decision within 24 hours to release, to allow bail, or to detain suspects based on the evidence.

After the formal police case filing, prosecutors may initiate a public prosecution by filing an indictment with the court when they believe there is sufficient evidence. When evidence is not sufficient, there may be further investigation, or a decision of nonprosecution may be made. The accused may retain counsel at any time after being charged with a violation. If a defendant cannot afford counsel and faces a charge with a penalty of at least three years' imprisonment, the judge must assign a public defender.

Following the prosecutor's indictment, the judge might conduct a formal pretrial inquiry of suspects and witnesses if the judge has questions about the case. The pretrial inquiry is a screening technique for the judge to make sure the case is sound and the evidence is solid. This proceeding is similar to an American preliminary hearing, except that in Taiwan the follow-up investigation is usually conducted without the prosecutor. (The defense attorney is allowed to attend.) ROC judges have a more active role than those in the United States, which may include changing the defendant's original charge.

In Taiwan, there is no plea-bargaining; hence, every case goes to a trial by a judge or a judicial panel rather than a jury, even when the plea is guilty. The Taiwanese trial process is similar to a continuing investigation. During the trial, the prosecutor is required to explain the basis for the indictment and to present the evidence. After the prosecutor's presentation, the judge questions the suspect (who must answer all questions), summons the witnesses, and reviews the evidence. The prosecutor and the defense counsel may cross-examine witnesses with the permission of the judge.

Because judges look more favorably upon the accused that admit responsibility (guilt) than those who are dishonest or those who remain silent, most Taiwanese defendants in white-collar crime cases plead guilty before the trial. In these cases, the defense attorney's purpose is to emphasize the mitigating circumstances, in hopes that the judge may show the defendant mercy at sentencing. If the defendant pleads not guilty, but the evidence shows that the defendant is guilty, the judge may im-

pose a harsher sentence than if the defendant had initially pled guilty.

Methodology

In this article we investigate the effect of case-processing time on sentencing outcomes of individual (as opposed to corporate) economic offenses. Economic offenses are considered to be a type of white-collar crime that involves “some combination of fraud, deception, or collusion” (Wheeler et al. 1982:642). Since the types of crime studied here tend to involve people of all socioeconomic backgrounds (Hagan et al. 1980; Nagel & Hagan 1982) rather than people of upper socioeconomic echelons, we prefer to use the term “economic crime” over white-collar crime. Business regulatory offenses committed by corporations (such as production or marketing of dangerous products, environmental pollution, etc.) were not accessible in the database. However, the economic crimes that were available for study were prosecuted through both criminal and noncriminal proceedings (administrative or civil). Many white-collar and economic crimes in North America and Taiwan are resolved through civil litigation or administrative proceedings (Nagel & Hagan 1982:1440), thus it was important to include both types of offenses. Finally, all economic crimes in this study carry the possible punishment of incarceration for at least one year.

To accomplish our objectives, we used an official data set from the Investigation Bureau of the Ministry of Justice (MJIB), Republic of China.¹ This data set consisted of all offenders in the entire region of Taiwan referred to the district prosecutors’ offices by MJIB for prosecution of statutory offenses in violation of the economic order from 1991 to 1996. The Ministry of Justice in Taiwan defines economic offenses as “any activity that violates the law, interrupts economic order, or breaks the principle of good faith in trade to obtain an illegal profit” (ROC Investigation Bureau of the Ministry of Justice [MJIB] 1993:7).

The total number of offenders ($N = 11,235$) reflects the population of economic defendants in all of Taiwan over a six-year period.² The data were initially recorded in a Chinese text file.

¹ The limitations of using official data from a foreign country have been noted by methodologists. Hagan (1993:223) mentions that official data “have been gathered for agency purposes and therefore may not contain the degree of accuracy or operationalization the researcher desires.” Hagan further cautions that cross-national research may not be valid. All possible precautions were taken to account for these limitations. The data were translated and coded by hand by the senior author.

² The generalizability of this study is restricted to economic/white-collar crimes in Taiwan. Although the MJIB refers a large proportion of economic offenders to the district prosecutors’ offices, prosecutors also have the authority to initiate judicial investigations on economic crimes. In addition, agencies like the Securities and Exchange Committee may refer economic cases directly to the prosecutors’ offices for investigation. As a result, securities cases are more likely to be omitted in the study population (see Shapiro 1985

Systematic random sampling was used to generate a sample of 1,867 offenders (16.62% of the entire country's population of white-collar defendants), from the Chinese database. The randomly selected cases were recoded in an SPSS database file.

