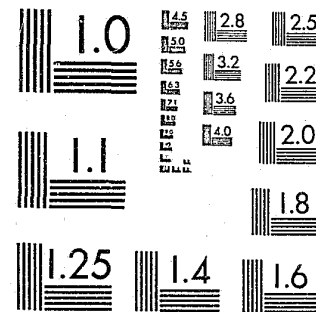


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DISPARITY AND DISCRIMINATION IN SENTENCING:

The Case of Georgia

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FINAL REPORT

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S.T.

Athens, Georgia  
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## ABSTRACT

This study examines the extent and sources of disparity and differential treatment in Georgia's Superior Courts from 1976 through June 1982. Building on earlier studies, it asks three central questions. First, what effects do case attributes, both social background and legally relevant, have on sentencing outcomes? Second, to what extent are sentencing decisions affected by dimensions of the court and county where the offender is sentenced? Third, to what extent do these court and county contexts determine the relevance of case attributes, that is, determine the magnitude and direction of disparate and differential treatment?

Analysis focused on five sentencing decisions: (1) type of sentence, whether probation or prison; (2) length of probation; (3) total sentence length (probation and prison) for offenders receiving split sentences; (4) the proportion of the split sentence for which imprisonment was mandated; and (5) length of prison terms, for offenders receiving only incarceration. Case, court, and county variables, derived from a variety of sources, were used to predict these decisions. Case attributes were based on a sample of over 18,000 convicted felons, drawn from files of the Department of Offender Rehabilitation, the Fulton County Superior Court, and the DeKalb County District Attorney. Court data were obtained from the annual reports of the Administrative Office of the Courts, the State Crime Commission, and the Georgia Official and Statistical Register. County variables were drawn from Census materials, Uniform Crime Reports, and the Georgia Department of State. We also content-analyzed newspapers in selected circuits and interviewed judges, district attorneys, and other criminal justice authorities in 11 of the state's 42 circuits.

Information gleaned from site visits directed statistical analyses and provided interpretations for some findings. Statistical analyses constituted the heart of the study, however. Depending on the dependent variable, weighted or ordinary least squares regression procedures were used. Corrections for selection bias in truncated samples (e.g., probationers) entailed a two-stage estimation procedure described by Berk and Ray (1982).

Analysis produced a number of important findings. We found that, while legally relevant factors more strongly and consistently affect sentences than do social background factors, the magnitude and direction of their effects depend on characteristics of the sentencing court and the surrounding community. Similarly, the nature of differential treatment based on social background (e.g., race) depends on selected features of the court and county. In general, no one group of offenders is consistently treated more harshly or more leniently. Thus, court and county characteristics affect sentences both directly and indirectly, by determining the way judges use information about

the offender and his offense during sentencing.

The theoretical expectations that guided our choice of variables met with limited support. Court bureaucratization does not consistently reduce differential treatment. Indeed, it intensifies harsher treatment of both socially advantaged and disadvantaged offenders. Similarities between the judge and the offender are either irrelevant or do not generate the expected lenience. Contrary to conventional wisdom and some research literature, judges from local or rural backgrounds do not appear more particularistic than those from more cosmopolitan or urban backgrounds. Similarly, professional activism does not generate more even-handed treatment of offenders. Established judges are more lenient than their electorally vulnerable counterparts, but this is the case only for some sentencing decisions. Finally, judges who are locally involved are not invariably more punitive toward threatening or dangerous offenders than are their counterparts.

When considering dimensions of the county, we found that, as was the case for bureaucratization, urbanization tends to exacerbate differential treatment of both socially advantaged and disadvantaged offenders. Economic inequality also intensifies differential treatment. It too places no single group at a consistent advantage or disadvantage. Sentences are not consistently more severe in politically conservative or crime-ridden counties. However, more threatening offenders are at a particular disadvantage if sentenced in counties experiencing serious crime problems. Finally, sentences tend to be more punitive where press coverage of crime is extensive, prominent, or focuses on local crime. In contrast, they tend to be more lenient where the press focuses on violent crime. In neither instance did we find evidence that press coverage consistently intensifies harsher treatment of more dangerous offenders.

These results have implications for research, theory, and sentencing policy. Our efforts to control for sample selection bias and our contextualization of sentencing decisions raise questions about the accuracy of prior research. They illustrate as well the importance of developing alternative strategies to investigate issues of discrimination and disparity. Our results demonstrate the complexity of sentencing. As a result, they underscore the poverty of theories that focus on single determinants, whether of sentences or of discrimination during sentencing. The policy relevance of our findings derives from the light they shed on internal inconsistencies within the substantive criminal law, the symbolic dimensions of political behavior, recent attempts to limit judicial discretion, and appellate court decisions about systemic discrimination.

## CHAPTER I. INTRODUCTION

In *Gerontion*, T.S. Eliot asks, "After such knowledge, what forgiveness?" Though forgiveness is not an agreed upon purpose of law, Eliot's query does touch on the dilemma of criminal punishment and the longstanding problems associated with the sentencing of convicted offenders. Whether one looks at criminal sentencing from the perspective of retribution or rehabilitation, there is agreement, as van den Haag observes, that the issue is "a very old and painful question" (1975). Gross and Von Hirsch argue that the sentencing of criminal offenders prompts such anguish because we have assumed that sentencing will affect crime and because criminal punishment presents a moral issue of no small proportion (Gross and Von Hirsch, 1981:iv).

Regardless of the reasons we postulate for the anguish of our deliberations about sentencing, it is obvious that the decision to punish criminal offenders is an issue of considerable importance to law, criminal justice, and society. Much of the underlying concern with sentencing practices and purposes centers on disparity and/or discrimination of treatment. Though frequently used interchangeably, disparity and discrimination can and should be distinguished. As the 1983 Report of the National Academy of Sciences emphasizes, "discrimination exists when some case attribute that is objectionable ... can be shown to be associated with sentence outcomes after all other relevant variables are adequately controlled" (Blumstein *et al.*, 1983: 11). Disparity, on the other hand, "...exists when 'like cases' with respect to case attributes ... are sentenced differently" (Blumstein *et al.*, 1983:12). While discrimination, obviously, can be opposed for legal and moral reasons, a concern with disparity frequently surfaces when competing models of criminal justice are

advanced. For example, critics charge that when disparities occur, the system fails to function in an equitable fashion. This concern with equity cuts across both the due process and the crime control perspectives that dominate contemporary policy discussions in criminal justice (Packer, 1968). In due process terms, equity is desirable because the "equal justice under law" hallmark demands that we make every effort to treat similar offenders in a similar fashion. In crime control terms, criminal sentences cannot meet the ends of any of the non-rehabilitative purposes of punishment if there is disparity in the punishment of similar offenses.

Whether prompted by due process or crime control concerns, anguish over sentencing has prompted policy reform efforts across the country. Legislative proposals for sentencing reform have been introduced with the expectation that by regulating the sentencing process both disparity and discrimination will be reduced. Proposals have taken a variety of forms. In some states (e.g., California), presumptive sentencing schemes have been adopted in which modal terms of punishment for every crime are specified with provisions for judicial recognition of both aggravating and mitigating circumstances. In others, reform measures run the gamut from definite penalties for specific offenses to guidelines for the imposition of standing penalty provisions. Public concern about leniency in criminal sentencing coupled with concern about disparity combine to spur legislatures to take visible and pronounced measures to change systems of sentencing laws.

A major premise underlying these reform schemes is the assumption that disparities in sentencing are undesirable and/or irrational. We argue that the decentralized character of our judicial and criminal justice systems makes some disparity inevitable, and that even within jurisdictions

disparity of treatment might not be as undesirable or irrational as some would suggest. While sentencing differentials may not work towards the ends of criminal law, much less justice, some may be easier to understand than others, especially if sources of disparity are appreciated. We argue, then, that the sources of sentencing variation may simply reflect, inter alia, contrasting case, court, and community characteristics. If reform efforts are to avoid resistance or circumvention in application, policy makers must recognize that sentence variation may be one of the fruits or consequences of division of power and our consequent localized court systems. In short, we need to "contextualize" the sentencing decision to better appreciate the nature and character of sentencing, thereby providing a solid empirical foundation for policy reform.

In this study, we are primarily concerned with explaining sources of sentence disparity. As we examine court decisions against pertinent hypotheses on sentencing variation, we will examine the extent of discrimination as well, for it too raises issues about fairness and the appropriateness of policy reform.

#### LITERATURE REVIEW

The 1983 National Academy of Science Report on sentencing offers a comprehensive summary of the research that has been conducted on this legal process. Specifically, the authors of that report point out that:

A diverse body of research exists on the determinants of sentences. This subject has been pursued from widely varying perspectives exploring the roles of normative premises and conceptions of justice, social structure, organizations, conflict, and politics in influencing sentence outcomes. Underlying much of this research has been a fundamental concern with accounting for the diversity of sentence outcomes observed in courts. This has involved attempts to identify the variety of

variables, and the interrelationships among those variables, that combine to influence observed sentence outcomes. (Blumstein et al., 1983: 2-1)

The body of research on sentencing is somewhat fragmented, and comprehensive knowledge about the process limited. Certain patterns or trends, however, can be identified. Early research on sentencing focused almost exclusively on the effect of defendant attributes, while later studies examined the effect of different court structures and organizational models. Recent investigations have begun to explore interactions among a variety of explanatory factors. Given our emphasis on the contextual basis of sentencing, we direct attention to research in three areas: (1) case attributes; (2) court attributes; and (3) community characteristics.

#### RESEARCH ON CASE ATTRIBUTES

In 1928, Thorsten Sellin first introduced the study of disparity of treatment and discrimination in criminal sentencing, focusing on offender race. Since Sellin, increasing numbers of studies have considered the effect of offender social background characteristics, either alone (e.g., Martin, 1934; Bedau, 1964, 1965; Forslund, 1969) or when controlling for legally relevant variables such as offense and prior record (e.g., Sellin, 1928; Lemert and Rosberg, 1948; Johnson, 1957; Green, 1961, 1964; Wolfgang et al., 1962; Nagel, 1969). As Hagan and Bumiller note in their recent critique of sentencing research, "early sentencing research satisfied itself with observing in various ways bivariate relationships between attributes like race and sentencing outcomes" (1983:2). While many of these studies were grounded, implicitly or explicitly, in conflict theory, few found evidence of racial discrimination in sentencing, especially when legally relevant variables were introduced (e.g., Green, 1961). The

standing exception was found in the sentencing of black defendants in capital cases in the South (Hagan, 1974).

While early sentencing studies were limited by narrow jurisdictional foci and methodological shortcomings (see Hindelang, 1965; Hagan, 1974), more recent research refines earlier efforts in several ways. It bases analysis on broader and more carefully drawn samples (e.g., Pruitt and Wilson, 1983), makes more extensive efforts to control for legally relevant variables (e.g., Petersilia, 1983; Welch et al., 1984), more rigorously defines the dependent variable (e.g., Bernstein et al., 1977; Lizotte, 1978), and uses more sophisticated multivariate statistical techniques (e.g., Spohn et al., 1981-82). Yet despite methodological refinements, these later studies offer inconclusive evidence on the relative impact of case attributes, namely, the social background characteristics of offender race, socio-economic status, age and sex, and the legally relevant characteristics of offense, prior record, and aggravating circumstances.

For example, offender race does not consistently produce sentencing differentials, and where found, race differences may not be very strong (e.g., Blumstein, 1982). Moreover, race may affect only part of the sentence decision (e.g., Spohn et al., 1981-82), or may be a function of other individual-level (i.e. victim) attributes (e.g., Radelet, 1981). Race may be confounded with aggravating circumstances of the offense (e.g., Kleck, 1981), other legally relevant variables (e.g., Petersilia, 1983), or variables outside of the case attribute category (e.g., Pruitt and Wilson, 1983). Although some research has examined the relationship between legally relevant variables and race (e.g., Farrell and Swigert, 1978; Horan et al., 1982), evidence on the racially biased character of such variables (e.g., prior record) is inconclusive (e.g., Petersilia, 1983).



Studies focusing on other social background characteristics are equally inconclusive. Following Chambliss and Seidman's (1971) injunction to consider the possibility of class bias in sentencing, some research has looked at the degree to which sentences vary as a function of defendant socioeconomic status (e.g., Farrell and Swigert, 1978). Although some correlation between social background and sentencing (e.g., Hagan *et al.*, 1980; Wheeler *et al.*, 1982) has been found, problems of sampling bias limit the generalizability of the conclusions (e.g., Chiricos and Waldo, 1975).

A growing body of literature has begun to focus on the importance of offender sex (for reviews see Nagel and Hagan, 1982; Blumstein *et al.*, 1983; Kruttschnitt and Green, 1984). To date, this research indicates some leniency due, researchers suggest, to protective and benevolent attitudes toward women. These chivalrous attitudes justify less punitive treatment of women, particularly when the offense is not serious. Once again, though, extensive generalizations are prohibited. Problems of methodology (e.g., Moulds, 1980), the limited number of females in the offender population (Blumstein *et al.*, 1983), and an emphasis on delinquent case processing (e.g., Chesney-Lind, 1973) limit our ability to conclusively identify the impact of defendant sex in sentencing. Additionally, it is important to remember, as Nagel and Hagan (1982) point out, that only race stands as a constitutionally suspect category. Other social background attributes, then, may justifiably be used to accord offenders differential treatment.

Recognizing the inconclusive evidence on the impact of case attributes, many researchers are beginning to question whether the impact of offender and offense characteristics depends upon the broader context of criminal sentencing (see, e.g., Peterson and Hagan, 1984). While these efforts are undoubtedly embryonic in character, they deserve mention

because contextual analysis is our point of departure in this study. To date, research has demonstrated that offender background attributes may interact with judicial role orientations and attitudes (e.g., Gibson, 1978a); decision contexts may intensify the effect of case attributes (e.g., Nagel, 1983); jurisdictional and workgroup patterns increase or deflate the strength of case-specific variables (e.g., Brereton and Casper, 1981-82; Pruitt and Wilson, 1983); and individual and organizational level discrimination surfaces in sentencing processes in some jurisdictions (e.g., Unnever, 1982).

Our analysis of the impact of case attributes on sentencing builds on and extends this line of inquiry. Specifically, we explore the extent to which case attributes, whether social background characteristics or legally relevant variables, are conditioned by the court and community contexts. Thus, we assume that individual level attributes cannot be examined in isolation, but rather must be embedded within the broader structures that determine their relevance during sentencing.

#### RESEARCH ON COURT CONTEXTS

Research on criminal courts, which proliferated during the 1960's and 1970's, addressed two distinct questions. First, how are court decisions affected by the background, role characteristics, and attitudinal perspectives of key players (e.g., judges)? Second, how are decisions affected by workgroup dynamics and court organizations?

Research addressing the first question has focused primarily on appellate court decisions (e.g., Schmidhauser, 1960; Grossman, 1962, 1967; Schubert, 1974; Goldman, 1975), and less frequently on trial court decisions (e.g., Nagel, 1962). The general body of literature on judicial background characteristics and decision-making demonstrates a relationship



between them. As Gibson points out "there can be little doubt that the behavior of judges is in fact predictable from their backgrounds" (1983:23).

Specific background attributes emerge as important predictors: party affiliation, age, and particular kinds of prior experience. Others such as sex and race play a less obvious and, perhaps, insignificant role (e.g., Uhlman, 1977). Tate (1981) and Nagel (1961), for example, indicate the importance of party affiliation when they conclude that Democrats are more inclined to take liberal decision postures than Republicans. Tate (1981) also concluded that prior prosecutorial experience featured in Supreme Court decision-making in civil rights and liberties cases, while Cook (1973) pointed out that older judges were more conservative than younger counterparts in the handling of federal draft cases.

The explanatory power of background variables, when taken in isolation, is limited, and hence recent research has conceptualized the issue in a more sophisticated manner. For example, Gruhl and colleagues pointed out that background attributes are potentially affected by workgroup configurations. Earlier, Adamany (1969) emphasized the fact that background attributes do not have the same impact in all situations. These qualifications underscore our emphasis on contextualization. Specifically, we argue that the power of background attributes in explaining judicial decision-making is potentially conditioned by the court and community contexts in which judges function. We will return to this point at the end of this section.

Related to research on judicial background are studies of judicial role orientation and attitudes. Here, attention has focused on the role orientations of Supreme Court and other federal judges (e.g., Howard, 1977;

Vines, 1964), and to a lesser extent the perspectives and positions of trial authorities (e.g., Gibson, 1978b). The bulk of research in this area has concentrated on the development of role typologies (Gibson, 1983:18). However, Hogarth's earlier and classic study of Canadian magistrates emphasizes the relationship between roles, attitudes, and background characteristics. Judicial background helps predict attitudes and function, as does the composition of the surrounding community. To some extent, however, judicial decision-making is personal and idiosyncratic, and it is the idiosyncratic character of decision-making that makes essential the collection and analysis of qualitative data, discussed in greater detail below.

Research addressing the second question, how do court workgroups and organizations affect judicial decisions, was undertaken once the limitations inherent in the case attribute approach became apparent. In Felony Justice, Eisenstein and Jacob use their frustration with the case attribute approach as a fruitful point of departure.

Public understanding of felony disposition and how felony courts make decisions remains murky despite numerous explanations. Some explanations focus on the characteristics of defendants; others emphasize the characteristics of decision-makers. Still others focus on the operation of legal procedures. The trouble is that none adequately explains the variety of outcomes that we observe in felony courtrooms. Moreover, they conflict with one another. (1977: 5)

Explicitly grounding their analysis in organizational theory, Eisenstein and Jacob considered three criminal courts and paid particular attention to the workgroup structures in each. Other studies of criminal courts and sentencing have been guided by an organizational perspective that viewed criminal courts as simply another classically bureaucratic problem (for a review see Jacob, 1983a). The relevant question for analysis, then, was

how do small cadres pursue their own interests with the limited resources under their control.

Related to the above research is work on the effect of case-processing variables on sentencing (Hagan and Bumiller, 1983: 3). Included here are studies estimating the effect on sentencing of guilty pleas (e.g., Uhlman and Walker, 1979); type of counsel and bail status (e.g., Lieberman et al., 1972); pre-sentence recommendations (e.g., Hagan, 1975; Myers, 1979; Talarico, 1979a); and other pre-trial decisions (e.g., Bernstein et al., 1977). These studies suggest that sentencing depends on the defendant's position in the court organization (i.e. plea, bail) and on the previous decisions and recommendations of other court personnel.

In sum, court research suggests that a comprehensive understanding of sentencing must explicitly integrate court with case contexts, thereby examining the interplay between the case under consideration and the court responsible for considering the case.

#### RESEARCH ON COMMUNITY CONTEXTS

Our emphasis on the community or environmental context draws on research from both political science and sociology. In political science, research has examined the degree to which federal judges are constrained or affected by local culture (e.g., Peltason, 1961). Research has also focused on variations in federal court sentencing across the country (e.g., Richardson and Vines, 1970), in state appellate processes (e.g., Atkins and Glick, 1976), and in trial courts (e.g., Eisenstein and Jacob, 1977). Attention has also been given to variations within single states (e.g., Neubauer, 1974). Additionally, research examines the relationship between criminal court processes, including sentencing, and cultural and environmental forces in specific, isolated jurisdictions (e.g., Dolbeare,

1967; Eisenstein and Jacob, 1977; Levin, 1977), in state appellate courts (e.g., Atkins and Glick, 1976), in specific kinds of cases (e.g., Vines, 1964; Markham, 1972; Cook, 1973, 1977), and in state-wide sentences imposed for a given crime (e.g., Kuklinski and Stanga, 1979). These studies, limited as they are in scope and sample, demonstrate the importance of community or cultural variables in the understanding and explanation of judicial decisions.

More recent studies have built on this tradition. Among them are Ryan's study of misdemeanor sentencing in Columbus (1980); his collaboration with Ragona in a four-city study (1983); and Nardulli and colleagues' efforts to apply a multi-contextual model to a nine court study encompassing three states (1983). To date, common trends or patterns have not emerged, largely because many studies use qualitative methods. Yet taken together, they underscore the need to examine courts from what organizational theorists describe as an open systems perspective (Katz and Kahn, 1966).

The literature in sociology also emphasizes contextual or community analyses, focusing primarily on the relationship between urbanization, its correlates, and penal sanctions (e.g., Schwarz and Miller, 1964; Wimberley, 1973; Spitzer, 1975; Hagan, 1977; Austin, 1981). As recently as 1981, Thomas and Zingraff exhorted criminologists to focus on a variety of contextual factors. To date, there has been some research, albeit embryonic in character, that looks at the general relationship between urbanization and penal sanctions and that tests the particular impact of rural and urban correlates on sentencing (e.g., Hagan, 1977). We will refer to this literature in subsequent chapters of this report.

## CONTRIBUTIONS OF THIS STUDY

Our study extends the research previously summarized and takes the investigation of sentencing decisions and processes into new areas. We focus on the sources of sentence disparity in the judicial circuits of the State of Georgia and look at the relationship between case, court, and community contexts. Specifically, we consider how these factors, alone and in interaction with each other, affect sentencing. Our research strategy provides a more comprehensive examination of the impact of case attributes, and more extensive analyses of the effect of court and community-related variables.

Though theory will guide our inquiry, we do not provide empirical tests of formal theory. We seek rather to develop a substantive theory of sentencing. By comparing sentencing decisions and processes in Georgia's forty-two judicial circuits, we hope to develop a sentencing model that contextualizes the decision in its broader environment. Recognizing that courts do not function in isolation and that judges and other officials are, to some extent, creatures of their environments, we argue that only by examining the interaction of the three levels previously identified can we come to an understanding of how sentencing decisions are made, what patterns result, and what are the implications for both public policy and political theory.

Central to our approach is the recognition that quantitative and qualitative models bear on most issues of social concern. While statistical evidence tells us what patterns characterize a broad array of decisions and processes, qualitative data help breath life into numbers. To be sure, evidence obtained from qualitative analyses can be

criticized as impressionistic and anecdotal. It does, however, help to illuminate the statistical evidence uncovered and to suggest both additional avenues of research and alternative interpretations.

The quantitative portion of our study forms the bulk and base of the analyses. We conduct case level analysis, and examine selected aspects of both court and community. Our concern lies with estimating whether and how the court and community affect both the sentencing decision itself and the criteria judges use when sentencing.

## RATIONALE FOR A STATE-WIDE STUDY

We chose to examine sentencing in a single state for several reasons. First, criminal laws and sentencing systems are organized on a state-by-state basis. Though the federal criminal code includes a range of criminal prohibitions and is in force nationally, the bulk of criminal law is defined and applied on the state level. Second, most reform efforts are introduced on the state level. Proposals for definite, presumptive and guideline sentencing, as well as mandatory minimum schemes, have all been introduced and in many cases implemented on the state level. In order to appreciate the feasibility of state reform efforts, or at the minimum to gauge the likelihood of resistance to change, it is necessary to understand what is happening across a state and within jurisdictions that comprise it.

Georgia is a particularly fruitful subject for a state-wide study of felony sentencing. First, there is considerable variation in sentencing across circuits, both within and across crime categories. Second, while many other states are currently enacting major or systematic change in their sentencing systems, Georgia maintains an indefinite sentencing

structure that is not likely to be systematically altered in the foreseeable future (Fairchild et al., 1984). This scheme gives judges substantial discretion and has prompted much of the concern about disparity of treatment. Third, the forty-two circuits responsible for felony sentencing respect county boundaries and encompass between one and eight of the state's one hundred and fifty-nine counties. Counties range from urban SMSA's (e.g., Atlanta, Albany, Augusta, Columbus, Macon, and Savannah) to distinctly suburban counties (e.g., Cobb) and the rural farmlands of the southern (e.g., Tift) and northern sectors. In short, the state exhibits the full range of major urban, suburban, and rural counties. Moreover, judges within a multiple-county circuit preside in individual counties. There are no circuit courthouses. Thus, not only do counties vary in composition, but they are also viable entities during the prosecution and sentencing of felons.

Finally, Georgia is reputed to have a harsh, repressive criminal justice system (e.g., Pollock, 1983). Mixed evidence of racial discrimination (e.g., Cox et al., 1983), high rates of incarceration (National Clearinghouse, 1976; Cantwell and Greenfeld, 1984) and an apparent disproportionate number of capital sentences provide the basis for substantial concern and criticism. These features of punishment call for a detached, systematic study of sentencing in the state.

#### OUTLINE OF REPORT

Chapter II provides an overview of sentencing in Georgia, directing attention to the history of sentencing in the State, the statutory provisions in effect during the time period of this study, and a review of

the major sentencing approaches advanced by Georgia judges, district attorneys, and other court officials. Chapter III describes data sources and sampling procedures, and discusses the measurement of variables and the analytic strategies used. It concludes with a statement of expectations analysis will explore.

Chapter IV reports the findings for the first of four sentencing outcomes, type of sentence, dichotomized as probation or imprisonment. Chapter V focuses attention on those offenders receiving only probationary supervision, and analyzes the length of their sentences. Chapter VI examines the sentencing of offenders who received a combination of imprisonment and probation after prison. Our analysis of split-sentences focuses on total sentence length and on the proportion of the total sentence that mandates imprisonment. The final sentencing outcome, explored in Chapter VII, is the length of prison sentences for those offenders receiving only a term of incarceration. The final chapter summarizes our findings and discusses their significance for both theory and policy.

## CHAPTER II. SENTENCING IN GEORGIA: AN OVERVIEW

### INTRODUCTION

Before examining sentencing variation in Georgia's Superior Courts and its case, court, and community determinants, it is necessary to review the state's sentencing laws and related perspectives of court authorities. Specifically, we look at variations in sanction philosophy as they are reflected in law and in the opinions of court authorities. This is important because wide-ranging and sometimes conflicting legal provisions related to the purpose of criminal law typically are accompanied by broad grants of discretionary authority. This discretion potentially accentuates the importance of the case, court, and the community during sentencing, especially if court authorities themselves do not agree about the appropriateness of particular sanction policy schemes. In short, when the criminal law provides little direction and when there is little consensus among court authorities as to the law's purpose, case, court and community contextual factors enter into decision-making.

### GEORGIA'S SENTENCING SYSTEM

In spite of the plethora of sentencing reform schemes introduced in state legislatures across the country, the majority of states still permit broad judicial discretion in sentencing and extensive discretion in parole release decision-making (Bureau of Justice Statistics, 1983: 2). Although some states have eliminated parole board discretion in release decision-making (e.g., Connecticut and Maine) and others have restricted

judicial discretion by substituting new systems (e.g., California), most maintain the indefinite system that has characterized criminal codes in this century.

Georgia is one of the states that has retained the indefinite sentencing structure in which courts have considerable authority in setting both the type and term of punishment. Additionally, the parole board in Georgia, with its authority in release decisions, functions as an important determinant of actual time served. When describing Georgia's system as indefinite, however, certain qualifications are in order. First of all, the sentencing structure is sometimes classified as determinate/indeterminate (Hand and Singer, 1974). Second, crime-specific definite sentences have been set for a small number of offenses.

In the 1974 survey of sentencing computation laws conducted by the American Bar Association, Georgia was categorized as a determinate/indeterminate sentencing state. The determinate classification fell on Georgia's provision for setting a specific sentence within legislatively prescribed minimum and maximum terms. Specification of a determinate sentence, however, did not rule out early release on parole or "good time" calculation. In fact, release is typically considered for all imprisoned felons after one-third of the court-imposed sentence has been served (Morelli *et al.*, 1981:24). A determinate sentence simply meant that the jury (before 1974) or the judge (after 1974) had to decide on a specific term within a broad range specified by statute. The end result of Georgia's determinate system, then, closely if not identically approximates an indefinite system.

After judge sentencing replaced jury sentencing in 1974, the state legislature modified the penal code to allow for definite sentences for

three crimes. For armed robbery, repeat burglary, and drug trafficking, minimum terms of punishment were mandated. In this sense, the terms are more determinate because the judge cannot probate or go below the required minimum. They are not definite, however, because judges may sentence in excess of the minimum. Even in these cases, however, parole release is still possible, especially as a "safety valve" against prison overcrowding (Morelli *et al.*, 1981:24).

#### DEVELOPMENT OF SENTENCING LAW

##### PRE-1974 DEVELOPMENTS

The mixture of definite and indefinite sentencing provisions in Georgia's standing criminal code reflects the confusing and directionless character of the state's general sentencing law. The following examination of the development of that law reveals both support for a range of sanction philosophies or policies and haphazard and unsystematic definitions of sentencing provisions.

As Surrency points out in his analysis of the Georgia Criminal Code of 1816 (1979: 420), after the Revolution several states dramatically departed from their reliance on English common law. It is interesting to note, however, that the English common law became part of Georgia's law by specific acts of the state's courts and legislature before and after the Revolution. In 1770, for example, the provincial assembly in Georgia adopted a resolution that endorsed the common law and expressly guaranteed certain rights for colonists, such as jury trial. In 1784, the common laws of England were declared "in force" in Georgia.

After the Revolution, Georgia took the lead in charting its own criminal code, including sentencing provisions. In 1810, for example, the state legislature appointed a committee comprised of members of both houses to formulate a criminal code. A year later, the committee started to define the prohibitions and corresponding penalties. Interestingly, the committee argued for proportional punishment and endorsed reformation, prevention via general deterrence, and retribution as the goals of the state's criminal law. Further, it recommended a penitentiary system and required that the new criminal code not go into effect until that system had been established.

The bill for a criminal code passed in 1811. However, the actual code never took effect because the penitentiary was not completed before the revision required for 1816. The 1816 code exhibited no dramatic or striking differences from the 1811 version. Sentences for criminal offenses were explicitly defined in proportion to the seriousness of the crime and ranged from fine or imprisonment in the county jail to imprisonment at hard labor. Capital penalties, carried out by hanging, were also specified for some offenses. All sentences were jury decisions, a feature of the state's sentencing system until 1974. Provisions for the sentencing of multiple crime offenders, repeat offenders, and good time were also included in the 1816 code. One of the most interesting features of this early 19th Century code, however, was the explicit consideration and approval of restitution as a form of punishment. In theft and malicious destruction cases, for example, the code provided for restitution to injured parties. In 1817 the Governor announced that the penitentiary was completed and the 1816 code, the first adopted in this country, went into effect (Surrency, 1979).

Between 1816 and 1831, the state legislature changed some of the punishment provisions in the criminal code, typically focusing on particular crimes. However, a major revision took place in 1833 and went into effect the following year. The interesting and relevant feature of this revision centers on provisions for consecutive sentences. While punishment for different crimes still varied between determinate and indeterminate terms, the 1833 code indicated that conviction on more than one indictment would be followed by severally executed sentences. Additionally, the 1833 code gave the judge the power to commute death sentences to life imprisonment if the conviction were based on circumstantial evidence. Provisions for habitual offenders also were included.<sup>1</sup>

Other 19th Century changes in the state's criminal justice system merit brief summary. Public executions were halted in 1857, whipping as a form of criminal punishment eliminated in 1860, and chain gangs ostensibly abolished in 1870. The actual effect of the latter change may have been limited because the term and use of chain gangs persisted well into the 20th Century.

Some late 19th Century legislative acts illustrate the cyclical nature of criminal sentences and punishment in this country, a characteristic emphasized by many observers in contemporary discussions of punishment philosophy (e.g., Dershowitz, 1977). In 1882, for example, good time provisions were extended so that four days credit would be given for good behavior instead of the previously specified two days. Four years later, the general assembly repealed that statute, substituting a different credit system based on a monthly record of convict behavior.

By the end of the 19th Century, many of the most serious felonies such as murder, manslaughter, assault with intent to rape, rape, sodomy, and arson, were punished by death with execution occurring in private. Less serious felonies were punished by imprisonment and labor in the penitentiary. Although juries recommended and handed out sentences, judges had the discretion to reduce felonies to misdemeanors and thus alter the character of the penalty. The system to implement these sentences was also fairly well established by the end of the century. A prison commission was created in 1897, and it subsequently established a Board of Pardons. During this time the prison commission also functioned as a corrections department, for it classified convicts and administered criminal punishment.

The first part of the 20th Century witnessed some dramatic changes in the state's criminal justice system. In 1908, an extraordinary session of the general assembly created a children's court. It also passed a bill creating a parole or conditional pardon system. This system required inmates to serve at least one-third or the minimum of prescribed sentence - a practice that persists today. Like many of the parole boards or commissions created during this time, the Georgia board was empowered to develop its own administrative regulations. Parole, however, could only be granted with the approval of every commission member and the governor. Interestingly, this approval was contingent on the inmate's prison record and criminal history, as the commission and governor were required to consider both factors.

The early 20th Century also witnessed the state's adoption of probation. Founded in Boston by reformer John Augustus, probation was formally recognized by statute in Georgia in 1913. The general assembly



specified that when the circumstances of the case and the public good could be served by a non-incarcerative penalty, probation was appropriate. Violation of probation, however, would result in an appearance before the court and the possibility of revocation and a prison sentence.

Prior to the 1974 abolition of jury sentencing and its replacement by judicial sentencing other modifications of note were considered and acted on by the general assembly. Examples include electrocution instead of hanging for capital punishment (1924), provisions on bailiffs acting as probation officers (1931), the equation of probation with suspended sentence (1938), provisions for jury and judge indefinite sentencing (1939),<sup>2</sup> automatic revocation of parole when a new crime is committed (1955), creation of a statewide probation system (1956), sentencing provisions for misdemeanants (1964), and credit for time served before remittance (1965).

In surveying these pre-1974 changes in the state's criminal code, one is struck by the diversity of goals ascribed for the criminal sanction, the range of penalties technically permitted in the criminal code, and the state's ostensible commitment to many of the institutions associated with the rehabilitative ethic (e.g., parole, probation, juvenile courts). Of more interest to the present study, however, are changes enacted after 1974, a topic to which we now turn our attention.

#### POST-1974 CRIMINAL CODE REVISIONS

The most substantial and far-reaching change in the state's criminal code in the past fifteen years was the abolition of jury sentencing.<sup>3</sup> Number 854 of the Georgia Acts and Georgia Session Laws 1974 (originally House Bill 127) provided that judge sentencing would replace jury sentencing except for homicide cases. Also provided were (1) indeterminate

sentences for felonies not punishable by life imprisonment; (2) habitual offender sentencing terms; (3) presentence hearings in felony cases; and (4) a sentence review system. The last provision, which applies only to sentences of five years or more, gives convicted felons the right to have their sentences reviewed by a three-judge panel, provided they apply for such a review within thirty days of sentencing.<sup>4</sup>

After 1974, the major changes in the state's sentencing system were the introduction of definite penalties for certain crimes, amendments to the 1972 Youthful Offender Act, and minor changes both in the terms prescribed for particular offenses and in the definitions of particular crimes. In a very real sense, these constitute "tinkering," because the legislature modified small portions of the criminal code and did not consider, much less pass, any extensive reforms.

Of particular interest here are the 1975 modifications or amendments to the Youthful Offender Act, the 1976 definite sentence provision for armed robbery, the 1978 mandatory sentence provisions for repeat burglary convictions, the 1978 amendments to the First Offender Act originally passed in 1968, the 1978 repeal of the Special Adult Offender Act, and the 1980 emphasis on restitution in criminal punishment. The original Youthful Offender Act, passed in 1968, provided for the treatment of young offenders by both the Juvenile Court and the Superior Court, the state's felony trial sector. The 1975 amendment focused primarily on procedures for treating youthful offenders and for revoking conditional releases by the State Pardon and Parole Board. When judges use the Youthful Offender Act option, they can either sentence to probation or sentence the youth to confinement, with the length determined by the director and division to which the youth is assigned. The former option is more frequently used.

The 1976 armed robbery and the 1978 burglary changes both required definite or mandatory minimum terms. In the case of armed robbery, judges were required to set a term of no less than five years, while with burglary, the mandatory minimum depended on the number of prior convictions. For a second burglary conviction, the judge was required to set a term of no less than two years; for the third burglary conviction, the mandatory minimum consisted of five years with no provisions for suspension, probation, or deferral of punishment in either instance.

Originally passed in 1968, the First Offender Act provided probation for a first felony conviction. Upon successful completion of probation, the offender's criminal record would be expunged. The 1978 amendment simply provided that probation would be determined after a finding but before an adjudication of guilt. The Special Adult Offender Act, passed in 1975, but repealed in 1978, provided for indeterminate terms for adults (21 years or older) and focused on treatment or rehabilitation. A special Adult Offender Division was created under the State Board of Corrections and the statute gave both the court and the corrections board and division (The Department of Offender Rehabilitation and its board) considerable discretion as to where and how the sentence would be served. Typically, indeterminate adult terms were served in minimum security institutions, training schools, and hospitals. Few offenses came under the provisions of the act, and its impact was considered minimal.

The changes introduced in the state's penal code after 1974 set the character for the sentencing structure in effect for the period of this study (1976-1982). Fundamental to that structure is judge-sentencing. Although the legislature enacted a small number of mandatory minimum provisions, the sentencing system in operation still can be characterized

as indefinite, though, as indicated earlier, some classify it as determinate. Special provisions for youthful and first offenders were operative during the period of the study, as well as the standing good time system and parole release decision-making that affect the length of time actually served. In the following section, we review the sentencing philosophies that justify the penalty system. We then summarize the perspectives of the judges, district attorneys, defense counsel, and other authorities interviewed in the course of this study.

#### PHILOSOPHY OF PUNISHMENT

The range of sanction philosophies and the variety of sentencing provisions characteristic of Georgia law reflect the national debate on the purpose of criminal law. Though related questions were highlighted in the legal, philosophical and social science literatures prior to 1974 (e.g., Packer, 1968), the publication of Robert Martinson's article on the failure of rehabilitation set off a controversy that is still raging (1974). The fundamental question is simple: Do we apply criminal sanctions with a view to rehabilitation, deterrence, incapacitation, or retribution? Rehabilitation emphasizes treatment. Though currently out of fashion, it still has adherents who argue, with Karl Menninger, that "... all the crimes committed by all the jailed criminals do not equal in total social damage that of the crimes committed against them" (1982: 28). Menninger critiques retributivist perspectives endorsing instead treatment models that focus on the causes of criminal behavior.

Although deterrence, incapacitation and retribution share many traits or features in common (see, e.g., Talarico, 1979a, 1979b), they can and

should be distinguished. Deterrence assumes that the actions and decisions of potential criminals can be affected by the nature and application of criminal punishment. If criminal penalties are obvious, definite, and swiftly applied, then criminal behavior can be prevented. Most frequently argued as a justification for capital punishment, deterrence is grounded in the utilitarian conceptions of 18th Century philosophers.

Like deterrence, incapacitation is preventive in orientation (Packer, 1968). Simpler than either deterrence or rehabilitation, it assumes that society needs to be protected from serious criminal threat and that the best way to maintain order is to make it impossible for criminals to repeat offensive behavior. Though imprisonment is not the only way to operationalize incapacitation, it is the most obvious method.

Contemporary discussions about the philosophy of punishment center on the appropriateness of retribution. Frequently confused with vengeance, it is described in a variety of ways. Von Hirsch (1976) speaks of "justice," while van den Haag emphasizes that "since punishment is imposed for a past offense, it can be more, but never less, than retribution" (1973: 10). Consideration of punishment as the purpose of criminal law inevitably stimulates debate on the issue of proportionality, the appropriateness of vengeance, the type and form of specific penalties, and the institutions (e.g., PSI) designed to facilitate the sentencing process. Additionally, it also raises issues of value conflict. As Packer (1968) demonstrated in The Limits of the Criminal Sanction, we cannot ignore either retributive or preventive goals in criminal law.

It is not the purpose of this study to conclusively identify the punishment philosophy that motivates Georgia's judges, district attorneys, defense attorneys, and corrections authorities. Rather, we seek to

identify and explain the sources of sentence disparity. But we obviously cannot do so unless we consider, albeit tentatively, the perspectives that appear to guide sentencing authorities. Such a consideration helps to embed specific empirical results in a broader context so that the evidence we uncover may be brought to bear on the most pressing issue of criminal law, namely, what do we hope to achieve when we sentence convicted offenders.

More importantly, it is our contention that the range and variety of sanction philosophies espoused by court authorities in the state intensify the significance of the case, court, and community factors that potentially affect the sentencing process. The state's sentencing law gives courts substantial discretion in decision-making. The current and controversial debate on sanction philosophy provides little direction. In identifying, even tentatively, the perspectives of Georgia's court authorities we provide a framework for empirical analyses of sentencing patterns. Furthermore, we search for clues and potential hypotheses to guide our research on the importance of case, court, and community contexts in this judicial process.

#### PUNISHMENT PHILOSOPHY IN GEORGIA

Punishment philosophies among Georgia's judges, district attorneys, defense attorneys, and corrections authorities range from espousal of the rehabilitative ethic to endorsement of retributivist priorities. It is impossible to speak of modal sanction perspectives because few judges, district attorneys or probation officers share identical philosophies. In this section, we offer representative illustrations derived from site visits to some of the state's forty-two judicial circuits. We also offer

tentative patterns that help direct our empirical scrutiny of sentencing decisions.

In illustrating the punishment philosophies of criminal justice authorities in the state, we examine three phenomena: (1) explicit responses to questions on sanction philosophy; (2) the degree to which judicial circuits and their personnel rely on tools related to specific philosophies; and (3) the general reputation of those in the circuit visited. In the course of the study, we visited eleven of the state's forty-two judicial circuits. Circuits for visitation were selected on the basis of the following criteria: (1) geographical region of the state; (2) degree of urbanization; (3) size of court (number of judges); and (4) size of circuit (whether consisting of single or several counties).

Georgia has three distinct regions, the mountainous north, the agrarian central and southern plains, and the coastal sector. Each has a distinct, widely acknowledged character. The northern sector includes some counties that did not join the state in the Confederacy. The climate, rough terrain, and affinity with the appalachian heritage of Tennessee have fostered independence, reticence, and a sense of vigor. The agrarian central and southern plains contains most of the state's land mass and farmlands. The pace in this region is slower, the politics traditionally conservative and populist. The coastal region includes Savannah, the major port city. Resort areas dot the coastline and industry centers on trade and tourism. The area more closely resembles the old society of Charleston with its rich history and more diverse population (see Coulter, 1960; Coleman, 1977).

Because the social science and legal literatures (e.g., Glenn and Hill, 1977; Booth *et al.*, 1977; Webb and Collette, 1977; Drake and

Williams, 1979) demonstrate the importance of the rural-urban distinction, we visited circuits representing both ends of the spectrum. The small-town, isolated, and slower-paced rural courts have received little sustained empirical scrutiny, partly because they handle few cases and partly because rural court personnel tend to resist outside investigation. Recognizing that these courts do not handle the vast majority of criminal cases, it is still necessary, nonetheless, to compare their sentencing processes and the sources of sentencing variation with those of the large, heavy-docketed urban courts.

During the time frame of our study (1976-1982), judicial circuits were presided over by between one and eleven judges. While sanction philosophy does not suggest specific hypotheses about the relationship between the number of judges and case outcome, the general literature on judicial decision-making has considered this avenue worth exploring. In studies of appellate court processes, for example, the nature and extent of interaction among judges play potentially critical roles in decision-making (See, e.g., Danelski, 1961; Ulmer, 1963; Murphy, 1966; Richardson and Vines, 1968). Since judges who function in isolation may approach the sentencing responsibility differently from their counterparts in multiple-judge circuits, we visited courts in both types of circuits.

Judicial circuits in Georgia consist of between one and eight counties. Given the importance of the county as a political and social unit, it is possible that circuits with considerable heterogeneity in county characteristics would vary from circuits coterminous with a single county. In fact, judges in multiple-county circuits observed that court practices and judicial perspectives are shaped by contrasting county characteristics. Although the literature gives no specific clues as to

patterns, we expected multiple-county circuits, then, to vary from single-county jurisdictions. We also were interested in observing whether counties put any pressure on judges to the extent that contrasting sentencing perspectives or patterns existed within a single circuit across counties.

In addition to visiting circuits that met the four criteria of geographic region, urban-rural distinction, number of judges, and number of counties, we selected circuits with contrasting patterns of aggregate sentencing to insure that we visited courts with sufficient sentence variation. These patterns included the percentage of felony sentences probated, the percentage of straight prison terms, and the percentage of split sentences. Circuits that differed from the overall mean (e.g., lower than the average use of split sentences) were selected for on-site scrutiny.

Table 2-1 lists the eleven circuits we visited and summarizes their ranking along the criteria used for selection. From this point on, however, we will refer to circuits only in general terms to avoid any breach of the confidentiality promised in the course of research.

In each of the eleven circuits, we requested interviews with judges, district attorneys, members of the defense bar,<sup>5</sup> probation officers, law enforcement authorities, local government officials (e.g., mayors, city managers, county commissioners), and newspaper editors and reporters. When circuits operated unique and rather unusual court-related programs,<sup>6</sup> interviews with other personnel were also requested. Few requests were denied. Interviews ranged from forty-five minutes to two and a half hours and confidentiality was guaranteed in every instance. Circuit interviews were conducted over a period of three to five days in each circuit, with

Table 2-1. Circuits Selected for Site Visits and Selection Criteria

<u>Circuit</u>	<u>Sentencing Pattern</u>	<u>Region</u>	<u>Area</u>	<u>Selection Criteria</u>		<u>Population</u>	<u>Caseload</u>	<u>Crime Rates</u>
				<u>Number of Judges</u>	<u>Number of Counties</u>			
Augusta	high prison	coastal/ east	semi- urban	multiple	multiple	average	lowest	low
Chattahoochee	high prison	south- west	urban	multiple	multiple	large	moderate	average
Cobb	very low prison	north- central	suburban	multiple	single	large	moderate	very high
Dougherty	very low prison	south- central	rural	multiple	single	average	lowest	very high
Eastern	low prison	coastal	semi- urban	multiple	single	average	moderate	very high
Fulton	low prison	north- central	urban	multiple	single	largest	high	very high
Griffin	very high prison	central	suburban	multiple	multiple	average	lowest	low
Houston	very low prison	south- central	rural	single	single	small	lowest	average
Mountain	low prison	north	rural	single	multiple	small	lowest	very low
Piedmont	high prison	north	rural	single	multiple	small	lowest	very low
Tifton	high prison	south	rural	single	multiple	small	lowest	low

additional follow-up visits in some instances. Interviews were designed to obtain information about personal experiences and backgrounds, ideological and political perspectives, and opinions on specific issues related to sentencing. In addition to personal interviews, project directors and staff also observed court processes, spoke informally with some defendants and witnesses, and occasionally gathered additional information in the form of memos, annual reports, and program brochures.

The diversity of responses indicated that we can not generalize to Georgia courts as whole, nor can we draw a definitive picture of the perceptions of a class of authorities (e.g., judges) within the state. Some patterns, however, did emerge. Rural judges, for example, were not uniformly punitive or retributivist in orientation. In one circuit, the judge responsible for most criminal sentencing<sup>7</sup> did not endorse the retributive or punitive perspectives frequently thought to characterize rural justice. Even though this judge explicitly refused to endorse the rehabilitative ethic, he frequently imposed probation rather than imprisonment for youthful offenders, first offenders, and offenders without serious criminal histories. He also frequently relied on diversion centers for alternative treatment. His sentencing posture was well known in the circuit and though some were critical of leniency in some cases, the majority of people interviewed were not critical of the judge nor precise in a description of his sentencing philosophy. One defense attorney observed that he "...didn't know what his philosophy was, but that he tries to be consistent in his sentences. He thinks it out real well." While judges in other rural circuits were not inclined to use what are regarded as non-punitive sentencing alternatives, this judge was by no means alone in his preference for less retributive forms of criminal punishment.

Personal experience and background appeared to figure in judicial sentencing philosophies. For example, one judge in a suburban circuit was described as being especially harsh with convicted burglars. According to other authorities in the circuit, this punitiveness was ascribed to his own victimization. More generally, we found that a considerable number of Superior Court judges served as district attorneys prior to their election to the bench. These judges seemed more prone to adhere, at least rhetorically, to punitive sanction philosophies. In one instance, a defense attorney observed that a former district attorney on the bench still thought he was serving as the prosecutor. For the defense attorney in question, this meant that he had both "...the DA and the judge trying the case against him."

Few judges explicitly endorsed rehabilitative principles. One rural judge clearly embraced that philosophy, reportedly because of his experience in corrections prior to service on the bench. In most circuits, judges with non-retributive orientations adopted a more realistic and less ideological posture. Commenting that prisons don't work and that not much was achieved by punishment, one judge said he was simply a realist. Prisons were crowded, sentencing alternatives were limited, and the cost of incarceration high for all concerned. In his mind, then, sentencing was simply an effort to find the least damaging alternative. During sentencing, these judges reported that they relied on rehabilitatively-related sanction tools (e.g., presentence reports, diversion centers, youthful offender provisions), but that they did not do so out of ideological conviction. They simply were trying to make the best of a difficult situation.

Other circuit authorities displayed more pronounced and to some degree more patterned sanction perspectives. District attorneys, for example,



frequently commented that they worked with police and were only concerned with the public's safety. They endorsed either deterrent or retributive objectives in the pursuit of public safety and never gave any credence to rehabilitative norms. As one judge observed, "district attorneys drink a pint of blood for breakfast."

One might expect defense attorneys and probation officers to be more sympathetic to treatment concerns and more ideologically committed to the rehabilitative ethic. This was not the case in the circuits we visited. While some probation officers emphasized the service or rehabilitative function of their office, most seemed to adopt the more realistic posture of the "non-punitive" judges. In some cases, probation officers were simply burdened with excessively large caseloads (over two hundred in some instances). In others, they were so occupied with pre-sentence report compilation that they simply did not have the time and eventually the inclination to endorse a treatment job description.

Defense attorneys were far more cynical than probation officers with respect to sentencing ideology. Both full-time public defenders and court appointed counsel appeared to focus on issues of procedural justice. Openly skeptical of the rehabilitative ethic and its underlying assumptions, they simply were anxious to get the best possible deal for their clients. Commenting on the circuit's probation office, one defense attorney concluded that "...there's no value in the way probation is done. They're not supervised. They check in once a week. 'How are you doing? Have you got a job yet? Are you staying out of trouble? Are you drinking?' And out the door they go." While some members of the defense bar adopted a more adversarial stance and challenged some of the state's retributivist focus, most were skeptical of any pronounced sanction philosophy and cynical that the system served any purpose at all.

Given our interest in the community context of court processes, we asked all respondents about the climate of public opinion in the circuit. Admittedly, we are dealing with impressionistic evidence, but the responses helped confirm our interest in examining community linkages more systematically. For example, many district attorneys observed that the public was generally hard-lined and dissatisfied with lenient sentencing, that is, the use of probation and shorter prison terms. Others commented that however opinionated people were, many were frequently misinformed. One defense attorney observed that "...the people generally don't have a very good idea of what's going on," while one judge commented that if people knew the facts of given cases, some of their criticisms would be muted. In many of these instances, court authorities singled the press out for criticism and observed that the sheer volume of newspaper coverage contributed to public apprehension and concern. Most court authorities did not think the amount or kind of coverage accurately portrayed the crime picture, thereby contributing to public misperception.

Circuit authorities typically described their own and neighboring circuits as "hanging" or lenient. Whether guided by specific ideological preference or not, judicial sentencing patterns were fairly well-known in the immediate vicinity. Authorities were equally aware of a circuit's reliance on particular sentencing options and tools, and frequently drew comparisons with contrasting courts. In one circuit noted for its reliance on probation, one probation officer said that there was considerable difference among circuits in the immediate vicinity. "You might go to \_\_\_\_\_ County where a man gets sentenced for twenty years in prison for the charge of burglary, but in \_\_\_\_\_ County you get twenty years probation." In a circuit reputed to have one of the toughest sentencing

postures in the state, a defense attorney commented that clients occasionally did not know they were in that circuit and expressed considerable shock and dismay when told they would appear before Judge \_\_\_\_\_ for sentencing. These circuits prided themselves on stiff sentences, a pattern borne out by initial statistical analysis.

#### SUMMARY

At this point we can draw some general, albeit tentative, conclusions about both the character of sentencing law in Georgia and the perspectives of circuit authorities related to issues of sanction philosophy. It is obvious that several sanction philosophies have been endorsed in various provisions of the criminal code, whether explicitly in the case of deterrence and restitution or implicitly in the case of rehabilitation and retribution. Evidence of rehabilitation can easily be found in the treatment-based sentencing alternatives endorsed by the legislature (e.g., Youthful Offender Act, First Offender Act, establishment of diversion centers). Perhaps the clearest example of the legislature's support for rehabilitation can be found in the indefinite sentencing structure that characterizes the state's system. Since indeterminate/indefinite sentencing systems can only be justified on rehabilitative grounds (See Talarico, 1979a, 1979b), this feature of the state's sentencing law stands as the most consequential policy decision. Whether or not rehabilitative norms are endorsed by either members of the general assembly or circuit authorities, the persistence of the indefinite sentencing system betrays that orientation. In practical terms, it means that courts have substantial discretion in sentencing and that a variety of factors potentially affect the sentence decision.

Regarding the sanction philosophy perspectives of circuit authorities, five conclusions are offered. First, it appeared to us that judicial perspectives and circuit patterns were fairly well known in the circuits themselves and in adjoining circuits. To be sure, we did not obtain any reliable measures of public opinion in the site visits, but court officials were quick and consensual in their characterizations.

Second, most of our discussions of sentencing philosophy frequently turned on the decision to incarcerate. Though some authorities were quick to comment on sentence length, most associated leniency with the use of probation and punitiveness with incarceration, regardless of the term. Evaluations of sentence length for those incarcerated were introduced when the respondent discussed the impact of plea bargaining even though most observed that such bargaining, when it occurred, focused on the charge and not the sentence.

Third, the relationship between the judge and district attorney, particularly in relation to sentencing perspectives and punishment philosophy, surfaced as an interesting subject of inquiry in its own right. When we explored the dynamics of that relationship, especially the district attorney's role during sentencing, we were struck by the near symbiotic character of the judge-district attorney relationship. While some described the issue as a "chicken and egg" question, it appeared that district attorneys sought to identify the judges' sentencing preferences and then tailored recommendations to conform to them. In some instances, it appeared that prosecutors were primarily interested in obtaining a conviction and less concerned about the specific penalty. In these situations the district attorney's objective was realized and the judge maintained his sense of sentencing responsibility, thus substantiating the symbiotic character of their relationship.

Fourth, we were struck by some features of court-community interaction. In many circuits, district attorneys and judges explicitly told us that outsiders were treated more harshly than "natives," that punitive terms of punishments were rarely applied to defendants born, raised, and living in the circuit, that some crimes were regarded by circuit residents as particularly serious even if penal code provisions did not rank them as such, and that the economic and demographic structure of the circuit affected official perceptions of both crime and punishment. In one circuit, for example, the district attorney remarked that burglary and armed robbery were the offenses he considered critical. Aggravated assault, which carries a more severe term of punishment in the penal code, was not viewed as serious because typically that involved "... one nigger cutting up another."

Finally, we were impressed by the degree to which non-judicial court members seemed to emphasize personality in their assessment of judicial sentencing practices. Many respondents contended that some judges could probably adopt any sentencing posture or philosophy they wanted if they were "decent guys." Sentencing philosophies that seemed to deviate from expressed community norms were tolerated if not endorsed if the judge in question were well liked and respected. This seemed to feature in circuits where judges exhibited considerable leniency in sentencing.

#### STATEMENT OF BASIC PROPOSITION

As the previous sections demonstrate, the penal code reflects a wide range of sanctioning schemes and sentencing directives. Additionally, court authorities in the eleven site circuits voiced a range of sanction

policies and approaches to sentencing. Hence, it is not surprising that there is considerable variation in the use and severity of sentences actually imposed on convicted felons. As we search for and test alternative explanations for this variation, we are guided by two distinct bodies of information. As explained in the first chapter, we turn to the existing literature for our emphasis on three sentencing contexts: case, court, and community. We build on this literature and extend this approach by testing specific hypotheses related to the impact of case, court, and community variables on sentencing. It is our basic proposition, then, that sentencing is a function of a variety of factors that stem from a consideration of case, court, and community variables acting not only in isolation but in interaction with each other. For additional direction, we look to the impressions and information gleaned from the site visits. Specifically, we use that evidence to guide the definition of some of our hypotheses and to provide a framework for the analysis of statistical evidence.

In the following chapter we will provide more specific information on the variables included in these three contexts, explain how these variables were operationalized, and offer basic information on their distribution and correlation. Additionally, we will outline the sources of our data.

## NOTES

1. Concern with habitual offenders carried over into later legislative sessions and deliberations. For example, in 1843 a provision subjected any person convicted of a crime carrying a penalty of imprisonment or labor in a penitentiary to a sentence of hard labor at subsequent convictions.
2. Note that the jury set minimum and maximum terms for cases tried, but when a defendant entered a guilty plea, the judge had the authority to specify the punishment.
3. It is important to note the 1968 penal code revision in this discussion. Though that revision did not significantly change sentencing provisions, it constituted a major change as substantive offenses were redefined and categorized (see Kurtz, 1980).
4. Sentence review panels are drawn from the ranks of Superior Court judges. These panels have the authority only to decrease terms of incarceration. Though widely regarded by many judges as a successful effort to eliminate sentence disparities, the review panels leave most sentences intact and do not have the opportunity to examine disparities in sentence type, perhaps the most consequential variation in the system.
5. There is no statewide system of public defense in Georgia's Superior Courts. While some counties (e.g., Fulton and DeKalb) maintain public defender systems, the majority of circuits rely on court-appointed counsel for indigent defense.
6. For example, in one circuit the judge instituted an experimental program that coincided with, but operated independently of, the

probation system. In that instance, we explicitly asked to interview those program authorities.

7. In multiple-judge circuits, judges typically shared civil and criminal responsibilities with cases evenly divided among them. This division consisted of civil cases, criminal cases, and domestic relations. However, there were multiple-judge circuits where the judges chose to focus on certain types of cases. In one instance, a two-judge circuit, one judge had almost exclusive jurisdiction over criminal cases, while the other concentrated on civil cases.

## CHAPTER III. METHODS

### OVERVIEW

In this chapter, we describe our sampling procedure; the measurement and distribution of all variables; the analytic strategies used; and the hypothesized relationships analysis will be exploring.

Tables 3-1 and 3-2, along with Figure 3-A, present the distribution of the dependent variables. Tables 3-3 and 3-4 present the case-context variables for probationers and for the subsample of prisoners. Our court context variables, presented in Table 3-5, include the following sets of characteristics: Bureaucratization, Prosecution Characteristics, Judicial Composition, Judicial Experience and Activism, and Judicial Electoral Vulnerability and Local Involvement. County context variables, displayed in Table 3-6, consist of measures of county urbanization, economic inequality, the division of labor, political character, crime character and newspaper coverage of crime. The reader is referred to Appendix Table III-A for the sources of court and county information.

### CASE CONTEXT

#### SOURCES

Since our concern lies with felony sentencing, our core data set includes sentencing outcomes and the characteristics of felons sentenced in Georgia between 1976 and June 1982. The Department of Offender Rehabilitation compiles, and made available, two separate data sets. The first consists of all persons (except those in Fulton and DeKalb Counties,

discussed below) sentenced to probation. For our purposes, useful information includes the length of probation terms, the social background characteristics of sex, age and race, and the conviction charge.

The second data set consists of all persons sentenced to prison or to a combination of prison and probation. A much richer data source, it includes length of incarceration and, for those sentenced to prison and probation, the length of probationary supervision. Also included is offense information, some measures of prior record, and relatively detailed offender background information, including social class indicators.

The two files were combined to permit analysis of type of sentence (probation vs. prison) and for sampling purposes. From this master file of over 160,000 cases, we drew a stratified random sample of convicted felons (N=16798). Sampling was stratified to ensure adequate representation of all counties. Thus, sampling percentages (1, 5, 10, 25, 50 and 100) were based on the number of offenders sentenced in the county, and decreased as the population of convicted offenders increased.

The probation data from the Department of Offender Rehabilitation were incomplete in an important respect, namely, they lacked information on offenders from Fulton and DeKalb Counties who had been sentenced to probation. Both counties have separate probation departments and do not forward information to DOR. We therefore drew two additional samples, for the period 1974 to June 1980,<sup>1</sup> from these jurisdictions.

For Fulton County, we drew a sample<sup>2</sup> of approximately 445 cases from case management records kept by the Clerk of the Superior Court, and transferred this information to codesheets. For DeKalb County, we devised a codesheet (Appendix III-B) and together with law students, transferred information to codesheets from a random sample of 1240 prosecutor files.

Reliability was enhanced by random checks on coder accuracy, conducted by co-principal investigators or other law students.

Both data sets were subsequently reformatted to produce comparability with DOR data, and merged with the stratified random sample of 16798 offenders. The total case context sample consists, then, of 18,483 offenders, of which 11703 or 63.3% were sentenced to probation, 2,849 or 15.4% were sentenced to a combination of prison and probation, and 3,931 or 21.3% were sentenced only to prison.

#### VARIABLES

##### Dependent Variables

Table 3-1 presents the distribution of sentencing outcomes for the sample. For purposes of analysis, the first outcome, type of sentence is dichotomized into probation (0) or prison [split sentence and straight prison (1)]. Yearly breakdowns of sentence type, presented in Table 3-1 and graphed in Figure 3-A, show two trends. First, the use of split sentence has remained relatively stable and constitutes a minority of outcomes. Second, and partly in response to prison overcrowding, prison has been used less often, while probationary supervision has been used with increasing frequency. It is worth noting that these trends differ from the judicial perception of sentencing trends, which includes the notion that split sentences have become increasingly more common in recent years. Our data reflect no such change.

The remaining dependent variables, presented in Table 3-2, are (1) length of probation, in years, for persons receiving only probation; (2) the total length of sentences for persons receiving split sentences; (3) the proportion of split sentences mandating incarceration; and (4) length of prison for persons receiving straight prison terms. Note that rather

Table 3-1. Sentence Type, by Year

Year	TYPE OF SENTENCE			N
	Percent Probated	Percent Split Sentence <sup>a</sup>	Percent Prison	
1974 <sup>b</sup>	70.4	7.2	22.4	125
1975 <sup>b</sup>	61.0	12.0	27.1	251
1976	52.0	16.0	32.0	2076
1977	55.7	15.4	28.9	2338
1978	60.1	14.8	25.2	2337
1979	68.9	13.3	17.8	3519
1980	66.7	16.4	16.9	3648
1981	66.1	17.5	16.3	2886
1982 (June)	<u>69.8</u>	<u>15.4</u>	<u>14.7</u>	<u>1303</u>
TOTAL	63.3	15.4	21.3	18483

<sup>a</sup>Split sentence refers to a sentence of prison, followed by a specified term of probationary supervision.

<sup>b</sup>Data based Fulton and DeKalb Counties only.

Figure III-A  
Sentence Type by Year

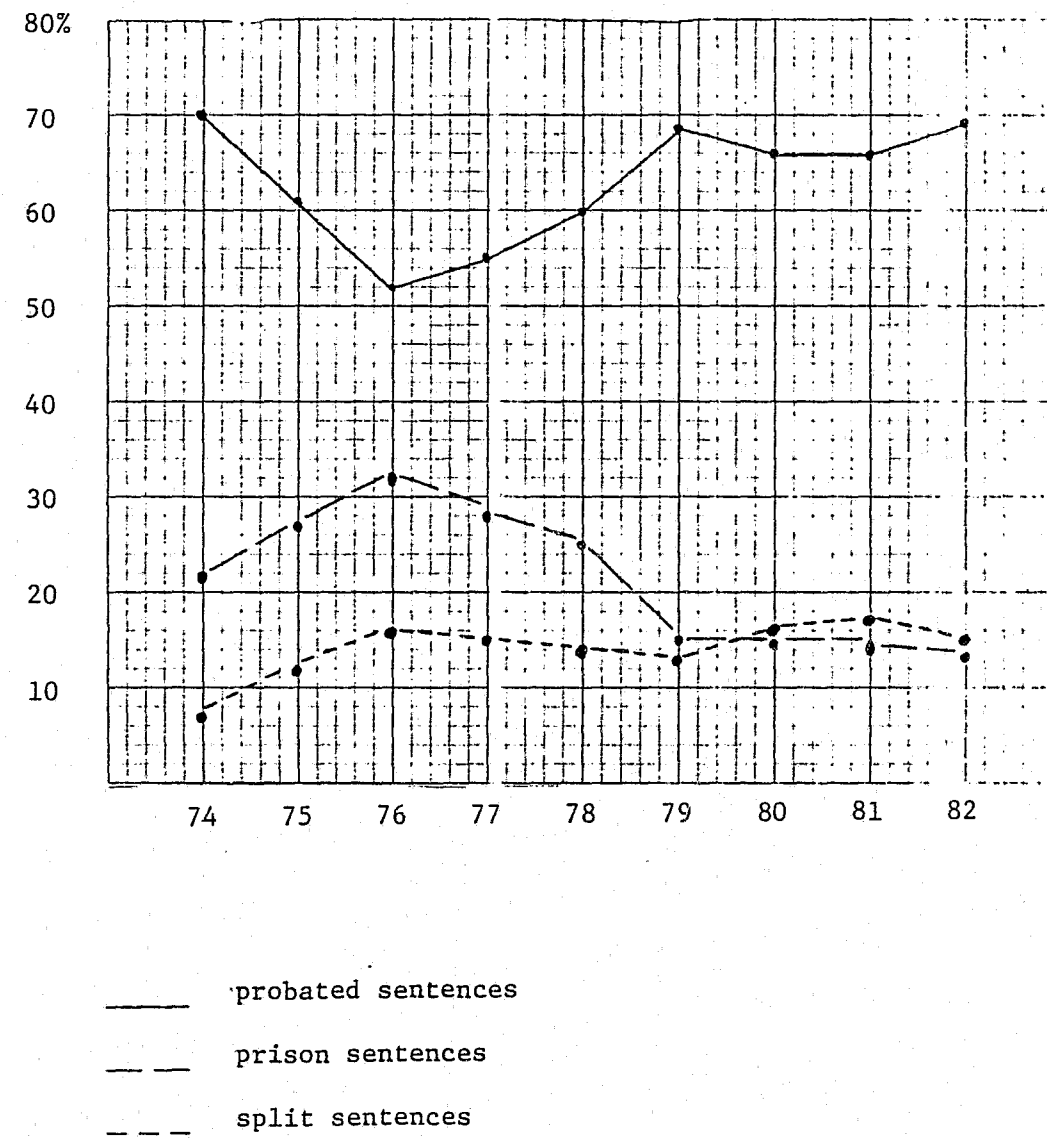




Table 3-2. Sentence Lengths, by Year.

Year	Probationers			Split-Sentenced Offenders			Straight Prisoners		
	$\bar{X}$	(SD)	N	Total Sentence $\bar{X}$ (SD)	Severity of Sentence $\bar{X}$ (SD)	N	$\bar{X}$	(SD)	N
1974 <sup>a</sup>	2.61	(1.67)	87	6.89	(5.49)	9	9.52	(12.43)	27
1975 <sup>a</sup>	2.76	(1.22)	54	6.34	(3.62)	30	7.68	( 8.54)	66
1976	2.92	(2.16)	1054	7.11	(4.69)	329	9.05	(11.17)	661
1977	3.22	(2.26)	1272	7.36	(4.63)	360	9.38	(11.42)	670
1978	3.53	(2.16)	1390	7.04	(4.31)	340	8.93	(10.51)	579
1979	4.17	(2.51)	2412	7.72	(4.82)	460	9.37	(10.86)	613
1980	4.36	(2.70)	2425	7.99	(5.11)	596	9.25	(10.40)	607
1981	4.80	(2.97)	1907	8.79	(4.89)	505	9.78	(10.92)	460
1982 (June)	4.59	(2.69)	908	8.34	(4.89)	201	8.16	( 9.40)	188
Total	4.02	(2.66)	11612	7.80	(4.83)	2830	9.19	(10.81)	3871

<sup>a</sup>Data available only for Fulton and DeKalb Counties.

than focus separately on the prison and probation sentences of split prisoners, we conceptualize the sentence as a unit, and then examine the proportion of the total sentence that imposes imprisonment. This conceptualization is supported by interviews with court authorities, and by newspaper accounts that follow the same convention. County and circuit personnel frequently observed that judges use split sentences to fulfill a variety of ostensibly contradictory objectives. Recognizing the overcrowding problems of the state's prison system (communicated in personal letters to each Superior Court judge by the Department of Offender Rehabilitation), and considering public preference (perceived or actual) for stiff penalties, many judges reportedly use split sentences to forge a middle path. The total penalty, combining terms of prison and probation, symbolically connotes severity, while the use of probation helps alleviate long prison terms that contribute to overcrowding. As one circuit authority put it, "... split sentences give judges the opportunity to have their case and eat it too."

As Table 3-2 indicates, probation sentences have increased in a nearly monotonic fashion as have the total sentences imposed on split-prisoners. In contrast, the proportion of split-sentences mandating incarceration and the length of prison sentences have declined.

#### Independent Variables

Previous research and theorizing directed the choice of independent variables. Clearly, we needed to include variables of legal relevance during sentencing, most notably, the nature of the conviction charge, use of a weapon, and prior record. Moreover, to estimate the extent of discrimination, we included offender social background characteristics, whose relevance during sentencing is legally questionable (e.g., age) or legally irrelevant (e.g., social class).

Our choice of case context variables was severely constrained, however, by the nature and quality of data previously collected by DOR. The probation file was less than ideal in this respect, lacking information on prior record and some social background information. Thus all conclusions from the analysis of sentence type and probation sentence length must remain particularly tentative. On the positive side, our own collection of data from Fulton and DeKalb Counties included prior record information, and analysis will examine these cases separately.

For the entire sample, factors designated as legally relevant, then, are type of crime (whether violent, property or victimless),<sup>3</sup> and the gravity of the most serious conviction charge, where seriousness is based on the mean prison term specified by law. For prisoners, additional legally relevant factors available were number of prior arrests,<sup>4</sup> and whether previously incarcerated in Georgia or not.

For the entire sample, offender background characteristics consist of sex, age and race. Additional information available for prisoners includes employment status, marital status, urban background, or whether born in Georgia.

Table 3-3 presents the case-related variables available for the sample as a whole, while Table 3-4 presents the case-related variables available for prisoners only.

#### COURT CONTEXT

From a variety of sources, we obtained circuit-level information about several dimensions of court structure and organization. This information was matched with the case context data both by the circuit where the

Table 3-3. Case Context Variables: Means, Standard Deviations (SD) and Ranges for Total Sample and Sample of Probationers

Variable	Range	Total Sample (N = 18483) $\bar{X}$ (SD)	Probationers (N = 11612) <sup>a</sup> $\bar{X}$ (SD)
<u>I. Offender Characteristics</u>			
Sex (Female=0; Male=1)	0 - 1	.89 (.30)	.87 (.34)
Age	15 - 97	26.52 (7.53)	26.50 (6.62)
Race (Black=0; White=1)	0 - 1	.58 (.49)	.63 (.48)
<u>II. Offense Characteristics</u>			
Type of Crime <sup>b</sup> (Victimless=1; Property=2; Violent=3)	1 - 3	1.98 (.61)	1.89 (.57)
Offense Seriousness	1.5 - 42	8.30 (5.66)	6.94 (3.06)

<sup>a</sup>Attrition from original N of 11703 is due to the deletion of 91 cases whose actual probation sentence length could not be determined.

<sup>b</sup>During analysis, Type of Crime is dummy-coded into two vectors, with Violent Crime being the excluded category.

