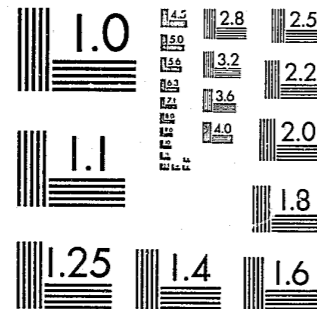


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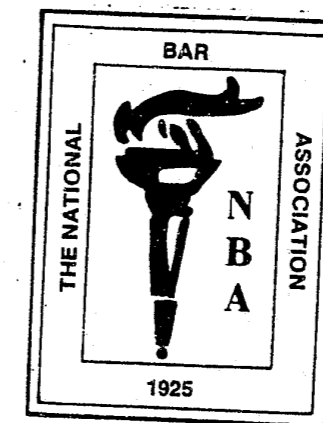
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FINAL REPORT
OF
THE NATIONAL BAR ASSOCIATION

A COMPARISON OF
BLACK AND WHITE ATTORNEYS'
PERCEPTIONS OF THE
CRIMINAL JUSTICE SYSTEM



PREPARED FOR THE
U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE
ADMINISTRATION

By

THE CRIMINAL JUSTICE DIVISION
NATIONAL BAR ASSOCIATION
WASHINGTON, D.C. 20036

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NBA

FORWARD

In defense of the Constitution of the United States, the members of the National Bar Association (NBA) made strategic efforts to legally represent all citizens. However, this predominantly black group, recognizing the challenges they faced with exclusion, jim crow, hatred, and hostility, began a system of legal practice unique in the annals of world jurisprudence. The founders of the NBA recognized the need for a cohesive body of legal minds that could withstand the pressures to fight cases against race discrimination and sought to find leaders committed to uphold and to argue for justice under the Constitution of the United States.

Many of the significant gains toward realization of first class citizenship for all Americans—equalization of teachers' salaries, freedom from discrimination in education, use of transportation facilities, protection of seniority rights in labor unions, the right to vote, the right to live in the neighborhood of one's choice, etc.—have been realized through the courts largely at the insistence of members of the NBA. Today the NBA has grown in numbers and influence as an organization whose purpose and programs seek to promote justice and progress in America.

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I. SUMMARY OF FINDINGS

SUMMARY OF FINDINGS

The initial focus of the data analysis was to test the NBA's hypothesis that the racial and ethnic background of attorneys practicing criminal law makes a difference in their attitudes and perceptions regarding the criminal justice system, and further that race is the dominant factor with regard to those attitudes and perceptions. The data relative to the attitudes and perceptions of the respondents was tabulated—by race—to determine if there was a discernable pattern of response that differed significantly according to race. Determination of the existence of perceptual patterns was crucial since this determined which alternative data analysis path would be pursued.

If distinct patterns—by race—of attitudinal responses were identified, additional analysis was used in determining to what degree of consistency the patterns were attributable to each respondent with regard to several major demographic, biographic, and professional characteristics within each group of respondents. That is, the attitudinal responses of specific subgroups of respondents was compared to:

- (1) the general pattern of attitudinal responses for each group;

- (2) the general pattern of responses for opposite respondent groups; and
- (3) the responses for the corresponding subgroup within opposite respondent groups.

If distinct patterns—by race—of attitudinal response were not identified, further analysis was required to determine whether there was a relationship between the attitudinal and perceptual responses and several other major demographic, biographic, and professional characteristics. The substantive elements of the attitudinal and perceptual responses of each responding group was analyzed and compared to determine what they indicate with reference to assessing the criminal justice system.

The majority of attorneys contacted (almost 100%) practiced or had been professionally employed in some area of criminal justice. Those in private practice were concentrated in the areas of criminal and domestic relations law.

White attorneys—more than two to one as compared to black attorneys—felt that the entire court process was fair to the poor and minority defendant. Also, forty-seven percent (47%) of white attorneys felt that minority defendants were treated the same as white defendants. For

example, respondents were asked if they thought that the criminal justice system—in general—gives differential treatment in sentencing black defendants as compared to white defendants in twelve (12) criminal categories with the exception of:

- (1) gambling; and
- (2) public intoxication.

Forty-five percent (45%) of white attorneys indicated that whites received more lenient treatment in rape cases. Black attorneys reported overwhelmingly that white defendants received more lenient treatment in all categories.

Black attorneys are perceived—by both black and white attorneys—as less capable than white attorneys. However, 2.55% of white attorneys felt that black attorneys were far more capable than white attorneys. Only 8.17% of black attorneys had similar feelings.

Most attorneys reported that courts do not operate efficiently and need additional reforms, viz., pre-trial diversion for criminal offenses, and timelier scheduling of cases. Black attorneys desire to see more minority judges.

There was a consensus of opinion that policemen use their discretionary powers to discriminate against and to

harass minorities. Also, in many instances, there were no clear guidelines indicating when to use their power to arrest or discharge firearms. Further, it was felt that policemen frequently use excessive force when dealing with the poor and minorities.

There is a wide difference in the opinions of black and white attorneys as to whether or not prosecutors—when exercising their discretion in selecting cases for trial—discriminate against the poor and minorities. The majority of black attorneys felt that prosecutors sometime or often discriminate against minorities. On the other hand, white attorneys felt that prosecutors never or almost never discriminated against the poor and minorities. It was also revealed that prosecutors were not inclined to plea-bargain the cases of poor and minority defendants, thus exposing them to stiffer penalties for more serious offenses.

Further, it was found that defense attorneys were unable to provide the same quality of defense for the poor as provided for the middle class. The majority of both black and white attorneys were against the reinstitution of the death penalty as capital punishment and felt that it discriminated against the poor and minorities.

II. BACKGROUND

STUDY OBJECTIVES

Court improvement efforts have a long history in the United States. Prior research regarding the relationship between race and perceptions of the criminal justice system have been focused on the public's concepts. Studies fail to communicate the large gap between the perceptions of attorneys and judges who work within the system on a daily basis. Little of the research that examined the perception of practitioners within the system has examined the effect that race has on the perceptions of minority practitioners.

The National Bar Association espouses the view that race/racism is a dominant factor in the evolution of the minority attorney's perceptions regarding the criminal justice system, and that the quality of experiences within the criminal justice system correlates strongly with the general public's perceptions.

With this in mind, the National Bar Association's Law Enforcement Assistance Administration Project implemented a research project designed to achieve the following objectives:

- To ascertain the perceptions of black and white attorneys and judges toward various aspects of the criminal justice system.
- To determine whether the attitudes and per-

ceptions of black attorneys and judges regarding the criminal justice system differs significantly from that of their white counterparts.

- To determine whether the attitudes and perceptions of black attorneys and judges regarding the criminal justice system provide new insight regarding the system and its need for reform.
- To develop current information on the nature of black and white attorneys' who practice criminal law.
- To determine whether there are significant differences in the nature of black and white attorneys' criminal law practices and how any differences provide insights regarding the criminal justice system and its need for reform.

RELATED RESEARCH AND ISSUES

The relationship between race and perceptions of the criminal justice system—or more precisely, perceptions of specific factors within that system—was established by research done subsequent to the civil disorders occurring in major American cities during the 1960's. Both the U.S. President's Commission on Law Enforcement and Administration of Justice (Crime Commission), and the National Advisory Commission on Civil Disorders (Kerner Commission) conducted research—by race—of attitudes about the criminal justice system.

These studies found that members of minority groups had significantly more complaints about and a less favorable attitude toward policemen. These findings were, in large, the basis for the Commission's recommendations that police/community relations programs be instituted where they did not exist and be improved where they did. These findings were also a major factor that increased concerns about and supported efforts toward the employment of more minority policemen to help alleviate problems in police/community relations through their visibility and greater sensitivity to the concerns of minority group members.

Other studies not only supported the findings of a strong correlation between race and perceptions of various aspects of the criminal justice system, but established as well that the nature of an individual's experience within the system is another correlate of perceptions about the system. Among these studies were Bagley and Mendelsohn's Minorities and the Police: Confrontation in America (New York: Free Press 1969), and Herbert Jacob's "Black and White Perceptions of Justice in the City," Law and Society Review, Vol. 6, 1977.