Among the 1,867 referred offenders, the district prosecutor's office prosecuted 76.33% ($N = 1,425$). Of the number of persons prosecuted, 57.75% ($N = 823$) defendants were convicted by district courts. The number of convicted offenders remaining represents 44.08% of the 1,867 defendants originally referred for prosecution by the MJIB. Our study is concerned with the 823 defendants convicted of economic crimes.

Variable Measures

Dependent and independent variables included in the study are presented in Table 1. Other researchers have noted that there are two stages of the judicial sentencing process: (1) whether or not to incarcerate, and (2) the length of prison or probation time and/or fine amount (Brantingham 1985; Wheeler et al. 1988). To be consistent with the research on the way judges make sentencing decisions, our study has two dependent variables. The first dependent variable, whether offenders were or were not imprisoned, was dummy coded (1 = yes and 0 = no). The second dependent variable was the sentence length (in months) for only those offenders who were sent to prison. For economic offenders who received a sentence other than imprisonment, the database indicated that they did not receive a prison sentence, but it did not include what type of alternative sentence was imposed (such as probation or fines).

The independent variable, case-processing time, was calculated by the difference (in days) between the actual date of the district prosecutor's office filing a case in the district court and the actual date of the district judge's sentencing in the case. Extralegal variables were the defendant's age (continuous measurement in years), gender (0 = female; 1 = male), and educational level (four categories).³ The type of jurisdiction (urban vs. rural) represents an organizational context variable.⁴

for treatment of stock fraud investigated by the U.S. Securities and Exchange Commission).

³ Our data set did not provide a reliable measure of income; a problem that occurred in most previous American studies. Zatz (1987:76) noted that the defendant's income is typically not available to researchers in sentencing disparity studies because "court records rarely include economic data."

⁴ According to the Ministry of Justice's classification, the district prosecutors' offices of Taipei, Shihlin, Panchiao, Taichung, Tainan, Kaohsiung, Keelung, and Taoyuan are classified as urban, while the remaining are classified as nonurban (rural). Prior American research suggested that "urbanization is a significant contextual determinant of differential treatment" (Myers & Talarico 1986). For example, Feld (1991) found that juvenile court in more homogeneous and stable rural courts sentence youths more leniently.

Table 1. Variables and Measures Affecting Judicial Sentencing Decisions of Those Convicted of Economic Crimes in Taiwan, 1991–96 (*N* = 823)

Concepts	Variables	Level of Measurement	Mean	SD
DEPENDENT VARIABLES				
	Decision to incarcerate	0 = Not sentenced to prison 1 = Sentenced to prison	0.69	0.46
	Prison sentence length	Interval, in months	15.5	15.6
INDEPENDENT VARIABLES				
Celerity	Case-processing time	Interval, in days	240	220
Extralegal Factors	Age	Interval, in years	44.5	10.7
	Gender	0 = Female 1 = Male	0.81	0.89
	Educational level	1 = Elementary 2 = Junior high 3 = High school 4 = College	2.27	1.01
Legal Factors	Offense prosecution type	0 = Civil or administrative code 1 = Criminal code	0.62	0.48
	Number of codefendants	Interval	6.8	11.9
	Maximum prison time possible	Interval, in months	59	25
	Number of prior convictions	0 = No imprisonment Interval	0.29	0.74
Organizational Context	Area of jurisdiction	0 = Nonurban 1 = Urban	0.76	0.43

Legal variables in the analysis include number of prior convictions, offense type (0 = criminal prosecution; 1 = civil/administrative prosecution), and seriousness of offense according to the law (defined by the maximum number of months possible in prison). In Taiwan, the three legal codes, criminal, civil, and administrative, are all tried in the same court by the same judge of that region or jurisdiction. Criminal offenses include fraud, breach of trust, misappropriation, usury, forgery, smuggling, and manufacture or sale of untaxed cigarettes and alcoholic beverages. On the other hand, violations of company law (i.e., breach of civil law); infringements of intellectual property rights; and violations of bank law, tax law, and security and exchange law (i.e., infringing on administrative laws) are typically prosecuted according to noncriminal codes. (See the Appendix for definitions and sentencing guidelines.) In Taiwan, the punishment imposed by the criminal code or a special criminal code is generally harsher than administrative and civil law sanctions.