Table 3-4. Case Context Variables: Means, Standard Deviations (SD) and Ranges, for Prisoners

Variable	Range	Split Sentence Prisoners <sup>a</sup> (N=2849) $\bar{X}$ (SD)	Other Prisoners (N=3852) $\bar{X}$ (SD)
<u>I. Offender Characteristics</u>			
Sex (Female=0; Male=1)	0 - 1	.93 (.25)	.94 (.23)
Race (Black=0; White=1)	0 - 1	.54 (.50)	.47 (.50)
Age	15 - 75	26.24 (8.58)	26.77 (9.12)
Employment Status (Unemployed=0; Employed=1)	0 - 1	.80 (.40)	.75 (.43)
Marital Status (Unmarried=0; Married=1)	0 - 1	.27 (.44)	.27 (.44)
Urban Background (Farm=1; Other Rural=2; Small Town=3; Urban=4; SMSA=5)	1 - 5	2.98 (.92)	2.99 (1.05)
Georgia Native (No=0; Yes=1)	0 - 1	.67 (.46)	.68 (.46)
Prior Arrests	0 - 53	2.19 (4.26)	2.76 (4.76)
Prior Incarceration (No=0; Yes=1)	0 - 1	.17 (.37)	.22 (.42)
<u>II. Offense Characteristics</u>			
Type of Crime <sup>b</sup> (Victimless=1; Property=2; Violent=3)	1 - 3	2.05 (.64)	2.22 (.64)
Offense Seriousness	1.5 - 42	9.00 (4.64)	11.90 (9.42)

<sup>a</sup>Split sentence prisoners have received a combination of prison and probation following prison.

<sup>b</sup>During analysis, Type of Crime was dummy-coded into two vectors, with Violent Crime being the excluded category.

offender was sentenced and, where possible, by the year of sentencing. Table 3-5 presents the distribution of court variables, while Appendix Table III-A summarizes the sources of information and years of their availability.

Court context variables refer to two major characteristics of judicial processes: structure and personnel. Structure includes dimensions of bureaucratization and prosecution, while personnel consists of background and professional attributes of district attorneys and judges. As outlined in the first chapter, the literature on sentencing has focused considerable attention on these two concepts. Consequently, court context variables fall into four major categories: (1) bureaucratization, (2) prosecution, (3) prosecutorial electoral vulnerability, and (4) judicial background. The last concept includes measures of social attributes, professional activism, judicial experience, electoral vulnerability, and local/composition orientation.

The first set of indicators measures bureaucratization, a factor thought to be particularly important when judges attach significance to offender and offense characteristics. Caseload pressure is indicated by felony filings per judge<sup>5</sup>; court specialization by supporting court assistance, operationalized as the percent of misdemeanor, civil and juvenile cases heard by other courts; and court size by the number of judges and the number of probation officers.

The second set of court variables provides information about several aspects of prosecution in the circuit. As the literature indicates, the role of the prosecutor during sentencing varies markedly, from minimal input through dominance via plea bargaining (see Heuman, 1977; Miller *et al.*, 1978; Utz, 1978; Jacoby, 1979). We were able to obtain information

Table 3-5. Court Context Variables: Means, Standard Deviations (SD), and Ranges for Total Sample

Variable	Range	Total Sample (N = 18483) $\bar{X}$ (SD)
<u>I. Bureaucratization</u>		
Felony Filings per Judge	88 - 576	263.87 (91.77)
Lower Court Assistance	15 - 100	91.66 (11.86)
Number of Judges	1 - 12	2.72 (2.00)
Number of Probation Officers	2 - 14	7.09 (2.63)
<u>II. Prosecution Characteristics</u>		
Felony Filings per Prosecutor	88 - 512	249.74 (99.21)
Percent Dismissals	0 - 69	20.89 (11.02)
Percent Guilty Pleas	17 - 92	62.81 (14.52)
Number of Times Elected	0 - 8	2.98 (1.66)
Number of Primary Opponents	0 - 2	.13 (.37)
Facing Reelection (No=0; Yes=1)	0 - 1	.49 (.49)
<u>III. Judicial Composition</u>		
Percent Male	0 - 100	98.81 (7.95)
Mean Age	38 - 69	54.35 (5.82)
Percent Married	50 - 100	99.48 (4.22)
Mean Percent Urban Background	0 - 93	27.31 (23.34)
Percent born outside Circuit	0 - 100	40.61 (41.17)
Percent born outside Georgia	0 - 100	13.79 (25.40)
Percent born outside South	0 - 100	3.30 (11.47)
Single-judge Court (No=0; Yes=1)	0 - 1	.78 (.40)

Table 3-5. Continued

Variable	Range	Total Sample (N = 18483) $\bar{X}$ (SD)	
<hr/>			
IV. <u>Judicial Activism</u>			
Mean Bar Associations	0 - 4	.67	(.82)
Mean Attorney Associations	0 - 1	.12	(.21)
V. <u>Judicial Experience</u>			
Mean Years Other Judicial Experience	0 - 19	2.11	(2.95)
Mean Years District Attorney Experience	0 - 21	2.62	(3.79)
VI. <u>Judicial Electoral Vulnerability</u>			
Mean Times Elected	1 - 7	2.74	(1.02)
Mean Primary Opponents	0 - 1	.12	(.22)
Percent facing Reelection	0 - 1	45.18	(34.15)
VII. <u>Judicial Local Involvement</u>			
Mean Community Organizations	0 - 8	1.67	(1.13)
Mean Years in Local Government	0 - 34	3.11	(5.74)
Mean Years in State Government	0 - 6	1.98	(1.96)

about the caseload pressure experienced by prosecutors, and their reliance on dismissals and on guilty pleas as a form of conviction.

Site visits indicated that another prosecution characteristic, electoral vulnerability, might be relevant during sentencing. In many interviews, court personnel commented that while judges were very isolated, prosecutors were not and, hence, were more apt to feel public pressure keenly. Some observed that district attorneys represent "the citizens of the state" and are particularly vulnerable to the "public community." For this reason, we included three measures of electoral vulnerability: the number of times elected, whether prosecutors have experienced opposition in primaries,<sup>6</sup> and whether they were facing reelection the year they sentenced the offender.

The central aspect of the court context is the sentencing judge. Unfortunately, DOR files did not identify the judge who sentenced the offender. We were therefore required to aggregate judicial information on a yearly and circuit basis. For each circuit and year, then, we have aggregate measures (e.g., means, percents), that were subsequently matched with the case-context data set by circuit and year of sentencing. For circuits having one sentencing judge, aggregation is equivalent to considering judicial characteristics on the individual level, and we will be analyzing these cases separately.

Judicial information is divided into five categories. The first set of variables consists of social background characteristics: percents male, married, born outside Georgia, born outside the circuit, and born outside the South. Also included on a circuit basis for each year are the mean percent urban of the counties where judges were born and the mean age of judges. Additional background measures, such as racial and religious

composition, and professional training could not be considered for lack of variation.

The second set, the professional activism of judges, is indicated by the mean number of Bar and other attorney association memberships. The third set, judicial experience, is indicated by the mean number of years judges served in other judicial capacities (e.g., state, juvenile courts) and as district attorney (city, county or circuit).

Although most authorities we interviewed acknowledged that judges were fairly well isolated, several commented that "judges feel political." Indeed, many judges indicated that they felt it appropriate to consider community sentiment in sentencing, even if that sentiment did not always mirror penal code provisions. For this reason our fourth and fifth sets of variables include measures of electoral vulnerability and local involvement. As was the case for district attorneys, electoral vulnerability is indicated by the mean number of times judges were elected, the mean number of opponents in primaries (judges are virtually unopposed in elections), and the percent facing reelection the year the offender was sentenced.

Finally, our measures of local involvement consist of the mean number of community organizations (e.g., Chamber of Commerce, Civitan, Lions) judges belong to, mean years service in local government (e.g., Councilman, Board member, mayor), and mean years service in Georgia state government (e.g., Senate, House, attorney general, State Boards).

#### COUNTY CHARACTERISTICS

Again, the theoretical and empirical literature guided our choice of environmental or county context variables to consider during analysis.

Table 3-6 presents these variables, and Appendix Table III-A identifies their sources and years of availability.

The first set of variables, urbanization, has two important dimensions (Durkheim, 1933): social volume and social density.<sup>7</sup> To measure social volume, we used county population size. Measures of social density were population per square mile and percent urban. High intercorrelations ( $r > .8$ ) among these indicators dictated their replacement with a weighted linear composite variable, called urbanization. The weights for the linear composite were the standardized scoring coefficients yielded by iterated principal factor analysis.

The second set of variables provides some indication of the extent of economic inequality in the county. To measure income inequality, we used the Gini coefficient (Allison, 1978), the most commonly used measure.<sup>8</sup> An additional and more indirect measure is percent black in the county.

In comparison with urbanization and economic inequality, the third variable, occupational division of labor, lacks precise meaning (compare Kemper, 1972; Gibbs and Poston, 1975; Smith and Snow, 1976), and has been measured in a number of ways (for reviews, see Gibbs and Poston, 1975; Smith and Snow, 1976). Consistent with previous work (e.g., Labovitz and Gibbs, 1964; Rushing and Davies, 1970; Land, 1970; Clemente and Sturgis, 1972; Webb, 1972; Willis and Dudley, 1980), we focus on the functional differentiation or diversification dimension. But unlike others, we consider it essential to tap both aspects of occupational differentiation (see Gibbs and Poston, 1975): the structural (number of occupations) and the distributive (the distribution of workers across occupations). We therefore compute the division of labor as follows (Gibbs and Poston, 1975: 474):

$$\text{Division of Labor} = N_c \left[ 1 - \frac{(\sum |X - \bar{X}|)/2}{\sum X} \right]$$

Table 3-6. County Context Variables: Means, Standard Deviations (SD), and Ranges

Variable	Range	Total Sample (N = 18483) $\bar{X}$ (SD)
I. <u>Urbanization</u> <sup>a</sup>		
County Population	1745 - 572248	77570 (147704)
Percent Urban	1802 - 591200	80009 (152418)
Population/Sq. Mile	0 - 98.5	40.05 (31.04)
	5.5 - 1789	257.52 (486.85)
II. <u>Economic Inequality</u>		
Income Inequality	.29 - .50	.38 (.03)
Percent Black	0 - 78	27.87 (16.49)
III. <u>Occupational Structure</u>		
Division of Labor	6.28 - 10.96	9.16 (.89)
IV. <u>Political Characteristics</u>		
Voter Participation <sup>b</sup>	96.9 - 202.5	148.24 (17.48)
Percent Wallace (1976) Vote	4 - 58	14.54 (7.36)
Percent Reagan (1980) Vote	20 - 60	37.81 (7.35)
Percent Kennedy (1980) Vote	2 - 16	7.54 (3.45)
V. <u>Crime Characteristics</u>		
Index Crime Rate	5 - 13025	3283 (2745)
Percent Stranger-Stranger Index Crimes	0 - 64.40	15.02 (9.78)
Percent Residential Index Crimes	0 - 81.62	41.09 (12.51)
Percent Index Crimes Involving Weapons	0 - 81.78	10.55 (14.24)
Percent Index Crimes Occurring at Night	0 - 84.37	39.09 (12.92)
Percent Black Arrestees	0 - 86.59	44.36 (20.29)
Percent Young Arrestees	0 - 49.99	21.12 (9.16)

Table 3-6. Continued

Variable	Range	Total Sample (N = 18483) $\bar{X}$ (SD)
VI. <u>Press Coverage of Crime</u>		
Articles/Issue	1 - 13	4.15 (2.96)
Prominence of Coverage	0 - 86	22.95 (18.15)
Local Crime Coverage	0 - 100	61.72 (31.18)
Violent Crime Coverage	0 - 100	43.50 (18.64)

<sup>a</sup>Urbanization is a weighted linear composite of three intercorrelated indicators: county population, percent urban, and population per square mile. Iterated principal factor analysis yielded one factor with an eigenvalue of 2.2, which accounted for 100% of the variance. Standardized scoring coefficients were used as weights.

<sup>b</sup>Voter participation is a weighted linear composite of four intercorrelated indicators: percent voting in 1974 gubernatorial election, percent voting in 1976 Presidential election, percent voting in 1978 gubernatorial election and percent voting in 1980 Presidential election. Iterated principal factor analysis yielded one factor with an eigenvalue of 2.7, which accounted for 67% of the variance. Standardized scoring coefficients were used as weights.



where  $X$  = number of persons in a given occupational category,  $N_c$  = number of occupational categories with one or more employed persons, and  $\bar{X} = X/N_c$ . Occupational categories ( $n=13$ ) and the distribution of workers in them are taken from the 1980 census.<sup>9</sup>

The fourth set of variables taps, in a preliminary way, dimensions of the county's political structure. Originally, we planned to use four indicators of voter participation during the period of study, namely, the percent of registered voters voting in (1) the 1974 gubernatorial election, (2) the 1976 presidential election; (3) the 1978 gubernatorial election; and (4) the 1980 presidential election. Since these were highly intercorrelated ( $r > .8$ ), we conducted iterated principal factor analysis, which extracted a single factor (eigenvalue=2.7). The standardized scoring coefficients were used as weights to create a weighted linear composite, called voter participation.

To gauge, albeit indirectly, the political climate of counties, that is, their political conservatism or liberalism, we used the percents voting for (1) Wallace in the 1976 Democratic primary; (2) Kennedy in the 1980 Democratic Presidential primary; and (3) Reagan in the 1980 Presidential election.

The fifth set of variables gives an indication of the crime problem within each county. The first and most global measure is the Index crime rate for 1980.<sup>10</sup> In addition, we obtained 1979 data on the nature of Index offenses, in particular, what percent were stranger to stranger, occurred in residences, involved weapons, or occurred at night (8 PM to 5 AM).<sup>11</sup> Finally, we obtained information on the percent of offenders arrested for Index Crimes in 1979 who were black as well as the percent who were young (19-24 years old).

While official statistics of the kind described above constitute relatively "objective" measures of the crime problem, the final set of variables provides more "subjective" measures, in the form of newspaper coverage of crime. Newspaper coverage was based on a content analysis of all newspapers housed at the University of Georgia library, the most complete selection in the State, between 1974 and June 1980.<sup>12</sup> In counties with two or more newspapers, we chose the press with the largest circulation. Appendix Table III-D lists the newspapers and their respective counties and circuits. We have coverage for 41 of Georgia's 159 counties.

Scanning a random sample (for dailies) or every edition (for weeklies), coders completed a codesheet for each crime or criminal justice-related article (see Appendix III-E for codesheet). The data obtained were subsequently aggregated for each year, yielding the following variables: (1) number of crime or criminal justice articles per issue for each year; (2) the percent of articles that were prominent (first page) during the year; (3) the percent of crime articles dealing with violent crime; and (4) the percent of articles focussing on local crime or criminal justice issues.

#### ANALYTIC PROCEDURES

Analysis used two different procedures, depending on the dependent variable under consideration. The first dependent variable, sentence type, is dichotomous and hence violates a major assumption of ordinary least squares regression, namely, that the variance of the error terms are equal (the homoscedasticity assumption). Violating this assumption produces

estimates that, while unbiased, are inefficient. Moreover, variances of the estimate are erroneous and the resulting t-tests inaccurate (Hanushek and Jackson, 1977: 148). We therefore used a weighted least squares procedure in which estimates are computed by weighting or transforming each observation of the dependent and independent variable and using ordinary least squares regression on these transformed values.<sup>13</sup> The resulting estimates are linear, unbiased, and best among a set of unbiased linear estimators.

The remaining dependent variables are based on only a subsample of the population, in which some observations have been excluded in a systematic manner. Probation sentence length, for example, excludes prisoners. Prison sentence length excludes all offenders sentenced only to probation. Our sample is therefore truncated and ordinary least squares will produce regression estimates that may either overstate or understate true causal effects (Berk and Ray, 1982; Berk, 1983).

Our correction for sample selection bias is a two-stage estimation procedure in which we estimate a selection equation and then a substantive equation (Berk and Ray, 1982; Berk, 1983). The selection equation is a logit model,<sup>14</sup> that includes all relevant variables for the total sample of convicted felons. The dependent variable in the selection equation is binary, coded 0 if the observation is included in the second-stage or substantive estimation and 1 if the observation is excluded. Thus, if our substantive interest is in predicting probation sentence length (our second dependent variable), the dependent variable in the selection equation is 0 for felons receiving probation and 1 for felons receiving prison or a combination of prison and probation (split sentences).

The logit model produces, for each case, its predicted probability of probability of being excluded from the sample of substantive interest (e.g., the sample of probationers). The predicted probability of exclusion constitutes the hazard rate, which will be included as an additional variable when estimating the substantive equation (e.g., probation sentence length). The hazard rate controls for the source of biased estimates in the substantive equation, namely, the expected values of the disturbances in the substantive equation after non-random selection has occurred. Its inclusion in the substantive equation (e.g., probation sentence length) controls for the effects of non-random selection, thus producing consistent parameter estimates. For equations of substantive interest, we use ordinary least squares regression to estimate a linear probability model that includes all relevant variables and the hazard rate instrument.<sup>15</sup>

#### ANALYTIC STRATEGY

Using the appropriate technique, analysis will be conducted in three stages. In the first, we will be interested in estimating the effects of case context variables. In general, our first model will estimate the effects of legally irrelevant variables, primarily those indicating the social background of the offender. The second model will add legally relevant information about the type and seriousness of offense and offender prior record. The concern here is to determine the relative weight judges attach to both sets of variables.

The next two stages of analysis--one for court context, the other for county context--are designed to address two questions: (1) Does the context of sentencing directly affect sentences; and (2) Does it shape the relevance of case context variables? Thus, in the second stage of

analysis, we estimate the direct effects of court context by adding these variables as a set to the case context model. We will note the following: increases in the percent of variance explained; substantively significant coefficients;<sup>16</sup> the effect of adding court context variables on the strength and direction of case context effects; and the relative importance of court context vis-a-vis case context variables.

To answer the second question, whether court context shapes the relevance of case context variables, we construct a set of interaction terms between each court context variable and each case context variable (see Allison, 1977 for a general discussion of the procedure). For example, the court context variable, felony filings per judge, will have associated with it six interaction terms [one each for offender age, sex, race, type of crime I (violent v. victimless crime comparison), type of crime II (violent v. property crime comparison), and the seriousness of offense]. There will be a total of 156 (6 x 26) interaction terms. Since all these variables cannot be entered into a single regression equation without severe multicollinearity and degradation of estimates we subdivide them into five smaller conceptually similar groups, described more fully in Table 3-5: (1) Bureaucratization; (2) Prosecution Characteristics; (3) Judicial Composition; (4) Judicial Activism and Experience; and (5) Judicial Electoral Vulnerability and Local Involvement.

To test for significant interaction, we then compare the proportion of explained variance ( $R^2$ ) obtained from two regression models: (1) an interactive model that includes all independent variables and one of the five sets of interaction terms; and (2) an additive model (no interaction terms), consisting of all independent variables except those court characteristics associated with the interaction terms included in the first

model.<sup>17</sup> For example, the test for significant Bureaucratization interactions will compare the  $R^2$  from (1) a model that includes: case context variables, Bureaucratization, Prosecution Characteristics, Judicial Composition, Experience, Activism, Electoral Vulnerability, and Local Involvement, and the 18 interactions terms between each caseload indicator (felony filings per judge, supporting court assistance, and number of probation officers) and each case context variable with the  $R^2$  from (2) a model that includes: case context variables, Prosecution Characteristics, Judicial Composition, Judicial Experience, Activism, Electoral Vulnerability and Local Involvement. This model contains no interaction terms and no caseload indicators.

Significant interaction means that the effects case context variables have on sentence are not invariant across court contexts but rather vary in a systematic way depending on selected aspects of the court. Where this is the case, we will discuss the substantive nature of that variation, by deriving and comparing predicted outcomes for significant interactions.

Where the increase in predictive capability of the model fails to meet our statistical criterion, we conclude that the effects of case context variables are relative invariant across court contexts, that while the structure of the court may affect outcomes directly, it does not affect one aspect of the sentencing process, namely, the importance judges attach to offender and offense characteristics.

The procedure outlined above will be followed for the third stage of analysis: determining whether county characteristics directly affect sentencing and whether they shape the relevance of case context variables. Here we will have six distinct sets of interaction terms and six separate comparisons of explained variance, corresponding to the categories outlined

in Table 3-6: Urbanization, Economic Inequality, Occupational Division of Labor, Political Characteristics, Crime Characteristics, and Press Coverage of Crime.

#### HYPOTHESIZED RELATIONSHIPS

Law reflects the social organization of the society in which it is embedded. This assumption is central to traditional and contemporary theories of law (e.g., Durkheim, 1933, 1973; Pound, 1943; Parsons, 1962; Turk, 1969, 1976; Quinney, 1970, 1974) and, with varying degrees of explicitness, to recent empirical research on law (see Black, 1976). As one aspect of the application of law, punishment is thus embedded in the broader social structure. In this section, we discuss those theoretical statements that provide specific expectations about the kinds of relationships we will be exploring during analysis. And, even though no theory has explicitly developed expectations about the role during sentencing of some court and county context variables we conclude this section with a brief discussion of plausible expectations for these variables.

#### BUREAUCRATIZATION

Weber and conflict theory offer divergent expectations about the role bureaucratization plays during sentencing. For Weber (1946, 1947), the progressive rationalization of social life implies the concomitant development of urban centers and of bureaucracies with specialized functions and trained personnel. As is the case with religion, the economy, and other aspects of social life, law and its administration become increasingly rational. Abstract general rules supplant irrational

traditional rules of thumb. Concretely, "whatever cannot be 'construed' legally in rational terms is . . . legally irrelevant" (Weber, 1954: 64). Consistent with this statement is the expectation that in highly bureaucratized courts, punishment will not depend on factors that are not explicitly construed as legally relevant. By implication, in less bureaucratized courts, punishment depends on "irrational," that is, legally irrelevant, criteria.

Conflict theorists, particularly Chambliss and Seidman (1971), also focus on the bureaucratized context within which penal sanctions are imposed. However, they emphasize efficiency as an essential bureaucratic concern that fosters "policies and activities . . . (that) maximize the rewards and minimize the strains for the organization" (Chambliss and Seidman, 1971: 266). In highly bureaucratized courts, then, the enforcement of the law will entail the use of power as an important criterion. To minimize organizational strain, "law enforcement agencies will process a disproportionately high number of the politically weak and powerless, while ignoring the violations of those with power" (Chambliss and Seidman, 1971: 269). In contrast to a Weberian-based argument, then, the specific expectation is that in highly bureaucratized courts, the severity of penal sanctions will depend on factors not explicitly construed as legally relevant, namely, the relative power and status of the offender. In less bureaucratized courts, a reliance on offender status or power will be relatively less common or absent.

While we do not purport to have complete indicators of the various dimensions of bureaucracy (see Blau, 1974), size, specialization, and caseload pressure offer a preliminary indication.

## JUDICIAL COMPOSITION

As conventionally interpreted, conflict theory generates the hypothesis that, other factors being equal, lower status offenders are likely to be more punitively sanctioned than upper status offenders. But conflict theory also emphasizes key actors in the criminal justice system, and implicitly argues that their identification with established interests in society affects decision making (see Turk, 1969). Quinney (1970: 195), for example, argues that judges, prosecutors and defense counsel work not so much in a truth-finding, adversarial context as in a context wherein social reality is constructed and reinforced. Critical to this social reality is the established political and economic order. One can argue, then, that judges whose background and characteristics reflect a more advantaged position in society may identify with, and use their position within the criminal justice system to support, established interests. Put concretely, we expect that judges with more advantaged backgrounds and social positions may be more likely than less advantaged judges to sentence severely.

However, we do not expect judicial characteristics to operate independently of defendant characteristics. Rather, as both Turk (1969) and Schur (1971) argue, it is relative power that affects the reactions of officials. In the context of imposing sanctions, the expectation is that the greater the power differences in favor of judges, the more punitive will be the sanctions. Similarly, the greater the power differences in favor of defendants, the less punitive will be the sentences. Where judges and offenders are similar in background, we expect sanctions to be of intermediate severity. Underlying these hypotheses is the presumption that differences in background and position imply differences in the resources judges and offenders can marshal to impose or resist severe sanctions.

## URBANIZATION

Urbanization figures prominently in the social sciences as a core concept explaining a variety of social behaviors and patterns. In criminology, it has been used to predict criminality and crime rates (e.g., Webb, 1972; McDonald, 1976; Krohn, 1978; Willis and Dudley, 1980). More germane to our analysis, it also figures in several theories of law where it is hypothesized to influence punishment. Drawing on Durkheim's theory linking urbanization and punishment (1933, 1973), researchers have conducted cross-cultural studies examining variations in corporal punishment and imprisonment (e.g., Schwarz and Miller, 1964; Wimberley, 1973; Spitzer, 1975). More common in studies conducted within a given culture are investigations drawn from conflict theories (e.g., Tepperman, 1973; Hagan, 1977; Austin, 1981). Based on these studies, we anticipate harsher punishment and greater disparities in rural rather than urban communities. Moreover, and consistent with the position on bureaucratization discussed above, we anticipate differential treatment by status in rural but not urban courts.

## THE DIVISION OF LABOR

The study of crime and punishment was central to Durkheim's explanation of social order and change. Both phenomena reflect the basis of social solidarity and, hence, change as the basis of solidarity changes. For Durkheim (1933), growth in the social volume and density of populations alters the basis of social solidarity from the collective conscience (i.e., shared beliefs and sentiments) to a more complex and specialized division of functionally interdependent labor. As an "external index" or symbol of social solidarity, law reflects this fundamental transformation (Durkheim, 1933: 64). Penal sanctions become less intense, that is, more restitutive

and less retributive (Durkheim, 1933: 79; 1973: 285). As evidence of this general trend, Durkheim (1973: 294) cited the tendency, as the division of labor becomes increasingly complex, for corporal punishments to decline in intensity and to be replaced by deprivations of liberty alone.

Durkheim's theoretical statements referred to inter-societal variation in the division of labor and penal sanctions, and have been evaluated in such contexts (see, e.g., Schwarz and Miller 1964; Wimberly, 1973; Spitzer, 1975). Here, we examine whether they are useful in explaining variation within a single society. We also can examine whether Durkheim's general argument about the declining intensity of punishment helps us understand variation in the form and the duration of deprivation in contemporary contexts. The concrete hypothesis is that punishment will continue to involve deprivations of liberty, but that as the division of labor increases these deprivations will become milder in form (viz., deprivation via probation rather than incarceration) and/or shorter in duration (viz., reduced prison terms).

#### ECONOMIC INEQUALITY

As noted above, conventional interpretations of conflict theory have emphasized the role offender status and power play in determining official reactions to alleged criminal behavior. These interpretations generally restrict their attention to the individual level of analysis and seek to explain the reactions of officials within a single setting (see, e.g., Bernstein et al., 1977; Clarke and Koch, 1976; Lizotte, 1978; LaFree, 1980; Unnever et al., 1980; Spohn et al., 1982). They have produced no strong support for hypotheses derived from conflict theory (for reviews, see Hagan, 1974; Kleck, 1981; Hagan and Bumiller, 1982), nor have their findings been consistent (compare Swigert and Farrell, 1977 with Bernstein

et al., 1977 and Chiricos and Waldo, 1975; compare also Kleck, 1981 with Spohn et al., 1982 and Thomson and Zingraff, 1981). The results of conventional interpretations of conflict theory provide compelling grounds for theoretical modification and empirical respecification.

Conflict theory itself (Chambliss and Seidman, 1971) has provided a direction in which such respecification may proceed, namely, a consideration of the extent of economic inequality in the broader community. This more recent interpretation of conflict theory directs attention to the structural level of analysis and seeks to explain patterns of official reactions across a variety of contexts (see, e.g., Bailey, 1981; Jacobs, 1978, 1979, 1981a, 1981b; Loftin et al., 1981; Williams and Timberlake, 1984). It suggests the general expectation that

...the more there are differences in economic resources and economic power, the more one can expect that the criminal codes will be administered in a way that pleases monied elites (Jacobs, 1978: 516).

Concretely, in economically more stratified jurisdictions, the punishment of property offenders will be more severe. One possible reason this may occur is because where economic resources are more unequally distributed, elites could be more able and more motivated to use the criminal law to maintain their advantaged economic position. This may not be the case when punishing violent offenders, however. Because violent crimes typically involve lower status victims, they may pose less serious threats to monied elites (Jacobs, 1978) and, for this reason, inequality may have a weaker effect on punishment.

Like its conventional counterpart, however, an ecological interpretation of conflict theory has produced contradictory and controversial results (see e.g., Bailey, 1981 and Jacobs, 1981b; Jacobs, 1981a and McGranahan, 1981). Each interpretation, however, ignores a

question of central theoretical interest to the other. The conventional interpretation is silent on the importance to official reactions of the broader economic context, particularly the extent of inequality. The ecological interpretation is silent on the importance to official reactions of the relative status of offenders. The analysis we undertake will begin to bridge the gap between, and integrate, the two interpretations of conflict theory. It will investigate simultaneously the importance of inequality on the individual level (viz., offender status) and on the structural level (viz., county economic inequality).

Following Jacobs (1978) and Bailey (1981), we explore whether economic inequality renders punishment more severe in economically more stratified jurisdictions. We expect this pattern to be more pronounced for property than for violent offenders.

The second question we explore is: Does economic inequality condition the importance of offender status and power? If inequality does indeed operate as a conditioning factor, then the third question for analysis to address is: How does it affect the relevance of status? One possibility is that, in economically more stratified jurisdictions, offender status may strongly affect punishment. This may occur because crimes committed by lower status offenders in more unequal jurisdictions could represent a greater threat to monied elites, a threat countered by more coercive reactions. Also, established interests in economically more stratified jurisdictions could be more capable of ensuring that harsher sentences are imposed on the disadvantaged. In contrast, where economic inequality is less pronounced, monied elites may be less capable of or less interested in singling out the disadvantaged for more severe punishment. In short, there are reasons to suspect more pronounced discrimination against the

disadvantaged, particularly those convicted of property crimes, in highly unequal jurisdictions.

#### OTHER EXPECTATIONS

No formal theory has offered us specific expectations about the role of prosecution characteristics, and of judicial activism, experience, electoral vulnerability, or local involvement. Nor do we have theoretically-derived expectations for county political and crime characteristics, and press coverage of crime. In general, however, we expect punishment to be harsher in courts where (1) prosecutors are electorally vulnerable (e.g., are facing reelection, have faced opposition in primaries, and have not faced many elections; and (2) judges have prior experience as district attorney, are electorally vulnerable, and locally involved. Our expectation about district attorney experience is grounded in interviews with defense attorneys, who noted the punitiveness of judges who had previously served as district attorneys. One observed that he felt as if he were fighting both the judge and the prosecutor, while another commented that district attorneys are aligned with law enforcement personnel in their preference for harsh sentencing and bring this orientation to the bench once elected.

We expect punishment to be more lenient in courts where a high proportion of convictions are obtained by guilty pleas. With respect to county characteristics, we expect more severe punishment in counties (1) with conservative voting records (e.g., low percents for Kennedy, high percents for Reagan and Wallace) and in counties where, objectively and subjectively (through newspaper coverage), crime rates are higher.



## NOTES

1. Fulton and DeKalb data had already been collected when the Department of Offender Rehabilitation offered us access to sentencing data from July 1980 through June 1982.
2. The data compiled by the Clerk of the Superior Court were not in a form suitable for analysis. Crucial variables, such as charges and sentence type and length were variously recorded using alphabetic codes. It was therefore impossible with the resources available to examine the universe of 60,000 cases, and to record all information in machine readable form. Our initial decision was to draw a random sample of 1500 cases. However, in light of sharp differences in the completeness of records and resource constraints, we chose the most complete 500 of the original 1500 cases drawn, of which 445 were usable.
3. Considerations of space and resources dictated we trichotomize offense type rather than conduct analysis for each category separately. While our measure obscures some crime-specific differences, it captures basic distinctions drawn by court and county personnel.

The category of violent offenses (N = 3,324) includes aggravated assault (37.9%), homicide (21.3%), armed robbery (15.9%), robbery (12.8%), and other violent crimes (12.1%). The category of property crime (N = 11,341) includes burglary (45.9%), theft by taking (19.3%), forgery (11.3%), receiving stolen property (5.8%), motor vehicle theft (6%), and other property offenses (11.7%). The final category, victimless offenses (N = 3,565), consists primarily of drug offenses (87%). Of all drug crimes, 67.7% involved possession and 27% involved

- sales, manufacturing and distribution. Within both categories (possession and the more serious trafficking), the majority (65% and 76%, respectively) involved marijuana.
4. While data analysis was in progress, DOR staff informed us that data on prior convictions were unreliable, see Appendix III-C. Hence, we relied on prior arrests.
  5. Disposition data were virtually redundant with data on case filings, and hence was not used.
  6. Because Georgia is predominantly Democratic, prosecutors and judges rarely face opposition during elections. Rather, the actual contest occurs in the form of within-party challenges during the primaries.
  7. Social density is an indicator of moral density, that is, the relations and active commerce resulting from contact among individuals. According to Durkheim (1933: 257):
 

this moral relationship can only produce its effect if the real distance between individuals has itself diminished in some way. Moral density cannot grow unless material density grows at the same time, and the latter can be used to measure the former. It is useless to try to find out which has determined the other; they are inseparable."
  8. Conflict theory, which provides theoretical grounding for considering inequality, has also been interpreted as distinguishing strongly between the upper and all other classes (Jacobs, 1981a). Thus, a measure more sensitive to the highest income categories may be necessary for an adequate estimation of the effects of income inequality. We therefore conducted preliminary analysis using income standard deviation (S) as a measure of income inequality. This measure produced results that were in the same direction as the Gini coefficient but not as pronounced.

9. Using more detailed data on 42 occupational categories from the 1970 Census produced similar, but weaker, results.
10. County Index crimes rates were also available through Census material for 1975. Since they were virtually redundant with 1980 crime rates ( $r = .807$ ), the more recent figures were used. In the few counties where 1980 crime rates were missing, 1975 figures were used.
11. County level incident and arrest information was compiled from raw data on 11 UCR tapes obtained from the Department of Administrative Services. The cost of processing these tapes dictated that we select one year (1979) rather than all five years (1976 through June 1980) for which data were available.
12. Newspaper content analysis had already been completed when the Department of Offender Rehabilitation offered us access to data from July 1980 through June 1982.
13. The weight is designed to increase the efficiency of estimates by reducing their variances. It does so by giving greater weight to those observations whose error terms have smaller variances. The algorithm for the weight is  $\frac{1}{\sqrt{p * (1-p)}}$ , where  $p$  = predicted value (Hanushek and Jackson, 1977: 181).
14. In the first stage or selection equation, we could have estimated a linear probability model (using weighted least squares) or a probit model. The three models differ in their assumptions about the distribution of error terms (rectangular for linear probability; bivariate normal for probit; bivariate logistic for logit). Despite different assumptions, the three models tend to produce hazard rates that correlate at .9 or better (see Berk and Ray, 1982). We chose logit for reasons of cost, software availability, and ease of hazard rate computation.

15. Regression, rather than logistic, procedures were used for several reasons: similarity of results between the two alternatives during preliminary analysis; substantially greater expense of using maximum likelihood estimation procedures on large samples; and greater ease of interpreting interactions obtained by regression analysis.
16. Given our large sample, most coefficients will be statistically significant at some acceptable level ( $p \leq .01$ ). These statistically significant coefficients may have substantially small effects on outcome, however. We will therefore discuss coefficients whose magnitude, when standardized, approximates or exceeds  $\pm .10$ .
17. The test for the significance of the increment in explained variance

$$F = \frac{(R_i^2 - R_a^2) / (k_i - k_a)}{(1 - R_i^2) / (N - k_i)}$$

where  $R^2$  is the coefficient of determination for the interactive model,  $R^2$  is the coefficient of determination for the additive model,  $k_i$  = number of regressors, interactive model,  $k_a$  = number of regressors, additive model, and  $N$  is the total number of cases. Because of large sample sizes, our criterion for statistical significance is the relatively stringent  $p \leq .001$ . Moreover, in the interests of clarity and space, we discuss interactions only if a third or more of the interaction terms in the model are significant at  $p \leq .01$ .

**CONTINUED**

**1 OF 7**

## CHAPTER IV. TYPE OF SENTENCE

### OVERVIEW

This chapter reports the results of analyses for the first outcome of interest, type of sentence. The first part of the analysis focuses exclusively on case context variables, limited here to offender sex, age and race; offense seriousness and type; and, for offenders convicted in Fulton and DeKalb counties (N = 1374), prior convictions and prior incarceration. Our concern lies with estimating the relative effects of legally relevant and social background factors on the decision to imprison.

The second part of the analysis introduces the court context, specifically, bureaucratization, prosecution characteristics, and judicial composition, activism, experience, electoral vulnerability, and local involvement. We analyze separately single-judge courts and courts where more than one judge sentences offenders. Analysis addresses three questions. First, to what extent do court characteristics affect the type of sentence? Second, to what extent does sentencing differ in single-judge courts? Alternatively put, do case and court variables operate differently where judges sentence alone? And finally, do court characteristics determine the importance of case context variables? That is, does variation across courts result in a corresponding variation in the importance judges attach to the offender and the offense?

The third part of the analysis introduces the community context, and seeks to answer the following questions:

1. What effects do social, economic, political and crime characteristics of the county have on the type of sentence? This question

is answered for the sample as a whole and for the subset of cases for which we collected information on newspaper coverage of crime (N = 5366).

2. Do county characteristics determine the salience of case context variables? Put differently, do the effects of social background and legally relevant variables differ depending upon the nature of the county where the offender is sentenced?

### ANALYSIS OF CASE CONTEXT

Table 4-1 summarizes the first part of the analysis, which focuses exclusively on the case context. Model 1 includes only the social background characteristics of sex, race and age. Note first that these variables alone account for an extremely limited amount of variation (6.1%). The results indicate the offenders who are male or black are more likely to be imprisoned.

Model 2 in Table 4-1 adds the offense-related variables of legal seriousness and crime type which, taken together, increase the predictive capability of the model by 10 percent. Imprisonment is more likely for serious and violent offenders. Note that while a consideration of legally-relevant variables attenuates the significance of social background, both sex and race continue to be significant, though less important than offense seriousness and type.

Model 3 in Table 4-1 is based on the subset of offenders sentenced in Fulton and DeKalb counties, where data collection explicitly included prior record information not available in the larger sample. Because these counties are distinctive,<sup>1</sup> the findings may not be generalizable to the sample as a whole. However, they provide evidence that (1) the predictive

Table 4-1. Regression Coefficients and Related Statistics for Sentence Type, Case Context Model

Variable	Model 1		Model 2 <sup>a</sup>		Model 3 <sup>a</sup>	
	b (SE)	$\beta$	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	.271 (.017)		.318 (.015)		.352 (.051)	
Offender Sex	.176 (.010)	.122*	.112 (.009)	.072*	.099 (.028)	.081*
Offender Race	-.132 (.007)	-.134*	-.069 (.006)	-.070*	-.125 (.019)	-.134*
Offender Age	.001 (.000)	.009	.0003 (.0003)	.007	-.004 (.001)	-.084*
Offense Seriousness			.014 (.000)	.490*	.016 (.001)	.402*
Type of Crime I (Violent vs. Victimless)			-.195 (.012)	-.133*	-.017 (.036)	-.014
Type of Crime II (Violent vs. Property)			-.169 (.010)	-.167*	-.043 (.030)	-.048
Prior Convictions					.016 (.002)	.196*
Prior Incarceration					.275 (.027)	.299*
R <sup>2</sup>		.061		.163		.294
N		18455		18202		1374

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient

<sup>a</sup> Model 3 is based on the subset of offenders sentenced in Fulton and DeKalb Counties where data on prior record were available.

\*p  $\leq$  .01

power of the model is significantly improved by including prior record information (from 16.3% to 29.4%); (2) imprisonment is more likely for offenders with prior convictions and incarcerations; (3) crime type becomes relatively unimportant once prior record is considered; (4) blacks and males continue to run greater risks of imprisonment, and prior record does not further attenuate the significance of these social background variables; and (5) youthful offenders are more likely to be imprisoned than their older counterparts. Offender age and type of crime appear to be confounded with prior record, because it is only after the addition of prior convictions and incarceration that (1) an insignificant effect for age (not reported) becomes statistically significant; and (2) the negative, significant coefficients for type of crime (also not reported) attenuate to insignificance.

#### ANALYSIS OF COURT CONTEXT

##### ADDITIVE MODELS

Table 4-2 presents results of analysis introducing court context. It differentiates multiple-judge courts from circuits (representing 3716 cases) whose judges sentence alone.<sup>2</sup> Note first that court variables, as a set, do not add substantially to our ability to predict the type of sentences offenders receive. The amount of variance explained increases approximately 5 to 8 percent. Second, court context variables are slightly better predictors of sentence type in multiple-judge courts ( $R^2 = .255$ ), than in single judge courts ( $R^2 = .210$ ). Third, with few exceptions, many effects (because of sample size) are statistically significant, but of limited substantive significance (less than  $\pm .10$ ). Finally, in several

Table 4-2. Regression Coefficients and Related Statistics for Sentence Type, Court Context Models

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	-.112 (.104)		-.717 (.286)	
<u>Case Characteristics</u>				
Offender Sex	.113 (.008)	.099*	.133 (.013)	.120*
Offender Race	-.043 (.007)	-.042*	-.073 (.013)	-.073*
Offender Age	.0003 (.0003)	.005	-.0001 (.0007)	-.003
Offense Seriousness	.012 (.000)	.347*	-.014 (.001)	.482*
Type of Crime I (Violent vs. Victimless)	-.269 (.013)	-.233*	-.115 (.029)	-.064*
Type of Crime II (Violent vs. Property)	-.208 (.012)	-.203*	-.121 (.022)	-.121*
<u>Bureaucratization</u>				
Felony Filings per Judge	$1.6 \times 10^{-5}$ (.0000)	.003	.0001 (.0001)	-.018
Lower Court Assistance	.0003 (.0003)	.007	.008 (.001)	.172*
Number of Probation Officers	-.026 (.002)	-.138*	-.000 (.000)	-.000
Number of Judges	.019 (.003)	.082*		— <sup>a</sup>
<u>Prosecution Characteristics</u>				
Felony Filings per Prosecutor	$1.6 \times 10^{-5}$ ( $4.9 \times 10^{-5}$ )	.003	-.0007 (.0002)	-.124*
Percent Dismissals	.0007 (.0005)	.019	-.001 (.001)	.016
Percent Guilty Pleas	-.001 (.000)	-.029*	.003 (.001)	.079*

Table 4-2. Continued.

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Number of Times Elected	.004 (.003)	.015	-.047 (.011)	-.133*
Number of Primary Opponents	-.090 (.010)	-.072*	.191 (.033)	.175*
Facing Reelection	$-2.9 \times 10^{-5}$ ( $6.7 \times 10^{-5}$ )	-.003	-.0004 (.0002)	-.034
<u>Judicial Composition</u>				
Percent Male	$-3.2 \times 10^{-5}$ (.001)	-.000	.001 (.001)	.020
Mean Age	.004 (.001)	.033*	-.013 (.002)	-.163*
Percent Married	.004 (.000)	.081*		— <sup>a</sup>
Mean Percent Urban Background	.001 (.000)	.039*	.002 (.001)	.112*
Percent born outside Circuit	.0001 (.0001)	.007	.002 (.001)	.202*
Percent born outside Georgia	-.0007 (.0003)	-.022	.001 (.000)	.062
Percent born outside South	-.002 (.000)	-.043*	-.003 (.001)	-.116*
<u>Judicial Activism</u>				
Mean Bar Associations	-.025 (.006)	-.038*	.016 (.014)	.030
Mean Attorney Associations	-.051 (.022)	-.021	-.297 (.100)	-.156*
<u>Judicial Experience</u>				
Mean Years Other Judicial Experience	-.006 (.002)	-.033*	-.021 (.004)	-.158*
Mean Years District Attorney Experience	.007 (.001)	.045*	.026 (.003)	.298*

Table 4-2. Continued.

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
<u>Judicial Electoral Vulnerability</u>				
Mean Times Elected	-.006 (.007)	-.011	.140 (.014)	.413*
Mean Primary Opponents	-.097 (.021)	-.044*	.043 (.050)	.018
Percent facing Reelection	.0002 (.0001)	.016	.0002 (.0002)	.027
<u>Judicial Local Involvement</u>				
Mean Community Organizations	.053 (.005)	.100*	.087 (.012)	.231*
Mean Years in Local Government	-.003 (.001)	-.028*	.004 (.002)	.077*
Mean Years in State Government	-.011 (.002)	-.043*	.055 (.010)	.276*
R <sup>2</sup>		.255		.210
N		12636		3716

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>No or insufficient variation.

\*p  $\leq$  .01.

respects, discussed in greater detail below, the sentencing process for judges who sentence alone differs from its counterpart in multiple-judge circuits.

In the interests of clarity and space, we will discuss results whose standardized coefficients approximate  $\pm .10$ , and are for our purposes substantively significant. Turning attention first to bureaucratization, imprisonment is more likely where there are few probation officers. This trend is found only in multiple-judge courts and is consistent with descriptions we heard during site visits of probation officers as "liberals" likely to recommend alternatives to incarceration. Imprisonment is more likely where courts are assisted by supporting lower courts, but this is true only for judges sentencing alone. A more direct measure of caseload pressure, felony filings per judge, has little impact on sentencing in either multiple or single judge courts.

Focussing on prosecution characteristics, the results indicate relatively limited impact. Two comparisons merit mention. In single-judge courts only, imprisonment is more likely where prosecutors are electorally vulnerable, that is, have faced fewer elections and more opposition in primaries. This is not the case in multiple-judge courts. Here, prosecutor elections are irrelevant and opposition in prosecutor primaries tends to reduce, rather than increase, the use of imprisonment.

In examining judicial characteristics, again we find most are of limited importance. Judicial social background, activism, experience as a district attorney or judge in lower courts, electoral vulnerability, and local involvement (the one exception being community organizations) are generally irrelevant in courts where more than one judge sentences. But this is not always the case for judges sentence alone. For these courts,



judges are more likely to imprison if they are (1) younger; (2) from urban backgrounds; (3) were born in the circuit; (4) were born in the South; (5) belong to few attorney associations; (6) have little other judicial experience; (7) have experience as district attorneys; (8) have won several elections; and (9) have been involved in community organizations or state government.

It is important that we not overemphasize the above differences between single- and multiple-judge courts. Aggregation of judicial characteristics in the former, dictated by the lack of information on which judge sentenced the offender, may obscure within-circuit differences among judges. Thus, the trends we found for single-judge courts may apply to some unspecifiable proportion of judges sharing the sentencing responsibility with their colleagues.

In several respects, multiple and single-judge courts concur. Imprisonment continues to be more likely for males and for offenders convicted of serious offenses or of violent, rather than property or victimless, crimes.

#### INTERACTIVE MODELS

Table 4-3 summarizes the results of analysis designed to answer the third question, namely, whether court and case contexts interact with one another. With two exceptions (prosecution characteristics and judicial composition in single-judge courts), all increases in explained variance met our criteria for discussion: they were significant at  $p \leq .001$ , and a third or more of the interaction terms in the model were significant at  $p \leq .01$ . Thus, the character of the court affects not only type of sentence, but also the relevance of offender and offense characteristics.

Table 4-3. Coefficients of Determination for Additive and Interactive Models Predicting Sentence Type, Court Context Models

Court Characteristic	Multiple-Judge Courts			Single-Judge Courts		
	Additive Model	Interactive Model	% Increase	Additive Model	Interactive Model	% Increase
Bureaucratization	.240	.263	2.3	.204	.228	2.5
Prosecution Characteristics	.231	.267	3.6	.210	.231	2.1*
Judicial Composition	.248	.269	2.2	.198	.237	3.9*
Judicial Activism and Experience	.252	.264	1.2	.189	.217	2.8
Judicial Electoral Vulnerability and Local Involvement	.249	.262	1.3	.191	.242	5.1

Note: All increases in proportion of explained variance significant at  $p \leq .001$ .

\*Fewer than one-third of all interactions were significant at  $p \leq .01$ .

Tables 4-4 and 4-5 summarize the substantive nature of significant interactions for multiple-judge and single-judge courts respectively. Results were based on the metric coefficients from interactive models. Hence they control for the additive effects of the remaining case and court variables.

Metric coefficients were used to compute at least four predicted imprisonment probabilities for groups with low and high values on the case and court characteristics under consideration. For example, data on the interaction between race and felony filings were obtained by computing and comparing imprisonment probabilities for (1) blacks in courts with the fewest filings; (2) blacks in courts with the most filings; (3) whites in courts with the fewest filings; and (4) whites in courts with the most filings.

Tables 4-4 and 4-5 are designed to answer three questions:

1. For the minimum and maximum levels of the context in question<sup>3</sup> (e.g., filings per judge), which group of offenders runs the greater risk of imprisonment? Five comparisons are possible: females v. males; blacks v. whites; younger (below mean) v. older (above mean) offenders; less serious (below mean) v. more serious (above mean) offenders; violent v. victimless offenders; and violent v. property offenders. Columns 1 and 3 address this question.
2. For the minimum and maximum levels of the context in question, what is the extent of the disparity? Columns 2 and 4 present this disparity as the between-group difference in imprisonment probability.
3. What affect does change in court context produce in group differences in imprisonment probability? For example, do race

Table 4-4. Summary of Case and Court Interactions for Sentence Type, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENDER SEX					
<u>Bureaucratization</u>					
Felony Filings per Judge	Male	.113	Male	.206	.093
Number of Probation Officers	Male	.039	Female	.091	.052
<u>Prosecution Characteristics</u>					
Percent Dismissals	Female	.129	Male	.078	-.051
Number of Times Elected	Female	.129	Female	.017	-.112
Number of Primary Opponents	Female	.129	Female	.001	-.128
Facing Reelection	Female	.129	Female	.079	-.050
<u>Judicial Composition</u>					
Percent Married	Male	.174	Female	.026	-.148
Mean Percent Urban Background	Male	.374	Male	.588	.214
Percent born outside Circuit	Male	.374	Male	.204	-.170
<u>Judicial Activism/Experience</u>					
Mean Years District Attorney Experience	Male	.097	Male	.197	.100
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Male	.061	Male	.178	.117
Mean Primary Opponents	Male	.022	Male	.126	.104
Percent Facing Reelection	Male	.022	Male	.122	.100
Mean Years in State Government	Male	.022	Female	.110	.098
OFFENDER RACE					
<u>Bureaucratization</u>					
Felony Filings per Judge	White	.308	White	.211	-.097
Lower Court Assistance	White	.280	White	.026	-.254

Table 4-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
<u>Prosecution Characteristics</u>					
Number of Times Elected	Black	.090	White	.014	-.076
<u>Judicial Activism/Experience</u>					
Mean Attorney Associations	Black	.045	Black	.142	.097
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Percent Facing Reelection	White	.047	Black	.053	.006
Mean Years in Local Government	White	.047	Black	.083	.036
OFFENDER AGE					
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Younger	.003	Older	.099	.097
Number of Times Elected	Younger	.024	Younger	.081	.057
Number of Primary Opponents	Younger	.024	Older	.096	.072
<u>Judicial Composition</u>					
Mean Age	Older	.260	Older	.097	-.163
Percent Married	Older	.430	Older	.370	-.060
Mean Percent Urban Background	Older	.492	Older	.535	.043
Percent born outside Georgia	Older	.492	Older	.732	.240
<u>Judicial Activism/Experience</u>					
Mean Attorney Associations	Older	.024	Younger	.018	-.006
Mean Years District Attorney Experience	Older	.024	Younger	.057	.033
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Older	.027	Younger	.039	.012
Percent Facing Reelection	Older	.048	Older	.168	.120
Mean Years in Local Government	Older	.048	Older	.115	.067
Mean Years in State Government	Older	.048	Younger	.005	-.043

Table 4-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENSE SERIOUSNESS					
<u>Bureaucratization</u>					
Felony Filings per Judge	More Serious	.244	More Serious	.189	-.055
Lower Court Assistance	More Serious	.238	More Serious	.154	-.084
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	More Serious	.174	More Serious	.266	.092
Percent Guilty Pleas	More Serious	.135	More Serious	.053	-.082
Number of Times Elected	More Serious	.154	More Serious	.330	.176
<u>Judicial Composition</u>					
Mean Percent Urban Background	More Serious	.297	More Serious	.114	-.156
Percent born outside Circuit	More Serious	.297	More Serious	.352	.055
Percent born outside Georgia	More Serious	.297	More Serious	.517	.220
Percent born outside South	More Serious	.297	More Serious	.187	-.110
<u>Judicial Activism/Experience</u>					
Mean Bar Associations	More Serious	.238	More Serious	.253	.015
Mean Years Other Judicial Experience	More Serious	.154	More Serious	.104	.050
Mean Years District Attorney Experience	More Serious	.154	More Serious	.079	-.075
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Primary Opponents	More Serious	.154	More Serious	.138	-.016
Mean Community Organizations	More Serious	.154	More Serious	.090	-.064
Mean Years in Local Government	More Serious	.154	More Serious	.276	.122
Mean Years in State Government	More Serious	.154	More Serious	.203	.049
CRIME TYPE I (Violent v. Victimless)					
<u>Bureaucratization</u>					
Number of Probation Officers	Violent	.023	Violent	.283	.260

Table 4-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Violent	.345	Victimless	.079	-.266
Number of Times Elected	Violent	.433	Violent	.161	-.272
Facing Reelection	Violent	.433	Violent	.353	-.080
<u>Judicial Composition</u>					
Mean Percent Urban Background	Victimless	.280	Victimless	.117	-.163
<u>Judicial Activism/Experience</u>					
Mean Bar Associations	Violent	.235	Victimless	.046	-.189
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Primary Opponents	Violent	.291	Violent	.067	-.224
Percent Facing Reelection	Violent	.291	Violent	.191	-.100
Mean Community Organizations	Violent	.291	Violent	.550	.259
Mean Years in Local Government	Violent	.291	Victimless	.153	-.138
TYPE OF CRIME II (Violent v. Property)					
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Violent	.297	Violent	.001	-.296
Number of Times Elected	Violent	.359	Violent	.079	-.280
<u>Judicial Composition</u>					
Mean Percent Urban Background	Violent	.596	Violent	.426	-.170
Percent born outside Circuit	Violent	.596	Violent	.486	-.110
Percent born outside Georgia	Violent	.596	Violent	.346	-.250
Percent born outside South	Violent	.596	Violent	.886	.290
<u>Judicial Activism/Experience</u>					
Mean Bar Associations	Violent	.248	Violent	.071	-.177



Table 4-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Years in Local Government	Violent	.140	Property	.008	-.132
Mean Years in State Government	Violent	.140	Property	.002	-.138

Note: Predicted sentences capture only the effects of varying one possible determinant of outcomes (e.g., mean age of judges). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

differences decrease or increase as filings per judge increase?

Column 5 addresses these questions.

#### Interactions in Multiple-Judge Courts

Before discussing substantive results, some general patterns merit attention. First, although contextual effects are common, court variables differ in the extent to which they interact with, and hence determine the relevance of, case variables. Judicial Electoral Vulnerability and Local Involvement has the most pervasive contextual effects, with 56% of all possible interactions reaching statistical significance ( $p \leq .01$ ).<sup>4</sup> The remaining dimensions of court context are less important, with fewer than half of all possible interactions reaching significance. For Prosecution Characteristics, 44% of all interactions were significant; for Bureaucratization, 39%; for Judicial Composition, 38%; and for Judicial Activism and Experience, 39 percent.

Moreover, not all case variables are consistently affected by variation in court context. Rather, they vary in their sensitivity to court differences. Ranking case variables by the percent of total interactions (26) that reached significance, we find that offense seriousness (62%) was the most contextually responsive, followed by offender age (54%) and sex (54%), and the crime type comparisons (violent vs. victimless with 38% and violent vs. property with 35%). Offender race is least affected by differences in court context. Only 23% of all possible interactions were significant.

In the discussion that follows, we focus on each case variable, noting which court characteristics significantly affect the magnitude and direction of differential treatment. We focus only on those interactions where differences across courts resulted in a change in imprisonment probability that approximates or exceeds 10 percent.

Offender Sex. As Table 4-4 indicates, the predominant pattern is for males to face a greater risk of imprisonment than females, regardless of variation across courts. This gender gap is particularly pronounced for several indicators of judicial composition. It tends to widen in circuits where judges come from urban backgrounds, have district attorney experience, have been reelected often, or are electorally vulnerable (viz., have faced electoral opposition or are currently facing reelection).

In some instances, however, the gender gap decreases and treatment of the sexes becomes more similar. This is the case in courts whose prosecutors have been elected often or have faced opposition, and where more judges are married or were born outside the circuit. Note that while the electoral position of judges operates to increase gender disparities, the electoral position of prosecutors operates to reduce, if not eliminate, them. Note also that the findings suggest that being born outside the circuit may render judges less susceptible to any local sex-role stereotypes that could contribute to the gender gap.

Offender Race. As noted earlier, race is least affected by differences in court context. Moreover, no predominant pattern of consistent harshness toward blacks occurs. Indeed, the largest disparities operate to the disadvantage of white offenders. They decline, however, with increases in caseload and lower court assistance. One racial disparity operates to the disadvantage of blacks, and becomes more pronounced as judicial involvement in attorney associations increases.

Offender Age. Contrary to expectations generated by conflict theory, younger offenders are not invariably treated more harshly than older offenders. Rather, in many instances older offenders face greater imprisonment risks. The extent of this disparity varies, however, being

particularly pronounced for judicial composition variables. Age disparities operating to the disadvantage of older offenders narrow as the mean age of judges increases, and widen in circuits where prosecutors face heavy caseloads and where more judges were born outside Georgia or are facing reelection.

Offense Seriousness. As Table 4-4 indicates, more serious offenders invariably run the greater risk of imprisonment, when compared with less serious offenders. However, the extent of this differential risk varies depending on court context. The gap declines in courts where judges have urban backgrounds or were born outside the South. It becomes more pronounced in circuits where prosecutors have been reelected often, and where judges were born outside Georgia or have experience in local government.

Violent v. Victimless Crime. In general, violent offenders run a greater risk of imprisonment than victimless offenders. As was the case with offense seriousness, what varies with court context is the extent of this differential risk. The gap becomes more pronounced where courts have many probation officers and where judges tend to be involved in community organizations. It is more generally the case, however, that the disparity declines and treatment becomes more similar, though seldom identical. In general, disparities operating to the disadvantage of violent offenders decline where either prosecutors or judges are electorally vulnerable. In three instances, these reductions put victimless offenders at a greater disadvantage than violent offenders: in courts whose prosecutors face heavy workloads and whose judges are active in Bar associations or have experience in local government.

Note, however, an exception to these trends. In circuits composed predominantly of rural judges, victimless offenders are more likely than violent offenders to be imprisoned. This differential treatment also characterizes circuits composed of urban judges, but there it is less pronounced.

Violent v. Property Crime. In general, violent offenders are more likely to be imprisoned than property offenders. But while this greater harshness persists, it comes less pronounced in circuits whose prosecutors face heavy workloads or have been reelected often, and whose judges come from urban backgrounds, were born outside Georgia or outside the circuit, and are active in Bar associations, local or state government. The greater harshness toward violent offenders becomes more pronounced in one circumstance only, in those circuits whose judges were born outside the South.

Discussion. We now change our focus, drawing attention to specific dimensions of courts, and to our expectations about their conditioning effects. The reader may wish to refer to Appendix Table IV-A, which rearranges the results displayed in Table 4-4 to correspond with this discussion.

The results reported above suggest that, when considering multiple-court jurisdictions, noteworthy disparities exist. Moreover, they are not invariant across courts, but rather are responsive to differences in the courts that sentence offenders. While both legally relevant and social background characteristics are sensitive to court differences, the social background variable of offender race appears to be the least affected. Thus, disparities based on race may be more resistant than other disparities to explicit court-related changes designed to reduce differential treatment.

Court characteristics exerting the most pervasive contextual effects, namely, Judicial Electoral Vulnerability and Local Involvement, are indicative of judicial interaction beyond the court, and reflect sensitivity to environmental influences. In contrast, aspects more proximate to the judges themselves (their backgrounds, professional activism, and experience), as well as aspects more proximate to court organization as a whole (prosecution characteristics), exert less pronounced contextual effects. That is, they do not as consistently condition the relevance of offender and offense characteristics.

Turning attention first to court organization, we found that, as indicated by measures of caseload pressure and court size, bureaucratization tended to increase the use of imprisonment, and this was especially the case for male, black, and less serious offenders. We expected that, depending on one's theoretical perspective, bureaucratization would either exacerbate or eliminate disparities based on social background. Our findings permit no simple resolution of the Weberian-conflict theory debate. Court caseload tended to reduce, but by no means eliminate, racial disparities that operated to disadvantage whites, and they did so by increasing the risk of imprisonment faced by black offenders. Thus, even though racial disparities declined, black rather than white offenders bore the cost of that decline, a finding consistent with conflict theory. In the case of gender and crime disparities, caseload pressure exacerbated disparities that operated to disadvantage males and violent offenders. As indicated here, bureaucratization appears to be more costly for male or violent offenders than it is for female or victimless offenders.

Apart from bureaucratization, we were interested in another aspect of court organization, namely, the prosecution and its caseload pressure, preferred modes of disposition, and electoral position. Of these, preferred modes of disposition had little conditioning influence. The use of dismissals or of guilty pleas did not strongly affect sentences or the criteria judges use during sentencing.

In contrast to the caseload experienced by judges, the caseload experienced by prosecutors appeared to be irrelevant to gender or race disparities. Rather, prosecutor caseload affected differential treatment based on the type of crime the offender committed. It had a more pronounced effect on the sentencing of violent offenders, reducing the imprisonment risk they faced to the level experienced by victimless and property offenders. Thus, while court caseload has implications for differential treatment based on offender characteristics, prosecutor caseload has implications for differential treatment based on offense characteristics.

We expected prosecutor electoral vulnerability to operate in the same way as judicial electoral vulnerability, namely, to increase punitiveness particularly toward offenders who appear more threatening to the community. As expected, our findings suggest that where prosecutors had won more elections and were more established, the use of imprisonment declined. This decline was especially pronounced for female, less serious, and violent offenders. Contrary to expectation, a similar, though more limited, trend occurred where prosecutors had faced opposition in primaries and presumably were more vulnerable to public pressure. Here, we expected harsher treatment, especially for offenders posing more serious threats. Our data revealed more lenient treatment, especially for offenders (viz., females) who pose less serious threats.

Turning attention now to judicial characteristics, our findings are consistent with prior research that found little impact of demographic composition on sentencing. Note, however, that judicial marital status reduced the gender disparity that disadvantaged males. It did so primarily by more sharply increasing the imprisonment risk females face. Note also that our original expectation of lenience where judges are similar to offenders received some support. The age gap that operated to the disadvantage of older offenders declined as judges become older, largely because younger offenders were at an increasingly greater disadvantage as judicial composition shifted in age.

What figured more prominently during sentencing than judicial age and marital status was judicial background, namely, the location of birth. Here we found some interesting differences. Urban backgrounds increased the imprisonment risk for males, but decreased the risk faced by more serious, victimless and property offenders. Thus, harshness toward males was more pronounced in courts whose judges had urban backgrounds. In contrast, harshness toward more serious offenders, violent (in comparison with property), and victimless offenders was more pronounced in courts whose judges had rural backgrounds. Pronounced harshness, particularly toward victimless offenders, may reflect the tendency, noted during site-visit interviews, for drug cases in rural areas to be especially sensitive and for little distinction to be drawn between habitual and recreational drug use.

In general, then, it would appear that urban backgrounds generate greater sensitivity to the sex of the offender, while rural backgrounds generate greater sensitivity to the offense, both its seriousness and type. Thus, there is no evidence of a more particularistic orientation by judges

with rural backgrounds. Nor do judges with urban backgrounds appear to evince a more universalistic orientation during sentencing.

The geographical location of birth also conditioned the relevance of offender and offense characteristics. Disparities that operated to the disadvantage of male and violent offenders were more pronounced in courts consisting of judges born in the circuit where they sentence. These disparities declined as judicial composition shifted and more judges came from outside the circuit. In comparison with counterparts born in the circuit where they sentence, then, outsiders appear to be more lenient toward male offenders, and more severe toward property offenders.

Judges born in Georgia also demonstrated greater sensitivity to violent offenders. The disparity that operated to the disadvantage of violent offenders declined as more judges were born outside Georgia. This occurred largely because non-Georgian judges treat violent offenders more leniently than their Georgian counterparts. Judges who are non-Georgian also appeared to be more tolerant of younger, less serious offenders, sharply reducing the imprisonment risks these offenders faced.

Finally, in courts consisting primarily of Southerners, judges tended to differentiate more sharply among offenders on the basis of offense seriousness. In contrast, in courts composed of non-Southerners, sharp distinctions were based on offense type, namely, on the violent vs. property distinction. In general, as judicial composition became non-Southern, the use of imprisonment declined, and this decline was particularly pronounced for more serious and property offenders.

Thus, judges born outside the circuit or outside Georgia appeared to be more tolerant than judges born in the circuit or in Georgia of violent offenders and less tolerant of property offenders. However, when drawing

regional comparisons, non-Southerners appeared to be more tolerant than Southerners of serious and property offenders.

We held two expectations about the effects of professional activism and experience. First, we expected professionally active judges to be less punitive and more even-handed in their treatment of offenders. Second, we expected that judges with district attorney experience would be more punitive. As expected, activism in Bar associations reduced disparities that operated to the disadvantage of violent offenders, and it did so by decreasing the use of imprisonment, particularly for violent offenders. Also as expected, judges with district attorney experience were more punitive toward both male and female offenders, but male offenders bore more of the brunt of this punitiveness.

While supportive of our expectations, these specific findings must be placed in the larger context of all possible conditioning effects. Neither professional activism nor experience had pervasive or strong implications for the differential treatment of offenders.

As noted above, the most pervasive contextual effects involved judicial electoral vulnerability and local involvement. We expected any disparities that operated to the disadvantage of the most threatening offenders to become more pronounced as electoral vulnerability and local involvement increased, and less pronounced as they decreased. This general expectation was not met. Rather than decline, gender disparities that operated to the disadvantage of males became more pronounced where judges had faced reelection often and were presumably less vulnerable. This occurred because established judges used imprisonment more often than less established judges and singled out males more than females for such treatment.

When facing reelection or opposition in primaries, judges also appeared to become more sensitive to offender characteristics. But rather than become more punitive toward male and young offenders as we expected, electorally vulnerable judges tended to increase gender and age disparities by showing greater lenience toward females and greater harshness toward older offenders. Moreover, rather than become more punitive toward violent offenders, electorally vulnerable judges (viz., those who had faced primary opposition) treated violent and victimless offenders more similarly than their less vulnerable counterparts. This similarity was achieved by combining greater leniency toward violent offenders with greater severity toward victimless offenders. The former behavior may reflect, in part, ambivalence toward some kinds of violent crime (black vs. black), while greater harshness toward victimless offenders could reflect judicial perceptions of community preferences.

Our three indicators of local involvement revealed a judicial focus on legally relevant variables, and relatively less concern with offender characteristics. As expected, greater community involvement enhanced sensitivity to the distinction between violent and victimless offenders, intensifying harshness toward the former. In contrast, greater local and state government involvement to some extent reduced sensitivity to the violent nature of the crime. Treatment of violent and property offenders became more similar, because violent offenders were treated more leniently and property offenders more harshly. This similarity in treatment between violent and property offenders may be due to the unusual emphasis on property crimes we observed during site visits. Many judges and district attorneys voiced considerable consternation at crimes committed by the "non-productive on the productive," emphasizing the special injury of

household burglaries. They frequently referred to the public's intolerance of such crimes and its preference for incarcerating these offenders.

Whether the perceptions are accurate or not, we can at least assume that they provide judges with some justification for the use of imprisonment.

#### Interactions in Single-Judge Courts

We shift our attention now to interactions in those jurisdictions where one judge has sole sentencing responsibility. Here too we find differences in the locus and pervasiveness of contextual effects. Bureaucratization has the most pervasive contextual effect, with half of all possible interactions reaching significance. In order of decreasing pervasiveness are Judicial Electoral Vulnerability and Local Involvement (42%), Judicial Activism and Experience (38%), Judicial Composition (22.2%), and Prosecution Characteristics (16.7%). Since less than a third of all interactions were significant, Judicial Composition and Prosecution Characteristics will not be discussed further.

Not all case characteristics are consistently affected by variation in court context. Based on the percent of total interactions reaching significance, race is the most responsive (45%), followed by offender age (35%), offender sex (25%), and the legally relevant variables of offense seriousness (25%), violent vs. property crime (25%), and violent vs. victimless crime (10%). With the exception of race, all case variables are less responsive to contextual differences among single-judge courts than they were to contextual differences among multiple-judge courts.

The following discussion, based on Table 4-5, focuses on each case variable, and notes those court characteristics that affect the magnitude and direction of disparity.

Table 4-5. Summary of Case and Court Interactions for Sentence Type, Single-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENDER SEX					
<u>Bureaucratization</u>					
Felony Filings per Judge	Female	.077	Male	.201	.124
<u>Judicial Experience/Activism</u>					
Years District Attorney Experience	Male	.160	Female	.092	-.068
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Primary Opponents	Male	.020	Male	.277	.257
Community Organizations	Male	.020	Male	.260	.240
Years in State Government	Male	.020	Male	.260	.240
OFFENDER RACE					
<u>Bureaucratization</u>					
Lower Court Assistance	Black	.314	Black	.038	-.276
Number of Probation Officers	Black	.614	Black	.494	-.120
<u>Judicial Activism/Experience</u>					
Bar Associations	Black	.100	Black	.272	.172
Years District Attorney Experience	Black	.100	White	.026	-.074
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Times Elected	White	.173	Black	.079	-.094
Primary Opponents	White	.215	White	.507	.292
Facing Reelection	White	.185	White	.135	-.050
Community Organizations	White	.215	White	.031	-.184
Years in State Government	White	.215	White	.119	-.096



Table 4-5., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENDER AGE					
<u>Bureaucratization</u>					
Felony Filings per Judge	Older	.005	Younger	.172	.167
Number of Probation Officers	Older	.156	Older	.276	.120
<u>Judicial Activism/Experience</u>					
Bar Associations	Older	.011	Older	.107	.096
Attorney Associations	Older	.010	Younger	.121	.111
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Facing Reelection	Older	.012	Older	.042	.030
Community Organizations	Younger	.006	Younger	.294	.288
Years in State Government	Younger	.006	Younger	.063	.057
OFFENSE SERIOUSNESS					
<u>Bureaucratization</u>					
Felony Filings per Judge	More Serious	.139	More Serious	.092	-.047
Number of Probation Officers	More Serious	.130	More Serious	.030	-.100
<u>Judicial Activism/Experience</u>					
Attorney Associations	More Serious	.165	Less Serious	.033	-.132
Years District Attorney Experience	More Serious	.165	More Serious	.073	-.092
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Facing Reelection	More Serious	.156	More Serious	.178	.022

Table 4-5., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
TYPE OF CRIME I (Violent vs. Victimless)					
<u>Judicial Activism/Experience</u> Years District Attorney Experience	Violent	.079	Violent	.604	.525
<u>Judicial Electoral Vulnerability and Local Involvement</u> Community Organizations	Violent	.401	Victimless	.205	-.196
TYPE OF CRIME II (Violent vs. Property)					
<u>Bureaucratization</u> Lower Court Assistance	Property	.536	Violent	.016	-.520
Number of Probation Officers	Property	1.100	Property	.680	-.420
<u>Judicial Activism/Experience</u> Years District Attorney Experience	Violent	.087	Violent	.444	.357
<u>Judicial Electoral Vulnerability and Local Involvement</u> Times Elected	Violent	.366	Violent	.120	-.246
Community Organizations	Violent	.407	Property	.209	-.198

Note: Predicted sentences capture only the effects of varying one possible determinant of imprisonment risk (e.g., years district attorney experience). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Offender Sex. As was the case in multiple-judge courts, males in single-judge courts typically face a greater risk of imprisonment than do females. Moreover, the predominant pattern is for gender disparities to increase. This occurs as caseload pressure increases, and as judges face opposition in primaries or become involved in community organizations or state government.

Offender Race. In contrast to multiple-judge courts, race disparities are more common in single-judge courts, and they do not as consistently operate to the disadvantage of whites. Disparities against blacks decline with increased caseload pressure and increase as judges become involved in Bar associations. Disparities against whites narrow as judges become involved in community organizations and increase as judges face opposition in primaries.

Offender Age. Again, in contrast to multiple-judge courts, age disparities tend to operate to the disadvantage of younger, rather than older, offenders. Moreover, they tend to increase as court caseload increases, and as judges become more involved in attorney associations or community organizations. There is a noteworthy exception, however. One age disparity operates to the disadvantage of older offenders, and it widens as courts use more probation officers.