Bagley and Mendelsohn examined the attitudes of minorities in Denver, Colorado toward policemen and the relationship of those attitudes to personal experience and socio-economic characteristics. Jacob's setting was Milwaukee, Wisconsin. He expanded upon Bagley and Mendelsohn's objectives by measuring the distribution of expectations, as well as perceptions, and the correlate of that distribution. Both concluded that the public's perception of key officials in the criminal justice system—i.e., policemen and judges—was principally related to race and experience, but less to other socio-economic characteristics. Both studies indicate that within each racial group, those who have had positive experiences within the system generally

have more favorable attitudes toward it and vice versa. However, members of racial minority groups who have had positive experiences still tend to have a less favorable attitude than whites who have had favorable experiences.

The foregoing research focused on the relationship between race, and perceptions of the general public. However, there has been no comparable research that addresses the relationship of race and perceptions on the professional end of the experience spectrum, and little of the research that examined the perceptions of professionals employed within the criminal justice system has attempted to differentiate or compare the perceptions of the white and minority professional.

An additional factor surfaced pursuant to a study conducted by the Sage Library of Social Research. Data indicated that despite recent improvements, minorities are still underrepresented in the sample cities surveyed by this study. The sample of lawyers interviewed was 87% white, 11% black and 2% Chicano. Although the black percentage was nearly equal to the percentage of blacks in the national population, it was still far behind the average black population of the cities surveyed (32%

nonwhite), and even further behind the racial composition of the lawyers' clientele which was estimated at over 60% non-white. Chicanos were even more underrepresented with a 2% slice of the sample in sharp contrast to their national population figures and their percentages in the cities studied.

Washington, D.C., with a black majority of approximately 70% of its population, had by far the greatest percentage of black lawyers interviewed (35 percent). Miami and San Francisco were most typical with about 10% black criminal attorneys, which underrepresented their black populations by a three-to-one ratio. These low percentages were blamed on many years of discrimination, and a rather recent development in which younger black attorneys turn to politics or lucrative civil practices rather than the less prestigious criminal law practice. Young black attorneys with a social conscience were much more likely to be found in the public defender's office, which offered regular paychecks, no discrimination, and social respectability. Older blacks were very resentful of their treatment by white judges in the "old days," but generally believed that race was not a major factor in the criminal courtroom, with a few exceptions. Each city had its designated group of bigots

on the bench who evoked the ire of white as well as black attorneys. Fortunately this problem seemed to be on the decline and the racial question simply not important in case disposition. A few black attorneys even went so far as to candidly admit that they thought that their race was an aid in front of liberal or moderate judges, who would lean over backwards not to demonstrate any type of behavior which could be viewed as racist.

The black attorneys all had a largely black clientele, although they thought that they represented an average of about 10 percent whites. Most black attorneys were anxious to have white clients because as one black attorney from Miami explained:

"when the jury looks up and sees that white with a black attorney, they start to think that that attorney must really be tops if whites are going to him." ^{1/}

The black attorneys were uncertain as to the reaction of blacks on juries to their appearance in the courtroom. Most felt that there was some racial pride but overall, it did not seem to be of decisive importance, especially when the attorney and client are of the same race.

^{1/} Criminal Lawyers, An Endangered Species, Paul B. Wice. Sage Publications, Inc., 1978.

There was some apparent tension between black and white attorneys on the question of competence. Several white attorneys in each city made comments about the poor quality of legal defense offered by the black attorneys who were recently admitted to the bar. The essence of their criticism was that many blacks had been preferentially admitted into law schools through a lowering of standards and that this policy had spread to the state bar exam which was also charged with being unfairly graded in favor of blacks so that as many as possible could begin practice. Since none of the interviewed offered any proof of either of these forms of affirmative discrimination, it is impossible to place much faith in their truthfulness. What was significant, however, was the large number of white criminal attorneys who believed this and were willing to discuss this dubious judgment with the interviewer. It is ironic that only five to ten years ago most states were being sued by angry blacks charging that the bar exams were discriminating against them and that they usually had their cases argued by white attorneys.

The southern black criminal attorney has, paradoxically, made the greatest gains in recent years, yet still

badly underrepresents the percentage of blacks in the community. Miami and New Orleans are the two cities in the sample where this problem was most acute. The absence of black law schools has traditionally handicapped blacks seeking law degrees in Florida and Louisiana and now that most racial barriers are down for admission, the meteoric rise in the numbers of students competing for the few law school positions in each state continues to frustrate the black applicant.

Turning to the Chicanos, one finds an even greater problem with a handful of criminal lawyers and a mounting number of potential clients. Even in cities with large Mexican-American populations, such as Los Angeles and Houston, only a handful of Chicano lawyers are available. The same is also true of the Cubans in Miami, who are an especially interesting group because so many of them came to the United States with Cuban law degrees and attempted to continue their practice. The bar exam and its language problem were difficult hurdles for most to overcome, but of the several who did, almost no one chose the field of criminal law. Cubans who were arrested also did not seem anxious to hire their countrymen.

All minorities appear to have concluded that their racial and ethnic counterparts are not adequate defense counsel in criminal matters and prefer a white man. Black, Chicago, and Cuban attorneys, as well as a few whites, offered the same explanation:

- Recent minorities (Chicanos, Cubans, etc.) have learned from the more court-wise blacks that you need a lawyer who has connections with the primary movers of the criminal justice system—the judges and prosecutors. Because this legal elite is overwhelmingly white and may be counted on to be on the best social and professional terms with other whites, it is only common sense to hire an attorney whose racial, and just to be sure, ethnic background matches the current crop of judicial officers. 2/

Thus, in Miami, with a judiciary and a prosecutor's office staffed by many Jews, the blacks have taught the Cubans that Jewish attorneys must be used in criminal cases if one wishes to have an attorney who has a chance of working within the system. Whether or not such ethnic congruence leads to favoritism is unproven and irrelevant because this ^{3/} is what most of the minority defendants believe.

2/ Ibid., p. 67.

3/ Ibid.

III. DESIGN AND METHODOLOGY

DESIGN AND METHODOLOGY

The purpose of this research project was to compare the black and white attorney's perception of the criminal justice system. Previous research regarding the relationship between race and perceptions of the criminal justice system focused on the general public's perspective of the system. Little of the research that examined the perceptions of practitioners within the system examined the relationship of the practitioners' race to their perceptions, nor did the research accomplish an in depth analysis of the attitudes and perceptions of minority criminal justice professionals. Thus, this research project was designed to broaden the body of knowledge concerning race relationship and experience to perceptions of the criminal justice system to gain insight into the perceptions of minority criminal justice professionals, and to determine the significance of these perceptions to the process of assessing the system and making decisions about reform of the system.

The NBA's approach to the project objectives encompassed two data collection methods:

- (1) a mailed questionnaire to sample survey two groups—black attorneys and white attorneys in a criminal law practice; and

- (2) conduct personal interviews with a second group of black and white criminal law attorneys.

Both the questionnaire and the personal interview provided data for analyzing each group of attorney's criminal law practice and of each group's perceptions and attitudes about the operation and certain factors of the criminal justice system.

SAMPLING PLAN AND ADMINISTRATION

The sample of black attorneys was selected, by random, from the National Bar Association's membership roster (the most complete listing of black attorneys across the country).

The sample of white attorneys was selected, by random, from the membership roster of the American Bar Association's (ABA) Criminal Justice Section. It is our opinion that the ABA's Criminal Justice Section encompasses the greatest cross-section of attorneys whose practices are predominantly in criminal law.

Site Selection:

The selection of target cities depended upon three major considerations:

- (1) the desire for geographical dispersion in the targeted sites;
- (2) variation in the population of the targeted cities and percentages of minorities in that population; and
- (3) the presence of a statistically significant number of minority attorneys.

The following cities were selected for the survey sites:

- | | |
|--------------------|-------------------|
| • Philadelphia, PA | • Detroit, MI |
| • Washington, DC | • Houston, TX |
| • Richmond, VA | • Denver, CO |
| • Cleveland, OH | • Los Angeles, CA |

The questionnaire was designed to solicit information which could be classified into three (3) categories:

(1) Demographic/Biographic

- sex of respondent,
- present age of respondent,
- age upon completion of law school,
- length of time admitted to the bar,
- attendance at historically black/white law school,
- region of country in which attorney practices,
- size of municipality in which attorney practices.

(2) Nature of Professional Endeavors

- arena of present primary endeavor, e.g., government, academic, institutional, private, judgeship,
- Legal specialty—type of law practiced exclusively or as defined by the type of cases representing 50% or more of the annual case load.
- participation in continuing legal education activities in the last two years,
- socio-economic characteristics of clientele,

- size of annual case load,
- status as sole practitioner, partner in a firm, etc.,
- annual income.