Hypotheses

Prior research found that serious cases in which American attorneys needed more time to prepare the case led to longer case-processing time (Church 1981). This finding suggests generally that more severe cases result in longer case-processing time. In other words, case-processing time could be a proxy variable of case complexity and/or seriousness. On the other hand, Walker (2000) argued that “being tough on crime” reflects conservative ideology. Therefore, swift justice (as measured by a shorter case-processing time) may lead to more severe punishments.

Our study is based on Walker’s argument, and hypothesizes that swift justice would lead to more severe sentences when other conditions are controlled. Specifically, offenders with shorter case-processing time were more likely to receive prison sentences than those with longer case-processing time. Of the offenders who received prison time, we hypothesized that those with shorter case-processing time were also more likely to receive longer prison sentences. To test our hypotheses, we first used zero-order correlation to examine the problem of multicollinearity. Second, we used logistic regression to predict the decision to imprison. Finally, we used ordinary least-squared (OLS) regression to predict sentence length.

Findings

Sample Characteristics

Data in Table 2 show the characteristics of the entire sample of 823 convicted economic offenders. Data in the first two columns show the differences between the two groups, the first group ($N = 564$) was sentenced to prison, while the second group ($N = 259$) received community-based sentences. Among the entire sample, defendants convicted of economic offenses were most typically men (81%) in their mid-40s, most of whom were undereducated, as noted by the 63.6% who received less than a high school education. About three-fourths of all the cases originated in urban areas and were prosecuted according to the criminal code, but the vast majority of defendants had no prior criminal records (83%). Economic cases in Taiwan were complex in nature, as offenses were committed with an average of seven codefendants, ranging between one person up to 78 people. The mean prescribed maximum punishment faced by these defendants was 59 months in prison. The average case-processing time for these offenders was 240 days.

The distributions in Table 2 of the defendants sentenced to prison ($N = 564$) did not significantly differ from convicted offenders who received community-based sentences, with the exception of type of prosecution, case-processing time, and number of codefendants. A significantly higher number of defendants who received a community-based sentence were prosecuted under the civil and administrative codes (45.9%) than defendants who received a prison sentence (33.7%). Another different finding was that case-processing time was significantly longer for defendants who received a community-based sentence (291 days) compared with defendants who were doing time in prison (217 days). Finally, there were significantly more codefendants in cases in which the defendant received a community-based sentence than when the defendants had a prison sentence.

Zero-Order Correlation

Zero-order correlation is one of the methods for diagnosing multicollinearity. Zero-order correlation coefficients range between 1 and -1.0 . A coefficient of 1 indicates a perfectly positive correlation, whereas -1.0 represents a perfectly negative correlation. There is no scientific rule to decide the criterion of multicollinearity, but the convention is that correlation coefficients 0.4 or above suggests a potential problem.

Tables 3 and 4 indicate the zero-correlation coefficient matrix of the variables in the decision to incarcerate and the sen-

Table 2. Sample Characteristics of Those Convicted of Economic Crimes in Taiwan, 1991–96

Variables	Prison Sentence (<i>N</i> = 564)	Community Sentence (<i>N</i> = 259)	Significance Levels (<i>p</i> -values)	Total Sample (<i>N</i> = 823)
Gender				
Male	80.5%	82.0%		81.0%
Female	19.5%	18.0%	0.606	19.0%
Educational Level				
Elementary	25.6%	27.5%		26.2%
Junior high	37.6%	36.8%		37.4%
High school	20.1%	19.4%		19.9%
College	16.8%	16.2%	0.628	16.6%
Types of Offenses				
Criminal	66.3%	54.1%		62.5%
Civil/administrative	33.7%	45.9%	0.001	37.5%
Urban Jurisdiction	76.8%	74.5%	0.482	76.0%
Age (years)				
Range	22–82 yr	24–83 yr		22–83 yr
Mean	44.1	45.4	0.120	44.5
Case-Processing Time (days)				
Range	2–1,578 days	10–1,433 days		2–1,578 days
Mean	217	291	0.000	240
Number of Prior Offenses				
Range	0–4	0–4		0–4
Mean	0.3	0.3	0.432	0.3
Number of Codendants				
Range	1–42 people	1–78 people		1–78 people
Mean	4.7	11.4	0.000	6.8
Avg. Maximum Possible Sanction				
Range	12–120 mo	12–120 mo		12–120 mo
Mean	60.1	56.8	0.095	59.0

