

Report:

ASSESSMENT OF VARIABLES USED IN PRESENTENCE RECOMMENDATIONS AND COURT DECISIONS

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Division

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ASSESSMENT OF VARIABLES USED IN PRESENTENCE RECOMMENDATIONS AND COURT DECISIONS

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ABSTRACT

In 1976 the Seattle Presentence Unit in Washington State was studied to assess the degree of the Superior Court's acceptance of sentencing recommendations. While the evaluation found that the degree of court acceptance of recommendations was quite high, the final report also emphasized the need for further research concerning the variables that influence recommendations and court decisions. The present study investigates two specific issues. The first issue concerns the possibility that the race of offenders influences recommendations and sentences. The second issue concerns the extent of sentencing disparities due to differences in individual judgments.

The recommendations and sentences of 826 convicted offenders were analyzed using multiple partial correlation to assess the specific effects of race on the sentencing process. Recommendations for one category of crimes appeared to be influenced by the race of the offender. Specifically, black offenders received significantly harsher recommended sentences for drug crimes. However, a more detailed analysis revealed that blacks were more frequently convicted for narcotics violations, and whites were more frequently convicted for marijuana violations. Thus, the differences in sentence severity between blacks and whites convicted of drug crimes may be explained by the type of drug involved. In summary, there was little evidence of racial discrimination in the recommendations and sentences received by offenders.

Concerning the second issue of sentencing disparities, the comparison of sentences across judges revealed substantial variation in the severity of sentences imposed by judges. While there were no significant differences in the recommendations sent to selected judges, the most lenient judges gave 74 percent of the property offenders straight probation. In contrast, the most severe judges sent 71 percent of the property offenders to jail. Such disparities in sentences demonstrate the inequities of the current criminal justice system. Clearly, efforts to establish more consistent standards should be continued.

INTRODUCTION

The Seattle Presentence Unit is responsible for making sentencing recommendations to the King County Superior Court. 1/ In 1973 this unit was expanded in order to provide more complete information to the court prior to sentencing. The effects of this increased service were evaluated 1) to determine the degree of the court's acceptance of the recommendations and 2) to assess the effectiveness of the unit in selecting community alternatives without increasing the risk of recidivism. While the study found that the degree of court acceptance was quite high (92 percent agreement), the final report (Lehman and Holm, 1976) also emphasized the need for further research concerning the variables that influence sentencing recommendations. Such an assessment is necessary to ensure that differential recommendations and sentences are based on legally relevant variables and to ensure that judgments are not based on arbitrary or prejudicial circumstances. Since a comprehensive assessment of variables was beyond the scope of the original evaluation, the present study was initiated in late 1978 to identify and evaluate the variables used in this process.

Prior Research

Previous research has identified an extensive list of variables which apparently influence sentencing recommendations and court decisions. However, there is conflicting evidence, from Sellin's 1928 article to the present, concerning the effects of extra-legal variables (such as race and social class) in the determination of sentences. In order to understand the distinction between legally relevant and extra-legal variables, it is necessary to identify the assumptions behind the sentences imposed in our courts. While there is no consensus as to the single purpose in imposing a sentence, 2/ there is general agreement that the purpose falls into one or more of the following five categories:

- 1) rehabilitation,
- 2) punishment,
- 3) incapacitation,
- 4) revenge, and
- 5) deterrence.

The purposes selected by a decision-maker determine the variables that are considered relevant and proper as sentencing criteria. For example, a judge who believes that punishment is the primary purpose of sentencing might consider the seriousness of the offense as most relevant. On the other hand, a judge who believes that rehabilitation is the primary purpose of sentencing might consider the treatment prognosis as the most relevant factor in imposing a sentence. Thus, a judge might argue that race is a legally relevant variable if it relates to treatment prognosis. While some assumptions are less defensible than others, every purpose must be considered when identifying a list of legally relevant variables. For purposes of the present study, race is defined as an extra-legal variable.

- 1/ King County includes the greater Seattle metropolitan area and contains 31 percent of Washington's population.
- 2/ For detailed discussions, see Howard (1968); Morris (1974); and Ohlin and Remington (1958).

Past research on extra-legal variables has centered primarily on four variables: the race, socio-economic status, age, and sex of the offender. In an excellent review of research related to extra-legal variables, Hagan (1974) concluded the following:

- (a) Race: Evidence of differential sentencing was found in the southern United States. In samples of non-capital cases, however, when offense type was held constant among offenders with no prior record, the relationship between race and disposition was diminished below statistical significance. Holding offense type constant, among offenders with "some" previous convictions, a modest, statistically significant relationship between race and disposition was sustained in two of three studies. The need for stricter control over the number of previous convictions was indicated.
- (b) Socio-Economic Status: With social class as the relevant variable, some evidence of differential sentencing was again found in capital cases in a non-southern state. This finding withstood controls for legally significant factors. In a sample of non-capital cases, however, the relationship between class and disposition was diminished in strength, and reduced below statistical significance, by holding constant the effects of offense type and prior record.
- (c) Age and Sex: In capital and non-capital cases alike, initial relationships between both age and sex, and judicial disposition, were reduced below statistical significance by the introduction of controls for legally relevant factors.

Thus race and socio-economic status appear to be the primary extra-legal variables which influence sentencing decisions. In addition, Hagan is careful to make the point that extra-legal characteristics contribute relatively little to the actual sentences. While the effects were statistically significant, the extra-legal variables generally accounted for less than five percent of the sentencing variation. Legally relevant variables are, presumably, much stronger determinants of judicial disposition. Thus, a thorough analysis of sentencing should include a discussion of the strength of association (or predictive power) of variables as well as reporting statistical significance.