Offense Seriousness. It is uniformly the case the more serious offenders are more likely to be imprisoned than less serious offenders. However, there are clear declines in this disparity and treatment approaches parity in courts with more probation officers and with judges who are more involved in attorney associations.

Violent v. Victimless Crime. Judicial variables, rather than the nature of court organization per se, have implications for differences in

the sentencing of violent and victimless offenders. District attorney experience sharply increases the disparity that operates against violent offenders. And, in the absence of community involvement, judges are more likely to imprison violent offenders. In contrast, judges who participate in community organizations are more likely to imprison victimless offenders, thereby demonstrating their responsiveness to community concern with drug use and trafficking.

Violent v. Property Crime. Contrary to expectation, violent offenders are not invariably more likely than property offenders to be imprisoned. Large disparities operate to the disadvantage of property offenders in courts with few probation officers and little lower court assistance. These differentials decline, however, as courts employ more probation officers and receive more assistance from supporting courts. In these instances, probation officer inclinations to recommend alternatives to incarceration help mute the harshness generated by public intolerance of property crimes, particularly household burglaries.

It is more often the case, however, that disparities operate to the disadvantage of violent offenders. As was the case for violent and victimless offenders, district attorney experience sharply increases the harsher treatment violent offenders receive. In one instance, disparities against violent offenders decline, namely, where judges have been reelected often and presumably are more established.

Finally, note the tendency, where community involvement is absent, for judges to be more severe toward violent offenders and, where involvement is extensive, for judges to be more severe toward property offenders. This pattern has its analog in the differential sentencing of violent and victimless offenders.

Discussion. The following discussion focusses on those three categories of court variables for which substantively significant conditioning effects occurred: Caseload Pressure, Judicial Activism and Experience, and Judicial Electoral Vulnerability and Local Involvement. We will be concerned with the magnitude and extent of disparity, noting whether specific contexts operate as expected on the basis of the theory and empirical literature reviewed in Chapter III. Appendix Table IV-B rearranges the results presented in Table 4-5 to conform with this discussion.

As noted above, indicators of court bureaucratization had the most pervasive conditioning effects. In general, bureaucratization increased the use of imprisonment. This increase was more pronounced for certain groups of offenders than for others, namely, male, white, more serious, and violent offenders. Bureaucratization affected disparities based on age as well, but the findings are less clear. Younger offenders bore the brunt of the increased harshness that accompanies greater caseloads, while older offenders bore more of the cost of the increased punitiveness that accompanies larger probation departments.

There was no uniform tendency for bureaucratization to reduce or to exacerbate disparities. Court caseload tended to reduce but not eliminate disparities that operated to the disadvantage of blacks, by producing more pronounced increases in the imprisonment risk faced by white offenders. In contrast to multiple-judge courts, then, where judges sentence alone white rather than black offenders bear more of the cost of bureaucratization.

Bureaucratization also reduced disparities based on the seriousness and type of offense. Disparities that operated to disadvantage more serious and property offenders declined because harshness toward violent

offenders and leniency toward more serious offenders became more pronounced.

In the case of other disparities, namely, those based on the offender characteristics of gender and age, bureaucratization exacerbated, rather than reduced, differential treatment. This occurred because bureaucratization put males at a greater disadvantage during sentencing than females. And, as noted earlier, younger offenders were at a greater disadvantage than older offenders where caseloads were high, while older offenders were at a greater disadvantage than their younger counterparts where probation departments were larger.

Turning attention to judicial activism and experience, our general expectation was that professionally active judges would be less punitive in general and more even-handed in their treatment of offenders. We also expected that judges with district attorney experience would be more punitive. Our findings indicated some tendency for judges active in Bar associations to rely less on imprisonment. However, their leniency was differentially applied, being more pronounced for white and younger offenders. The pattern for activism in other attorney associations was less clear. Such activism reduced the risk of imprisonment particularly for younger offenders, but increased the risk of imprisonment particularly for less serious offenders. In general, then, while professional activism may generate lenience, it does not always do so. Moreover, professional activism does not result in more even-handed treatment, but rather increases disparities based on race and age.

The findings for district attorney experience generally conformed to our expectation. Judges with district attorney experience tended to rely on prison, and it was violent rather than other offenders, who bore the brunt of this increased use.

Our final expectation specified the effects for electoral vulnerability and local involvement. We expected any disparities that operated to the disadvantage of more threatening offenders to become more pronounced as vulnerability and local involvement increase, and less pronounced as they decrease. Our findings suggested that electoral vulnerability operates in a more complex fashion than anticipated. As expected, where judges had been reelected often and were presumably established, disparities that operated to the disadvantage of violent offenders declined. This occurred, however, because established judges used prison more than their less established counterparts, and singled out property rather than violent offenders for such treatment. We expected neither of these patterns. However, interviews indicated that even established judges were concerned with public opinion (often more concerned than non-judicial authorities considered appropriate) and, further, that they tended to assume the public regarded certain property crimes (e.g., burglary) as especially offensive. And, rather than being more punitive particularly toward blacks and males, judges who had faced opposition in primaries were more lenient, particularly toward female and black offenders.

In contrast to electoral vulnerability, local involvement generally conformed to our expectations. Involvement in community organizations tended to increase judicial reliance on imprisonment, and did so especially for male, black, young, victimless, and property offenders. Involvement in state government also tended to increase the use of prison, and did so particularly for male and black offenders.

## ANALYSIS OF COUNTY CONTEXT

### ADDITIVE MODELS

Table 4-6 displays the results for models introducing characteristics of the county as predictors of type of sentence. The first model is based on the entire sample, while the second is based on a smaller number of cases (N = 5366) for which newspaper coverage of crime was collected. Despite differences between cases having newspaper coverage and those lacking such information,<sup>5</sup> a comparison of coefficients between the two models reveals more similarities than differences. Many county context variables have statistically significant but relatively minor effects, in particular, indicators of the political and crime structures of the community. As a set, county characteristics add about 6% to the predictive capability of the original case context model.

Of note is the tendency for imprisonment to be more likely in counties that are urbanized. Occupational division of labor is largely irrelevant, and for those counties for which newspaper coverage was available, income inequality increases, while percent black decreases, the risk of imprisonment. Press coverage itself joins the ranks of crime and political characteristics of the county as having marginal effects on the type of sentence.

Finally, controlling for county characteristics has little effect on the impact of case context variables. Imprisonment continues to be more likely for offenders who are male, and who were convicted of serious or violent offenses.

### INTERACTIVE MODELS

Table 4-7 summarizes the results of analysis designed to answer the third question posed earlier in this chapter, namely, do county and case

Table 4-6. Regression Coefficients and Related Statistics for Sentence Type, County Context Models

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	β	b (SE)	β
Intercept	-.195 (.073)		-.771 (.235)	
<u>Case Characteristics</u>				
Offender Sex	.110 (.007)	.099*	.172 (.013)	.154*
Offender Race	-.061 (.007)	-.060*	-.044 (.013)	-.044*
Offender Age	.002 (.000)	.032*	.000 (.001)	.004*
Offense Seriousness	.013 (.000)	.401*	.011 (.001)	.269*
Type of Crime I (Violent vs. Victimless)	-.223 (.013)	-.177*	-.229 (.022)	-.198*
Type of Crime II (Violent vs. Proper y)	-.185 (.011)	-.182*	-.253 (.020)	-.250*
<u>Urbanization</u>				
Urbanization	$5.0 \times 10^{-7}$ ( $4.7 \times 10^{-8}$ )	.155*	$4.0 \times 10^{-7}$ ( $1.2 \times 10^{-7}$ )	.171*
<u>Economic Inequality</u>				
Income Inequality	.364 (.120)	.029*	3.787 (.452)	.306*
Percent Black	-.000 (.000)	-.002	-.005 (.001)	-.154*
<u>Occupational Division of Labor</u>				
	-.025 (.005)	-.047*	-.017 (.011)	-.035
<u>Political Characteristics</u>				
Voter Participation	.001 (.000)	.039*	.001 (.001)	.021*

Table 4-6. Continued

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	β	b (SE)	β
Percent Wallace Vote	.003 (.000)	.045*	.009 (.003)	.083*
Percent Reagan Vote	-.001 (.000)	-.023	-.006 (.001)	-.075*
Percent Kennedy Vote	-.008 (.001)	-.054*	-.010 (.003)	-.080*
<u>Crime Characteristics</u>				
Index Crime Rate	$-2.2 \times 10^{-6}$ ( $2.1 \times 10^{-6}$ )	-.014	$9.0 \times 10^{-6}$ ( $8.4 \times 10^{-6}$ )	.066
Percent Stranger- Stranger Index Crimes	-.001 (.000)	-.017*	-.001 (.001)	-.016
Percent Residential Index Crimes	.002 (.000)	.033*	.001 (.001)	.015*
Percent Index Crimes Involving Weapon	.001 (.000)	.025	.0002 (.0008)	.008
Percent Index Crimes Occurring at Night	.000 (.000)	.001	-.006 (.001)	-.133*
Percent Black Arrestees	.0006 (.0002)	.025*	-.001 (.001)	-.043
Percent Young Arrestees	-.001 (.000)	-.013	.004 (.001)	.055*
<u>Press Coverage of Crime</u>				
Articles/Issue			.008 (.004)	.055
Prominence of Coverage			.002 (.000)	.076*
Local Crime Coverage			.001 (.000)	.071*
Violent Crime Coverage			.0004 (.0004)	.020

Table 4-6. Continued

Variable	Model 1	Model 2 <sup>a</sup>
R <sup>2</sup>	.211	.234
N	16234	5366

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized regression coefficient.

<sup>a</sup>Model 2 is based on the subset of cases for which newspaper coverage of crime was available.

\*p  $\leq$  .01.

Table 4-7. Coefficients of Determination for Additive and Interactive Models Predicting Sentence Type, County Context Models

County Characteristic	Proportion of Explained Variance		% Increase
	Additive Model	Interactive Model	
Urbanization	.206	.215	.8
Economic Inequality	.207	.216	.8
Division of Labor	.208	.214	.6
Political Characteristics	.206	.218	1.2
Crime Characteristics	.206	.223	1.6
Press Coverage of Crime	.211	.245	3.4

Note: All increases in proportion of explained variance significant at p  $\leq$  .001.

characteristics interact with one another. All increases in explained variance met our criteria for discussion. They were significant at  $p \leq .001$  and one third or more of the interactions terms in the model were significant at  $p \leq .01$ . Thus, these data provide evidence that the character of the county affects the relevance of offender and offense characteristics during sentencing.

Table 4-8 summarizes the substantive nature of significant interactions between case and county characteristics. The first and third columns report the groups of offenders that run greater risks of imprisonment for the minimum and maximum levels of the county context in question (e.g., urbanization). Columns 2 and 4 note the extent of between-group differences, as indicated by the difference in imprisonment probability. The final column displays changes in disparity, whether differences widen or narrow.

Note again that while contextual effects are common, county characteristics differ in the extent to which they interact with, and determine the relevance of, offender and offense characteristics. Urbanization, the division of labor, and the political character of counties produce the most pervasive contextual effects, with half of all possible interactions being significant. Somewhat less important is the crime character of the county, as indicated by official statistics (48%) and press coverage of crime (42%). Economic inequality has the least pervasive effects, with 33% of all possible interactions reaching significance.

In addition, case variables vary in their sensitivity to county variation. Offender age and race, as well as the victimless-violent crime comparison, are most affected, with half or more of all possible



Table 4-8. Summary of Case and County Interactions for Sentence Type

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENDER SEX					
<u>Urbanization</u>	Male	.066	Male	.238	.172
<u>Political Characteristics</u>					
Percent Reagan Vote	Female	.132	Male	.228	.096
Percent Kennedy Vote	Female	.266	Male	.056	-.210
<u>Crime Characteristics</u>					
Percent Index Crimes Involving Weapons	Male	.138	Male	.312	.174
<u>Press Crime Coverage</u>					
Articles/Issue	Male	.291	Male	.142	-.149
Local Crime Coverage	Male	.303	Male	.140	-.163
OFFENDER RACE					
<u>Urbanization</u>	Black	.061	Black	.105	.044
<u>Economic Inequality</u>					
Percent Black	White	.010	White	.150	.140
<u>Political Characteristics</u>					
Percent Reagan Vote	White	.183	Black	.037	-.146
Percent Kennedy Vote	White	.279	White	.181	-.098
<u>Crime Characteristics</u>					
Index Crime Rate	White	.186	White	.004	-.182
Percent Stranger-Stranger Index Crimes	White	.186	White	.308	.122
Percent Residential Index Crimes	White	.186	White	.022	-.164

Table 4-8., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
Percent Index Crimes Occurring at Night	White	.186	Black	.041	-.145
Percent Black Arrestees	White	.186	White	.094	-.092
<u>Press Crime Coverage</u>					
Prominence of Coverage	Black	.462	White	.048	-.414
Violent Crime Coverage	Black	.462	White	.038	-.424
OFFENDER AGE					
<u>Economic Inequality</u>					
Income Inequality	Older	.037	Older	.210	.173
Percent Black	Younger	.228	Younger	.415	.187
<u>Division of Labor</u>	Younger	.028	Older	.067	.039
<u>Political Characteristics</u>					
Voter Participation	Younger	.024	Younger	.086	.062
Percent Wallace Vote	Older	.021	Younger	.173	.152
Percent Kennedy Vote	Older	.029	Younger	.021	-.008
Percent Reagan Vote	Older	.043	Older	.057	.014
<u>Crime Characteristics</u>					
Index Crime Rate	Older	.096	Older	.018	-.078
Percent Index Crimes Involving Weapons	Older	.096	Older	.185	.089
Percent Black Arrestees	Older	.096	Younger	.009	-.087
<u>Press Crime Coverage</u>					
Articles/Issue	Younger	.060	Older	.048	-.012
Prominence of Coverage	Younger	.070	Younger	.427	.367
Local Crime Coverage	Younger	.065	Older	.056	-.009

Table 4-8., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
OFFENSE SERIOUSNESS					
<u>Urbanization</u>	More Serious	.070	More Serious	.041	-.029
<u>Division of Labor</u>	More Serious	.173	More Serious	.122	-.051
<u>Political Characteristics</u>					
Voter Participation	More Serious	.266	More Serious	.185	-.081
Percent Reagan Vote	More Serious	.297	More Serious	.209	-.088
<u>Crime Characteristics</u>					
Percent Index Crimes Occurring at Night	More Serious	.132	More Serious	.315	-.183
<u>Press Crime Coverage</u>					
Articles/Issue	More Serious	.275	More Serious	.154	-.121
Local Crime Coverage	More Serious	.283	More Serious	.209	-.074
TYPE OF CRIME I (Victimless vs. Violent)					
<u>Economic Inequality</u>					
Income Inequality	Violent	.336	Victimless	.041	-.295
<u>Division of Labor</u>	Violent	.108	Violent	.317	.209
<u>Political Characteristics</u>					
Percent Reagan Vote	Victimless	.132	Violent	.068	-.064
<u>Crime Characteristics</u>					
Index Crime Rate	Victimless	.034	Violent	.360	.326
Percent Stranger-Stranger Index Crime	Victimless	.034	Violent	.418	.384
Percent Residential Index Crime	Victimless	.034	Violent	.362	.328

Table 4-8., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
Percent Index Crimes Occurring at Night	Victimless	.034	Victimless	.470	.436
Percent Black Arrestees	Victimless	.034	Victimless	.140	.106
Percent Young Arrestees	Victimless	.034	Violent	.334	.300
TYPE OF CRIME II (Property v. Violent)					
<u>Political Characteristics</u>					
Percent Reagan Vote	Violent	.076	Violent	.276	.200
<u>Crime Characteristics</u>					
Index Crime Rate	Property	.008	Violent	.266	.258
Percent Stranger-Stranger Index Crime	Violent	.007	Violent	.067	.060
Percent Residential Index Crime	Property	.008	Property	.295	.287
Percent Index Crimes Occurring at Night	Property	.008	Property	.327	.319
<u>Press Crime Coverage</u>					
Violent Crime Coverage	Violent	.336	Violent	.036	-.300

Note: Predicted sentences capture only the effects of varying one possible determinant of imprisonment risk (e.g., income inequality). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

interactions reaching significance. The legally relevant variables of offense serious and type (property v. violent crime), as well as offender sex, are less affected by county variation. For these variables, fewer than 40% of all possible interactions are statistically significant.

In the discussion that follows, we focus on each case variable, discussing those county variables that affect the magnitude and direction of disparity.

Offender Sex. Most gender disparities operate to the disadvantage of males. They vary in magnitude, however, being particularly pronounced in counties that are heavily urbanized, and have large Reagan votes, high proportions of Index crimes involving weapons, and relatively little press coverage of crime. Gender disparities tend to widen with increases in urbanization, the Reagan vote, and the proportion of Index crimes involving weapons. In contrast, gender differences narrow, and treatment becomes more similar, as the percent Kennedy vote becomes larger, and as the amount and local focus of press crime coverage increases.

Offender Race. Contrary to expectation, racial disparities tend to operate to the disadvantage of whites. However, as was the case for gender, the magnitude of the gap varies markedly. Racial disparities that operate to the disadvantage of whites increase as counties contain more blacks and as stranger-to-stranger Index crimes become more common. It is more often the case, though, that racial disparities decline, usually approaching parity. Treatment becomes more similar as the Reagan vote becomes larger and as the crime problem becomes more serious or salient (viz., as the Index crime rate increases; residential and nighttime Index crime becomes more common; more blacks are arrested; and press coverage of crime becomes more pronounced and focusses on violent crime).

One notable exception to this general trend merits mention. Where press coverage of crime is low, blacks are much more likely than whites to be imprisoned. As press coverage increases, the races tend to be treated more similarly. Our site visits shed light on this finding. Some court authorities commented on the sporadic attention of the press and emphasized that newspapers frequently "play up" sensational cases, especially those reputed to involve blacks. This tendency, when combined with reports of judicial sensitivity to press coverage, could help account for more pronounced harshness toward blacks where coverage is limited.

Offender Age. As predicted from conflict theory, in the majority of instances, younger offenders are more likely than their older counterparts to be imprisoned. Most of these age differences are minor, however, since they represent less than a 10% difference in the probability of imprisonment. In general, though, age disparities tend to increase, to further disadvantage the young. This is the case as counties contain more blacks, have larger Wallace votes, arrest more blacks, and have more prominent press coverage of crime.

Offense Seriousness. Without exception, more serious offenders are more likely to be imprisoned than less serious offenders. In general, this differential risk declines somewhat, particularly as more Index crimes occur at night and as press coverage of crime increases.

Violent v. Victimless Crime. One would expect that, once offense seriousness is held constant, violent offenders would be more likely to be imprisoned than victimless offenders. This is the case, however, only where income inequality is low, the division of labor and Index crime rates are high, stranger-to-stranger and residential Index crimes are common, and

arrestees tend to be younger. Elsewhere victimless and violent offenders are treated similarly.

While disparities that operate to disadvantage violent offenders decline as income inequality increases, it is more often the case that these disparities become more pronounced. This is the case as the occupational division of labor becomes more complex and as crime problems become more serious (e.g., the crime rate increases, stranger-to-stranger and residential Index crime becomes more common, and more young persons are arrested). Finally, in only two instances do disparities that operate to disadvantage victimless offenders increase: as more Index crimes occur at night and as more blacks are arrested.

Violent v. Property Crime. Violent offenders are not always more likely than property offenders to be imprisoned. Indeed, in some instances, property offenders face the greater risk of imprisonment, and this greater risk becomes more pronounced as residential and nighttime Index crime becomes more common. This pattern reflects the previously mentioned concern with residential property crimes, expressed in many interviews with judges and district attorneys. Elsewhere, violent offenders are more likely than property offenders to receive a prison sentence, and this disparity increases as the Reagan vote becomes large and the crime rate increases. Press coverage of violent crime reduces this gap, resulting in more similar sentences for violent and property offenders.

Discussion. In this section, we shift our attention from case characteristics to the county variables themselves. Appendix Table IV-C reorganizes the results to conform with the discussion that follows. Our concern lies with comparing county contextual effects generated by the analysis with expectations generated by theory and the previous literature.

One of the most noteworthy conclusions permitted by our analysis was that rural counties are not characterized by stronger sentence disparities than urban counties. The only substantial disparity involved gender, and rather than declining with urbanization, it became more pronounced. Urbanization increased the use of imprisonment for both male and female offenders, but it was males who bore more of the cost of this increase.

As expected, the use of imprisonment declined as the division of labor became more complex. This decline was apparent, however, only when comparing violent and victimless offenders. The division of labor did not operate as a particularly strong conditioner of the relevance of offender or of offense characteristics. Only one contextual effect merits attention. Violent offenders were at an increasingly greater disadvantage than victimless offenders, and this occurred because leniency toward victimless offenders became more pronounced as the division of labor became more complex.

We expected economic inequality to render the punishment of property offenders more severe and to result in more pronounced harshness toward members of disadvantaged groups. Our results did not support these expectations. In general, as inequality increased, the risk of imprisonment for victimless and especially violent offenders declined, and no noteworthy change in the sentencing of property offenders occurred. Moreover, while economic inequality increased disparities, these disparities did not always operate against members of lower status groups. The age disparity operated to disadvantage older, rather than younger, offenders and it increased as income inequality increased, largely because younger offenders were treated more leniently than their older counterparts. The racial disparity disadvantaged white, rather than black,

offenders and it widened as percent black increased largely because whites were treated more harshly than blacks. Only one interaction, that between age and percent black, supported our expectation. The age disparity operated to the disadvantage of younger offenders, and it became more pronounced as percent black increased, largely because older offenders were treated with increasing leniency.

Turning attention to the political character of counties, we expected that liberalism would reduce the use of imprisonment and conservatism would increase its use, particularly for those groups posing more serious threats (e.g., serious, relatively powerless offenders). Our expectation was not generally confirmed. We found that conservatism, as indicated by Reagan and Wallace votes, actually decreased the use of imprisonment and that this decrease was particularly pronounced for female, white, older, and property offenders. Note that conservatism here operated to the advantage of two relatively powerful groups: older and white offenders. Both findings were consistent with our expectation.

Our rough indicator of political liberalism, the Kennedy vote in 1980, operated partly as expected. It decreased the probability of imprisonment, but did so particularly for female and white offenders. Taken together, these findings suggest that in certain contexts, offenders representing lower status groups (e.g., black, young) and violent offenders may be at a disadvantage in comparison with their counterparts not because they themselves are treated more severely but rather because they are simply afforded less leniency than their counterparts.

The findings for crime characteristics confirm the expectation that as county crime problems become more serious, imprisonment is used with greater frequency. Moreover, there was some tendency for crime problems to

have more pronounced effects on the imprisonment risks faced by blacks and violent offenders. Yet, there are exceptions to these two general patterns. For example, as nighttime Index crime became more common, the use of imprisonment declined, and this was especially the case for white, less serious, and violent offenders. Also, although counties with greater proportions of stranger-to-stranger Index crime followed the general pattern of greater use of imprisonment, they diverged because they appear to single out whites more than blacks for imprisonment.

Finally, as expected, greater press coverage of crime also tended to increase the use of prison. Here, there was no evidence that such coverage consistently operated to the detriment of black or more serious offenders. For example, the increase in imprisonment risk that accompanies greater newspaper coverage had a more pronounced effect on female and less serious offenders than on male and more serious offenders. And the increase in imprisonment risk that accompanied more prominent coverage in general and more coverage of violent crime in particular was more pronounced for white than for black offenders.

#### SUMMARY AND DISCUSSION

##### SUMMARY OF ADDITIVE EFFECTS

This section summarizes the major findings of our three-part analysis of sentence type. The first part of the analysis focussed exclusively on case context variables, and we were concerned with estimating the relative effect of legally relevant and social background variables on the decision to imprison. We found the following patterns:

1. Blacks, males, and (for Fulton and DeKalb counties) youthful offenders were more likely to be imprisoned. This was the case even when offense seriousness, type of offense and, for Fulton and DeKalb counties only, prior record were considered. Legally relevant variables reduced the impact of social background characteristics, and generally had stronger effects on type of sentence.
2. Imprisonment was also more likely for offenders convicted of legally serious offenses, violent rather than victimless or property crime, and in Fulton and DeKalb counties for offenders with prior convictions and incarcerations.

The second part of the analysis introduced several dimensions of court context, namely, bureaucratization, prosecution characteristics, judicial composition, judicial activism and experience, and judicial electoral vulnerability and local involvement. We were concerned here with three issues. First, what effect do court variables have on the decision to imprison? Second, does the sentencing process in multiple-judge courts differ from the process in courts where judges sentence alone? Third, and most important, do court contexts condition the relevance of case variables? We found the following trends:

1. The introduction of court characteristics produced a relatively small increase in our ability to predict the type of sentence offenders receive. Most characteristics had marginal direct effects.
2. Single-judge courts did not treat case-context variables any differently than their multiple-judge counterparts. However, in single-judge courts, prosecutor electoral vulnerability, selected judicial characteristics, as well as experience, electoral vul-



nerability and local involvement, played more pronounced roles during sentencing. These differences must be interpreted cautiously, however, as they could be artifacts of the aggregation procedure required to conduct analysis in multiple-judge courts. This aggregation could have obscured similarities in sentencing processes.

3. Bureaucratization and prosecution characteristics were generally irrelevant, except in single-judge courts, where imprisonment was more likely if prosecutors had been opposed in primaries and less likely if they faced heavy caseloads or had been reelected often.
4. In courts whose judges sentence alone, we found evidence of more punitive sentences by the following types of judges: younger, urban background, born in the circuit or in the South; less involved in attorney associations; little other judicial experience; prior experience as district attorney; reelected often; and involved in community organizations or state government.
5. Controlling for differences across courts, offenders were still more likely to be imprisoned if they were male or convicted of serious or violent crimes.
6. Court characteristics conditioned the relevance of offender and offense characteristics, but there are differences in the pervasiveness of these conditioning effects. In multiple-judge courts, electoral vulnerability and local involvement had more pervasive effects than other dimensions of the court. In single-judge courts, the most pervasive conditioning influence was court bureaucratization, and both judicial composition and prosecution

characteristics had little influence as contextual influences on sentencing. We will defer our consideration of the substantive nature of contextual effects until after we summarize the findings of the third part of the analysis.

In the final part of the analysis, we considered various dimensions of the county where the offender was sentenced, namely, urbanization, economic inequality, occupational division of labor, the political and crime character of the county, and the nature and extent of press coverage of crime. Again, we were concerned with three issues. First, what effects do county variables have on the decision to imprison? Second, does the sentencing process in the sample as a whole differ from the process that occurs in that subset of cases for which we had data on press coverage of crime? Third, do county contexts condition the relevance of case variables? Analysis revealed the following patterns:

1. As was the case for court characteristics, the introduction of county variables produced a relatively small increase in our ability to predict the type of sentence offenders receive.
2. There were some differences between the sample as a whole and the subset for which newspaper coverage was available. In the latter, imprisonment became more likely as urbanization increased, income inequality became more pronounced, and the percent black in the county's population decreased. Similarities outweighed differences, however. The political and crime structure of the community, as well as press coverage of crime, were of limited significance. Controlling for county characteristics, offenders were still more likely to be imprisoned if they were male or convicted of serious or violent crime.

3. Most importantly, there was evidence that county characteristics condition the role of offender and offense factors. To some extent, county contexts differed in the pervasiveness of their conditioning influence, with the most pervasive being urbanization, the division of labor, and political character of the county. Economic inequality produced more limited conditioning effects. As will become apparent below, the most pervasive effects were not necessarily the strongest.

#### THE NATURE OF CONTEXTUAL EFFECTS

Our findings indicate that variation across courts and counties produces a corresponding variation in the way judges use information about the offender and the offense to inform their decision to imprison. Thus, the often small, additive effects we found for most county and court characteristics are uninformative and/or misleading. They do not, and cannot, elucidate the more pronounced, indirect role these characteristics play during sentencing. County and court variables condition disparities based on offender and offense characteristics. These disparities change both in direction and in magnitude because county and court contexts operate differently for different groups of offenders, that is, they do not operate identically for all offenders. For example, urbanization increased the disparity that operated to the disadvantage of male offenders because, while it increased the risk of prison for both men and women, it produced a more pronounced increase for male offenders. More serious crime problems decreased disparities that operated to disadvantage white offenders because, while they increased the risk of imprisonment for both black and whites, they produced more pronounced increases for black offenders. Thus, changes in disparities (increases and decreases) reflect differential

treatment, that is, harshness (or lenience) produced by contextual change that is more pronounced for one group of offenders than for others.

Likewise, the simple additive effects we found for case characteristics may misrepresent the actual role these variables play during sentencing. No offender or offense characteristic has one single effect that is invariant across all courts and all counties. Rather, the magnitude and direction of their effects vary as a function of certain characteristics of the courts and the counties in which offenders are sentenced.

#### Gender Disparities

Additive models indicated that males are more likely than females to be imprisoned. In the absence of prior record and detailed offense information, we cannot exclude the possibility that legally relevant justifications for this disparity exists. Site visits did reveal, however, the presence of paternalistic attitudes that could account in part for an overall reluctance to imprison women.

Yet, when we considered the contexts of sentencing, we found that disparities operating against male offenders occurred in a majority, but by no means all, instances. Moreover, the magnitude of the disparity varied markedly, ranging from a minimum difference in imprisonment probability of 2% to a maximum difference of 58.8% (in multiple-judge courts composed of urban judges). Where changes in disparities were substantial ( $>10\%$ ), they tended to increase, further disadvantaging males.

In a noteworthy minority of instances (29%), however, females were more likely than males to be imprisoned. These disparities, which ranged from 1% to 26.6% differences in imprisonment probabilities, tended to be less pronounced than those that operated against males (the mean disparity

was 10%, while the mean of disparities that disadvantage males was 17%). In addition, substantial changes in disparities involved reductions in harshness toward female offenders and more similar treatment between the sexes. In sum, disparities that operated to the disadvantage of female offenders are less common, smaller, and tended to decrease rather than increase.

#### Race Disparities

The overall additive effect for race was statistically significant, but of marginal substantive significance. It indicated that blacks are more likely than whites to be imprisoned. A different and much more complex picture emerged once contextual effects are considered. In over half the instances (63%) where racial differences existed, whites were more likely than blacks to be imprisoned, a finding that contradicts conflict theory and the general effect found in additive models. From interviews, it was obvious that some judges and district attorneys, particularly those born in the South, were relatively unconcerned with certain violent crimes, particularly aggravated assaults involving blacks. For example, one judge observed that "...we don't referee any more barroom brawls. If they shoot each other in a bar, that's their problem." For many judges and district attorneys, violent crimes involving minorities with criminal histories were "junk cases," unworthy of the court's attention, much less punitive sentencing. Thus, harshness toward whites may be an unanticipated outcome of lenience toward some groups of black offenders.

The greater risk of imprisonment whites experience varied markedly, ranging from an insubstantial .4% difference (in counties with high Index crime rates) to 50.7% in single-judge courts whose judges have faced opposition in primaries. Most substantial changes (67%) in racial

disparities that disadvantage whites declined. This was especially the case where crime problems became more serious, where multiple-judge courts were more bureaucratized, and where judges in single-judge courts were more involved in community organizations.

It was only in a minority of cases (37%) that blacks were more likely than whites to be imprisoned. These disparities ranged from 3.7% to a maximum difference of 61.4% (in single-judge courts with few probation officers). The mean disparity experienced here was slightly greater than the disparity that operated against whites (18.9% vs. 15.3%). Most substantial changes in disparity (86%) involved decreases in differential treatment. These became particularly pronounced as press coverage of crime increased and as single-judge courts became more bureaucratized.

#### Age Disparities

Offender age typically had a minimal, often insignificant, additive effect on type of sentence. Once court and county contexts were considered, however, we found that in the majority of instances where age differences existed (61%), older offenders were more likely than younger offenders to be sentenced to prison. This pattern reflects a tendency that one district attorney described as "judicial optimism," wherein judges thought they could rehabilitate youthful offenders, but not older defendants. They therefore preferred alternatives to incarceration for younger offenders, assuming that prisons served primarily to punish and incapacitate.

Age disparities operating to disadvantage older offenders ranged from a .5% to a 73.2% difference in imprisonment probability. The largest disparity occurred in multiple-judge courts consisting of non-Georgians. Most (80%) substantial changes in disparity involved increases, and these

were especially pronounced as income inequality increased and as multiple-judge counts consisted primarily on non-Georgians.

In a substantial minority of cases (39%), however, younger offenders were more likely than older offenders to be sentenced to prison. Here, too, disparities ranged from an insignificant .3% difference to a substantial difference of 42.7%, in counties with prominent press coverage of crime. Disparities operating to the disadvantage of younger offenders were not only less common, they were also less pronounced. The mean disparity was 9.7%, while the mean disparity operating against older offenders was 14.4 percent. All substantial changes in disparities were increases, and these were especially pronounced where counties contained more blacks, have more prominent press coverage of crime and larger Wallace votes, and where single-judge courts experienced greater caseload pressure and community involvement.

#### Offense Disparities

The additive effect for offense seriousness was modest and positive, indicating that more serious offenders face greater risks of imprisonment when compared with less serious offenders. With one exception, this difference obtained when contextual effects were considered. However, differential treatment of more serious offenders varied from a minor 3% to a substantial 51.7% difference, which occurred in multiple-judge courts composed of non-Georgians. In the majority of instances involving substantial changes (67%), disparities tended to decline, particularly as nighttime Index crimes became more common, and as more judges in multiple-judge courts came from urban backgrounds.

For offense type, our additive models indicated that violent offenders are more likely than property and victimless offenders to be imprisoned.

Again, these results masked exceptions, and were insensitive to the range of differential treatment and to salient changes in the magnitude of differential treatment.

In the majority of cases where differences existed (62%), violent offenders were indeed more likely than victimless offenders to be sentenced to prison. But differences in imprisonment probability ranged from 2.3% to 60.4%, the latter of which occurred in single-judge courts whose judges have district attorney experience. The slight majority (53%) of substantial changes in disparities involved declines. These were especially pronounced in multiple-judge courts where prosecutors faced heavier caseloads and were electorally less vulnerable, and where judges were professionally more active and faced opposition in primaries. Pronounced increases in disparities operating to disadvantage violent offenders also occurred, for example, as crime problems became more serious.

In a substantial minority of cases (38%), victimless offenders ran the greater risk of imprisonment. The range of differential treatment here varied from 3.4% to 47%, with the largest gap occurring in counties experiencing high proportions of nighttime Index crime. Disparities that operate to disadvantage victimless offenders were both less common and less pronounced, their mean being 11.7% (in comparison with the 29.3% mean difference in disparities operating against violent offenders). Substantial changes generally involved increases, particularly as the proportions of nighttime Index crime and black arrestees increased. This increase could reflect judicial perceptions of drug use and trafficking as constituting underlying causes for crimes committed at night and by blacks.

It was also the case that in the majority of instances (73%), violent offenders were more likely than property offenders to be sentenced to

prison. The range of differential treatment varied from an insignificant .1% difference to a major difference of 88.6% percent. The greatest disparities occurred in multiple-judge courts consisting of judges with rural backgrounds, or born in Georgia or outside the South. Most (63%) substantial changes in these disparities involved decreases, and these were particularly pronounced in courts whose prosecutors faced heavy caseloads and whose judges were born outside Georgia or were active in Bar associations.

In a minority of cases (27%), however, property offenders were more likely than violent offenders to be imprisoned. Differential imprisonment probabilities ranged from .2% to 110%, being especially large in counties with high proportions of residential and nighttime Index crimes, and in single-judge courts with small probation departments. Though less common, disparities operating to disadvantage property offenders were just as pronounced ( $\bar{X} = 28.9\%$ ) as those operating to the disadvantage violent offenders ( $\bar{X} = 28.8\%$ ).

#### IMPLICATIONS

We conclude this summary with a consideration of the substantive nature of interactions, comparing our results with expectations generated by the theoretical and empirical review presented in Chapter III.

Turning attention first to court variables, we found that in both single and multiple-judge courts, bureaucratization increased the risk of imprisonment and was more costly for male and victimless offenders. However, we found no uniform tendency for bureaucratization to increase or to reduce disparities based on offender background. Thus, we cannot resolve the debate in favor of either conflict theory, which argues for the exacerbation of disparities, or in favor of the Weberian position, which argues for more reductions in disparities.

Bureaucratization appeared to be more consequential for the sentencing of offenders in single-judge, rather than multiple-judge, courts. In the latter, bureaucratization had implications for differential treatment based on gender, race and crime type. In single-judge courts, bureaucratization had implications for differential treatment based on gender, race, age, offense seriousness, and offense type. The substance of conditioning influence also differed in a noteworthy respect. Disparities based on race declined with bureaucratization, but in multiple-judge courts this reduction was more costly for black offenders. In single-judge courts, it was more costly for white offenders.

The second dimension of court organization, prosecution characteristics, had no noteworthy conditioning effects within single-judge courts. In multiple-judge courts, however, prosecutor caseload had implications for differential treatment based on offense, operating to the greater advantage of violent offenders. The electoral position of prosecutors was more relevant than caseload to differential treatment, however, and it conditioned disparities based on both offender and offense characteristics. As expected, as prosecutors became more established, sentencing became more lenient, especially for female, less serious, and violent offenders.

Conditioning effects exerted by the third category of court variables, judicial composition, also differed across multiple- and single-judge courts. They were largely irrelevant where judges sentenced alone. Where judges shared sentencing responsibility with colleagues, judicial background was a stronger determinant of disparity than were demographic characteristics. The rural-urban dimension of judicial background did not operate as expected. That is, judges from rural backgrounds did not treat

offenders differently on the basis of offender social characteristics. Indeed, these judges appeared to be less concerned than their urban counterparts with offender characteristics, and more responsive to offense-related, legally more relevant factors. As expected, they appeared to be less tolerant than their urban counterparts of more serious, violent, and victimless offenders. In comparison with Georgians, judges born outside Georgia appeared to be more lenient toward younger, less serious, and violent offenders, and less tolerant of property offenders. In comparison with Southerners, non-Southerners appeared to be more lenient during sentencing and more tolerant of serious and property offenders.

As expected, professional activism generated lenience. However, this leniency was not extended to all offenders in equal measure. Professionally active judges who sentence alone were more lenient, especially toward white and young offenders, while professionally active judges who share sentencing responsibility with their colleagues tended to be more lenient only toward violent offenders.

Also as expected, judges with district attorney experience were more punitive. Again, however, they were not equally punitive toward all types of offenders. Judges with district attorney experience who sentence alone were especially intolerant of violent offenders. Their counterparts in multiple-judge courts were especially intolerant of male offenders.

In comparison with the situation in multiple-judge courts, the professional activism and experience of judges who sentence alone were stronger conditioners of disparities, tending to increase differential treatment based on race, age, and offense.

Although our findings suggested that electoral vulnerability also operated differently in single- and multiple-judge courts, overall they

revealed no uniform tendency for electorally vulnerable judges to be more punitive than their established counterparts or to single out more threatening groups to bear the brunt of this greater punitiveness. Established judges in multiple-judge courts imprisoned more, and were particularly intolerant of male offenders. Established judges in single-judge courts also imprisoned more than their less established counterparts, but were particularly intolerant of property offenders. In comparison with their less vulnerable counterparts, electorally vulnerable judges in multiple-judge courts appeared more tolerant of female and violent offenders, but less tolerant of older or victimless offenders. In contrast, electorally vulnerable judges who sentence alone appeared more tolerant of black and female offenders.

While local involvement generally increased punitiveness, some offenders bore the greater burden of this increased intolerance. Community involvement by judges in multiple-judge courts intensified harshness toward violent offenders. The same kind of involvement in single-judge courts intensified harshness toward male, black, young, victimless, and property offenders. From these findings, it would appear that judges who sentence alone may be more sensitive to community pressure than judges who share sentencing responsibility with colleagues.

Contrary to expectation, judges from multiple-judge courts who are involved in local or state government tended to be more lenient than their counterparts toward violent offenders, but more intolerant of property offenders. In contrast, judges who sentence alone and had been involved in state government did not sentence offenders differentially on the basis of legally relevant variables. Rather they focused on offender social

background, becoming increasingly intolerant of crime by male and black offenders.

Turning attention to county variables, we found that they differ, though not widely, in the pervasiveness and strength of their conditioning influence. In general, the nature of contextual effects was more complex than theory or the empirical literature led us to expect.

We found that rural counties were not characterized by stronger sentence disparities than urban counties. The only substantial disparity involved gender, and rather than decline with urbanization, it became more pronounced. As expected, the use of imprisonment declined as the division of labor became more complex. This was the case, however, primarily for victimless offenders. In comparison with other contexts, the division of labor did not strongly condition the relevance of offender or offense characteristics.

We expected economic inequality to render the punishment of property offenders more severe, and to result in more pronounced harshness toward members of disadvantaged groups. Our results did not support these expectations. In general, inequality decreased the risk of imprisonment for victimless and especially violent offenders, but produced no noteworthy change in the sentencing of property offenders. Moreover, while inequality increased some disparities, it did not always operate to the great disadvantage of lower status offenders.

We expected the political liberalism of counties to reduce the use of prison, and conservatism to increase its use, particularly against those groups posing more serious threats to the community. Our expectations here were also not generally confirmed. Though there were differences, both conservatism and liberalism decreased the use of prison, but especially for

certain groups of offenders, namely, females and whites. From site visits, we learned that some court personnel thought judges sentenced in a fashion that contradicted public opinion. In one rural circuit, for example, the judge was reputed to be a lenient sentencer, a reputation borne out by his preference for probation. In describing this judge, one law enforcement official commented that he "liked Judge \_\_\_\_\_ as a person. I get along with him beautifully, but I just don't agree with some of his sentencing... (H)e doesn't strike you as being a liberal. You know, a softie in that respect. He comes across as being a realist."

Perceptions of judicial realism were directly related to prison overcrowding and its influence on sentencing. When asked why some judges reportedly ignored public opinion and used probation, probation officers and defense attorneys replied that the problem of prison overcrowding put judges in a terrible bind. Judges indicated that communications from the state Department of Offender Rehabilitation often alerted them to overcrowding problems. Imprisonment in local jails was often foreclosed as an option because many local jails were under federal court orders specifying maximum populations. In being realistic, judges felt they had few alternatives to probation.

In short, the tendency of circuits to accept the divergent postures of judges ("They think I'm a good man, I don't know if they think I'm a good judge."), coupled with the ever-present specter of prison overcrowding, may help contribute to the unexpected findings we obtained for indicators of political conservatism.

The findings for crime characteristics confirmed our expectation that as county crime problems become more serious, imprisonment is used with greater frequency. Moreover, though there were exceptions, there was also



some tendency for crime problems to have more pronounced effects on the imprisonment risk faced by black and violent offenders. Finally, and also as expected, greater press coverage of crime tended to increase the use of prison. Here, though, offenders who may appear less threatening (e.g., female, white and less serious) bore more of the cost of this increased use.

## NOTES

1. Fulton and DeKalb counties do not strongly differ from the rest of the sample in the type and lengths of sentences imposed, the characteristics of offenders sentenced, or in the seriousness and types of crimes committed. However, the composition of the court and of the surrounding county differs markedly.

In comparison with the rest of the sample, Fulton and DeKalb courts have fewer felony filings per prosecutor ( $r = -.300$ ), more felony filings per judge ( $r = .107$ ), greater supporting court assistance ( $r = .206$ ), greater use of guilty pleas ( $r = .276$ ), and less frequent use of dismissals ( $r = -.247$ ). Their judges are more likely to come from urban backgrounds ( $r = .455$ ), to be born outside Georgia ( $r = .130$ ) or outside the circuit of judgeship ( $r = .278$ ), to be members of attorney organizations ( $r = .280$ ), and to have experience in state government ( $r = .150$ ). Moreover, Fulton and DeKalb judges are less likely to have prior experience as district attorneys ( $r = -.116$ ) or to be involved in community organizations ( $r = .163$ ).

In addition to court differences, Fulton and DeKalb counties differ sharply from the remaining counties. They are more heavily urbanized ( $r = .898$ ), have a slightly greater percent black ( $r = .108$ ), more complex occupational differentiation ( $r = .577$ ), a higher crime rate ( $r = .568$ ), more Index crimes involving weapons ( $r = .341$ ), fewer Index crimes at night ( $r = -.173$ ), a greater proportion of black ( $r = .202$ ) and young ( $r = .346$ ) arrestees, greater voter participation ( $r = .163$ ), smaller Wallace (1976) vote ( $r = -.398$ ), and a greater Kennedy (1980) vote ( $r = .625$ ). Overall, newspaper coverage of crime tends to



be greater ( $r = .232$ ). Though such coverage is less pronounced ( $r = -.492$ ), it emphasizes local ( $r = .285$ ) or violent ( $r = .353$ ) crime.

2. Single judge courts differ from multi-judge courts along a number of dimensions. They are more likely to have judges who are older ( $r = .367$ ), came from rural backgrounds ( $r = .119$ ), were born outside Georgia ( $r = .190$ ), are members of few Bar ( $r = -.222$ ) and attorney ( $r = .152$ ) associations, have less other judicial experience ( $r = .122$ ), have faced less electoral opposition ( $r = .179$ ) and have won more elections ( $r = .119$ ). While they do not differ in caseload and most prosecution characteristics, single-judge courts do have fewer probation officers ( $r = -.512$ ) and smaller percentages of felonies dismissed ( $r = -.122$ ).

The counties over which single-judge courts preside also differ. They tend to be less urbanized ( $r = -.218$ ), and to have greater income inequality ( $r = .224$ ), larger percents black ( $r = .141$ ), a less complex division of labor ( $r = -.150$ ), lower crime rates ( $r = -.227$ ), fewer stranger-to-stranger Index crimes ( $r = -.138$ ), fewer Index crimes occurring in residences ( $r = -.199$ ), a greater percent Wallace (1976) vote ( $r = .143$ ), and a smaller percent Reagan (1980) vote ( $r = -.156$ ). Importantly, single-judge courts are indistinguishable from their multiple-judge counterparts along several dimensions. They do not significantly differ in the type or length of sentences imposed, in the social characteristics (sex, age, and race) of offenders, or in the legal seriousness of types of crimes committed.

3. In order to obtain the full range of predicted outcomes, we examined outcomes at the minimum and maximum values of the context, rather than above or below the mean or median.

4. The total number of possibly significant interactions was calculated by multiplying each indicator within a court context category (e.g., Judicial Composition) by six, the number of case context variables. Thus Caseload Pressure has 18 possible interactions (3 indicators times 6); Prosecution Characteristics has 36 (6 indicators times 6); Judicial Composition has 42 (7 indicators times 6); Judicial Activism and Experience has 24 (4 indicators times 6) and Judicial Electoral Vulnerability and Local Involvement has 36 (6 indicators times 6).
5. Counties having newspaper coverage are similar to counties lacking such coverage with respect to the type and length of sentences imposed, the social background and offense characteristics of offenders, and most court characteristics. However, counties with newspaper coverage tend to have more probation officers ( $r = .202$ ); judges from more urban backgrounds ( $r = .120$ ), and with greater community service ( $r = .106$ ) and more attorney association memberships ( $r = .102$ ). Moreover, counties with newspaper coverage are more likely to be urbanized ( $r = .416$ ); to have greater occupational differentiation ( $r = .153$ ); to experience greater voter participation ( $r = .120$ ) and smaller percents voting for Wallace ( $r = -.204$ ); to have a higher crime rate ( $r = .433$ ) and older arrestees ( $r = .169$ ).

## CHAPTER V. PROBATION SENTENCE LENGTH

## OVERVIEW

This Chapter reports the results of analysis for the second dependent variable, probation sentence length. We confine our attention to those persons sentenced only to probation, excluding from consideration offenders who received a combination of probation and imprisonment. Split sentence offenders will be considered in Chapter VI.

We begin our analysis with case context variables, comparing the effects of social background and legally relevant variables. We then consider characteristics of the court, estimating for multiple- and single-judge courts separately, the effects of bureaucratization, prosecution characteristics, and judicial composition, activism, experience, electoral vulnerability, and local involvement. We test for interactions between case and court characteristics, seeking to isolate those contexts that condition the relevance of social background and offense factors.

Our analysis next considers the county characteristics of urbanization, inequality, division of labor, political and crime character, and press coverage of crime. Additive models are followed by a determination of the locus and strength of conditioning influences on social background and offense variables.

As discussed in Chapter III, the analysis of probation sentence length uses ordinary least squares regression procedures. Models include the predicted risk of imprisonment as a control variable designed to correct for sample selection bias.

## ANALYSIS OF CASE CONTEXT

Table 5-1 presents the results for three models estimating the effects of social background and offense variables on probation sentence length. The first model, which includes only offender factors, indicates that probation sentences tend to be longer for male and older offenders. These effects are of little substantive significance, and the proportion of variance they explain is only of statistical importance ( $R^2 = .005$ ).

Model 2 presents the results of analysis in which the legally relevant variables of offense seriousness and type have been introduced. Neither gender nor type of crime affects probation sentence length. Again, older offenders receive longer sentences, as do whites and persons convicted of more serious crimes. All effects are minor, however, and the proportion of variance they explain is very small ( $R^2 = .051$ ). Note, though, that the effect for race is nearly as strong as the effect for offense seriousness, and is in a direction opposite expected on the basis of conflict theory.

Model 3 focuses exclusively on probationers from Fulton and DeKalb Counties. It adds two measures of prior record: convictions and prior incarceration. Surprisingly, none of the legally relevant variables, including prior record, significantly affects probation sentences. Among the social background variables, only age is significant, with probation sentences tending to be longer for older offenders. The coefficients for both gender and race are, however, marginally significant ( $p \leq .03$ ), and indicate longer probation sentences for females and whites. Note, again, that the proportion of explained variance is small ( $R^2 = .078$ ).

Taken together, these findings suggest that case context variables do not help us predict probation sentences with any certainty. This decision must therefore depend on factors other than those to which we had access. The results for Fulton and DeKalb Counties are instructive, however,

Table 5-1. Regression Coefficients and Related Statistics for Probation Sentence Length, Case Context Model

Variable	Model 1		Model 2		Model 3 <sup>a</sup>	
	b (SE)	$\beta$	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	3.874 (.410)		1.873 (.115)		1.225 (.546)	
Risk of Imprisonment	-2.387 (1.511)	-.078	3.037 (.707)	.144*	2.696 (1.818)	.312
Offender Sex	.825 (.266)	.114*	-.202 (.097)	-.028	-.481 (.207)	-.123
Offender Race	-.175 (.197)	-.031	.447 (.073)	.080*	.531 (.242)	.163
Offender Age	.016 (.002)	.040*	.017 (.002)	.044*	.027 (.008)	.142*
Offense Seriousness			.093 (.022)	.103*	.039 (.054)	.063
Type of Crime I (Violent vs. Victimless)			-.052 (.102)	-.009	.235 (.301)	.066
Type of Crime II (Violent vs. Property)			.072 (.100)	.013	.355 (.333)	.107
Prior Convictions					-.094 (.101)	-.097
Prior Incarceration					-.066 (.606)	-.011
R <sup>2</sup>	.005		.051		.078	
N	11606		11412		748	

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Model 3 is based only of probationers sentenced in Fulton and DeKalb Counties.

\*  $p \leq .01$ .

because they increase our confidence in the race and age effects we found for the sample as a whole, where controls for prior record were absent.

#### ANALYSIS OF COURT CONTEXT

##### ADDITIVE MODELS

Table 5-2 presents the results of additive models for single- and multiple-judge courts. Note, first, the increases in proportion of explained variance, from .051 to .209 (multiple-judge courts) and .143 (single-judge courts). While court contexts improve our ability to predict the length of probation sentences, by no means do they account for a large proportion of variation.

All social background variables, even if significant statistically, are minor ( $< .10$ ). They indicate some slight tendency for probation sentences to be longer for male, white, and older offenders. Slightly more consequential are effects for legally relevant factors. Probation sentences are longer for more serious and for violent, rather than victimless, offenders.

Turning attention first to bureaucratization, court caseload has no appreciable effect on probation sentence. Assistance from lower courts is important in single-judge courts, where it tends to decrease probation sentences. In contrast, the size of the court is important in multiple-judge courts. Probation sentences tend to be longer where there are more probation officers. They tend to be shorter where there are more judges.

In comparison with other dimensions of the court context, prosecution characteristics play a relatively minor role in determining probation sentence. As was the case for judicial caseload, prosecutor filings have

Table 5-2. Regression Coefficients and Related Statistics for Probation Sentence Length, Court Context Models

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	-.648 (.507)		4.374 (1.349)	
Risk of Imprisonment	-.948 (.437)	-.057	2.248 (.783)	.167*
<u>Case Characteristics</u>				
Offender Sex	.334 (.071)	.042*	.122 (.138)	.019
Offender Race	-.085 (.044)	-.014	.344 (.093)	.075*
Offender Age	.024 (.002)	.057*	.011 (.006)	.025
Offense Seriousness	.212 (.014)	.226*	.073 (.021)	.103*
Type of Crime I (Violent vs. Victimless)	-.507 (.081)	-.081*	-.650 (.124)	-.111*
Type of Crime II (Violent vs. Property)	-.360 (.076)	-.061*	-.111 (.110)	-.023
<u>Bureaucratization</u>				
Felony Filings per Judge	.0004 (.0002)	.016	-.002 (.001)	-.072*
Lower Court Assistance	-.007 (.002)	-.025*	-.039 (.010)	-.184*
Number of Probation Officers	.213 (.014)	.200*	.083 (.046)	.094
Number of Judges	-.262 (.014)	-.251*		— <sup>a</sup>
<u>Prosecution Characteristics</u>				
Felony Filings per Prosecutor	-.002 (.000)	-.070*	.001 (.001)	.029
Percent Dismissals	.004 (.002)	.018	-.000 (.000)	-.001
Percent Guilty Pleas	.019 (.002)	.105*	-.012 (.005)	-.084*

Table 5-2. , Continued

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Number of Times Elected	-.198 (.013)	-.117*	-.279 (.064)	-.150*
Number of Primary Opponents	.269 (.067)	.048*	-1.423 (.216)	-.306*
Facing Reelection	-.001 (.000)	-.014*	-.004 (.001)	-.080*
<u>Judicial Composition</u>				
Percent Male	.032 (.002)	.082*	.008 (.007)	.020
Mean Age	-.003 (.005)	-.005	.095 (.018)	.314*
Percent Married	-.011 (.003)	-.019*		— <sup>a</sup>
Mean Percent Urban Background	.015 (.001)	.127*	-.006 (.115)	-.101
Percent born outside Circuit	-.015 (.000)	-.200*	-.005 (.004)	-.118
Percent born outside Georgia	-.031 (.001)	-.178*	-.003 (.002)	-.057
Percent born outside South	.022 (.002)	.078*	.007 (.005)	.098
<u>Judicial Activism</u>				
Mean Bar Associations	.007 (.032)	.002	.078 (.080)	.031
Mean Attorney Associations	1.274 (.094)	.103*	2.044 (.371)	.291*
<u>Judicial Experience</u>				
Mean Years Other Judicial Experience	.119 (.009)	.102*	.106 (.030)	.153*
Mean Years District Attorney Experience	.006 (.009)	.006	-.166 (.026)	-.415*

Table 5-2. , Continued

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
<u>Judicial Electoral Vulnerability</u>				
Mean Times Elected	-.093 (.036)	-.026*	-.703 (.135)	-.429*
Mean Primary Opponents	.611 (.092)	.046*	.307 (.309)	.024
Percent Facing Reelection	-.003 (.001)	-.030*	.006 (.001)	.145*
<u>Judicial Local Involvement</u>				
Mean Community Organizations	-.470 (.029)	-.202*	-.365 (.100)	-.233*
Mean Years in Local Government	.018 (.005)	.023*	-.072 (.012)	-.291*
Mean Years in State Government	.170 (.013)	.110*	-.160 (.053)	-.164*
R <sup>2</sup>	.209		.143	
N	7979		2231	

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>No or insufficient variation

\*p  $\leq$  .01

no noteworthy effect, and neither does the percent of cases dismissed. However, the use of guilty pleas increases probation sentences in multiple-judge courts, and decreases them in single-judge courts, a finding that may reflect contrasting strategies during plea bargaining.

We expected the electoral vulnerability of prosecutors to increase probation sentences and invulnerability to decrease them. As expected, as prosecutors become more established (that is, have faced reelection often), probation sentences decline. Contrary to expectation, however, where prosecutors are facing reelection or, in single-judge courts, facing opposition in primaries, probation sentences tend to decline, rather than increase.

When we focus on judicial characteristics, we also discover differences between multiple- and single-judge courts. Age appears to be especially important in the latter, where older judges tend to impose longer probation sentences. In contrast, judicial background is more salient in multiple-judge courts, where probation sentences tend to be longer if judges have urban backgrounds or were born in the circuit, in Georgia, or outside the South.

Membership in attorney associations, as well as previous experience in other judicial capacities, tend to increase the length of probation sentences. In contrast, district attorney experience is important only for judges who sentence alone, where it tends to shorten probation sentences.

The electoral vulnerability and local involvement of judges appear to be more relevant considerations for single-judge courts. As expected, probation sentences become shorter as judges become more established (i.e., have faced reelection often), and longer if judges are electorally vulnerable (i.e., currently facing reelection). For judges sentencing alone, involvement in community organizations and in local or state

**CONTINUED**

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government reduces the length of probation sentences they impose. For judges who share sentencing responsibilities with their colleagues, community involvement also reduces probation sentences, but involvement in state government increases them.

In sum, probation sentences in multiple-judge courts depend most heavily on the size of courts and on judicial background. Several factors tend to generate lenience: larger number of judges, being born in the South, and community involvement. Other factors tend to generate punitiveness: large probation departments, urban backgrounds, and being born in the circuit or in Georgia.

Probation sentences in single-judge courts depend most heavily on lower court assistance, the electoral vulnerability of prosecutors, as well as on a variety of judicial characteristics, including age, activism, experience, electoral vulnerability, and local involvement. Several factors tend to generate lenient probation sentences: greater assistance from lower courts, prosecutors who are either established or facing opposition in primaries, prior experience as district attorney, success in several elections, membership in community organizations, and experience in local or state government. Other factors tend to generate greater punitiveness: older, membership in attorney associations, other judicial experience, and electoral vulnerability (i.e., facing reelection).

We must reemphasize that the aggregation procedure required to analyze multiple-judge courts may have muted the effects of judicial characteristics, thus underestimating similarities that actually exist between multiple- and single-judge courts. In addition, court size may be a less relevant consideration in single-judge courts simply because there is less variation along this dimension.

#### INTERACTIVE MODELS

Table 5-3 summarizes the results of analysis designed to determine whether court and case contexts interact with one another. Note, first that contextual effects are more pronounced in multiple-judge than in single-judge courts. All increases in explained variance met the criterion of significance at  $p \leq .001$ . However, for single judge courts, only one of the five aspects of court context, bureaucratization, met the second criterion of having over one third of all interactions reaching significance ( $p \leq .01$ ).

Tables 5-4 (Multiple-Judge Courts) and 5-5 (Single-Judge Courts) summarize the substantive nature of significant interactions, once additive effects for the remaining case and court variables are controlled. They are designed to answer three questions:

1. For the minimum and maximum levels of the context in question (e.g., felony filings), which group of offenders receives the longer probation sentence? Columns 1 and 3 address this question.
2. For the minimum and maximum levels of the context in question, what is the extent of disparity? Columns 2 and 4 present disparities as the between-group difference in probation sentences, in years.
3. What effect does change in court context produce in group differences in probation sentences? For example, do gender disparities decrease or increase as caseload pressure increases? Column 5 addresses this question. It presents changes in disparity as increases or decreases in the length of probation sentences, in years.

Table 5-3. Coefficients of Determination for Additive and Interactive Models Predicting Probation Sentence Length, Court Context Models

Court Characteristics	Multiple-Judge Courts			Single-Judge Courts		
	Additive Model	Interactive Model	% Increase	Additive Model	Interactive Model	% Increase
Bureaucratization	.189	.215	2.6	.142	.170	2.8
Prosecution Characteristics	.190	.222	3.2	.113	.164	5.1*
Judicial Composition	.161	.225	6.4	.133	.165	3.2*
Judicial Activism/Experience	.202	.217	1.5	.127	.157	3.0*
Judicial Electoral Vulnerability and Local Involvement	.186	.217	3.1	.117	.155	3.8*

Note: All increases in proportion of explained variance are significant at  $p \leq .001$ .

\*Fewer than one third of all interactions were significant at  $p \leq .01$ .



### Interactions in Multiple-Judge Courts

As was the case for type of sentence, contextual effects are pervasive, and court variables differ in the extent to which they condition the relevance of case variables. Bureaucratization exerts the most pervasive conditioning influence, with 67% of all possible interactions reaching significance. More limited in scope are the contextual effects exerted by Judicial Composition (57%), Electoral Vulnerability and Local Involvement (50%), Judicial Activism and Experience (46%), and Prosecution Characteristics (42%).

In addition, not all case variables are consistently affected by differences across courts. Rather, they respond differently to contextual variation. Ranking case variables by the percent of all interactions that reached statistical significance, offense seriousness (62%) is the most contextually responsive. It is followed by offense type [victimless vs. violent (58%) and property vs. violent (50%)], and the social background characteristics of offender age (50%), race (46%), and sex (42%).

We now focus on each variable, noting the direction, magnitude, and change in disparity that occurs with changes in specific court contexts. For the sake of clarity, we confine our attention to disparities or changes in disparity that approach or exceed one year of probation.

Offender Sex. Comparing across categories of court variables, we find that bureaucratization has the strongest conditioning influence, that is, it generates the widest gender disparities. But as Table 5-4 indicates, most gender disparities are insubstantial. They involve differences in probation sentence of less than one year, and average .79 years. While differential treatment tends to decline, most reductions are also insubstantial.

Table 5-4. Summary of Case and Court Interactions for Probation Sentence Length, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
OFFENDER SEX					
<u>Bureaucratization</u>					
Felony Filings per Judge	Male	1.329	Male	.497	-.832
Lower Court Assistance	Female	2.125	Female	2.644	.519
Number of Probation Officers	Male	1.612	Male	2.004	.392
<u>Prosecution Characteristics</u>					
Number of Primary Oppenents	Female	.438	Male	.233	-.204
<u>Judicial Composition</u>					
Percent born outside Circuit	Male	.971	Male	.526	-.445
Percent born outside South	Male	.971	Male	.120	-.850
<u>Judicial Activism/Experience</u>					
Mean Attorney Associations	Male	.312	Female	.244	-.068
Mean Years District Attorney Experience	Male	.312	Male	.924	.612
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Male	.089	Male	.746	.657
Mean Primary Opponents	Female	.099	Male	.440	.341
Mean Years in Local Government	Female	.099	Female	.654	.555
OFFENDER RACE					
<u>Bureaucratization</u>					
Felony Filings per Judge	Black	1.705	Black	2.423	.781
Lower Court Assistance	Black	.450	White	.476	.026

Table 5-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Prosecution Characteristics</u>					
Percent Dismissals	White	2.226	White	.246	-1.960
Percent Guilty Pleas	White	1.813	Black	.010	-1.803
Number of Primary Opponents	White	2.226	White	.639	-1.587
<u>Judicial Composition</u>					
Percent Male	Black	4.220	Black	3.590	- .630
Mean Age	Black	2.040	Black	.050	-1.989
Mean Percent Urban Background	Black	4.850	Black	6.333	1.483
Percent bornoutside Circuit	Black	4.850	Black	4.404	- .446
<u>Judicial Activism/Experience</u>					
Mean Years District Attorney Experience	Black	.282	White	.826	.544
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Primary Opponents	Black	.004	Black	.682	.678
Mean Years in State Government	Black	.004	Black	.565	.561
OFFENDER AGE					
<u>Bureaucratization</u>					
Felony Filings Per Judge	Younger	2.377	Younger	2.876	.499
Lower Court Assistance	Younger	.746	Older	.554	-.191
Number of Probation Officers	Younger	2.207	Younger	1.971	.235
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Older	.215	Younger	.650	.434
Percent Guilty Pleas	Older	.497	Older	.947	.450
Number of Primary Opponents	Older	.395	Younger	.210	- .185

Table 5-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Judicial Composition</u>					
Mean Age	Older	1.398	Older	2.601	1.203
Percent Married	Younger	1.466	Younger	2.630	1.164
Mean Percent Urban Background	Younger	.302	Younger	.770	.467
Percent born outside South	Younger	.302	Younger	.740	.438
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Older	.453	Older	.778	.325
Mean Primary Opponents	Older	.364	Younger	.634	.274
Percent facing Reelection	Older	.360	Younger	.120	- .240
OFFENSE SERIOUSNESS					
<u>Bureaucratization</u>					
Lower Court Assistance	More Serious	3.032	More Serious	1.884	-1.148
<u>Prosecution Characteristics</u>					
Percent Dismissals	More Serious	1.480	More Serious	2.287	.807
Number of Times Elected	More Serious	1.480	More Serious	.843	- .640
Number of Primary Opponents	More Serious	1.483	More Serious	2.341	.858
Facing Reelection	More Serious	1.483	More Serious	1.063	- .420
<u>Judicial Composition</u>					
Percent Male	More Serious	12.800	More Serious	11.100	-1.700
Percent Married	More Serious	10.400	More Serious	6.300	-4.100
Mean Percent Urban Background	More Serious	14.500	More Serious	13.573	- .927
Percent born outside Circuit	More Serious	14.500	More Serious	14.120	- .380
Percent born outside Georgia	More Serious	14.500	More Serious	13.301	-1.199

Table 5-4., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Judicial Activism/Experience</u>					
Mean Attorney Associations	More Serious	1.214	More Serious	1.715	.501
Mean Years Other Judicial Experience	More Serious	1.214	More Serious	2.450	1.236
Mean Years District Attorney Experience	More Serious	1.214	More Serious	3.037	1.903
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Percent facing Reelection	More Serious	3.119	More Serious	2.359	- .760
Mean Community Organizations	More Serious	3.119	More Serious	3.740	.621
Mean Years in State Government	More Serious	3.119	More Serious	2.146	- .973
TYPE OF CRIME I (Violent v. Victimless)					
<u>Bureaucratization</u>					
Lower Court Assistance	Violent	1.075	Violent	.015	-1.060
<u>Prosecution Characteristics</u>					
Felony Filings per prosecutor	Victimless	.940	Violent	1.392	.452
Number of Times Elected	Victimless	1.424	Violent	.144	-1.280
Number of Primary Opponents	Victimless	1.424	Victimless	.090	-1.334
<u>Judicial Composition</u>					
Percent Male	Victimless	14.427	Victimless	15.717	1.290
Percent Married	Victimless	5.707	Violent	1.723	-3.985
Mean Percent Urban Background	Victimless	13.137	Victimless	12.006	-1.131
Percent born outside Georgia	Victimless	13.137	Victimless	14.110	.973
Percent born outside South	Victimless	13.137	Victimless	13.932	.795

Table 5-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Judicial Activism/Experience</u>					
Mean Attorney Associations	Violent	1.134	Victimless	.234	- .900
Mean Years Other Judicial Experience	Violent	1.134	Victimless	.419	- .719
Mean Years District Attorney Experience	Violent	1.134	Violent	.151	- .983
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Percent facing Reelection	Victimless	.247	Violent	1.033	.786
Mean Community Organizations	Victimless	.247	Victimless	1.168	.921
Mean Years in Local Government	Victimless	.247	Violent	1.148	.900
TYPE OF CRIME II (Violent v. Property)					
<u>Bureaucratization</u>					
Lower Court Assistance	Violent	.660	Property	.099	- .561
Number of Probation Officers	Violent	1.689	Violent	2.428	.739
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Property	.032	Violent	.689	.657
<u>Judicial Composition</u>					
Percent Married	Property	3.067	Violent	.478	-2.589
Percent Mean Urban Background	Property	6.612	Property	5.926	- .686
Percent born outside Circuit	Property	6.612	Property	6.972	.360
Percent born outside Georgia	Property	6.612	Property	7.367	.755

Table 5-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<hr/>					
<u>Judicial Activism/Experience</u>					
Mean Bar Associations	Violent	.729	Property	.290	- .439
Mean Attorney Associations	Violent	.729	Property	.210	- .519
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Percent facing Reelection	Violent	.015	Violent	.650	.635
Mean Community Organizations	Violent	.015	Property	.824	.809
Mean Years in Local Government	Violent	.015	Violent	.680	.664
Mean Years in State Government	Property	.247	Property	.689	.442

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentences (e.g., mean age of judges). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

The predominant pattern (68%) is for males to receive longer probation sentences than females. Disparities that operate to disadvantage males are particularly pronounced in courts with lower caseloads and in courts with larger probation departments. Most noteworthy changes in disparities involve decreases, and these occur as caseload increases and as courts consist of non-Southern judges.

In a minority of instances where interactions are significant (32%), females receive longer probation sentences than males. Only one disparity is noteworthy, and it occurs where judges receive assistance from lower courts. Though less common, disparities that operate to disadvantage females are on the average slightly more pronounced than those operating against males. They range from an insignificant .10 year difference to a 2.64 year difference, with a mean of .9 years (vs. .74 years for males).

Offender Race. Racial disparities are slightly more pronounced than disparities based on gender, averaging 1.87 years. Prosecution characteristics and judicial composition exert the strongest conditioning influence, producing the widest disparities.

In the majority of instances (71%), blacks receive longer probation sentences than whites. These disparities are particularly sensitive to characteristics of court organization and of sentencing judges. Racial gaps are particularly pronounced where caseload is high, and where judges tend to be female, young, have urban backgrounds or were born in the circuit. Disparities widen and treatment becomes more dissimilar as more judges come from urban backgrounds. Racial gaps narrow, resulting in more similar probation sentences, as courts consist of older judges.

It is less often the case that whites receive longer probation sentences than blacks. These disparities are particularly sensitive to characteristics of the prosecution. They decline, resulting in more

similar treatment, as more cases are disposed by dismissals or by guilty pleas, and where prosecutors face opposition in primaries. Disparities that operate against whites are both less common and less pronounced than those that operate against blacks. Their mean is 1.21 years, while the average disparity against blacks is 2.14 years.

Offender Age. Disparities based on age are more pronounced than those we found for gender, but smaller than those that obtained for race, averaging 1.12 years. The strongest conditioners of age disparities are bureaucratization and judicial composition.

In a slight majority of cases (54%), younger offenders receive longer probation sentences than older offenders. The most pronounced disparities occur in courts characterized by high caseloads, small probation departments, and married judges. Most gaps increase, but with one exception these increments are minor. The disparity widens substantially and treatment becomes more dissimilar as more judges are married.

In a large minority of cases (46%), the situation reverses and older offenders receive longer probation sentences. However, these disparities are relatively minor, averaging .78 years (vs. a mean of 1.38 for disparities against older offenders). In only one instance does an age disparity operating against older offenders increase substantially, namely, as judges become older.

Offense Seriousness. It is invariably the case that more serious offenders receive longer probation sentences than less serious offenders. In general, differential treatment based on offense seriousness are the most pronounced we found, averaging 5.34 years. Again, judicial composition figures prominently as a conditioner of these disparities. Differential treatment increases in courts where judges have other judicial and district attorney experience. It is more often the case, though, that



differential treatment declines, and this occurs as courts receive assistance from lower courts and contain more judges who are male, married, have urban backgrounds, were born outside Georgia, or had been involved in State government.

Violent vs. Victimless Crime. Disparities based on offense type are second in magnitude only to those based on offense seriousness ( $\bar{X} = 4.39$ ). It is not uniformly the case that violent offenders receive longer probation sentences than victimless offenders. Indeed, in the majority of cases (63%), victimless offenders receive longer sentences. Again, judicial composition operates as a strong conditioner of differential treatment.

Disparities that operate to disadvantage victimless offenders widen as courts contain more judges who are males, were born outside Georgia, and are involved in community organizations. Disparities narrow as prosecutors become more established (have won many elections) or currently face opposition in primaries, and as more judges are married or come from urban backgrounds.