Table 3. Zero-Order Correlation Coefficients of Decision to Incarcerate Model

	Y ₁	X ₁	X ₂	X ₃	X ₄	X ₅	X ₆	X ₇	X ₈	X ₉
Y ₁ Decision to incarcerate	1.000									
X ₁ Case-processing time	-0.158**	1.000								
X ₂ Age	-0.054	0.052	1.000							
X ₃ Gender	-0.018	-0.026	0.120**	1.000						
X ₄ Educational level	0.017	0.007	0.029	-0.014	1.000					
X ₅ Offense type	0.118**	0.116	0.024	0.014	0.249**	1.000				
X ₆ No. of codefendants	-0.262**	0.153**	0.003	-0.009	0.007	-0.225**	1.000			
X ₇ Prescript prison time	0.058	0.096**	0.000	-0.015	0.101**	0.295**	0.070*	1.000		
X ₈ No. of prior convictions	-0.027	0.138**	0.094**	0.158**	0.086*	0.135**	-0.035	0.062	1.000	
X ₉ Jurisdiction	0.025	0.040	-0.029	-0.008	-0.121**	0.012	-0.179**	0.056	0.063	1.000

* Significant at level 0.05

** Significant at level 0.01 (2-tailed)

Table 4. Zero-Order Correlation Coefficients of Sentence Lengths

	Y ₁	X ₁	X ₂	X ₃	X ₄	X ₅	X ₆	X ₇	X ₈	X ₉
Y ₁ Sentence lengths	1.000									
X ₁ Case-processing time	0.150**	1.000								
X ₂ Age	0.045	0.051	1.000							
X ₃ Gender	0.028	0.003	0.074	1.000						
X ₄ Educational level	0.081	-0.014	0.048	0.025	1.000					
X ₅ Offense type	0.265**	0.033	0.021	0.005	0.257**	1.000				
X ₆ No. of codefendants	-0.051	0.174**	0.001	-0.015	-0.043	-0.108*	1.000			
X ₇ Prescript prison time	0.297**	0.091*	0.025	-0.039	0.110**	0.244**	0.197**	1.000		
X ₈ No. of prior convictions	0.178**	0.090*	0.071	0.146**	0.048	0.101*	-0.021	0.050	1.000	
X ₉ Jurisdiction	0.076	0.028	-0.025	0.009	-0.134**	-0.046	-0.025	0.105*	0.088*	1.000

* Significant at level 0.05

** Significant at level 0.01 (2-tailed)

tence lengths, respectively. None of the variables in the study are exceptionally correlated.

Logistic Model: The Decision to Incarcerate

Table 5 presents the logistic model of the judicial decision of whether or not to incarcerate a defendant in prison. Logistic regression is appropriate with dichotomous dependent variables because it uses the maximum-likelihood method to estimate the parameters in the population from which the sample was drawn (Bachman & Paternoster 1997). In the logistic model, the chi-square statistic (77.23; d.f. = 9) is significant at critical level 0.01. This finding suggests that this model contributed significantly to an understanding of the decision to incarcerate. Nagelkerke *R*-square (0.13) indicated that about 13% of the “variation” in the sentence to prison was explained by this logistic regression model.

Table 5. Logistic Model of Imprisonment Decision ($N = 823$)

Variable	<i>B</i>	Wald	<i>R</i>	Exp(<i>b</i>)
Case-processing time	-0.01	11.23**	-0.09	0.99
Age	-0.01	1.64	0.00	0.99
Gender	-0.09	0.18	0.00	0.91
Education	-0.01	0.01	0.00	0.99
Offense types	0.22	1.54	0.00	1.25
Codefendants	-0.05	28.65**	-0.16	0.95
Prior record	-0.07	0.43	0.00	0.93
Maximum sentence	0.01	4.73*	0.05	1.01
Urban jurisdiction	-0.10	0.29	0.00	0.90
Constant	1.44	9.41		

NOTES: chi-square = 77.23** d.f. = 9 $N = 823$.

* $\alpha \leq 0.05$

** $\alpha < 0.01$

The Wald statistic ($Wald = t^2 = [\beta / SE]^2$) is a test of hypothesis for logistic regression coefficients (*B*). The null hypothesis of logistic regression coefficients is that the sentence to prison is not related to the independent variable in the population from which the sample was drawn (i.e., $H_0: \beta = 0$). If the value of the Wald test is large enough to reject the null hypothesis, then the conclusion that the decision of imprisonment is significantly related to a certain independent variable can be made. As the data in Table 5 show, three independent variables were significant in this model. Case-processing time and the number of codefendants were significant at critical level 0.01, whereas the prescribed maximum sentence was significant at level 0.05. Exp (*b*) presents the odds ratio, which indicates the odds change when a particular independent variable increases by one unit. Our findings suggested that the longer the case-processing time, the more codefendants, and the shorter the maximum possible sentence, the

less likely a defendant was to be sentenced to prison. Recall that a shorter maximum possible sentence indicates that the offense is less severe. R indicates the partial correlation between the sentence to prison and each of the independent variables. The value of R implies that, among these independent variables, the number of codefendants (-16) had the greatest explanatory power on a judge's decision to sentence an economic offender to prison.