(3) Perceptual/Attitudinal

- perceptions of fairness in the criminal justice system in all stages of processes (i.e., does the respondent perceive differences in how cases are handled based on the race and/or socio-economic status of the accused and of the victim),
- perceptions of the major cause(s) of crime,
- perceptions of the major cause(s) of backlogs in the court system,
- perceptions of the effects of recent trends in sentencing, in utilizing alternative means for adjudication of criminal cases, in court organization, management, etc.,
- respondents' perceptions, in general, and respondents' perceptions, by race, on the competence of major professional actors in the criminal justice system,
- opinions as to the specific professional development needs, and of other legal professionals in the criminal justice system,
- perceptions of differences in professional development needs of legal professionals by race.

IV. FINDINGS

FINDINGS

The survey questionnaire was designed to compile relevant data analysis of personal, and other information about the responding attorneys. Questions 1-18 dealt exclusively with obtaining information concerning the respondents' age, sex, date of birth, law school attended, area of law practice, and other pertinent information that was considered vital to the overall outcome of the survey. The information solicited by questions 19, 20, 24, and 25-55 are considered the most substantive in determining the respondents' perceptions and attitudes toward the criminal justice system. Each question is discussed individually and includes an analysis of the responses and comments received. The number of attorneys responding to each question has been indicated at the end of each table by an asterisk.

Survey Question #19

Respondents were asked:

- "Have you every practiced criminal law or been professionally employed in a criminal justice area of law? (See Table 1.)

Table 1: PERCENTAGE OF ATTORNEYS EMPLOYED...
IN A CRIMINAL JUSTICE AREA OF LAW

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	79.77
No	20.23
Other	0

White Respondents**

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	97.59
No	2.14
Other	.27

* The total number of black attorneys responding was 341.

** The total number of white attorneys responding was 373.

Survey Question #20

Respondents were asked:

- "What is your primary area of professional activity?" (See Table 2 below.)

Table 2: PERCENTAGE OF PRIMARY PROFESSIONAL ACTIVITY

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Judge	8.09
Judicial Administrator	.74
Corporation Lawyer	5.88
Academic (teacher or administrator)	2.57
Private Practice	58.09
Public Prosecution	10.29
Public Defense	4.04
Criminal Justice Planning	.37
Other	9.93

* The total number of black attorneys responding was 272.

Table 2: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Judge	6.81
Judicial Administrator	.54
Corporation Lawyer	.54
Academic (teacher or administrator)	1.91
Private Practice	53.13
Public Prosecution	20.16
Public Defense	11.99
Criminal Justice Planning	1.09
Other	3.81

* The total number of white attorneys responding was 367.

Survey Question #24

Respondents were asked:

- "What ethnic group makes up the majority of your practice?" (See Table 3.)

Table 3: PERCENTAGE OF THE ETHNIC GROUPS
IN YOUR PRACTICE

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Black (not of Hispanic origin)	68.91
White (not of Hispanic origin)	18.65
Hispanic	1.04
Asian or Pacific Islander	.52
Native American	2.07
Other	9.33

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Black (not of Hispanic origin)	16.38
White (not of Hispanic origin)	64.81
Hispanic	3.48
Asian or Pacific Islander	0
Native American	2.79
Other	12.55

* The total number of black attorneys responding was 193.

** The total number of white attorneys responding was 287.

Survey Question #25

Respondents were asked:

- "What area of law constitutes the majority of your practice or judicial decision making? (See Table 4 below.)

Table 4: AREA OF LAW PRACTICE

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Criminal Law	69.85
Domestic Relations	9.92
Personal Injury	6.87
Corporate Practice	3.44
Taxation	.38
Probate	1.91
Public Interest Law	1.53
Civil Rights	1.90
Other Areas	4.20

* The total number of black attorneys responding was 262.

Table 4: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Criminal Law	76.06
Domestic Relations	14.37
Personal Injury	1.69
Corporate Practice	1.69
Taxation	0
Probate	.28
Public Interest Law	.85
Civil Rights	.28
Other Areas	4.78

* The total number of white attorneys responding was 355.

This portion of the survey indicates that the majority of blacks and whites in private practice are concentrated in the areas of criminal and domestic relations law.

Survey Question #26

Respondents were asked:

- "Do you think the entire court process (arraignment, bail setting, trial, and sentencing) is generally fair to poor defendants?" (See Table 5 below.)

Table 5: FAIRNESS OF THE ENTIRE COURT PROCESS

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Fair	22.17
Unfair	53.48
Do Not Know	6.96
Other Responses	17.39

White Respondents**

<u>Category</u>	<u>Percentage of Total Responses</u>
Fair	49.11
Unfair	38.99
Do Not Know	3.57
Other Responses	8.33

* The total number of black attorneys responding was 260.

** The total number of white attorneys responding was 335.

White attorneys, more than two-to-one compared to black attorneys, felt that the entire court process was fair to the poor defendant.

Survey Question #27

Respondents were asked:

- "Do you think that courts are operated in an efficient manner?" (See Table 6 below.)

Table 6: EFFICIENCY OF COURT OPERATIONS

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Operates Efficiently	35.25
Does Not Operate Efficiently	68.75
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Operates Efficiently	32.91
Does Not Operate Efficiently	67.09

* The total number of black attorneys responding was 260.

** The total number of white attorneys responding was 336.

The majority of both black and white attorneys responding felt that courts do not operate efficiently.

Survey Question #28

Respondents were asked to:

- "Select the areas in which they felt the courts perform efficiently." (see Table 7.)

Table 7: AREAS HANDLED EFFICIENTLY BY THE COURTS

<u>Black Respondents*</u>		
<u>Category</u>	<u>Total Responses</u>	<u>Percentage of Total Surveyed</u>
Arraignment	117	34.01
Pre-trial Diversion	44	12.79
Bail Setting	53	15.44
Probable Cause Hearing	59	17.15
Appointment of Counsel	83	24.13
Jury Selection	55	15.99
Speedy Trials	45	13.08
Pre-sentence Report	65	18.90
Sentencing	54	15.70
(cont'd.)		

* The total number of black attorneys responding was 344.

Table 7: Continued

<u>Black Respondents</u>		
<u>Category</u>	<u>Total Responses</u>	<u>Percentage of Total Surveyed</u>
Appeals Process	48	13.95
Appellate Review	38	11.05
Post Conviction Proceedings	20	5.80
None of the Above	13	3.70
Other Areas	0	0

<u>White Respondents*</u>		
<u>Category</u>	<u>Total Responses</u>	<u>Percentage of Total Surveyed</u>
Arraignment	207	55.35
Pre-Trial Diversion	73	19.52
Bail Setting	132	35.29
Probable Cause Hearing	113	30.21
Appointment of Counsel	185	49.47
Jury Selection	126	33.69
Speedy Trials	107	28.61

(cont'd.)

* The total number of white attorneys responding was 374.

Table 7: Continued

<u>White Respondents</u>		
<u>Category</u>	<u>Total Responses</u>	<u>Percentage of Total Surveyed</u>
Pre-sentencing Report	119	31.82
Sentencing	117	31.28
Appeals Process	60	16.04
Appellate Review	58	15.51
Post Conviction Proceedings	42	11.23
None of the Above	19	5.08
Other Areas	2	.50

Responses among black attorneys concerning the areas in which the courts perform efficiently were poor. Response was less than one-third of the individuals surveyed in all of the areas above, with the exception of arraignments. One hundred seventeen (117) felt that arraignments were performed efficiently. Among white attorneys the responses were also poor. The greatest number of responses was also in the area of arraignment. The responses may suggest that attorneys have a deep-seated opposition to the manner in which the courts are operated.

Survey Question #29

Respondents were asked to:

- "Select the areas in which they felt the courts perform inefficiently." (See Table 8.)

Table 8: AREAS HANDLED INEFFICIENTLY
BY THE COURTS

Black Respondents*		
Category	Total Responses	Percentage of Total surveyed
Arraignment	34	9.88
Pre-trial Diversion	64	18.60
Bail Setting	85	27.71
Probable Cause Hearing	71	20.64
Appointment of Counsel	55	15.99
Jury Selection	69	20.06
Speedy Trials	81	23.55
Pre-sentence Report	55	15.99
Sentencing	59	17.15
Appeals Process	64	18.60
(cont'd.)		

* The total number of black attorneys surveyed was 344.