Another issue which arises in sentencing studies is the concern over disparities resulting from variations in the sentencing tendencies of judges. While sentencing variation from judge to judge is well documented (Gaudet, Harris, and St. John, 1933; Frankel, 1940; Gaudet, 1946; Glueck, 1956; Glueck, 1958; and Partridge and Eldridge, 1974), the issue of equity

is unresolved. It is possible that the "sentencing tendencies" of judges reflect legally relevant factors which previous researchers have failed to consider. In any case, it is important to investigate this issue in order to ensure that dispositions are based on objective information rather than a judge's tendency toward leniency or severity.

Based on the issues identified in prior research, the primary goals of this study are:

- 1) to identify legally relevant and extra-legal variables which are related to sentencing,
- 2) to explore any evidence of differential recommendations and sentences that relate to the race of the offender, and
- 3) to describe and assess differences in the sentencing patterns of superior court judges.

METHOD

Sample

The cases in this study were randomly selected from the records of presentence investigations conducted in King County between June 1976 and August 1977. This time frame was chosen, in part, because the procedures for staffing cases and developing recommendations were relatively consistent. ^{3/} The 50 percent sample includes 659 males and 167 females, for a total of 826 individuals, whose ages ranged from 16 to 74. All special reports were excluded due to the limited amount of information presented.

Data Collection and Reliability

During March 1979 the project staff met with representatives from the Adult Corrections Division and the Seattle Presentence Unit to develop a list of key variables. The four key variables selected were 1) juvenile history, 2) prior adult history, 3) severity of the current offense, and 4) failure in previous treatment programs. These key variables were then incorporated into a data collection instrument which supplemented the information available through the state reporting system (Criminal Justice Information System). The items used in the data collection instruments (see Appendix A - DATA COLLECTION INSTRUMENTS) also incorporated the seriousness of offense scale developed by Sellin and Wolfgang (1964) and the degree of violence scale developed by Parker (1977).

Table 1 presents the complete list of variables collected from Presentence Investigation reports and from the Criminal Justice Information System (CJIS). As indicated in Table 1, six of the variables were eliminated due to infrequency or unreliability. The final list of 51 variables covers

^{3/} In October 1977 the Seattle Presentence Unit changed procedures for presenting cases. The race of the offender is no longer indicated during the case presentation and development of sentencing recommendations.

TABLE 1

List of Variables

- | | |
|--|---|
| 1. Judge | 35. Number of Prior Washington Convictions |
| 2. Victim Provocation (a) | 36. Number of Prior Out of State Convictions |
| 3. Victim Participation | 37. Number of Prior Jail Sentences |
| 4. Victim's Age (a) | 38. Number of Probations Successfully Completed |
| 5. Victim's Sex | 39. Number of Probations Revoked |
| 6. Disabled Victim (a) | 40. Number of Paroles Successfully Completed |
| 7. Relationship of Victim to Offender | 41. Number of Paroles Revoked |
| 8. Degree of Violence | 42. Number of Prior Washington Prison Commitments |
| 9. Seriousness of Current Offense | 43. Number of Prior Out of State Prison Commitments |
| 10. Number of Victims of Bodily Harm | 44. Age at First Felony Arrest as Adult (b) |
| 11. Number of Victims of Forcible Sexual Intercourse | 45. Prior Offense |
| 12. Number of such Victims Intimidated by a Weapon (a) | 46. Current Offense (first charge) |
| 13. Extent of Intimidation | 47. Current Offense (second charge) |
| 14. Number of Premises Forcibly Entered | 48. Current Offense (third charge) (a) |
| 15. Number of Motor Vehicles Stolen | 49. Physical Force Involved |
| 16. Property Value | 50. Alcohol Involved in Offense |
| 17. Prior Juvenile History | 51. Drugs Involved in Offense |
| 18. Prior Adult History | 52. Weapon Involved in Offense |
| 19. Response to Previous Treatment | 53. Finding of Fact |
| 20. Additional Crimes While Awaiting Sentence | 54. Guilt Determined By |
| 21. Race of Offender | 55. Custody Status (b) |
| 22. Marital Status | 56. Number of Victims |
| 23. Living Arrangement | 57. Defense Attorney |
| 24. Alcohol Problem | |
| 25. Drug Problem | |
| 26. Assaultive Problem | |
| 27. Medical Problem | |
| 28. Education Offense | |
| 29. Vocational Training | |
| 30. Military Service | |
| 31. Employed When Arrested | |
| 32. Age at First Juvenile Offense | |
| 33. Number of Misdemeanor Convictions | |
| 34. Number of Prior Arrests | |

(a) This variable was reported too infrequently to analyze it statistically.

(b) This variable was keypunched incorrectly and is consequently unreliable.

legally relevant areas such as the nature and seriousness of the actual offense, aggravating and mitigating factors, and prior criminal history. The extra-legal variables include the judge, race of the offender, method of determining guilt, and type of defense attorney.

All coders received training in the use of the coding manual and scoring system for the data collection. The coding manual and training materials include detailed definitions and examples of offense categories, scoring criteria, and decision rules. Due to the complexity of the coding decisions, some instances arose in which the decision rules were insufficient. In such cases, the coders consulted with the project director and developed additional decision rules for classifying variables. To ensure consistent scoring, periodic meetings were held with all the coders to review these additional decision rules.

The inter-rater reliability was assessed following the completion of the data collection. The records for 78 cases were randomly selected and scored a second time by different coders. The inter-rater agreement across all items was 95 percent. However, three of the variables had substantially lower rates of agreement. The rate of agreement concerning the relationship of the victim to the defendant was only 73 percent, the rate of agreement on prior adult traffic violations was 85 percent, and the rate of agreement on prior adult tertiary victimization was 77 percent. Consequently, the categories for these variables were collapsed into more reliable codes.