OLS Model: Prison Sentence Lengths

Table 6 presents the OLS regression model of prison sentence lengths for only those economic offenders sentenced to prison ($N = 564$). OLS regression uses the least-squares method to estimate the parameters in the population from which the sample was drawn and is suitable for continuous dependent variables (Bachman & Paternoster 1997). In the OLS model, the determinant coefficient (R^2) indicated that 17% of the variations of the sentence length was explained by the independent variables. The F -test (12.82; d.f. = 9) implied that this model was significant at critical level 0.01.

Table 6. OLS Model of Imprisonment Length ($N = 564$)

Variable	B	Beta	t	VIF
Case-processing time	0.01	0.13	3.16**	1.05
Age	0.01	0.02	0.51	1.02
Gender	0.58	0.02	0.38	1.03
Education	0.01	0.01	0.08	1.10
Offense types	5.84	0.18	4.23**	1.17
Codefendant	-0.24	-0.10	-2.43*	1.11
Prior record	2.72	0.13	3.18**	1.05
Maximum sentence	0.16	0.25	6.06**	1.15
Urban jurisdiction	1.54	0.04	1.05	1.05
Constant	-2.59		-0.73	

NOTES: Adjusted R -Square = 0.16** d.f. = 9 $N = 564$.

* $\alpha \leq 0.05$

** $\alpha \leq 0.01$

The t -test showed that in this OLS model five independent variables' partial slope coefficient (b) were significant. Specifically, case-processing time, offense type, number of prior convictions, and maximum possible sentence (indicating offense severity) was significant at level 0.01, while the number of codefendants was significant at level 0.05. The partial slope coefficient indicated the linear relationship between length of imprisonment and each independent variable. The partial slope coefficient of time span (0.01), for example, suggested that the increase of case-processing time by one day will lead to an increase of 0.01 month in sentence length while holding the other independent variables constant. The standardized partial slope

coefficients (noted as Beta) offer a comparison of relative contribution of each independent variable to the variance of the dependent variable. The stronger the relationship between the independent and dependent variable, the larger the Beta. In this model, prescribed maximum sentence (0.25) had the largest contribution to the variance of prison sentence lengths. Moreover, Benson and Walker (1988) noted their concern of multicollinearity in OLS regression. To remedy this problem, they suggested the use of the variance inflation factor (VIF) as a measurement of multicollinearity.⁵ In this model, the largest VIF is 1.17. This outcome suggests that none of the partial slope coefficients were adversely affected by multicollinearity.

Discussion and Conclusion

As information to international resources becomes more accessible, and as the economy improves, the rate of economic offenses in Taiwan is predicted to increase. An increase in crime rates may contribute to a heavier court caseload, and this in turn, may impact case-processing time. Since the legal system in Taiwan has its origin in the civil law tradition, findings can be generalized to Taiwan or to other countries with similar legal origins or judicial sentencing practices. Given that there are no other known studies on Taiwanese economic crimes, our findings will be compared with the small number of sentencing disparity and white-collar crime studies that have been conducted in North America.

In our study, economic offenders were middle-aged men who were undereducated and had not yet completed high school. Economic crimes that came to the attention of the Taiwanese criminal justice system seemed to be committed by people from all socioeconomic statuses, most notably from the mainstream population, rather than only those in positions of influence and power. This result coincides with other studies that found that white-collar crime involved people of all socioeconomic backgrounds (Hagan et al. 1980; Nagel & Hagan 1982).

Women participated in 19% of all economic crimes indicted. This proportion was similar to American data (84% men vs. 16% women). The primary difference between men and women in the sample was the fact that women had less-serious prior criminal histories than men. In Taiwan, 16% of all economic offenders were college educated, while 37% to 44% of American economic offenders received a college education. However, when educational level was classified as "high school or more," as in

⁵ VIF is the reciprocal of the tolerance for the *i*th variable ($VIF_i = 1/[1 - R_i^2]$). If the VIF of a variable is large (i.e., exceeds 10), it is most likely linearly related to the other independent variable. In this situation, variable deletion must be taken into consideration (Hair et al. 1995:127).