Table 8: Continued

Black Respondents		
Category	Total Responses	Percentage of Total Surveyed
Appellate Review	62	18.02
Post Conviction Proceedings	66	19.19
None of the Above	3	.86
Other Areas	4	1.10

White Respondents*		
Category	Total Responses	Percentage of Total Surveyed
Arraignment	59	15.78
Pre-trial Diversion	138	36.90
Bail Setting	130	15.78
Probable Cause Hearing	119	31.82
Appointment of Counsel	79	21.12
Jury Selection	116	31.02
Speedy Trial	140	37.43
Pre-sentence Report	112	29.95
(cont'd.)		

* The total number of white attorneys surveyed was 374.

Table 8: Continued

<u>White Respondents</u>		
<u>Category</u>	<u>Total Responses</u>	<u>Percentage of Total Surveyed</u>
Sentencing	112	29.95
Appeals Process	162	43.32
Appellate Review	158	42.25
Post Conviction Proceedings	144	38.50
None of the Above	7	1.87
Other	10	2.68

Responses among black attorneys regarding the areas in which courts perform inefficiently were poor. Less than one-third of the individuals surveyed responded. In comparison to the responses received as to whether or not the courts performed efficiently or inefficiently—in the sited areas—there appeared to be a virtual split in opinion.

Responses from white attorneys was better; however, less than half of the individuals surveyed responded. In all instances, less than 50% surveyed responded that the courts perform inefficiently. This was also the case in the corresponding question as to whether or not the courts per-

form efficiently with the exception being the area of arraignment.

Survey Question #30

Respondents were asked:

- "How do you think minority defendants are treated in the court process as compared to the treatment of white defendants?" (See Table 9.)

Table 9: TREATMENT OF MINORITY DEFENDANTS VS. WHITE DEFENDANTS

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Treated Much Better	0.06
Treated Somewhat Better	2.45
Treated About the Same	15.34
Treated Somewhat Worse	52.15
Treated Much Worse	29.45

* The total number of black attorneys responding was 163.

Table 9: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Treated Much Better	2.45
Treated Somewhat Better	2.45
Treated About the Same	47.55
Treated Somewhat Worse	40.91
Treated Much Worse	6.64

* The total number of white attorneys responding was 286.

Forty-seven percent (47%) of white attorneys felt that minority defendants were treated the same as white defendants. However, only fifteen percent (15%) of black attorneys felt that they were treated the same as whites. Twenty-nine percent (29%) of black attorneys felt that minority defendants were treated much worse than white defendants, whereas only six percent (6%) of white attorneys felt that way. Nevertheless, the general perceptions among both groups was that black defendants receive worse treatment in the court process than white defendants.

Survey Question #31

Respondents were asked:

- "Do you think the criminal justice system, in general, gives differential treatment in sentencing to black as compared to white defendants in the following crime categories?" (See Table 10.)

Table 10: DIFFERENTIAL TREATMENT IN SENTENCING
BLACK VS. WHITE DEFENDANTS

Black Respondents*

<u>Category</u>	<u>Number of Responses</u>	<u>More Lenient Treatment to Whites</u>	<u>More Lenient Treatment to Blacks</u>	<u>Equal Treatment</u>	<u>Don't Know</u>
Assault & Battery	147	64.63	6.80	22.45	6.12
Disorderly Conduct	149	63.09	4.70	25.50	6.71
Rape	147	81.63	1.36	11.56	5.44
Public Intoxication	147	46.26	6.80	35.37	11.56
Gambling	151	45.03	9.93	37.09	7.95
Weapons Possession	149	67.11	2.68	24.83	5.37
Homocide	151	62.91	8.61	19.21	9.27
Burglary	149	72.48	2.01	18.79	6.71
Robbery	149	72.48	1.34	18.79	7.38
Auto Theft	144	59.03	2.78	29.17	9.03

(cont'd.)

* The total number of black attorneys surveyed was 344.

Table 10: Continued

Black Respondents

<u>Category</u>	<u>Number of Responses</u>	<u>More Lenient Treatment to Whites</u>	<u>More Lenient Treatment to Blacks</u>	<u>Equal Treatment</u>	<u>Don't Know</u>
Narcotics	150	72.67	4.00	20.00	3.33
Traffic Offenses	153	52.29	0.00	40.52	7.19

White Respondents*

<u>Category</u>	<u>Number of Responses</u>	<u>More Lenient Treatment to Whites</u>	<u>More Lenient Treatment to Blacks</u>	<u>Equal Treatment</u>	<u>Don't Know</u>
Assault & Battery	280	26.07	21.07	39.29	13.57
Disorderly Conduct	278	24.82	13.76	45.68	15.83
Rape	273	45.05	4.76	37.00	13.19
Public Intoxication	271	12.55	13.65	54.25	19.56
Gambling	269	15.99	17.84	43.87	22.30
Weapons Possession	273	36.26	8.42	44.69	10.62
Homocide	276	27.17	11.59	50.00	11.23
Burglary	276	30.43	5.80	52.54	11.23
Robbery	275	34.19	4.36	50.91	9.82

(cont'd.)

* The total number of white attorneys surveyed was 374.

Table 10: Continued

White Respondents

<u>Category</u>	<u>Number of Responses</u>	<u>More Lenient Treatment to Whites</u>	<u>More Lenient Treatment to Blacks</u>	<u>Equal Treatment</u>	<u>Don't Know</u>
Auto Theft	275	24.73	5.09	55.27	14.91
Narcotics	277	28.88	12.64	49.46	9.03
Traffic Offenses	276	23.19	4.71	53.26	18.84

Black attorneys overwhelmingly felt that whites received more lenient treatment in all categories. The most lenient areas for whites were:

- (1) rape;
- (2) burglary;
- (3) narcotics; and
- (4) weapons possession.

Approximately fifty percent (50%) of the white attorneys felt that treatment was equal in most categories except in the case of rape. Forty-five percent (45%) of white attorneys felt that whites received more lenient treatment than blacks in cases of rape.

Survey Question #32

Respondents were asked:

- "Do you think the race of an attorney affects the jury's perception of the client's guilt or innocence?" (See Table 11.)

Table 11: EFFECT OF ATTORNEY'S RACE ON A DEFENDANT'S GUILT OR INNOCENCE

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	38.13
No	38.13
Do Not Know	23.74
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	27.87
No	41.46
Do Not Know	30.66

* The total number of black attorneys responding was 160.

** The total number of white attorneys responding was 287.

Survey Question #33

Respondents were asked:

- "What effect on an attorney's relationship with police authorities results from an attorney representing the defendant in a police brutality case?" (See Table 12.)

Table 12: EFFECT ON THE ATTORNEY/POLICE RELATIONSHIP AS A RESULT OF REPRESENTATION OF THE DEFENDANT IN A POLICE BRUTALITY CASE

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Improved a Lot	6.21
Improved Somewhat	7.45
No Effect	15.53
Hurt Somewhat	37.27
Hurt a Lot	11.80
Do Not Know	21.74

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Improved a Lot	7.14
Improved Somewhat	13.57
No Effect	17.86
Hurt Somewhat	27.14
Hurt a Lot	13.21
Do Not Know	21.07

* The total number of black attorneys responding was 161.

** The total number of white attorneys responding was 280.

Black and white attorneys in almost the same percentages indicated that the attorney's relationship with police authorities are hurt to some degree when they represent defendants in police brutality cases.

Survey Question #34

Respondents were asked:

- "What effect does it have on an attorney's practice if he represents the plaintiff (individual lodging complaint) in a police brutality case?" (See Table 13.)

Table 13: EFFECT ON THE ATTORNEY'S PRACTICE WHEN HE REPRESENTS A PLAINTIFF IN A POLICE BRUTALITY CASE

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Practice Helped a Lot	5.77
Practice Helped Somewhat	16.13
No Effect	36.57
Practice Hurt Somewhat	16.67
Practice Hurt A Lot	3.85
Do Not Know	21.15

* The total number of black attorneys responding was 156.

Table 13: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Practice Helped a Lot	1.40
Practice Helped Somewhat	8.42
No Effect	36.94
Practice Hurt Somewhat	27.40
Practice Hurt a Lot	4.91
Do Not Know	27.37

* The total number of white attorneys responding was 285.

The greatest number of both black and white attorneys felt that representing the plaintiff in a police brutality case had no effect on their practice. However, the second greatest number of other respondents felt that their practices were hurt rather than helped. There appeared to be no major differences that could be attributed to the race of the attorneys.

Survey Question #35

Respondents were asked:

- "How do you think black attorneys as compared to white attorneys are perceived with reference to legal capabilities?" (See Table 14.)