Data Analysis

In order to assess the effects of variables on sentencing recommendations and decisions, the statistical analysis included both parametric and non-parametric methods. Chi-square statistics were used during preliminary analyses of the relationships among variables. Multiple partial correlation was used to further assess the relationship between race and the severity of recommendations and sentences. The technique of multiple partial correlation was selected because it removes the influence of selected control variables before measuring the relationship of interest. The influence of selected control variables can be removed through two multiple regressions. The remaining correlation between race and severity of recommendation and sentence reflects the presence or absence of discrimination.

The data analysis involved numerous decisions concerning the inclusion or exclusion of cases and variables, so the following description provides a brief overview of these decisions. More detailed information about such decisions is included in the results section. Since this study is concerned with the discretionary use of information in developing sentences, some cases were excluded because the sentences were dictated by law. Specifically, the Revised Code of Washington 9.41.025 states that any person who commits a felony while armed with a firearm must receive a

minimum sentence of five years in prison following conviction. Consequently, such cases were excluded from analyses concerned with discretionary recommendations and decisions.

The assessment of race as a variable in sentencing refers to blacks versus whites only. Native Americans, Asian Americans, and other racial minority groups were excluded from this analysis because of the limited number of cases. The present analysis focuses on the direct influence of race on recommendations and decisions rather than indirect or institutionalized sources of discrimination. For example, it is possible that one group may use plea bargaining or jury trials more frequently or more successfully, but such differences were not investigated in the present study. This study simply investigates the direct influence of race on sentencing recommendations and court dispositions.

The severity of each sentence was coded in some detail (see Appendix A - Data Collection Instruments), but the original categories presented two problems in the data analysis. First, the length of a prison sentence imposed by a judge in the state of Washington can be altered by the Board of Prison Terms and Paroles. Thus the actual length of the prison sentence is uncertain at the time of sentencing. Second, recommendations and sentences to the sexual psychopath program at Western State Hospital were quite rare (seven recommendations and three actual sentences out of 826 cases). Consequently, these cases were excluded from the data analysis. The recommendations and sentences for all remaining cases are measured in terms of three basic alternatives: probation, jail, or prison.

RESULTS

In evaluating the use of discretion in sentencing, the variables in this study were considered separately for each official crime prior to averaging the sentences for categories of crime. There are two reasons for this decision. First, a comparison of the crimes committed by blacks and by whites revealed that whites were convicted of a greater variety of crimes. No blacks were convicted of either negligent homicide or indecent liberties. Thus it would be misleading to include these crimes in a comparison of sentences received for person crimes committed by whites versus person crimes committed by blacks. Second, some variables may be relevant to a specific crime but turn out to be unimportant to the evaluation of crimes in general. For example, the value of property stolen may be important for a case of theft, but it could be outweighed by other factors in a crime of violence.

Effects of Extra-Legal Variables

Considering the four extra-legal variables discussed in the introduction, race is clearly the most controversial because it raises the issue of willful discrimination in the judicial system. This possibility is explored in the present study by first investigating the results of the chi-square tests. These analyses are only a preliminary step in the

evaluation, and some of the initial differences may occur by chance (since the probability of finding significant differences increases with the addition of each chi-square analysis). Of the 20 official crimes considered, only 13 were of sufficient frequency to compare the recommended sentences of blacks and whites. Two of these comparisons revealed significant differences in recommendations. Black offenders received significantly harsher recommended sentences for drug crimes ($p < .01$) and for theft ($p < .05$). As shown in Tables 2 and 3, the degree of association between race and severity of recommended sentence as measured by the contingency coefficient was $C = .26$ for drug crimes and $C = .26$ for theft. Investigating further, the type of drug involved in each drug crime was compared for black versus white offenders. Information on the type of drug was not collected during the initial data collection, so this variable was created by pulling records and hand tabulating the results.

As indicated in Table 4, there are significant differences in the patterns of drug involvement for blacks versus whites ($p < .001$ and $C = .47$). Blacks are more frequently convicted for narcotics violations, and whites are more frequently convicted for marijuana violations. Thus, the differences in sentence severity between blacks and whites convicted of drug crimes may be explained by the type of drug involved. This possibility is explored further in the next step of the analysis.

The effect of race on recommended sentence was assessed for selected crimes and crime categories using partial correlation to measure the relationship. Drug crimes were selected first because of the systematic differences noted during preliminary analysis. A list of variables relevant to the evaluation of drug crimes was identified. Following Hagan's suggestion (1974) that research efforts should develop more systematic measures of prior history, several measures of prior juvenile and adult crimes were included in the analysis. The specific variables identified were 1) prior adult crimes, 2) prior drug related crimes, 3) prior adult crimes resulting in injury, and 4) prior adult theft. In addition, two process variables were included to adjust for possible effects of the legal system. The method of determining guilt was included since some observers believe that cases convicted by a jury receive harsher sentences. Also, the existence of multiple official charges was included in the analysis. Finally, the commission of additional crimes while awaiting sentence was selected as a variable which could potentially increase the severity of the sentence. Note that the type of drug involved was not included in this analysis because that variable was not available through the computerized data base.