Albonetti's (1994) study, Taiwanese offenders had a similar percentage of high school or more educated offenders (37%) to Americans (42%); it may be because Taiwan practices a 9-year, rather than a 12-year, compulsory education. As a result, high school-educated Taiwanese are more likely to have a white-collar occupation than their American counterparts.

Out of our entire sample, convicted offenders who received community-based sentences were not significantly different from those who received prison sentences, except for type of prosecution (criminal vs. civil/administrative), case-processing time, and number of codefendants. A significantly higher number of defendants who received a community-based sentence were prosecuted under the civil and administrative codes than were defendants who received a prison sentence. This result suggests that even though prison was an option under civil and administrative codes, judges seemed to be more reluctant to send "noncriminal" economic offenders to prison. Defendants prosecuted under the criminal code were more likely to be incarcerated. Case-processing time was significantly longer for defendants who received a community-based sentence (291 days) compared with defendants who were incarcerated in prison (217 days). These figures indicate that cases of offenders that judges thought warranted prison incarceration were disposed of more quickly than those of individuals who were sentenced to community-based sentences.

The hypotheses of our study were partially confirmed. In the judge's decision of whether or not to incarcerate, we found that the shorter the case-processing time the more likely the offender is to be sentenced to prison. However, the imprisonment-length model indicated a direct relationship between imprisonment length and case-processing time. This finding can be explained, in part, by the fact that more serious cases, with longer incarceration sentences, may have required more time due to case complexity. In sum, swift justice increased the chance of imprisonment, but led to a shorter sentence.

Even though the hypotheses were partially confirmed, several considerations deserve further discussion. The first consideration is the correlation among case-processing time and number of codefendants, prison time, and number of prior convictions indicated in Table 3 (the decision to incarcerate) and Table 4 (sentence length). As we discussed previously, case-processing time could be a proxy of case complexity and seriousness; that is, more complex and severe cases seem to require longer case-processing times. Most prior studies on sentencing disparity found that offenders involved in complex and severe cases were more likely to receive imprisonment but with short prison terms. However, our findings were in the opposite direction. That is, the longer the case-processing time, the less likely an offender

would be sentenced to prison. For offenders who are sentenced to prison, the longer the case-processing time, the longer the prison term. These findings suggest that even if case-processing time and case complexity and seriousness are highly related, they contribute differently to sentencing disparity.

The second consideration is the effect of the enactment of the Speedy Trial on Severe Criminal Cases Act in Taiwan. That is, the relationship between the case-processing time and sentencing disparity may not be a function of the enactment of the Speedy Trial Act but a change of judicial attitudes or perceptions. By law, judges in Taiwan, like their American counterparts, should make their judgment independently. However, the promotion and transfer of Taiwanese judges are controlled by the Judicial Yuan, the highest authority of judicial administration in Taiwan. Hence, this chain of command may impact judicial decisionmaking—a problem that was also found in the Japanese justice system (see Sanders 1996). A decision of imprisonment but with a shorter sentence for offenders involved in complex and severe cases may be the best response within this political climate.

Moreover, in Taiwan the time required to process a case is less explicit than that of the American Bar Association. The Taiwanese Speedy Trial for Serious Cases Act of 1980, which was revised in 1995, notes that trials of serious cases must occur within 14 days following the prosecutorial filing date (Article 8, the Speedy Trial on Severe Criminal Cases Act 1995, in Tao et al. 1997). To what extent this act has influenced the sentencing decision cannot be answered by this study because our data cover the period of time between 1991 and 1996. To answer this question, we would need a data set spanning nearly two decades—from the late 1970s to the late 1990s—in order to compare the difference on sentencing decisions before and after the enactment of the Speedy Trial Act.

Third, the judge (or panel of judges) in Taiwan, differs from their American counterparts in that Taiwanese judges must make decisions both of conviction and punishment because there is no jury system. Our study indicated that the judge's decisions are based on different considerations. In the imprisonment decision, judges were more likely to consider the number of codefendants and the maximum possible sentence in addition to the case-processing time. More specifically, offenders who committed an offense with a high maximum possible sentence (indicating offense severity), which involved a smaller number of codefendants and was disposed of more quickly, were more likely to be sentenced to prison. Previous studies support the finding that cases that involved a small number of codefendants took less time than more complex cases involving multiple defendants (Neubauer & Ryan 1982). However, our findings suggest that, in more serious

cases that the judge believed to warrant prison, the role that the offender played in the crime may have had some effect. A smaller number of codefendants may mean that the offender played a larger or more primary role in the crime.