Table 14: "HOW ARE BLACK VS. WHITE ATTORNEY'S CAPABILITIES PERCEIVED?"

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Far More Capable	3.14
Somewhat More Capable	5.03
Equal	11.93
Somewhat Less Capable	57.23
Far Less Capable	18.24
Do Not Know	4.40

White Respondents**

<u>Category</u>	<u>Percentage of Total Responses</u>
	.36
Somewhat More Capable	2.19
Equal	27.74
Somewhat Less Capable	44.16
Far Less Capable	9.85
Do Not Know	15.69

* The total number of black attorneys responding was 159.

** The total number of white attorneys responding was 274.

The greatest number of black and white attorneys indicated that black attorneys were perceived as somewhat less capable than white attorneys. Only .36% of white attorneys stated that black attorneys were perceived as far more capable than whites. The general feeling is that white attorneys are more capable than blacks.

Survey Question #36

Respondents were asked:

- "Do you think any of the following civil matters should be handled by forums other than the court?"

Table 15: SHOULD SOME CIVIL MATTERS BE HANDLED BY FORUMS OTHER THAN THE COURT?

Black Respondents*

<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
Divorce	69	20.06
Automobile Property Damage Cases	52	15.12
Small Claims	84	24.42
None of the Above	47	13.66
Other	0	0

* The total number of black attorneys surveyed was 344.

Table 15: Continued

<u>White Respondents*</u>		
<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
Divorce	118	31.55
Automobile Property Damage Cases	99	26.47
Small Claims	147	30.30
None of the Above	89	23.80
Other	18	4.81

* The total number of white attorneys surveyed was 374.

Survey Question #37

Respondents were asked:

- "In your opinion, should any of the following criminal matters be handled by forums other than the courts?" (See Table 16.)

Table 16: SHOULD SOME CRIMINAL MATTERS BE HANDLED BY FORUMS OTHER THAN THE COURT?

<u>Black Respondents</u>		
<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
Victimless Crime	55	15.99 (cont'd.)

Table 16: Continued

<u>Black Respondents*</u>		
<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
Misdemeanor Offenses	27	7.85
None of the Above	88	25.58
Other	38	11.00

<u>White Respondents**</u>		
<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
Victimless Crime	82	21.93
Misdemeanor Offenses	31	8.29
None of the Above	161	43.05
Other	37	9.90

* The total number of black attorneys surveyed was 344.

** The total number of white attorneys surveyed was 374.

The largest percentage of both black and white attorneys felt that neither victimless crimes nor misdemeanor offenses should be handled by the courts.

Survey Question #38

Respondents were asked:

- "Indicate the specific reforms you would like to see implemented within the court system." (See Table 17.)

Table 17: SPECIFIC REFORMS YOU WOULD LIKE TO SEE IMPLEMENTED WITHIN THE COURT SYSTEM

<u>Category</u>	<u>Black Respondents*</u>	
	<u>Responses</u>	<u>Percentage of Total Responses</u>
More Social Service Programs	72	20.93
More Minority Judges	142	41.28
More Pre-Trial Diversion for Criminal Offenses	115	33.43
Speedier Case Scheduling	55	15.99
None of the Above	3	.87
Additional Reforms	25	7.00

<u>Category</u>	<u>White Respondents</u>	
	<u>Responses</u>	<u>Percentage of Total Responses</u>
More Social Service Programs	85	22.73

(cont'd.)

* The total number of black attorneys surveyed was 344.

Table 17: Continued

White Respondents*

<u>Category</u>	<u>Responses</u>	<u>Percentage of Total Responses</u>
More Minority Judges	65	17.38
More Pre-Trial Diversion for Criminal Offenses	175	46.79
Speedier Case Scheduling	96	25.76
None of the Above	20	5.35
Additional Reforms	93	24.86

* The total number of white attorneys surveyed was 374.

Most Black attorneys desired to see more minorities serving as judges and more pre-trial diversion for criminal offenses. White attorneys were most interested in pre-trial diversion for criminal offenses, speedier case scheduling, and additional reforms.

Survey Question #39

Respondents were asked:

- "In your opinion, how often do police officers use their discretionary powers in a manner that discriminates against minorities?" (See Table 18.)

Table 18: HOW OFTEN DO POLICE OFFICERS USE THEIR DISCRETIONARY POWERS IN A MANNER THAT IS DISCRIMINATORY AGAINST MINORITIES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	32.74
Often	42.26
Sometimes	23.21
Almost Never	1.79
Never	0

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	10.76
Often	27.78
Sometimes	50.35
Almost Never	10.42
Never	.69

* The total number of black attorneys responding was 168.

** The total number of white attorneys responding was 288.

Survey Question #40

Respondents were asked:

- "In your opinion, how often do police officers use their discretionary powers to harrass minorities?" (See Table 19.)

Table 19: HOW OFTEN DO POLICE OFFICERS USE THEIR DISCRETIONARY POWERS TO HARRASS MINORITIES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	31.55
Often	36.31
Sometimes	30.36
Almost Never	1.76
Never	0

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	6.94
Often	23.61
Sometimes	50.69
Almost Never	17.36
Never	1.39

* The total number of black attorneys responding was 168.

** The total number of white attorneys responding was 288

The majority of black attorneys felt that police use their discretionary powers to harrass minorities either very often or often, while half of the white attorneys felt that police harrassed minorities only sometimes. A small percentage of white attorneys felt that police never use their discretionary powers to harrass minorities.

Survey Question #41

Respondents were asked:

- "Do police in your city have clear guidelines indicating when to use their power to arrest? (See Table 20.)

Table 20: DO ANY CLEAR GUIDELINES EXIST IN YOUR CITY INDICATING WHEN POLICE CAN USE THEIR POWER TO ARREST?

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	29.17
No	47.62
Do Not Know	23.21

* The total number of black attorneys responding was 168.

Table 20: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	39.52
No	33.33
Do Not Know	26.80

* The total number of white attorneys responding was 291.

Survey Question #42

Respondents were asked:

- "Do police in your city have clear guidelines concerning the circumstances under which they may discharge their firearms?" (See Table 21.)

Table 21: DO ANY CLEAR GUIDELINES EXIST IN YOUR CITY INDICATING WHEN POLICE MAY DISCHARGE THEIR FIREARMS?

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	50.30
No	31.41
Do Not Know	18.56

* The total number of black attorneys responding was 167.

Table 21: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	63.57
No	16.84
Do Not Know	19.59

* The total number of white attorneys responding was 191.

The number of black and white attorneys responding that they "do not know" in Table 20 indicates that arrest guidelines are not in existence or do not receive appropriate dissemination within the criminal justice system.

Also the percentages of response indicated by Table 21 reflects that the guidelines for use of firearms are more widely known than guidelines for arrest. Further, based on the number of attorneys who "do not know" whether guidelines exist indicates a need for more investigation into these matters by criminal lawyers.

Survey Question #43

Respondents were asked:

- "In your opinion how often do prosecutors in your city discriminate against the

poor and minority defendant when exercising their discretion as to which cases to select for trial?" (See Table 22.)

Table 22: DO PROSECUTORS IN YOUR CITY DISCRIMINATE AGAINST THE POOR AND MINORITIES WHEN EXERCISING THEIR DISCRETION IN SELECTING CASES FOR TRIAL?

Black Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	19.02
Often	26.38
Sometimes	38.65
Almost Never	14.11
Never	1.84

White Respondents**

<u>Category</u>	<u>Percentage of Total Responses</u>
Very Often	3.16
Often	6.67
Sometimes	25.26
Almost Never	40.00
Never	24.91

* The total number of black attorneys responding was 163.

** The total number of white attorneys responding was 285.

There was a wide difference in opinion between black and white attorneys as to whether or not prosecutors discriminate against poor and minority defendants in exercising their discretion regarding cases selected for trial. The majority of black attorneys felt that prosecutors discriminate often or sometimes. White attorneys on the other hand felt that prosecutors never or almost never discriminate.

Survey Question #44

Respondents were asked:

- "Do you think that prosecutors in your city are more inclined to plea-bargain the cases of poor and minority defendants?" (See Table 23.)

Table 23: DO YOU THINK PROSECUTORS IN YOUR CITY ARE MORE INCLINED TO PLEA-BARGAIN THE CASES OF POOR AND MINORITY DEFENDANTS?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	30.30
No	56.97
Do Not Know	12.73

* The total number of black attorneys responding was 165.