The seven selected variables were used as control variables, and the second-order partial correlation coefficients for race and sentence were calculated for each pair of control variables. Table 5 presents the pairs of variables which resulted in the greatest reduction in the relationship between race and sentence (both recommended sentence and actual court disposition). The control variables reduced the correlation between race and severity of court disposition, but the correlation between race and recommended

TABLE 2

Chi-Square Test of Race and Recommendation
Relationship for Drug Crimes

Race	Recommended Sentence		
	Probation	Jail	Prison
White	69	24	5
Black	22	16	9

Chi-square = 10.47 df= 2 p < .01
contingency coefficient = .26

TABLE 3

Chi-Square Test of Race and Recommendation
Relationship for Crimes of Theft

Race	Recommended Sentence		
	Probation	Jail	Prison
White	52	21	4
Black	8	12	2

Chi-square = 6.99 df= 2 p < .05
contingency coefficient = .257

TABLE 4

Chi-Square Test of Race and Type of Drug
Relationship for Drug Crimes

Race	Type of Drug		
	Marijuana	Narcotic	Other
White	31	28	39
Black	1	40	6

Chi-square = 41.661 df= 2 p < .001
contingency coefficient = .472

TABLE 5

Second-Order Partial Correlation Coefficients
for Race and Sentence for Drug Crimes

Control Variables	Race and Recommended Sentence	Race and Court Disposition
Multiple Charges and Prior Adult Crimes	.23 **	.16 *
Method of Determining Guilt and Prior Adult Crimes	.19 *	.13
Prior Drug Crimes and Prior Adult Crimes	.23 **	.16 *
Prior Drug Crimes and Multiple Charges	.19 *	.13

df = 146

* p < .05

** p < .01

sentence remained significant ($p < .01$). In view of this finding, the information on the type of drug involved in the offense was coded and introduced as an additional control variable. The third-order partial correlation coefficients for race and sentence are presented in Table 6. The introduction of type of drug as a control variable resulted in two nonsignificant correlations between race and severity of court disposition. However, the correlation between race and severity of recommended sentence was still statistically significant after controlling for the type of drug involved in the offense. Exploring this further, the fifth-order partial correlation for race and recommended sentence resulted in a partial correlation of .145 which is still statistically significant ($p < .05$). Thus, after controlling for five other variables, the race of the offender increases the accuracy of prediction of the recommendation by two percent ($r^2 = .021$). This finding will be discussed in the Conclusion section of this report.

The next set of partial correlations involves property crimes since recommendations for crimes of theft had systematic differences during preliminary analyses. The control variables identified for this category were 1) prior juvenile history, 2) prior juvenile crimes involving theft, 3) prior adult crimes involving theft, 4) number of victims, 5) degree of violence involved in the crime, and 6) the existence of multiple official charges. The second-order partial correlation coefficients for race and sentence were calculated for each pair of control variables. Table 7 presents the pairs of variables which resulted in the greatest reduction in the relationship between race and sentence. For property crimes, the correlation between race and sentence is nonsignificant when appropriate control variables are introduced (30 second-order partials were calculated and none were statistically significant). Thus, a variety of legally relevant variables account for the systematic differences in sentences received for property crimes.

The final set of partial correlations involves crimes that resulted in injury to the victim. The control variables identified for this category of crimes were 1) prior juvenile crimes involving theft, 2) number of victims, 3) physical force involved in the offense, and 4) type of defense attorney.

The second-order partial correlation coefficients for race and sentence were calculated for each pair of control variables. Table 8 presents the pairs of variables which resulted in the greatest reduction in the relationship between race and sentence. For crimes which resulted in injury to the victim, the correlation between race and sentence is generally nonsignificant when appropriate control variables are introduced (12 second-order partials were calculated and only one was statistically significant). When all four control variables are used simultaneously, the fourth-order partial is reduced to .08 for race and recommended sentence while the association between race and actual court disposition is reduced to .12, which is statistically nonsignificant. Thus, the control variables account for the systematic differences in sentences received for crimes involving injury to the victim.

TABLE 6

Third-Order Partial Correlation Coefficients
for Race and Sentence for Drug Crimes

Control Variables	Race and Recommended Sentence	Race and Court Disposition
Type of Drug, Multiple Charges, and Prior Adult Crimes	.21 **	.15 *
Type of Drug, Method of Determining Guilt, and Prior Adult Crimes	.16 *	.11
Type of Drug, Prior Drug Crimes, and Prior Adult Crimes	.21 **	.16 *
Prior Adult Crimes, Prior Drug Crimes, and Multiple Charges	.18 *	.12

df = 145
* $p < .05$
** $p < .01$

Note: The number of cases in this analysis is smaller than the number reported for Table 5 because one case had no information on the specific type of drug involved in the offense.

TABLE 7

Second-Order Partial Correlation Coefficients for
Race and Sentence for Property Crimes

Control Variables	Race and Recommended Sentence	Race and Court Disposition
Multiple Charges and Degree of Violence	.04	.01
Multiple Charges and Prior Juvenile Theft	.04	-.01
Multiple Charges and Prior Adult Theft	.04	-.01
Number of Victims and Degree of Violence	.04	-.01
Degree of Violence and Prior Juvenile Theft	.04	-.02
Degree of Violence and Prior Adult Theft	.04	-.01
Prior Juvenile Theft and Prior Adult Theft	.04	-.01

df = 398

TABLE 8

Second-Order Partial Correlation Coefficients for Race
and Sentence for Crimes Involving Injury to the Victim

Control Variables	Race and Recommended Sentence	Race and Court Disposition
Physical Force Involved and Prior Juvenile Theft ^a	.14	.17
Physical Force Involved and Type ^b of Defense Attorney	.14	.19

^adf = 81
^bdf = 78

Sentencing Patterns of Judges

During the 1976-77 period under investigation, a total of 34 King County Superior Court judges sentenced cases which had been evaluated by the Seattle Presentence Unit. Only the category of property crimes was seen frequently enough to draw comparisons among the judges in terms of the severity of their sentences. This category is broadly defined, and it includes crimes ranging from first degree burglary to welfare fraud. Consequently, there is substantial variation in the severity of sentences imposed by most judges. In order to allow for this variation, an arbitrary decision was made to exclude judges who saw fewer than nine property crimes during the 1976-77 period. Thus, 11 judges were excluded because any measure of the severity of their sentences might be unfairly biased by the unique characteristics of a particular case. This decision left 23 judges whose decisions could be compared in terms of the severity of their sentences. Table 9 presents a comparison of the actual sentences imposed by the three most lenient and the three most severe judges. The Chi-square analysis resulted in significant differences between the groups of judges ($p < .001$ and $C = .46$). Thus, the severity of sentences for property crimes appears to vary dramatically when judges from the two ends of the continuum are compared. The three most lenient judges gave straight probation to 74 percent of the property offenders appearing before them. In contrast, the three most severe judges sent 71 percent of the property offenders to jail and sent seven percent to prison. This finding has several alternative interpretations. The differences could result from the sentencing tendencies of the particular judges or the differences could result from the legally relevant variables influencing each judge's decisions. In an attempt to explore the second possibility, the presentence recommendations sent to each judge were compared for the same groups of property offenders.