Once the decision to incarcerate had been made, judges in Taiwan considered different factors when they decided sentence length. The possible maximum sentence contributed the most to the sentence length OLS model. Judges decided prison sentence length first and foremost according to the prescribed maximum sentence of the law. Our study found that a higher number of prior convictions were another legal factor that influenced the prison sentence length. Finally, offenders who were involved with less codefendants, who had cases prosecuted under the criminal code, and whose cases had longer case-processing time were more likely to receive a longer prison sentence. Our findings were supported by previous studies that found when American judges decided sentence length of white-collar offenses, the defendant's social background, prior convictions, and the district in which the sentencing occurred were influential factors (Wheeler et al. 1982). In our study, case-processing time seemed to be not only an indicator of offense severity but also a factor considered by judges at sentencing.

Fourth, our study did not include information on the type of lawyers. Although a lawyer's role in the Taiwanese inquisitorial system is not as critical as in the American adversarial system, attorneys may play some role in sentencing. In addition, we did not have access in our data to the amount of fines imposed on economic offenders. One study suggested that fines are a common punishment in economic offenses, and they are frequently combined with other types of punishment (Myers & Reid 1995). Since the data we used in this study did not include this information, these two variables (type of lawyers and fines) could not be controlled in our models.

In conclusion, although Taiwan maintains a democratic and free-market system, its legal system is quite different from that of the United States. In order to prevent cases from getting backlogged in the system, Taiwanese prosecutors are granted discretion based on predefined guidelines that allow the prosecutor to release certain offenders without prosecution. Recall that *every* offender that the prosecutor charges with a crime (80% of all those arrested) must go to trial before a judge. There is concern by legal speculators that Taiwan may need to implement a form of plea-bargaining to further decrease case-processing time.

The implication of the current research suggests that case-processing time has an impact on sentencing disparity that is different from case complexity and seriousness. Due to the prosecutor's initial screening of the less-serious cases, Taiwanese judges are more likely to sentence offenders to prison. The judicial as-

sumption could be that if the prosecutor did not release the offender without prosecution, then the offense warrants serious attention. Thus, offenders the prosecutor does not release are more likely to go to prison.

However, the offenders sentenced earlier in the process are more likely to receive a shorter prison term than offenders sentenced later. Other than case complexity and offense seriousness contributing to sentence length, politics may be another possible reason for the disparity. Taiwanese judges may be responding to the expectations of the judicial authority or to the more-conservative views of the general public. Thus, one inference of this study is the possible impact of public opinion on judicial decisionmaking. In particular, how can we assure that judges are carrying out fair and just sentences when court caseloads have become heavier and public attitudes more conservative?

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Appendix

TAIWANESE ECONOMIC OFFENSE DEFINITIONS

Economic Offenses against the ROC Criminal Code of 1969⁶

Offense	Definition	Punishment
Fraud	A person who by fraud causes another to deliver to him something belonging to a third person with intent to appropriate it for himself or for a third person. (Article 339)	Prison: 5 yr max. Fine: 1,000 yuan ⁷
Occupational fraud	Fraud committed in the course of one's occupation. (Article 340)	Prison: 1–7 yr Fine: 5,000 yuan
Breach of trust	A person who manages the affairs of another with intent to produce an illegal benefit for himself or for a third person, or to harm the interests of his principal, and who acts contrary to his duties and thereby causes loss to the property or other interest of such principal. (Article 342)	Prison: 5 yr max. Fine: 1,000 yuan
Misappropriation	A person who has custody of something belonging to another and who misappropriates it with intent illegally to obtain possession for himself or for a third person. (Articles 335–338)	Prison: 5 yr Fine: 1,000 yuan
Misappropriation (occupational)	Misappropriation in the course of one's occupation.	Prison: 6 mo–5 yr Fine: 3,000 yuan
Misappropriation (public benefit)	Misappropriation in the course of a public function, or for public benefit.	Prison: 1–7 yr Fine: 5,000 yuan
Usury	A person who takes advantage of the urgent need, carelessness, or inexperience of another, and who lends money or anything to another, charging interest which is obviously inappropriate to the principal. (Article 344)	Prison: 1 yr Fine: 1,000 yuan
Occupational usury	Committing usury in the course of one's occupation. (Article 345)	Prison: 5 yr max. Fine: 3,000 yuan
Counterfeiting currency	A person who counterfeits or alters a currently used coin, paper currency, or banknote with intent to circulate. (Article 195–200)	Prison: 5 yr min. Fine: 5,000 yuan

⁶ The articles in the Criminal Code of 1969 were cited from the English edition *Major Laws of the Republic of China* (Liu et al. 1991), while articles in Civil and Administrative laws and regulations were translated by the first author from the Chinese edition, *An Omnibus of Modern Chinese Laws* (Tao et al. 1997).