Table 23: Continued

White Respondents*

<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	23.00
No	63.41
Do Not Know	13.59

* The total number of white attorneys responding was 287.

Survey Question #45

Respondents were asked:

- "In your opinion does the exercise of judicial discretion generally work to the disadvantage of poor and minority people?"

Table 24: IF PROSECUTORIAL DISCRETIONS WERE MORE LIMITED DO YOU THINK THAT POOR AND MINORITY PERSONS WOULD RECEIVE GREATER EQUITY IN THE COURTS?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	39.80
No	44.79
Do Not Know	15.34

* The total number of black attorneys responding was 163.

Table 24: Continued

White Respondents*

Category	Percentage of Total Responses
Yes	10.00
No	76.21
Do Not Know	13.91

* The total number of white attorneys responding was 290.

The majority of both black and white attorneys, as indicated by Table 23, felt that prosecutors were not inclined to plea-bargain the cases of poor and minority defendants. This is an indication that poor and minority defendants face stiffer charges and are convicted more often than others for serious offenses.

The majority of both black and white attorneys, as indicated by Table 24, felt that poor and minority persons would not receive greater equity in the courts if prosecutorial discretion were limited. However, decidedly more blacks than whites felt that greater equity would be received.

Survey Question #46

Respondents were asked:

- "In your opinion does the exercise of judicial discretion generally work to the disadvantage of poor and minority people?" (See Table 25.)

Table 25: DOES THE EXERCISE OF JUDICIAL DISCRETION GENERALLY WORK TO THE DISADVANTAGE OF THE POOR AND MINORITY PEOPLE?

Black Respondents*

Category	Percentage of Total Responses
Yes	62.80
No	26.83
Do Not Know	15.34

White Respondents**

Category	Percentage of Total Responses
Yes	27.59
No	60.34
Do Not Know	12.07

* The total number of black attorneys responding was 164.
 ** The total number of white attorneys responding was 290.

The majority of black attorneys felt that judicial discretion worked to the disadvantage of the poor and mi-

nority person while white attorneys felt that it did not.

Survey Question #47

Respondents were asked:

- "Do you think that defense attorneys are able to provide the same quality of defense for the poor that they can provide for the middle class?" (See Table 26.)

Table 26: ARE DEFENSE ATTORNEYS ABLE TO PROVIDE THE SAME QUALITY OF DEFENSE FOR THE POOR AS PROVIDED FOR THE MIDDLE CLASS?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	30.30
No	69.09
Do Not Know	.61

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	50.00
No	48.29
Do Not Know	1.79

* The total number of black attorneys responding was 165.

** The total number of white attorneys responding was 292.

Approximately half of the white attorneys felt that defense attorneys could not provide the same quality of defense to the poor as to the middle class and almost 70% of black attorneys agreed.

Survey Question #48

Respondents were asked:

- "Do you think legislation restricting the sale and possession of hand guns would significantly reduce crime in your community?" (See Table 28.)

Table 27: WOULD HANDGUN CONTROL LEGISLATION REDUCE CRIME IN YOUR COMMUNITY?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	52.38
No	41.65
Do Not Know	5.95

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	53.31
No	41.11
Do Not Know	5.57

* The total number of black attorneys responding was 168.

** The total number of white attorneys responding was 287.

Survey Question #49

Respondents were asked:

- "In your opinion do the police in your city tend to use excessive force when dealing with the poor and minorities?" (See Table 28.)

Table 28: DO POLICE IN YOUR CITY TEND TO USE EXCESSIVE FORCE WHEN DEALING WITH THE POOR AND MINORITIES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	78.44
No	13.77
Do Not Know	7.78

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	35.56
No	54.23
Do Not Know	10.21

* The total number of black attorneys responding was 167.
** The total number of white attorneys responding was 284.

The majority of black attorneys felt that police use excessive force against the poor and minorities. More than

50% of white attorneys felt that police did not use excessive force against the poor and minorities.

Survey Question #50

Respondents were asked:

- "In your opinion should the death penalty be reinstiated for capital crimes?" (See Table 29.)

Table 29: SHOULD THE DEATH PENALTY BE REINSTITUTED FOR CAPITAL CRIMES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	15.66
No	70.48
Do Not Know	13.86

<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	40.62
No	53.82
Do Not Know	5.56

* The total number of black attorneys responding was 166.
** The total number of white attorneys responding was 288.

The majority of both black and white attorneys felt that the death penalty should not be reinstituted for capital crimes.

Survey Question #51

Respondents were asked:

- "Do you think the death penalty as it is applied discriminates against the poor and minorities?" (See Table 30.)

Table 30: DOES THE DEATH PENALTY DISCRIMINATE AGAINST THE POOR AND MINORITIES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	87.35
No	6.02
Do Not Know	6.63
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	47.26
No	42.47
Do Not Know	10.27

* The total number of black attorneys responding was 166.
 ** The total number of white attorneys responding was 291.

An overwhelming majority of black attorneys and almost half of the white attorneys indicated that the death penalty as applied discriminated against the poor and minorities.

Survey Question #52

Respondents were asked:

- "In your opinion are more minority juveniles tried as adults than non-minority juveniles?" (See Table 31.)

Table 31: ARE MORE MINORITY JUVENILES TRIED AS ADULTS AS COMPARED TO NON-MINORITY JUVENILES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	60.46
No	10.18
Do Not Know	20.36
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	27.49
No	40.55
Do Not Know	31.96

* The total number of black attorneys responding was 167.
 ** The total number of white attorneys responding was 291.

The majority of white attorneys indicated that fewer minority juveniles than non-minority juveniles are tried as adults. A decided majority of black attorneys took the opposite position.

Survey Question #53

Respondents were asked:

- "Are there any circumstances that warrant trying a juvenile as an adult?" (See Table 32.)

Table 32: ARE THERE ANY CIRCUMSTANCES THAT WARRANT TRYING A JUVENILE AS AN ADULT?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	80.84
No	13.77
Do Not Know	5.39
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	89.00
No	9.28
Do Not Know	1.72

* The total number of black attorneys responding was 167.
 ** The total number of white attorneys responding was 291.

Survey Question #54

Respondents were asked:

- "Do you think the death penalty should be applied to juveniles?" (See Table 33.)

Table 33: DO YOU THINK THE DEATH PENALTY SHOULD BE APPLIED TO JUVENILES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	3.03
For Capital Crimes	5.45
No	86.06
Do Not Know	5.45
<u>White Respondents**</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	6.85
For Capital Crimes	16.44
No	71.58
Do Not Know	4.79

* The total number of black attorneys responding was 165.
 ** The total number of white attorneys responding was 292.

Although the majority of black and white attorneys did not think the death penalty should be applied to juveniles, the number of white attorneys who approved the death

penalty for juveniles exceeds the approval of black attorneys by a margin of almost 3 to 1.

Survey Question #55

Respondents were asked:

- "Do you think that pre-trial diversion programs should be established as a permanent alternative for the disposition of first offenders in criminal cases?" (See Table 34.)

Table 34: SHOULD PRE-TRIAL DIVERSION PROGRAMS BE ESTABLISHED AS A PERMANENT ALTERNATIVE FOR DISPOSITION OF FIRST OFFENDERS IN CRIMINAL CASES?

<u>Black Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	78.92
No	13.25
Do Not Know	7.83

<u>White Respondents*</u>	
<u>Category</u>	<u>Percentage of Total Responses</u>
Yes	71.83
No	23.32
Do Not Know	5.30

* The total number of black attorneys responding was 166.

** The total number of white attorneys responding was 283.

V. CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS AND RECOMMENDATIONS

The Bagley and Mendelsohn, and the Herbert Jacob studies—discussed at the beginning of this report—concluded that the public's perceptions of key officials in the criminal justice system, i.e. police officers, and judges were principally related to race and experience and less to other socio-economic characteristics. Both studies indicated that within racial groups those who have had positive experiences within the system generally have a more favorable attitude towards the system and vice versa. However, members of racial minority groups who have had practical experiences tend to have a less favorable attitude than whites who have had favorable experiences.

The above cited conclusion also applies to the results of this study. The data collected showed that across the entire spectrum of the criminal justice system black attorneys had less favorable attitudes than white attorneys.

White attorneys appeared to be more supportive of the police, courts, and the general administration of justice. They felt that the courts were fair—even though in some instances they did not operate efficiently—police

were fair and treated all defendants the same with a few exceptions. Black attorneys on the other hand supported the system to a degree but not as emphatically as white attorneys. Black attorneys contended that the courts did not operate efficiently and that the courts were generally unfair to the poor and minority defendant. There was also a great disparity between the races in the treatment of the poor and minorities by the police, prosecutors, and sentencing by judges.