If the characteristics of particular cases influenced a judge's decisions, then the same factors could influence the recommendations developed by the staff of the presentence unit. Table 10 presents a comparison of recommended sentences for property offenders sentenced by the three most lenient and the three most severe judges. A chi-square analysis resulted in non-significant differences, indicating that the proportions of probation, jail, and prison recommendations for property offenders were fairly consistent across judges. The lenient judges disagreed with six recommendations for jail and sentenced the individuals to straight probation. The severe judges disagreed with 11 recommendations for straight probation and sentenced nine individuals to jail and two to prison (instead of probation).

CONCLUSIONS

Discussion

The results of this study indicate that there is little evidence of racial discrimination in the recommendations and sentences received by offenders in King County during 1976-77. While differences were observed in the sentencing recommendations for property crimes and for drug crimes, these

TABLE 9

Chi-square Test of Judges and Court Dispositions
Relationship for Property Offenders

	Court Disposition		
	Probation	Jail	Prison
Lenient Judges	28	9	1
Severe Judges	9	30	3

Chi-square = 21.92
df = 2
p < .001
C = .46

TABLE 10

Chi-square Test of Judges and Recommendation
Relationship for Property Offenders

	Recommended Sentence		
	Probation	Jail	Prison
Lenient Judges	22	15	1
Severe Judges	21	20	1

Chi-square = .536
df = 2
p > .05

differences could be explained to some extent by variation in legally relevant factors. Specifically, blacks received harsher sentences for property crimes because they were more likely to have prior histories involving juvenile and adult convictions for theft. When these factors are controlled, there are no significant differences in the recommendations and sentences for property crimes committed by blacks and whites. The reasons are less clear for differential recommendations for black versus white offenders involved in drug crimes. After controlling for five other variables, the race of the offender accounted for two percent of the variation in recommended sentence. There are several alternative explanations for this result. One possibility is that the presentence unit subtly discriminates against black offenders who commit drug crimes, while they evaluate other black offenders without discriminating. A second possibility is that blacks and whites who commit drug crimes differ in some other important way. For example, white offenders may express interest in drug treatment programs more often than blacks. While the present study included measures of prior success or failure in treatment programs, no information was reported on the offender's interest or involvement in current treatment. Without knowing this information, it is difficult to determine the reasons for differential recommendations for black versus white offenders. The offender's knowledge of the legal system and knowledge of treatment options may affect the severity of the final recommendation.

The issue of disparity in the sentencing tendencies of judges is equally complex. The results of the present study indicate that judges differ significantly in the severity of sentences they impose for property crimes. Since there were no significant differences in the recommendations developed for these property offenders, the differences must be attributed to the judges. Such disparities in the sentencing tendencies of judges introduce an element of chance to the criminal justice system. If a property offender is lucky, he may be sentenced by a lenient judge and receive straight probation. A similar property offender could be sentenced by a harsh judge and receive a jail or prison sentence. Such inequities are difficult to justify, yet they are one consequence of the heterogeneous set of purposes behind sentencing. Unless judges agree to a single set of standards for imposing sentences, the disparities in sentencing will continue.

Since the present study found some evidence of differential sentencing in King County, several additional issues concerning the sentencing process should be discussed. First, Garfinkel (1949) has argued that discrimination only occurs when judges are evaluating serious, interracial crimes (i.e., murder or rape of an individual of a different race). The race of the victim was not included in the present study because it is rarely discussed or even reported in the presentence document. In addition, the number of murders and rapes included in the present study is too small to provide an adequate statistical comparison (n = 11). This issue could be explored if information concerning the race of the victim were systematically collected over a five or six-year period.

The offender's ability to use the legal system is a far broader and equally serious issue. Differences between blacks and whites in their use of the legal system could result in institutionalized discrimination. While the present study was not designed to address this issue, several important differences appeared during the statistical analysis. First, the method of obtaining a defense attorney (public defender, court appointed, or hired) was related to the severity of the recommended sentence for crimes involving injury to the victim. Second, chi-square comparisons across all crimes revealed that blacks who hired their own attorneys were more likely than whites to receive prison sentences ($X^2 = 18.05$, $df = 2$, $p < .001$). There were no differences between blacks and whites who used either a public defender or a court appointed attorney. Since these differences appeared after averaging sentences across all crimes, it is difficult to interpret the results. These differences should be explored systematically within each category of crime, while controlling for other variables, to determine the specific effects of knowledge and use of the legal system.

Recommendations

The offender's knowledge and use of the legal system should be explored further. The present study provides some preliminary evidence of differences between blacks and whites which could result in institutionalized discrimination. Some of the critical variables in this process may include the offender's interest in treatment alternatives, the offender's income, the defense attorney's prior experience in criminal law and the extent of plea bargaining (as measured by the disparity between the official charge and the actual crime).