Disparities that operate to the disadvantage of violent offenders are typically less pronounced, averaging .92 years (vs. the mean of disparity of 6.04 years against victimless offenders). They widen as judges become involved in local government. More commonly, differential treatment declines as courts receive more assistance from lower courts and as more judges are involved in attorney associations or have district attorney experience.

Violent vs. Property Crime. Differential treatment based on this comparison is less pronounced than disparities based on other legally relevant variables, but more pronounced than differential treatment based on social background factors. It averages 2.09 years of probation. Once

again, judicial composition figures prominently as a conditioning influence.

In a slight majority of cases (54%), property offenders receive longer probation sentences than violent offenders. For the most part, these disparities are insubstantial. They decline and treatment becomes more similar as more judges are married. Disparities that operate to the disadvantage of violent offenders are slightly less common, constituting 46% of all differences. They are also much less pronounced, averaging .73 years (vs. 3.25 years for disparities against property offenders). All changes, whether increases or decreases, are relatively minor.

Discussion. We now change our focus, drawing attention to specific dimensions of courts and our expectations about their conditioning effects. Appendix Table V-A rearranges the results presented in Table 5-4 to correspond with this discussion.

The results reported above suggest that, when considering multiple-judge jurisdictions, noteworthy disparities, based on both offender and offense characteristics, exist. The legally relevant variables of offense seriousness and type are only slightly more sensitive to contextual variation than are the social background factors of offense sex, race and age.

While bureaucratization exerted the most pervasive conditioning influences, other court dimensions, whether prosecutorial or judicial, were nearly as consistent in their conditioning influence. Yet despite similarity in the scope of contextual effects, court variables differed sharply in the strength of their conditioning influence. In general bureaucratization and judicial composition generated the most pronounced disparities for both social background and legally relevant variables.

Turning first to court organization, we found that, as indicated by caseload pressure and court size, bureaucratization tended to increase probation sentences. However, these increases had limited implications for differential treatment, and there was no evidence that lower status offenders were uniformly singled out for harsher treatment. Hence, we found no support for the contention of conflict theorists that bureaucratization exacerbates disparities based on social background.

The third indicator of bureaucratization, the assistance Superior Courts receive from lower courts, operated differently. It tended to decrease probation sentences, and in the case of legally relevant variables, these decreases were noteworthy, being especially pronounced for more serious and violent offenders. As a result, disparities that operated to the disadvantage of more serious and violent offenders declined, largely because lenience toward these offenders was more pronounced.

In general, then, bureaucratization more strongly conditioned the role played by legally relevant rather than by social background factors. To some extent, it reduced disparities. But more serious and violent offenders, not socially more advantaged offenders, were the primary beneficiaries of more even-handed treatment.

The second aspect of court organization we examined was a set of prosecution characteristics, namely, caseload pressure, preferred modes of disposition, and the electoral position of prosecutors. As was the case for court caseload, prosecuted caseload had no strong implications for disparities based on legally relevant or social background variables. In contrast, a greater prosecutor reliance on dismissals and guilty pleas reduced disparities that operated to the disadvantage of white offenders and did so by generating longer probation sentences for blacks, and shorter

probation sentence for whites. Thus, black offenders bore the cost, while white offenders reaped the benefits, of prosecutorial reliance on more efficient dispositions. However, apart from offender race, prosecutor disposition patterns had no strong consequences for differential treatment based on other case characteristics.

Of the three indicators of the electoral position of prosecutors, opposition in the primaries exerted the most pervasive and strongest conditioning influence. As expected, courts whose prosecutors had experienced opposition tended to impose longer probation sentences, particularly against offenders who appear more threatening, namely, black, more serious, and violent offenders. More limited in scope was the conditioning influence exerted by the election history of prosecutors. Where prosecutors are established (i.e., had been reelected often), probation sentences tended to be shorter. This pattern was particularly pronounced only for victimless offenders. Thus, the relative invulnerability of prosecutors generates lenience, as we expected, but it is victimless rather than violent offenders who benefit more from this lenience.

Judicial composition exerted the strongest conditioning effects and did so for both legally relevant and social background variables. Moreover, both the demographic and the background characteristics of judges had implications for differential treatment. Courts consisting of male judges tended to impose longer probation sentences, particularly for less serious and victimless offenders. Courts consisting of married judges also imposed longer sentences, but these courts tended to single out younger, less serious, and violent offenders for such treatment. In contrast, courts consisting of older judges were characterized by shorter probation

sentences, particularly for black and younger offenders. Recall that we expected older judges to be more lenient toward older offenders. Our results indicate that this is not the case when considering probation sentences.

In short, then, less serious offenders appear to be at a disadvantage if sentenced in courts whose judges are male and married. Younger offenders appear to be at a disadvantage if sentenced in courts whose judges are married, but at an advantage if sentenced in courts whose judges are older.

Turning now to judicial background, courts whose judges have urban backgrounds were characterized by longer probation sentences, especially for black, less serious, and violent offenders. This differential punitiveness had the effect of reducing disparities based on social background while increasing disparities based on legally relevant characteristics. These results provide no evidence of a more particularistic orientation by rural judges, or a more universalistic orientation by urban judges. Indeed, urban rather than rural judges differentiate strongly on the basis of race.

Courts consisting of judges born outside the circuit were characterized by shorter probation sentences, and this was particularly the case for male, black, more serious, and violent offenders. Thus, judges born in the circuit where they sentence appear less tolerant of male, black, more serious and property offenders than their counterparts born outside the circuit. Courts consisting of non-Georgians were also characterized by shorter probation sentences, particularly for more serious and violent offenders. Thus, judges born in Georgia also appear less tolerant of more serious, violent offenders.

Courts consisting of non-Southern judges were characterized by longer probation sentences, singling out female, younger, and victimless offenders for such treatment. This finding suggests that Southerners tend to draw sharp distinctions based on gender, being more intolerant of male offenders. In contrast, non-Southerners differentiate on the basis of age and type of crime, being slightly more intolerant of younger and victimless offenders.

We expected less punitive, more even-handed treatment from professionally active judges. Our data, however, indicated no consistent tendencies toward lenience. Activism in Bar associations reduced probation sentences, particularly for violent offenders, while activism in attorney associations increased probation sentences, especially for female, more serious, and non-violent offenders. We also found that, as measured here, professional activism was of little consequence for disparities based on social background. Rather, it had strong implications primarily for legally relevant variables, where it tended to reduce disparities to some extent.

Judicial experience operated in a manner similar to attorney associations. It tended to generate longer probation sentences, and did so particularly for more serious and victimless offenders. In contrast, judges with district attorney experience appeared reluctant to impose long probation sentences, and black, female, less serious, and violent offenders benefitted more than their counterparts from this reluctance.

Our final expectation held that electoral vulnerability and involvement in the local community would generate harsher punishment, particularly for offenders that appear most threatening to the community. Conversely, we expected electoral invulnerability to generate shorter

probation sentences, and less concern with more threatening offenders. Our expectations were partially confirmed. We found that as judges become more established, they tended to impose shorter sentences, especially on female and younger offenders. This result generally supported our expectation, though we expected (but did not find) male, black, more serious and violent offenders to be the beneficiaries of greater lenience expressed by established judges. Also as expected, vulnerable judges, those facing opposition or reelection, tended to impose longer probation sentences, singling out male, black, younger, less serious, and violent offenders for a greater share of this punitiveness. Also consistent with our expectation was the tendency for judges involved in government to impose longer probation sentences. However, these judges did not always single out more threatening groups for such treatment. Female, black, violent and less serious offenders bore more of the cost of greater punitiveness. Contrary to expectation, judges involved in community organizations appeared reluctant to impose long probation sentences. Rather, community involvement generated shorter probation sentences, especially for less serious and violent offenders.

#### Interactions in Single-Judge Courts

We turn our attention now to interactions that occur in courts whose judges sentence alone. Of the five dimensions of court context, only bureaucratization significantly conditions the relevance of offender and offense characteristics. Table 5-5 presents these results.

Gender and race disparities are sensitive to changes in the size of probation departments, and increase as departments become larger. Male and white offenders tend to receive longer probation sentences than female and

Table 5-5. Summary of Interactions between Case Context and Court Bureaucratization for Probation Sentence Length, Single-Judge Courts

Bureaucratization Indicator	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
OFFENDER SEX					
Number of Probation Officers	Female	.091	Male	1.299	1.208
OFFENDER RACE					
Number of Probation Officers	Black	.041	White	1.249	1.208
OFFENDER AGE					
Felony Filings per Judge	Older	1.191	Younger	.030	-1.161
OFFENSE SERIOUSNESS					
Felony Filings per Judge	Less Serious	.362	More Serious	1.856	1.494
TYPE OF CRIME I (Violent v. Victimless)					
Felony Filings per Judge	Victimless	2.333	Violent	.946	-1.387
TYPE OF CRIME II (Violent v. Property)					
Felony Filings per Judge	Property	3.165	Property	.348	-2.817
Lower Court Assistance	Property	2.277	Property	.911	-1.366
Number of Probation Officers	Property	4.061	Property	5.061	1.000

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentence length(e.g., number of probation officers). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

black offenders, but this becomes particularly pronounced only in large probation departments. Elsewhere, treatment is similar.

Disparities based on age and offense seriousness are sensitive to changes in caseload. Older offenders receive longer probation sentences, but this is particularly the case only where caseload is low. As caseload pressure increases, disparities decline and older offenders are not treated differently from their younger counterparts. More serious offenders also receive longer probation sentences, but this is the case where caseload pressure is high. Where caseload pressure is limited, less serious offenders are at a slightly greater disadvantage than their counterparts convicted of more serious offenses.

Violent offenders tend to receive longer prison sentences than victimless offenders, but only in courts characterized by heavy caseloads. Where caseloads are light, victimless offenders receive longer sentences. Finally, property offenders tend to receive longer probation sentences than violent offenders and this differential treatment decreases with larger caseloads, and more assistance from lower courts, but increases as probation departments become larger.

Discussion. Appendix Table V-B reformats the results displayed in Table 5-5 to conform with our interest in bureaucratization and its conditioning influence. Though there were exceptions, bureaucratization tended to increase the length of probation sentences. However, these increases were more pronounced for some groups of offenders than for others. For example, as probation departments became larger, probation sentences lengthened, particularly for male, white, and property offenders. As caseload increased, probation sentences increased, particularly for more serious and victimless offenders. They declined, however, for older and

property offenders. Finally, as courts received more assistance from lower courts, probation sentences increased for violent offenders, but declined for non-violent offenders.

Bureaucratization did not consistently reduce or exacerbate disparities. Where it reduced disparities, it operated to benefit more advantaged (older) and less serious (non-violent) offenders. Where bureaucratization exacerbated disparities, it did not single out disadvantaged offenders as conflict theory would predict. Rather it increased disparities that operated to disadvantage male and white offenders.

#### ANALYSIS OF COUNTY CONTEXT

##### ADDITIVE MODELS

Table 5-6 presents results of additive models that estimate the effects of county characteristics on probation sentences. Model 1 is based on the sample as a whole, while Model 2 is based on the subset of case for which press coverage of crime was available. A comparison of results reveals differences both in the magnitude and direction of effects and in the proportion of explained variance. In general, effects and the coefficient of determination are more pronounced in the subsample. Recall that this subset is based on only 41 of Georgia's 159 counties, and that our choice was constrained by the newspapers to which we had access. In most of the important respects, the subsample does not differ from the rest of the sample (e.g., in the length and type of sentences imposed, in social background and offense characteristics, and in most court variables). However, it is based on counties that are more urbanized and have higher

Table 5-6. Regression Coefficients and Related Statistics for Probation Sentence Length, County Context Models

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	β	b (SE)	β
Intercept	7.874 (.436)			
Risk of Imprisonment	2.623 (.566)	.144*	-6.890 (.551)	-.422*
<u>Case Characteristics</u>				
Offender Sex	-.277 (.091)	-.038*	1.144 (.090)	.159*
Offender Race	.214 (.055)	.038*	-.793 (.064)	-.141*
Offender Age	.014 (.002)	.035*	.038 (.002)	.097*
Offense Seriousness	.094 (.018)	.103*	.373 (.016)	.407*
Type of Crime I (Violent vs. Victimless)	-.006 (.090)	-.001	-1.664 (.110)	-.273*
Type of Crime II (Violent vs. Property)	.058 (.084)	.010	-1.435 (.101)	-.252*
<u>Urbanization</u>				
Urbanization	-2x10 <sup>-6</sup> (4x10 <sup>-7</sup> )	-.154*	4x10 <sup>-6</sup> (5x10 <sup>-2</sup> )	.281*
<u>Economic Inequality</u>				
Income Inequality	-12.592 (.817)	-.173*	-12.987 (.821)	-.169*
Percent Black	.020 (.002)	.109*	.017 (.005)	.081*
<u>Occupational Structure</u>				
Division of Labor	-.351 (.033)	-.124*	-.710 (.036)	-.213*
<u>Political Characteristics</u>				
Voter Participation	.007 (.002)	.035*	.010 (.003)	.042*

Table 5-6., Continued

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	β	b (SE)	β
Percent Wallace Vote	.023 (.003)	.050*	.146 (.008)	.244*
Percent Reagan Vote	.027 (.003)	.073*	.017 (.004)	.042*
Percent Kennedy Vote	-.006 (.008)	-.010	-.173 (.012)	-.263*
<u>Crime Characteristics</u>				
Index Crime Rate	2x10 <sup>5</sup> (10x10 <sup>-6</sup> )	-.021	.0004 (.0000)	.434*
Percent Stranger- Stranger Index Crimes	-.034 (.002)	-.087*	-.113 (.004)	-.206*
Percent Residential Index Crimes	-.010 (.002)	-.029*	.081 (.006)	.216*
Percent Index Crimes Involving Weapons	-.010 (.001)	-.078*	-.036 (.003)	-.335*
Percent Index Crimes Occurring at Night	-.001 (.002)	-.003	-.018 (.005)	-.061*
Percent Black Arrestees	.013 (.001)	.087*	.037 (.003)	.232*
Percent Young Arrestees	.026 (.002)	.072*	.047 (.004)	.103*
<u>Press Coverage of Crime</u>				
Articles/Issue			.075 (.012)	.083*
Prominence of Articles			.006 (.002)	.028*
Local Crime Coverage			.006 (.001)	.073*
Violent Crime Coverage			-.025 (.002)	-.125*

Table 5-6., Continued

Variable	Model 1	Model 2 <sup>a</sup>
R <sup>2</sup>	.127	.227
N	10307	3224

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Model 2 is based only on those cases for which press coverage of crime was available.

\*p  $\leq$  .01

crime rates, and thus may adequately represent sentencing only in these kinds of counties.

Turning first to consider case context factors, we find that in the sample as a whole, the social background of offenders has minor effects. Probation sentences tend to be longer for female, white, older, and more serious offenders. In the subsample, probation sentences tend to be longer for male, black, older, more serious, and violent offenders. Thus, case context factors have both different and more pronounced effects in the subsample.

Urbanization also has divergent effects. For the sample as a whole, probation sentences become shorter as urbanization increases. For the subsample, probation sentences become longer as urbanization increases.

For the remaining variables, coefficients differ primarily in magnitude rather than direction, and are generally stronger in the subsample of cases with newspaper coverage. Probation sentences become shorter with increases in income inequality, the division of labor, the percent voting for Kennedy, and the proportion of Index crimes involving strangers and the use of weapons. Probation sentences tend to become longer as counties contain more blacks, and as the Wallace vote, crime rate, residential Index crime, and proportions of black and younger arrestees increase. Press coverage of crime has modest effects. Only one is substantively significant, indicating a tendency toward shorter probation sentences as press coverage of crime increases.

For the sample as a whole, then, probation sentences depend most heavily on urbanization, economic inequality, and the occupational division of labor, with offender and offense characteristics exerting smaller influences. For the subset of cases with newspaper coverage, probation sentences depend heavily on both case characteristics and a variety of



county variables, including not only urbanization, inequality, and the division of labor but also the nature of crime problems in the county.

#### INTERACTIVE MODELS

Table 5-7 summarizes the results for analysis designed to test for interaction between case and county characteristics. All increases in proportions of explained variance met our criteria for discussion: they were statistically significant at  $p \leq .001$ , and one third or more interactions were significant at  $p \leq .01$ . Press coverage exerts the most pervasive conditioning influence, with 92% of all possible interactions reaching significance. More limited in scope were conditioning influences exerted by economic inequality (67%), occupational division of labor (67%), urbanization (50%), political (50%) and crime (48%) characteristics.

As was the case for court contexts, case characteristics are not equally sensitive to variation across counties. Based on the percent of total interactions reaching significance, race is the most responsive (84%), followed by offense type (68%), offender sex (53%), offense seriousness (47%), and offender age (42%).

The following discussion, based on Table 5-8, focuses on each case variable, and notes the county characteristics that affect the magnitude and direction of disparity. Again, we will discuss disparities that approach or exceed one year of probationary supervision.

Offender Sex. Disparities based on gender average around 1.4 years of probation, and are most sensitive to variation in press coverage of crime. In the majority of cases (70%), males receive longer probation sentences than females. In general, these disparities decline, and treatment becomes more similar. The most noteworthy reductions occur as press coverage becomes more pronounced, local in focus, and concerned with violent crime.

Table 5-7. Coefficients of Determination for Additive and Interactive Models Predicting Probation Sentence Length, County Context Models

County Characteristic	Proportion of Explained Variance		%Increase
	Additive Model	Interactive Model	
Urbanization	.128	.130	2.1
Economic Inequality	.124	.131	.7
Division of Labor	.121	.130	.9
Political Characteristics	.114	.135	2.1
Crime Characteristics	.108	.140	3.2
Press Coverage of Crime	.224	.240	1.6

Note: All increases in proportion of explained variance are significant at  $p \leq .001$ .

Table 5-8. Summary of Case and County Interactions for Probation Sentence Length

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
OFFENDER SEX					
<u>Urbanization</u>	Female	.013	Female	.753	.740
<u>Economic Inequality</u>					
Percent Black	Male	1.364	Male	.426	- .939
<u>Division of Labor</u>	Male	.139	Female	.394	.255
<u>Political Characteristics</u>					
Percent Wallace Vote	Female	.635	Male	.747	.112
<u>Crime Characteristics</u>					
Percent Index Crimes Involving Weapons	Male	.707	Female	.233	- .474
Percent Black Arrestees	Male	.707	Female	.137	- .570
<u>Press Crime Coverage</u>					
Articles/Issue	Male	3.534	Male	1.902	-1.632
Prominence of Coverage	Male	3.681	Male	2.193	-1.488
Local Crime Coverage	Male	3.622	Male	2.181	-1.441
Violent Crime Coverage	Male	3.681	Male	1.881	-1.800
OFFENDER RACE					
<u>Economic Inequality</u>					
Income Inequality	White	.298	White	1.095	.797
Percent Black	Black	.989	Black	2.159	1.170
<u>Political Characteristics</u>					
Percent Wallace Vote	White	2.440	White	1.684	- .756
Percent Reagan Vote	White	1.704	White	.060	-1.644
Percent Kennedy Vote	White	2.372	White	1.505	- .867

Table 5-8., Continued

County Characteristics	<u>Minimum County Value</u>		<u>Maximum County Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Crime Characteristics</u>					
Index Crime Rate	White	2.010	White	.477	-1.563
Percent Stranger- Stranger Index Crimes	White	2.010	White	3.105	1.095
Percent Residential Index Crimes	White	2.010	White	.987	-1.023
Percent Index Crimes Involving Weapons	White	2.010	White	2.702	.692
Percent Index Crimes Occuring at Night	White	2.010	White	.239	-1.771
Percent Young Arrestees	White	2.010	White	1.520	- .490
<u>Press Coverage of Crime</u>					
Articles/Issue	White	1.924	White	.171	-1.753
Prominence of Coverage	White	2.082	White	.067	-2.015
Local Crime Coverage	White	2.043	White	1.082	- .961
Violent Crime Coverage	White	2.082	White	.282	-1.800
OFFENDER AGE					
<u>Economic Inequality</u>					
Income Inequality	Older	.169	Younger	.393	.224
Percent Black	Older	1.079	Older	1.719	.640
<u>Division of Labor</u>	Younger	.214	Older	.196	- .018
<u>Political Characteristics</u>					
Percent Wallace Vote	Older	.374	Younger	.241	- .133
<u>Crime Characteristics</u>					
Percent Index Crimes Involving Weapons	Older	.072	Older	.389	.317

Table 5-8 ., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<hr/>					
<u>Press Coverage of Crime</u>					
Articles/Issue	Older	1.032	Older	.366	- .666
Prominence of Coverage	Older	1.093	Older	.318	- .775
Local Crime Coverage	Older	1.081	Older	.804	- .277
OFFENSE SERIOUSNESS					
<u>Economic Inequality</u>					
Percent Black	More Serious	1.404	More Serious	.453	- .951
<u>Political Characteristics</u>					
Percent Wallace Vote	More Serious	.384	More Serious	1.933	1.549
<u>Crime Characteristics</u>					
Percent Stranger- Stranger Index Crimes	More Serious	.947	Less Serious	.213	- .734
Percent Index Crimes Involving Weapons	More Serious	.947	More Serious	2.746	1.799
Percent Black Arrestees	More Serious	1.905	Less Serious	.619	- .328
Percent Young Arrestees	More Serious	.947	More Serious	1.877	.930
<u>Press Coverage of Crime</u>					
Prominence of Coverage	More Serious	5.725	More Serious	4.365	-1.360
Local Crime Coverage	More Serious	5.691	More Serious	3.845	-1.846
Violent Crime Coverage	More Serious	5.725	More Serious	2.125	-3.566
TYPE OF CRIME I (Violent vs. Victimless)					
Urbanization	Violent	.298	Victimless	.671	.373

Table 5-8., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
<u>Economic Inequality</u>					
Income Inequality	Victimless	.058	Violent	1.867	1.809
Percent Black	Victimless	3.169	Victimless	5.119	1.950
<u>Division of Labor</u>	Violent	1.444	Victimless	.534	-.910
<u>Political Characteristics</u>					
Voter Participation	Violent	1.987	Violent	1.200	-.787
Percent Wallace Vote	Violent	3.065	Violent	4.782	1.717
Percent Reagan Vote	Violent	2.174	Violent	.646	-1.528
<u>Crime Characteristics</u>					
Percent Residential Index Crimes	Violent	2.300	Violent	.182	-2.118
Percent Index Crimes Involving Weapons	Violent	3.000	Violent	.465	-2.535
Percent Young Arrestees	Violent	3.000	Violent	1.080	-1.920
<u>Press Coverage of Crime</u>					
Articles/Issue	Violent	1.499	Victimless	.598	-.901
Prominence of Coverage	Violent	1.688	Violent	3.439	1.751
Local Crime Coverage	Violent	1.661	Violent	.988	-.673
Violent Crime Coverage	Violent	1.688	Violent	2.888	1.200
TYPE OF CRIME II (Violent vs. Property)					
<u>Urbanization</u>	Violent	.007	Property	.463	.456
<u>Division of Labor</u>	Violent	.751	Property	.367	-.384
<u>Political Characteristics</u>					
Percent Wallace Vote	Violent	.175	Violent	3.431	3.256

Table 5-8 ., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Percent Reagan Vote	Property	.878	Property	2.496	1.620
Percent Kennedy Vote	Violent	.004	Violent	.493	.489
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Property	.158	Property	1.163	1.005
Percent Index Crimes Involving Weapons	Property	.158	Property	2.383	2.225
Percent Black Arrestees	Property	.158	Violent	1.234	1.076
Percent Young Arrestees	Property	.158	Property	1.093	.935
<u>Press Coverage of Crime</u>					
Articles/Issue	Violent	1.384	Violent	.165	-1.219
Prominence of Coverage	Violent	1.494	Violent	2.455	.961
Local Crime Coverage	Violent	1.448	Violent	.304	-1.114
Violent Crime Coverage	Violent	1.220	Violent	2.714	1.494

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentence length (e.g., percent Reagan vote). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

No disparity that operates to the disadvantage of female offenders is particularly strong. In general, then, they are both less common and weaker ( $\bar{X} = .36$ ) than those operating to the disadvantage of males ( $\bar{X} = 1.91$ ).

Offender Race. Disparities based on race are pervasive, indicating its sensitivity to variation in most county characteristics. They average 1.47 years. In most cases (93%), whites receive longer probation sentences than blacks. Only rarely do these disparities increase. For example, treatment becomes more dissimilar as more Index crimes involve strangers. It is more often the case that racial disparities decline. Treatment becomes more similar, though not identical, with increases in the Reagan vote, the Index crime rate, residential and nighttime Index crime, and the amount, prominence, local and violent crime foci of newspaper coverage.

An exception to the pattern of longer sentences for white offenders occurs when considering the racial composition of counties. Here, differential treatment operates to the disadvantage of blacks, and becomes more pronounced as counties contain more blacks.

Offender Age. Of all disparities, those based on age are the least pronounced ( $\bar{X} = .60$ ). They are particularly responsive to changes in the racial composition of counties and in press coverage of crime.

In most cases (81%), older offenders receive longer probation sentences than younger offenders. This age differential is most pronounced where counties are predominantly black, and where press coverage of crime is limited and not particularly salient.

Offense Seriousness. Disparities based on offense seriousness are the most pronounced we found, averaging 2.32 years of probation. Again, press

coverage of crime has the strongest implications for differential treatment.

In most instances (88%), more serious offenders receive longer probation sentences than less serious offenders. This harshness becomes more pronounced as the Wallace vote becomes larger and as more Index crimes involve the use of weapons. It is more often the case that disparities decline and treatment becomes more similar, though seldom identical. This occurs as counties contain more blacks, and as press coverage of crime becomes more pronounced, local in focus, and concerned with violent crime.

Violent vs. Victimless Crime. Differential treatment based on offense type is second in magnitude only to offense seriousness, averaging 1.84 probation years. With the exception of urbanization, all dimensions of the county have consequences for substantial disparities.

In the majority of cases (79%), violent offenders tend to receive longer probation sentences than victimless offenders. This disparity increases and treatment becomes more dissimilar as income inequality increases, as the Wallace vote becomes larger, and as press coverage of crime becomes more prominent and focused on violent offenses. Disparities narrow, resulting in more similar treatment, with increases in the Reagan vote, in the proportion of Index crimes occurring in residences or involving weapons, and in the proportion of younger arrestees. In two instances these declines are large enough to put victimless offenders at the disadvantage, namely, as the division of labor and press coverage of crime increases.

Though less common (21% of total), disparities operating to the disadvantage of victimless offenders are nearly as pronounced ( $\bar{X} = 1.69$  vs.

$\bar{X} = 1.88$ ). Most notably, differential treatment widens as counties contain more blacks.

Violent vs. Property Crime. The average disparity based on this distinction, 1.03 years probation, is less pronounced than all other disparities except that based on offender age. In a slight majority of cases (58%), violent offenders are likely to receive longer probation sentences than property offenders. This gap increases as the Wallace vote becomes larger, as more blacks are arrested, and as press coverage becomes more prominent and focused on violent crime. Differential treatment declines to near parity as press coverage of crime increases in volume and focuses on local crime.

Disparities that operate against property offenders are both less common (42%) and less pronounced ( $\bar{X} = .86$  vs.  $\bar{X} = 1.15$ ) than those that disadvantage violent offenders. They tend to increase, particularly as the Reagan vote becomes large, and as more Index crimes involve strangers or the use of weapons.

Discussion. We now consider the county characteristics themselves, examining the extent to which they operate as expected. Appendix Table V-C rearranges the results originally presented in Table 5-8 to conform to our discussion.

Turning first to urbanization, we found that it decreased the length of probation sentences, and did so particularly for male and violent offenders. From these trends, it would appear that judges in urban courts are more tolerant of male and violent offenders than their rural counterparts.

Disparities, whether based on legally relevant or social background factors, were not pronounced, and there was no evidence of more even-handed



treatment as urbanization increased. Indeed, urbanization generated modest increases in differential treatment, operating to the disadvantage of female and non-violent offenders, largely because, as noted above, it generated more pronounced lenience toward male and violent offenders.

We expected economic inequality to render the punishment, particularly of property offenders, more severe and to result in more pronounced harshness toward members of disadvantaged groups. We found little support for this expectation. Income inequality decreased probation sentences, especially for victimless offenders, while percent black increased probation sentences, again particularly for victimless offenders. Thus, inequality had the strongest implications for the sentencing of victimless, rather than property (or violent) offenders. Moreover, even for victimless offenders, inequality did not uniformly produce longer probation sentences.

Inequality also affected differential treatment based on social background characteristics. Here, we found some tendency toward longer probation sentences for lower status offenders. Percent black increased probation sentences particularly for black and female offenders. Income inequality decreased probation sentences, particularly for older offenders. However, as inequality became more pronounced, some relatively advantaged offenders were also singled out for harsher treatment. Percent black resulted in longer sentences particularly for older offenders, while income inequality increased the probation sentences of whites and decreased them for blacks, the opposite of what we expected.

Consistent with our expectation, probation sentences declined as the division of labor became more complex. However, this leniency was not extended to all offenders in equal measure. Rather, it was more noticeable

for some groups (viz., males, younger, and violent offenders) than for others (viz., female, older, and non-violent offenders).

Turning attention to the political character of counties, we expected liberalism to reduce the length of probationary supervision and conservatism to increase it, particularly for those groups posing more serious threats. Consistent with this expectation, we found a tendency for probation sentences to become longer as the presumably conservative Wallace vote increased, and for increases to be more pronounced for male, black, younger, more serious, victimless, and violent (rather than property) offenders. The results for a more recent indicator of conservatism, percent Reagan vote in 1980, were less clear and supportive. As the Reagan vote increased, probation sentences tended to shorten, particularly for white and violent offenders, and to lengthen for non-violent offenders. Only the pattern for white offenders supports our expectation. Also less supportive were results for our rough indicator of liberalism, the Kennedy vote in 1980. As the vote increased, probation sentences declined for some offenders (white and property offenders) and increased for others (black and violent offenders).

The expectation of longer probation sentences where crime problems are serious proved to be simplistic. True, probation sentences did increase as the crime rate increased, as nighttime Index crimes became more common, and as more blacks and young offenders were arrested. But more threatening offenders were not always singled out for harsher treatment. This was the case for black and violent offenders, who were at a greater disadvantage than their counterparts. However, relatively less threatening offenders (e.g., females, less serious) were also singled out for longer probation sentences.

In addition, it was just as often the case that probation sentences declined in the face of serious crime problems. This occurred as more Index crimes involved strangers or the use of weapons. Again, not all offenders received the same amount of lenience. The shorter probation sentences that accompanied the increased incidence of Index crimes involving weapons benefitted male, black, younger, less serious, and violent offenders more than their counterparts. In short, more serious crime problems did not invariably generate greater punitiveness, nor did it consistently put the most serious or threatening offenders at a greater disadvantage.

As expected, probation sentences increased as press coverage of crime became more salient. Here, there was also no uniform tendency for more serious or more threatening offenders to bear the brunt of this increase. True, increases in probation sentences were more pronounced for black and young offenders, but they were also more pronounced for female and less serious offenders. Where crime coverage was prominent and focused on violent crime, violent offenders were at a particular disadvantage. However, where coverage was common and focused on local crime, non-violent offenders were at a greater disadvantage.

#### SUMMARY AND DISCUSSION

In this section, we summarize the major findings of our three-part analysis of probation sentence length; describe the nature of contextual effects; comment on the degree to which our findings corroborate the theoretical expectations introduced in Chapter III, and use insights gleaned from site visits to shed light on some of the more significant findings.

#### SUMMARY OF ADDITIVE EFFECTS

The first part of our analysis focused on case context variables, namely, offender age, race and sex, and offense seriousness and type. We were concerned with estimating the relative importance of these variables during sentencing. We found the following patterns:

1. Both social background and legally relevant variables had minor effects on probation sentences. White, older, and more serious offenders tended to receive longer sentences. Gender and type of offense were generally irrelevant. The situation changed little when considering only Fulton and DeKalb Counties, for which measures of prior record were available. Surprisingly, all legally relevant factors, including prior record, were insignificant. Marginally significant ( $p \leq .03$ ) coefficients indicated longer sentences for female and white offenders. And the significant positive effect for age had its analog in the sample as a whole. Thus, a consideration of prior record did not discredit the results we found for the total sample, where measures of prior criminality were unavailable.
2. Even when legally relevant variables were considered, the amount of variance explained was very small, suggesting that this decision depends on factors other than those considered here.

The second part of the analysis focused attention on the court context, considering two aspects of court organization (bureaucratization and prosecution characteristics) and several judicial attributes, including demographic composition, background, professional activism and experience, electoral vulnerability, and local involvement. We were interested in determining what effect these variables had on probation sentences; whether the sentencing process differed in single- and multiple-judge courts; and,

most important, whether and to what extent court contexts affected the relevance of case variables.

Analysis produced the following patterns:

1. The introduction of court characteristics improved the original predictive capability of the model, from an unimportant 5.1% to a modest 21% for multiple-judge courts and 14% for single-judge courts.
2. As was the case for type of sentence, judges who preside alone sentenced differently than judges who shared responsibility with colleagues. In the former, probation sentences depended most heavily on lower court assistance, prosecution characteristics, and a variety of judicial characteristics. In these courts, several factors generated lenience: greater assistance from lower courts, prosecutors who were established or facing opposition in primaries, prior experience as district attorney, success in several elections, and local involvement. Other factors generated greater punitiveness: being older, membership in attorney associations, previous experience in other judicial capacities, and electoral vulnerability.

In multiple-judge courts, probation sentences depended most heavily on court size and judicial background. Several factors generated lenience: more judges, being born in the South, and community involvement. Other factors tended to generate punitiveness: larger probation departments, urban backgrounds, and being born in the circuit or in Georgia.

3. Legally relevant offense variables operated similarly in both multiple- and single-judge courts. Judges imposed longer

sentences on more serious and violent offenders. In contrast, the offender's social background had divergent effects. In multiple-judge courts, probation sentences were longer for female and older offenders, while in single-judge courts, they were longer for white offenders.

4. To some extent the relatively minor effects we found for case variables were misleading, because they were not invariant across courts. Rather legally relevant attributes, and to a lesser extent social background, are sensitive to variation in court contexts. Moreover, though court contexts conditioned the relevance of both offender and offense attributes, they differed in the scope and strength of their conditioning effects. In general, court contexts had more pervasive conditioning effects in multiple-judge courts, where all five dimensions affected the direction and magnitude of disparities. Bureaucratization had the broadest effect on differential treatment, while judicial composition, both demographic attributes and background, generated the strongest, that is, the widest, disparities. In contrast, in single-judge courts only bureaucratization significantly conditioned the relevance of offense and offender characteristics.

We will consider the substance of these effects after a brief discussion of the third part of the analysis, which introduced county variables. Our interest here centered on several dimensions of the county, its degree of urbanization, economic inequality, division of labor, political and crime character, and press coverage of crime. Analysis yielded the following results:

1. As was the case for court attributes, the introduction of county variables produced a relatively small increase in our ability to predict the probation sentence offenders receive. In general, the model appeared to fit better the sentencing process as it occurs in urbanized counties with higher crime rates, that is, in the subset of cases for which newspaper coverage was available. But for both the sample as a whole and the subsample, the percent of explained variance was small (13% and 23% respectively).
2. Most differences between the sample and the subsample with newspaper coverage involved the magnitude rather than the direction of effects. For the sample as a whole, probation sentences depended most heavily on urbanization, economic inequality, and the division of labor, with offender and offense characteristics exerting small influences. For those cases with newspaper coverage, probation sentences depended heavily both on case characteristics and a variety of county attributes, including not only urbanization, inequality and the division of labor, but also the crime character of the county.

In general, probation sentences became shorter with increases in income inequality, the division of labor, the percent voting for Kennedy, and the proportion of Index crimes involving strangers and the use of weapons. Probation sentences tended to become longer as counties contained more blacks and as the Wallace vote, crime rate, residential Index crime, and proportions of black and young arrestees increased.

There were two noteworthy differences between the sample as a whole and those cases with press crime coverage. In the former,

urbanization decreased probation sentences, while in the latter, it increased probation sentences. Case context variables also had divergent effects. In the sample as a whole, small though significant effects indicated that probation sentences tend to be longer for female, white, older, and more serious offenders. In the subsample, probation sentences tended to be longer not only for older and more serious offenders, but also for male, black, and violent offenders.

3. Most importantly, there was evidence that county characteristics conditioned the role of offender and offense factors. Thus, additive effects may be misleading because their magnitude and direction are not invariant, but rather respond to differences across counties. Not all case variables were equally sensitive to contextual influences: race was the most sensitive, age the least. Moreover, counties varied in both the pervasiveness and strength of their conditioning influence. Press coverage of crime produced both the most widespread and the strongest disparities.

#### THE NATURE OF CONTEXTUAL EFFECTS

As was the case with type of sentence, our findings indicate that differences among courts and counties affect the way judges use information about the offender and offense to inform their decisions about the length of probation sentences. Additive effects cannot elucidate the more pronounced, indirect role court and county attributes play as conditioners of the amount and extent of disparities based on social background and offense. Likewise, additive effects to some extent cannot capture accurately the role offender and offense attributes play during sentencing,

since they can shed no light on the range of differential treatment or on salient changes in the magnitude of differential treatment.

#### Gender Disparities

Additive models indicated either that gender was irrelevant or that males tend to receive slightly longer probation sentences than females. When contextual effects were considered, a more complex pattern emerged. In the majority of cases (68%), males did receive longer sentences than their counterparts. However, the magnitude of disparity varied markedly from a relatively insignificant .14 year to a 3.68 year difference, the latter occurring in counties where crime was not given prominent press coverage. Where changes in disparities were substantial (approach or exceed 1 year), they tended to decline, and this is particularly the case as press coverage became more common, prominent, local in focus, and concerned with violent crime.

In a noteworthy minority of instances (32%), females received longer probation sentences than males. These disparities, which ranged from .01 to 2.64 years (in courts receiving assistance from lower courts), tended to be smaller than those that operate against males, averaging .61 years (vs. the average for males, 1.31 years). Changes in court and county contexts produced no noteworthy reductions or increases in disparity.

#### Race Disparities

The overall additive effect for race was a slight tendency for whites to receive longer probation sentences than blacks. A different and more complex picture emerged once contextual effects were considered. In over half the instances (64%) where disparities existed, whites did receive longer probation sentences than blacks, a finding that once again contradicts conflict theory. The greater severity experienced by whites varied

markedly, however, ranging from an insubstantial .06 years of probation to a major difference of 3.1 years (in counties with high proportions of Index crimes involving strangers). Most disparities against whites declined, and these reductions were especially apparent as crime problems became more serious, as news coverage became more prominent and focused on violent crime, and as prosecutors in multiple-judge courts used dismissals and guilty pleas more often.

In a minority of cases (36%), blacks received longer probation sentences than whites. Again, there were substantial differences in the magnitude of racial disparities, ranging from .004 to a 6.33 year difference, the latter occurring in multiple-judge courts whose judges came from urban backgrounds. Though less common, racial disparities operating against blacks were more pronounced ( $\bar{X} = 1.98$  vs.  $\bar{X}$  for white disparity = 1.41). They tended to increase as counties contained more blacks and as multiple-judge courts consisted of judges from urban backgrounds.

#### Age Disparities

Offender age usually had a small positive effect, indicating that older offenders tend to receive slightly longer probation sentences than younger offenders. Once court and county contexts were considered, we found this to be accurate in a majority of instances (60%). Again, disparities varied, from .07 to 2.6 years, with the largest occurring in multiple-judge courts composed of older judges. Only two changes in age disparities were noteworthy: an increase as judges became older and a decrease as judges sentencing alone faced heavier caseloads.

In a substantial minority of cases (40%), younger offenders tended to receive longer probation sentences. Disparities here ranged from .03 to 2.88 years, the latter occurring in multiple-judge courts experiencing high

caseloads. Though less common, these disparities were more pronounced than those operating against older offenders ( $\bar{X} = 1.11$  vs.  $\bar{X} = .74$ ). They tended to increase noticeably in multiple-judge courts as more judges were married.

#### Offense Disparities

The additive effect for offense seriousness was modest and positive, indicating that more serious offenders receive longer probation sentences than less serious offenders. With few exceptions, this trend obtained when contextual effects are considered. However, differential treatment varied from a minor .38 year difference, to a substantial 14.5 year difference that occurred in multiple-judge courts whose judges came from rural backgrounds or were born in the circuit or in Georgia. Most disparities declined, though seldom producing parity. Noteworthy reductions occurred as press coverage became more prominent, local in focus, and concerned with violent crime, and as more judges in multiple-judge courts were married. In some instances, disparities increased, for example, as caseloads in single-judge courts increased, as the Wallace vote became large and as more Index crimes involved weapons, and as more judges in multiple-judge courts had district attorney experience.

For type of offense, additive models indicated either no significant differences or a slight tendency for violent offenders to receive longer probation sentences than non-violent offenders. Again, these results did not capture the range of differential treatment or salient changes in the magnitude of differential treatment.

In the majority of cases comparing violent and victimless offenders (57%), violent offenders were more likely to receive longer probation sentences. These disparities ranged from an insignificant .01 year, to a

4.78 year difference in counties characterized by a large Wallace vote in 1976. Most disparities declined, and these reductions were particularly pronounced in multiple-judge courts receiving lower court assistance, and in counties with large Reagan votes, more Index crimes involving residences and weapons, and more young persons arrested for Index crimes.

In a substantial minority of cases (43%), victimless rather than violent offenders received longer probation sentences. Here, disparities were less common, but much more pronounced, ranging from .06 to 15.72 years, the latter occurring in multiple-judge courts composed of males. The average disparity was 5.11 years, much larger than the average disparity that operated against violent offenders ( $\bar{X} = 1.58$  years). Most disparities against victimless offenders declined, and these reductions were more pronounced in single-judge courts facing heavy caseloads, and in multiple-judge courts whose judges were married and whose prosecutors had been reelected often or were facing opposition in primaries.

In a slight majority of cases (53%), property offenders received longer sentences than violent offenders. Once again, disparities ranged widely from an insignificant .03 years to a large difference of 7.37 years, which occurred in multiple-judge courts consisting of non-Georgians. Most disparities disadvantaging property offenders increased, particularly as the Reagan vote became large and as more Index crimes involved weapons. Substantial reductions did occur, however, though less frequently, for example, in multiple-judge courts where judges were married and in single-judge courts facing heavy caseloads and receiving lower court assistance.

Disparities that operated against violent offenders were both less common (47% of all differences) and less pronounced than those operating to

the disadvantage of property offenders ( $\bar{X} = .97$  vs.  $\bar{X} = 2.29$ ). Moreover, most increased, with differential treatment becoming more pronounced as more blacks were arrested and as the Wallace vote increased.

#### IMPLICATIONS

We now consider the contexts themselves, comparing our results with expectations generated by theory and the literature review presented in Chapter III.

Turning first to court variables, we found that bureaucratization tended to increase the length of probation sentences. However, there was no strong evidence that lower status offenders were singled out more often than others for harsher treatment or that relatively advantaged offenders were spared greater punitiveness. Bureaucratization did not exacerbate disparities against the disadvantaged, nor did it mitigate disparities for advantaged offenders. Where disparities increased, bureaucratization was more costly for male and white offenders. Where bureaucratization reduced differential treatment, the primary beneficiaries were the more advantaged (older) and less serious (non-violent) offenders sentenced in single-judge courts and the more serious, violent offenders sentenced in multiple-judge courts.

The second dimension of court organization, prosecution characteristics, had no noteworthy conditioning effects within single-judge courts. We found that, in terms of the duration of their probation sentences, black offenders bore the cost, while white offenders reaped the benefits, of increases in prosecutor use of dismissals and guilty pleas.

We expected that where prosecutors were established, judges would sentence more leniently, and be less concerned with differentiating among offenders on the basis of the threat they appear to pose. We found that

although the relative invulnerability of prosecutors did indeed generate more lenient sentences, victimless rather than violent offenders benefitted more from this lenience.

We also expected that where prosecutors were electorally vulnerable, judges would be more punitive, particularly toward those offenders who appear to pose more serious threats to the community. Our data confirmed this expectation. Courts whose prosecutors had experienced opposition in primaries tended to impose longer probation sentences, particularly against black, more serious, and violent offenders.

The third set of court variables, those measuring judicial demographic attributes and background, conditioned the effects of case characteristics only in multiple-judge courts. One expectation we held was for judges to be more lenient toward offenders who were similar in some respects to themselves. There was no support for this expectation. Courts consisting of male judges did not attend to the sex of the offender, but rather to offense attributes, being especially intolerant of less serious and victimless offenders. Courts consisting of older offenders tended to be particularly tolerant not of older offenders, but of black and younger offenders.

Turning to judicial background, we found no evidence of a more particularistic orientation by rural judges or a corresponding universalistic orientation by urban judges. Contrary to expectation, judges from urban backgrounds were more intolerant than their rural counterparts of crime committed by black, violent, and less serious offenders. Judges born in the circuit also appeared more intolerant than their counterparts of certain offenders, namely, black, more serious, and property offenders. And judges born in Georgia appeared more intolerant



than non-Georgians of more serious and violent offenders. These findings suggest that "local" judges are more punitive than non-local judges toward offenders who may be perceived as particularly threatening to their communities. Regional differences in background also affected differential treatment. Southern judges appeared more intolerant than non-Southerners of male offenders and slightly more tolerant of younger and victimless offenders.

We expected less punitive, more even-handed treatment from professionally active judges. Our results only partially supported this expectation. While greater leniency did indeed characterize judges active in Bar associations, violent offenders benefitted more than non-violent offenders from this lenience. Also, greater leniency did not characterize judges active in attorney associations. Along with previous judicial experience, involvement in attorney associations tended to generate severity, particularly toward female, more serious, and non-violent offenders. In general, then, professional activism had few significant implications for disparities based on the offender's social background. Rather, it was relevant for offense-based disparities, and tended to reduce these disparities, often only slightly.

We expected judges with district attorney experience to impose longer probation sentences, singling out the most serious and threatening offenders for this treatment. Contrary to expectation, we found that these judges imposed shorter sentences, and appeared more tolerant of both more threatening (black, violent) and less threatening (female, less serious) offenders.

As expected, electorally vulnerable judges (i.e., those facing opposition or reelection), tended to impose longer probation sentences,

singling out black, male, younger, less serious, and violent offenders for a greater share of this punitiveness. We also found that as judges became more established, their probation sentences became shorter. But here it was not generally the case that the most serious offenders benefitted more than their counterparts.

Also consistent with expectation was the tendency for judges involved in government to impose longer sentences. However, while these judges appeared to single out more threatening or dangerous offenders (e.g., blacks, violent offenders), they also singled out offenders who were less dangerous (e.g., females, less serious offenders). Contrary to expectation, we found that community involvement neither generated longer sentences nor affected differential treatment based on social background. Rather, it tended to generate shorter probation sentences, particularly for less serious and violent offenders.

Turning attention to dimensions of the counties where offenders are sentenced, we found that they differed in both the breadth and strength of their effects. Again, conditioning influences were more complex than theory or the empirical literature led us to expect.

The results for urbanization suggested that judges in urban counties were more tolerant of male and violent offenders than their rural counterparts. However, disparities, whether based on legally relevant or on social background factors, were not pronounced, and there was no evidence of more even-handed treatment as urbanization increased.

We expected economic inequality to generate longer probation sentences, particularly for property offenders, and to exacerbate any disparities that operate against lower status offenders. We found that inequality had the strongest implications for the sentencing of victimless,



rather than property or violent offenders, and that even for victimless offenders, sentences were not always longer where inequality was pronounced.

As expected, however, inequality exacerbated harsher treatment of some disadvantaged groups (viz., blacks and females, where counties contained more blacks). Income inequality also generated more pronounced lenience toward a relatively advantaged group (viz., older offenders). Yet there were noticeable exceptions to these supportive findings, and some relatively advantaged offenders were singled out for harsher treatment. For example, as counties contained more blacks, disparities operating to the disadvantage of older offenders increased. And as income inequality increased, the probation sentences of whites increased, while the probation sentences of blacks decreased.

As expected, probation sentences declined as the division of labor increased. Unanticipated by theoretical statements was the tendency for this decrease to be more noticeable for some groups (viz., males, younger and violent offenders) than for others.

Turning attention to the political character of counties, we received some indication that conservatism (indicated by the percent Wallace vote) lengthened probation sentences, particularly for groups posing more serious threats (e.g., male, black, younger, more serious, and violent offenders). More recent indicators of both conservatism and liberalism did not produce results strongly supporting our expectation, however. For example, probation sentences tended to increase, particularly for black and violent offenders, as the Kennedy vote became large, and to decrease, particularly for violent offenders, as the Reagan vote became large. We expected neither of these patterns.

Our findings for crime characteristics partly supported our expectation of greater severity, particularly toward more serious offenders, where crime problems are severe. Probation sentences often increased, and at times these increases were more costly for more threatening or dangerous offenders (e.g., black and violent offenders). But more serious crime problems could also be more costly for less dangerous (i.e., female, less serious) offenders. And some dimensions of the crime problem (viz., proportion of Index crimes involving strangers or the use of weapons) reduced probation sentences, particularly for those offenders one would expect would receive longer sentences (e.g., male, black, younger, and violent offenders).

Finally, our general expectation that salient press coverage of crime would tend to increase probation sentences was confirmed. But while some of the more threatening offenders (e.g., black, younger) bore the brunt of these increases in sentences, so too did less threatening offenders (e.g., female, less serious).

#### DISCUSSION

As the preceding analysis demonstrated, we found it difficult to explain in the length of probation sentences. Although contextual variables added substantially to explained variance and often strongly affected the role played by offender and offense variables, a considerable amount of variation remains unexplained. Some of the patterns we observed and the questions analysis raised can be addressed, however, by considering insights gained during site visits. In using the distinctly qualitative portion of our study as a backdrop for quantitative analysis, we will consider the different ways courts conceptualize simple sentences of

probation as well as possible interpretations for some findings. We will also note the broader ideological issues analysis raised.

From site visits, we learned that many courts do not view simple sentences of probation in punitive terms. Rather, district attorneys and some judges regard incarceration as the only "real" punishment. Thus, judges who sentenced considerable numbers of offenders to probation were described as "soft," while the judges themselves were concerned that people thought them "lenient" or, worse yet, "liberal." In one circuit, authorities emphasized with pride that they were tough on crime and made sparing use of probation, a pattern verified in statistical analysis.

More than any other type of sentence, probation appeared to depend on the judge's philosophy of punishment. For a few judges, rehabilitation was the only justification for punishment, and probation was the quintessential rehabilitative sentence. A judge in one of these circuits had extremely high rates of probated sentences and was regarded by virtually everyone as a "true believer" in the treatment model. Known for probation sentences in excess of fifteen years, this judge frequently imposed unusual and unorthodox conditions with probation. He has required offenders to begin religious study programs, take particular medication, or take voice-analyzing tests during probation. He has also required day and night home searches.

This court's use of probation was often criticized. Many questioned the rehabilitative philosophy justifying it, and the constitutional appropriateness of unconventional conditions. Particularly suspect was the claim, made by a judicial assistant, that "...the court can reform most probationers in 150 days."

In this and other circuits where the court relied heavily on probation, the judge and district attorney often held quite different opinions on punishment. A former district attorney in the circuit discussed above argued that courts "...can't rehabilitate unless the person wants to be." Advocating a more punitive philosophy, he went on to say that he was "...a firm believer in discipline. You acquire discipline by punishment. Like Adam and Eve, they got caught eating in the garden of Eden and they were punished for it...(T)he courts are (simply) too lenient in sentencing." In contrast, the judge in this circuit believed that district attorneys like to "drink a pint of blood before breakfast."

Most of the circuits we visited were not as treatment-oriented as the one just described. There was, however, an unanticipated amount of variation in the way judges use probation officers and offices. The circuit we described above emphasized the supervisory function of probation, requiring extensive presentence reports and case supervision. Other circuits used probation officers as investigators and law enforcement officials, to ensure that probationers did not violate the conditions of probation or any of the state's penal code provisions. In these instances, probation officers belied the image, noted by one probation officer, "...that you have to be liberal to be a probation officer."

As noted in Chapter IV, when questioned about their philosophy of punishment, many judges described themselves as "realists." Explicitly skeptical of rehabilitation and reluctant to endorse simplistic interpretations of either retribution or deterrence, many explained that they used probation for a variety of reasons. One judge indicated that it was easier to incarcerate a stranger than someone he knew. He went on to explain that he knew many of the felons who appeared before his court, and

sentenced half of all offenders to unsupervised probation. This behavior led at least one attorney to note that the judge took "too much pain in sentencing."

In other circuits public defenders, district attorneys, and probation officers said that probation was used only to alleviate prison overcrowding. "They (the judges) know we have a lot of people....," said one probation officer, "...and they're caught in a bind between prison and putting them out on probation. They figure that putting them with a little bit of supervision is better than letting them out with no supervision." One judge explicitly noted that "the overcrowding of the prison system tends to increase reliance on probation," while another concluded that "...it costs so darn much money to house prisoners."

Simple sentences of probation, then, were given for and rationalized with a variety of reasons. Some judges firmly subscribed to the rehabilitative ethic. Others felt the pressure of prison overcrowding and used probation as an alternative to incarceration with no other purpose in mind. Still others used probation simply as a way to keep tabs, so to speak, on particular offenders.

We need not be as cynical as the probation officer who remarked that "...sentencing variation can be traced to judicial personality and to the emotional disposition of the judges on a given day." Yet it is not difficult to see how probation terms can be affected by a variety of factors, not all of them quantifiable. The variety of motivational factors and the frequently noted conception of probation as nonpunitive may help us understand why case attributes, especially the legally relevant factors of offense severity, did not have the power to strongly predict the length of probation sentences. Contrasting philosophies of punishment and

perspectives on the use of probation help us understand why the quantified aspects of the court did not always have significant or strong additive effects on probation sentences.

Information obtained from site visits also helps put particular findings in perspective. As noted earlier, disparities in the sentences imposed on violent and victimless offenders, though not encountered often, were often particularly pronounced. Since the majority of victimless offenses were violations of the state's drug laws, responses to questions about drug offenses proved illuminating. In several circuits, judges indicated that they approached drug offenders in an inconsistent fashion. One remarked that this inconsistency was a dual function of the kinds of drug cases brought before the bench and of the judge's electoral sensitivity. Observing that "there are drug cases and there are drug cases," many judges said they tried to distinguish cases in actuality that were not distinguished in law. Since statutes provide identical penalty ranges for a variety of drug offenses, these judges imposed sentences commensurate with the offender's culpability and history of drug use. One judge admitted being especially sympathetic to offenders convicted of rather insubstantial use or of selling drugs to other users. Other judges commented that they were especially punitive toward offenders selling drugs to children.

In addition, one judge said he was particularly harsh on drug offenders while running for reelection. Though he reportedly was lenient toward misdemeanor drug offenders when he served as state court judge, he changed his position dramatically after his initial election to the Superior Court bench. This change was considered by newspaper reporters and defense attorneys as obvious electoral posturing.

This judge's electoral sensitivity and his admission of its effect on sentencing were the exception rather than the rule. District attorneys, rather than judges, were more likely to emphasize their sensitivity to public opinion. Observing that the public was seriously concerned with the drug problem, particularly as it affected school-aged children, district attorneys said they recommended either lengthy incarceration or probation for these offenders. Thus it is not surprising that, under certain circumstances, particularly where officials were electorally vulnerable, victimless offenders were treated with as much, if not more, harshness than violent offenders.

Although case context variables explained little variation in probation length, in particular settings race surfaced as a consequential factor. Whites generally received longer terms of probation than blacks. However, where counties were predominantly black, the probation sentences of blacks were longer than those for whites. The former pattern, longer terms of probation for whites, may reflect the view that probation per se is not a serious penalty. Hence, a longer rather than a shorter sentence is not necessarily more severe.

In one of the circuits we visited, the majority of convicted felons received probation, and defense attorneys observed that race was a consideration during sentencing. This circuit bordered a metropolitan area and was reportedly quite conservative politically. Minorities from surrounding counties were not encouraged to live or work in the circuit. The county refused to contribute to a system of public transportation that would cross county lines. Court authorities described most defendants in Superior Court as county residents, against whom judges were reluctant to be punitive. Commenting that "...we are always ready to sentence somebody

who is a stranger to us, not our friends," a judge observed that probation was less likely for strangers (and by inference, blacks). Longer terms of probation may have helped the court rationalize the use of probation against offenders who, had they been black, would have been incarcerated.

Longer probation sentences for blacks in predominantly black counties could reflect conscious or unconscious prejudice or paternalism. Even in predominantly black counties, whites staff most Superior Court offices. While there were some black probation officers and defense attorneys, few judges, sheriffs, and district attorneys, particularly outside metropolitan Atlanta, were black. White court authorities may think black offenders need longer supervision, whether for purposes of deterrence or rehabilitation; that they deserve longer supervision; or that longer probation sentences would serve a general deterrent function for black residents. Paternalism was reflected in the comments made by one judge: "I wish you people would tell me what to do with these welfare folks. Most of them have a house full of children and can't live on what they're getting and I'm not at all convinced that they have criminal intent because frequently the people who are on welfare will tell the welfare worker anything they want to hear..." For this judge, reliance on probation was standard, and longer terms of probation were regarded as essential.

In addition to offense and offender factors, we found that certain judicial characteristics affected probation sentencing. For example, older judges were more inclined to give shorter terms of probation; local judges were slightly more punitive than nonlocal judges; judges with district attorney experience were reluctant to impose long probation sentences; and rural judges were not consistently more particularistic than their urban

counterparts. Impressions gained from site visits help shed light on these findings.

Older judges and district attorneys were frequently more skeptical of the merits of rehabilitation and sometimes quite cynical about the value of probation. It isn't surprising then that, once on the bench, they were not inclined to sentence felons to long periods of probation. Local judges, particularly those facing substantial numbers of "home grown crime" (as one judge put it), may give longer probation sentences to compensate for their initial reluctance to imprison felons they know. In several circuits, judges remarked that armed robbery offenders were typically drawn from other counties and were not likely to receive anything less than incarceration. Other felonies, however, were committed by locals and as one judge emphasized, it is difficult to be tough on your own.

In both popular and academic circles, rural judges are thought to be more particularistic, inconsistent and prejudiced. Site visits did not support this generalization. Many judges serving in rural circuits were thoughtful, sensitive men, reportedly impartial and moderate in judgment. Perhaps because they are often the only sentencing judge in the county, rural judges may feel the responsibility of felony sentencing more keenly, taking special pains to be fair and just. In contrast, some judges in urban areas, shielded by the sheer size of the court and better able to diffuse responsibility, appeared to fit the stereotype of their rural counterparts. For example, one urban judge kept a brass spittoon in his office, wore cowboy boots, and talked about teaching criminals a lesson. While we cannot generalize beyond these few impressions, both qualitative and quantitative analysis made it quite clear that the urban-rural distinction does not operate as conventionally expected.

## CONCLUSION

Regardless of the practical or utilitarian justifications for using probation (e.g., to ease prison overcrowding), the theoretical justifications for probation rests squarely on the rehabilitative ethic. As described earlier, one of the few judges who explicitly endorsed rehabilitation and used probation to express that commitment imposed long terms of probation and often questionable conditions. According to one newspaper reporter, convicted felons complied because "they would do anything to avoid doing time." This raises two important questions. First to what degree are defendants participating in a game of deception and taking advantage of a well-intentioned, perhaps naive, judge? Second, to what degree does the rehabilitative ethic justify excessive and perhaps unconstitutional punishment?

The first question underscores some of the well-documented problems inherent in applying rehabilitative principles. The second suggests that, quite apart from the length of probationary supervision, the conditions of that supervision may constitute harsh punishment despite the absence of incarceration. Our understanding of punishment could benefit, then, from an examination of those conditions and of the factors, whether case, court, or county, that determine their substance and severity.

## VI. SPLIT SENTENCES

### OVERVIEW

In Chapter III, we stressed that judges, as well as the press, conceptualize split sentences as a totality, considering terms of imprisonment and of probationary supervision together as a single unit. In addition, we noted in Chapter VI the common perception that incarceration is the only type of sentence that constitutes true punishment. These perceptions provide the grounds for our focus in this chapter on two aspects of split sentences: (1) their total length, which is the simple sum of probation and prison terms; and (2) their punitiveness or severity, operationalized as the proportion of the total sentence for which incarceration was mandated. We also note in passing the results for the probability of receiving a split sentence (0) rather than an alternative (1). This outcome is the focus of the selection equation, and the predicted probability of not receiving a split sentence is entered into our two equations of substantive interest as a control for sample selection bias.

Diagnostics available through our analytic program<sup>1</sup> revealed collinearity among several variables. This problem was caused by the relatively small sample size and, as expected (see Berk and Ray, 1982), by the hazard rate instrument, the predicted probability of a non-split sentence. Given the theoretical and policy importance of most variables, we considered it inappropriate to delete them from analysis. Instead we collapsed information contained in several variables into a single measure, using iterated principal factor analysis where feasible. Table 6-1 describes these new variables and their derivation.

Table 6-1. Modified Independent Variables for Models predicting Split Sentence

Variable	Range	Mean	Standard Deviation
COUNTY CONTEXT			
Urbanization (N=18483) <sup>a</sup>	2214 - 342062	50909	91285
Urbanization (N=5544) <sup>b</sup>	1869 - 170302	62624	63428
COURT CONTEXT			
<u>Multiple-Judge Courts (N=14510)</u>			
Prosecutor Electoral Vulnerability (0 = No opposition or reelection; 1 = Opposition or reelection; 2 = Opposition and reelection)	0 - 2	.65	.58
Judicial Background <sup>c</sup>	0 - 3	.73	.87
Judicial Activism <sup>d</sup>	0 - 3	.91	.78
Judicial Electoral Vulnerability <sup>e</sup>	0 - 2	1.09	.55
Judicial Government Involvement <sup>f</sup>	0 - 23	5.40	5.40

Table 6-1., Continued

Variable	Range	Mean	Standard Deviation
<u>Single-Judge Courts (N=3910)</u>			
Prosecutor Electoral Vulnerability	0 - 2	.73	.56
Judicial Background <sup>g</sup>	0 - 3	.50	.79
Judicial Experience and Activism <sup>h</sup>	0 - 14	1.33	2.76
Judicial Electoral Vulnerability (0 = No opposition or reelection; 1 = Opposition or reelection; 2 = Opposition and Reelection)	0 - 2	.56	.58
Judicial Government Involvement <sup>f</sup>	0 - 38	5.85	10.46

<sup>a</sup>Urbanization is a weighted linear composite of five intercorrelated indicators: the original composite for urbanization, percent Kennedy vote in 1980, Index crime rate, and percent Index crimes involving weapons, and percent black arrestees. Iterated principal factor analysis yielded one factor with an eigenvalue (after iteration) of 2.2, which accounted for 100% of the variance. The standardized scoring coefficients were used as weights.

<sup>b</sup>This measure of urbanization applies only to counties with press coverage of crime and is a weighted linear composite of four intercorrelated indicators: the original composite for urbanization, percent Kennedy vote in 1980, Index crime rate, and percent Index crimes involving weapons. Iterated principal factor analysis yielded one factor with an eigenvalue (after iteration) of 2.5, which accounted for 66% of the variance. The standardized scoring coefficients were used as weights.



Table 6-1. , Continued

<sup>c</sup>For multiple-judge courts, judicial background is coded as follows: 0 = Fewer than 1/3 born outside the Circuit; 1 = Greater than 1/3 born outside the Circuit, but all born in Georgia; 2 = Some born outside Georgia, but all born in the South; 3 = All born outside the South.

<sup>d</sup>For multiple-judge courts, judicial activism is the mean number of Bar and attorney associations.

<sup>e</sup>For multiple-judge courts, judicial vulnerability is coded as follows: 0 = No judges facing opposition in primaries or reelection; 1 = Fewer than 1/3 facing reelection, but none facing opposition; 2 = More than 1/3 facing reelection and at least 1 facing opposition.

<sup>f</sup>Judicial government involvement is the sum of years (or mean years for multiple-judge courts) service in local, state, and national government.

<sup>g</sup>For single-judge courts, judicial background is coded as follows: 0 = Born in the circuit; 1 = Born outside the circuit, but in Georgia; 2 = Born outside Georgia, but in the South; 3 = Born outside the South.

<sup>h</sup>Judicial Experience and Activism is, for single-judge courts, the weighted linear composite of four intercorrelated indicators: number of Bar associations, number of attorney associations, years other judicial experience, and years experience as district attorney. Iterated principal factor analysis yielded one factor with an eigenvalue (after iteration) of 1.2, with accounted for 54% of the variance. The standardized scoring coefficients were used as weights.

As should be apparent, our data reduction strategy blurs conceptually distinct aspects of county and court contexts. For example, urbanization now includes dimensions of the political (viz., percent Kennedy vote) and crime (viz., crime rate, Index crimes involving weapons, black arrestees) characteristics of the county. Collapsing judicial background information compresses data that previously permitted detailed comparisons between circuit and non-circuit, Georgian and non-Georgian, Southern and non-Southern judges. For single-judge courts, the use of one measure for activism and experience collapses conceptually discrete information about activism in Bar and attorney associations and experience both as a judge and district attorney.

While the use of these variables reduces the specificity of the distinctions we can draw, it permits comparisons that would have been impossible had we deleted selected variables. Moreover, multicollinearity problems did decline. For the most part they are confined to a subset of case context variables, particularly those included in the prior selection equation (viz., the risk of non-split sentence) that yielded the hazard rate instrument. For these variables, we cannot exclude the possibility that insignificant effects are due to the inflated standard errors multicollinearity produces. Where this is the case, and for comparative purposes only, we note the results for analysis that excludes the control for selection bias.

#### ANALYSIS OF CASE CONTEXT

Prior to presenting the results for our two outcomes of interest, we note briefly the results (not shown) of the logistic question predicting the probability of receiving a split sentence (0) rather than an

alternative (1). We found that certain offenders run greater risks of receiving a split sentence, namely, those who are male, white, or have been convicted of more serious or violent offenses.

Table 6-2 presents results for models that include social background and legally relevant characteristics. Note first that case context variables as a set are better predictors of the total length of split sentences, than they are of its severity. Note also that the strongest predictors of both sentence length and severity are legally relevant offense variables rather than offender characteristics. In the interests of clarity, we confine our attention to statistically significant standardized coefficients that approach or exceed  $\pm .10$ .

Split sentences are likely to be longer for more serious or violent offenders, as well as for offenders who are older, unemployed, or natives of Georgia. Other social background effects, though significant, are extremely weak. They indicate only slight tendencies for sentences to be longer for offenders who are white, married, have urban backgrounds, or have been incarcerated before.

Split sentences are more severe for more serious or violent offenders, as well as for offenders who are male, black, unemployed, non-Georgian, or have been previously incarcerated. Note that there are gender differences only in the severity of sentences. This reluctance to incarcerate women has its analogue in the initial decision, sentence type, discussed in Chapter IV. Our finding here is particularly instructive, for it in no way discredits earlier results based on analysis for which no prior record and other social background information was available.

In comparing the two outcomes, we find that certain offenders (e.g., more serious, violent, previously incarcerated, unemployed, with urban

Table 6-2. Regression Coefficients and Related Statistics for Split Sentences, Case Context Model

Variable	Total Sentence Length			Severity of Sentence <sup>a</sup>		
	b	(SE)	β	b	(SE)	β
Intercept	-7.346	(9.532)		-2.013	(.387)	
Probability of Non-split Sentence	9.468	(11.150)	.060	2.905	(.453)	.480
<u>Case Characteristics</u>						
Offender Sex	1.744	(.731)	.090	.229	(.030)	.305*
Offender Race	.802	(.287)	.079*	.082	(.012)	-.210*
Offender Age	.058	(.010)	.090*	-.002	(.000)	-.064*
Offender Marital Status	.242	(.083)	.021*	-.004	(.003)	-.010
Offender Employment Status	-1.027	(.089)	-.080*	-.108	(.004)	-.216*
Offender Urban Background	.170	(.040)	.030*	.011	(.002)	.050*
Offender Georgia Native	1.792	(.079)	.162	-.084	(.003)	-.195*
Prior Arrests	.014	(.007)	.017	-.001	(.000)	-.033*
Prior Incarceration	.295	(.095)	.025*	.071	(.004)	.152*
Offense Seriousness	.375	(.022)	.373*	.011	(.000)	.296*
Type of Crime I (Violent v. Victimless)	-2.069	(.391)	.166*	-.105	(.016)	-.216*
Type of Crime II (Violent v. Property)	-1.391	(.438)	-.138*	-.131	(.018)	-.335*
R <sup>2</sup>		.225			.153	
N		2816			2816	

Note: b = metric coefficient; SE = standard error of coefficient; β = standardized coefficient.

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\* p < .01.

backgrounds) are at a double disadvantage. They experience both longer and more punitive sentences. Other offenders (e.g., whites, older, Georgians) appear at a disadvantage because they receive longer sentences. However, while longer, their sentences are less punitive, mandating smaller proportions of time in prison. Conversely, while black, younger, and non-Georgian offenders appear at an advantage because their split sentences are shorter, they are ultimately at a disadvantage, for their sentence mandates a proportionately longer term in prison.

#### ANALYSIS OF COURT CONTEXT

In this section, we address three questions: (1) do court variables affect the length and severity of split sentences; (2) do the criteria used during split sentencing differ in single-judge courts; and (3) to what extent do court characteristics affect the relevance of both offender and offense attributes. We consider split sentencing in multiple-judge courts, then turn our attention to the process as it occurs in courts whose judges sentence alone.

#### ADDITIVE MODELS

##### Multiple Judge Courts

Initial logistic analysis indicated that black, male, more serious, and violent offenders run greater risks of receiving a split sentence, rather than either probation or a straight prison term. Split sentences are also more likely to be imposed in courts characterized by (1) high caseloads; (2) established prosecutors; and (3) judges who are male, have urban backgrounds, are professionally active, have previous district attorney experience, are less established, or have been involved in government.

Table 6-3 presents the results of additive models predicting the length and severity of split sentences. As a set, court variables are better predictors of the total length of sentences than they are of their severity. Along with case attributes, they explain a substantial 40% of the variance in sentence length.

While the inclusion of court variables attenuates the effects of some case attributes, legally relevant variables, particularly those related to the offense, have stronger effects than do social background factors. Judges impose longer and more severe sentences on offenders convicted of more serious or violent offenses. In addition, they impose longer sentences on offenders who are male, unemployed, and have urban backgrounds. Their sentences tend to be more severe for male, black, unemployed, non-Georgian, and previously incarcerated offenders. Regardless of court attributes, then, certain offenders (e.g., more serious, violent, male, unemployed) are at a double disadvantage. They receive split sentences that are both longer and more severe.

Of the court context variables, bureaucratization has the strongest effect on split sentence length. Although caseload and assistance from lower courts are generally irrelevant, sentences tend to be longer where probation departments are larger. They are likely to be shorter where there are more judges. Note that while the size of the court (number of judges) decreases the length of split sentences, it increases their severity.