Blacks, Hispanics, women, and other minorities must gain fair and proper representation with the Department of Justice and especially in the Federal Bureau of Investigation (FBI) and the U.S. Attorneys' offices. Since the employees in these two agencies exercise great power, it is important that men and women with other points of view hold responsible positions, thereby making the Department of Justice more representative of and more sensitive to the various minority groups within the United States, and thus more able to uphold the standard of "equal justice under the law."

Additionally, the U.S. Attorney's office should also have a set of clear legal guidelines which it should be required to use in deciding who to investigate and who to

prosecute. There are currently no such guidelines and that vital decision is left entirely up to the discretion of the individual U.S. Attorney. Such legal guidelines would help insure that the U.S. Attorney's Office operates in a just manner.

VI. APPENDIX

NBA QUESTIONNAIRE

CONTROL NO. Nº 3975
(1-4)

PLEASE NOTE: All responses are confidential

Card 1/(5)

1. Age: _____ years
2. Sex: 1. Male _____ 2. Female _____
3. Year of Birth: _____
4. Race or ethnic group: (check one)
- 1. ☐ Black (not of Hispanic origin)
 - 2. ☐ White (not of Hispanic origin)
 - 3. ☐ Hispanic
 - 4. ☐ Asian or Pacific Islander
 - 5. ☐ Native American or Native Alaskan
 - 6. ☐ Other (specify) _____
5. Please indicate in the spaces provided below each law degree you hold, the year in which it was granted and the university or law school which granted it.
- | | <u>Year</u> | <u>School</u> |
|------------------------------------|-------------|---------------|
| 1. <input type="checkbox"/> J.D. | 2. _____ | _____ |
| 3. <input type="checkbox"/> LL.M. | 4. _____ | _____ |
| 5. <input type="checkbox"/> S.J.D. | 6. _____ | _____ |
6. In what area of the law did you specialize while in law school? (check one)
- 1. ☐ Criminal 3. ☐ Tax 5. ☐ None
 - 2. ☐ Corporate 4. ☐ Estate 6. ☐ Other (specify) _____
7. Please indicate in the spaces provided below graduate degrees in fields other than law that you hold and the years granted.
- | | <u>Year</u> |
|--------------------|-------------|
| 1. M.A./M.S. _____ | 2. _____ |
| 3. M.S.W. _____ | 4. _____ |
| 5. Ph.D. _____ | 6. _____ |
| 7. M.D. _____ | 8. _____ |

_____ (6-7)

_____ (8)

_____ (9-10)

_____ (11)

_____ (12-14)

_____ (15-17)

_____ (18-20)

_____ (21)

_____ (22-24)

_____ (25-27)

_____ (28-30)

_____ (31-33)

FOR CARTER USE ONLY

8. What is your total annual income? \$ _____
9. What is your annual income from the practice of law? \$ _____
10. What is your current occupation? _____
11. Where is your current residence? CITY _____ STATE _____
12. Please list below the state(s) where you have been admitted to the bar and the year you were admitted.
- | STATE | YEAR |
|----------|-------|
| 1. _____ | _____ |
| 2. _____ | _____ |
| 3. _____ | _____ |
13. Please indicate your major means of support in law school. (check one)
- 1. ☐ Scholarship only
 - 2. ☐ Scholarship and loans
 - 3. ☐ Scholarship and employment and loan
 - 4. ☐ Employment
 - 5. ☐ Spouse employment
 - 6. ☐ Loans
 - 7. ☐ Family support (other than spouse)
 - 8. ☐ Veterans benefits
 - 9. ☐ Other (specify) _____
14. Honors earned while in law school. (check all that apply)
- 1. ☐ Law review
 - 2. ☐ Moot court
 - 3. ☐ Other (specify) _____
15. Current marital status: (check one)
- 1. ☐ Single
 - 2. ☐ Married (If married go to next question, if not skip to #17)
 - 3. ☐ Separated
16. Is your spouse employed?
- 1. Yes ☐
 - 2. No ☐

_____ (34-39)

_____ (40-45)

_____ (46-47)

_____ (48-51)

_____ (52-55)

_____ (56-59)

_____ (60)

_____ (61-63)

_____ (64)

_____ (65)

FOR OFFICE USE ONLY

17. To which of the following organizations do you belong? (check all that apply)

- 1.0 ☐ National Bar Association
- 1.0 ☐ American Bar Association
- 1.0 ☐ National Conference of Black Lawyers
- 1.0 ☐ State Bar Association
- 1.0 ☐ City or County Bar Association
- 1.0 ☐ Local Black Bar Association
- 1.0 ☐ National Lawyers Guild

____(66)
____(67)
____(68)
____(69)
____(70)
____(71)
____(72)

18. Are you now employed in the practice of law?

1. Yes ☐ 2. No ☐

____(73)

19. Have you ever practiced criminal law or been professionally employed in a criminal justice area?

1. Yes ☐ 2. No ☐

____(74)

If your answer to nineteen is "NO" please stop here. Do not complete the rest of this questionnaire. Thank you for your cooperation in this endeavor.

20. What is your primary professional activity?

____(75)

- 1. ☐ Judge
- 2. ☐ Judicial Administrator
- 3. ☐ Corporation Lawyer
- 4. ☐ Academic (teaching or administration)
- 5. ☐ Private Practice
- 6. ☐ Public Prosecution
- 7. ☐ Public Defense
- 8. ☐ Criminal Justice Planning
- 9. ☐ Other (specify) _____

21. Do you presently use paralegal help in your practice?

1. Yes ☐ 2. No ☐

____(76)

21a. If yes, how many hours per week? _____ hrs./week

____(77-78)

(79-80)Blank

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22. Please indicate if you have taken Continuing Legal Education or Professional Development courses sponsored by any of the following organizations within the last two years. (check all that apply)

Organization

☐ 1.0 American Bar Association

☐ 1.0 Practising Law Institute

☐ 1.0 National College of Criminal Defense Attorneys and Public Defenders

☐ 1.0 National Bar Association

☐ 1.0 National District Attorneys Association

☐ 1.0 Your State Bar Association

☐ 1.0 Your City or County Bar Association

☐ 1.0 Other (specify) _____

☐ (6)

☐ (7)

☐ (8)

☐ (9)

☐ (10)

☐ (11)

☐ (12)

☐ (13)

23. What is the size of your annual caseload (number of cases)? _____

☐ (14-16)

24. What ethnic group makes up the majority of your practice?

☐ (17)

1. ☐ Black (not of Hispanic origin)
2. ☐ White (not of Hispanic origin)
3. ☐ Hispanic
4. ☐ Asian or Pacific Islander
5. ☐ Native American
6. ☐ Other (specify) _____

25. What area of law constitutes the majority of your practice or judicial decision-making? (check one)

☐ (18)

1. ☐ Criminal
2. ☐ Domestic
3. ☐ Personal injury
4. ☐ Corporate/business
5. ☐ Taxation
6. ☐ Probate
7. ☐ Public interest law
8. ☐ Civil rights
9. ☐ Other (specify) _____

If the majority of your practice is NOT in the area of criminal law or judicial decision-making in criminal law, please stop here. Do not complete this questionnaire. Thank you for your cooperation in this endeavor.

FOR OFFICE USE ONLY

The following section of the survey asks your opinions and perceptions about various aspects and components of the criminal justice system.

26. Do you think the entire court process (arraignment, bail setting, trial and sentencing) is generally fair to poor defendants?