A second area requiring further investigation involves the sentencing tendencies of judges. While the present study provides evidence of significant disparities in the sentencing of property offenders, an assessment of judges' philosophies of sentencing might provide the basis for a more systematic analysis. Such an analysis might clarify the extent of agreement or disagreement concerning the purposes of sentencing. The next step toward more consistent sentencing might be to establish common criteria for sentencing specific categories of offenders. Multiple regression analysis could be used in order to identify commonly used criteria. In addition, it might be necessary to identify a list of rare events (e.g., victim provocation of the crime) which are generally considered aggravating or mitigating factors. While these variables are difficult to analyze statistically, they are important to document because they do influence sentencing decisions and are legally relevant.

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APPENDIX

DATA COLLECTION INSTRUMENTS

Offender's Project
I.D. Number _____

Date _____

Coded by _____

ASSESSMENT OF VARIABLES USED
IN PRESENTENCE RECOMMENDATIONS
AND COURT DECISIONS

THE OFFICE OF RESEARCH
DEPARTMENT OF SOCIAL & HEALTH SERVICES
THE STATE OF WASHINGTON

April 1979

GUIDE TO CODING
Check box or write in appropriate response

1. Card Number

column 1

1

Offender's I.D. Number
note: all numbers must be 4 digits, so
case #1 would be 0001, etc.

Columns

2	3	4	5

2. Sentencing Judge

columns

6	7

(write in name and
check coding manual for code)

3. Was there provocation by the victim(s)?
(check coding manual for explanation of
provocation) If the victim is an abstract
entity like a company, check no provocation.

No

Yes

Unknown

column 8

	1
	2
	9

4. Victim participation?
(see coding manual for definition
of participation) If the victim
is an abstract entity, check no
participation)

No

Yes

Unknown

column 9

	1
	2
	9

5. Victim's age

(write in number: code 99 for unknown)
Code as unknown if victim is an abstract
entity. If there were several victims, use
the youngest age for young victims and the
eldest age for elderly victims.

columns

10	11

6. Victim's sex (If the victim is an abstract
entity, check unknown)

Male

Female

Both Male and Female Victims

Unknown

column 12

	1
	2
	3
	9

7. Does victim have any physical or health problems?

No.....

Yes, physical disability or bad health.....

Yes, indication of chronic alcohol abuse.....

Yes, both health problem and alcohol abuse.....

Unknown.....

column 13

	1
	2
	3
	4
	9

8. What is the relationship of victim to defendant?

Spouse(including common law.....

Child.....

Other member of family.....

Ex-Spouse.....

Cohabiting person.....

Girlfriend or Boyfriend.....

Friend.....

Acquaintance.....

Neighbor.....

Employer or Employee.....

Stranger.....

Other (specify.....)

Unknown.....

columns 14-15

	01
	02
	03
	04
	05
	06
	07
	08
	09
	10
	11
	12
	99

9. Degree of violence involved
in the current offense.

Death resulting from a violent act
with intent to do bodily harm
(Above act, but in self defense).....
Major injury inflicted with a weapon.....
(Above act, but in self defense)
Major injury inflicted with an object.....
or with the body
(Above act, in self defense).....
Minor or no reported injury inflicted.....
with a weapon.
(Above act, in self defense).....
Threat with or possession of a weapon.....
(Above act, in self defense).....
Threat with an object.....
(In self defense).....
Minor or no reported injury inflicted
with an object or body
(In self defense).....
Threat in words or gestures only
(In self defense).....
Nonviolent act, without intent to
do bodily harm.....
Unknown.....

(see examples of basic types
of violence in coding manual)

columns 16-17

10
08
08
06
07
05
07
05
06
04
05
03
04
02
03
01
00
99

10. Seriousness of current offense
Effects of event (circle one)

Injury Theft Damage Not applicable

I.....
T.....
D.....

I. Number of victims of bodily harm Number Weight

a. receiving minor injuries _____ X 1 =

b. Treated and discharged _____ X 4 =

c. Hospitalized _____ X 7 =

d. Killed _____ X 26 =

II. Number of victims of forcible
sexual intercourse _____ X 10 =

a. number of such victims
intimidated by a weapon _____ X 2 =

III. Intimidation (except II above)

a. Physical or verbal only _____ X 2 =

b. by weapon _____ X 4 =

IV. Number of premises forcibly
entered (if 9 or more code 9) _____ X 1 =

V. Number of motor vehicles stolen _____ X 2 =

column 18

0
1
2
3

columns

19 20
21 22
23 24
25 26

Columns

27 28
29 30

columns

31 32
33 34
35

36 37

	Number	Weight
VI. Value of property stolen, damaged or destroyed (in dollars)		
a. Under 10 dollars	_____	X 1
b. 10-250	_____	X 2
c. 251-2000	_____	X 3
d. 2001-9000	_____	X 4
e. 9001-30,000	_____	X 5
f. 30,001-80,000	_____	X 6
g. Over 80,000	_____	X 7
calculate total score for this category and write result in columns 38-39		<div>columns 38 39</div> <div><input type="text"/></div>

11. Prior Juvenile History-number of prior offenses (convictions) involving:	columns
a. bodily injury..... (if 8 or more code as 8)	40 <input type="text"/>
b. Property theft.....	41 <input type="text"/>
c. Property damage.....	42 <input type="text"/>
d. Intimidation.....	43 <input type="text"/>
e. Traffic violations.....	44 <input type="text"/>
f. Primary victimization.....	45 <input type="text"/>
g. secondary victimization.....	46 <input type="text"/>
h. tertiary victimization.....	47 <input type="text"/>

Question 11 continued:	columns 48
i. Mutual victimization.....	<input type="text"/>
j. no victimization.....	49 <input type="text"/>
12. Prior Adult history-number of prior offenses(convictions) involving:	columns 50
a. Bodily injury..... (if 8 or more code as 8)	51 <input type="text"/>
b. Property theft.....	52 <input type="text"/>
c. Property damage.....	53 <input type="text"/>
d. Intimidation	54 <input type="text"/>
e. Traffic violations.....	55 <input type="text"/>
f. primary victimization.....	56 <input type="text"/>
g. secondary victimization.....	57 <input type="text"/>
h. tertiary victimization.....	58 <input type="text"/>
i. mutual victimization.....	59 <input type="text"/>
j. no victimization.....	<input type="text"/>
13. Response to previous treatment programs: (if 8 or more code as 8: if not applicable code as 9)	columns 60
Number of failures...	<input type="text"/>
Number of Successes...	61 <input type="text"/>