The small effects for prosecution characteristics indicate that split sentences tend to be longer where guilty pleas are used often and where prosecutors are electorally vulnerable. Interestingly, while prosecutor vulnerability increases the length of split sentences, it decreases their

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Table 6-3. Regression Coefficients and Related Statistics for Split Sentences, Multiple-Judge Courts

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE) $\beta$	b	(SE) $\beta$
Intercept	-23.886(5.920)		-1.386 (.253)	
Probability of Non-split Sentence	13.026(4.348)	.144*	1.754 (.190)	.499*
<u>Case Characteristics</u>				
Offender Sex	2.421 (.397)	.117*	.163 (.017)	.203*
Offender Race	.095 (.160)	.009	-.069 (.007)	-.172*
Offender Age	.008 (.006)	.012	-.001 (.000)	.025
Offender Marital Status	.242 (.088)	.020*	-.000 (.004)	-.001
Offender Employment Status	-.938 (.093)	-.072*	-.118 (.004)	-.234*
Offender Urban Background	.416 (.043)	.071*	.009 (.002)	.042*
Offender Georgia Native	.701 (.092)	.061*	-.082 (.004)	-.183*
Prior Arrests	.042 (.007)	.050*	-.002 (.000)	-.071*
Prior Incarceration	-.500 (.101)	-.040*	.068 (.004)	.140*
Offense Seriousness	.346 (.013)	.320*	.010 (.001)	.233*
Type of Crime I (Violent v. Victimless)	-2.321 (.216)	-.183*	-.098 (.009)	-.200*
Type of Crime II (Violent v. Property)	-1.712 (.198)	-.165*	-.102 (.008)	-.253*
<u>Bureaucratization</u>				
Felony Filings per Judge	.002 (.001)	.040	.000 (.000)	.088*
Lower Court Assistance	-.013 (.006)	-.021	.002 (.000)	.065*
Number of Judges	-.625 (.035)	-.409*	.013 (.001)	.219*
Number of Probation Officers	.459 (.028)	.234*	-.003 (.001)	-.035
<u>Prosecution Characteristics</u>				
Felony Filings per Prosecutor	-.002 (.001)	-.041*	-.000 (.000)	-.068*
Percent Dismissals	-.028 (.007)	-.064*	-.000 (.000)	-.014
Percent Guilty Pleas	.054 (.006)	.130*	.001 (.000)	.033



Table 6-3., Continued

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE)      β	b	(SE)      β
Number of Times Elected	.068 (.049)	.021	.020 (.001)	.157*
Electoral Vulnerability	.684 (.072)	.081*	-.026 (.003)	-.080*
<u>Judicial Composition</u>				
Percent Male	.095 (.011)	.096*	.001 (.000)	.015
Mean Age	-.007 (.012)	-.005	-.001 (.001)	-.010
Percent Married	.016 (.011)	.013	.001 (.000)	.026*
Mean Percent Urban Background	.021 (.005)	.090*	.001 (.000)	.080*
Judicial Background	.016 (.048)	.004	-.044 (.002)	-.268*
<u>Judicial Activism and Experience</u>				
Mean Bar and Attorney Associations	.673 (.134)	.097*	.064 (.006)	.240*
Mean Years Other Judicial Experience	.106 (.027)	.047*	-.009 (.001)	-.104*
Mean Years District Attorney Experience	.004 (.036)	.002	.016 (.002)	.214*
<u>Judicial Electoral Vulnerability and Local Involvement</u>				
Mean Times Elected	-.326 (.120)	-.044*	-.036 (.005)	-.126*
Electoral Vulnerability	1.102 (.104)	.093*	-.018 (.004)	-.039*
Mean Community Organizations	-.829 (.060)	-.165*	.000 (.003)	.002
Mean Years in Government	.184 (.013)	.150*	.001 (.001)	.017

Table 6-3., Continued

Variable	Total Sentence Length	Severity of Sentence <sup>a</sup>
R <sup>2</sup>	.402	.271
N	2816	2816

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Severity refers to the proportion of total split sentence mandating imprisonment.

\*p  $\leq$  .01.

severity. Also contrary to expectation, split sentences are more, rather than less, severe where prosecutors are established.

Few aspects of judicial composition have noteworthy effects on split sentences. Age, marital status, and background are irrelevant when considering the length of split sentences. Sex, age and marital status play no role in determining their severity. However, sentences tend to be longer where more judges are male and have urban backgrounds. They are generally more severe in courts whose judges have urban or local (e.g., born in the circuit, State, or South) backgrounds. Note that the gender composition of the bench has implications only for the duration of split sentences, not their severity. Also, the local origin of judges affects only sentence severity, not length. Finally, offenders appear to be at a double disadvantage when sentenced by judges with urban backgrounds, for their sentences tend to be both longer and more severe.

Turning now to the activism and experience of judges, we find that professionally active judges impose longer and more severe split sentences. Judges with previous judicial experience tend to be less severe while, as expected, judges with prior district attorney experience tend to be more severe.

As was the case for the electoral vulnerability of prosecutors, the vulnerability of judges tends to generate longer sentences. Contrary to expectation, however, sentences become more (rather than less) severe as judges become more established. Community involvement has implications only for the length of sentences. Judges previously involved in government tend to impose longer sentences while, contrary to expectation, those involved in community organization tend to impose shorter sentences.

### Single-Judge Courts

Initial logistic analysis (not shown) indicated that the risk of receiving a split sentence is significantly greater for male or young offenders. Race and offense characteristics appear to be irrelevant considerations. Rather, offenders are more likely to receive a split sentence if sentenced in courts whose prosecutors rely heavily on guilty pleas and dismissals and whose judges are professionally active and experienced.

Table 6-4 presents results for the outcomes of substantive interest. As was the case in multiple-judge courts, case and court variables are more successful predictors of sentence length than of severity. Again, a consideration of court variables attenuates the effects of background attributes. Sex, age, race, and marital status have no noteworthy influence on either sentence length or severity. However, judges impose longer sentences on unemployed offenders and more severe sentences on offenders with rural backgrounds.

Legally relevant variables exert more substantial effects, and indicate that judges impose longer and more severe sentences on offenders who have been previously arrested or incarcerated and who were convicted of more serious or violent crime.

When considering dimensions of bureaucratization, we find that judges impose shorter sentences as their caseload pressure and assistance from lower courts increase. They impose longer, but less severe, split sentences where their probation departments are large. Recall that this situation also characterized sentencing in multiple-judge courts.

In contrast to court caseload, which reduces sentence length, the caseload experienced by prosecutors tends to generate longer, if less punitive, sentences. As expected, judges impose longer sentences where

Table 6-4. Regression Coefficients and Related Statistics for Split Sentences, Single-Judge Courts

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE) $\beta$	b	(SE) $\beta$
Intercept	5.300	(9.757)	.684	(.468)
Probability of Non-split Sentence	-.300	(9.148)      -.005	.034	(.439)      .015
<u>Case Characteristics</u>				
Offender Sex	.437	(.809)      .021	-.014	(.039)      -.017
Offender Race	.357	(.245)      .042	-.003	(.012)      -.009
Offender Age	.053	(.023)      .108	-.000	(.001)      -.019
Offender Marital Status	.341	(.215)      .036	.003	(.010)      .007
Offender Employment Status	-.920	(.248)      .083*	-.007	(.012)      -.016
Offender Urban Background	-.011	(.095)      -.003	-.015	(.005)      -.096*
Offender Georgia Native	.571	(.276)      .048	-.009	(.013)      -.019
Prior Arrests	.224	(.022)      .295*	.003	(.001)      .106*
Prior Incarceration	1.087	(.275)      .100*	.044	(.013)      .102*
Offense Seriousness	.471	(.025)      .512*	.010	(.001)      .269*
Type of Crime I	-1.249	(.347)      -.113*	-.027	(.017)      -.062
(Violent v. Victimless)				
Type of Crime II	-.766	(.306)      -.089*	-.037	(.015)      -.107*
(Violent v. Property)				
<u>Bureaucratization</u>				
Felony Filings per Judge	-.006	(.002)      -.123*	.000	(.000)      .040
Lower Court Assistance	-.065	(.019)      -.114*	.001	(.001)      .030
Number of Probation Officers	.111	(.054)      .077	-.012	(.003)      -.209*
<u>Prosecution Characteristics</u>				
Felony Filings per Prosecutor	.006	(.002)      .142*	-.000	(.000)      -.179*
Percent Dismissals	.012	(.028)      .025	.001	(.001)      .072
Percent Guilty Pleas	.004	(.034)      .012	-.001	(.002)      -.052

Table 6-4., Continued

Variable	Total Sentence Length			Severity of Sentence <sup>a</sup>		
	b	(SE)	$\beta$	b	(SE)	$\beta$
Number of Times Elected	-.282	(.138)	-.088	-.017	(.007)	-.130*
Electoral Vulnerability	.853	(.206)	.120*	.015	(.010)	.055
<u>Judicial Composition</u>						
Age	.034	(.021)	.054	-.003	(.001)	-.109*
Urban Background	.012	(.010)	.100	-.000	(.000)	-.065
Judicial Background	-.392	(.268)	-.129	-.003	(.013)	-.024
<u>Judicial Activism and Experience</u>	.090	(.112)	.063	.000	(.005)	.003
<u>Judicial Electoral Vulnerability And Local Involvement</u>						
Times Elected	-.264	(.117)	-.076	.009	(.006)	.063
Electoral Vulnerability	-.865	(.268)	-.110*	-.007	(.013)	-.021
Community Organizations	.190	(.156)	.071	.005	(.008)	-.043
Years in Government	.029	(.022)	.070	.001	(.001)	.068
R <sup>2</sup>		.467			.225	
N		2816			2816	

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\*  $p \leq .01$ .

prosecutors are electorally vulnerable and less severe sentences where prosecutors are more established.

Because of insufficient variation, we could not consider the effect of judicial sex and marital status on split sentencing in single-judge courts. Over 99% of these judges are male or married. The significant age effect indicates that older judges impose sentences that are less severe than those imposed by younger judges. Indicators of judicial background are implicated in multicollinearity, so it is possible that the lack of significant effects for these variables is a product of inefficient, inflated standard errors. Analysis based on models without the control for selection bias (not shown) suggests that judges with urban or local backgrounds impose significantly longer sentences. The findings reported in Table 6-4, though not statistically significant, indicate the same trend.

The remaining measures, judicial activism, electoral vulnerability, and local involvement, have no pronounced effects on split sentences. There is some indication, however, that electorally vulnerable judges impose shorter split sentences, a finding opposite that expected.

#### Summary of Additive Models

In multiple-judge courts, the length of split sentences depends most heavily on offense variables and court size, being longer for more serious or violent offenders and for offenders sentenced in courts with large probation departments and few judges. In single-judge courts, split sentences also depend heavily on offense variables, and they tend to be longer for more serious or violent offenders. In addition, prior record, court caseload, and prosecutor vulnerability figure prominently. Sentences are longer for offenders with prior records and for those sentenced in

courts with electorally vulnerable prosecutors and relatively little caseload pressure. Thus, for judges sentencing alone, the size of the court is less important than other aspects of its organization.

For both types of court, case attributes play more pronounced roles when considering the severity of split sentences. In multiple-judge courts, severity depends most heavily on case and judicial attributes. Judges impose more severe sentences on male, black, unemployed, Georgian, previously incarcerated, more serious and violent offenders. Judges who reside in large courts, are local, or professionally active also sentence more severely.

In contrast, the severity of sentences imposed in single-judge courts depends most heavily on legally relevant factors and on aspects of court organization. Judges impose more severe sentences on more serious, violent offenders and those with prior records or rural backgrounds. Judges with small probation departments and those whose prosecutors face little caseload pressure also sentence more severely.

#### INTERACTIVE MODELS

Table 6-5 presents results for analysis designed to answer the third question of interest, namely, to what extent do court contexts condition the role played by offender and offense attributes? It indicates that contextual effects are more pronounced in multiple-judge than in single-judge courts. For the latter, only dimensions of court organization, bureaucratization and prosecution characteristics, met both criteria for discussion. Increases in proportions of explained variance were significant at  $p \leq .001$  and one third or more of all interactions were significant at  $p \leq .01$ . Contextual effects were confined to equations predicting the severity of split sentences.

Table 6-5. Coefficients of Determination for Additive and Interactive Models predicting Split Sentences,  
Court Context Models

Court Characteristic	Total Sentence Length			Severity of Sentence <sup>a</sup>		
	Additive Model	Interactive Model	Percent Increase	Additive Model	Interactive Model	Percent Increase
MULTIPLE-JUDGE COURTS						
Bureaucratization	.388	.431	4.3	.261	.344	8.3
Prosecution Characteristics	.368	.440	7.1	.240	.370	13.0
Judicial Composition	.398	.441	4.2	.247	.350	10.3
Judicial Activism/Experience	.397	.428	3.1	.270	.318	4.9
Judicial Electoral Vulnerability and Local Involvement	.383	.437	5.3	.263	.329	6.6
SINGLE-JUDGE COURTS						
Bureaucratization	.456	.514	5.8*	.213	.315	10.2
Prosecution Characteristics	.453	.552	9.9*	.193	.401	20.8
Judicial Composition	.462	.513	5.1*	.219	.349	13.0
Judicial Activism/Experience	.466	.473	7.4*	.225	.247	2.1*
Judicial Electoral Vulnerability and Local Involvement	.457	.523	6.7*	.219	.361	14.2

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\*Increment not significant at  $p < .001$



In contrast, all dimensions of multiple-judge courts met the criteria for discussion. For total sentence length, the most pervasive contextual effects are exerted by judicial electoral vulnerability and local involvement, where 63% of all possible interactions are significant. More limited in scope are the contextual effects of judicial composition (59%), bureaucratization (57%), prosecution characteristics (50%), and judicial activism and experience (33%).

When examining the severity of split sentences, we find that contexts vary little in the scope of their conditioning influence. In descending order of pervasiveness are bureaucratization (67%), prosecution characteristics (64%), judicial composition (61%), judicial activism and experience (57%), and judicial electoral vulnerability and local involvement (50%).

For multiple-judge courts, case context variables vary dramatically in their sensitivity to variation across courts. However, there is no evidence that social background attributes (e.g., race, age, employment status) are any more responsive to court variation than are legally relevant variables. For total sentence length, offender employment status is most sensitive, having 67% of all possible interactions reach significance. Less responsive are offense seriousness (62%), offender sex and marital status (57%), offender race (52%), prior incarceration and the violent-property crime comparison (48%), the violent-victimless crime comparison (42%), prior arrests (38%), and offender age (33%). For the severity of split sentences, employment status (71%) along with the violent-property crime comparison, are most contextually responsive. Slightly less affected are offender race and prior arrests (62%), offender marital status, offense seriousness, and the violent-victimless crime

comparison (57%), offender age (48%), prior incarcerations (43%), and offender race (38%).

#### Interactions in Multiple-Judge Courts

Table 6-6 summarizes interactions between case and court characteristics in multiple-judge courts. In the sections that follow, we consider each case attribute, noting the magnitude and direction of disparities in both sentence length and severity. We also note those contexts that generate both particularly strong disparities and noteworthy reductions or increases in differential treatment. As noted earlier, predicted outcomes use metric coefficients from interactive models, in which additive effects for the remaining case and court variables were controlled.

Offender Sex. In slightly over half the instances (58%), males receive longer split sentences than females. In general, these disparities become less pronounced. Treatment becomes more similar as courts face heavy caseloads and as judges become older, non-local, or professionally active. Several court contexts exacerbate the differential treatment of males, namely, larger probation departments, greater prosecutor reliance on guilty pleas, and judicial involvement in government.

Sentence length disparities that operate against women are both less common and less pronounced than those that disadvantage males. They narrow as prosecutors rely more on dismissals and become electorally more vulnerable. Contrary to expectation, they widen, resulting in more dissimilar treatment, as prosecutors become established.

When considering the severity of sentences, we find a more consistent pattern of harshness toward male offenders. In only one case does differential treatment decline, namely, as prosecutors rely heavily on guilty pleas or dismissals. It is more often the case that differential

Table 6-6. Summary of Case and Court Interactions for Split Sentences, Multiple-Judge Courts

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup> Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity
<b>OFFENDER SEX</b>						
<u>Bureaucratization</u>						
Felony Filings per Judge	M (3.273)		M (.732) -2.541			
Number of Probation Officers	M (4.614)		M (8.184) 3.570			
<u>Prosecution Characteristics</u>						
Felony Filings per Prosecutor				M (.329)	M (.517)	.188
Percent Dismissals	F (7.289)	F (.251)	-7.038	M (.291)	F (.013)	-.278
Percent Guilty Pleas	F (4.994)	M (5.131)	.137	M (.249)	M (.061)	-.188
Times Elected	F (7.289)	F (13.273)	5.984	M (.291)	M (.295)	.004
Electoral Vulnerability	F (7.289)	F (4.429)	-2.860	M (.191)	M (.185)	-.106
<u>Judicial Composition</u>						
Mean Age	M(18.109)	M(13.150)	-4.959			
Percent Married				F (.464)	M (.586)	.122
Judicial Background	M(25.116)	M(22.395)	-2.721			
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations	M (3.300)	M (.771)	-2.529			
Mean Years District Attorney Experience				M (.079)	F (.016)	-.064
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected	F (1.799)	M (.077)	-1.722			
Electoral Vulnerability	F (2.335)	M (.311)	-2.024	M (.039)	M (.167)	.128
Mean Years in Government	F (2.335)	M(1.966)	-.369			

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity		
	Min	(Diff) <sup>a</sup>	Max		(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>		Max	(Diff) <sup>d</sup>
OFFENDER RACE										
<u>Bureaucratization</u>										
Lower Court Assistance Number of Probation Officers	B	(.954)	W	(.156)	-.798	W	(.029)	B	(.031)	.002
<u>Prosecution Characteristics</u>										
Felony Filings per Prosecutor						W	(.084)	W	(.190)	.106
Percent Dismissals						W	(.062)	B	(.225)	.193
Percent Guilty Pleas	W	(1.592)	B	(2.158)	.566	W	(.025)	B	(.140)	.115
Times Elected	W	(2.442)	W	(5.010)	2.568	W	(.062)	W	(.121)	.059
Electoral Vulnerability						W	(.062)	W	(.186)	.124
<u>Judicial Composition</u>										
Mean Age	W	(3.230)	W	(7.481)	4.251	W	(.624)	W	(.428)	-.196
Percent Married						W	(.681)	W	(.461)	-.220
Mean Percent Urban Background	B	(2.776)	B	(5.186)	2.410					
Judicial Background	B	(2.776)	B	(4.051)	1.275	W	(.901)	W	(.949)	.048
<u>Judicial Activism and Experience</u>										
Mean Bar and Attorney Associations	B	(.210)	W	(1.923)	1.713	B	(.034)	W	(.038)	.004
Mean Years District Attorney Experience						B	(.034)	B	(.169)	.135
<u>Judicial Electoral Vulnerability and Local Involvement</u>										

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min (Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity
Mean Times Elected	B (1.405)	W (.160)	-1.245	W (.063)	B (.164)	.101
Electoral Vulnerability	B (1.852)	W (1.270)	-.582			
Near Community Organizations	B (1.852)	B (3.048)	1.196	W (.128)	W (.184)	.056
Mean Years in Government	B (1.852)	B (3.876)	2.024			
<b>OFFENDER AGE</b>						
<u>Bureaucratization</u>						
Felony Filings per Judge	O (6.133)	O (6.965)	.832	Y (.195)	Y (.112)	-.083
Lower Court Assistance	O (2.190)	Y (1.032)	-1.158	Y (.106)	Y (.012)	-.094
<u>Prosecution Characteristics</u>						
Percent Dismissals				O (.204)	O (.005)	-.199
Percent Guilty Pleas	O (1.991)	Y (.079)	-1.912	O (.182)	O (.083)	-.099
Times Elected				O (.204)	O (.108)	-.096
<u>Judicial Composition</u>						
Percent Male	Y (5.040)	Y (7.980)	2.940	O (.168)	O (.108)	-.060
Percent Married	O (1.800)	O (5.700)	3.900			
Mean Percent Urban Background	Y (2.100)	Y (1.099)	-1.001			
Judicial Background				O (.228)	O (.271)	.043
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations				Y (.012)	O (.060)	.048
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected				O (.084)	Y (.042)	-.042

Table 6-6., Continued

Court Characteristic	Total Sentence Length				Change in Disparity	Severity of Sentence				Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>		Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	
Electoral Vulnerability						0	(.120)	0	(.072)	-.048
Mean Years in Government	0	(.468)	Y	(1.050)	.582					
OFFENDER MARITAL STATUS										
<u>Bureaucratization</u>										
Felony Filings per Judge						Mar (.127)		Mar (.169)		.042
Lower Court Assistance	NMar	(.772)	Mar	(2.191)	1.419	Mar (.020)		NMar (.063)		.043
Number of Probation Officers	NMar	(4.549)	NMar	(6.249)	1.700					
<u>Prosecution Characteristics</u>										
Felony Filings per Prosecutor	NMar	(2.942)	NMar	(5.402)	2.459	Mar (.062)		Mar (.146)		.085
Percent Dismissals	NMar	(2.432)	NMar	(.155)	-2.277					
Percent Guilty Pleas	NMar	(1.599)	Mar	(2.076)	.477	Mar (.027)		NMar (.048)		.021
Times Elected	NMar	(2.432)	NMar	(.384)	-2.048					
Electoral Vulnerability	NMar	(2.432)	NMar	(4.600)	2.168	Mar (.044)		NMar (.010)		-.034
<u>Judicial Composition</u>										
Mean Age	NMar	(7.026)	NMar	(4.846)	-2.180	NMar(.559)		NMar (.415)		-.144
Percent Married						NMar(.473)		NMar (.183)		-.290
Mean Percent Urban Background						NMar(.763)		NMar (.828)		.065
Judicial Background	NMar	(10.110)	NMar	(9.321)	-.789	NMar(.763)		NMar (.718)		-.045
<u>Judicial Activism and Experience</u>										
Mean Years Other Judicial Experience						Mar (.033)		NMar (.087)		.054
<u>Judicial Electoral Vulnerability and Local Involvement</u>										

Table 6-6., Continued

Court Characteristic	Total Sentence Length				Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
Mean Times Elected	Mar	(.642)	Mar	(4.286)	3.644	NMar	(.013)	Mar (.050) .037
Electoral Vulnerability	NMar	(.399)	NMar	(2.417)	2.018			
Mean Community Organizations	NMar	(.399)	NMar	(3.142)	2.743	NMar	(.031)	NMar (.100) .069
OFFENDER EMPLOYMENT STATUS								
<u>Bureaucratization</u>								
Felony Filings per Judge	NE	(5.788)	NE	(.614)	-5.174	NE	(.017)	NE (.248) .231
Lower Court Assistance	NE	(5.159)	NE	(3.515)	-1.644	NE	(.084)	NE (.190) .106
Number of Probation Officers	NE	(4.303)	NE	(8.493)	4.190	E	(.100)	E (.400) .300
<u>Prosecution Characteristics</u>								
Percent Dismissals	E	(5.300)	NE	(3.394)	-1.906	NE	(.444)	E (.246) -.198
Percent Guilty Pleas	E	(3.906)	NE	(2.244)	-1.662	NE	(.403)	NE (.223) -.180
Times Elected	E	(5.300)	E	(7.436)	1.608			
<u>Judicial Composition</u>								
Mean Age	NE	(8.941)	NE	(5.099)	-3.842			
Percent Married	E	(10.620)	E	(6.870)	-3.750	NE	(.129)	E (.051) -.078
Mean Percent Urban Background	E	(14.370)	E	(16.780)	2.410	NE	(.309)	NE (.624) .315
Judicial Background	E	(14.370)	E	(15.477)	1.107	NE	(.309)	NE (.408) .099
<u>Judicial Activism and Experience</u>								
Mean Bar and Attorney Associations						NE	(.041)	NE (.188) .147
Mean Years Other Judicial Experience						NE	(.041)	NE (.208) .167
Mean Years District Attorney Experience						NE	(.041)	E (.135) .094

Table 6-6., Continued.

Court Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>
<u>Judicial Electoral Vulnerability and Local Involvement</u>								
Mean Times Elected	E	(3.200)	E	(1.420)	-1.780	NE (.409)	E (.007)	-.402
Electoral Vulnerability	E	(4.520)	E	(.732)	-3.788	NE (.528)	NE (.332)	-.196
Mean Community Organizations	E	(4.520)	E	(8.792)	4.272	NE (.528)	NE (.678)	.150
Mean Years in Government						NE (.528)	NE (.422)	-.106
OFFENDER URBAN BACKGROUND								
<u>Judicial Composition</u>								
Mean Percent Urban Background	R	(3.070)	U	(8.517)	5.447	R (.003)	U (.138)	.133
OFFENSE SERIOUSNESS								
<u>Bureaucratization</u>								
Felony Filings Per Judge	MS	(6.454)	MS	(5.289)	-1.165	LS (.038)	LS (.163)	.125
Lower Court Assistance	MS	(3.938)	MS	(1.521)	-2.417	MS (.056)	MS (.110)	.054
Number of Probation Officers						MS (.002)	MS (.047)	.045
<u>Prosecution Characteristics</u>								
Felony Filings per Prosecutor	MS	(6.398)	MS	(7.696)	1.297			
Percent Dismissals	MS	(6.129)	MS	(2.403)	-3.726	LS (.045)	MS (.017)	-.028
Percent Guilty Pleas	MS	(5.410)	MS	(2.237)	-3.173	LS (.014)	MS (.121)	.107
Electoral Vulnerability	MS	(6.129)	MS	(4.617)	-1.512			
<u>Judicial Composition</u>								
Percent Male	MS	(1.485)	MS	(5.580)	4.095			
Mean Age	LS	(5.382)	LS	(7.344)	1.962	LS (.424)	LS (.571)	.147



Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min (Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity
Percent Married				MS (.144)	MS (.504)	.360
Mean Percent Urban Background	LS (2.610)	LS (4.279)	1.669	LS (.216)	LS (.141)	-.075
Judicial Background	LS (2.610)	LS (1.584)	-1.026	LS (.216)	LS (.262)	.046
<u>Judicial Activism and Experience</u>						
Mean Years Other Judicial Experience				MS (.099)	LS (.009)	-.090
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected	MS (6.390)	MS (4.541)	-1.859			
Electoral Vulnerability	MS (6.921)	MS (4.563)	-2.358			
Mean Community Organizations	MS (6.921)	MS (3.350)	-3.571	MS (.036)	LS (.068)	.031
Mean Years in Government				MS (.036)	MS (.160)	.124
TYPE OF CRIME I (Violent vs. Victimless)						
<u>Bureaucratization</u>						
Lower Court Assistance				Vic (.223)	Vic (.112)	-.111
Number of Probation Officers				Vic (.304)	Vic (.064)	-.240
<u>Prosecution Characteristics</u>						
Felony Filings per Prosecutor	V (5.958)	V (1.082)	-4.876	V (.463)	V (.119)	-.343
Percent Dismissals	V (6.970)	V (10.144)	3.174	V (.534)	V (.479)	-.055
Percent Guilty Pleas				V (.486)	V (.276)	-.210
Electoral Vulnerability				V (.534)	V (.484)	-.050
<u>Judicial Composition</u>						
Percent Male				Vic (.002)	Vic (.201)	.199

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
Mean Age	V	(8.297)	V (12.167)	3.870	V (.478)	V (.677) .199
Percent Married	Vic	(1.970)	Vic(6.770)	4.800		
Mean Percent Urban Background	V	(.197)	V (.039)	-.158		
Judicial Background	V	(2.830)	V (.937)	-1.893	V (.197)	V (.278) .081
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations	V	(1.920)	Vic (.300)	-1.620	V (.117)	Vic (.015) -.102
Mean Years District Attorney Experience	V	(1.920)	V (5.188)	3.268	V (.079)	Vic (.045) -.034
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected	Vic	(1.779)	V (1.165)	-.614	V (.019)	V (.057) .038
Mean Community Organizations	Vic	(2.620)	V (1.532)	-1.089		
Mean Years in Government	V	(.008)	Vic (.130)	.122		
TYPE OF CRIME II (Violent vs. Property)						
<u>Bureaucratization</u>						
Felony Filings per Judge	P	(3.402)	P (4.835)	1.433	P (.132)	P (.226) .094
Lower Court Assistance	P	(.471)	V (1.751)	1.280		
Number of Probation Officers	P	(.084)	V (.046)	-.038		
<u>Prosecution Characteristics</u>						
Felony Filings per Prosecutor	V	(.648)	V (.492)	-.157		
Percent Dismissals	V	(.681)	V (.515)	-.166		
Percent Guilty Pleas	V	(.581)	V (.138)	-.443		
Times Elected	V	(4.208)	V (2.056)	-2.152		
Electoral Vulnerability	V	(.681)	V (.519)	-.162		

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>
<u>Judicial Composition</u>						
Mean Age	V	(19.581)	V (19.935)	.354	V (.139)	V (.286)
Percent Married	V	(9.730)	V (.380)	-9.350		
Mean Percent Urban Background					P (.069)	P (.217)
Judicial Background	V	(19.080)	V (16.239)	-2.481	V (.069)	V (.027)
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations	V	(1.033)	P (1.760)	.727		
Mean Years Other Judicial Experience	V	(1.033)	V (4.021)	2.988	V (.117)	V (.189)
Mean Years District Attorney Experience	V	(1.033)	V (5.354)	4.321	V (.117)	P (.045)
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected					V (.067)	V (.161)
Mean Community Organizations	P	(1.396)	V (1.560)	.164	V (.040)	P (.040)
Mean Years in Government	P	(1.396)	V (.669)	-.727	V (.040)	P (.029)
PRIOR ARRESTS						
<u>Bureaucratization</u>						
Felony Filings per Judge	Arr	(1.086)	NArr (.346)	-.740		
Number of Probation Officers	Arr	(1.660)	Arr (2.760)	1.100	Arr (.022)	Arr (.132)
<u>Prosecution Characteristics</u>						
Felony Filings per Prosecutor					NArr (.157)	NArr (.093)
Percent Dismissals	Arr	(2.590)	Arr (5.074)	2.484	NArr (.170)	Arr (1.072)

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min (Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity
Percent Guilty Pleas				Narr (.143)	Narr (.023)	-.120
Electoral Vulnerability				Narr (.170)	Narr (.096)	-.074
<u>Judicial Composition</u>						
Mean Age	Narr (10.901)	Narr (14.170)	3.296	Narr (1.252)	Narr (1.438)	.186
Percent Married	Narr (1.780)	Arr (2.720)	.940	Narr (.390)	Arr (.210)	-.180
Mean Percent Urban Background	Narr (6.280)	Narr (8.690)	2.410	Narr (.990)	Narr (.934)	-.056
Judicial Background				Narr (.990)	Narr (1.080)	.090
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations				Narr (.044)	Narr (.104)	.060
Mean Years Other Judicial Experience				Narr (.044)	Arr (.076)	.032
Mean Years District Attorney Experience				Narr (.044)	Arr (.119)	.075
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected				Narr (.090)	Arr (.015)	-.075
Electoral Vulnerability	Narr (1.770)	Arr (1.010)	-.760			
Mean Years in Government	Narr (1.770)	Arr (.760)	-1.010			
PRIOR INCARCERATION						
<u>Bureaucratization</u>						
Felony Filings per Judge				NI (.135)	NI (.088)	-.046
Lower Court Assistance				NI (.028)	I (.074)	.046
Number of Probation Officers				NI (.157)	NI (.214)	.057

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity
<u>Prosecution Characteristics</u>						
Percent Dismissals				I (.118)	NI (.103)	-.015
Percent Guilty Pleas	NI (1.262)		NI (2.338)			1.076
Electoral Vulnerability	I (.078)		NI (1.296)	I (.118)	I (.190)	.072
<u>Judicial Composition</u>						
Percent Male				NI (.989)	I (1.304)	.315
Mean Age	I (9.316)		I (12.559)			3.243
Percent Married	NI (3.016)		NI (10.766)	I (.124)	NI (.426)	.302
Mean Percent Urban Background	I (4.735)		I (4.457)			-.278
<u>Judicial Activism and Experience</u>						
Mean Bar and Attorney Associations	NI (2.404)		I (2.033)	I (.043)	I (.172)	.129
Mean Years District Attorney Experience	NI (2.404)		I (.863)			-1.541
<u>Judicial Electoral Vulnerability and Local Involvement</u>						
Mean Times Elected	I (1.358)		NI (.189)	I (.132)	NI (.008)	-.124
Mean Years in Government	I (1.800)		NI (2.225)			.425

Note: M = male; F = female; B = black; W = white; Y = younger; O = older; NMar = unmarried; Mar = married; NE = unemployed; E = employed; R = rural background; U = urban background; LS = less serious offenses; MS = more serious offenses; V = violent offenders; Vic = victimless offenders; P = property offenders; NArr = no prior arrests; Arr = prior arrests; NI = no prior incarceration; I = prior incarceration.

Table 6-6., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>
			Change in Disparity			Change in Disparity

Predicted sentences capture only the effects of one possible determinant (e.g., mean age of judges) of split sentences. Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given individual, was held constant.

<sup>a</sup>These two columns note, for the minimum value of the court variable, which group receives the longer split sentence, and the amount of disparity, expressed in sentence-years.

<sup>b</sup>These two columns note, for the maximum value of the court variable, which group receives the longer split sentence, and the amount of disparity, expressed in sentence-years.

<sup>c</sup>These two columns note, for the minimum value of the court variable, which group receives the more severe sentence and the amount of disparity, expressed as the difference in proportions of total sentence mandating prison.

<sup>d</sup>These two columns note, for the maximum value of the court variable, which group receives the more severe sentence and the amount of disparity, expressed as the difference in proportions mandating prison.

treatment becomes more pronounced, particularly as prosecutors face heavier caseloads, as more judges are married, and as judges become electorally more vulnerable.

More severe sentence for female offenders occur infrequently and are not particularly pronounced ( $\bar{X} = .133$  vs.  $\bar{X} = .264$ ). Female offenders are at a strong disadvantage in courts with substantial minorities of unmarried judges.

Offender Race. In general (59% of the time) blacks receive longer sentences than whites. Moreover, differential treatment tends to become more pronounced, particularly as prosecutors rely on guilty pleas, and as more judges have urban backgrounds, are non-local, or involved in community organizations or government.

In a substantial minority of cases (41%), however, whites receive longer sentences than blacks. These disparities also tend to become more pronounced, particularly as prosecutors become more established (an unexpected finding), and as judges become older, professionally more active, or electorally vulnerable (also unexpected).

When we consider the severity of sentences, we find a much less common pattern of harshness toward blacks. Their sentences are more severe only 27% of the time. Most disparities are minor. But differential treatment tends to increase as prosecutors rely more heavily on guilty pleas and dismissals, and as judges have district attorney experience or become more established. In contrast, it is more often the case that whites receive more severe sentences. These disparities are also more pronounced ( $\bar{X} = .278$ ) than those disparities that operate against black offenders ( $\bar{X} = .114$ ). They are particularly noteworthy when considering judicial composition and become more pronounced as prosecutor's face heavier

caseloads or become electorally more vulnerable. They narrow, though remain substantial, as judges become older or as more judges are married.

Offender Age. Contrary to expectation, we find no clear pattern of discrimination against young offenders. Indeed, older offenders are often at a disadvantage.

In half of all instances, disparities in sentence length are consistent with expectation. Young offenders receive longer split sentences. Again, the magnitude of differential treatment varies, becoming more pronounced as more judges are male or involved in government, and less pronounced as more judges have urban backgrounds.

Though just as common, disparities in sentence length that work against older offenders are stronger than those that disadvantage the young ( $\bar{X} = 3.6$  years vs.  $\bar{X} = 2.6$  years). They decline as courts receive more lower court assistance and as prosecutors rely on guilty pleas. They become sharply more pronounced, however, as more judges are married.

When considering the severity of split sentences, we find that disparities against older offenders are both more common (occurring 70% of the time) and more pronounced ( $\bar{X} = .136$ ) than those against youthful offenders ( $\bar{X} = .08$ ). In general, differential treatment declines, particularly as prosecutors rely more on guilty pleas and dismissals and as they become more established. Contrary to expectation, disparities in sentence severity that operate against young offenders are relatively rare and minor. They tend to decline as caseload and lower court assistance increase.

Offender Marital Status. In general, unmarried offenders receive both longer and more severe sentences than their married counterparts. Again, court contexts have implications for the magnitude of these disparities.

Disparities in sentence length become more pronounced as probation departments become larger, as prosecutors face heavier caseloads or become electorally more vulnerable, and as judges become electorally more vulnerable or involved in community organizations. Differential treatment declines as judges become older, and as prosecutors rely on dismissals or become more established.

When considering sentence severity, we find that disparities against unemployed offenders are most pronounced when considering judicial attributes. They tend to decline as more judges are married and as judges become older.

It is less frequently the case (17% and 38%, respectively) that married offenders receive longer or more severe sentences. Disparities against these offenders are both less common and less pronounced ( $\bar{X} = .075$  vs.  $\bar{X} = .337$ ). Differential treatment with respect to sentence length tends to increase as courts receive more lower court assistance, prosecutors use guilty pleas, and judges become established. Disparities in sentence severity are quite weak and respond little to changes in court contexts.

Offenders Employment Status. In only a minority of instances (38%) do unemployed offenders receive longer split sentences. However, a pattern of discrimination against the unemployed is much more evident when considering sentence severity. Here, harsher treatment is both more common (80% of all instances) and more pronounced ( $\bar{X} = .306$  vs.  $\bar{X} = .157$ ) than disparities operating against the employed.

Again, we find that the magnitude of disparities varies dramatically depending upon the nature of the court where the offender is sentenced. Disparities in sentence length become less pronounced as caseload and lower



court assistance increase and as judges become older. They widen with larger probation departments and where prosecutors rely on guilty pleas or dismissals. Differential treatment with respect to sentence severity becomes less pronounced as prosecutors rely on guilty pleas and dismissals and as judges become more established, electorally vulnerable, or involved in local government. Finally, disparities involving sentence severity become more pronounced as caseload and lower court assistance increase, and as more judges have urban backgrounds, are professionally active, have other judicial experience, or are involved in the community.

As noted above, employed offenders usually receive longer sentences. Their disparities are also more pronounced ( $\bar{X} = 7.7$  years) than those experienced by unemployed offenders ( $\bar{X} = 4.8$  years). Differential treatment of these offenders become less pronounced as prosecutors rely more on guilty pleas and dismissals, and as more judges are married, established, or electorally vulnerable. In some instances disparities become more pronounced, namely, as prosecutors become more established, and as more judges have urban backgrounds, are non-local, or involved in community organizations. As noted above, disparities in sentence severity that operate against the employed are much less common and less pronounced. They tend to increase, however, as probation departments become larger and where judges have district attorney experience.

Offender Urban Background. We expected judges with urban backgrounds to be more lenient with offenders who also had urban backgrounds. We found the opposite. Judges with rural backgrounds tend to impose longer and slightly more severe sentences on rural, rather than urban, offenders. Similarly, judges with urban backgrounds impose longer and more serious sentences on urban, rather than rural, offenders.

Offense Seriousness. It is most often the case (77%) that more serious offenders receive longer sentences than less serious offenders. Differential treatment of these offenders increases in two instances: as prosecutor face heavier caseloads and as more judges are married. More often, differential treatment becomes less pronounced (though never approaching parity). This occurs as caseload and lower court assistance increase, as prosecutors rely heavily on guilty pleas or dismissals or become more vulnerable, and as judges become more established, electorally vulnerable, or involved in community organizations.

Particularly when considering judicial composition, however, we find counterexamples of longer sentences for less serious offenders. Disparities against these offenders decline as more judges become non-local. They become more pronounced as more judges are older or have urban backgrounds.

When considering the severity of sentences, harshness toward more serious offenders is less pronounced. In half the instances, they receive more severe sentences. Differential treatment is not particularly strong ( $\bar{X} = .111$ ) and the only major increase occurs as more judges are married. Moreover, contrary to expectation, it is just as often the case that less serious offenders receive more severe sentences. Disparities here are only slightly more pronounced than those that operate against more serious offenders. They increase with caseload pressure and as judges become older.

Violent v. Victimless Crime. Though there are exceptions, the clear pattern here is for violent offenders to receive longer and more severe sentences than victimless offenders. Disparities in sentence length become less pronounced as prosecutors face heavy caseloads and as more judges are

non-local or professionally active. Disparities in sentence severity narrow as prosecutors face heavier caseloads and use guilty pleas, and as more judges have urban backgrounds. In several instances, differential treatment of violent offenders becomes more pronounced. For sentence length, this occurs as prosecutors rely on dismissals and as more judges are older or have district attorney experience. For sentence severity, judicial age also exacerbates disparities.

In a minority of instances (31% and 32%, respectively), judges impose longer and more severe sentences on victimless offenders. These disparities are also only half as strong as those operating against violent offenders. For sentence length, differential treatment becomes more pronounced as more judges are married and less pronounced as judges become more established or involved in the community. Disparities in sentence severity become more pronounced as more judges are male or involved in government. They become less pronounced as probation departments become larger and judges receive greater assistance from lower courts.

Violent v. Property Crime. We also find that when compared with property offenders, violent offenders receive longer and more severe sentences. For sentence length, this differential treatment declines as prosecutors become established and as more judges are married and non-local. As expected, it becomes more pronounced where judges have other judicial or district attorney experience. With respect to sentence severity, differential treatment declines and sentences become more similar as prosecutors face heavier caseloads, rely more on guilty pleas, or are electorally vulnerable. Differential treatment becomes more pronounced as judges become older.

Disparities against property offenders are both less common and less pronounced. Sentence length disparities increase with caseload pressure and as judges become more professionally active. They decline, resulting in more similar treatment, as judges become involved in community organizations or government. Disparities in sentence severity increase noticeably as more judges have urban backgrounds.

Prior Arrests. Contrary to expectation, we find no overwhelming tendency for previously arrested offenders to receive harsher treatment. Considering sentence length first, disparities that operate to disadvantage offenders with prior arrests are just as common, but much weaker than those that operate against the never-arrested ( $\bar{X} = 2.2$  years vs.  $\bar{X} = 5.7$  years). They tend to increase as probation departments become larger, as prosecutors use dismissals, and as more judges are married.

When considering the severity of split sentences, we find harsher treatment of offenders with prior arrests in both much less common (occurring in 27% of all instances) and less pronounced ( $\bar{X} = .235$  vs.  $\bar{X} = .491$ ). As was the case for sentence length, differential treatment becomes more pronounced as probation departments become larger, prosecutors use dismissals, and more judges are married. The more common and pronounced disparities against offenders without prior arrests also respond to court differences. They increase as judges become older and decrease with the use of guilty pleas.

Prior Incarceration. There is also no consistent tendency for previously incarcerated offenders to be punished more severely. In only half of all instances do they receive longer or more severe sentences. Disparities in sentence length become more pronounced as prosecutors rely on guilty pleas and as judges are professionally more active. Contrary to

expectation, these disparities become less pronounced as judges have district attorney experience. Disparities in sentence severity decline with prosecutor reliance on dismissals, and increase as more judges are male or professionally active.

Shifting attention to occasions when offenders without prior incarcerations are at a disadvantage, we find that disparities in sentence length increase as prosecutors use guilty pleas or are electorally vulnerable and as more judges are married. Differential treatment declines as judges become professionally more active, have district attorney experience, or are involved in government. In only one instance do disparities in sentence severity change markedly. They increase as more judges are married.

Discussion. In this section, we focus on court contexts and their implications for disparities based on social background and legally relevant case attributes. Appendix Table VI-A reformats the results presented earlier to conform with this discussion.

Analysis examined two major dimensions of bureaucratization, caseload pressure (indicated by felony filings and lower court assistance) and court size (number of probation officers). In general, we expected bureaucratization to have implications for differential treatment based on social background. Conflict theory led us to expect that bureaucratization would exacerbate disparities against the disadvantaged. A Weberian position led us to expect more even-handed treatment. Our findings supported neither position strongly.

We found limited instances where bureaucratization reduced differential treatment of the disadvantaged. The sentence lengths, particularly those imposed on the unemployed, declined as caseload pressure

increased. We also found a clear instance where bureaucratization reduced differential treatment against the advantaged. Caseload pressure reduced the length of split sentences, particularly those imposed on male offenders.

It was more often the case, however, that bureaucratization exacerbated disparities, both against disadvantaged and advantaged offenders. As caseload pressure increased, sentences became longer, particularly for young offenders. They became more severe, particularly for the unemployed. As probation departments increased in size, sentences became longer, particularly for unmarried and unemployed offenders.

Bureaucratization was also more costly for relatively advantaged offenders. Lower court assistance increased the length of split sentences, and these increases were larger for married and employed offenders than they were for their unmarried, unemployed counterparts. Larger probation departments exacerbated disparities against males, by producing more pronounced increases in the length of their sentences. Finally, larger probation departments widened the gap in sentence severity, further disadvantaging employed offenders. This pattern was the result of a combination of leniency toward unemployed offenders and harshness toward employed offenders.

Bureaucratization also had implications for differential treatment based on legally relevant factors. In general, it benefited violent, more serious, and victimless offenders more than their counterparts. Caseload pressure increased disparities in sentence length and severity that operated against property, less serious, and never-arrested offenders. It did so by generating more pronounced lenience toward violent, more serious, and previously arrested offenders. Court size (number of probation

officers) exacerbated disparities against arrested offenders by generating more pronounced increases in the length and severity of their sentences.

It was just as often the case that bureaucratization reduced differential treatment based on legally relevant factors. Increases in felony filings reduced disparities against more serious and previously arrested offenders, by generating shorter sentences particularly for these offenders. Lower court assistance also reduced the harsher treatment more serious offenders experienced. It did so by generating more pronounced harshness toward less serious offenders. Finally, both caseload pressure and court size reduced disparities against victimless offenders. This was accomplished either indirectly, by generating more pronounced severity toward violent offenders or directly, by generating more pronounced lenience toward victimless offenders.

In several important respects, then, bureaucratization exacerbated differential treatment of both disadvantaged and advantaged offenders. Moreover, it had implications for disparities based on legally relevant variables, and benefited violent, more serious, and victimless offenders more than their counterparts. Bureaucratization tended to exacerbate disparities against property and less serious offenders, and to reduce disparities against more serious and victimless offenders.

The caseload pressure experienced by prosecutors tended to generate lenience, that is, both shorter and less severe split sentences. However, some offenders benefited more from this lenience than others. As was the case for court caseload, prosecutor caseload pressure operated to the double advantage of violent offenders, reducing the length and severity of their sentences to a greater degree than the sentences of their counterparts. Increases in prosecutor caseload also reduced the length of

sentences, particularly for married or less serious offenders. It reduced the severity of sentences, particularly for black, female, and unmarried offenders. Thus, the caseload pressure prosecutors experience does not uniformly exacerbate disparities against more dangerous or disadvantaged offenders. Rather, it may benefit these offenders, and in so doing work to the detriment of the advantaged (e.g., male, white, married).

Although prosecutor reliance on dismissals generated longer and more severe sentences, there was no clear tendency for more dangerous or disadvantaged offenders to shoulder the greater portion of harsher treatment. For example, the increases in sentence length accompanying the use of dismissals were more pronounced not only for more threatening offenders (e.g., male, unemployed, violent, previously arrested), but also for less serious and advantaged (i.e., married) offenders. Likewise, the increases in sentence severity that accompanied dismissals were more pronounced not only for more threatening offenders (e.g., black, previously arrested), but also for more advantaged (i.e., employed) and less threatening offenders (non-violent, female).

Our results indicated that as prosecutors relied more on guilty pleas, split sentences became longer. Plea bargaining often put more threatening offenders at a greater disadvantage, with increases in sentence length being more pronounced for male, black, younger, and unemployed offenders. However, plea bargaining also operated to the disadvantage of less dangerous (i.e., less serious, never incarcerated) and more advantaged (i.e., married) offenders.

As expected, a reliance on guilty pleas tended to generate less severe sentences. In general, advantaged or less dangerous offenders (viz., white, older, never arrested) benefited more than their counterparts from

this lenience. However, there were counterexamples. Lenience was more pronounced for male and unemployed than for female and employed offenders. Note that while plea bargaining put unemployed offenders at a distinct disadvantage when considering the length of split sentences, it operated to their advantage when considering the severity of split sentences. Also contrary to expectation was the tendency for the use of guilty pleas to generate more severe sentences for more serious and for non-violent offenders.

We expected sentences to become less punitive as prosecutors became more established. Conversely, we expected electoral vulnerability to generate greater punitiveness, particularly against offenders who appear to pose serious threats to the community. Our first expectation received no support. As prosecutors became more established, sentences became longer, particularly for advantaged (i.e., white, married, employed) and less dangerous (i.e., property) offenders. Sentences became more severe, particularly for male, white and younger offenders.

Our second expectation received marginal support. As expected, electoral vulnerability generated larger increases in sentence length for males than for females. However, it also increased the sentences, particularly of never-incarcerated offenders and decreased the sentences, particularly of more serious offenders. Also contrary to expectation, electoral vulnerability generated less severe sentences, particularly for more threatening (i.e., black, male, violent) offenders. In short, while the electoral vulnerability of prosecutors conditioned differential treatment, it seldom operated as we had expected.

Turning now to consider judicial attributes, we expected judges to be more lenient toward offenders who were similar to themselves. Five

judicial-offender comparisons were possible: gender, age, marital status, rural vs. urban background, and geographical background.

First, we expected courts consisting predominantly of males to sentence male offenders more leniently. We found that the gender composition of the bench had no implications for differential treatment based on the sex of the offender. Rather, as more judges were male, the sentences particularly of older offenders became shorter, thus exacerbating harsher treatment of the young. The sentences particularly of more serious offenders became longer, while the sentences particularly of victimless and previously incarcerated offenders became more severe. Thus, we found that harsher treatment of young, more serious, victimless, and previously incarcerated offenders was more pronounced in courts composed primarily of male judges.

Second, we expected courts consisting of older judges to sentence older offenders more leniently. Conversely, we expected younger courts to sentence younger offenders more leniently. We found no support for this expectation. Although judicial age strongly conditioned disparities, it had no strong implications for differential treatment based on age. Rather, as judges became older, split sentences became longer, particularly for white, female, married, unemployed, less serious, violent, never arrested and previously incarcerated offenders. Moreover, as judges became older, split sentences became more severe, particularly for black, married, violent and never-arrested offenders. Notice that, if sentenced by older judges, married, violent and never-arrested offenders are at double disadvantage. Notice as well that older judges appear more intolerant than their younger counterparts of certain offenders, namely, of females, the unemployed, violent, less serious and never-arrested offenders. In

contrast, their younger counterparts appear particularly intolerant of employed and male offenders.

Third, we expected courts consisting primarily of married judges to sentence married offenders more leniently. We found the opposite. As more judges are married, the sentences particularly of unmarried offenders became more lenient. Judicial marital status also affected other groups of offenders. Courts composed primarily of married judges appeared particularly intolerant of male, older, victimless, more serious, previously arrested and never-incarcerated offenders. In contrast, courts having substantial minorities of unmarried judges appeared more intolerant of employed, unmarried, violent and never-arrested offenders. Note that offenders with no prior arrests and those with prior incarcerations are at a double advantage if sentenced in courts composed of married judges. They receive more pronounced leniency when these judges consider the length and severity of split sentences.

Fourth, we expected judges from urban backgrounds to sentence urban offenders more leniently. Conversely, we expected rural judges to demonstrate greater leniency toward offenders with rural backgrounds. We found no support for this expectation. Rather, as more judges had urban backgrounds, the sentences particularly of rural offenders became shorter. The sentences, particularly of urban offenders, became more severe. When considering the length of split sentences, urban judges also appeared more intolerant than rural judges of three groups of offenders: blacks, the employed, and offenders with no prior arrests. When considering the severity of split sentences, they appeared more intolerant than their rural counterparts of unemployed and unmarried offenders. Thus, urban judges do

not appear to be universalistic in orientation. Nor do rural judges consistently sentence on the basis of particularistic criteria.

Finally, we expected courts consisting primarily of local judges to sentence Georgians more leniently than non-Georgians. This expectation also went unsupported. Judicial background had no implications for differential treatment based on the background of the offender. Rather, it conditioned several other disparities. Sentence length disparities that operated to the disadvantage of black and employed offenders were more pronounced in non-local courts. In contrast, disparities against male, violent or less serious offenders were more pronounced in local courts. These findings indicate that at least when considering the length of split sentences, non-local judges appear more intolerant of crime by black and employed offenders. Local judges appear more intolerant of male, less serious, and violent offenders.

We expected judicial activism in Bar and attorney associations to generate more even-handed treatment, that is, to reduce any disparities based on the offender's social background. We found that activism generated shorter sentences and, moreover, that black, male, unemployed, violent, and never-incarcerated offenders benefited more than others from this lenience. Activism generated more severe sentences particularly for victimless and previously incarcerated offenders; it generated less severe sentences particularly for employed offenders. In short, while activism did reduce some disparities (e.g., sentence length disparities based on gender and employment status), it did not eliminate them. Moreover, activism exacerbated sentence length disparities based on race (vs. whites) and sentence severity disparities based on employment status (vs. the employed) and prior record (vs. the previously incarcerated).

We expected judges with previous experience as district attorneys to impose more punitive sentences, particularly on more threatening offenders. We found that when considering the length of split sentences our expectation was supported. District attorney experience increased the sentences, particularly of violent and previously incarcerated offenders. Contrary to expectation, however, district attorney experience generated less severe sentences. More threatening offenders (viz., violent, unemployed) as well as the less threatening (white, never-arrested) benefited more from this lenience than did others.

As was the case for the electoral position of prosecutors, we expected established judges to impose more lenient sentences and vulnerable judges to impose harsher sentences, particularly against more threatening offenders. These expectations received little support. Contrary to expectation, where judges were established, sentences became longer, particularly for more threatening (e.g., unemployed, male, violent) as well as for less threatening offenders (e.g., white, married, less serious, never-incarcerated). As expected, where judges became more established, their sentences became less severe. However, white, property and previously-incarcerated offenders benefited more than others from this lenience.

Electoral vulnerability tended to impose longer sentences, particularly against more threatening offenders (e.g., male, unmarried, unemployed, and previously arrested). This pattern supported our expectation. However, electoral vulnerability also proved more costly for relatively advantaged (i.e., white) and less serious offenders. We had not expected this to happen. Also contrary to expectation was the tendency for

electoral vulnerability to generate less severe sentences, particularly for unemployed offenders.

We expected community involvement to operate in the same manner as electoral vulnerability, namely, to increase punitiveness, particularly against more threatening offenders. Three patterns were consistent with this expectation. First, the sentences particularly those imposed on unemployed offenders became more severe as judges became more involved in community organizations. Second, judges with service in government imposed longer sentences, particularly on male, black, younger, violent and previously arrested offenders. Third, community involvement exacerbated discrimination against black, unmarried and violent offenders, largely by producing larger reductions in the sentences of white, married and non-violent offenders. Contrary to expectation, however, we found that community involvement also produced stronger reductions in the sentence lengths imposed on unemployed and more serious offenders. Moreover, government experience reduced the severity of sentences, and did so particularly for unemployed and violent offenders.

#### Interactions in Single-Judge Courts

Table 6-7 summarizes the interactions between case and court variables that occur in single-judge courts. As noted earlier, court contexts affect the relevance of case characteristics only when determining the severity of sentences. Moreover, only two aspects of the court, prosecution characteristics and judicial electoral vulnerability and local involvement, met our criteria for discussion. Neither exerts a particularly pervasive conditioning influence; fewer than 40% of all possible interactions are significant.



Table 6-7. Summary of Interactions between Case and Court Contexts for Severity of Split Sentence, Single-Judge Courts.

Court Characteristic	Minimum Court Value		Maximum Court Value		Change in Disparity
	More Severe	Difference	More Severe	Difference	
OFFENDER RACE					
Community Organizations	Black	.018	White	.166	.144
OFFENDER AGE					
Felony Filings per Prosecutor	Younger	.156	Younger	.346	.190
Percent Dismissals	Younger	.096	Older	.156	.060
Percent Guilty Pleas	Younger	.013	Older	.235	.222
Times Elected (Prosecutor)	Younger	.132	Younger	.312	.180
OFFENDER MARITAL STATUS					
Felony Filings per Prosecutor	Married	.102	Married	.292	.190
Percent Dismissals	Married	.042	Unmarried	.294	.252
Times Elected (Prosecutor)	Married	.098	Married	.378	.280
Community Organizations	Unmarried	.014	Married	.266	.212
OFFENDER EMPLOYMENT STATUS					
Felony Filings per Prosecutor	Unemployed	.049	Employed	.109	.060
Times Elected (Prosecutor)	Unemployed	.130	Unemployed	.285	.155
Prosecutor Electoral Vulnerability	Unemployed	.099	Employed	.131	.032
Times Elected (Judge)	Unemployed	.053	Employed	.097	.044
Judicial Electoral Vulnerability	Unemployed	.078	Employed	.058	-.020
Community Organizations	Unemployed	.078	Unemployed	.326	.248



Table 6-7., Continued

Court Characteristic	Minimum Court Value		Maximum Court Value		Change in Disparity
	More Severe	Difference	More Severe	Difference	
OFFENSE SERIOUSNESS					
Felony Filings per Prosecutor	More Serious	.009	Less Serious	.275	.266
Percent Guilty Pleas	More Serious	.182	More Serious	.432	.248
Community Organizations	More Serious	.144	Less Serious	.007	-.137
Years in Government	More Serious	.144	Less Serious	.022	-.122
TYPE OF CRIME I (Violent vs. Victimless)					
Felony Filings per Prosecutor	Violent	.168	Violent	.421	.253
Judicial Electoral Vulnerability	Victimless	.066	Violent	.150	.084
Years in Government	Victimless	.066	Violent	.095	.029
PRIOR ARRESTS					
Felony Filings per Prosecutor	Arrested	1.260	Arrested	1.418	.158
Percent Dismissals	Arrested	1.210	Arrested	1.058	-.150
Percent Guilty Pleas	Arrested	.980	Arrested	.290	-.690
Prosecutor Electoral Vulnerability	Arrested	1.210	Arrested	.890	-.320
Community Organizations	Arrested	.180	Never Arrested	1.100	.920
PRIOR INCARCERATION					
Judicial Electoral Vulnerability	Never Incarcerated	.079	Incarcerated	.047	-.030

Note: Severity refers to the proportion of total sentence length that mandates imprisonment.

Case attributes vary dramatically in their sensitivity to court differences. Offender employment status is the most contextually responsive, with 67% of all interactions reaching significance. Less affected are prior arrests (56%), offender age, marital status, and offense seriousness (44%), the violent-victimless crime comparison (33%), offender race and prior incarceration (11%). Neither offender sex nor the violent-property comparison are sensitive to contextual variation.

In the sections that follow, we consider the direction and magnitude of disparities involving social background (offender race, age, marital employment statuses) and legally relevant variables (prior arrests and incarceration, offense seriousness, type of crime). We also note those court contexts that most strongly condition disparities.

Social Background. In general, disparities based on offender characteristics increase rather than decline. However, they do not always operate against disadvantaged offenders. Contrary to expectation, disparities that operate against whites increase as the community involvement of judges increases. In contrast, disparities based on age respond only to characteristics of the prosecution. Differential treatment of young offenders becomes more pronounced as prosecutors experience heavier caseloads or become more established. Disparities against older offenders also exist, and become more pronounced as more cases are disposed by guilty pleas or dismissals.

Contrary to expectation, in the majority of instances (75%), married offenders receive more severe split sentences than unmarried offenders. Moreover, these disparities widen, resulting in even more disparate treatment, where prosecutors experience caseload pressure or are more established and where judges become more active in community organizations.

Unmarried offenders are at a particular disadvantage only as prosecutors dispose of more cases with dismissals.

Disparities based on employment status, while responsive to a variety of court contexts, are seldom strong ( $\bar{X} = .137$ ). In general (75% of all instances), unemployed offenders receive more severe sentences than employed offenders. These disparities tend to become more pronounced as prosecutors become more established and as judges become more involved in community organizations. Harsher treatment of employed offenders occurs less often and is weaker. It becomes only slightly more pronounced as judges become more established, and as the caseload and electoral vulnerability of prosecutors increase.

Legally Relevant Attributes. As was the case for social background, disparities based on prior record and offense tend to increase. In most instances (63%), more serious offenders receive more severe sentences than less serious offenders. These disparities widen as more cases are disposed by guilty pleas. They decrease, approaching parity, as judges become more involved in community organizations or have served in government. Interestingly, when considering prosecutor caseload, less serious offenders are at a disadvantage. Increases in caseload serve to decrease the differential and more severe treatment these offenders receive.

It is also generally the case that violent offenders are treated more severely than victimless offenders. The only noteworthy change is for differential treatment to increase as prosecutor caseload increases. The most pronounced disparities involve prior record, and are strongly conditioned by prosecution characteristics. In most instances (90%), the findings support our expectation that previously arrested offenders receive more severe sentences than offenders who have never been arrested.

Differential treatment of these offenders increases as prosecutor caseload increases, and declines as prosecutors become electorally more vulnerable or use guilty pleas and dismissals often. Contrary to expectation, when considering judicial membership in community organizations, we find that never-arrested offenders are at a disadvantage, and that this disadvantage becomes more pronounced as judges become more involved locally.

Discussion. In this section, we focus on the contexts themselves, summarizing the nature of their conditioning effects. Appendix Table VI-B reformats the results presented in Table 6-7 to conform with this emphasis.

Considering prosecution characteristics first, we found that caseload pressure tended to increase disparities based on both social background and legally relevant factors. However, it did not always operate consistently to the detriment of more serious or disadvantaged offenders. As prosecutors experienced greater caseload pressure, sentences became more severe, particularly for young, married, employed, less serious, violent, and previously arrested offenders. Thus, caseload pressure operated to the disadvantage of both less serious and more dangerous offenders, as well as of both lower status (younger) and relatively advantaged (married, employed) offenders.

In contrast, sentences tended to become less severe as prosecutors relied on guilty pleas and dismissals. Again, certain offenders benefited more from this lenience than others, namely, the young, married, less serious, and previously arrested offenders. These findings show little discrimination against more serious or disadvantaged offenders.

We expected sentences to be less severe where prosecutors were established, and more severe where they were electorally vulnerable. We found the opposite. As prosecutors became more established, the sentences,

particularly of young, married, and unemployed offenders, became more severe. As prosecutors became more vulnerable, the sentences, particularly of unemployed and previously arrested offenders, became less severe. Thus, some groups of disadvantaged offenders (e.g., young, unemployed) are at a particular disadvantage when prosecutors are established, rather than electorally vulnerable.

Turning to the electoral vulnerability of judges, we found that, as expected, established judges imposed slightly less severe sentences, particularly on unemployed offenders. Also as expected, electorally vulnerable judges imposed more severe sentences, particularly on the previously incarcerated. While consistent with expectation, none of these disparities were particularly pronounced. Thus, the electoral vulnerability of judges does not appear to be a powerful conditioner of role either social background or legally relevant factors play during split sentencing.

In contrast, the local involvement of judges was a more important conditioner. But contrary to expectation, involvement in community organizations reduced the severity of sentences, and did so particularly for black, unmarried, employed, more serious, and previously arrested offenders. As a result, where judges were most active in the community, disparities against white, married, unemployed, and never-arrested offenders were most pronounced. Only the result for employment status in any way supports our expectation. Also contrary to expectation, involvement in government reduced the severity of sentences, and did so especially for more serious and victimless offenders.

## ADDITIVE MODELS

Considering first the initial decision to impose a split sentence rather than an alternative, logistic analysis (not shown) indicated that split sentences depend primarily on case context variables. They are more likely for male, white, more serious, and violent offenders. Only one county attribute has a significant effect and it indicates the split sentences are used more often in counties with relatively small proportions of Index crimes occurring at night.

Tables 6-8 and 6-9 present results for the equations of substantive interest. The former is based on the full sample, while the latter is based on the subset of cases for which press coverage of crime was available.

Considering sentence length first, we find that legally relevant factors figure more prominently than does the offender's social background. Sentences are longer for more serious or violent offenders. Although males are more likely to receive longer sentences, other social background effects are weak. They suggest only slight tendencies for judges to impose longer sentences on offenders who are black, older, unemployed, Georgia natives, or have urban backgrounds or prior records.

In contrast to the length of split sentences, we find that social background attributes exert quite prominent influences when determining the severity of these sentences. Judges are more severe with male, black, unemployed, and non-Georgian offenders. They also impose more severe sentences on offenders convicted of more serious or violent crime and those with prior records. Note that prior incarceration is a stronger consideration when determining the severity rather than the length of sentence. Again, we discover that certain groups of offenders (e.g., male,

Table 6-8. Standardized Regression Coefficients and Related Statistics for Split Sentences, County Context Models

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE) $\beta$	b	(SE) $\beta$
Intercept	-15.728(6.970)		-1.776 (.291)	
Probability of Non-split Sentence	45.750(8.133)	.352*	1.816 (.339)	.360*
<u>Case Characteristics</u>				
Offender Sex	4.369 (.604)	.226*	.167 (.025)	.223*
Offender Race	-.686 (.182)	-.068*	-.040 (.008)	-.101*
Offender Age	.028 (.006)	.044*	-.000 (.000)	-.007
Offender Marital Status	.111 (.077)	.099	-.000 (.003)	-.001
Offender Employment Status	-.863 (.084)	-.067*	-.087 (.004)	-.175*
Offender Urban Background	.379 (.039)	.066*	.004 (.002)	.016
Offender Georgia Native	.592 (.081)	.053*	-.073 (.003)	-.170*
Prior Arrests	.027 (.006)	.034*	-.000 (.000)	-.008
Prior Incarceration	.286 (.089)	.024*	.070 (.004)	.152*
Offense Seriousness	.423 (.021)	.420*	.012 (.001)	.299*
Type of Crime I (Violent v. Victimless)	-3.372 (.279)	-.270*	-.060 (.012)	-.123*
Type of Crime II (Violent v. Property)	-2.986 (.317)	-.295*	-.080 (.013)	-.204*
<u>Urbanization</u>	-3.5x10 <sup>-6</sup> (1x10 <sup>-6</sup> )	.094*	2.8x10 <sup>-7</sup> (4x10 <sup>-8</sup> )	.190*
<u>Economic Inequality</u>				
Income Inequality	-42.081(2.360)	-.329*	.929 (.098)	.187*
Percent Black	.035 (.005)	.103*	-.000 (.000)	-.036
<u>Occupational Division of Labor</u>	-.313 (.080)	-.059*	-.003 (.003)	-.016

Table 6-8., Continued

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE) $\beta$	b	(SE) $\beta$
<u>Political Characteristics</u>				
Voter Participation	.001 (.011)	.001	.004 (.000)	.105*
Percent Wallace Vote	.062 (.011)	.077*	-.002 (.000)	-.075*
Percent Reagan Vote	-.066 (.013)	.083*	.006 (.000)	.179*
<u>Crime Characteristics</u>				
Percent Stranger-stranger Index Crimes	-.063 (.006)	-.081*	-.000 (.000)	-.006
Percent Residential Index Crimes	-.041 (.009)	-.079*	-.000 (.000)	-.032
Percent Index Crimes occurring at night	-.010 (.009)	.020	-.000 (.000)	-.051*
Percent Young Arrestees	.076 (.009)	.103*	-.003 (.000)	-.105*
R <sup>2</sup>		.339		.236
N		2816		2816

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\*  $p \leq .01$ .

black, unemployed, urban background, more serious, violent) are doubly disadvantaged, receiving sentences that are both longer and more severe.

In general, county variables have more modest effects on split sentences than do case variables. Urbanization and income inequality decrease the length, while increasing the severity, of split sentences. As counties contain more blacks, sentences become longer (but not more severe).

The political character of counties appears more consequential when considering the severity of split sentences. Judges sentence more severely in counties with greater voter participation and a larger Reagan vote. The latter finding supports our expectation of greater punitiveness in conservative counties.

Dimensions of the crime problem are generally unimportant. Recall, however, that urbanization incorporates three important dimensions of crime, the overall Index crime rate, the proportion of Index crimes involving weapons, and the percent black arrestees. Thus, the effects for urbanization imply that more serious crime problems generate shorter, but more severe, sentences. This implied trend at least partly supports our expectation of greater punitiveness in crime-ridden counties. Contrary to expectation, however, judges impose longer, but less severe, sentences as more young persons are arrested.

Table 6-9 reports results of analysis that allows us to consider the effect of press coverage of crime on split sentences. Note first that, as was the case for probation sentence length, our models fit these counties better than the sample as a whole. Case and county attributes account for 38% of the variation in sentence length, and 37% of the variation in sentence severity. Second, most differences between the sample and

Table 6-9. Regression Coefficients and Related Statistics for Split Sentences, County Context Model with Press Coverage of Crime

Variable	Total Sentence Length			Severity of Sentence <sup>a</sup>		
	b	(SE)	β	b	(SE)	β
Intercept	25.636	(5.121)		-2.721	(.209)	
Probability of Non-split Sentence	23.043	(4.713)	.257*	1.168	(.193)	.322*
<u>Case Characteristics</u>						
Offender Sex	2.663	(.352)	.142*	.117	(.014)	.154*
Offender Race	-.521	(.174)	-.051*	-.047	(.007)	.114*
Offender Age	.041	(.007)	.061*	-.001	(.000)	-.036*
Offender Marital Status	.070	(.091)	.006	-.004	(.004)	-.009
Offender Employment Status	-.593	(.097)	-.046*	-.084	(.004)	-.161*
Offender Urban Background	.466	(.047)	.077*	.011	(.002)	.044*
Offender Georgia Native	.586	(.091)	.053*	-.084	(.004)	-.188*
Prior Arrests	-.009	(.007)	-.012	-.000	(.000)	-.014
Prior Incarceration	.084	(.097)	.007	.080	(.004)	.169*
Offense Seriousness	.337	(.014)	.341*	.010	(.000)	.261*
Type of Crime I (Violent v. Victimless)	-3.208	(.287)	-.256*	-.061	(.012)	-.121*
Type of Crime II (Violent v. Property)	-2.290	(.276)	-.226*	-.072	(.011)	-.176*
<u>Urbanization</u>	-6.8x10 <sup>-6</sup>	(2.1x10 <sup>-6</sup> )	-.081*	4.4x10 <sup>-7</sup>	(8.6x10 <sup>-8</sup> )	.131*
<u>Economic Inequality</u>						
Income Inequality	-91.451	(4.762)	-.704*	2.858	(.195)	.544*
Percent Black	.099	(.016)	-.262*	.003	(.001)	.192*
<u>Occupational Division of Labor</u>	-.867	(.126)	-.134*	.019	(.005)	.074*
<u>Political Characteristics</u>						
Voter Participation	-.007	(.019)	-.006	.015	(.001)	.303*



Table 6-9., Continued.

Variable	Total Sentence Length		Severity of Sentence <sup>a</sup>	
	b	(SE) $\beta$	b	(SE) $\beta$
Percent Wallace Vote	.058 (.023)	.062*	.000 (.001)	.010
Percent Reagan Vote	-.022 (.012)	-.026	.008 (.000)	.218*
<u>Crime Characteristics</u>				
Percent Stranger-stranger Index Crimes	-.100 (.011)	-.105*	.001 (.000)	.032*
Percent Residential Index Crimes	.009 (.016)	.017	.002 (.001)	.075*
Percent Index Crimes occurring at Night	.052 (.014)	.105*	-.003 (.001)	-.159*
Percent Black Arrestees	.020 (.010)	.067	-.006 (.000)	-.460*
Percent Young Arrestees	.058 (.013)	.064*	-.000 (.001)	-.010
<u>Press Coverage of Crime</u>				
Articles/Issue	-.031 (.047)	-.020	.012 (.002)	.191*
Prominence of Coverage	-.059 (.007)	-.118*	.000 (.000)	.008
Local Crime Coverage	-.031 (.003)	-.191*	.001 (.000)	.153*
Violent Crime Coverage	-.029 (.006)	-.064*	-.004 (.000)	.220*
R <sup>2</sup>		.384		.370
N		2816		2816

Note: b = metric coefficient; SE = standard error of coefficient;  $\beta$  = standardized coefficient.

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\*  $p \leq .01$ .

subsample involve only the significance and magnitude of effects, not their direction. This pattern suggests a basic similarity in the process of split sentencing.

Recall that in the sample as a whole, judges imposed longer sentences where counties contain more blacks. In the subsample, judges facing the same situation impose sentences that are both longer and more severe. They tend to be less punitive in counties characterized by a high proportion of black arrestees. Finally, press coverage influences both the length and severity of split sentences. Contrary to expectation, judges impose shorter sentences as press coverage becomes more prominent and local in focus, and they impose less severe sentences where coverage focuses on violent crime. As expected, though, sentences become more severe where the press provides extensive crime coverage and deals primarily with local crime.

#### INTERACTIVE MODELS

Table 6-10 summarizes tests designed to determine the nature of interactions between case and county contexts. With one exception (press coverage of crime, for sentence length), increases in proportions of explained variance are statistically significant. Moreover, well over a third of all interactions are significant at  $p \leq .01$ . Turning first to sentence length, the division of labor has the most pervasive conditioning influence, with 80% of all possible interactions reaching significance. This finding is in stark contrast to its minor additive effect. Less pervasive contextual effects are exerted by urbanization (60%), inequality (55%), crime characteristics (53%), and political characteristics (50%).