1. Yes 2. No 3. Don't Know

(19)

27. Do you think courts are operated in an efficient manner?

(20)

28. Please select from the following list those areas in which you think courts perform efficiently. (check all that apply)

- 1.0 Arraignment
- 1.0 Pre-trial diversion
- 1.0 Bail setting
- 1.0 Probable cause hearing
- 1.0 Appointment of counsel
- 1.0 Jury selection
- 1.0 Speedy trials
- 1.0 Pre-sentence report
- 1.0 Sentencing
- 1.0 Appeals process
- 1.0 Appellate review
- 1.0 Post conviction proceedings
- 1.0 None of the above
- 1.0 Other (specify)

(21)

(22)

(23)

(24)

(25)

(26)

(27)

(28)

(29)

(30)

(31)

(32)

(33)

(34-35)

29. Please select from the following list those areas in which you think courts perform inefficiently. (check all that apply)

- 1.0 Arraignment
- 1.0 Pre-trial diversion
- 1.0 Bail setting
- 1.0 Probable cause hearing
- 1.0 Appointment of counsel
- 1.0 Jury selection
- 1.0 Speedy trials
- 1.0 Pre-sentence report
- 1.0 Sentencing
- 1.0 Appeals process
- 1.0 Appellate review
- 1.0 Post conviction proceedings
- 1.0 None of the above
- 1.0 Other (specify)

(36)

(37)

(38)

(39)

(40)

(41)

(42)

(43)

(44)

(45)

(46)

(47)

(48)

(49-50)

FOR OFFICE USE ONLY

CONTINUED

1 OF 2

30. How do you think minority defendants are treated in the court process when compared to white defendants? (check one)

- 1. ☐ Treated much better
- 2. ☐ Treated somewhat better
- 3. ☐ Treated about the same
- 4. ☐ Treated somewhat worse
- 5. ☐ Treated much worse

____(51)

31. Do you think the criminal justice system in general gives differential treatment in sentencing to Black as compared to white defendants in the following crime categories?

	More Lenient Treatment to Whites	More Lenient Treatment to Blacks	Equal Treatment	Don't Know
Assault & Battery	1. _____	2. _____	3. _____	4. _____
Disorderly Conduct	_____	_____	_____	_____
Rape	_____	_____	_____	_____
Public Intoxication	_____	_____	_____	_____
Gambling	_____	_____	_____	_____
Weapons Possession	_____	_____	_____	_____
Homocide	_____	_____	_____	_____
Burglary	_____	_____	_____	_____
Robbery	_____	_____	_____	_____
Auto Theft	_____	_____	_____	_____
Narcotics	_____	_____	_____	_____
Traffic Offenses	_____	_____	_____	_____

- ____(52)
- ____(53)
- ____(54)
- ____(55)
- ____(56)
- ____(57)
- ____(58)
- ____(59)
- ____(60)
- ____(61)
- ____(62)
- ____(63)

32. Do you think the race of an attorney affects the jury's perception of the client's guilt or innocence?

- 1. ☐ Yes 2. ☐ No 3. ☐ Don't know 32a. How? (specify) _____
- _____
- _____

____(64)

33. What effect on a lawyer's relationship with police authorities results from an attorney representing the defendant in a police brutality case:

- 1. ☐ Improved a lot
- 2. ☐ Improved somewhat
- 3. ☐ No effect
- 4. ☐ Hurt somewhat
- 5. ☐ Hurt a lot
- 6. ☐ Don't know

____(65)

FOR OFFICE USE ONLY

34. What effect does it have on a lawyer's practice if he represents the plaintiff (individual lodging complaint) in a police brutality case?

1. ☐ Practice helped a lot
2. ☐ Practice helped somewhat
3. ☐ No effect
4. ☐ Practice hurt somewhat
5. ☐ Practice hurt a lot
6. ☐ Don't know

35. How do you think Black attorneys, when compared with white attorneys are perceived with reference to legal capabilities?

1. ☐ Perceived as far more capable
2. ☐ Perceived as somewhat more capable
3. ☐ Perceived as equal
4. ☐ Perceived as somewhat less capable
5. ☐ Perceived as far less capable
6. ☐ Don't know

36. Do you think any of the following civil matters should be handled by forums other than the court? (check all that apply)

- 1.0 ☐ Divorce
- 1.0 ☐ Automobile property damage cases
- 1.0 ☐ Small claims
- 1.0 ☐ None of the above
- 1.0 ☐ Other (specify) _____

37. In your opinion, should any of the following criminal matters be handled by forums other than the courts? (check all that apply)

- 1.0 ☐ Victimless crimes
- 1.0 ☐ Misdemeanor offenses
- 1.0 ☐ None of the above
- 1.0 ☐ Other (specify) _____

____(66)

____(67)

____(68)

____(69)

____(70)

____(71)

____(72-73)

____(74)

____(75)

____(76)

____(77-78)

(79-80) Blank

FOR OFFICE USE ONLY

38. Indicate the specific reforms you would like to see implemented within the court system. (check all that apply)

- 1.0 ☐ More social service programs
1.0 ☐ More minorities serving as judges
1.0 ☐ More pre-trial diversion for criminal offenses
1.0 ☐ Speedier case scheduling
1.0 ☐ None of the above
1.0 ☐ Additional reforms _____

39. In your opinion, how often do police officers use their discretionary powers in a manner which discriminates against minorities?

1. Very often ☐ 2. Often ☐ 3. Sometimes ☐ 4. Almost never ☐ 5. Never ☐

40. In your opinion, how often do police officers use their discretionary powers to harass minorities?

1. Very often ☐ 2. Often ☐ 3. Sometimes ☐ 4. Almost never ☐ 5. Never ☐

41. Do the police in your city have clear guidelines indicating when to use their power to arrest?

1. Yes ☐ 2. No ☐ 3. Don't Know ☐

42. Do the police in your city have clear guidelines concerning the circumstances wherein they can discharge firearms?

1. Yes ☐ 2. No ☐ 3. Don't Know ☐

43. In your opinion how often do prosecutors in your city discriminate against the poor and minority when exercising their discretion as to which cases to select for trial?

1. Very often ☐ 2. Often ☐ 3. Sometimes ☐ 4. Almost never ☐ 5. Never ☐

44. Do you think prosecutors in your city are more inclined to plea-bargain the cases of poor and minority defendants?

1. Yes ☐ 2. No ☐ 3. Don't Know ☐

45. Do you think that poor and minority persons would receive greater equity in the courts if prosecutorial discretion were more limited?

1. Yes ☐ 2. No ☐ 3. Don't know ☐

Card 3/(5)

____(6)
____(7)
____(8)
____(9)
____(10)
____(11-12)

____(13)

____(14)

____(15)

____(16)

____(17)

____(18)

____(19)

FOR OFFICE USE ONLY

46. In your opinion does the exercise of judicial discretion generally work to the disadvantage of poor and minority people?

1. Yes___ 2. No___ 3. Don't know___

___(20)

47. Do you think that defense attorneys are able to provide the same quality of defense for the poor that they can provide for the middle class?

1. Yes___ 2. No___ 3. Don't know___

___(21)

48. Do you think legislation restricting the sale and possession of hand guns would significantly reduce crime in your community?

1. Yes___ 2. No___ 3. Don't know___

___(22)

49. In your opinion do the police in your city tend to use excessive force when dealing with minority and the poor?

1. Yes___ 2. No___ 3. Don't know___

___(23)

50. In your opinion should the death penalty be reinstituted for capital crimes?

1. Yes___ 2. No___ 3. Don't know___

___(24)

51. Do you think the death penalty as it is applied discriminates against minorities and the poor?

1. Yes___ 2. No___ 3. Don't know___

___(25)

52. In your opinion are more minority juveniles tried as adults than non-minority juveniles?

1. Yes___ 2. No___ 3. Don't know___

___(26)

53. Are there any circumstances that warrant trying a juvenile as an adult?

1. Yes___ 2. No___ 3. Don't know___

___(27)

53a. If yes, what are they? _____

FOR OFFICE USE ONLY

54. Do you think the death penalty should be applied to juveniles?

- 1. ☐ Yes
- 2. ☐ Yes, but only for capital crimes
- 3. ☐ No
- 4. ☐ Don't know

____(28)

55. Do you think that pre-trial diversion programs should be established as a permanent alternative for the disposition of first offenders in criminal cases?

- 1. ☐ Yes
- 2. ☐ No
- 3. ☐ Don't know

____(29)

ADDITIONAL COMMENTS:

FOR OFFICE USE ONLY

EVALUATION SHEET

This evaluation sheet will be helpful in determining what improvements should be made to the questionnaire. Please fill out this sheet and return it with the questionnaire in the stamped self-addressed envelope by Monday, June 4, 1979.

1. On what date did you receive this questionnaire? _____
2. How many minutes did it take you to complete this questionnaire?

3. What questions on this questionnaire were difficult to answer?
And Why?
4. Whether difficult or easy to answer, what questions do you think
should be rephrased? And how?
5. Are there any aspects to the criminal justice system that have not
been covered in this questionnaire but should be?
6. Of the topics covered in this questionnaire, which should be omitted?
7. In general, how can this questionnaire be improved?
8. How can the method of distributing this questionnaire be improved?
9. What is your general opinion of any attempt to assess opinions and
perceptions about the criminal justice system?
10. Any additional comments?
(Use back side for further comments.)

END