Column 62	
14. Did the offender commit additional crimes while awaiting sentence?	
No	<input type="checkbox"/> 1
Yes, a misdemeanor	<input type="checkbox"/> 2
Yes, a felony	<input type="checkbox"/> 3
Yes, more than one felony	<input type="checkbox"/> 4
Unknown	<input type="checkbox"/> 9

Column 63	
15. Presentence Recommendation:	
Prison	<input type="checkbox"/> 1
Mental health Institution or observation	<input type="checkbox"/> 2
Sexual Psychopath program	<input type="checkbox"/> 3
Probation and a suspended sentence	<input type="checkbox"/> 4
Probation and a deferred sentence	<input type="checkbox"/> 5
Probation only	<input type="checkbox"/> 6
Unknown	<input type="checkbox"/> 9

Column 64	
16. Length of Probation Period Recommended:	
No time	<input type="checkbox"/> 0
One year	<input type="checkbox"/> 1
Two years	<input type="checkbox"/> 2
Three years	<input type="checkbox"/> 3
Four years	<input type="checkbox"/> 4
Five years	<input type="checkbox"/> 5
Six or more years	<input type="checkbox"/> 6

column 64 continued:	
#16 continued:	<input type="checkbox"/> 7
(N/A) Prison, Mental health, observation	<input type="checkbox"/> 9
Unknown	

columns 65 66 67	
17. Number of days in jail recommended:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
(write the number of days or code 000 for no jail time or suspended jail time)	

column 68	
18. Restitution:	
No	<input type="checkbox"/> 0
Yes	<input type="checkbox"/> 1
Unknown	<input type="checkbox"/> 9

column 69	
19. Community service volunteer work:	
No	<input type="checkbox"/> 0
Yes	<input type="checkbox"/> 1
Unknown	<input type="checkbox"/> 9

column 70	
20. Court disposition:	
Prison	<input type="checkbox"/> 1
Mental health institution or observation	<input type="checkbox"/> 2
Sexual Psychopath program	<input type="checkbox"/> 3
Probation and a suspended sentence	<input type="checkbox"/> 4
Probation and a deferred sentence	<input type="checkbox"/> 5
Probation Only	<input type="checkbox"/> 6
Unknown	<input type="checkbox"/> 9

columns 71 72 73	
21. Number of days in jail:	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
(Write the number of days or code 000 for no jail time or for suspended jail time)	

03071

THE SYSTEM PEOPLE **CR-800** (200) 841-6000

80018

PAGE 1

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
PRESENTENCE OR INTAKE SUMMARY REPORT

1 TYPE OF REPORT
☐ PRESENTENCE
☐ INTAKE SUMMARY

TO		2 REPORT DATE	
IDENTIFICATION INFORMATION			
3 NAME	LAST FIRST MIDDLE	4 PHONE NO	5 DSHS NUMBER
6 ADDRESS	CITY STATE ZIP	7 BIRTHDATE	8 S.I.D. NUMBER
10 ALSO KNOWN AS		11 SOCIAL SECURITY NO	
12 NO OF KNOWN SURNAME ALIASES		13 FBI NO	
14 ETHNICITY			
<input type="checkbox"/> WHITE <input type="checkbox"/> BLACK <input type="checkbox"/> INDIAN <input type="checkbox"/> CHINESE <input type="checkbox"/> JAPANESE <input type="checkbox"/> OTHER <input type="checkbox"/> UNKNOWN			
CURRENT OFFENSES			
15 DATE OF ARREST	16 COUNTY OF CONVICTION	17 PLEA TRIAL COMPLETED	18 POLICE/SHERIFF NO
19 CURRENT OFFENSE(S)			
A RCW CODE (7) CAUSE NO (6) OFFENSE B RCW CODE (7) CAUSE NO (6) C RCW CODE (7) CAUSE NO (6)			
20 PHYSICAL FORCE INVOLVED	21 ALCOHOL INVOLVED IN OFFENSE	22 DRUGS INVOLVED IN OFFENSE	23 WEAPON INVOLVED IN OFFENSE
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES (TYPE) SPECIFY <input type="checkbox"/> NO	<input type="checkbox"/> NO <input type="checkbox"/> FIREARM <input type="checkbox"/> OTHER (SPECIFY)
24 FINDING OF FACT (DEADLY WEAPON)	25 GUILTY DETERMINED BY	26 CUSTODY STATUS	27 NO OF CO DEFENDANTS
<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> COURT TRIAL <input type="checkbox"/> GUILTY PLEA	<input type="checkbox"/> JAIL <input type="checkbox"/> PERSONAL RECOGNIZANCE <input type="checkbox"/> BAIL	28 NO OF VICTIMS
29 NAME OF DEFENSE ATTORNEY		30 METHOD OF RETAINING DEFENSE ATTORNEY	
31 NAME(S) OF CRIME PARTNER(S)		<input type="checkbox"/> HIRED <input type="checkbox"/> COURT APPOINTED <input type="checkbox"/> WAIVED <input type="checkbox"/> PUBLIC DEFENDER	
32 NAME(S) AND ADDRESS(ES) OF VICTIM(S)		33 IS VICTIM OR ANY OF VICTIMS PERSONALLY ACQUAINTED WITH OFFENDER	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
PERSONAL DATA			
34 BIRTHPLACE OF CLIENT		35 U.S. CITIZEN	
STATE OR COUNTRY CODE		<input type="checkbox"/> YES <input type="checkbox"/> NO	
36 CURRENT MARITAL STATUS			
<input type="checkbox"/> NEVER MARRIED <input type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> DIVORCED <input type="checkbox"/> WIDOW(ER) <input type="checkbox"/> UNKNOWN			
37 CURRENT LIVING ARRANGEMENT			
<input type="checkbox"/> ALONE <input type="checkbox"/> SPOUSE <input type="checkbox"/> PARENTS <input type="checkbox"/> SIBLINGS <input type="checkbox"/> OTHER RELATIVES <input type="checkbox"/> FRIENDS <input type="checkbox"/> COHABITATION <input type="checkbox"/> OTHER (SPECIFY)			
38 NAME AND ADDRESS OF NEAREST RELATIVE			
39 NO OF DEPENDENTS FOR WHOM CLIENT IS RESPONSIBLE		40 TOTAL LEGAL SUPPORT AMOUNT	
A CURRENT HOUSEHOLD B PRIOR HOUSEHOLD		PER MO	
42 KNOWN MEDICAL OR BEHAVIOR PROBLEMS OF CLIENT (CHECK ALL APPROPRIATE)		41 TOTAL NO OF PERSONS OTHER THAN CLIENT RESIDING IN CURRENT HOUSEHOLD	
<input type="checkbox"/> ALCOHOL <input type="checkbox"/> DRUG <input type="checkbox"/> ASSAULTIVE <input type="checkbox"/> CHRONIC ILLNESS OR DISABILITY (TYPE)			