Table 6-10. Coefficients of Determination for Additive and Interactive Models predicting Split Sentences, County Context Models

Court Characteristic	Total Sentence Length			Severity of Sentence <sup>a</sup>		
	Additive Model	Interactive Model	Percent Increase	Additive Model	Interactive Model	Percent Increase
Urbanization	.332	.352	2.0	.234	.263	2.9
Economic Inequality	.325	.363	3.8	.229	.277	4.8
Division of Labor	.337	.353	1.7	.235	.254	1.9
Political Characteristics	.337	.360	2.3	.184	.276	9.1
Crime Characteristics	.321	.360	3.9	.234	.285	5.2
Press Coverage of Crime	.379	.424	4.5*	.344	.436	9.2

<sup>a</sup>Severity refers to the proportion of total sentence length that mandates imprisonment.

\* Increment not significant at  $p \leq .001$ .

For sentence severity, we find more limited variation in the scope of contextual effects. Urbanization (70%) has the most pervasive conditioning influence, followed by political characteristics (63%), the division of labor, crime characteristics and press coverage of crime (60%), and economic inequality (50%).

As expected, case attributes differ in their responsiveness to contextual variation. Again, we find no clear tendency for social background characteristics to be more sensitive than legally relevant factors to county differences. Considering sentence length first we find that prior incarceration, having a small additive effect, is most sensitive to county contexts, with 82% of all possible interactions reaching significance. Less responsive are offender employment and marital statuses (64%), type of crime (55%), offender race (54%), offender sex and prior arrests (45%), offense seriousness (36%), and offender age (18%).

When considering sentence severity, we find a more limited range of variation in contextual sensitivity. Again, however, there is no tendency for the effects of social background to fluctuate any more strongly than those of legally relevant factors. The most responsive are offender marital status and prior record, each having 67% of all possible interactions reach significance. Less affected are offender employment status and offense seriousness (60%), offender race, age, and the violent-property crime comparison (53%), offender sex and the violent-victimless crime comparison (40%).

In the following sections, we consider each case attribute, noting the direction and magnitude of disparity, as well as the county contexts that have the strongest implications for differential treatment. Table 6-11 summarizes these results.

Table 6-11. Summary of Case and County Interactions for Split Sentences

County Characteristic	Total Sentence Length				Change in Disparity	Severity of Sentence				Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>		Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	
OFFENDER SEX										
<u>Urbanization</u>	M	(1.370)	F	(.669)	-.701					
<u>Economic Inequality</u>										
Income Inequality	M	(5.935)	F	(.617)	-5.319	M	(.151)	M	(.329)	.178
<u>Division of Labor</u>	M	(4.329)	F	(.141)	-4.188					
<u>Political Characteristics</u>										
Percent Wallace Vote	F	(4.305)	M	(.123)	-4.182					
Percent Reagan Vote	F	(2.213)	M	(2.627)	.414					
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes						M	(.207)	M	(.403)	.196
Percent Residential Index Crimes						M	(.207)	F	(.040)	-.167
<u>Press Coverage of Crime</u>										
Articles/Issue						M	(.408)	M	(.264)	-.144
Prominence of Coverage						M	(.406)	M	(.166)	-.240
Local Crime Coverage						M	(.410)	M	(.121)	-.289
OFFENDER RACE										
<u>Urbanization</u>						B	(.018)	B	(.120)	.102

Table 6-11., Continued

County Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
<u>Economic Inequality</u>										
Income Inequality	B	(1.797)	W	(12.705)	10.908	B	(.135)	W	(.059)	-.076
Percent Black	B	(22.940)	B	(35.810)	12.870					
<u>Division of Labor</u>										
						W	(.072)	B	(.087)	.015
<u>Political Characteristics</u>										
Percent Wallace Vote						W	(.058)	W	(.262)	.204
Percent Reagan Vote	W	(3.106)	B	(1.694)	-1.412	W	(.066)	B	(.094)	.028
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes	W	(1.900)	W	(5.893)	3.993	W	(.102)	B	(.046)	-.056
Percent Residential Index Crimes	W	(1.900)	B	(.500)	-1.400	W	(.102)	B	(.011)	-.091
Percent Young Arrestees	W	(1.900)	B	(.600)	-1.300					
<u>Press Coverage of Crime</u>										
Local Crime Coverage						W	(.017)	B	(.070)	.053
OFFENDER AGE										
<u>Urbanization</u>						Y	(.011)	O	(.030)	.020
<u>Economic Inequality</u>										
Income Inequality	O	(1.829)	Y	(2.571)	.742					

Table 6-11., Continued

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity		
	Min	(Diff) <sup>a</sup>	Max		(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>		Max	(Diff) <sup>d</sup>
<u>Division of Labor</u>						Y	(.031)	0	(.008)	-.023
<u>Political Characteristics</u>										
Percent Wallace Vote		(.156)	Y	(2.436)	2.280					
Percent Reagan Vote										
<u>Crime Characteristics</u>						Y	(.016)	Y	(.064)	.048
Percent Stranger-Stranger Index Crimes										
Percent Residential Index Crimes						Y	(.132)	Y	(.055)	-.077
Percent Young Arrestees						Y	(.132)	Y	(.051)	-.081
<u>Press Coverage of Crime</u>						Y	(.132)	Y	(.072)	-.060
<u>Local Crime Coverage</u>										
OFFENDER MARITAL STATUS						Y	(.152)	Y	(.060)	-.092
<u>Urbanization</u>	NMar	(.714)	Mar	(1.325)	.612	Mar	(.021)	NMar	(.013)	.008
<u>Economic Inequality</u>										
Income Inequality										
Percent Black						NMar	(.005)	NMar	(.178)	-.172
<u>Division of Labor</u>						Mar	(.246)	Mar	(.442)	.196
<u>Political Characteristics</u>	NMar	(2.979)	Mar	(1.145)	-1.834	Mar	(.044)	NMar	(.013)	-.031
Voter Participation										
Percent Wallace Vote	Mar	(2.749)	Mar	(1.414)	-1.335	Mar	(.260)	Mar	(.130)	-.130
	Mar	(6.213)	NMar	(.591)	-5.622	Mar	(.406)	Mar	(.697)	.291

**CONTINUED**

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Table 6-11., Continued

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence					
	Min	(Diff) <sup>a</sup>	Max		(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
Percent Reagan Vote						Mar	(.264)	Mar	(.024)	-.240
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes	Mar	(5.280)	Mar	(1.673)	-3.607					
Percent Residential Index Crimes	Mar	(5.280)	Mar	(1.045)	-4.235	NMar	(.099)	Mar	(.035)	-.064
Percent Index Crimes occurring at Night	Mar	(5.280)	Mar	(1.990)	-3.290					
<u>Press Coverage of Crime</u>										
Articles/Issue						Mar	(.066)	Mar	(.017)	-.049
Local Crime Coverage						Mar	(.067)	NMar	(.008)	-.059
OFFENDER EMPLOYMENT STATUS										
<u>Urbanization</u>	NE	(1.787)	F	(.252)	-1.534	NE	(.001)	NE	(.205)	.204
<u>Economic Inequality</u>										
Income Inequality	NE	(3.241)	E	(3.267)	.027	F	(.099)	NE	(.357)	.238
<u>Division of Labor</u>	NE	(3.146)	NE	(.240)	-2.096	E	(.108)	NE	(.144)	.036
<u>Political Characteristics</u>										
Voter Participation	F	(2.826)	NE	(3.134)	.308	NE	(.022)	NE	(.132)	.111
Percent Wallace Vote	E	(8.132)	F	(3.110)	-5.022	E	(.102)	E	(.345)	.243

Table 6-11., Continued

County Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes	E	(3.090)	NE	(.839)	-2.251	NE	(.377)	NE	(.126)	-.251
Percent Residential Index Crimes	E	(3.090)	NE	(3.615)	.525	NE	(.377)	E	(.159)	-.218
<u>Press Coverage of Crime</u>										
Articles/Issue						E	(.118)	NE	(.204)	.086
Prominence of Coverage						E	(.142)	E	(.062)	-.080
OFFENSE SERIOUSNESS										
<u>Urbanization</u>										
						MS	(.107)	MS	(.067)	-.031
<u>Economic Inequality</u>										
Income Inequality	MS	(4.200)	MS	(10.254)	6.054	MS	(.183)	LS	(.098)	-.085
Percent Black	LS	(4.626)	LS	(11.646)	7.020					
<u>Division of Labor</u>										
	MS	(4.135)	MS	(2.451)	-1.684					
<u>Political Characteristics</u>										
Voter Participation	MS	(10.751)	MS	(8.689)	-2.063	MS	(.300)	MS	(.266)	-.034
Percent Wallace Vote						MS	(.326)	MS	(.229)	-.097
<u>Crime Characteristics</u>										
Percent Index Crimes occurring at Night						MS	(.162)	LS	(.142)	-.020
Percent Young Arrestees						MS	(.162)	MS	(.252)	.090

Table 6-11., Continued

County Characteristic	Total Sentence Length				Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
<u>Press Coverage of Crime</u>								
Articles/Issue						MS	(.022)	LS (.138) .117
Local Crime Coverage						MS	(.041)	MS (.171) .130
Violent Crime Coverage						MS	(.036)	MS (.162) .126
TYPE OF CRIME I (Violent vs. Victimless)								
<u>Urbanization</u>	V	(2.129)	V	(.430)	-1.699			
<u>Economic Inequality</u>								
Income Inequality	Vic	(2.031)	Vic	(10.327)	8.296			
Percent Black						V	(.187)	Vic (.047) -.140
<u>Division of Labor</u>	V	(2.890)	V	(1.280)	-1.610			
<u>Political Characteristics</u>								
Voter Participation						V	(.177)	V (.082) -.095
Percent Wallace Vote	Vic	(.998)	Vic	(10.826)	9.828			
Percent Reagan Vote	V	(3.590)	V	(11.210)	7.620	V	(.327)	V (.581) .254
<u>Crime Characteristics</u>								
Percent Residential Index Crimes	V	(1.220)	V	(7.360)	6.410			
<u>Press Coverage of Crime</u>								
Articles/Issue						V	(.189)	V (.013) -.176
Local Crime Coverage						V	(.289)	Vic (.047) -.242
Violent Crime Coverage						V	(.303)	V (.503) .200

Table 6-11., Continued

County Characteristic	Total Sentence Length				Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
TYPE OF CRIME II (Violent vs. Property)								
<u>Urbanization</u>	V	(1.697)	P	(.324)	-1.354			
<u>Economic Inequality</u>								
Income Inequality	V	(3.476)	V	(.963)	-2.513	V	(.039)	V (.234) .195
Percent Black						P	(.246)	P (.341) .095
<u>Division of Labor</u>	V	(3.413)	V	(.401)	-3.012			
<u>Political Characteristics</u>								
Voter Participation						V	(.205)	V (.024) -.081
Percent Wallace Vote						V	(.267)	V (.084) -.184
Percent Reagan Vote	P	(3.751)	P	(9.511)	5.760	V	(.345)	V (.503) .158
<u>Crime Characteristics</u>								
Percent Residential Index Crimes	P	(.325)	V	(4.333)	4.008			
Percent Index Crimes occurring at Night						P	(.080)	V (.232) .152
Percent Young Arrestees	P	(.325)	P	(2.575)	2.250			
<u>Press Coverage of Crime</u>								
Articles/Issue						V	(.438)	V (.138) -.300
Local Crime Coverage						V	(.446)	P (.015) -.431
PRIOR ARRESTS								
<u>Urbanization</u>	Arr	(1.141)	NArr	(.218)	-.923	Arr	(.041)	NArr (.027) -.013

Table 6-11., Continued

County Characteristic	Total Sentence Length				Change in Disparity	Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>		Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity	
<u>Economic Inequality</u>										
Income Inequality	Arr	(1.164)	Arr	(8.786)	7.622					
Percent Black	NArr	(9.950)	NArr	(19.310)	9.360					
<u>Division of Labor</u>	Arr	(3.360)	NArr	(.197)	-3.162	Arr	(.161)	Arr	(.021)	-.140
<u>Political Characteristics</u>										
Voter Participation	NArr	(1.068)	NArr	(5.652)	4.584					
Percent Wallace Vote	Arr	(3.500)	Arr	(6.200)	2.700	NArr	(.038)	Arr	(.124)	.086
Percent Reagan Vote	Arr	(5.300)	Arr	(9.300)	4.000	NArr	(.010)	Arr	(.070)	.060
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes	NArr	(7.700)	NArr	(3.191)	-4.509					
Percent Residential Index Crimes	NArr	(7.700)	NArr	(2.054)	-5.646					
Percent Index Crimes occurring at Night	NArr	(7.700)	Arr	(.737)	-6.963	Arr	(.120)	Arr	(.036)	-.084
Percent Young Arrestees						Arr	(.120)	NArr	(.030)	-.090
<u>Press Coverage of Crime</u>										
Articles/Issue						Arr	(.014)	NArr	(.053)	.039
Local Crime Coverage						Arr	(.019)	NArr	(.005)	-.014
Violent Crime Coverage						Arr	(.020)	Arr	(.120)	.100
PRIOR INCARCERATION										
<u>Urbanization</u>	NI	(.268)	I	(.751)	.483	I	(.019)	I	(.104)	.085

Table 6-11., Continued

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity		
	Min	(Diff) <sup>a</sup>	Max		(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>		Max	(Diff) <sup>d</sup>
<u>Economic Inequality</u>										
Percent Black										
<u>Division of Labor</u>	NI	(2.377)	I	(.838)	-1.538	I	(.143)	I	(.285)	.142
<u>Political Characteristics</u>										
Percent Wallace Vote						NI	(.240)	NI	(.597)	.356
Percent Reagan Vote						NI	(.114)	I	(.086)	-.028
<u>Crime Characteristics</u>										
Percent Stranger-Stranger Index Crimes						NI	(.079)	NI	(.214)	.135
Percent Residential Index Crimes	I	(6.156)	I	(2.829)	-3.317					
Percent Index Crimes occurring at Night	I	(6.156)	NI	(2.239)	-3.917	NI	(.079)	I	(.073)	-.006
Percent Young Arrestees						NI	(.079)	I	(.156)	.077
<u>Press Coverage of Crime</u>										
Articles/Issue						NI	(.039)	I	(.049)	.009
Prominence of Coverage						NI	(.032)	I	(.208)	.176
Local Crime Coverage						NI	(.043)	I	(.050)	.007

Note: M = male; F = female; B = black; W = white; Y = younger; O = older; NMar = unmarried; Mar = married; NE = unemployed; E = employed; LS = less serious; MS = more serious; V = violent offenders; Vic = victimless offenders; P = property offenders; NArr = no prior arrests; Arr = prior arrests; NI = no prior incarceration; I = prior incarceration.

Table 6-11., Continued

County Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>
			Change in Disparity			Change in Disparity

Predicted sentences capture only the effects of varying one possible determinant of split sentences (e.g., income inequality). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

<sup>a</sup>These two columns note, for the minimum value of the county variable in question, which group receives the longer split sentence, and the amount of disparity, expressed in years.

<sup>b</sup>These two columns note, for the maximum value of the county variable in question, which group receives the longer split sentence, and the amount of disparity, expressed in years.

<sup>c</sup>These two columns note, for the minimum value of the county variable in question, which group receives the larger proportion of total sentence to be served in prison, and the amount of disparity, expressed as the difference in proportions mandating prison.

<sup>d</sup>These two columns note, for the maximum value of the county variable in question, which group receives the larger proportion of total sentence to be served in prison, and the amount of disparity, expressed as the difference in proportions mandating prison.

Offender Sex. Although additive models indicated that males receive longer and more severe sentences, a consideration of contextual effects indicates that this is not invariably the case. Rather, certain county characteristics condition the direction and magnitude of differential treatment. For sentence length, disparities are conditioned primarily by urbanization, inequality, the division of labor, and political characteristics. For sentence severity, differential treatment is conditioned primarily by objective and subjective crime characteristics.

In only half the instances do males receive longer sentences than females. Differential treatment is quite pronounced in counties that are rural, have little income inequality, less complex divisions of labor, and strong Reagan support. Differential treatment narrows, and males are treated more like females, as inequality and the division of labor increase. Disparities in sentence length that operate to the disadvantage of female offenders are most pronounced in less conservative counties, that is, those with low Wallace and Reagan votes. They decline as political conservatism increases.

In most instances (92%), males receive more severe split sentences than women. Again, the extent of differential treatment varies, being pronounced in counties where stranger-to-stranger Index crimes are common and where press coverage of crime is limited. Disparities against males become more pronounced as inequality and stranger-to-stranger crime increases. They become less pronounced (but still exist) as residential Index crimes become more common and as press coverage of crime becomes more extensive, prominent, and local in focus.

Offender Race. Racial disparities are most strongly conditioned by economic inequality, and it is not always the case the blacks are treated



more harshly than whites. In half the cases, blacks receive longer sentences than whites. This difference becomes increasingly more pronounced as counties contain more blacks, a pattern that supports our expectation that inequality exacerbates discrimination against the disadvantaged.

It is just as often the case, though, that whites receive longer sentences than blacks. Contrary to expectation, these disparities widen as income inequality increases and as stranger-to-stranger Index crimes become common. They narrow with increases in the Reagan vote, a result we expected, and as residential Index crime becomes more common and as more youthful persons are arrested. Though we had not expected white offenders to be at a disadvantage, we find some support for our expectation in the tendency for the harsher treatment they receive to decline as counties become more conservative and face more serious crime problems.

Racial disparities in the severity of split sentences are not particularly pronounced. Contrary to expectation, though, in a majority of instances, whites rather than blacks receive more punitive sentences. The only noteworthy change in differential treatment is the unexpected tendency for disparities operating against whites to increase as counties became more conservative. We had expected these disparities to decline.

Offender Age. As noted above, disparities based on age, particularly those involving sentence length, are least sensitive to county variation. The two noteworthy disparities support our expectations. Disparities in sentence length that operate against youthful offenders become more pronounced as counties become more unequal and more conservative. Of note, however, is the tendency, where inequality is low, for relatively

advantaged (older) offenders to receive longer sentences than their youthful counterparts.

It is generally the case (86% of all instances) that young offenders also receive more severe sentences than older offenders. However, differential treatment is not pronounced, nor does it change markedly with county variation. There is a slight tendency for disparities against younger offenders to narrow, resulting in more similar treatment, as residential crime and local crime coverage becomes more pronounced. We had expected more serious crime problems, whether objective or subjective, to exacerbate rather than reduce these disparities.

Offender Marital Status. Based on conflict theory, we expected unmarried offenders to receive longer and more severe sentences. Moreover, we expected this differential treatment to be particularly pronounced in counties characterized by high inequality, serious crime problems, and political conservatism. We found that this was not often the case.

Rather, in a majority of instances (79%), married offenders receive longer split sentences than unmarried offenders. Differential treatment narrows as voter participation and the Wallace vote increase and as crime problems become more serious. These results suggest that the harsher treatment experienced by a relatively advantaged group (married offenders) declines as counties become more conservative and face more serious crime problems. Though not strongly supportive, this pattern is consistent with our initial expectations.

When considering the severity of split sentences, the tendency for married offenders to be treated more harshly is even more pronounced. Contrary to expectation, these disparities widen as counties become more unequal and more conservative (i.e., contain more blacks and have strong

support). More consistent with our expectation was the tendency for disparities to narrow with greater voter participation and a larger Reagan vote. In only one noteworthy instance, that involving income inequality, do unmarried offenders receive more severe sentences. As expected, this disparity widens as inequality increases.

Offender Employment Status. Our interpretation of conflict theory led us to believe that unemployed offenders would receive both longer and more severe sentences. We also expected inequality, political conservatism, and serious crime problems to exacerbate harsher treatment of the unemployed.

We found that, in only half the instances, unemployed offenders receive longer split sentences. Contrary to expectation, differential treatment is especially strong where inequality is low. It declines as urbanization, the division of labor, and income inequality increase.

It is just as often the case that employed offenders receive longer sentences. Contrary to expectation, disparities against these offenders become more pronounced as income inequality increases. However, as expected, they narrow as counties become more conservative (i.e., have a larger Wallace vote).

Turning to the severity of sentences, we also find no uniform pattern of discrimination against the unemployed. In 56% of the instances, particularly where inequality is pronounced and crime problems minor, unemployed offenders receive more severe sentences. These disparities widen as urbanization, inequality, and voter participation increase. Note that the finding for inequality supports our expectation that it exacerbates discrimination against the disadvantaged.

Disparities against the unemployed narrow, and treatment becomes more similar, as the crime problem becomes more serious (i.e., as

stranger-to-stranger and residential crimes become more common). We had expected more serious crime problems to exacerbate, rather than reduce, disparities.

Finally, in a substantial minority of case (44%), employed offenders receive more severe sentences. Contrary to expectation, these disparities widen as counties become more conservative.

Offense Seriousness. The clearest pattern here is for more serious offenders to receive longer and more severe sentences. Disparities in sentence length are particularly responsive to economic inequality, becoming more pronounced as inequality increases. Disparities decline, and treatment becomes more similar (though not identical), as the division of labor and voter participation increase. There is one noteworthy exception to the trend of longer sentences for more serious offenders. When considering the racial composition of counties, we find that disparities operate against less serious offenders and increase as counties contain more blacks.

When we focus on the severity of split sentences, we find that differential and harsher treatment of more serious offenders becomes more pronounced as the press focuses on local or violent crime. Both findings support our expectations. Disparities that operate against less serious offenders are relatively rare, occurring 17% of the time. They widen noticeably, however, as press coverage of crime becomes more extensive and as more Index crimes occur at night.

Violent v. Victimless Crime. It is not invariably the case that violent offenders receive longer sentences. This occurs in the majority (67%), but by no means all, instances. Disparities in sentence length decline as counties become more urbanized and as the division of labor

becomes more complex. As expected, they increase as counties become more conservative and face more serious crime problems.

In a substantial minority of cases (33%), however, victimless offenders receive longer sentences than violent offenders. Moreover, these disparities are stronger ( $\bar{X} = 6$  years vs.  $\bar{X} = 3.8$  years) and never decline substantially. Rather they become more pronounced as counties become more unequal and more conservative (i.e., have greater Wallace support).

When we consider the severity of sentences, we find even more consistent tendencies for violent offenders to receive harsher sentences. Again, however, county characteristics shape the magnitude of differential treatment. Disparities narrow as counties contain more blacks, voter participation increases, and press coverage of crime becomes more extensive. We had expected inequality and greater press coverage to exacerbate disparities, but the opposite occurred. As expected, though, differential treatment becomes more pronounced as counties become more conservative and as the press focuses more on local or violent crime.

Violent v. Property Crime. Again, it is not invariably the case that violent offenders receive longer sentences than property offenders. This is true half the time. Disparities against violent offenders narrow and treatment becomes more similar as urbanization, inequality, and the division of labor increase. In contrast, and as expected, disparities widen and treatment becomes more dissimilar as residential Index crime becomes more common. It is just as often the case, though, that disparities in sentence length operate against property offenders. These become more pronounced as counties become more conservative and as more young persons are arrested.

The pattern of harsher treatment for violent offenders is more pronounced when considering the severity of split sentences. In 75% of the instances, violent offenders receive more severe sentences, with county characteristics strongly conditioning the magnitude of these disparities. Differential treatment becomes more pronounced as counties become more unequal, have stronger Reagan support, and experience more nighttime Index crime. The latter two findings support our expectation that political conservatism and serious crime problems exacerbate discrimination against more threatening offenders. Unsupportive of our expectations, though, is the tendency for disparities against violent offenders to decline as the Wallace vote increases and as press coverage of crime becomes more extensive or local in focus.

Noteworthy disparities that operate against property offenders do exist, particularly when considering our second indicator of inequality. As expected, the sentences of property offenders become increasingly more severe as counties contain more blacks.

Prior Arrests. We expected that offenders with prior arrests would receive longer, more severe sentences than offenders who had never been arrested. Furthermore, we expected inequality, political conservatism, and serious crime problems to exacerbate this differential treatment. We found little support for these expectations.

In a minority of instances (45%), arrested offenders receive longer sentences. These disparities narrow and treatment becomes more similar as counties become more urbanized and as the division of labor increases. Consistent with our expectation, inequality and political conservatism exacerbate differential treatment.

It is more often the case (55%), however, that offenders without prior arrests receive longer sentences. Disparities against these offenders increase as counties more blacks (an unexpected trend) and as voter participation increases. Consistent with expectation, disparities narrow, resulting in more similar treatment, as crime problems become more serious.

When considering the severity of split sentences, differential treatment based on prior arrest history is seldom pronounced. The harsher treatment experienced by offenders with prior arrests declines as the division of labor increases and as more young persons are arrested. Disparities that operate against offenders who have never been arrested are small and respond little to county differences.

Prior Incarceration. As was the case for prior arrests, we expected longer, more severe sentences for previously incarcerated offenders. We also thought that inequality, political conservatism, and serious crime problems would intensify harsher treatment.

We found that in a majority (63%) but by no means all cases, previously incarcerated offenders receive longer sentences. Contrary to expectation, this differential treatment declines as crime problems become more serious (i.e., residential and nighttime Index crimes become more common). Moreover, in a substantial minority of cases (37%), it is offenders who have not been previously incarcerated that receive longer sentences. Also contrary to expectation was the tendency for these disparities to increase as crime problems (viz., nighttime crime) become more serious.

When considering sentence severity, we found that previously incarcerated offenders receive more severe sentences about half the time, with differential treatment declining as the division of labor becomes more

complex. As expected, disparities increase as counties become more unequal (i.e., contain more blacks) and as press coverage of crime becomes more prominent.

It is just as often the case, though, that offenders who have never experienced incarceration receive more severe sentences. Also unexpected is the tendency for conservatism (i.e., percent Wallace vote) and more serious (i.e., stranger-to-stranger) crime problems to exacerbate rather than reduce these disparities.

Discussion. Our focus now shifts to consider the contexts themselves and their general implications for the direction and magnitude of differential treatment. To facilitate this discussion, Appendix Table VI-C reformats the results presented in Table 6-11.

We found that, while urbanization tended to generate shorter sentences, certain groups of offenders benefited more than others from this lenience. In particular, urbanization benefited more threatening (e.g., male, violent, previously arrested) and more disadvantaged (e.g., unemployed, unmarried) offenders. Harsher treatment of male, violent, unemployed and previously arrested offenders declined to the point where, in the most urbanized counties, it was female, married, employed and never-arrested offenders that were more harshly treated. Thus, urbanization did not eliminate disparities, but merely changed those groups experiencing harsher treatment.

Although urbanization generated shorter sentences, it increased their severity. Again, certain groups of offenders, not always the most disadvantaged or threatening, bore more of the brunt of this increased severity. Urbanization proved more costly for black, older, less serious, unmarried, never-arrested, and previously incarcerated offenders. In

general, however, these disparities were weak, and urbanization generated noteworthy disparities in sentence severity only for black and unemployed offenders.

In short, these findings suggest that urbanization operates in a complex fashion. It does not uniformly reduce differential treatment based on social background. Thus, discrimination against the disadvantaged is not invariably more pronounced in rural areas. True, some disadvantaged groups (viz., unemployed) received longer sentences in rural than in urban areas. Yet this pattern must be considered in conjunction with the tendency for disadvantaged offenders (viz., black, unemployed) to experience more severe punishment in urban areas.

Our first expectation about economic inequality was that it would render the sentencing, especially of property offenders, more severe. We found limited support for this expectation. As counties became predominantly black, disparities in split sentence severity that operated against property offenders became more pronounced. However, this pattern was not the outcome of increasingly harsher treatment of property offenders. Rather, it reflects the tendency for judges to show more pronounced leniency toward violent offenders as counties contain more blacks.

Indeed, inequality had stronger consequences for the treatment of violent rather than property offenders. Income inequality decreased the length of split sentences, generating larger reductions for violent offenders. Sentences became less severe as counties contained more blacks, and violent offenders benefited more than others from this lenience. Finally, while income inequality generated more severe sentences, violent rather than property offenders bore the greater burden of this severity.

Our second expectation was that inequality would intensify discrimination against the disadvantaged. We found some support for this expectation. Income inequality intensified disparities in sentence length that operated against young offenders. Sentence length disparities against blacks also widened as counties contained more blacks. Finally, income inequality intensified disparities in sentence severity that operated against unmarried and unemployed offenders.

While the above findings support our expectation, others provided evidence that inequality also intensifies discrimination against members of more advantaged groups. For example, income inequality increased the disparities in sentence length that operated to the disadvantage of white and employed offenders. This occurred largely because it generated more pronounced leniency for black and unemployed offenders. As counties became predominantly black, disparities in sentence severity that disadvantaged married offenders also widened. This was a result of the tendency for unmarried offenders to receive more leniency than their married counterparts. None of these findings were anticipated on the basis of our interpretation of conflict theory. In short, inequality appears to exacerbate the differential treatment experienced by both advantaged and disadvantaged offenders.

Inequality also conditioned differential treatment based on legally relevant variables. As expected, income inequality intensified disparities in sentence length that operated against more serious and previously arrested offenders. It did so by generating more pronounced lenience for less serious, never-arrested offenders. Our second indicator of inequality, percent black in the county, operated in a quite different manner. It intensified differential treatment of less serious and

never-arrested offenders. These findings, and other examples of the divergent role played by our two indicators of inequality, suggest that they are far from interchangeable and may be tapping different dimension of economic inequality.

Turning to the division of labor, our reading of Durkheim's work led us to suspect that sentences would decline in both length and severity as the division of labor became more complex. Analysis only partly supported our expectation. As the division of labor increased, sentences declined in length, but increased in severity. Also unanticipated by theory was the tendency for some offenders to benefit more than others from reductions in sentence length and for some offenders to bear more of the burden of increased severity. Surprisingly, the reductions in sentence length that accompanied a more complex division of labor were greater for more serious or disadvantaged offenders, namely, male, unemployed, unmarried, more serious, violent, and the previously arrested. Yet the benefit some of these offenders (viz., unemployed, previously incarcerated) received was offset by the more pronounced increase in sentence severity they experienced.

We held no formal expectations about the role of voter participation, either as a direct influence on sentencing or as a conditioner of disparities. Yet we found that it increased both the length and severity of split sentences, again for some offenders more than for others. Voter participation reduced disparities that operated against more serious and advantaged (i.e., married, employed) offenders, largely by generating longer sentences for less serious, disadvantaged (unmarried, unemployed) offenders. Voter participation also exacerbated the disparate treatment offenders without prior arrests faced. It increased the severity of split

sentences, particularly for less serious, non-violent, and disadvantaged (i.e., unmarried, unemployed) offenders. Thus, the political activism of county residents put less serious and disadvantaged offenders at a double disadvantage, increasing the length and severity of their sentences more than those of their counterparts.

We expected conservatism, as indicated by strong Wallace (1976) and Reagan (1980) support, to increase the length and severity of sentences, particularly for offenders who appear to pose serious threats to the community. When considering the length of split sentences, our expectations were supported. Sentences increased as support for Wallace became strong, and this was particularly so for male, young, unemployed, unmarried, victimless, and previously arrested offenders. Sentences also lengthened as support for Reagan became strong, and this was particularly the case for male and previously arrested offenders.

When considering the severity of sentences, support was less consistent. Contrary to expectation, as Wallace support increased, sentences became less severe, particularly for more threatening offenders (e.g., black, unmarried, unemployed, more serious, violent, previously incarcerated). In contrast, strong Reagan support operated as expected, increasing the severity of sentences, particularly for groups posing greater threats (e.g., black, young, violent, unemployed, previously arrested). None of these disparities was particularly strong, however. Moreover, divergent findings for the two measures of conservatism tell us they are far from interchangeable and may be tapping different dimensions of county political structure.

We held similar expectations for county crime structure, both objective (official statistics) and subjective (press coverage). We

expected the length and severity of sentences, particularly for more serious or threatening offenders, to increase as crime problems became more serious. Our analysis of sentence length revealed some tendency for serious problems to put more threatening (viz., violent, unemployed, previously arrested) offenders at a greater disadvantage than less threatening offenders. But there were exceptions to this pattern and it did not apply to sentence severity. Contrary to expectation, the disparities in sentence length that operated against whites increased. This occurred primarily because blacks received more leniency than whites as stranger-to-stranger crimes became more common. We also found that more serious crime problems in the form of stranger-to-stranger crimes tended to generate less severe sentences. Moreover, more threatening offenders (e.g., young, unmarried, unemployed, previously incarcerated) were often the primary beneficiaries of this leniency.

The results for press coverage of crime also gave us mixed support for our expectations. Three patterns were consistent with expectation: (1) sentences, particularly of the unemployed, became more severe as coverage became more extensive; (2) the sentences, particularly of unemployed and previously incarcerated offenders, became more severe as crime coverage became more prominent; and (3) the sentences, particularly for less serious and never-arrested offenders, became less severe as the press focussed more on violent crime.

Other findings contradicted our expectations. For example, the sentences particularly of less threatening offenders (e.g., female, less serious, nonviolent) became more severe as press coverage became more extensive. The sentences, particularly of more threatening offenders

(e.g., male, young, violent) became less severe as the press focused more on local crime.

#### SUMMARY AND DISCUSSION

In this section, we review the major findings reported earlier, summarize the nature of contextual effects, compare our results against expectations generated by the theoretical and empirical literature reviewed in Chapter III, and use site visit material to shed light on some findings.

#### SUMMARY OF ADDITIVE EFFECTS

We focused first on aspects of the case, in particular the social background of the offender (e.g., sex, race, age, marital and employment statuses), his prior record, and the type and seriousness of the offense for which he was convicted. Analysis revealed the following patterns:

1. Case attributes, taken together, predicted the total length of split sentences better than they predicted the severity of split sentences.
2. The strongest predictors of sentence length and severity were legally relevant variables. Sentences were longer and more severe for more serious and violent offenders.
3. The offender's social background played a stronger role when determining the severity, rather than the length, of sentences. Judges imposed longer sentences on offenders who were older, unemployed, or from Georgia. They imposed more severe sentences on offenders who were male, black, unemployed, and non-Georgian.
4. Certain offenders (e.g., more serious, violent, previously incarcerated, unemployed, with urban backgrounds) were doubly disadvantaged, receiving longer and more severe sentences.



Others (e.g., black, younger, non-Georgian) appeared at an advantage because their sentences were shorter, but ultimately were at a disadvantage because their sentences were more severe.

5. Even controlling for prior record and offense, we found evidence of differential harsher treatment of the disadvantaged, in particular, blacks, the young, and the unemployed.

The second part of our analysis introduced variables designed to tap several aspects of the court and its judges. We had three purposes in mind: first, estimate the effects of these variables; second, compare the sentencing in multiple-judge and single-judge courts; and third, discover the extent to which court contexts condition disparities based on social background and legally relevant factors. Analysis revealed the following patterns:

1. In both multiple and single-judge courts, court variables in conjunction with case attributes predicted the length of split sentences better than they predicted its severity.
2. Although court variables attenuated the effects of some case attributes, the general patterns noted above are still valid. Legally relevant variables had more pronounced effects than social background. Sentences were both longer and more severe for more serious and violent offenders. Prior record was a more prominent consideration in single-judge courts, where it generated longer and more severe sentences.
3. For both types of court, social background attributes became more relevant when considering the severity, rather than the length, of split sentences. Judges in multiple-judge courts imposed longer sentences on males, the unemployed, and offenders with

urban backgrounds. They imposed more severe sentences on male, black, unemployed, and non-Georgian offenders. Single-judge courts appeared less attentive than larger courts to offender background. These judges imposed on longer sentences on the unemployed and more severe sentences on offenders from rural backgrounds.

4. Controlling for prior record and court variables, we still found evidence of discrimination against the disadvantaged, particularly in multiple-judge courts and particularly for sentence severity.
5. Not unexpectedly, given the amount of variation, court size and judicial characteristics were stronger determinants of split sentences in multiple-judge than in single-judge courts. Judges with larger probation departments or in small courts imposed longer sentences. Sentences were more severe in courts that were larger or composed of local or professionally active judges. In single-judge courts, split sentences depended more on caseload and the prosecution. Judicial characteristics were much less important. Sentences were longer where prosecutors were vulnerable and caseload pressure was limited. Sentences were more severe where probation departments were small and where prosecutors faced little caseload pressure.
6. The most important part of the analysis was concerned with determining the implications of court differences for differential treatment based on social background and legally relevant factors. Due in part to sample size and greater variation, we found that contextual effects were more pronounced



in multiple-judge than in single-judge courts. Contexts varied in both the breadth and strength of their conditioning influence. Likewise, case attributes varied in their sensitivity to contextual variation. Disparities based on legally relevant variables were just as likely as those based on social background attributes to respond, often strongly, to court differences.

Before considering these interactions, we summarize the third part of our analysis, which focused on county characteristics. We found the following patterns:

1. As was the case for court variables, legally relevant factors figured more prominently than social background factors, uniformly indicating longer and more severe sentences for violent or more serious offenders. Prior record was a more important consideration when determining the severity of sentence than its length.
2. Even when controlling for county variables and legally relevant factors, the offender's social background affected split sentences, particularly their severity. We found that sentences were longer for males, and more severe for male, black, unemployed, non-Georgian offenders.
3. Once again and in varying degrees, certain groups of offenders (e.g., males, black, unemployed, urban background, more serious, violent) were doubly disadvantaged, receiving longer and more severe sentences.
4. County variables had minor additive effects and, as we shall see, this contrasted sharply with their pronounced conditioning influence. Urbanization and income inequality decreased the

length and increased the severity of split sentences. Sentences became longer, but not more severe, as counties contained more blacks. We found the expected tendency for political conservatism to generate more severe sentences. As implied in the results for urbanization, which included dimensions of the crime problem, as crime problems became more serious, sentences became shorter, but more severe. Finally, and as expected, sentences became more severe where the press provided more extensive crime coverage and dealt primarily with local crime. Interesting, however, crime coverage that was prominent or local in focus generated shorter, not longer sentences. Also, coverage of violent crime reduced rather than increased the severity of sentences.

5. Perhaps more important than their additive influence on split sentences was the influence county characteristics exerted as conditioners of the extent and magnitude of differential treatment. In varying degrees, all aspects of the count played a conditioning role, and did so for both the length and severity of sentences. In sharply varying degrees, case attributes were sensitive to county variation. As was the case for court contexts, however, we found no indication that legally relevant factors were more impervious than social background factors to county differences.

#### THE NATURE OF CONTEXTUAL EFFECTS

An examination of contextual effects leads us to reconsider and question the effects simple additive analysis yields. The effects for court and county variables fail to capture the complex role these factors

play as determiners of differential treatment. Likewise, the additive effects we found for case attributes are insensitive to the range of differential treatment and mask exceptions to general trends. In short, they give us no indication of variation in differential treatment and of the extent to which county and court variables account for this variation.

In this section, we explore these issues for each case attribute. We consider social background variables first and conclude with the legally more relevant factors of prior record, offense type and offense seriousness. Throughout, we contrast the simple additive effects with the more complex portrait illuminated by a consideration of the conditioning influence of court and county variables.

In general, we found that when considering the length of split sentences, disparities based on social background were just as common and as pronounced as those based on legally relevant factors. Of the former, employment and marital status were most sensitive to contextual variation. Age was the least affected. Of the legally relevant factors, we found that prior arrests and offense seriousness responded most often to contextual variation, while prior incarceration responded the least.

In general, the same patterns obtained when considering the severity of split sentences. Disparities based on social background were only slightly less common and less pronounced than those based on legally relevant variables. Again, employment and marital statuses as well as the legally relevant variables of prior arrests and offense seriousness, were most contextually responsive.

#### Gender Disparities

Controlling for prior record, offense, court and county variables, we found that males tended to receive longer and more severe sentences than female offenders. Only in single-judge courts were the additive effects

for gender irrelevant. A consideration of contextual effects revealed, however, a slightly more complex picture. Differential treatment was hardly uniform, and proved to be more responsive to court rather than county differences.

In the majority of instances (59% and 86%, respectively), males did receive longer and more severe sentences. However, the differential treatment they received varied widely. Disparities in sentence length ranged from an insignificant .08 to a 26-year difference, in multiple-judge courts composed of local judges. Disparities in sentence severity also ranged widely, from a .04 to a .586 difference. Differential treatment was strongest in multiple-judge courts consisting predominantly of married judges.

The additive effects we noted above masked occasions, particularly for sentence length, where females received longer or more severe sentences. Disparities operating against women were generally both less common and weaker than those operating against males. For sentence length, they averaged 4 years, in contrast to 6.4 years, the average disparity against males. Similarly, the mean disparity in sentence severity was .133, in contrast to the .264 average encountered by males. Again, however, the differential treatment women experienced ranged widely from an insignificant .14 to a major 13-year gap, in multiple-judge courts whose prosecutors were established. Disparities in sentence severity also ranged from insignificant differences (.01) to a noteworthy difference of .464, in multiple-judge courts with a substantial minority of unmarried judges.

#### Race Disparities

Based on conflict theory, we expected blacks to receive longer and more severe split sentences. Additive analysis yielded generally minor,

not always significant, tendencies for this to be the case. When considering contextual effects, we found race disparities in sentence length responded most strongly to county differences. In contrast race disparities in the severity of split sentences responded most strongly to court differences.

We found that in the majority of instances (56%), blacks did receive longer split sentences than whites. However, in only a minority of cases (33%) were their sentences more severe than the sentences imposed on whites. Moreover, the magnitude of differential treatment varied. Disparities in sentence length ranged from .2 to a large 36-year difference in predominantly black counties. Disparities in sentence severity varied from .01 to a .225 difference, in multiple-judge courts whose prosecutors rely on dismissals.

Disparities in sentence length that operated to disadvantage white offenders were both less common and slightly weaker ( $\bar{X} = 3.4$  years vs.  $\bar{X} = 5$  years) than those that disadvantaged blacks. Particularly unexpected was the tendency for differential treatment to be particularly strong (13-year disparity) where inequality was high. Also unexpectedly, disparities in sentence severity that disadvantaged whites were both more common and more pronounced ( $\bar{X} = .221$  vs.  $\bar{X} = .175$ ) than those that operated against blacks. They varied dramatically, ranging from an insignificant .02 difference, to a major .949 difference in multiple-judge courts consisting primarily of non-local judges.

#### Age Disparities

On the basis of conflict theory, we expected youthful offenders to receive longer and more severe split sentences. In our additive models, we found uniformly weak, often statistically insignificant, tendencies for

older offenders to receive longer sentences, and for younger offenders to receive more severe sentences.

Once we considered contextual effects, however, we found that court variables often conditioned both the magnitude and direction of differential treatment. In about half the instances, youthful offenders received both longer and more severe sentences. Disparities in the length of sentences ranged from .07 to 8 years, the latter occurring in courts composed primarily of males. Disparities in the severity of sentences also ranged widely from .01 to .346, in single-judge courts whose prosecutors face serious caseload pressure.

We also found that disparities operating against older offenders were nearly as common, and generally more pronounced than those that disadvantaged younger offenders. Disparities in sentence length ranged from .16 to 7 years, in multiple-judge courts experience caseload pressure. Disparities in the severity of sentences ranged from .01 to .271, and were strongest in multiple-judge courts consisting of non-local judges.

#### Marital Status Disparities

Despite our expectation of harsher treatment for unmarried offenders, we found weak generally insignificant additive effects. Differential treatment occurred, however, and was responsive to court (rather than county) differences.

In the majority of instances involving marital status disparities (61%), our expectation received support. Unmarried offenders received longer sentences. Differential treatment varied widely, however, ranging from a .16-year to a 10-year difference, in multiple-judge courts composed of local judges. Unexpectedly, we found that in a substantial minority of instances, married offenders received longer split sentences. Their

disparities were only slightly less pronounced ( $\bar{X} = 2.8$  years vs.  $\bar{X} = 3.3$  years), and ranged from .6 to a maximum of 6 years, in counties characterized by a low Wallace Vote.

We discovered a different situation when considering the severity of split sentences. Here, in only a minority of cases (44%) did unmarried offenders receive more severe sentences. Their disparities ranged from an insignificant .01 to a major .83 difference. Differential treatment was strongest in multiple-judge courts composed of urban judges.

It was more often the case (56%), however, that married offenders received more severe sentences. It is important to note that while more common, these disparities were weaker, averaging .157 (vs. the average disparity against the unmarried of .247). They were particularly pronounced (.7) in counties having strong Wallace support. Given our expectation of greater discrimination against the disadvantaged in conservative counties, this finding was particularly unexpected.

#### Employment Status Disparities

As expected, we found a consistent trend for unemployed offenders to receive longer and more severe sentences. A consideration of possible interactions revealed wide variation in differential treatment, as well as important counterexamples. In general, disparities based on employment status proved to be more responsive to court than to county differences.

We found that the pattern of discrimination against the unemployed was more pronounced for sentence severity than for sentence length. Seventy percent of all disparities in sentence severity disadvantaged unemployed offenders, while only 43% of all disparities in sentence length operated to their disadvantage. Disparities in sentence length varied from .2 to 9 years, the latter occurring in multiple-judge courts composed of young

judges. Disparities in sentence severity also varied, being particularly pronounced (.678) in multiple-judge courts whose judges were involved in community organizations.

As noted above, it was more often the case that employed offenders received longer sentences than the unemployed. Moreover, these disparities were more pronounced ( $\bar{X} = 6.4$  years vs.  $\bar{X} = 3.7$  years), and exhibited a wider range of variation. They were particularly strong (17-year difference) in multiple-judge courts composed of urban judges.

While the findings for sentence length provided evidence of more common and stronger differential treatment of the employed, the results for sentence severity indicated less common (30% of all instances) and weaker ( $\bar{X} = .137$  vs.  $\bar{X} = .247$ ) disparities. Unexpectedly, differential and harsher treatment of the employed was particularly strong in counties with strong Wallace support.

#### Offense Seriousness Disparities

Additive effects for offense seriousness were usually the strongest determinants of split sentences, indicating longer and more severe sentences for offenders convicted of more serious offenses. In general, our interactive analysis corroborated this general pattern. However, it also provided information about the range of differential treatment and revealed instances where less serious offenders were more harshly treated. County characteristics were particularly influential conditioners of sentence length disparities. Court characteristics were particularly strong conditioners of disparities in the severity of split sentences.

In the majority of situations (76% and 64%, respectively), more serious offenders received longer and more severe sentences. Disparities in sentence length ranged widely, and were most pronounced (10.8 years) in

counties with low voter participation. Disparities in sentence severity also varied, from .002 to a .504 difference in multiple-judge courts composed of married judges.

In a minority of instances, less serious offenders were punished more harshly. These disparities, while encountered less often, were just as, if not more, pronounced than those operating against more serious offenders ( $\bar{X}$  = 5 years vs.  $\bar{X}$  = 4 years;  $\bar{X}$  = .159 vs.  $\bar{X}$  = .148). The most pronounced disparity in sentence length (11.6 years) occurred in predominantly black counties, while the most pronounced disparity in sentence severity (.571) occurred in multiple-judge courts composed primarily of older judges.

#### Crime Type Disparities

One of the most consistent findings of additive analysis was the tendency for violent offenders to receive longer and more severe sentences than either victimless or property offenders. In general, results based on interactive analysis corroborated this pattern. Importantly, however, the differential and harsher treatment of violent offenders varied markedly, and in some instances victimless and property offenders were treated more harshly.

Disparities in sentence length that disadvantaged violent offenders ranged from .43 to 12 years; disparities in sentence severity ranged from a .01 to a .68 difference. Harsher treatment of violent offenders was particularly pronounced in multiple-judge courts composed of older judges.

Disparities against victimless offenders were both less common and less pronounced. Sentence length disparities averaged 4.2 years and were particularly pronounced where Wallace support in 1976 was strong. Disparities in sentence severity were generally small ( $\bar{X}$  = .102), and were most pronounced in multiple-judge courts with small probation departments.

Turning to the comparison between property and violent offenders, again we found that differential treatment varied depending on the court and county where offenders were sentenced. Disparities in sentence length that operated to disadvantage violent offenders varied dramatically from a .3 to a 20-year difference. They were most pronounced in multiple-judge courts composed of older judges. Disparities in sentence severity also varied, from a .024 difference to a .681 difference in courts whose prosecutors rely less on guilty pleas and dismissals.

In a minority of situations (35% and 27%, respectively), property offenders received longer and more serious sentences than violent offenders. These disparities were both less common and less pronounced. Sentence length differences averaged 2.5 years, and were pronounced where Reagan support was strong. Disparities in sentence severity averaged .127 (vs. .261) and were particularly pronounced in predominantly black counties.

#### Prior Record Disparities

Our general expectation was the offenders with prior arrests and incarcerations would be sentenced more harshly than their counterparts without prior records. Additive effects generally supported our expectation, but were substantively significant only in single-judge courts.

When considering contextual effects, we found that county characteristics strongly conditioned the role prior arrests played when judges determined the length of split sentences. In contrast, court characteristics strongly conditioned its role when judges determined the severity of split sentences.

In slightly less than half the time (47%), arrested offenders received longer sentences. In slightly more than half the time (52%), their sentences were also more severe. Disparities in sentence length varied from .74 to 9.3 years. As expected they were particularly pronounced in counties with strong Reagan support. Disparities in sentence severity also varied widely, and were strongest in single-judge courts whose prosecutors faced severe case pressure.

Contrary to expectation, it was more often the case (53%) that never arrested offenders received longer sentences. These disparities were both more common and more pronounced ( $\bar{X}$  = 5.8 years vs.  $\bar{X}$  = 3.4 years) than those that operated to the disadvantage of offenders with prior arrests. They ranged from an insignificant .2 year difference to a strong 19-year difference, in predominantly black counties. Disparities in sentence severity that operated against the never-arrested were less common, but just as pronounced as those operating against offenders with prior arrests. They ranged from a .005 to a 1.44 difference. The most pronounced gap occurred in multiple-judge courts whose judges were older or local.

Turning to our second indicator of prior record, prior incarceration, we found that in only a slight majority of situations were the previously incarcerated treated more harshly. Disparities in sentence length were most pronounced (12.6 years) in multiple-judge courts composed of older judges. Disparities in sentence severity were strongest (1.3) in multiple-judge courts composed primarily of males.

It was only slightly less often the case that offenders without prior incarceration received longer sentences. The differential treatment they encountered, though less pronounced ( $\bar{X}$  = 2.6 vs.  $\bar{X}$  = 3.8 years), varied just as widely as the differential treatment encountered by the previously

incarcerated. Disparities ranged from .19 to 10.8 years, and were the strongest in multiple-judge courts composed of married judges.

Finally, it was just as often the case the offenders without prior incarcerations received more severe sentences. These disparities were just as pronounced, and ranged from a minimal .01 to a strong .989 difference, in multiple-judge courts with a relatively low proportion of males.

#### IMPLICATIONS

The empirical and theoretical literature discussed in Chapter III generated several expectations about the relevance of court and county variables during sentencing. In this section, we summarize the support (or lack of support) we found for these expectations. Without exception, our actual results proved far more complex than either theory or empirical research led us to anticipate.

We found little support for the expectation that bureaucratization would generate more even-handed treatment, particularly of disadvantaged offenders. Rather, analysis indicated that bureaucratization exacerbated differential treatment of the disadvantaged (e.g., young, unmarried, unemployed). These findings support arguments advanced by conflict theorists. However, they must be considered in conjunction with important counterexamples. As indicated by lower court assistance, bureaucratization exacerbated disparities against advantaged offenders (e.g., males, employed, married).

As noted earlier, bureaucratization also had implications for differential treatment based on legally relevant factors. It benefited more serious, violent and victimless offenders more than their counterparts. It exacerbated disparities against property and less serious

offenders, and reduced disparities against more serious and victimless offenders.

Prosecution characteristics also conditioned differential treatment, but not always in ways we had expected. In multiple-judge courts, prosecutor caseload operated to the advantage of violent offenders by reducing their sentences more than the sentences of non-violent offenders. It also benefited disadvantaged offenders such as blacks and the unmarried. In contrast, the caseload pressure experienced in single-judge courts proved more costly for violent and other threatening offenders (e.g., young, previously arrested). It was also more costly for offenders who appear less threatening (e.g., married, employed, less serious).

Turning attention to plea bargaining, we found that prosecutor reliance on guilty pleas often put more threatening offenders (e.g., males, blacks, younger, and unemployed offenders) at a greater disadvantage. Similarly, and though there were exceptions, advantaged or less threatening offenders (white, older, never-arrested offenders in multiple-judge courts; married and less serious offenders in single-judge courts) benefited more than their counterparts from the reductions in sentence severity guilty pleas generated.

Although the electoral vulnerability of prosecutors conditioned differential treatment, it seldom operated as expected. Established prosecutors imposed longer rather than shorter sentences. In multiple-judge courts, advantaged offenders (e.g., white, employed) were singled out for more pronounced increases in sentences. In single-judge courts, more threatening offenders (e.g., young, male, unemployed) were singled out for more pronounced increases. Moreover, the sentences

particularly for male, white, and young offenders became more rather than less severe as prosecutors became more established.

As expected, electoral vulnerability did increase sentence length, particularly for male offenders. But it also generated more pronounced harshness toward never-incarcerated offenders and more pronounced lenience for more threatening offenders (in multiple-judge courts, blacks, males, violent offenders; in single-judge courts, unemployed and previously arrested offenders).

We found no support for the expectation that judges would sentence more leniently offenders who were similar to themselves. Indeed, the results for marital status and rural-urban background suggested more pronounced harshness toward offenders who are similar and greater leniency toward the dissimilar. Despite their failure to operate as expected, judicial demographic and background characteristics had strong implications for disparities based on social background and legally relevant characteristics.

We found that courts composed primarily of males treated young, more serious, victimless, and previously incarcerated offenders more harshly than courts having some women on the bench. We also discovered that older judges appeared more intolerant than their younger counterparts of certain offenders, namely, females, the unemployed, violent, less serious, and never-incarcerated offenders. Younger judges were particularly intolerant of male and employed offenders.

Courts composed primarily of married judges appeared particularly intolerant of male, older, victimless, more serious, previously arrested, and never-incarcerated offenders. In contrast, courts having substantial



minorities of unmarried judges appeared particularly intolerant of employed, unmarried, violent, and never-arrested offenders.

We found no evidence that rural judges are more particularistic than their colleagues from urban backgrounds. If anything, urban judges attended more to the social background of offenders. When determining the length of split sentences, urban judges appeared more intolerant than their rural counterparts of black and employed offenders. When determining the severity of split sentences, they appeared more intolerant of unemployed and unmarried offenders. Finally, analysis revealed differences between local and non-local judges. The latter appeared particularly harsh toward black and employed offenders, while the former appeared intolerant of male, less serious and violent offenders.

We expected judicial activism to generate more even-handed treatment, that is, to reduce any disparities based on offender social background. We found that while activism did reduce some disparities, it did not eliminate them. Moreover, activism exacerbated sentence length disparities based on race (vs. whites) and disparities in sentence severity based on employment status (vs. the employed) and prior record (the previously incarcerated).

Our expectation that district attorney experience would generate harsher punishment particularly for more threatening offenders was supported only when considering the length of split sentences. It received no support when considering sentence severity. We found that district attorney experience generated less severe sentences, particularly for those offenders (violent, unemployed) we expected would benefit the least.

As was the case for the electoral position of prosecutors, our expectations about the electoral position of judges received minimal support. For both single-judge and multiple-judge courts, electoral

vulnerability did indeed generate longer sentences, especially for more threatening offenders (e.g., male, unmarried, unemployed, previously arrested). But we also found that established judges were more, rather than less, punitive toward both particularly threatening (e.g., unemployed, male, violent) and less threatening offenders (e.g. white, married, less serious, never incarcerated).

Finally, we found some tendency for community involvement to generate severity particularly toward more threatening offenders (e.g., male, black, young, unemployed, violent, previously arrested). But there were noteworthy counterexamples to this pattern (e.g., reduced severity especially toward black, unmarried, more serious and previously arrested offenders in single-judge courts), suggesting that community involvement operates in a more complex fashion than anticipated.

Turning to consider county characteristics, our findings indicated that urbanization does not uniformly result in more even-handed treatment of offenders. Rather, it generated noteworthy disparities in the severity of sentences imposed on black and unemployed offenders. Thus, discrimination against the disadvantaged is not always more pronounced in rural than in urban areas.

Consistent with our expectation, we found that inequality intensified discrimination against the disadvantaged (e.g., young, black, unemployed, unmarried). But it also operated at times to intensify discrimination against relatively advantaged offenders (e.g., white, employed, married). Moreover, inequality proved more consequential when sentencing violent rather than property offenders. As noted earlier, our two indicators of inequality, percent black and income inequality, were not surrogates for one another and in some instances produced divergent findings.



Our expectations about the division of labor were also only partly supported. Sentences decreased in length, but not in severity. There was also an unanticipated tendency for a complex division of labor to benefit more serious or disadvantaged offenders more than their counterparts. For some offenders (e.g., the unemployed and previously incarcerated), this benefit was offset by the more pronounced increase in sentence severity they experienced.

We found that, in general, conservatism operated as expected, especially for the severity of split sentences. It generated longer and more severe sentences, particularly for offenders who appear more threatening to the community (e.g., male, younger, unmarried, unemployed, previously incarcerated). As was the case for economic inequality, divergent trends for our two indicators (percent Reagan vote in 1980 and percent Wallace vote in 1976) lead us to suspect that they measure more than we had originally intended them to measure.

We expected serious crime problems to generate more punitive sentences especially for more serious or more threatening offenders. We found some support for this expectation, particularly when considering the length of split sentences. But we also found, for example, that more extensive press coverage put less (e.g., female, less serious) rather than more threatening offenders at a greater disadvantage. Local crime coverage generated more pronounced leniency for offenders that appear more threatening (e.g., male, young, violent). Neither finding supports our expectations.

#### DISCUSSION

As was the case for probation, judges used split sentences for several reasons. Taken together, these justifications indicate a sentencing

process that is more complex than theory, prior research, or even intuition would suggest. In the discussion that follows, we consider our findings in light of the most often cited defenses for imposing split sentences.

Prison overcrowding was the most commonly invoked explanation for and defense of split sentences. A public defender observed that "...there are a lot of pressures on judges now because of prison overcrowdedness." A newspaper reporter echoed that "...there's no place to put these people." Sheriffs ("You don't have any place to send them when we get them sentenced"), district attorneys ("You can't inundate a system that is creaking under the weight of the helm"), and mayors ("I have a lot of sympathy for judges because apparently we don't have any space to put these criminals") -- all made the same point. As will become apparent below, split sentences allowed judges to address their concern with overcrowding, while appearing responsive to public sentiment.

Split sentences were also based on a deterrent calculus. Adopting what might be termed the "scared straight syndrome," some judges observed that a "taste of prison" deterred more effectively than long incarceration. Convinced that offenders, particularly young ones, would find prison intolerable, these judges indicated that they incarcerated to teach a lesson. According to one judge, offenders who were prone "to run off at the mouth" might especially benefit from shorter prison terms:

"If they run off at the mouth, they are going to run into someone (in prison) with nothing to lose who is going to knock every tooth in their head out and they have met that irresistible force. And it changes their outlook...(T)here's always somebody a little tougher. This has a remarkable effect on a lot of people."

The use of a deterrent calculus, coupled with the existence of prison overcrowding, could account for the tendency for some judges to sentence more severely offenders who were white, younger, or had no prior record. In these situations, split sentences that involved some incarceration were reserved for those offenders judges felt would benefit more from it. The "scared straight syndrome" appeared to be more evident in some courts than in others, namely, in courts whose judges were older or married and in courts presiding in conservative or crime-ridden counties.

Less pervasive than the "scared straight syndrome" was the argument that a combination of probation and prison has the potential to rehabilitate. Probation officers were more likely than other court officials to endorse this variant of the treatment ethic. For example, according to one probation officer, his circuit had "tremendous amounts of community resources available.... (C)omprehensive mental health, a hospital, narcotic-treatment program, a program for alcoholics, a counselor's group -- we have everything..." He went on to argue that split sentences effectively used these resources and gave judges needed alternatives to long prison terms.<sup>2</sup> Since resources were finite, they appeared to be reserved for offenders judges thought would benefit more from them, for example, offenders without a prior record.

As noted in Chapter V, probation may be used for a variety of reasons unrelated to rehabilitation. The imposition of longer sentences on offenders without prior records who reside in predominantly black counties could reflect a judicial interest in "keeping tabs on," rather than rehabilitating, offenders.

Judges also used split sentences to balance external and internal contradictions. Internally, it appeared that many judges struggled with

contradictory impulses. Site visits indicated that some judges relied on split sentences to assuage the tensions generated by the disjunction between what they would like to happen and what they knew would probably happen in actuality. When faced with a serious offender, for example, some judges felt that long terms of prison were warranted. They were skeptical, however, that incarceration would accomplish anything more than incapacitation. The combination of prison and probation, coupled with the rhetoric of rehabilitation, helped judges handle this tension. One probation officer commented that "....prisons have always been there to punish regardless of what they claim. It makes the judge feel a lot better if you tell them that 'I'm sending you off to get help'." One judge explicitly acknowledged that he harbored rehabilitative impulses, but was faced with the reality, voiced by correctional authorities, that "...the rehabilitation of prisoners is just not quite realistic." He found some solace in the split sentence because he could incarcerate but rely on probation for the fulfillment of rehabilitative objectives.

Split sentences also helped judges reconcile external conflicts. While admitting that the public is often uninformed or misinformed, some judges stressed their awareness of public pressure for incarceration. Though relatively isolated from this pressure (one judge observed that "...he wasn't in a position of winning or losing. Don't have to get up Monday morning and worry about witnesses"), many judges felt under some obligation to consider public sentiment:

"Newspaper editorials, conversations with jurors and other people.... (W)e have all become aware of the growing trend in this country of conservative thinking. We just read about it and hear about it. I have to give some time."

In short, split sentences gave judges the opportunity to look "tough."

Public pressure for incarceration and judicial responsiveness to it varied, however. For example, we found that judges in conservative counties imposed both longer and more severe split sentences. This finding suggests that the public in these counties may make stronger demands for incarceration and/or that judges in such counties are more likely to agree or comply. Judges who were electorally vulnerable or involved in community organizations treated property offenders almost as severely as violent offenders, presumably in response to the public concern with property crime we noted earlier. Perhaps because established judges and prosecutors identify more strongly with public sentiment and let it override other considerations, sentences were both longer and more severe in courts whose judges or prosecutors had been reelected often.

It is important to note, however, that "toughness" may be more symbolic than real, and may be tempered by larger concerns such as prison overcrowding. We found this to be the case in four instances: where plea bargaining was pronounced, prosecutors or judges were electorally vulnerable, judges had district attorney experience, and crime problems were serious. Here, sentences looked more punitive on the surface, because they were longer. But sentences also mandated smaller proportions of incarceration time, thus enabling judges to balance public sentiment with external (e.g., overcrowding) and internal (e.g., private sentencing philosophy) demands.

In short, judges were hardly passive reactors to public pressure for incarceration. Recall our unanticipated results for press coverage of crime. We have assumed that salient coverage would generate pressure for greater severity especially toward more threatening offenders. Instead, we

found that where the press focussed heavily on local crime, leniency was especially pronounced for male, younger, and violent offenders. Also, where press coverage was extensive, we found greater severity toward female, less serious, and non-violent offenders. These results become more comprehensible if we consider some of the reasons judges gave for split sentences. Judges may believe that the "scared straight syndrome" applies to less serious and non-violent offenders. They may be more concerned with overcrowding in men's than in women's prisons. And they may fear that incarcerating violent offenders could further exacerbate violence in men's prisons.

A final justification for split sentences was the argument that the offenders had already been punished. Implicitly arguing the point made by Feeley (1979) that the process is the punishment, one judge stressed that ".....people are often punished before they are even convicted...(F)or that reason...sometimes a long prison sentence isn't justified." He went on to argue that split sentences are useful when long prison terms, while legally appropriate, would be unfair.

The sheer diversity of justifications for split sentences helps us put two other patterns in perspective: our relative inability to predict the severity of split sentences, and the greater intrusion of social background factors when determining sentence severity than sentence length. No doubt judges differed in their perception of overcrowding. They differed as well in the extent to which they consider overcrowding a sufficient justification for tailoring sentence severity. According to one judge, "If I sentence somebody to prison, it's their (DOR's) responsibility to provide the resources." While this judge was clearly an exception, judges differed in the ways they incorporate a concern with overcrowding into

determinations of sentence severity. Judges may also differ in their perception of how much incarceration would "scare" an offender "straight," as well as which offenders (e.g., black or white) would be more effectively deterred by a "taste of prison." Not all judges may feel the tension between what imprisonment should accomplish and what it actually does accomplish. Judges may differ as well in their perception of, and sensitivity to, community pressure for incarceration. Not all judges may balance conflicting demands in the same way.

We did not quantify these differences in beliefs and perceptions. Hence, it is not surprising that we were less successful in explaining the proportion of split sentences for which imprisonment was mandated.

Given the multiplicity of concerns about imprisonment, both relevant to the case at hand (e.g., purposes of imprisonment) and external to the case at hand (e.g., overcrowding, public pressure), judges may believe it appropriate and necessary to consider social background factors as a supplement to legally relevant factors. While characteristics of the offense may provide enough information to determine the split sentence in its entirety, they may be less informative when considering an outcome of greater consequence to the offender himself, namely, the amount of time he spends in prison. When drawing a particularly fine and consequential distinction, social background factors may provide the guidance than legally relevant factors do not.

Attentiveness to social background factors varied, however. It was less pronounced in single-judge courts and equally if not more pronounced in urban and non-local courts. These patterns suggest that discrimination may be more problematic where sentencing responsibility is shared and

diffused, where judges are relatively anonymous, or where, because of their background, judges are more impervious to local pressure.

Substantively, social background effects were complex. They responded to court and county differences and did not always involve discrimination against relatively powerless offenders. These patterns dramatize the need to explore mechanisms, such as the perceptions and rationalizations discussed above, that intervene between sentencing behavior and structural elements of courts and counties.

## NOTES

1. The collinearity diagnostic available through Statistical Analysis Systems (SAS) is the condition index, described fully by Belsley et al. (1980). The index enabled us to identify the subset(s) of independent variables involved in each collinear relationship. We considered constructing indices or deleting variables where diagnostics, coupled with the results of regression analyses, indicated harmful degradation of estimates, namely, where condition indices were moderate ( $>.20$ ), variance proportions of the collinear variables exceeded .5, and parameter estimates were insignificant ( $p \leq .01$ ).
2. Clearly, not all probation officers endorsed either the rehabilitative ethic or the split sentence. One observed that he "...never liked the split sentence. I have always told the judge....felt like if a person deserved probation, give him probation. If he deserved prison, give him prison." Not all judges thought such clarity possible, especially if it implied that all offenders convicted of the same offense could or should be treated identically. According to one judge, uniform sentencing takes "a lot of what is life out of life." Even judges who did not endorse rehabilitation stressed the need to individualize sentences to fit the offender.

## VII. PRISON SENTENCES

## OVERVIEW

In this chapter, we analyze the process of imposing prison sentences on convicted offenders. We are concerned with persons who received imprisonment without a specified term of probationary supervision. Analysis focuses first on aspects of the case, namely, social background and legally relevant factors. We then consider the additive and interactive effects of court and county contexts.

In two important respects, our analysis here differs from previous analyses. The multicollinearity diagnostic alerted us to serious problems involving measures of offense seriousness and economic inequality. Offense seriousness was highly correlated with the hazard rate instrument, that is, the predicted probability of receiving a non-prison sentence. We were required to delete this variable, because we consider it essential to control for sample selection bias. Thus, we cannot examine the additive or interactive effects of offense seriousness. However, the hazard rate instrument is almost a surrogate for, and consequently controls for the effect of, this variable. It is strongly determined by offense seriousness, and the correlation between regression estimates for the two variables exceeds .95.

Our second multicollinearity problem surfaced during analysis based on the subsample of cases for which news coverage of crime was available. Here we found that the measures of inequality were highly correlated with one another, and could not be included together in a single equation. Preliminary analysis indicated that income inequality significantly affects prison sentences, while percent black does not. Thus, only income

inequality is included in additive and interactive equations involving the subsample.

#### ANALYSIS OF CASE CONTEXT

Logistic analysis including social background and legally relevant characteristics (not shown) indicated that a straight prison term is more likely for male, black, older, more serious, and violent offenders. Results from the equation of substantive interest, length of prison sentence, are presented in Table 7-1. Model 1, which includes only social background characteristics, accounts for an insignificant proportion of the variance in prison sentences. In contrast, Model 2, which includes the legally relevant factors of offense type and prior record, accounts for a much larger proportion of the variance ( $R^2 = .579$ ). This sharp increase can be attributed to the inclusion of offense seriousness in the selection equation predicting the probability of a non-prison sentence. As noted above, the hazard rate generated by this equation and included as a control in Model 2 is virtually redundant with and strongly affected by offense seriousness.

Model 2 indicates that females and whites receive longer prison sentences. Offender age, marital and employment statuses, and background are irrelevant. Of the legally relevant factors, prior record has no effect, and both property and victimless offenders receive longer sentences than violent offenders. A comparison of the magnitude of social background and legally relevant effects indicates that neither is particularly pronounced.

Table 7-1. Regression Coefficients and Related Statistics for Prison Sentences, Case Context Models

Variable	Model 1		Model 2	
	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	-23.057 (9.846)		36.499 (.328)	
Probability of Non-prison Sentence	32.629 (11.309)	.194*	-38.913 (.276)	-.910*
Offender Sex	3.145 (1.434)	.076	-4.883 (.177)	-.117*
Offender Race	-4.886 (1.186)	-.241*	2.631 (.090)	.128*
Offender Age	.109 (.015)	.094*	.052 (.005)	.045*
Offender Marital Status	1.218 (.148)	.052*	-.193 (.099)	-.008
Offender Employment Status	.338 (.145)	.015	.451 (.098)	.019*
Offender Urban Background	.363 (.063)	.037*	-.670 (.043)	-.069*
Offender Georgia Native	1.414 (.134)	.067*	.206 (.093)	.010
Type of Crime I (Violent v. Victimless)			3.618 (.164)	.126*
Type of Crime II (Violent v. Property)			2.947 (.132)	.146*
Prior Arrests			.007 (.009)	.004
Prior Incarceration			-.007 (.112)	-.000
$R^2$	.022		.579	
N	3919		3892	

Note: b = metric coefficient; SE = standard error of coefficient;

\*  $\beta$  = standardized coefficient.

\*  $p \leq .01$ .

## ANALYSIS OF COURT CONTEXT

## ADDITIVE MODELS

We note first the findings for the original selection equation predicting the probability of receiving a non-prison sentence. Logistic analysis (not shown) indicated that, for both multiple-judge and single-judge courts, black, male, more serious, and violent offenders are more likely to receive a straight prison term. In courts whose judges sentence alone, straight prison terms are also more likely where judges receive greater assistance from lower courts, are from rural backgrounds, or are established. Straight prison terms are less likely to be imposed in single-judge courts where plea bargaining is common, the district attorney is electorally vulnerable, and the judge is professionally active.

In multiple-judge courts, offenders are more likely to receive a straight prison term if sentenced in a court (1) whose prosecutor experiences caseload pressure; (2) that is large; and (3) whose judges are established, have district attorney experience, and are involved in community organizations. Straight prison terms are less likely to be imposed in courts with (1) heavy caseloads and large probation departments; (2) prosecutors who rely on dismissals or guilty pleas, are established, or electorally vulnerable; and (3) judges who are male, professionally active, or have been involved in government.

Table 7-2 presents results for the dependent variable of substantive interest, prison sentence length. Note first that all coefficients for attributes of the case are quite small, particularly in single-judge courts. The only noteworthy trend, which applies to both single-judge and multiple-judge courts, is for female offenders to receive longer sentences than their male counterparts.