⁷ The *yuan* is the unit of official currency of the Republic of China. One yuan equals approximately three New Taiwan (NT) dollars, the currency actually used in Taiwan. The exchange rate (as of October 2000) is one U.S. dollar to approximately 30 NT dollars, or 10 yuan.

Offense	Definition	Punishment
Counterfeiting valuable securities	A person who counterfeits or alters a government bond, stock certificate, or other valuable security with intent to put it into circulation. (Articles 201–205)	Prison: 3–10 yr Fine: 3,000 yuan
Forging private instruments or seals	A person who, in a manner likely to cause injury to the public or to another, forges or alters a <i>private</i> document. (Articles 210–220)	Prison: 5 yr max.
Forging public instruments or seals	A person who, in a manner likely to cause injury to the public or to another, forges or alters a <i>public</i> document. (Article 211)	Prison: 1–7 yr
Smuggling	A person who illegally imports or exports contraband. (Article 2, Disciplinary Regulation for Smuggling 1992)	Prison: 7 yr Fine: 200,000 NT dollars
Smuggling (occupational)	A person who commits the offense of smuggling in the course of one's occupation. (Article 2, Disciplinary Regulation for Smuggling 1992)	Prison: 3–10 yr Fine: 300,000 NT dollars
Manufacture/sale of untaxed cigarettes and alcoholic beverages	A person who illegally manufactures cigarettes or alcoholic beverages, or sells untaxed cigarette and alcoholic beverages. (Article 37, Provisional Act of Tobacco and Alcoholic Beverage Monopoly in Taiwan 1955)	Prison: 1 year Fine 5,000 yuan
Economic Offenses against ROC Civil Law		
Violating company law	A company representative who runs an unregistered business. (Article 15, Company Law 1997) Restitution for company damages may be imposed.	Prison: 1 yr Fine: 150,000 NT dollars
Economic Offenses against ROC Administrative Law		
Infringing intellectual property rights	A person who publicly makes oral statements, broadcasts, performances, displays, alterations, rents, or other public actions which impinge another person's property rights. (Article 92, Writing Property Rights Law 1993)	Prison: 3 yr max. Fine: 150,000 NT dollars
Infringing trademark	A person who deceitfully uses a trademark that is the same as or similar to another person's registered trademark. (Article 62, Trademark Law 1997)	Prison: 3 yr max. Fine: 200,000 NT dollars
Infringing patents	A person who manufactures a new product without a patent holder's agreement. (Article 125, Patent Law 1997)	Prison: 2 yr max. Fine: 150,000 NT dollars
Violating bank law	A person who violates Article 29.1 (non-bank runs banking business). (Article 125, Banking Law 1997)	Prison: 1–7 yr Fine: 3,000,000 NT dollars

Offense	Definition	Punishment
Violating tax law	<p>A person who avoids making uniform invoices for a business transaction or withholds a portion of the transaction</p> <p>A person who violates the preceding regulation more than 3 times within one year shall be punished with termination of his business. (Article 52, Business Tax Law 1997)</p>	Fine: 1–10 times the shortage amount
Tax evasion	A person who used fraud or other illegal methods to avoid tax filing responsibility. (Article 41, Tax Levy Law 1997)	Prison: 5 yr max. Fine: 60,000 NT dollars
Violating security and exchange law	A person who violates Articles 18.1 (official permission for stockbrokers), 22 (stock publication), 43.1 (exchange procedure), 43.2 (exchange place), 44 (official permission for stockbrokerage), 60.1 (prohibition of deposit or loan for stockbrokerage), 62.1 (limitation of self-transaction for stockbrokers), 93, 96, 97, 98 (official permission for stock exchange), 116 (prohibition of self-interest for the members of stock exchange), 120, 157.1 (prohibition of insider trading), or 160 (limitation of exchange place). (Article 175, Security and Exchange Law 1997)	Prison: 2 yr max. Fine: 150,000 NT dollars