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ANOTHER BUSINESS FORMS CO.

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
PRESENTENCE OR INTAKE SUMMARY REPORT

PAGE 2

43 NAME			
LAST		FIRST MIDDLE	
CHILDHOOD DEVELOPMENT (FIRST 18 YEARS OF CLIENT'S LIFE)			
44 CLIENT RAISED BY		45 NUMBER OF SIBLINGS IN FAMILY	
<input type="checkbox"/> NATURAL PARENTS <input type="checkbox"/> INSTITUTIONS <input type="checkbox"/> FOSTER PARENTS <input type="checkbox"/> OTHER SPECIFY			
EDUCATIONAL RECORD			
46 DATE OF LAST ACADEMIC ATTENDANCE	47 HIGHEST ACADEMIC GRADE COMPLETED	48 DEGREE	49 SPECIALTY
YEAR ONLY	ENTER CODE OF HIGHEST GRADE	CODE 121	
50 TYPE OF VOCATIONAL TRAINING IF ANY	51 DATE OF LAST ATTENDANCE OF VOCATIONAL TRAINING	52 RECEIVED VOCATIONAL CERTIFICATE	53 DID CLIENT RECEIVE DVR BENEFITS FOR TRAINING
CODE 121	MO DA YR	<input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> YES <input type="checkbox"/> NO
MILITARY SERVICE			
54 SERVICE DATES	55 MOST RECENT BRANCH OF SERVICE		
A BEGINNING	<input type="checkbox"/> NO SERVICE <input type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> AIR FORCE <input type="checkbox"/> MARINES <input type="checkbox"/> COAST GUARD <input type="checkbox"/> OTHER SPECIFY		
56 STATUS	57 TYPE OF DISCHARGE		
<input type="checkbox"/> ACTIVE <input type="checkbox"/> RESERVE <input type="checkbox"/> RETIRED <input type="checkbox"/> DISCHARGED	<input type="checkbox"/> HONORABLE <input type="checkbox"/> GENERAL <input type="checkbox"/> UNDESIRABLE <input type="checkbox"/> DISHONORABLE <input type="checkbox"/> MEDICAL <input type="checkbox"/> BAD CONDUCT		
EMPLOYMENT RECORD			
58 NAME OF LAST EMPLOYER	59 JOB TITLE	60 EMPLOYMENT OF CLIENT SUFFICIENT TO SUPPORT	
		<input type="checkbox"/> YES <input type="checkbox"/> NO	
61 DATE LAST EMPLOYED	62 OCCUPATION	63 WAS CLIENT EMPLOYED AT TIME OF ARREST?	
MO DA YR	CODE 121	<input type="checkbox"/> YES <input type="checkbox"/> NO	
JUVENILE COURT HISTORY			
64 AGE FIRST CONTACT OCCURRED	65 CLIENT HAS APPEARED BEFORE JUVENILE COURT FOR		66 HAS CLIENT EVER BEEN COMMITTED TO A JUVENILE INSTITUTION
	<input type="checkbox"/> DEPENDENCY <input type="checkbox"/> DELINQUENCY <input type="checkbox"/> INCORRIGIBILITY COUNTY OR STATE		<input type="checkbox"/> YES <input type="checkbox"/> NO
PRIOR ADULT OFFENSE HISTORY			
67 NO KNOWN MISDEMEANOR CONVICTIONS		FELONY	
68 NO PRIOR ARRESTS		74 NO PRIOR WASH CONVICTIONS	
69 NO PRIOR OUT-OF-STATE CONVICTIONS		75 NO PRIOR JAIL SENTENCES	
70 NO PROBATIONS SUCCESSFULLY COMPLETED		76 NO PROBATIONS REVOKED	
71 NO PROBATIONS CURRENT		77 NO PAROLES SUCCESSFULLY COMPLETED	
72 NO PAROLES REVOKED		78 AGE AT FIRST FELONY ARREST AS AN ADULT	
73 OFFENSE OF FIRST ADULT FELONY CONVICTION		RCW CODE	
		79 NO PRIOR PRIOR COMMITMENTS (A) WASHINGTON (B) OTHER	
SUPERVISOR'S SIGNATURE		OFFICE	
TITLE		PROBATION/PAROLE OFFICER OR COUNSELOR	

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END