Table 7-2. Regression Coefficients and Related Statistics for Prison Sentences, Court Context Models

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	32.843 (2.070)		53.562 (3.284)	
Probability of Non-prison Sentence	-35.402 (.333)	-.904*	-42.236 (.880)	-.895*
<u>Case Characteristics</u>				
Offender Sex	-5.750 (.237)	-.125*	-4.667 (.650)	-.096*
Offender Race	1.158 (.117)	.055*	1.192 (.340)	.052*
Offender Age	.024 (.006)	.021*	.038 (.018)	.032
Offender Marital Status	-.366 (.123)	-.016*	.895 (.334)	.036*
Offender Employment Status	.121 (.124)	.005	-.031 (.336)	-.001
Offender Urban Background	-.327 (.054)	-.034*	-.073 (.135)	-.007
Offender Georgia Native	-.446 (.125)	-.020*	-1.775 (.420)	-.059*
Type of Crime I (Violent v. Victimless)	3.125 (.202)	.108*	1.141 (.629)	.031
Type of Crime II (Violent v. Property)	1.958 (.164)	.095*	-.202 (.435)	-.009
Prior Arrests	-.009 (.011)	-.005	.187 (.048)	.061*
Prior Incarceration	-.284 (.138)	-.013	.517 (.409)	.018
<u>Bureaucratization</u>				
Felony Filings per Judge	.003 (.001)	.038*	-.009 (.003)	-.084*
Lower Court Assistance	-.051 (.006)	-.052*	-.218 (.022)	-.182*
Number of Probation Officers	1.326 (.037)	.309*	-.118 (.125)	-.021

Table 7-2., Continued

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Number of Judges	-1.131 (.043)	-.413	— <sup>a</sup>	
<u>Prosecution Characteristics</u>				
Felony Filings per Prosecuter	-.009 (.001)	-.088*	-.003 (.003)	-.002
Percent Dismissals	.069 (.010)	.085*	.007 (.023)	.005
Percent Guilty Pleas	.071 (.008)	.086*	.093 (.017)	.115*
Number of Times Elected	.771 (.060)	.108*	.065 (.161)	.008
Electoral Vulnerability	.065 (.115)	.004	2.656 (.336)	.143*
<u>Judicial Composition</u>				
Percent Male	.031 (.010)	.018*	— <sup>a</sup>	
Mean Age	-.054 (.019)	-.021*	.095 (.032)	.058*
Percent Married	.016 (.014)	.007	— <sup>a</sup>	
Mean Percent Urban Background	.014 (.004)	.032*	.093 (.010)	.200*
Judicial Background	.297 (.059)	.037*	.311 (.263)	.027
<u>Judicial Activism and Experience</u>				
Mean Bar and Attorney Associations	2.444 (.135)	.186*	.733 (.091)	.152*
Mean Years Other Judicial Experience	.178 (.040)	.040*		
Mean Years District Attorney Experience	-.395 (.031)	-.113*		
<u>Judicial Electoral Vulnerability and Local Involvement</u>				
Mean Times Elected	-2.658 (.152)	-.185*	-1.586* (.141)	-.213*

Table 7-2., Continued

Variable	Multiple-Judge Courts		Single-Judge Courts	
	b (SE)	$\beta$	b (SE)	$\beta$
Electoral Vulnerability	-.481 (.153)	-.018*	.510 (.371)	.027
Mean Community Organizations	-1.618 (.092)	-.149*	-.700 (.134)	-.100*
Mean Years in Government	.372 (.018)	.141*	.089 (.019)	.085*
R <sup>2</sup>	.560		.757	
N	2615		887	

Note: b = metric coefficient; SE = standard error of coefficient;  
 $\beta$  = standardized coefficient.

<sup>a</sup> No or insufficient variation.

\*  $p \leq .01$ .



Legally relevant variables affect prison sentences only in multiple-judge courts, where property and victimless offenders receive longer prison sentences than offenders convicted of violent crimes. Prior record has no effect on this decision.

Turning to indicators of bureaucratization, we find that for multiple-judge courts, sentences become shorter as the number of judges in the circuit increases. They become longer as probation departments become larger. In contrast, court size is irrelevant when considering the sentences imposed in single-judge courts. Rather, caseload pressure figures prominently, and prison sentences become shorter as caseload and assistance from lower courts increase.

In general, characteristics of the prosecutor have minor effects on prison sentences. Particularly in multiple-judge courts, sentences tend to be shorter where prosecutors experience heavy caseloads and longer where they rely on guilty pleas or dismissals. Prison sentences imposed in multiple-judge courts tend to be longer as prosecutors become more established. This finding is inconsistent with our expectation that judges would sentence more leniently where district attorneys are electorally invulnerable. This expectation receives some support only in single-judge courts, where sentences are longer in circuits whose prosecutors are electorally vulnerable.

In both types of court, demographic characteristics and the background of judges are generally irrelevant. The only exception occurs in single-judge courts, where judges with urban backgrounds impose significantly longer sentences than their rural counterparts.

The professional activism of judges in both single- and multiple-judge courts tends to generate longer prison sentences. The same pattern does

not hold, however, when considering previous district attorney experience. In multiple-judge courts, judges with district attorney experience impose shorter, rather than longer, sentences.

We had expected judges who were electorally vulnerable or involved in the community to sentence more punitively. In general, we found this to be the case, in both single-judge and multiple-judge courts. Established judges impose shorter sentences than their less established counterparts, while judges with previous experience in government impose longer sentences. Contrary to expectation, though, judges presiding in multiple-judge circuits who are involved in community organization tend to impose shorter sentences than their less involved colleagues.

In general, we found a surprising similarity in the sentencing process in multiple-judge and single-judge courts. Differences usually involved the magnitude, not the direction, of effects. In neither type of court do case attributes strongly affect prison sentences. Rather, sentences are likely to be significantly shorter if judges are established. They are likely to be longer if the offender is a woman, if plea bargaining is relatively common, and if the judge is professionally active or has previous experience in government.

Several differences merit reemphasis, however. First, the type of offense is a significant consideration only in multiple-judge courts; it does not affect the sentences imposed by judges who sentence alone. Second, while the size of the court (viz., numbers of probation officers and judges) strongly affects sentencing in multiple-judge courts, the caseload pressure experienced by the court appears important during sentencing in single-judge courts. Finally, judicial background is

unimportant in multiple-judge courts, but relevant where judges sentence alone. Only here are judges from urban backgrounds more punitive.

#### INTERACTIVE MODELS

Table 7-3 summarizes the results of analysis designed to test for significant interactions. Once again, contextual effects figured more prominently in multiple-judge than in single-judge courts. For the latter, no increase in explained variance was significant. Moreover, it was invariably the case that in each model fewer than one third of all possible interactions reached significance ( $p \leq .01$ ).

In contrast, each dimension of multiple-judge courts is implicated in significant interaction. Judicial activism and experience exerts the most pervasive contextual effect, with 63% of all interactions being significant. The remaining dimensions are somewhat less important: judicial composition (59%), prosecution characteristics (53%), bureaucratization (52%), and judicial electoral vulnerability and local involvement (47%).

Case attributes also vary in their responsiveness to court contexts. As usual, we found no tendency for legally relevant factors to be more impervious to court differences than social background factors. Attributes most affected by court variation are employment status (75%), followed by offender age (70%), marital status and the violent-property crime comparison (65%), race and the violent-victimless crime comparison (60%), offender sex (55%), prior incarceration (45%), and prior arrests (20%).

Table 7-4 summarizes the substance of these interactions. In the sections that follow, we examine each case attribute, noting the direction

Table 7-3. Coefficients of Determination for Additive and Interactive Models Predicting Prison Sentences, Court Context Models

Court Characteristic	Multiple-Judge Courts			Single-Judge Courts		
	Additive Model	Interactive Model	% Increase	Additive Model	Interactive Model	% Increase
Bureaucratization	.561	.574	1.3	.753	.765	1.2*
Prosecution Characteristics	.560	.587	2.7	.760	.778	1.8*
Judicial Composition	.561	.578	1.7	.758	.765	.7*
Judicial Activism and Experience	.558	.569	1.1	.759	.760	.1*
Judicial Electoral Vulnerability and Local Involvement	.573	.605	3.2	.754	.771	1.7**

\*Increase in proportion of explained variance not significant at  $p \leq .001$ .

\*\*Fewer than one-third of all interactions were significant at  $p \leq .01$ .

Table 7-4. Summary of Case and Court Interactions for Prison Sentences, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER SEX					
<u>Bureaucratization</u>					
Number of Probation Officers	Female	13.624	Male	3.393	-10.232
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Male	12.114	Male	7.026	-5.088
Percent Guilty Pleas	Male	10.229	Female	2.746	-7.483
Electoral Vulnerability	Male	13.170	Male	.070	-13.100
<u>Judicial Composition</u>					
Percent Male	Female	92.790	Female	107.890	15.100
Percent Married	Female	43.290	Male	6.210	-37.080
Mean Percent Urban Background	Female	92.790	Female	96.591	3.801
Judicial Background	Female	92.790	Female	89.070	-3.720
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	Female	2.510	Female	7.025	4.515
Mean Years Other Judicial Experience	Female	2.510	Female	12.561	10.051
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Years in Government	Female	9.900	Female	4.610	-5.290

Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER RACE					
<u>Bureaucratization</u>					
Lower Court Assistance	Black	4.748	White	1.350	-3.398
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	White	5.749	White	8.717	2.968
Percent Guilty Pleas	White	3.518	Black	3.607	.089
<u>Judicial Composition</u>					
Percent Male	White	3.374	Black	7.726	4.352
Mean Age	White	9.457	White	13.763	4.306
Mean Percent Urban Background	White	3.374	White	.222	-3.152
Judicial Background	White	3.374	White	4.493	1.119
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	White	1.820	White	3.383	1.563
Mean Years Other Judicial Experience	White	1.820	Black	6.065	4.245
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Black	.623	White	2.839	2.216
Electoral Vulnerability	Black	1.200	White	1.876	.676
Mean Community Organizations	Black	1.200	Black	6.352	5.152

Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
<u>OFFENDER AGE</u>					
<u>Bureaucratization</u>					
Felony Filings per Judge	Younger	6.401	Younger	5.015	-1.386
Lower Court Assistance	Younger	1.837	Older	1.212	- .625
Number of Probation Officers	Younger	2.196	Younger	1.044	-1.152
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Older	7.978	Older	5.942	-2.035
Percent Guilty Pleas	Older	7.584	Older	3.984	-3.600
Times Elected	Older	8.400	Older	3.408	-4.992
Electoral Vulnerability	Older	8.400	Older	4.320	-4.080
<u>Judicial Composition</u>					
Percent Married	Younger	5.820	Younger	.420	-5.400
Mean Percent Urban Background	Younger	11.220	Younger	13.222	2.002
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	Younger	.456	Younger	1.536	1.080
Mean Years District Attorney Experience	Younger	.456	Older	7.608	7.152
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Electoral Vulnerability	Younger	.648	Younger	2.064	1.416
Mean Community Organizations	Younger	.648	Older	4.920	4.272
Mean Years in Government	Younger	.648	Younger	2.304	1.656

Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER MARITAL STATUS					
<u>Bureaucratization</u>					
Felony Filings per Judge	Unmarried	4.104	Unmarried	2.277	-1.824
Number of Probation Officers	Married	1.587	Married	4.035	2.448
<u>Prosecution Characteristics</u>					
Percent Dismissals	Married	5.910	Married	2.253	-3.657
Times Elected	Married	5.910	Married	.590	-5.320
Electoral Vulnerability	Married	5.910	Married	3.904	-2.006
<u>Judicial Composition</u>					
Percent Married	Unmarried	4.790	Unmarried	.340	-4.450
Mean Percent Urban Background	Unmarried	9.240	Unmarried	11.743	2.503
Judicial Background	Unmarried	9.240	Unmarried	10.938	1.698
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	Married	1.820	Unmarried	2.065	.245
Mean Years District Attorney Experience	Married	1.820	Unmarried	1.414	-.406
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Electoral Vulnerability	Married	.755	Unmarried	3.573	2.818
Mean Community Organizations	Married	.755	Married	4.878	4.032
Mean Years in Government	Married	.755	Married	3.262	2.507

Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER EMPLOYMENT STATUS					
<u>Bureaucratization</u>					
Number of Probation Officers	Unemployed	3.515	Unemployed	.335	-3.180
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Unemployed	6.112	Unemployed	12.048	5.936
Percent Dismissals	Unemployed	4.880	Employed	3.883	-.997
Percent Guilty Pleas	Unemployed	2.993	Employed	5.332	2.339
Electoral Vulnerability	Unemployed	4.880	Unemployed	6.762	1.882
<u>Judicial Composition</u>					
Mean Age	Unemployed	12.667	Unemployed	17.081	4.414
Percent Married	Employed	1.820	Employed	10.070	8.250
Mean Percent Urban Background	Unemployed	6.430	Unemployed	2.815	-3.615
Judicial Background	Unemployed	6.430	Unemployed	10.087	3.657
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	Unemployed	1.010	Unemployed	3.980	2.970
Mean Years Other Judicial Experience	Unemployed	1.010	Employed	10.181	9.171
Mean Years District Attorney Experience	Unemployed	1.010	Employed	4.156	3.146
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Unemployed	5.108	Employed	7.804	2.696
Electoral Vulnerability	Unemployed	7.260	Unemployed	3.242	-4.108
Mean Years in Government	Unemployed	7.260	Unemployed	12.688	5.428



Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
TYPE OF CRIME I (Violent v. Victimless)					
<u>Bureaucratization</u>					
Felony Filings per Judge	Violent	7.994	Violent	5.562	-2.432
Lower Court Assistance	Victimless	.193	Victimless	6.546	6.353
Number of Probation Officers	Violent	1.410	Violent	4.146	2.736
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Victimless	5.050	Violent	1.310	-3.740
<u>Judicial Composition</u>					
Percent Married	Victimless	16.620	Violent	.880	-15.740
Judicial Background	Victimless	34.120	Victimless	31.585	-2.535
<u>Judicial Activism and Experience</u>					
Mean Bar and Attorney Associations	Victimless	2.420	Victimless	4.571	2.151
Mean Years Other Judicial Experience	Victimless	2.420	Victimless	9.203	6.783
Mean Years District Attorney Experience	Victimless	2.420	Violent	1.990	- .430
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Electoral Vulnerability	Victimless	5.080	Victimless	7.892	2.812
Mean Years in Government	Victimless	5.080	Violent	1.567	-3.513
Mean Times Elected	Victimless	4.131	Violent	1.563	-2.568

Table 7-4. , Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
TYPE OF CRIME II (Violent v. Property)					
<u>Bureaucratization</u>					
Lower Court Assistance	Violent	.179	Property	2.616	2.437
Number of Probation Officers	Violent	.986	Violent	2.798	1.812
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Property	3.150	Violent	5.330	2.180
Percent Dismissals	Property	4.910	Property	8.015	3.105
Electoral Vulnerability	Property	4.910	Property	6.940	2.030
<u>Judicial Composition</u>					
Percent Married	Property	.310	Violent	5.190	4.886
Mean Percent Urban Background	Property	5.810	Property	3.956	-1.854
Judicial Background	Property	5.810	Property	9.110	3.300
<u>Judicial Activism and Experience</u>					
Mean Years Other Judicial Experience	Property	2.920	Violent	1.773	-1.147
Mean Years District Attorney Experience	Property	2.920	Violent	6.992	4.072
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Property	2.532	Violent	1.416	-1.116
Electoral Vulnerability	Property	3.190	Property	5.308	2.118
Mean Years in Government	Property	3.190	Violent	1.479	-1.711

Table 7-4., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
PRIOR ARRESTS					
<u>Prosecution Characteristics</u>					
Times Elected	No Prior Arrests	2.870	Previously Arrested	.890	-1.980
Electoral Vulnerability	No Prior Arrests	2.870	No Prior Arrests	.750	-2.120
<u>Judicial Composition</u>					
Percent Married	Previously Arrested	3.100	No Prior Arrests	5.900	2.800
Judicial Background	Previously Arrested	12.100	Previously Arrested	10.870	-1.230
PRIOR INCARCERATION					
<u>Bureaucratization</u>					
Felony Filings per Judge	Never Incarcerated	6.073	Never Incarcerated	4.553	-1.520
<u>Prosecution Characteristics</u>					
Felony Filings per Prosecutor	Previously Incarcerated	.079	Previously Incarcerated	3.895	3.816
Electoral Vulnerability	Never Incarcerated	.713	Never Incarcerated	2.107	1.394
<u>Judicial Composition</u>					
Mean Age	Never Incarcerated	17.481	Never Incarcerated	14.375	-3.106
Percent Married	Never Incarcerated	10.220	Previously Incarcerated	1.430	-8.790
Mean Percent Urban Background	Never Incarcerated	21.870	Never Incarcerated	24.188	2.318

Table 7-4. , Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Prison Sentence	Difference	Longer Prison Sentence	Difference	
<u>Judicial Activism and Experience</u>					
Mean Years Other Judicial Experience	Previously Incarcerated	.890	Never Incarcerated	4.577	3.777
<u>Judicial Electoral Vulnerability and Local Involvement</u>					
Mean Times Elected	Never Incarcerated	1.246	Previously Incarcerated	3.278	2.032
Mean Community Organizations	Never Incarcerated	2.000	Never Incarcerated	7.760	5.760

Note: The sentence lengths, particularly those we found for women when considering judicial composition, cannot be taken literally. No offender received a sentence longer than 42 years, the numerical value assigned to life imprisonment or the death penalty. Predicted sentences capture only the effects of varying one possible determinant of prison terms. Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

and magnitude of differential treatment as well as those court variables that condition differential treatment most strongly. As before, predicted outcomes are based on interactive models that include (and control for the effects of) the remaining case and court variables.

Offender Sex. Contrary to expectation, males receive longer prison sentences than females in only a minority of instances (32%). This differential treatment becomes more pronounced as probation departments become large and as more judges are married. Treatment becomes more similar, though not identical, with increases in prosecutor caseload and the use of guilty pleas or dismissals.

The more common pattern, occurring in 68% of all significant interactions, indicates that females receive significantly longer prison sentences. Indeed, not only does harsher treatment occur more often, it is also more pronounced.<sup>1</sup> Several court characteristics exacerbate these disparities, namely, courts composed predominantly of male, urban background, and professionally active and experienced judges. Differential treatment becomes less pronounced as more judges are married, non-local, or have government experience.

Offender Race. We found no predominant pattern of discrimination against whites or blacks. Rather, in half of all instances, blacks receive longer sentences than whites. In general, differential treatment becomes more pronounced, with disparities increasing as plea bargaining becomes more common, and as more judges are male, have prior experience as judge, and belong to community organizations.

It is just as often the case, though, that whites receive longer prison sentences. Disparities against these offenders widen as prosecutors experience heavier caseloads and as judges become older or established. They decline as plea bargaining becomes more common and as more judges are

male or have urban backgrounds.

Offender Age. We also found no predominant pattern of discrimination against young offenders. In half of all instances involving significant interactions, their sentences are longer. Differential treatment declines markedly as more judges are married. Noteworthy increases in disparities occur as more judges have urban backgrounds, are electorally vulnerable, and have served previously in government. The latter two results support our expectation that electoral vulnerability and local involvement exacerbate disparities against disadvantaged or more threatening offenders.

Disparities operating against older offenders are as common, but more pronounced. They average 5.8 years, while the average disparity against young offenders is 3.3 years. Differential treatment declines somewhat (though still persists) as prosecutors experience caseload pressure, use guilty pleas as a method of conviction, are established, and are electorally vulnerable. Harsher treatment of older offenders intensifies in courts whose judges have district attorney experience or are involved in the community. Recall that we had expected harsher treatment of younger offenders to intensify in these circumstances. Our results indicate that this is not the case.

Offender Marital Status. In a substantial minority of all instances (42%), unmarried offenders receive longer sentences. This differential treatment declines sharply as more judges are married, a finding opposite that we had expected. It is more often the case that disparities against the unmarried become more pronounced. This is the case as more judges have urban backgrounds, are non-local or professionally active, have previous experience as district attorney, or are electorally vulnerable. Note that we had expected professional activism to reduce differential treatment. In

this case it does not. As expected, however, electoral vulnerability and district attorney experience serve to exacerbate differential treatment of the disadvantaged.

Offender Employment Status. The predominant pattern here is for unemployed offenders to receive significantly longer prison sentences than their employed counterparts. In some instances, differential treatment declines, often sharply. For example, treatment becomes more similar, though hardly identical, as probation departments become large and as more judges have urban backgrounds or are electorally vulnerable. It is more often the case that harsher treatment becomes more pronounced. Noteworthy increases in disparities occur as prosecutor caseload and electoral vulnerability increase, and as more judges are older, non-local, professionally active, or involved in government.

Longer sentences for employed offenders occurs much less frequently (23% of all instances). Here, too, the general tendency is for differential treatment to become more pronounced. This is the case as prosecutors use dismissals or guilty pleas, and as more judges are married, have previous judicial experience, once served as district attorney, or are established. None of these findings are consistent with our expectation, for we had thought that district attorney experience would exacerbate harsher treatment of the unemployed, rather than the employed. We had also expected judicial experience and electoral vulnerability to foster more even-handed treatment.

Violent v. Victimless Crime. In a minority of cases (38%), violent offenders receive slightly longer sentences than victimless offenders. Caseload pressure reduces this disparity somewhat, while increases in the size of probation departments exacerbate differential treatment.

Contrary to our original expectation, harsher treatment of victimless offenders is both more common (62%) and more pronounced ( $\bar{X} = 9.16$  vs.  $\bar{X} = 2.94$ ). Again, court characteristics strongly condition the magnitude of this disparity. Differential treatment becomes more pronounced with lower court assistance and where judges are professionally active, have previous experience as judge, or are electorally vulnerable. Disparities decline and treatment becomes much more similar as prosecutors experience heavier caseloads and as more judges are married, have experience in government, or are established.

Violent v. Property Crime. Here, too, harsher treatment of violent offenders occurs less frequently (35%) and is less pronounced ( $\bar{X} = 2.9$  vs.  $\bar{X} = 4.4$  years). Differential treatment intensifies as prosecutor caseload increases and as more judges are married or have previous experience as district attorneys. Prosecutor caseload, as well as urban background and government service, operate to the advantage of property offenders, reducing the harsher treatment they experience. It is more often the case, however, that disparities widen, resulting in more dissimilar treatment. This occurs with greater lower court assistance, prosecutor use of dismissals or electoral vulnerability, and as more judges have non-local backgrounds or are electorally vulnerable.

Prior Arrests. In only half of all instances do judges sentence offenders with prior arrests to longer periods of incarceration than their counterparts who had never been arrested. Few court contexts condition the effect of prior arrests, however. Harsher treatment of offenders with prior arrests becomes more pronounced as more judges are married, and less pronounced as more judges are non-local. Harsher treatment of offenders

without prior arrests declines as prosecutors become more established or electorally more vulnerable.

Prior Incarceration. The predominant pattern for this measure of prior record is surprising. It indicates that judges sentence offenders without prior incarcerations more severely than those with a previous incarceration. Indeed, harsher treatment of these offenders is not only more common, it is also more pronounced ( $\bar{X} = 9.0$  years vs.  $\bar{X} = 1.9$  years). Disparities decline markedly as more judges are married. They become more pronounced as prosecutors become electorally more vulnerable and as judges come from urban backgrounds, have previous experience in other judicial capacities, or are involved in community organizations. Recall that we had expected electoral vulnerability and community involvement to exacerbate disparities against more dangerous or threatening offenders. These results indicate that they generate more pronounced disparities against offenders who may appear less threatening or dangerous.

Harsher treatment of offenders with prior incarcerations occurs less frequently and is relatively weak. Disparities against these offenders increase with prosecutor caseload and, contrary to expectation, widen as judges become more established.

Discussion. In this section, we focus attention on court contexts to consider their general implications for differential treatment. Appendix Table VII-A reformats the results presented in Table 7-4 to facilitate this discussion.

We expected bureaucratization to affect the direction and magnitude of differential treatment based on offender social background. Arguing from a Weberian position, we expected treatment to become more even-handed as bureaucratization increased. In contrast, the position taken by conflict

theorists contends that bureaucratization would intensify discrimination against disadvantaged offenders.

We found some support for the Weberian position. Bureaucratization reduced (but seldom eliminated) differential treatment, particularly that experienced by more disadvantaged offenders (e.g., young, unmarried, black, female, unemployed). To a lesser extent, bureaucratization intensified differential treatment based on legally relevant factors. For example, lower court assistance exacerbated disparities against non-violent offenders, by producing larger reductions in the sentences imposed on violent offenders. In contrast, disparities against violent offenders became more pronounced as probation departments became larger. This occurred because judges showed more pronounced lenience toward property and victimless offenders. Thus, while bureaucratization tended to result in more even-handed treatment based on social background, it generated stronger differential treatment based on offense factors. Moreover, in contrast to split sentences, bureaucratization did not always benefit violent offenders when judges considered imposing a straight prison term.

The caseload experienced by prosecutors also had implications for disparities. In general, caseload increased prison sentences, with more threatening offenders (e.g., young, unemployed, violent, previously incarcerated) experiencing larger increases. As a result, disparities against male, older and non-violent offenders declined, while disparities against white, unemployed, violent, and previously incarcerated offenders increased.

As prosecutors relied more on dismissals, the sentences especially of married, unemployed, and violent offenders declined. In contrast, a

reliance on guilty pleas tended to generate longer prison sentences. Plea bargaining proved more costly to three groups of relatively disadvantaged offenders, namely, females, blacks, and the young. But it also proved more costly for, that is, produced larger increases in the sentences of, employed rather than unemployed offenders. Thus there is an exception to the general tendency for plea bargaining to benefit relatively advantaged offenders.

We expected the relative invulnerability of district attorneys to generate more lenient sentences, and for more serious or threatening offenders to be the beneficiaries of this lenience. Conversely, we expected sentences to become more severe where prosecutors were electorally vulnerable. In these situations, we thought that offenders who appear more threatening to the community would be singled out for particularly harsh treatment. Support for these expectations was mixed.

Contrary to expectation, sentences were longer where prosecutors had been reelected often and therefore were presumably established. Moreover, younger, unmarried, and previously-arrested offenders bore more of the cost of these increases than did their counterparts. As expected, however, prosecutor vulnerability fostered longer sentences, with increases being more pronounced for relatively more threatening offenders (e.g., young, unmarried, unemployed, violent, previously arrested). It was also the case, though, that prosecutor vulnerability proved more costly for two groups of less threatening offenders, namely, females and the never-incarcerated.

Our general expectation about judicial characteristics was that judicial-offender similarity would generate lenience, while dissimilarity would generate severity. Again, five comparisons were possible: gender,



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age, marital status, rural-urban background, and local vs. non-local background.

First, we expected that predominantly male courts would sentence males more leniently, while courts with some women would sentence female offenders more leniently. We found some support for this expectation. As the bench became predominantly male, sentences become longer with increases being more pronounced for female than for male offenders. We also found that the gender composition of the bench affected racial disparities. Predominantly male benches were more intolerant of black offenders than courts where some judges were female.

Second, we expected younger judges to sentence younger offenders more leniently. Conversely, we expected older offenders to be at an advantage if sentenced in older courts. We found that judicial age had no implications for disparities based on age. Rather, older judges imposed shorter sentences. Black, employed, and never-incarcerated offenders benefited more than their counterparts from this leniency.

Our third expectation was that as courts consist predominantly of married judges, they would impose more lenient sentences on married offenders. We found no support for this hypothesis. Rather, the leniency that characterizes courts composed of married judges was more pronounced for unmarried offenders. In addition, lenience was more pronounced for several other groups of offenders, namely, female, younger, unemployed, non-violent, previously arrested, and never-incarcerated offenders. Thus, courts composed of married judges appeared more intolerant of male, employed, and violent offenders. In contrast, courts consisting of some single judges appeared more intolerant of female, young, unmarried, victimless, and never-incarcerated offenders.

Fourth, we expected judges from urban backgrounds to be more lenient toward offenders with urban backgrounds. Conversely, we expected rural judges to be more lenient toward rural offenders. We found that the background of judges had no implications for treatment based on the background of the offender. Rather, it affected treatment based on other offender and offense attributes. In general, judges from urban backgrounds were more punitive than judges from rural backgrounds. Furthermore, severity was more pronounced for certain groups of offenders. Some of these could be considered more threatening to the community (e.g., black, young, unmarried, violent). Others could be considered less threatening (e.g., female, employed, never-incarcerated).

In short, differential treatment did not decline as courts become more urban in composition. Rather, the offenders experiencing harsher treatment merely changed. Judges from rural backgrounds appeared more intolerant than their urban colleagues of white, unemployed, and property offenders. Judges from urban backgrounds appeared more intolerant than their rural colleagues of female, young, unmarried, and never-incarcerated offenders.

Finally, we expected that local judges would sentence Georgia natives more leniently than non-local judges. We found no support for this expectation. While sentences became shorter as courts were composed of non-local judges, female, black, married, employed, victimless, and previously-arrested offenders benefited more from this lenience than others.

Thus, while courts composed of local judges were more severe than non-local courts, they were not more particularistic in their sentencing. Differential treatment occurred in both kinds of courts. Local judges appeared slightly more intolerant of female, victimless, and previously

arrested offenders. Non-local judges appeared more intolerant of unemployed, unmarried, and property offenders.

Turning attention to professional activism, we expected more even-handed treatment of offenders where judges were professionally active. In general, we found that professional activism exacerbated rather than reduced disparities, particularly those that operated against female, white, younger, married, unemployed and victimless offenders. Professional activism generated more pronounced lenience toward male, older, married and employed offenders. It tended to generate more pronounced harshness toward white and victimless offenders.

Previous experience in other judicial capacities also increased differential treatment. Here, female, black, employed, victimless, and never-incarcerated offenders bore more of the cost, since they experienced more pronounced increases in their sentences. We expected district attorney experience to generate longer sentences and to intensify discrimination against more dangerous or threatening offenders. We found no support for this expectation. Rather, sentences became shorter, and reductions were more pronounced for younger, unemployed, married and non-violent offenders. Particularly unanticipated was the pronounced lenience younger and unemployed offenders received.

Our expectations about the electoral vulnerability and local involvement of judges were only partly supported. As expected, established judges imposed shorter sentences than less established judges, singling out black, unemployed, non-violent, and never-incarcerated offenders for greater leniency. But vulnerability generated shorter sentences and benefited offenders we expected would be more harshly treated (e.g., black,

unemployed, violent). Harshness toward blacks and the unemployed was most pronounced where judges were the least vulnerable. Harshness toward white, younger, unmarried, and non-violent offenders was most pronounced where judges were the most vulnerable. Only the results for age and marital status support our expectations.

Finally, community involvement did not generate the longer sentences we expected. Rather, it decreased the sentences, particularly of white, younger, unmarried, and previously incarcerated offenders. In contrast, government involvement operated as expected, generating longer sentences, particularly for male, younger, unemployed and violent offenders.

#### ANALYSIS OF COUNTY CONTEXT

##### ADDITIVE MODELS

Logistic analysis predicting the probability of receiving a straight prison term (not shown) indicated that imprisonment is more likely for male, black, older, more serious, and violent offenders. Straight prison terms become less likely as the division of labor becomes more complex (a finding consistent with our original expectation). They also become less likely as stranger-to-stranger Index crimes become more common.

Finally, straight prison terms are more likely in counties that are urbanized, highly unequal, predominantly black, have high voter participation, are politically conservative (i.e., have strong Wallace or Reagan support), or have serious crime problems (i.e., more residential Index crimes, high proportions of young arrestees).

Table 7-5 presents the result for the equation of substantive interest, length of prison sentences. Controlling for characteristics of the county, sentences continue to be longer for female, white, property and

Table 7-5. Regression Coefficients and Related Statistics for Prison Sentences, County Context Models

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	$\beta$	b (SE)	$\beta$
Intercept	59.722 (1.825)		114.000 (3.638)	
Probability of Non-prison sentence	-37.928 (.296)	-.937*	-40.397 (.375)	-.986*
<u>Case Characteristics</u>				
Offender Sex	-5.768 (.184)	-.139*	-7.400 (.212)	-.183*
Offender Race	1.988 (.099)	.097*	2.396 (.115)	.116*
Offender Age	.057 (.005)	.049*	.036 (.006)	.032*
Offender Marital Status	-.296 (.103)	-.013*	-.361 (.121)	-.015*
Offender Employment Status	.463 (.103)	.020*	.395 (.120)	.017*
Offender Urban Background	-.342 (.047)	-.035*	-.216 (.059)	-.022*
Offender Georgia Native	-.529 (.108)	-.025*	.058 (.131)	.003
Type of Crime I (Violent v. Victimless)	3.795 (.175)	.133*	4.843 (.203)	.177*
Type of Crime II (Violent v. Property)	2.503 (.141)	.125*	3.604 (.167)	.182*
Prior Arrests	.032 (.010)	.018*	.036 (.011)	.022*
Prior Incarceration	.179 (.116)	.008	.170 (.130)	.008
<u>Urbanization</u>	-3x10 <sup>-5</sup> (9x10 <sup>-7</sup> )	-.461*	-9x10 <sup>-5</sup> (3x10 <sup>-5</sup> )	-.539*
<u>Economic Inequality</u>				
Income Inequality	-29.239 (3.454)	-.117*	-141.227 (6.963)	-.574*
Percent Black	-.005 (.008)	-.007		-.b

Table 7-5., Continued

Variable	Model 1		Model 2 <sup>a</sup>	
	b (SE)	$\beta$	b (SE)	$\beta$
<u>Occupational Division of Labor</u>	1.503 (.102)	.151*	1.160 (.170)	.092*
<u>Political Characteristics</u>				
Voter Participation	-.235 (.012)	-.104*	-.125 (.024)	-.049*
Percent Wallace Vote	-.133 (.012)	-.083*	-.260 (.028)	-.128*
Percent Reagan Vote	-.174 (.010)	-.104*	-.101 (.016)	-.056*
<u>Crime Characteristics</u>				
Percent Stranger-stranger Index Crimes	.051 (.008)	.034*	.063 (.017)	.036*
Percent Residential Index Crimes	-.055 (.010)	-.056*	-.291 (.022)	-.282*
Percent Index Crimes occurring at Night	-.023 (.006)	-.025*	.110 (.014)	.126*
Percent Black Arrestees		- <sup>c</sup>	.113 (.011)	.176*
Percent Young Arrestees	.037 (.009)	.025*	-.027 (.019)	-.014
<u>Press Coverage of Crime</u>				
Articles/Issue			-.523 (.042)	-.199*
Prominence of Coverage			-.211 (.007)	-.249*
Local Crime Coverage			-.061 (.005)	-.195*
Violent Crime Coverage			-.045 (.005)	-.052*

Table 7-5., Continued

Variable	Model 1	Model 2 <sup>a</sup>
R <sup>2</sup>	.578	.567
N	3513	1227

Note: b = metric coefficient; SE = standard error of coefficient;  
 $\beta$  = standardized regression coefficient.

<sup>a</sup>Model 2 is based on the subset of cases for which newspaper coverage of crime was available.

<sup>b</sup>Percent black could not be included in this equation because of collinearity problems with income inequality.

<sup>c</sup>For the total sample, percent black arrestees is a component of the measure for urbanization. See *supra*, p. 220.

\*  $p \leq .01$ .

victimless offenders. Neither prior record nor the remaining social background characteristics affect prison sentences.

Urbanization has the strongest effect on prison sentences and tends to result in shorter prison terms. We had expected inequality to generate longer prison sentences. Instead, we find that sentences become shorter as income inequality becomes more pronounced. Our expectation about the division of labor is also unsupported. Sentences become longer, rather than shorter, as the division of labor becomes more complex.

Turning to consider the political structure of counties, we find that prison sentences become longer as voter participation increases. Contrary to expectation, however, prison sentences are shorter in conservative counties. We also find that, except for the subset of cases for which press coverage of crime was available, indicators of the crime problem in the community have little effect. Recall, however, that for the sample as a whole, urbanization is a linear composite that includes three measures of county crime (Index crime rate, percent Index crimes involving weapons, percent black arrestees). Implied in the coefficient for urbanization is the tendency for more serious crime problems to generate shorter, rather than longer, sentences. This result fails to support our original expectation. Note, though, that analysis based on the subsample produced different results. It indicates that as residential Index crimes become more common, sentences decline. In contrast, and as expected, prison sentences become longer as nighttime Index crimes become more common and as more blacks are arrested.

Finally, we expected press coverage to operate in the same way as official measures of crime, that is, to increase prison sentences. We find

the opposite. Sentences become shorter as press coverage becomes more extensive, more prominent, and more focussed on local crime.

#### INTERACTIVE MODELS

Table 7-6 presents the results of analysis that tests for the significance of interactions between case and county attributes. The division of labor exerts the most pervasive conditioning effect. All possible interactions are significant ( $p \leq .01$ ). In descending order, less pervasive effects are exerted by press coverage of crime (83%), political characteristics (78%), crime characteristics (64%), urbanization (60%), and economic inequality (39%).

Case attributes also vary in their responsiveness to county differences. Again, there is no tendency for social background factors to respond more than legally relevant factors to county variation. Offender sex is the most contextually sensitive (65%), followed by race, employment status and the violent-property crime comparison (55%), offender age and prior arrests (55%), and offender marital status, prior incarceration, and the violent-victimless crime comparison (45%).

In the sections that follow, we examine each case attribute, identifying those county contexts that condition the magnitude and extent of disparity. Table 7-7 summarizes these results.

Offender Sex. Contrary to expectation, it is most often the case (77%) that female offenders receive longer sentences than male offenders. Moreover, disparities against women are more pronounced than those against males, averaging 7.6 years (vs. 3.5 years, the average of disparities that disadvantage males). Disparities decline sharply as crime problems become more serious and as press coverage of crime becomes more prominent and

Table 7-6. Coefficients of Determination for Additive and Interactive Models predicting Prison Sentences, County Context Models

County Characteristic	Proportion of Explained Variance		% Increase
	Additive Model	Interactive Model	
Urbanization	.595	.613	1.8
Economic Inequality	.580	.591	1.1
Division of Labor	.578	.584	.6
Political Characteristics	.579	.594	1.5
Crime Characteristics	.578	.594	1.6
Press Coverage of Crime	.563	.596	3.3

Note: All increases in proportion of explained variance significant at  $p \leq .001$ .

Table 7-7. Summary of Case and County Interactions for Prison Sentences

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Difference	Longer Prison Sentence	Difference	
OFFENDER SEX					
<u>Urbanization</u>	Female	6.158	Female	7.727	1.569
<u>Economic Inequality</u>					
Income Inequality	Female	.904	Female	9.871	8.967
<u>Occupational Division of Labor</u>	Female	.578	Female	6.569	5.990
<u>Political Characteristics</u>					
Voter Participation	Female	5.751	Female	8.080	2.329
Percent Wallace Vote	Female	3.078	Male	3.024	-.054
Percent Reagan Vote	Female	.190	Male	6.490	6.300
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Female	9.960	Male	2.342	-7.618
Percent Residential Index Crimes	Female	9.960	Male	2.094	-7.866
Percent Young Arrestees	Female	9.960	Female	15.560	5.600
<u>Press Coverage of Crime</u>					
Articles/Issue	Female	7.862	Female	19.761	11.899
Prominence of Coverage	Female	6.790	Male	3.070	-3.720
Local Crime Coverage	Female	6.938	Female	10.590	3.652
Violent Crime Coverage	Female	6.790	Male	4.210	-2.580

Table 7-7., Continued

County Characteristics	<u>Minimum County Value</u>		<u>Maximum County Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER RACE					
<u>Economic Inequality</u>					
Percent Black	White	.733	Black	5.039	4.306
<u>Occupational Division of Labor</u>	White	3.016	White	1.519	-1.498
<u>Political Characteristics</u>					
Voter Participation	Black	5.483	Black	4.604	-.879
Percent Wallace Vote	Black	6.048	Black	2.376	-3.672
Percent Reagan Vote	Black	4.160	White	.160	-4.000
<u>Crime Characteristics</u>					
Percent Index Crimes occurring at Night	White	5.820	White	2.192	-3.628
Percent Young Arrestees	White	5.820	White	3.370	-2.450
<u>Press Coverage of Crime</u>					
Articles/Issue	White	8.565	White	4.402	-4.163
Prominence of Coverage	White	8.940	White	2.140	-6.800
Local Crime Coverage	White	8.878	White	7.340	-1.538
Violent Crime Coverage	White	8.940	White	4.740	-4.200



Table 7-7.. Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
OFFENDER AGE					
<u>Urbanization</u>	Younger	.541	Younger	1.700	1.158
<u>Occupational Division of Labor</u>	Older	3.414	Younger	.741	-2.673
<u>Political Characteristics</u>					
Percent Reagan Vote	Older	.312	Older	3.192	2.880
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Younger	1.764	Younger	4.856	3.092
Percent Residential Index Crimes	Younger	1.764	Older	2.172	.408
Percent Index Crimes occurring at Night	Younger	1.764	Older	2.286	.522
<u>Press Coverage of Crime</u>					
Articles/Issue	Older	9.888	Older	1.097	-8.791
Prominence of Coverage	Older	10.680	Older	11.190	.510
Local Crime Coverage	Older	10.446	Older	4.680	-5.766
Violent Crime Coverage	Older	10.680	Older	7.080	-3.600
OFFENDER MARITAL STATUS					
<u>Urbanization</u>	Unmarried	.818	Unmarried	1.662	.884

Table 7-7., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
<u>Occupational Division of Labor</u>	Married	2.487	Unmarried	1.164	-1.323
<u>Political Characteristics</u>					
Voter Participation	Unmarried	.427	Married	1.980	1.553
Percent Wallace Vote	Unmarried	2.200	Married	4.820	2.620
Percent Reagan Vote	Unmarried	4.060	Unmarried	6.740	2.680
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Married	.636	Married	7.399	6.763
Percent Young Arrestees	Married	.636	Unmarried	4.514	3.878
<u>Press Coverage of Crime</u>					
Articles/Issue	Married	3.342	Married	.367	-2.975
Local Crime Coverage	Married	3.481	Married	.310	-3.171
OFFENDER EMPLOYMENT STATUS					
<u>Urbanization</u>	Employed	.639	Employed	1.001	.362
<u>Economic Inequality</u>					
Income Inequality	Employed	1.652	Unemployed	4.225	2.574
Percent Black	Employed	10.220	Employed	13.964	3.744
<u>Occupational Division of Labor</u>	Unemployed	1.277	Employed	.997	-.280

Table 7-7., Continued

County Characteristics	<u>Minimum County Value</u>		<u>Maximum County Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
<u>Political Characteristics</u>					
Percent Wallace Vote	Unemployed	3.198	Unemployed	7.896	4.698
Percent Reagan Vote	Unemployed	1.350	Employed	1.650	.300
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Employed	2.270	Unemployed	2.754	.484
Percent Index Crimes occurring at Night	Employed	2.270	Unemployed	1.105	-1.165
<u>Press Coverage of Crime</u>					
Articles/Issue	Unemployed	8.217	Unemployed	5.076	-3.141
Local Crime Coverage	Unemployed	8.368	Unemployed	5.100	-3.268
Violent Crime Coverage	Unemployed	8.500	Employed	2.200	-6.300
TYPE OF CRIME I (Violent v. Victimless)					
<u>Occupational Division of Labor</u>	Violent	.930	Victimless	4.503	3.573
<u>Political Characteristics</u>					
Voter Participation	Violent	3.466	Violent	5.528	2.062
Percent Wallace Vote	Violent	2.364	Violent	14.028	11.664
Percent Reagan Vote	Victimless	6.440	Victimless	22.320	15.880
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Violent	2.740	Victimless	9.369	6.629

Table 7-7., Continued

County Characteristics	<u>Minimum County Value</u>		<u>Maximum County Value</u>		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Percent Residential Index Crimes	Violent	2.740	Victimless	1.688	-1.052
<u>Press Coverage of Crime</u>					
Prominence of Coverage	Victimless	1.840	Victimless	10.255	8.415
Local Crime Coverage	Victimless	1.957	Victimless	4.840	2.883
Violent Crime Coverage	Victimless	1.840	Violent	3.360	1.520
TYPE OF CRIME II (Violent v. Property)					
<u>Economic Inequality</u>					
Income Inequality	Property	4.339	Property	1.430	-2.909
<u>Occupational Division of Labor</u>	Violent	.876	Property	2.648	1.773
<u>Political Characteristics</u>					
Voter Participation	Property	3.624	Property	2.096	-1.528
Percent Wallace Vote	Property	4.232	Violent	7.216	2.984
Percent Reagan Vote	Property	7.980	Property	13.780	5.800
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Violent	2.610	Property	5.184	2.574
Percent Index Crimes occurring at Night	Violent	2.610	Property	1.102	-1.508

Table 7-7., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change In Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
<u>Press Coverage of Crime</u>					
Articles/Issue	Violent	.036	Property	6.668	6.632
Prominence of Coverage	Violent	.640	Property	7.435	6.795
Local Crime Coverage	Violent	.504	Property	2.860	2.356
Violent Crime Coverage	Violent	.640	Violent	8.340	7.700
PRIOR ARRESTS					
<u>Urbanization</u>	Previously Arrested	.464	Previously Arrested	.836	.362
<u>Economic Inequality</u>					
Income Inequality	Previously Arrested	.446	No Prior Arrests	3.343	2.987
Percent Black	Previously Arrested	5.970	Previously Arrested	9.480	3.510
<u>Occupational Division of Labor</u>	No Prior Arrests	1.435	Previously Arrested	.577	- .858
<u>Political Characteristics</u>					
Voter Participation	Previously Arrested	5.476	No Prior Arrests	.636	-4.840
Percent Wallace Vote	Previously Arrested	11.060	Previously Arrested	7.820	-3.240
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Previously Arrested	1.040	No Prior Arrests	6.689	5.649
<u>Press Coverage of Crime</u>					
Articles/Issue	Previously Arrested	.660	Previously Arrested	4.101	3.441
Local Crime Coverage	Previously Arrested	.545	Previously Arrested	5.350	4.805

Table 7-7., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Difference	Longer Prison Sentence	Difference	
Violent Crime Coverage	Previously Arrested	.350	No Prior Arrests	8.650	8.300
PRIOR INCARCERATION					
<u>Urbanization</u>	Never Incarcerated	.008	Never Incarcerated	.611	.603
<u>Occupational Division of Labor</u>	Previously Incarcerated	2.388	Never Incarcerated	.368	-2.020
<u>Political Characteristics</u>					
Percent Reagan Vote	Never Incarcerated	.710	Previously Incarcerated	5.930	5.220
<u>Crime Characteristics</u>					
Percent Stranger-Stranger Index Crimes	Never Incarcerated	6.310	Never Incarcerated	2.574	-3.736
Percent Residential Index Crimes	Never Incarcerated	6.310	Never Incarcerated	1.062	-5.248
Percent Young Arrestees	Never Incarcerated	6.310	Never Incarcerated	.460	-5.850
<u>Press Coverage of Crime</u>					
Articles/Issue	Previously Incarcerated	.598	Never Incarcerated	5.540	4.942
Local Crime Coverage	Previously Incarcerated	1.057	Never Incarcerated	1.249	.192
Violent Crime Coverage	Previously Incarcerated	1.151	Previously Incarcerated	8.751	7.600

Note: Predicted sentences capture only the effects of varying one possible determinant of prison terms (e.g., urbanization). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

focussed on violent crime. However, several county contexts exacerbate the differential treatment of women, namely, increases in the division of labor, voter participation, the percent of young arrestees, and the extensiveness and local focus of press coverage.

As noted above, harsher treatment of males occurs less often and is less strong. It becomes more pronounced as counties become more conservative, and as press coverage becomes more prominent or focused on violent crime. These findings support our expectation that conservatism and serious crime problems would exacerbate differential treatment of more threatening offenders.

Offender Race. We found no consistent pattern of discrimination against black offenders. Rather, it is more often the case (63%) that judges impose longer sentences on white rather than black offenders. In general, however, these disparities decline (though still persist), particularly as crime problems become more serious and more salient in the press.

Harsher treatment against blacks occurs less often. As expected, it becomes more pronounced as counties contain more blacks. Recall that we had expected conservatism to exacerbate disparities against the disadvantaged. Instead we find that differential treatment declines as counties become more conservative.

Offender Age. Our reading of conflict theory led us to expect that judges would treat younger offenders more punitively. This is the case in only a minority (35%) of instances involving interactions. As expected, differential treatment of the young becomes more pronounced as more Index crimes involve strangers. But it becomes less pronounced as more Index crime occur in residences or at night -- findings inconsistent with expectation.

The more common pattern (65%) is for older offenders to receive longer sentences. Moreover, disparities against these offenders are more pronounced than those that disadvantage young offenders ( $\bar{X} = 5.9$  years vs.  $\bar{X} = 1.9$  years). We had expected political conservatism and serious crime problems to exacerbate disparities against the young. Instead, we find that political conservatism and serious crime problems exacerbate disparities against older offenders. Extensive, local, violent crime coverage sharply reduces, but does not eliminate, these disparities.

Offender Marital Status. We had expected unmarried offenders to be treated more severely than their married counterparts. Analysis suggests that this is the case in only a substantial minority of instances (44%). As expected, these disparities increase with strong Reagan support and as more young persons are arrested.

Disparities that operate to the disadvantage of married offenders are more common. They decline sharply as press coverage becomes more extensive and focuses on local crime. Strong voter participation, Wallace support, and large proportions of Index crimes involving strangers all serve to increase the harsher treatment married offenders receive. We had expected conservatism and serious crime problems to intensify discrimination against unmarried rather than married offenders.

Offender Employment Status. Our expectation that unemployed offenders would be more harshly treated was supported. In the majority of instances (55%), these offenders receive longer sentences than their employed counterparts. Also as expected, inequality, conservatism, and serious crime problems exacerbate these disparities. But contrary to expectation, differential treatment declines (but still exists) as press coverage of crime becomes extensive and focuses on local or violent crime.

We also found some situations where employed offenders are more harshly treated. One trend merits emphasis: harsher treatment of employed offenders becomes more pronounced as counties contain more blacks. If anything, we had expected disparities against the relatively advantaged to decline as counties contained more blacks. This was not the case.

Violent v. Victimless Crime. In a minority of instances (44%), violent offenders receive longer sentences than victimless offenders. These disparities increase as voter participation, Wallace support and violent crime coverage increases. The last two findings support our original expectation of intensified harshness in counties that are conservative or have serious crime problems.

The predominant trend, however, is for greater punitiveness toward victimless offenders. Indeed, disparities against these offenders are slightly stronger than those against violent offenders, averaging 6.5 years (vs. 4.4 years). In general, differential treatment of victimless offenders becomes more pronounced. Noteworthy increases occur as the division of labor becomes more complex, Reagan support stronger, stranger-stranger Index crimes more common, and crime coverage more extensive and focused on local crime.

Violent vs. Property Crime. This comparison yields similar findings. Violent offenders do not always receive longer sentences than property offenders. Disparities tend to increase with Wallace support and violent crime coverage in the press. Both these results support our expectations. However, differential treatment of violent offenders becomes less rather

than more pronounced as crime problems become more serious (i.e., more Index crimes occurring at night or involving strangers).

Differential and harsher treatment of property offenders is both more common and more pronounced ( $\bar{X} = 4.9$  years vs.  $\bar{X} = 2.6$  years). Disparities respond to both the political and crime characteristics of the county. They decline sharply with greater voter participation and Wallace support. They increase markedly with Reagan support, more serious crime problems (i.e., stranger-stranger Index crimes), and more extensive, prominent, local crime coverage.

Prior Arrests. As expected, offenders with prior arrests are more harshly treated than their counterparts. This differential treatment declines sharply with voter participation and Wallace support. Recall that we had expected conservatism to increase differential treatment of more threatening offenders. As expected, through disparities against arrested offenders increases as counties contain more blacks and as press coverage of crime becomes more extensive and focused on local crime.

In a few instances (25%), never-arrested offenders receive longer sentences. Contrary to expectation, income inequality, more serious crime problems, and violent crime coverage all increase this differential treatment.

Prior Incarceration. The pattern for our second measure of prior record is less supportive of our expectation. In a minority of instances (39%), previously incarcerated offenders receive longer sentences. As the division of labor becomes more complex, these disparities decline. As Reagan support becomes strong and violent crime coverage increases, differential treatment becomes more pronounced. The latter two findings support our expectation.



As noted above, it is more often the case that offenders without prior incarcerations receive longer sentences. These disparities decline sharply as crime problems become more serious, but increase as press coverage becomes extensive.

Discussion. We shift attention now from case attributes to the county contexts themselves, examining the extent to which they shape disparities. Appendix Table VII-B reformats the results presented in Table 7-7 to conform with our focus.

We expected urbanization to generate more even-handed treatment, that is, to reduce disparities based on social background characteristics. Instead, we found some slight tendency for differential treatment to increase with urbanization. These increases affected both relatively disadvantaged (e.g., female, younger, unmarried, previously arrested) as well as advantaged (e.g., employed, never-incarcerated) offenders. No increase was particularly pronounced, however.

We held two expectations about the operation of economic inequality. First, we expected the sentences particularly of property offenders to become more severe as inequality increased. We found no support for this expectation. Inequality increased the sentences particularly of violent offenders. It thereby reduced rather than increased differential treatment of property offenders. Indeed, property offenders were the most severely treated in the least unequal counties.

Second, we expected inequality to exacerbate discrimination against the disadvantaged. We found some support for this expectation. The increased severity that accompanied income inequality was more pronounced for female and unemployed offenders. The severity that accompanied larger percents of black residents was more pronounced for black than for white

offenders. One counterexample merits attention. As indicated by percent black, inequality operated against employed offenders, generating larger increases in their sentences than in the sentences of unemployed offenders.

Inequality also exacerbated disparities based on legally relevant variables. Income inequality generated more pronounced harshness against offenders who had never been arrested. In contrast, percent black generated more pronounced harshness toward offenders who had been arrested in the past.

Contrary to expectation, the division of labor did not result in shorter prison sentences. Rather it increased sentences, and generated sharper increases for more threatening (e.g., black, younger, unmarried, previously arrested) as well as for relatively less threatening offenders (e.g., female, employed, non-violent, never-incarcerated).

Though we held no explicit expectations for voter participation, we found that sentences were longer in politically active counties. Moreover, increases in severity proved more costly for some offenders (e.g., female, white, married, violent, never-arrested) than for others.

We expected political conservatism, serious crime problems, and salient press coverage of crime to increase prison sentences and to intensify harshness toward offenders who appear more threatening to the community.

The results for political conservatism failed to support our expectations. In general, sentences were shorter rather than longer in conservative counties. Moreover, conservatism tended to generate more pronounced lenience for offenders we least expected to receive it, namely, black, younger, unmarried, and previously arrested offenders. Conservatism

did exacerbate disparities against some more threatening offenders (e.g., unemployed and violent offenders where Wallace support was strong; male, previously incarcerated, and unmarried offenders where Reagan support was strong). We had expected this to happen. But conservatism also reduced the differential treatment black and previously arrested offenders received. Moreover, it exacerbated disparities against relatively advantaged offenders (e.g., married offenders where Wallace support was strong; older and employed offenders where Reagan support was strong).

We also found little support for expectations about objective indicators of the crime problem in the county. As expected, sentences became longer as more young offenders were arrested. These increases were greater for black, unmarried, and previously incarcerated offenders. It was more often the case that sentences became shorter as crime problems became more serious. Moreover, the reductions in sentences that accompanied more stranger-to-stranger Index crimes were greater for violent, previously arrested, and unmarried offenders--precisely those we expected would benefit the least. Similarly, the reductions in sentences that accompanied more residential Index crime benefited violent and younger offenders more than their counterparts. We anticipated none of these patterns.

Support for expectations about press coverage of crime was also mixed. As expected, extensive or local coverage of crime produced more pronounced increases in the sentences imposed on black, younger, unmarried, and previously arrested offenders. But this kind of coverage also proved more costly for less dangerous offenders (e.g., female, older, employed, non-violent, and never-incarcerated).

Also contrary to expectation, press coverage that was prominent or focused on violent crime resulted in shorter sentences. Prominent press coverage not only benefited female and white offenders, it also generated more pronounced lenience toward young and violent offenders. Similarly, violent crime coverage benefited not only less threatening offenders (e.g., female, white, older, never-incarcerated, non-violent), but also the more threatening (e.g., unemployed, previously arrested).

#### SUMMARY AND DISCUSSION

In this section, we summarize the results, discuss their implications for the literature and theory reviewed in Chapter III, and introduce site visit observations to shed light on some important patterns and findings.

#### SUMMARY OF ADDITIVE EFFECTS

The first part of the analysis focuses on attributes of the case, both the social background of the offender and the legally more relevant aspects of prior record and offense. Analysis produced the following findings:

1. Neither legally relevant nor social background factors strongly influenced the length of prison sentences. We found that judges imposed longer sentences on females, whites, and offenders convicted of non-violent offenses. As implied by the hazard rate instrument, which is a surrogate for offense seriousness, the strongest predictor of prison sentences was the seriousness of the offense. Sentences were longer for more serious offenders.

In the second part of our analysis, we were concerned with examining the effects of court characteristics, comparing sentencing in single-judge and multiple-judge courts, and determining the extent to which court

contexts condition the role played by case attributes. We found the following patterns:

1. Case attributes continued to have relatively weak effects on prison sentences. Controlling for court characteristics, we found that sentences were longer for female offenders. Moreover, legally relevant variables affected sentencing only in multiple-judge courts, where non-violent offenders received longer sentences.
2. The sentencing in multiple-judge and single-judge courts was surprisingly similar. Sentences were likely to be shorter if judges were established. They were likely to be longer if plea bargaining was relatively common, and if the judge was professionally active or had previous experience in government. Three differences should be underscored. First, as noted above, offense type was a consideration only in multiple-judge courts. Second, court size strongly affected sentencing only in multiple-judge courts. Sentences were shorter where many judges sentenced and longer where probation departments were larger. In contrast, caseload pressure figured prominently in single-judge courts, reducing the length of prison sentences they impose. Third, judicial characteristics were usually unimportant in both single-judge and multiple-judge courts. However, in the former, judges from urban backgrounds were more punitive than their colleagues from rural backgrounds.
3. Although most court contexts exerted relatively weak additive effects on prison sentences, they strongly conditioned the role case attributes play during sentencing. This proved to be the

case only in multiple-judge courts, however. Court contexts varied slightly in the pervasiveness of their effects. As we shall see below, they varied markedly in the strength of their effects. Finally, some case attributes were more sensitive to court variation than others. Indicators of prior record were the most impervious to court differences. Apart from this exception, legally relevant as well as social background factors responded, often strongly, to the contextual influences exerted by court characteristics. We defer a consideration of contextual effects until after a summary of results designed to estimate the effects of county characteristics on sentencing.

The third and final part of our analysis examined several dimensions of the counties where offenders were sentenced. We found the following patterns:

1. Controlling for county characteristics, sentences continued to be longer for female, white, property and victimless offenders. None of these effects was particularly strong, however.
2. The strongest determinant of sentence length (apart from the hazard rate instrument and, implicitly, offense seriousness) was urbanization, which generated shorter prison terms. Inequality, political conservatism, and salient press coverage of crime tended to reduce the length of prison sentences. None of these results support our original expectations. The division of labor and voter participation tended to increase the length of prison sentences.

3. All dimensions of the county conditioned differential treatment based on social background and legally relevant variables. The division of labor exerted the most pervasive effects, while economic inequality exerted the least pervasive effects. Again, we found no tendency for social background factors to respond more than legally relevant factors to county variation.

#### THE NATURE OF CONTEXTUAL EFFECTS

As noted above, the additive effects of case attributes were often small or insignificant. We obtained a much different and more complex picture once we considered the possibility that the role case attributes play during sentencing is not invariant, but rather varies as a function of the court and county where the offender is sentenced. In this section, we consider each attribute, comparing additive effects with their effect once contextual variation is considered. In general, we found that additive effects can be misleading. They are incapable of reflecting variation in differential treatment, as well as exceptions to general patterns. Moreover, we found that differential treatment based on legally relevant factors was nearly as responsive to contextual variation as disparities based on social background factors.

#### Gender Disparities

Even controlling for court and county characteristics, we found that females tended to receive longer sentences than male offenders. This finding is particularly anomalous, given judicial reluctance to imprison women (see Chapters IV and VI). A comparison of male and female prisons renders this finding more comprehensible.

In general, the women's prison suffers less from overcrowding, violence, and substandard living conditions. In short, conditions

are more tolerable. There are no gun towers, walls, or large dormitories. Violent offenders are segregated from non-violent offenders. The prison is newer, more spacious, well-lit, and well-ventilated. Vocational training, counseling, and other services reflecting a rehabilitative orientation are also more visible and available. Indeed, observers leave with the impression that the women's prison resembles an elementary school rather than a prison.

Thus, while judges may consider long prison terms for males an indicator of punitiveness, they may define long prison terms for women in different terms, namely, as providing opportunities for rehabilitation in a relatively benign, though still controlled, environment. Moreover, they may see women as better candidates for the rehabilitative programs prisons have to offer. Thus, despite their initial reluctance to imprison women, once they decide on this option, they may have few compunctions about imposing long terms.

A consideration of contextual effects generally corroborated the additive pattern we found. Again, differential treatment varied considerably, being especially pronounced in courts composed of some unmarried judges. While differential and harsher treatment of males was the exception rather than the rule, it too varied markedly, from a minor .07-year difference to a 13.2-year difference, where prosecutors were established.

#### Race Disparities

Overall, we found a slight tendency for white offenders to receive longer sentences. Interactive analysis generally corroborated this pattern. It also revealed a wide range in differential treatment, from a .16-year to a 14-year difference. Disparities against white offenders were

particularly strong in courts whose judges were older.

Again, there were exceptions to this general pattern of harshness toward whites. Disparities that operated to the disadvantage of black offenders occurred less frequently, but they were just as pronounced. The strongest differential treatment occurred in courts composed predominantly of male judges.

#### Age Disparities

Our additive models revealed no tendency for younger offenders to receive longer sentences than older offenders. These results are misleading, however. In some instances, younger offenders were more harshly treated, while in others older offenders were at a disadvantage. Disparities against younger offenders were particularly pronounced (13.2-year difference) in courts whose judges had urban backgrounds. Disparities that operated against older offenders, while just as common, were more pronounced, averaging 5.9 years (vs. the 2.9-year average disparity that operated against the young). The strongest differential treatment (11.2 years) occurred in counties where press coverage of crime was prominent. Disparities against older offenders declined sharply, however, as press coverage became more extensive, local in focus, and concerned with violent crime.

#### Marital Status Disparities

As was the case for age, additive analysis indicated that marital status was largely an irrelevant consideration when determining sentence length. Again, these results are misleading, for differential treatment, often pronounced, occurred. In a majority of instances involving significant interactions (57%), judges imposed longer sentences on married offenders. This trend fails to support our expectation of harsher

treatment for the unmarried. Differential treatment varied widely, from a .31-year to a 7.4-year difference, in counties where Index crimes involving strangers were common.

In a substantial minority of instances (43%), unmarried offenders were treated more severely. Moreover, disparities against these offenders were more pronounced, averaging 4.3 years (vs. 2.8 years for married offenders). Again, differential treatment varied widely, from a .34-year difference to a 11.7-year difference, where more judges had urban backgrounds.

#### Employment Status Disparities

Consistent with the findings for offender age and marital status, additive analysis indicated that the employment status of the offender was an irrelevant consideration. Once we considered contextual effects, however, we found that in the majority of instances involving significant interactions (67%), judges imposed longer sentences on unemployed offenders. These findings support our expectation of harsher treatment of the disadvantaged. Sentence lengths between employed and unemployed offenders differed from .3-years to 17 years, in courts whose judges were older.

Harsher treatment of employed offenders occurred less frequently and was slightly less pronounced ( $\bar{X} = 4.7$  years vs.  $\bar{X} = 5.6$  years). It was the strongest where we expected discrimination against the employed to be minimal, that is, in predominantly black counties.

#### Crime Type Disparities

In the course of additive analysis, we encountered slight tendencies for non-violent offenders to receive longer sentences than violent offenders. Once again, however, these results are insensitive to variation

in the magnitude of differential treatment as well as to the existence of situations where violent offenders are treated more harshly.

In the majority of instances (60%) involving significant interactions, victimless offenders received longer sentences than violent offenders. Differential treatment varied from a .19-year to a 34-year difference, in courts composed of local judges. In the majority of instances (62%), property offenders also received longer sentences. Disparities here also ranged widely, from a .3-year to a 13.8-year difference, in counties characterized by strong Reagan support.

Harsher treatment of violent offenders did occur, but it happened less often and disparities were less pronounced. As expected, differential treatment was most pronounced where Wallace support was strong (14-year difference) and where the press focused on violent crime (8.3-year difference).

#### Prior Record Disparities

As was the case for most social background attributes, prior arrests and incarceration had no discernible effect on the length of prison sentences. Moreover, these two indicators of prior record were less responsive to contextual changes than were other social background and legally relevant variables. In the majority of instances (68%) where interactions occurred, judges imposed longer sentences on previously arrested offenders. Differential treatment ranged from a low of .35 years to a high of 12.1 years, in courts composed of local judges.

In a substantial minority of instances (32%), judges were more severe with never-arrested offenders. Disparities here were just as pronounced, and ranged from .6 years to 8.6 years, in counties where the press focused heavily on violent crime.

We found a slightly different situation when considering prior incarceration. Here, in only a minority of instances (31%) did judges punish previously incarcerated offenders more severely. Differential treatment ranged widely, from a minimal .07-year difference to an 8.7-year difference, which occurred where the press focused heavily on violent crime. Harsher treatment of never-incarcerated offenders was both more common (69%) and more pronounced, averaging 6 years (vs. the 2.7-year average for disparities against the previously incarcerated). Harsher treatment was most pronounced (24-year difference) where judges had urban backgrounds.

#### IMPLICATIONS

We shift our attention now to consider the court and county contexts themselves, summarizing the extent to which findings support expectations generated by previous research and theorizing. As has been the case for other sentencing outcomes, our results here were more complex than we had originally anticipated.

The data provided some support for the Weberian position on bureaucratization. That is, the harsher treatment experienced by more disadvantaged offenders declined as bureaucratization increased. Disparities persisted, however, and in the case of legally relevant factors, bureaucratization actually exacerbated harsher treatment. Non-violent offenders were at a particular disadvantage when courts received assistance from lower courts. In contrast, violent offenders were at a particular disadvantage when probation departments were large.

We found only limited support for our expectation that sentences would be more lenient where prosecutors were established, and more severe where

prosecutors were electorally vulnerable. Prosecutor vulnerability did foster longer sentences, particularly for more threatening offenders. But sentences were also longer where prosecutors were established, and more threatening offenders (e.g., young, unmarried, previously arrested) were at a particular disadvantage in these circumstances. As was the case when considering split sentences, this pattern could reflect a tendency for established prosecutors to identify strongly with community interests and to comply with public pressure for harsh punishment against certain offenders.

We found no support for the hypothesis that similarity between judge and offender would generate sympathy and hence lenience. Indeed, in the case of marital status, judges were more lenient toward dissimilar offenders and harsher with those similar to themselves.

Despite the lack of support for our general expectation, we found that judicial characteristics strongly conditioned differential treatment based on other social background and legally relevant characteristics. Predominantly male benches appeared more intolerant of black offenders than courts where some judges were female. Courts consisting of some single judges appeared more intolerant of female, young, unmarried, victimless, and never-incarcerated offenders. Rather surprisingly, older judges were more lenient than younger judges. Moreover, black, employed, and never-incarcerated offenders benefited more than their counterparts from this lenience. Through site visits, we discovered that older judges seemed less skeptical and more reluctant to abandon the principles that helped shape their careers and rationalizations. In contrast, younger judges were more likely to describe themselves as realists and less likely to give certain kinds of offenders another chance, that is, shorter prison terms.

Another important pattern was the tendency for judges from urban backgrounds to be more punitive than judges from rural backgrounds. Site visits indicated that judges from rural backgrounds were far more likely than their urban counterparts to hold rehabilitative values and ideals. This could account for their reluctance to impose long prison terms.

Moreover, differential treatment did not decline as courts became more urban in composition. Judges from rural backgrounds appeared more intolerant than their urban colleagues of white, unemployed, and property offenders. Site visits alerted us to the importance rural judges attach to being employed, as well as to the concern, particularly in rural areas, with property rather than violent crime. Judges with urban backgrounds appeared to be more sanguine about the employment status of offenders, and unlikely to know whether an offender was employed and whether the employment was substantial or not.

Judges from urban backgrounds had their own prejudices, however. They appeared more intolerant than their rural colleagues of female, young, unmarried and never-incarcerated offenders. Similarly, we found that courts composed of local judges, while more severe than non-local courts, were not any more particularistic in their sentencing. Local judges appeared slightly more intolerant of female, victimless, and previously arrested offenders. Again, however, non-local judges had their own prejudices, appearing more intolerant of unemployed, unmarried and property offenders.

Contrary to expectation, judicial activism exacerbated rather than reduced disparities, and did so for both relatively disadvantaged (e.g., female, unemployed, younger) and relatively advantaged (e.g., white, married) offenders. Previous judicial experience also did not insulate



judges from treating offenders differently depending on their social background. Both disadvantaged (e.g., black, female) and relatively advantaged (e.g., employed, never-incarcerated) offenders experienced more pronounced increases in their sentences. Also unanticipated was the tendency for previous district attorney experience to generate lenience (rather than longer sentences) and, moreover, for younger and unemployed offenders to benefit more than their relatively advantaged counterparts from this leniency.

We expected that where judges were established, sentences would become more lenient and that disadvantaged or more dangerous offenders would benefit more than other groups of offenders from this leniency. We found this to be the case. However, the converse was not true. Electoral vulnerability did not generate longer sentences. Rather, it generated shorter sentences, and benefited offenders we expected would be more harshly treated (e.g., black, unemployed, violent).

Support for expectations about community involvement was also partial. As expected, government involvement generated longer sentences, particularly for more threatening offenders (e.g., male, younger, unemployed, violent). Yet community involvement operated in the opposite manner. It fostered shorter sentences, particularly for offenders we expected would be more harshly treated (e.g., younger, unmarried, previously incarcerated).

Turning attention to county characteristics, we found that urbanization did not generate more even-handed treatment. Indeed, differential treatment of both the disadvantaged (e.g., female, younger, unmarried, previously incarcerated) and the advantaged (e.g., employed, never-incarcerated) increased, albeit slightly.

We found that inequality did not generate more pronounced harshness against property offenders. Rather it had implications for the sentences of violent offenders, and tended to reduce rather than exacerbate disparities against property offenders. We did discover, however, that inequality usually exacerbated discrimination against the disadvantaged. Income inequality generated more pronounced increases in the sentences of female and unemployed offenders, while percent black produced larger increases in the sentences of black offenders.

We had expected a more complex division of labor to result in shorter prison terms. We found the opposite. Also unanticipated was the tendency for the division of labor to have implications for differential treatment based on both social background and legally relevant factors. It intensified harsher treatment of both more threatening (e.g., black, younger, unmarried, previously arrested) and less threatening offenders (e.g., female, employed, non-violent, never-incarcerated).

As noted earlier, we expected longer sentences and greater discrimination where counties were politically conservative, faced serious crime problems, or had extensive, prominent, local and violent crime coverage. In general, we found no strong support for these expectations. Sentences tended to be shorter in conservative counties, and more threatening offenders (e.g., black, younger, unmarried, previously arrested) benefited more than their less threatening counterparts from this lenience. Moreover, conservatism exacerbated disparities against both more threatening and relatively advantaged (e.g., married, older, employed) offenders.

With one exception (percent young arrestees), sentences became shorter as crime problems became more serious. Moreover, these reductions often



benefited those offenders we expected would benefit the least (e.g., violent, previously arrested, unmarried). Observations from site visits may help us understand this phenomenon. In some circuits (e.g., Atlanta), courts appeared to have become accustomed to high crime rates, and were unaffected by them. In other circuits, authorities stressed that crime rates were misleading. One judge observed

"You can't believe them (statistics)...(W)hat happens is that they base this business about who has got the most crime on what the police department and sheriff's department report. And they report every incident that somebody takes out a warrant and comes in and makes a complaint. And the more they report, the more money they get."

Most interviewees prefaced particular observations with "I had this case," thus giving the impression that specific instances of crime triggered conclusions or rationalizations more than sustained analysis of patterns and trends. In short, many court authorities appeared to generalize from experience not data.

In contrast to objective measures of the crime problem, we did find some support for our expectations when considering press coverage of crime. Despite skepticism that the press describes local crime problems accurately, we found that extensive or local crime coverage generated longer sentences especially for more dangerous or disadvantaged offenders (e.g., black, younger, unmarried, previously arrested). Interestingly, sentences became shorter, not longer, where press coverage was prominent or focused on violent crime. Where this was the case, less threatening offenders (e.g., female, white, non-violent) benefited as well as more threatening offenders (e.g., unemployed, previously arrested, young, violent). Prominent coverage may focus on exceptional crimes, or may be interpreted as yellow journalism rather than as an accurate depiction of the crime problem in the community. For these reasons, prominent coverage

may be discounted as a justification for greater punitiveness. Coverage of violent crime may focus primarily on black v. black or intra-family violence. It could generate lenience for reasons noted below in our discussion of the general trend of shorter sentences for violent offenders.

#### DISCUSSION

Site visit observations and information help us put some of the findings reported earlier in this chapter into perspective. In this section we consider the "rationality" of prison sentencing, as well as some specific, at times anomalous, findings.

Our analysis of prison sentences demonstrated that this decision is quite "rational," that is, understandable and predictable. The strong effect for offense seriousness (as implied by the hazard rate) supports this characterization. Not only did offenders who commit the most serious crimes have the greatest chance of being sentenced to a straight prison term, they were also more likely to receive long sentences. In site visits and interviews, many judges emphasized that the seriousness of the offense was the most important factor in prison sentencing. They took pains to stress that heinous offenses had to be acknowledged and that the public must be protected from people who commit such crimes. As one judge put it, "...you owe society the obligation to protect it from that person." Another emphasized that "prisons should protect (society) from those people that cannot live in society."

As explained earlier, many court authorities thought that imprisonment was the critical sentencing option. When judges had ruled out probation or a split sentence, they were dealing with a special subset of the convicted

felon population, one that they felt clearly deserved incarceration. As one judge put it, prison was reserved "for animals":

"...we don't have human beings in those prisons, we have got animals. Now, of course, I don't apologize for that. A man is in prison, he asked for it..."

It isn't surprising, then, that courts sentenced these offenders to terms that corresponded to the penal code's definition of seriousness. As noted earlier, seriousness strongly determined the hazard rate that played such a critical role in determinations of sentence length. Given the importance attached to offense seriousness, it should not surprise us that social background and prior record affect determinations of sentence length only in certain circumstances.

In general, court and community characteristics had few strong additive effects on the length of prison sentences. One major exception was urbanization, which generated shorter prison sentences. This pattern was not surprising since several authorities in circuits surrounding metropolitan Atlanta anticipated the effect and shared their expectation with us. Commenting that "this isn't Atlanta," one district attorney took pains to tell us that in his circuit convicted felons generally received long prison terms, armed robbers received terms in considerable excess of the mandatory five-year minimum, and convicted burglars faced incarceration. He went on to stress that these sentencing practices did not characterize Atlanta courts, which reportedly imposed probation on burglars and circumvented the mandatory minimum specified for armed robbery. The general effect of urbanization, then, may simply distinguish sentencing in Atlanta from the rest of the state.

As explained earlier, case attributes generally had weak additive effects on prison sentences. Interactive analysis revealed, however, that

in some circumstances, these attributes strongly affected sentences. In this discussion, we focus on gender, race, age, and type of crime, commenting on the degree to which site visits help us understand their effect on sentencing in particular situations.

As previous sections emphasized, females received longer sentences, particularly when appearing before urban judges. This pattern contrasted sharply with the leniency observed in analyses of sentence type and split sentences. A comparison of men's and women's prisons helped put this finding in some perspective. A consideration of divergent kinds of discrimination reported in the literature on women in crime (e.g., Bowker, 1978; Moulds, 1982; Parisi, 1982) also enhances our understanding. Earlier research has demonstrated that gender-based discrimination works in two sharply divergent ways. Courts sometimes act paternalistically, and discriminate by treating women more leniently. They also discriminate by meting out excessively punitive sentences, where they feel incarceration is deserved (i.e., for "bad" women). The pattern observed in this study, where judges were initially reluctant to imprison but harsh toward those women they decide to imprison, may well illustrate this phenomena.

Few respondents explicitly discussed the effect of gender during sentencing. In part, this could be due to the fact that women conducted most interviews. A private attorney, practicing in a metropolitan area, commented that there was a fair amount of sexism in courts. He related the following comment, made by a judge to a female attorney: "Well, it is always nice to have you here, little lady, so nice to have cute people in this courtroom." Also pertinent were the observations of an urban judge who in expressing his sympathy with young offenders observed that:

"...the young buck in the growing process is exposed to temptations, troubles, and that sort of thing. A great deal of

the normal conduct peculiar to young American males is of a type that, which if the circumstances are presented right, could result in a criminal charge."

Though this judge did not explicitly refer to female offenders, he appeared to have considerable sympathy toward male offenders, implicitly adopting the double standard reported in the literature on women and politics.

As noted earlier, statistical analysis indicated that differential treatment of blacks was less frequently encountered than differential treatment of white offenders. Interviews and site visits tended to corroborate this finding. It may very well be that the general insignificance of race is a result of strides made during the civil rights movement. Certainly, court authorities expressed considerable concern about racial discrimination and emphasized their "color-blindedness." Few voiced anything resembling prejudice (e.g., use of the term "nigger"). Racism may persist, then, only in certain circumstances (e.g., where judges are heavily involved in community organizations, where counties are predominantly black).

More interesting than race were findings related to the age of the offender. With urban judges, young offenders fared quite poorly. While this finding appears counterintuitive, close inspection of some of the insights gained in site visits indicates that the pattern is not totally irrational.

In many instances, judges from rural backgrounds appeared to identify with younger defendants and to express considerable sympathy with their plight. One judge, for example, said

"I have a lot of empathy with young offenders. I would have to candidly say that as a young fellow I probably did some things that I should have been arrested for and could have been sent to prison myself. But most everyone else that I know has been in similar circumstances."

In contrast, judges from urban backgrounds often considered younger offenders the perpetrators of most serious crimes. They expressed considerable confusion about the most efficacious way to sentence these offenders. Judges commented that they were sentencing a lot of "bad kids," who "...come in with different attitudes, tougher in that respect..." Many sorrowfully acknowledged that:

"Some children are just bad. It's hard to accept that. It's not entirely the parents' fault. It's not the fault of society. Some children are just bad and are going to be like that all of their life."

Similar in some respects to the "crime is born" theory of Samenow and Yochelson (1976), this opinion was invoked most frequently in describing harsh sentences for youthful offenders, especially in urban circuits.

The relationship between the court and the community also seemed to account for the contextual effect of age. As noted earlier, rural judges were more likely to treat young offenders with some sympathy. As one rural judge emphasized, "...a young man comes in and his family is sitting there, a lot of his friends are sitting there, and in all of this the judge is going to go lighter. It is just human nature...." In this instance, the judge was reminded of the offender's family and the fact that prison would contrast sharply with the offender's current situation. In contrast, urban judges stressed that, while they knew very little about the offender, the knowledge they did have convinced them that incarceration would not be a very punitive sentence. In fact, one urban judge commented that "many people who go through this court are better off in jail than they are in their particular environment."

Thus, the tendency for urban courts to treat younger offenders more harshly can be traced to different perceptions of the dangerousness, recalcitrance, and family situation of young offenders, as well as of the probable impact of incarceration on these offenders. Recall as well, that judges from urban backgrounds were less likely to subscribe to rehabilitative ideals and thus less likely to give young offenders the leniency that characterized the sentencing of rural judges.

Contrary to our expectation, we found a general tendency for property and victimless offenders to receive longer sentences than violent offenders. Again, site visits yielded some pertinent insights. Recall the public intolerance of crimes committed by the "unproductive on the productive." This could account for harsher treatment of property offenders in conservative counties and in jurisdictions with salient press coverage of crime. In these instances, we would expect public to be more concerned with property crime.

Site visits also indicated that some circuits did not regard all violent offenses as serious crimes. Many discounted aggravated assault and even some attempted homicides, particularly those involving "black on black" or "family member on family member." One judge detailed his frustration with aggravated assault cases and argued that courts probably should not bother with many of them. Witnesses and victims were difficult to locate and

"...even though you are talking about a serious offense where people take one another's lives occasionally and there is a lot of brutal wounding and that sort of thing, those are just human problems and I don't know if we have an absolute solution for them. That is just the way people react to their problems. They have that right."

Other judges and court officials repeated the same frustration. The behavior was serious, the injury frequently pronounced, and the victim

initially indignant. But when trial approached, the situation changed.

The victim

"wants to drop the charges or wants to ask that he (the defendant) not be sent off to prison but put on probation or that sort of thing. They have backed off from the seriousness from the night they called the police in horror or whatever....These people have been very seriously injured in assaults but when it comes down to prosecuting the case on trial day they back off from it. Simply want to fall back in love or intimidated by the accused person or family members, or had a change of heart or what."

This observation was repeated in so many different contexts that it could account for the pattern we found. Thus, judges resort to prison for violent offenders because of the seriousness of the injury, but may be compelled to shorten the prison term because of the pressures they receive from the victim or the offender's family.

## NOTES

1. The sentence lengths for women, particularly those we found when considering judicial composition, cannot be taken literally. No offender received a sentence longer than 42 years, the numerical value assigned to life imprisonment. Predicted sentences capture only the effects of varying one possible determinant of sentence length (e.g., mean age of judges). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given individual, was held constant.

## VIII. SUMMARY AND CONCLUSION

### SUMMARY AND COMPARISON OF RESULTS

#### AMOUNT OF EXPLAINED VARIANCE

Statistical analyses were not equally effective in explaining the five aspects of the sentencing decision. Straight prison sentences were the most susceptible to data analysis as over fifty percent of the variation was accounted for in each of the three stages of that scrutiny. In short, we understood severity of straight prison terms better than any of the other types of sentencing. Fair success was achieved in explaining variation in both the length and severity of split sentencing. The total term of punishment in split sentences was substantially accounted for when case and court context variables were scrutinized, while the severity of the sentence was best explained by the case and county context model in circuits where press coverage was available.

Sentence type and probation length were the decisions most resistant to explanation. In the analysis of sentence type, less than a quarter of the variation in forty of the state's judicial circuits was accounted for in most stages of analysis. Case context variables did explain close to thirty percent of the variance in Fulton and DeKalb Counties, while case and court variables together explained slightly more than a quarter of the variation of sentence type. The dependent variable most resistant to statistical understanding, and, therefore, the decision we know least about, is probation length. Case attributes accounted for virtually none of the variance in either the sample of forty circuits or the study of Fulton and DeKalb Counties. The addition of court and county context

variables added substantially more in the way of explained variance, but the addition was still slight in comparison with other analyses.

Though the magnitude of the addition varied, interactive analyses added significantly to the proportion of explained variance in virtually every instance. Percentage increases in the explanation of sentence type ranged from .8 to 3.4 with county context models and from 1.2 to 3.6 and 2.1 to 5.1 with multiple-judge and single-judge court context models, respectively. In the analysis of the probation length, the application of interactive models resulted in increases of .7 to 3.2 for county context models, and 1.5 to 6.4 and 2.8 to 5.1 for court models, multiple-judge and single-judge respectively. The largest significant additions to the proportions of explained variance were observed in the interactive analysis of split sentences. For court context models, increases ranged from 3.1 to 7.1 (total sentence length) and 4.9 to 13.0 (severity) for multiple-judge courts, and from 5.1 to 9.9 (total sentence length) and 2.1 to 20.8 (severity) for single-judge courts. The addition of interactive terms to county context models also yielded significant additions to the proportions of explained variance. Specifically, percent increases consisted of 1.7 to 4.5 for total sentence and 1.9 to 9.2 for sentence severity.

Though increases were minor, interactive additions to explained variance in the analysis of straight prison terms were also significant. Percent increases ranged from 1.1 to 3.2 (multiple-judge courts) and from .1 to 1.8 (single-judge courts) in the court context analysis. In the study of county contexts, increases ranging from .6 to 1.8 significant.

What do we learn from these comparisons in explained variance and the degree to which interactive models were better predictors of sentence decision-making? If we define rationality in terms of degree of explained

variance, then straight prison sentencing is the most and probation length the least rational of the sentencing decisions. Furthermore, data analysis suggests that split sentencing is the most contextually sensitive. The simple magnitude of significant additions to explained variance in the analysis of split sentencing overshadowed similar increases in other types. Bear in mind, however, that increases in the proportion of explained variance are not the only contributions of interactive analysis. These general results remind us of the importance of operational definitions in the study of sentencing. Research must focus on several dimensions of sentencing (e.g. type, split terms) to yield reliable and valid results.

#### RELEVANCE OF CASE ATTRIBUTES

##### Legally Relevant Variables

In an ideal and just system of criminal law, one would expect that legally relevant variables would surface as the strongest predictors of sentence variation. Certainly, much of the concern about sentence disparities and discrimination has rested on the claim that these factors are outweighed by the social attributes of the defendant and other variables. The comprehensive analysis of sentencing reported in this study illustrates that legally relevant variable strength is not constant across all types of sentencing decisions. Furthermore, the magnitude and direction of legally relevant effects are conditioned by the contexts in which sentencing decisions are made.

Legally relevant variables included offense seriousness, offenses type, and prior record. In this section, we briefly review the strength of these variables and compare their additive impact and susceptibility to contextual conditioning.

Offense seriousness affected all sentencing outcomes and, with the exception of probation sentence length, was usually the strongest predictor among case attributes. Typically, it generated harsher outcomes. Yet despite the consistency of its effects, we found that the differential treatment of more and less serious offenders varied considerably. For example, the two groups of offenders faced similar imprisonment risks when sentenced in courts whose prosecutors rely heavily on guilty pleas and whose judges have district attorney experience. In contrast, their risk of imprisonment differed markedly when they were sentenced in multiple-judge courts composed of non-Georgians.

Contextual analysis also revealed relatively rare exceptions to the general pattern of greater harshness toward more serious offenders. For example, less serious offenders received longer split sentences in predominantly black counties and in courts whose judges have urban backgrounds. Their split sentences tended to be more severe in courts whose judges are older.

While not usually as strong a predictor, offense type was nearly as consistent in its effect on sentencing decisions. Additive analysis typically showed harsher outcomes for violent rather than non-violent offenders. However, contextual analysis uncovered variation in differential treatment. For example, differences in the probability of imprisonment ranged from 2% in courts with small probation departments to 60% in courts whose judges sentence alone and had district attorney experience. Differences in the prison sentences imposed on violent and non-violent offenders ranged from .9 years in courts consisting solely of married judges to 14 years in counties with strong Wallace support.

Furthermore, in some contexts non-violent offenders were treated as, if not more, severely than violent offenders. For example, in counties

experiencing more Index crimes at night, victimless offenders were more likely than violent offenders to be imprisoned. In courts composed of local judges, their prison sentences tended to be longer than those of violent offenders.

Similarly, we found situations where property offenders were also more harshly treated than violent offenders. For example, they faced the greater risk of imprisonment when sentenced in counties experiencing more residential or nighttime Index crime. Both their split and prison sentences were longer in counties where Reagan support in 1980 was strong. Finally, property offenders received more severe split sentences in predominantly black counties.

In sum, then, crime type is not as strong a determinant of sentence severity as is the seriousness of the offense. Nor is it as immune as offense seriousness to variation in the sentencing context.

Both academics and practitioners consider prior record an especially important legally relevant variable. In site visits, court authorities often observed that prior record is a powerful predictor of sentence severity, whether defined as imprisonment or the length of probation or prison terms. We expected, then, that prior record would strongly predict each outcome, and that its effect would be relatively invariant across different courts and counties. As the preceding chapters document, this was not the case.

As noted earlier, limitations of pre-existing data sets made it difficult to measure the impact of prior record on decisions about sentence type and probation sentence length. The analysis of these decisions in Fulton and DeKalb Counties, where such information was collected, indicated that prior record had virtually no effect on either outcome. Thus, the limitations of the data and our analysis may be less consequential than



initially assumed.

In the study of split sentences and prison sentence length, the impact of prior record was strongly overshadowed by offense seriousness. A consideration of contextual effects suggests that it would be erroneous to conclude that prior record is irrelevant during sentencing. In some circumstances, it generated sharp differences in treatment. Previously arrested offenders experienced much longer split sentences than their counterparts in counties where Reagan support in 1980 was strong. Similarly, previously-incarcerated offenders experienced much longer split sentences in courts consisting of older judges. Their prison sentences were longer than those imposed on the never-incarcerated in counties where the press focused heavily on violent crime.

A consideration of contextual effects also revealed instances where offenders without prior records received harsher sentences. For example, never-arrested offenders received longer split sentences in predominantly black counties. Never-incarcerated offenders tended to receive longer prison sentences, with harsher treatment being particularly pronounced in courts whose judges had urban backgrounds.

If it is obvious that the relevance of legally relevant variables varies both by sentencing decision, and by court and county characteristics, then what of the impact of attributes that are of questionable legal relevance? We consider this question in the next section.

#### Social Background Characteristics

In comparison with legally relevant factors, social background factors typically had weaker additive effects on sentencing. But in varying degrees, all social background factors were contextually responsive. As a

result, the overall lack of strong or significant additive effects masks sharp differences in treatment that occurred in some circumstances. It also masks exceptions to trends indicated by both additive and interactive analyses.

We found no evidence that in all circumstances more dangerous or disadvantaged offenders are more harshly treated. Rather, the extent of discrimination, whether against female, black, young, unemployed or violent offenders, is a function of certain aspects of the court and the county where punishment is imposed. Thus, we turn our attention in the sections that follow to contexts that condition the magnitude and direction of differential treatment.

#### THEORETICAL IMPLICATIONS

As outlined earlier, several theoretical schemes helped us formulate hypotheses, not all of them mutually consistent. A Weberian position, for example, suggested that bureaucratization would be accompanied by more dispassionate and even-handed treatment, particularly when comparing defendants with contrasting social attributes. In contrast, conflict theory suggested that lower status offenders, while uniformly discriminated against, would be even more harshly treated in bureaucratized courts. Moreover, differential treatment would be especially evident in courts where defendants and authority figures were dissimilar and in counties that were politically conservative. We also expected to find harsher punishment and greater disparities in rural areas; more pronounced penalties for property offender in more stratified communities; and milder punishment in areas with a more complex division of labor.



Less rigorous expectations were generated by common sense and some of the atheoretical literature. For example, we expected to observe more punitive sentencing in courts where judges and district attorneys were electorally vulnerable, where newspapers focused on local and violent crime, where crime rates were more severe, and where the political culture was more conservative. In some ways, these expectations were reinforced in site visits. Many respondents suggested that judges and district attorneys were particularly sensitive to public opinion, that the public was assumed to prefer punitiveness in sentencing, and that the electoral system of selecting judges and district attorneys made such sensitivity understandable. Similarly, respondents thought that concerns about crime and leniency in sentencing would be particularly sharp in areas that had high crime rates or where inordinate attention was given to the problem of crime in the press. Finally, many defense attorneys in both urban and rural courts assumed that rural justice was more punitive and that political ideology conditioned criminal sentencing. In these respects, site visit information reinforced the need to consider the potentially important factors of judicial and prosecutorial composition, political culture, crime rates, and newspaper coverage of crime.

Finally, site visits also led us to expect other patterns, not entirely compatible with theoretically-based propositions or the factors just outlined. In many interviews, judges emphasized that sentencing was not a patterned activity. They stressed that every case was unique, and that it was impossible to treat all offenders convicted of the same offense in the same manner. In short, these judges rebuked us for trying to identify patterns in what they considered an individualistic and particularistic enterprise. To the degree that this information shaped our

expectations, it led us to anticipate no patterns or specific results. Moreover, it led us to expect that most of the variance in sentencing would be unexplained.

Clearly, not all judges were as skeptical about our analysis of sentencing. Many emphasized the importance of ideology, stressing that sentencing decisions reflected adherence to a specific sanction philosophy. Some argued that proponents of rehabilitation would be particularly supportive of probation. Retributivist judges were likely to be punitive, especially when their inclinations matched those of their constituents. Judges with an incapacitative inclination were thought to favor imprisonment for violent offenders and to be harsh when determining the length of prison terms. Only in discussions of deterrence did we hear contradictory expectations. Judges with deterrent objectives were described as likely either to sentence broad classes of offenders to short terms or to "throw the book" at particularly offensive criminals to teach them a lesson.

Other judges and respondents, however, took a more modest view of the sentencing enterprise and of the importance of ideology. Those who styled themselves "realists" suggested that sentencing simply reflected legal culpability and that punitiveness was a straight-forward consequence of offense seriousness and criminal history. While these judges did not explicitly distinguish violent from property and victimless offenders, they emphasized that the public was especially fearful of personal injury. Still, several acknowledged that some property and victimless offenses were equally obnoxious. In calculating penalties, however, many of these respondents emphasized the problem of prison overcrowding and admitted that it conditioned the kind and severity of terms they imposed.

To what extent do our results corroborate the expectations we derived from theory, common sense and site visits? Generally, we found only partial support for the theoretical frameworks or propositions outlined earlier. For a more complete discussion, we refer the reader to the summaries located in each chapter. Here, we will only summarize the general pattern of results.

#### RELEVANCE OF COURT CONTEXTS

##### Bureaucratization

Our primary interest centered on the implications of bureaucratization for differential treatment. Here, we found that differential treatment, whether based on social background or on legally relevant factors, varied with all three dimensions of court bureaucratization (caseload, court size, specialization). With the exception of prison sentences, bureaucratization tended to exacerbate differential treatment based on social background. In contrast, it tended to reduce differential treatment based on legally relevant factors.

In situations where bureaucratization exacerbated differential treatment, harsher treatment of disadvantaged offenders usually increased. For example, bureaucratization widened differences in the sentences imposed on offenders who were younger (greater imprisonment risk, longer split sentences), unmarried (longer split sentences), and unemployed (longer and more severe split sentences).

In a substantial minority of instances, however, bureaucratization exacerbated harsher treatment of less threatening or relatively advantaged offenders. For example, it increased the difference in outcomes experienced by offenders who were white (longer probation sentences), older

(greater imprisonment risk, longer split sentences), employed (more severe split sentences), and married (longer split and prison sentences). Finally, we found numerous instances where bureaucratization reduced differential treatment of the disadvantaged, in particular, black (imprisonment risk, prison sentence) and unemployed offenders (split and prison sentences).

In short, as predicted by conflict theory, bureaucratization exacerbates harsher treatment of the disadvantaged. However, it does not do so consistently across all sentencing decisions or for all groups of disadvantaged offenders. Moreover, bureaucratization sometimes generates more even-handed treatment, particularly when we consider differences based on legally relevant factors. Finally, where bureaucratization reduces differential treatment based on social background, it does so for both disadvantaged and advantaged offenders.

Thus, the extent and direction of differential treatment are complex functions of the sentencing decision, offender attribute, and dimension of bureaucratization under consideration. Our evidence supports both expectations, and hence permits no resolution of the differences between conflict and Weberian-based perspectives.

##### Prosecution Characteristics

Analysis focused on three aspects of the prosecution, namely, its caseload pressure, reliance on guilty pleas, and electoral vulnerability. As was the case for court caseload, we expected prosecutor caseload to affect differential treatment based on offender social background. We had theoretical grounds for expecting it would either exacerbate differential treatment of disadvantaged offenders or generate more even-handed treatment. We expected more lenient sentencing where guilty pleas were

heavily relied on. Finally, we reasoned that electoral vulnerability would increase pressure for harsher sentences in general and for more threatening offenders in particular.

More often than not, caseload pressure exacerbated rather than reduced harsher treatment of disadvantaged (e.g., unmarried, younger, unemployed) and more threatening offenders (e.g., more serious, violent, previously arrested or incarcerated). However, there were two interesting counterexamples to these trends.

First, as prosecutor caseload increased, violent and non-violent offenders experienced increasingly similar risks of imprisonment and split sentences. Second, in multiple-judge courts, caseload pressure exacerbated the differential, harsher treatment white and married offenders experienced. This occurred because black and unmarried offenders experienced greater reductions in the severity of their split sentences than did white and married offenders. Thus, we found limited instances where caseload pressure either reduces differential treatment or increases harsher treatment of relatively advantaged offenders.

Although we expected more lenient sentences where plea bargaining was common, we found that this was the case for only one sentencing decision, the severity of split sentences. More commonly, the use of guilty pleas selectively increased the length of probation, split and straight prison sentences. Moreover, advantaged or less dangerous offenders were just as likely as their more disadvantaged or threatening counterparts to be singled out for greater harshness.

Similarly, we expected but did not consistently find lenience where prosecutors were established and therefore less likely to press judges for severe sentences. This was the case only for the type of sentence and the

length of probation terms. When considering other outcomes, courts whose prosecutors are established were selectively harsher toward both less and more threatening offenders. For example, as prosecutors became more established, white and married as well as young offenders experienced larger increases than their counterparts in the length and severity of split sentences.

Finally, we expected but did not consistently find severity where the prosecutor was electorally vulnerable and hence likely to adopt a more punitive stance toward the sentencing of offenders who may appear especially threatening to the community. This was the case for two of the five sentencing outcomes studied. We found that as prosecutors became more vulnerable, the probation sentences, particularly of black, more serious, and violent offenders, increased. Similarly, vulnerability generated larger increases in the prison sentences imposed on younger, unmarried, unemployed, violent, and previously arrested offenders.

However, when considering split sentencing, we found lenience where we least expected it. For example, as prosecutors became more vulnerable, male, black, and violent offenders experienced more pronounced reductions in the severity of their split sentences.

In short, judges whose prosecutors are established are not invariably more lenient. Moreover, judges whose prosecutors are electorally vulnerable are not invariably harsher. Rather, the degree of harshness (or lenience) depends on the sentencing decision being made. Also, harshness is not invariably reserved for more threatening or dangerous offenders. Nor is lenience reserved for less threatening or more advantaged offenders.

In many circuits prosecutors were regarded as punitive and vengeful. As one judge observed, "...the DA drinks a pint of blood for breakfast."

Mindful of this characterization, we assumed that prosecutors would be uniformly harsh and that electoral vulnerability would simply intensify this tendency. Thus, the findings for probation and prison sentences did not come as a surprise. Many district attorneys commented that short probation terms were hardly punitive and that some offenders simply had to be "put away." It is interesting to note, though, that this pattern does not apply to sentence type or split sentence terms where judges may be more concerned with prison overcrowding than with prosecutor pressure for severity.

#### Judicial Characteristics

Contrary to expectation, we found that similarity between the judge and offender was usually irrelevant during sentencing. And, where relevant, it did not consistently generate more lenient outcomes.

Two findings supported our expectation. First, harsher treatment of females (in the form of longer prison terms) increased as the bench became male in composition. Second, harsher treatment of older offenders (in the form of greater risk of imprisonment) declined as the bench became older. This was so largely because older judges appeared more intolerant of younger offenders than did their younger colleagues.

In contrast, most results failed to support our expectation. For example, courts consisting of married judges exhibited more pronounced lenience (less severe split sentences, shorter prison terms) toward unmarried rather than married offenders. And, as courts became more urban in composition, harsher treatment of urban offenders (viz., longer and more severe split sentences) increased, rather than declined.

Although we found little support for our expectation of lenience where judges and offenders share some similarity, we discovered that judicial

demographic characteristics affect differential treatment based on other social background and legally relevant factors. For example, analysis indicated that several groups of offenders (viz., married, violent, never-arrested) were at a double disadvantage if sentenced by older judges. They experience more pronounced increases in both the length and the severity of their split sentences. But it is important to note that older judges were not uniformly more intolerant of certain groups of offenders (e.g., blacks). Rather, the extent of their harshness depended on the sentencing decision being reached. For example, when determining the length of probation and prison sentences, blacks were at an advantage when sentenced by older judges. They experienced greater reductions in sentence lengths than did their white counterparts. Similarly, as courts became older, blacks experienced smaller increases than did whites in the length of their split sentences. In contrast, however, blacks who received split sentences were at a disadvantage when compared with their white counterparts. As judges become older, blacks experienced larger increases than whites in the severity of their split sentences.

In comparing the background of judges, we found no evidence of a more particularistic orientation by judges with rural backgrounds. Indeed, these judges appeared more attentive to offense characteristics and less concerned with offender attributes. They drew sharper distinctions based on offense seriousness and type than did their urban counterparts.

True, differential treatment existed in courts composed of rural judges. Importantly, however, it did not decline as courts became more urban in composition. Rather, differential and harsher treatment, particularly of black and employed offenders, was more pronounced in urban than in rural courts.

Similarly, judges with local backgrounds (e.g., born in the circuit, in Georgia or in the South) exhibited no greater particularism than their non-local counterparts. Local judges appeared more attentive to the offense and to the sex of the offender. When determining the length of split sentences, for example, they exhibited more intolerance than their non-local counterparts of male, less serious, and violent offenders. When determining the length of prison sentences, they exhibited greater intolerance of female, victimless, and previously-arrested offenders.

Non-local judges, in contrast, appeared more attentive to the offender's race, employment and marital statuses. During split sentencing, they exhibited more pronounced harshness toward black and employed offenders. When determining the length of prison sentences, they drew sharp distinctions that operated against white, unemployed, and unmarried offenders.

While site visit information pertains to many of the findings reported in this section, it is interesting to focus on the most surprising conclusion, namely, that rural judges are not more particularistic than their urban counterparts in criminal sentencing. Interviews helped us to anticipate this anomaly. It quickly became obvious that rural judges could not be uniformly categorized according to a single philosophical or ideological perspective. The two judges most enthusiastic about rehabilitation, for example, presided over rural courts. While one might argue that a rehabilitative orientation could lead to particularistic sentencing, in the rural courts visited it appeared that such was not the case. The judges in question expressed their commitment to the rehabilitative ethic by frequent use of probation and infrequent reliance

on incarceration. When they did sentence to prison, their sentences were typically short.

Urban judges were less immune to particularistic judgments in sentencing because they functioned in courts with considerable anonymity. Several urban judges commented that the public had no idea about their job performances and that the nature of the circuit helped to diffuse responsibility among them. According to some respondents, judges were singled out for attention very infrequently and only in sensational cases (e.g., Wayne Williams' trial). It is conceivable, then, that this condition of urban courts may account for the unexpected findings of particularistic sentencing.

Equally surprising were the findings related to judicial sympathy for youthful offenders. In site visits, it was obvious that rural judges identified with young defendants in a manner that possibly contributed to the mixed patterns of punitiveness for young offenders observed in statistical analysis. In contrast to their urban counterparts who occasionally expressed little patience with youthful offenders, rural judges emphasized that they themselves tested the law's limits as "young bucks." This rural sympathy for young defendants and the aforementioned findings of urban particularism contrast with images generated in the popular press and in some of the literature. They suggest that rural and urban judges can not be tightly and unequivocally categorized as punitive and lenient, respectively.

#### Judicial Activism and Experience

As expected, professional activism tended to foster more lenient sentences. However, it did not result in any tendency for judges to reserve this lenience for less threatening or dangerous offenders. For

example, activism produced larger reductions in the length of split sentences imposed on black, male, unemployed, and violent offenders. In contrast, it produced larger reductions in the length of prison terms imposed on white, older, and married offenders.

Recall that we expected activism to generate more even-handed treatment, particularly of disadvantaged offenders. We found limited evidence that differential treatment (e.g., of black and unemployed offenders) declined with professional activism. It was more often the case that involvement in Bar and attorney organizations exacerbated differential treatment. It intensified discrimination against disadvantaged or more threatening (e.g., unemployed, younger, unmarried) as well as more advantaged or less threatening offenders (e.g., white, married, female, victimless).

There was limited support for our expectation that district attorney experience fostered harsher punishment, particularly against more threatening offenders. For example, judges with more district attorney experience imposed longer split sentences, particularly on violent and previously-incarcerated offenders. However, two trends were more pronounced.

The first was greater lenience toward less threatening or more advantaged offenders. For example, district attorney experience generated larger reductions in the severity of split sentences imposed on white and never-arrested offenders than on black and previously arrested offenders. The second counterintuitive trend was greater lenience toward more dangerous or disadvantaged offenders. For example, as judges had more district attorney experience, black and violent offenders experienced larger reductions in their probation sentences than did white and

non-violent offenders; violent and unemployed offenders experienced greater lenience in their split sentences; and male, younger, and unemployed offenders experienced larger reductions in the length of their prison terms than did female, older, and employed offenders.

While interpretations remain speculative at this point, the reluctance to use probation may reflect skepticism about the rehabilitative value of this disposition for black and violent offenders. The reluctance to imprison certain offenders for longer periods of time could reflect the greater sensitivity of judges with district attorney experience to the consequences of imprisonment for these offenders and for the system as a whole (e.g., overcrowding, an increase of violence within prison).

Certainly, these concerns were repeated by many court authorities in site visit interviews. While most respondents acknowledged that probation was not an effective deterrent, they emphasized that high caseloads, overworked probation officers, and little community support contributed to that result. Additionally, many respondents emphasized that probation was simply the only available alternative to incarceration. Several judges were reluctant to incarcerate because the Department of Offender Rehabilitation routinely wrote to keep the state's judges informed of prison populations and to complain about prison overcrowding. In those communications, DOR specifically advised judges to imprison for shorter periods of time and to use probation. Additionally, many judges questioned the merit and purpose of incarceration itself.

#### Judicial Electoral Vulnerability and Local Involvement

We expected vulnerability and local involvement to increase the harshness of punishment, particularly of those offenders who may appear threatening to the community. Conversely, we expected more lenience from

judges who were established and less vulnerable to public pressure for severity. We found partial support for these expectations.

As judges became more established, they were selectively more lenient than their counterparts when making some sentencing decisions (probation sentence length, the severity of split sentences, the length of prison terms). However, we found no clear tendency for less dangerous or threatening offenders to benefit more from this lenience than their counterparts. For example, as judges became more established, younger as well as female offenders received larger reductions in their probation sentences. Similarly, the reductions in prison sentences that accompanied a history of successful reelection was greater for black and unemployed, as well as for non-violent and never-incarcerated, offenders.

For two sentencing decisions (type of sentence, split sentence length), judicial electoral history selectively increased severity. Again, however, we found no clear tendency for disadvantaged or more dangerous offenders to be at a greater disadvantage than their counterparts. For example, as judges became more established, increases in split sentences were larger not only for male, unemployed, and violent offenders. They were also larger for offenders who were white, married, less serious, and never-incarcerated.

In short, established judges are more lenient than their less established counterparts for some but not all sentencing decisions. And, although they are selectively lenient, they do not consistently single out certain groups of offenders (e.g., less threatening, more advantaged) for preferential treatment.

As expected, the electoral vulnerability of judges increased the severity of probation and split sentences. Moreover, these increases were

usually more pronounced for more threatening or dangerous offenders (e.g., young, male, black, violent in the case of probation sentences; male, unmarried, unemployed, and previously arrested in the case of split sentencing). But for sentencing decisions that involved imprisonment, electoral vulnerability did not operate as expected. Rather it fostered lenience, and did so where we least expected it, namely, against offenders who were disadvantaged (e.g., black, unemployed) or more dangerous (viz., violent).

In sum, for some sentencing decisions, the electoral vulnerability of judges does indeed result in harsher treatment particularly of threatening offenders. For other sentencing outcomes, however, it affords these offenders preferential, more lenient treatment.

We found little evidence that membership in community organizations fosters more pronounced harshness toward more threatening or dangerous offenders. True, it selectively increased the use of imprisonment, reserving it more often for violent offenders (in multiple-judge courts) and for male, black, and younger offenders (in single-judge courts).

However, for the remaining sentencing decisions, membership in community organizations fostered selective lenience. Surprisingly, it was usually (but not always) more threatening or disadvantaged offenders that benefited more than their counterparts from this lenience. For example, for judges who sentence alone, community activism generated more lenience (less severe split sentences) toward black, unmarried, more serious and previously arrested offenders. These findings suggest that either judges contravene public opinion, or that communities are less punitive toward these offenders than we originally assumed.



The results for government involvement provided the strongest support for expectations. It selectively increased the risk of imprisonment, as well as the length of probation, split, and prison sentences. With few exceptions, government involvement generated increases in severity that were larger for more disadvantaged or threatening offenders (e.g., male, black, younger, violent) than they were for their more advantaged or less dangerous counterparts.

The tendency of electorally vulnerable judges to sentence convicted felons to long terms of probation and to rely on sentences that combine both probation and incarceration illustrate the symbolic dimensions of criminal justice. In interviews, several respondents emphasized that judges relied on severe probation terms when they feared public backlash or reaction. While they admitted that probation was, in actuality, a lenient penalty they hoped that the more crime control-oriented of their constituents would be appeased by the length of the term. Similarly, several respondents indicated that they emphasized the total term of probation and incarceration in split sentencing and hoped that that image would be conveyed to the public. The fact that total terms were frequently featured in press accounts indicates that some of these efforts were successful.

#### RELEVANCE OF COUNTY CONTEXTS

##### Urbanization

We found that urbanization selectively increased the harshness of some sentences (e.g., severity of split sentence, imprisonment risk), and fostered selective lenience in others (split and probation sentence lengths). Further, disadvantaged offenders did not always experience harsher punishment. Nor was lenience reserved for less more advantaged

offenders. Thus, there is no evidence that urbanization consistently puts certain offenders at a greater advantage (or disadvantage).

Urbanization did not uniformly result in more even-handed treatment. Indeed, though often not markedly, it tended to exacerbate, rather than reduce, differential treatment. Furthermore, urbanization increased differential treatment of both disadvantaged and advantaged, dangerous and less dangerous offenders. For example, it increased the differential and harsher treatment (in the form of longer prison terms) experienced by younger and unmarried, as well as by employed and female offenders.

In a minority of instances, limited to determinations of split sentence length, differential treatment declined with urbanization. Offenders that were more harshly treated in rural counties (e.g., male, unemployed, violent, previously arrested) were treated slightly more leniently in urban counties.

It was not surprising to find that black, previously incarcerated males received more punitive sentences at the hands of urban judges. Commenting that he simply did not know what to do, one urban judge indicated that he had little sympathy with such offenders. Additionally, he commented that the individuals in question had probably committed more crimes than their "rap sheets" listed. Similarly, it was not surprising to find that judges in urban courts did not rely on long probation or split sentence terms. The symbolic importance of these sentencing options appeared to be confined to rural areas where judges were more visible and, perhaps, anxious about public opinion. As one judge stressed, urban judges were clothed in anonymity. Rarely did their constituents know much about any of their judicial decisions.



### Economic Inequality

Contrary to expectation, we found no evidence of more pronounced harshness toward property offenders in counties with greater inequality. Indeed, in only one instance (split sentence length) did inequality exacerbate discrimination against property offenders. Here, however, differential treatment increased not because the sentences of property offenders became more severe. Rather, as counties became predominantly black, violent offenders experienced more lenience than did property offenders.

Our second expectation about inequality was that it would exacerbate discrimination against the disadvantaged. We found that, almost invariably, inequality increased differential treatment based on social background factors. However, it was just as likely to exacerbate harsher treatment of the disadvantaged (e.g., black, young, unemployed), as it was of the relatively advantaged (e.g., white, older, employed).

Thus, inequality places no group at a consistent advantage or disadvantage during sentencing. Rather, the extent and direction of differential treatment depends on the sentencing decision, the indicator of inequality, and the specific aspect of social background being considered. For example, as counties became predominantly black, differential and harsher treatment of blacks increased as judges considered the length of probation, split, and prison sentences. In contrast, as counties faced greater income inequality, harsher treatment of whites increased as judges considered the length of probation and split sentences.

The general patterns observed in quantitative analysis were borne out in field work. In interviews, several respondents emphasized the importance of the county's racial composition. Critics of the court system (e.g., newspaper reporters and some defense attorneys) stressed that race

featured in court decisions if there were a very large number of blacks in a given county. Implicitly arguing a conflict proposition, these respondents emphasized that major governmental positions were typically held by white citizens, even in predominantly black counties. Consciously or unconsciously concerned about the threat, political or otherwise, posed by the black majority, these court authorities saw that the law "came down heavy" on black defendants.

### Political Characteristics

Contrary to expectation, political conservatism did not invariably generate more severe sentencing outcomes. Rather, as conservatism increased, probation and split sentences became longer for some offenders. In contrast, split sentences became less severe and prison sentences shorter. Thus, where imprisonment is a possibility (and hence, by extension, where tax expenditures to support prisons could increase) judges become more lenient as counties become more conservative.

However, both lenience and severity was selective. Lenience was not reserved for relatively advantaged or less serious offenders. Indeed, it was more often the case that, as counties became more conservative, disadvantaged or more serious offenders received greater lenience than did their counterparts. For example, the reductions in split sentence severity that accompanied strong Wallace support were larger for black, unemployed, unmarried, more serious, violent, and previously-incarcerated offenders than they were for their counterparts.

In contrast, severity was often more pronounced for more disadvantaged or threatening offenders. For example, the increase in split sentences that accompanied strong Wallace support was larger for male, younger, unemployed, unmarried, and previously-arrested offenders.

In general, then, conservatism places no group at a consistent advantage or disadvantage during sentencings. Blacks are more harshly treated than whites when considering probation sentences, but more leniently treated than whites when considering the severity of split and prison sentences. Similarly, unmarried offenders experience larger increases in the length of split sentences than do their counterparts. Yet when the severity of split and prison sentences are considered, they experience more lenience than do their counterparts.

We could consider political liberalism for only two of the five sentencing decisions (type of sentence, probation sentence length). For the rest, our indicator of liberalism (percent Kennedy vote in 1980) was too confounded with urbanization to disentangle its unique effect. It was therefore included as part of the weighted linear composite measure of urbanization.

We found that liberalism resulted in both selective lenience and severity. For example, it generated larger reductions in the risk of imprisonment faced by female and white offenders than for male and black offenders. Further, it decreased the probation sentences imposed on white and property offenders, while increasing the probation sentences imposed on black and violent offenders. Taken together, these results suggest that, contrary to expectation, liberalism operates to the advantage of white, rather than black, offenders.

Some of these results relate to the previous discussion of the symbolic uses of particular types of sentences. Specifically, the fact that judges in politically conservative counties were more likely to sentence offenders to longer terms of probation and split sentences indicates that conservative concerns may be addressed by actions that are

largely intangible. Since it is unlikely that the length of probation terms and the related length of the total split sentences have any tangible effect on crime, more conservative crime control concerns would have to be eased by symbolic action. This point was stressed repeatedly in interviews and informal conversations, and illustrates the ramifications of our contextual understanding of the political process of criminal sentencing.

#### Crime Characteristics

Despite our expectations, we found that sentencing was not uniformly more severe in counties facing serious crime problems. Nor did judges consistently single out more threatening offenders for more severe punishment. Rather, county crime problems had divergent effects that depended on the sentencing decision being considered. Though there were exceptions, more serious crime problems tended to increase the use of imprisonment and the length of split sentences. In contrast, they produced no clear trend toward longer probation sentences, more severe split sentences, or longer prison terms. For some offenders, this was the case. For others, more serious crime problems resulted in shorter probation terms, and less severe split and prison sentences.

Thus, we cannot conclude that each dimension of the crime problem affects sentencing or conditions differential treatment in the same way. For example, split and prison terms became less severe for some offenders as counties experienced more stranger-stranger and residential Index crime. However, increases in stranger-stranger crime generated larger reductions in split sentence severity for female than for male offenders. In contrast, increases in residential Index crime generated larger reductions in split sentence severity for male offenders. Similarly, as Index crimes involving strangers became more common, black offenders experienced larger

reductions than whites in their split sentences. In contrast, as residential Index crimes became more common, they experienced larger increases than did whites.

Despite this diversity, when taken together the findings suggest that in the majority of instances more serious crime problems operate to the disadvantage of more threatening offenders, in particular, those who are male, black, young, unemployed, unmarried, and previously arrested. This trend reflects three patterns of differential treatment: (1) more pronounced harshness; (2) more lenience toward their counterparts (viz., female, white, older, employed, married, never-arrested); or (3) harsher treatment, in conjunction with lenient treatment of their counterparts.

This trend was weaker when considering the remaining legally relevant variables (offense seriousness and type, prior incarceration). Here, some dimensions of crime put more threatening offenders at an advantage. For example, as counties faced more residential and nighttime Index crime, violent offenders obtained larger reductions in prison sentences than did non-violent offenders. Similarly, an increase in nighttime Index crime increased the imprisonment risk faced by victimless offenders, but decreased that risk for violent offenders.

The mixed patterns noted in analyses involving objective measures of crime appear to reflect skepticism about the validity of formal measures of crime. Many respondents in interviews questioned the accuracy of the Uniform Crime Reports and stressed that police departments could manipulate crime measures for a variety of reasons. While no respondent specifically accused any department of deliberate distortion, several explained that there was substantial disagreement about what constituted a crime, when an arrest took place, and when a complaint was serious. Disagreements on

these points inevitably contributed to unreliable estimates of the actual crime problem of given jurisdictions.

A related but distinct attitude was commonly expressed in the quote "there are lies, damn lies, and statistics." Respondents expressing this opinion were simply skeptical about the value of any statistical evidence and appeared to rely on their own estimates and perceptions in measuring the extent of crime in their counties. Both of these attitudes, however, may help to explain why there was no direct and consistent association between criminal sentencing and objective measures of crime.

#### Press Coverage of Crime

Although there were exceptions, sentences tended to become more severe where press coverage of crime was extensive, prominent, and local in focus. In contrast, sentences tended to become more lenient where the press focused on violent crime. However, we found no evidence that disadvantaged or more threatening offenders were consistently singled out for harsher treatment. Nor did we discover that advantaged or less threatening offenders were singled out for greater lenience. As crime problems portrayed by the press became more serious, certain offenders (viz., black, younger, unmarried, previously arrested) tended to experience more pronounced harshness or less lenience than their counterparts. However, press coverage also worked consistently to the disadvantage of less threatening offenders as well (viz., female, employed, less serious, non-violent). For example, as crime problems portrayed in the press became more serious, females experienced larger increases in their probation and prison sentences than did males.

Judges and other court authorities were particularly critical of the way newspapers reported crime and criminal court processes. Charging that

the press focused on sensational cases and infrequently offered more than a cursory explanation of complex litigation, these respondents argued that press descriptions and stories should be discounted in gauging the seriousness of the crime problem in given counties. Especially critical of the press' tendency to focus on violent offenses, court authorities complained that newspapers ignored the fact that violent crimes are typically committed by family or friends on "kin or acquaintances." While many judges argued against punitive sentences for such offenders because of the inapplicability of deterrence, others stressed that these "junk cases" shouldn't even be brought to court. Tired, as one judge put it, of "supervising barroom brawls," many judges were reluctant to advocate severe sentences for violent offenders other than those who victimized strangers and/or those who were particularly brutal.

Less threatening but more common offenses (e.g., burglary) also highlighted in press coverage were frequently described as serious by judges and district attorneys. In these instances, press coverage appeared to reflect judicial perspectives and, perhaps, public concerns. When outlining typical sentences for such offenders, several judges observed that they imposed severe terms with deterrent objectives. In one circuit, for example, where first-time burglary defendants were routinely incarcerated for three years or more, the district attorney observed that "...criminals thought twice before committing property offenses in (his) circuit."

These insights help illuminate the contradictory patterns observed in the analysis of press coverage and sentence severity. Particular attitudes toward violent offenders and specific skepticism about the press' coverage of related crimes help to account for the lenient sentences observed in

those circuits where the press focuses on violent crimes. The severe sentencing that correlated with extensive, prominent, and local press coverage may simply reflect judicial objectives in sentencing and judicial ranking of offense severity.

#### CONCLUSION

What do these results tell us about the viability of the theoretical or common sense schemes outlined at the beginning of our investigation? Basically, they suggest that the sentencing process is far more complex than any perspective would lead us to expect. Theories about bureaucratization, offender status, economic inequality, division of labor and urbanization did not find sustained, empirical endorsement. Similarly, many results ran counter to related expectations generated by common sense and what we might call social science "folklore."

Clearly, one may criticize the applicability of some theoretical schemes (e.g., Durkheim) to this study. But the lack of support for our extensions of some perspectives does not necessarily invalidate the extensions themselves. It merely underscores the appropriateness of the proverbial "more research is needed."

As noted earlier, some site visit information led us to speculate that sentencing decisions would be completely patternless, that variation would be ideologically conditioned, and that legally relevant variables would be strong determinants of both sentence type and severity. Since we had no measures of ideology, we can only speculate about the validity of that proposition, and we examine this possibility in our discussion of policy implications. Our results lent only partial support to the first and third expectations.

As our earlier summary shows, the decision to sentence convicted felons in Georgia is neither patternless nor quixotic. Although we were unable to account for equal proportions of variance in all sentencing decisions, we explained a substantial portion in each, particularly split sentencing and determinations of prison sentence length. The amount of unexplained variance may be interpreted as supporting the individualistic hypothesis advanced by some judges. Or it may simply reflect the inability of current theorizing and common sense to accurately model actual sentencing behavior and to direct empirical inquiry into this process.

#### COMPARISON WITH RECENT RELATED RESEARCH

While this study relates to most sentencing research summarized in the first chapter, we need not draw sustained comparisons with each of them. Many studies were so limited by methodological shortcomings and narrow foci that their findings are suspect. In addition, our contextual focus and efforts to control for sample selection bias sharply distinguish this investigation from virtually all of the reported research.

As explained by Berk (1983) and outlined in Chapter III, sample selection bias occurs when one works with a nonrandom subset of a general population. Drawing a subset of those incarcerated from the general population of convicted felons is particularly hazardous. Berk identifies two potentially serious problems caused by sample selection bias: questions about the external validity of the investigation and questions about the accuracy of the estimation of causal effects. Our analysis of sentencing would be suspect if no correction for sample selection bias were applied. For example, if we focused on incarcerated felons in the analysis

of straight prison terms and did not include some measure for the probability of not receiving a straight prison term, we would run substantial risks of false positives and false negatives among the predictor variables. More importantly for our present purposes, it is difficult at best and erroneous at worst to compare sentencing studies that control for sample selection bias with those that do not.

With this caveat in mind, we examine a few recent studies and compare the general results and "lessons learned." Specifically, we focus on studies reported by Petersilia (1983), Pruitt and Wilson (1983), and Spohn and her colleagues (1981-2, 1984). We also refer to Baldus et al.'s, (1983) examination of capital sentences in Georgia; Ragona and Ryan's (1983) study of misdemeanor courts, and Jacob's book on crime and city politics (1984) and his critique of trial court research (1983b).

Petersilia (1983) studied criminal justice processes in California, Michigan, and Texas. She found racial differences in two key points of the process: "minority suspects were more likely than whites to be released after arrest..." and "...after conviction, minority offenders were more likely than whites to be given longer sentences and to be put in prison instead of jail" (1983: vii). Explaining that recidivism indicators correlated with race and accounted for substantial portions of differential treatment, Petersilia concluded with an exhortation to study "why recidivism indicators more often work against minorities" (1983: xi).

Examining the impact of race on sentencing, Pruitt and Wilson (1983) analyzed robbery and burglary cases in Milwaukee courts for a ten year period. Arguing that the longitudinal feature of the investigation helped overcome problems caused by sample selection bias, they found that race had obvious effects on the decision to incarcerate and decisions about the

severity of incarceration. These effects were observed only in the first time period (1967-1968) and not the last two periods (1971-1972; 1976-1977). Pruitt and Wilson attributed the absence of racial disparities in the 1970s to several factors, namely, changes on the bench, bureaucratization of both prosecutorial and defense offices, and specific decision rules guiding discretion.

Baldus, Woodworth, and Pulaski (1983) scrutinized the death sentence in Georgia, examining charging and sentencing processes, the death row population, and the appellate review process. In their study of the effect of offender attributes, they concluded that the race of the victim had substantial effects (1983: 75): "...defendants whose victims are white run a greater risk of receiving a death sentence than defendants in black victim cases," and "...that in white victim cases the likelihood of receiving a death sentence is substantially greater for black defendants than for white defendants." Of particular interest to the present study are aggregate patterns and rural-urban differences. Hypothesizing that racial disparities may simply be the result of aggregation (a variant of the ecological fallacy), Baldus and his colleagues examined capital sentencing in individual circuits. Though small sample sizes precluded controls for anything other than social background variables (e.g., prior record), they still found racial discrimination, particularly in rural courts.

Two studies conducted by Spohn, Gruhl and Welch (1981-82 and 1984) merit summary here. Using data collected from a northeastern city (Metro City), this team examined felony cases heard between 1968 and 1979. Their earlier work focused on the impact of race in sentencing. Adopting a variety of measures to correct or compensate for potential methodological

problems, they concluded that "...race does not have a direct effect on sentence severity but that blacks are more likely than whites to be incarcerated" (1981-82: 71). Race also correlated with a variety of legal and extra-legal factors, thus contributing indirectly to the explanation of sentence severity. In the most recent report, the same authors tested the utility of eleven measures of prior record. Concluding that many operational definitions were uncorrelated with each other and that some were strongly associated with both sentence severity and race, they argued that this legal variable must not be randomly selected (1984: 224).

Ragona and Ryan (1983) examined misdemeanor sentencing in four courts. Explicitly focusing on factors external to the courtroom and to the internal dynamics of sentencing processes, they argued that the community environment plays a critical role in lower court processes. Using both quantitative and qualitative data, they studied aggregate sentencing and concluded that "...contextual factors qualify or alter the meaning of variables" (1983: 34).

Two works by Herbert Jacob are relevant here. The first, The Frustration of Policy: Responses to Crime by American Cities (1984), summarizes Jacob and Lineberry's study of crime and city politics. While they did not examine criminal sentencing, Jacob and Lineberry focused on the way cities shaped policy in criminal justice. They also examined several factors potentially related to sentencing decisions. They concluded that the ten cities examined responded similarly to crime problems, namely, in a disorganized fashion. Despite considerable increases in police expenditures and more modest improvements in court facilities, city policies had little effect on the crime problem. For

Jacob and Lineberry, this was due to the fact that policies focused attention incorrectly on the offender rather than the victim.

Additionally, Jacob concluded that increased expenditures in the criminal justice system had no effect on the crime problem and that many of these increases stemmed from general growth in governmental activity and were not initiated in response to policy decisions about crime.

More directly pertinent to this study is Jacob's critique of the last twelve years of research on trial courts. In his 1982 address to the Law and Society Association, Jacob (1983b) argued that trial court studies have failed to examine distributional questions about the kinds of sanctions applied to various sectors of society; have not integrated various and pertinent theoretical perspectives; and have adopted comparative designs to the neglect of longitudinal analysis of single jurisdictions.

In comparing our study of felony sentencing in Georgia with the works briefly summarized above, six points bear emphasis. First, several studies have implicitly emphasized that racial disparities are not constant across every court system, nor are they reflected in every decision. Our findings on the range of racial disparities that surfaced in specific contexts and on the additive impact of race in some contexts are consistent.

Second, contextual effects cannot be ignored in any study of court processes in general and sentencing in particular. Baldus and his colleagues observed substantial differences between urban and rural courts; Ragona and Ryan argued that contextual factors are critical to misdemeanor court processes; and Pruitt and Wilson attributed the decline of racial disparities to factors external to court processes. Our evidence on the importance of contextual factors reinforces these points and offers even

more sustained empirical support for a research strategy that is contextually sensitive.

Third, alternate measures of critical variables potentially condition the degree and significance of substantive findings. As explained earlier, the quality of preexisting data sets limited our ability to test extensively and exhaustively for criminal history. Although our analysis of particular courts (e.g. Fulton and DeKalb Counties) suggests that the limitation may not be consequential, we must acknowledge that the inclusion of prior record measures may have yielded different results. Where we had reliable indicators of criminal history, however, it is important to note that our indicators had neither sustained nor strong effects and that their effects, too, were conditioned by contextual variation.

Fourth, only one of the aforementioned studies explicitly controlled for sample selection bias, and did so less extensively than we did in this study. While the absence of efforts to deal with sample selection bias cannot automatically lead one to dismiss previous research findings, it does call them into question. Our efforts to control for such bias, then, distinguish this research from virtually all other sentencing studies.

Fifth, Jacob (1984) concluded his analysis of crime and city politics with an exhortation to government agencies to improve their record keeping. Though he admitted that the data his team used were "the best that can be obtained..." he emphasized that improved record-keeping was essential or else "...the most sophisticated statistical techniques and the largest research teams will stumble over the same problems that hindered our efforts" (1984: 180). Our experience certainly lends support to Jacob's exhortation. The NIJ grant award required the use of pre-existing data sets. Although we collected data in Fulton and DeKalb Counties to



compensate for omissions in the DOR-maintained file and supplemented other data with collected information (e.g., on press coverage of crime), for the most part we compiled and used data sets compiled and maintained by government agencies. In many instances, they were less than satisfactory. For example, the DOR probation file lacked measures for prior record, and one indicator of prior record in the prison file (prior convictions) was, by the the agency's own admission, unreliable (see Appendix 111-C).

Sixth, our study does not unequivocally support the argument Jacob made in his 1983 Law and Society article. While we appreciate the merits of comprehensive, longitudinal studies of single jurisdictions, our results demonstrate the benefits of comparative inquiry. Although we focused on sentencing within a single state, our primary interest centered on variation across a variety of courts. Since most criminal law is defined in state codes and since sentencing reform is a primarily a state-wide enterprise, it is necessary to study such systems and variations in sentencing within them. Our results, however, also document the need for single-jurisdiction studies. For example, it would be fruitful to undertake longitudinal study of some of the circuits responsible for dramatic disparities. In short, we do not disagree with Jacob's exhortation to study single jurisdictions over time. We simply emphasize a corresponding need for comparative inquiries that have a better capability to inform state-level policy and to improve our general understanding of court systems and processes.

#### SIGNIFICANCE

As the previous section demonstrates, the research reported here is significant for several reasons. It offers a comprehensive examination of

felony sentencing within a single state. More importantly, it thoroughly examines sentencing contexts in ways that raise serious questions about the validity of earlier research. This contribution is obvious if one recognizes how the additive impact of many important variables was altered in contextual scrutiny. Additionally, our effort to control for sample selection bias distinguishes this research from most other sentencing studies, again in a fashion that at least calls previous findings into question. The actual effect of sample selection bias on sentencing studies awaits more sustained empirical comparisons. However, general commentaries (e.g., Berk, 1983) and recent research (e.g., Peterson and Hagan, 1984) certainly cast doubt on causal estimates generated in earlier studies.

These three contributions, the exhaustive analysis of sentencing within a criminal justice or court system, the scrutiny of contextual impact, and the correction for sample selection bias, illustrate the methodological strengths of our research. However, this work is significant substantively because it contributes to both theory and policy.

As explained in Chapter I, our approach to the study of felony sentencing in Georgia was not grounded in simple tests of formal theory. Though particular theoretical frameworks - most notably Weberian, conflict, and Durkheimian perspectives - helped guide our analysis and partially dictated the choice of independent variables, we did not intend to conclusively test a specific set of theoretical propositions. In fact, some may take issue with our theoretical interpretations and extensions. Rather, we sought to develop a conceptual framework that embeds the sentencing decision in its context, its broader environment. Replications outside of Georgia may not necessarily produce identical patterns. For



example, disparities based on race may not be as pronounced and urban judges may be more noticeably different from their rural counterparts. But contextual factors will most likely emerge in some form or other as conditioners of the significance of offender and offense attributes. For that reason, we argue that our work adds significantly to our understanding of sentencing and documents in rigorous, sustained fashion what a few earlier studies (e.g., Levin, 1978) have argued on an anecdotal or case study basis.

Given the partial support we found for many of the theories advanced and for the expectations gleaned from both common sense and site visits, it is obvious that the sentencing process is far more complex than earlier research and theorizing would suggest. In the future, it will not be sufficient to claim that a single perspective can explain all sentencing in all contexts. It will be necessary to approach the sentencing decision in something akin to a dramatic spotlight. In the fine arts, performers sit center stage and subject themselves to varying hues, shades, and shadows in the course of a specific performance. No single spotlight totally illuminates the performer. Rather, a single spotlight merely dramatizes and helps the audience appreciate one dimension of the artist and the performance. This image can be applied to our understanding of sentencing. To look at sentencing solely from the perspective of conflict theory, for example, is to ignore the richness and complexity of the phenomena. To examine only additive effects, to focus simply on one court in a general system, to look at only the decision to imprison, to follow only common sense or site visit leads would be to use only one spotlight. The complexity of the phenomenon demands that we scrutinize and highlight the

process with as many spotlights as possible. We must, then, engage in research not simply to refute other works or to dismiss the findings of specific studies, but to bring additional light to bear on our understanding of an important legal and social process. Our contextual analysis helps to spotlight sentencing to that end.

#### POLICY IMPLICATIONS

This study of sentencing yielded three basic findings: (1) some sentencing decisions are easier to understand than others; (2) sentencing processes are conditioned by court and county contexts; and (3) later decisions in court processes are affected by preceding ones in rather dramatic fashion. These results carry substantial implications for public policy. Specifically, they speak to issues central to substantive criminal law, to trial court processes, to sentencing reform, to appellate decision-making, and to the symbolic dimensions of political behavior. Additionally, they illustrate some of the tensions in the relationship between science and law.

This analysis illuminated three issues central to substantive criminal law. These include the purposes of the criminal sanction, questions about the proportionality of punishment, and the range and extensiveness of discretionary authority specified by statute.

As emphasized in the second chapter, questions of sanction purpose are directly relevant to felony sentencing. Our results appeal to this association for they demonstrate that a singular justification leads to greater uniformity and consistency in case processing. Consider the analysis of straight prison terms. As explained, that decision was the

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most "rational" and the most affected by the legally relevant variable of offense seriousness. Site visits suggested that judges were generally agreed that in sentencing an offender to prison, they were interested in protecting society from people who did a fair amount of harm. Sentencing decisions that lent themselves to more diverse justification, for example, probation and split sentences, were more difficult to explain and less affected by legally relevant variables. These results suggest that a lack of clarity about the purposes of criminal law manifests itself in less patterned and less consistent decision-making. They imply that efforts to resolve the tensions of sanction purpose are likely to pay off in more regularized and patterned decision-making. They also suggest that philosophical questions carry profound day-to-day implications.

As noted in the first part of this chapter, crimes that could be regarded as the most serious, that is, violent offenses, were not always coupled with the most severe penalties. Furthermore, our study demonstrated that offense seriousness played a critical role in most phases of the sentencing decision. A comparison of these two findings tells us that the criminal code is not internally consistent. Specifically, offense severity does not conform to severity of crime type. If it did we would see similar if not identical effects for the two variables. The fact that victimless and property offenders received harsher punishment when incarcerated under straight prison terms bears witness to this lack of proportionality. This absence of proportional punishment will continue to exacerbate sentencing variations and to intensify the likelihood of disparity. Admittedly, it is difficult to rank order criminal offenses in a manner that addresses every concern and every value, but some ranking is clearly necessary. Many circuit authorities implicitly acknowledged this

problem when they argued that statutory definitions frequently bore little resemblance to actual behavior. Our study underscores the need for substantial revision of the penal code that would address this problem.

As emphasized in Chapter II, the state criminal code gives courts substantial discretion in sentencing. A variety of contradictory purposes are ascribed for criminal law. Ranges in penalties are substantial. Few directives guide sentencing decisions. While courts were not uniformly sentencing defendants of particular social classes more punitively, in some contexts there were striking ranges of disparate treatment based on social attributes. These disparities suggest that criminal codes need to be more carefully and thoughtfully drawn and more precise directives given. Specifically, the wide range of disparities observed in some instances suggest that minimum and maximum terms must be restricted. Some discretion is necessary, to be sure, but the virtual ambiguity of current terms gives courts little direction. Additionally, courts need legislative guidance in the use of incarceration. If prison overcrowding continues to affect sentencing and if concern for crime continues, legislatures have to make some judgment on the extensiveness and condition of incarceration in defining criminal penalties. Even if we forsake any interest in achieving a substantive goal (e.g., rehabilitation, deterrence) and direct all our energies to procedural regularity, penal codes must offer courts more in the way of direction.

In addition to implications for substantive law, our study sheds light on trial court processes. It suggests that there is little uniformity in sentencing. We found no evidence of systemic bias or prejudice, no evidence that all sentencing decisions are guided by the same rationale, and no evidence that would conclusively rule out the significance of

personality and individual predispositions. Although portions of the sentencing process are easier to understand and particularly susceptible to legal interpretation, we have no grounds for concluding that uniform patterns, whether salutary or unacceptable, exist.

Our results suggest, then, that there may be little potential in definite sentencing. Given the contextual dependence of sentencing and the decentralized nature of our legal system (a direct consequence of a cardinal constitutional principle, the division of powers), it is likely that efforts to institute definite sentencing with no discretionary authority will at the least be resisted and at the worst circumvented at earlier stages (e.g., arrest, charging).

Our results speak also to the viability of other sentencing reform proposals. Take, for example, guideline and presumptive reform schemes. Guidelines have been introduced in some courts and touted as the best way to eliminate the undesirable consequences of disparate sentencing. Many proponents argue that they are advantageous because they require no revision of the penal code, because sentencing terms build on previous patterns, and because both the severity of the offense and the risk of recidivism are entered in the decision calculus. Furthermore, proponents argue that they give courts the opportunity to take individual characteristics into consideration and in the process to build a case law that will gradually set standards for exceptional cases. Presumptive sentencing systems are directed to the same ends as guideline reforms. They differ, however, in that they require large scale revision of the penal code, do not build in recidivism predictions, and may or may not be based on past practices.

Both guideline and presumptive sentencing, however, are not designed to take other potentially consequential factors into consideration (see Ragona and Ryan, 1983). Take, for example, the concern with prison overcrowding that we found in many circuits during site visits. Regardless of the restrictions and limited discretion guidelines and presumptive sentencing give courts, how will organizational factors be taken into consideration? While one might contend, as did one judge, that determinations of space are the responsibility of the corrections department, it is foolish to think that such hard realities will not affect decisions, especially if judges continue to consider themselves "realists."

Guidelines and presumptive sentencing schemes may be undesirable if they are designed in a way that penalties are based on previous sentences, especially if those sentences are in any way biased. Even if there is no evidence of systemic bias in sentencing, our study dramatically demonstrates that indirect effects may well illustrate inequitable practices and processes. More extensive scrutiny of past decisions is necessary, then, if guideline or presumptive terms are to be based on them.

Providing guidelines for non-incarcerative penalties poses even more substantial problems than their use in imprisonment decision-making. Our study implies that non-incarcerative sentencing decisions are more elusive and, perhaps, more susceptible to individual, particularistic, or even idiosyncratic factors. Furthermore, the penal code gives courts no direction in specifying less traditional penalties. Given the problem of prison overcrowding and the lack of clarity in setting objectives for non-incarcerative penalties, this is a serious omission. One could argue that non-incarcerative penalties are not consequential enough to worry about disparate treatment, but probation, fines, and other alternatives to

incarceration can severely restrict the liberty of offenders and substantively matter to victims as well.

Our research calls into question the viability of an emphasis on uniformity in sentencing. To be sure, judicial discretion needs to be directed and statutory ranges of penalties restricted, but the contextual character of sentencing suggests that uniformity is not likely. While this certainly flies in the face of any deterrent objective for criminal law and may even affect respect for the basic sanction, it must be recognized, especially when we structure our expectations for criminal law and our standards for justice. While we do not call only for an emphasis on procedural regularity, it is possible that concerns about uniformity of process and the equal application of law may make the achievement of substantive goals very difficult.

Additionally and relatedly our results caution against exaggerated and expansive purposes for criminal law. Given the variation in actual and potential impact of contextual forces, we may be asking too much to set a myriad of objectives for a law that is applied in very disparate and deliberately localized settings. We need, then, to rethink our expectations for criminal law and the price we would be willing to pay for both uniformity and efficiency. These are critical in any consideration of sentencing reform.

One less obvious rejoinder that springs from this analysis is the need to make sure that the law is administered by good people. While we appreciate that people have varying notions of what "good" means, it is important to emphasize that the degree to which sentencing decisions are affected by idiosyncratic or personality factors is the degree to which the power to sentence should be carefully given. The selection, whether by

election or appointment, of virtuous people is not the answer to general dissatisfaction with sentencing but it might help achieve the ends of justice in specific contexts.

Of particular consequence are the implications of this study for appellate decision-making. In some federal circuits, criminal defendants have raised issues of fairness that relate directly to this inquiry. Take, for example, the current deliberations over capital punishment and the charges that state sentencing processes are unconstitutional. The McCleskey case (Civ. A. No. C81-2434A, U.S. District Court, N.D. Georgia: Atlanta Division, February 1, 1984) is a good example. In this case, the federal district court was asked to reverse a capital sentence on a variety of grounds. Though the court did mandate a new sentencing hearing, the federal judge responded only to allegations of procedural error. In the process, Judge Owen Forrester flatly rejected the defendant's argument that sentencing in Georgia's capital cases was discriminatory. The defense based its empirical argument, and implicitly its 14th Amendment claim, on the study of Baldus et al. previously summarized.

Results of our study potentially affect appeals of other sentences in Georgia and raise broader questions of judicial decision-making. The Baldus study found empirical evidence of indirect racial discrimination, specifically, that the race of the victim featured in the decision to sentence to death and thereby generated a constitutionally suspect penalty. Our analyses indicated that in the absence of any evidence of systemic bias, discrimination can exist and the range of disparate treatment can be substantial. Related questions that appellate courts have to deal with are fairly substantial. To what extent will they only consider evidence of systemic discrimination in handling individual appeals? Can the defendant

merely demonstrate that contextual analysis reveals situations or contexts in which disparate treatment occurs and that he/she was sentenced in that situation? For example, if one studied our research evidence, it would be fair to conclude that there are counties, specifically those with a strong black population, where race does feature in some sentencing decisions. Would a defendant have the basis to plead discrimination if he simply referred to that finding and favorably compared his situation to the context in question? In short, how will appellate courts deal not only with evidence on the systemic character of sentencing processes but also with empirical results that direct attention to particular circumstances within a jurisdiction? The district court in McCleskey rejected the defense's empirical contention and set forth a rather rigorous standard of scientific validity. The issue, however, will likely reappear, especially as social science refines its understanding of the sentencing process and as it offers more precise and reliable estimates of the circumstances in which social attributes are likely to enter into the decision calculus.

Two final, related implications fall from this investigation. Briefly, our analysis of split sentencing demonstrates the potential significance of symbolic objectives and agendas in criminal law. As emphasized in Chapter VI, many judges appeared to use that sentencing option to "look tough" but to deal with either mitigating circumstances, prison overcrowding, or personal preferences. In considering any reform for criminal court processes, then, symbolic objectives must be recognized because resistance to change may depend as much on the intangible benefits of certain procedures as on substantive effects. Scheingold (1984) certainly demonstrates this for both criminal justice in general and sentencing in particular.

The final implication hinges on the relationship between law and science. As this research illustrates, science is basically a tentative enterprise. Results are described in terms of probability and qualified by the nature of the method, the quality of the data, the rigor of the analytical techniques, and the representativeness of the sample. Scientific results do not offer hard and fast standards against which specific recommendations for change can be conclusively endorsed or rejected. Thus, scientific evidence can be compelling, it is never complete. As the previous discussion of appellate court decision-making implies, the standards of science are quite distinct from those of law. Law, by its very nature, is not interested in ambiguity. While there is a fair amount of ambiguity in law, particularly the criminal law, legal decisions do not allow for qualifications. Defendants are either guilty or innocent, convicted felons are either sentenced to prison or not, sentences to prison are short or long, depending on one's position and perspective. Our study offers some compelling evidence on the importance of contextual effects. It demonstrates that sentencing is, indeed, a complex process. It does not, however, have the last word. Nor does it have an unequivocal word. We deal with legal subjects, issues, and processes in a scientific manner. We must, if we are to address the empirical questions upon which the definition and application of law depend. But our method for addressing these questions, namely, the scientific tradition, does not make the marriage between law and science one of convenience, much less love.

APPENDICES  
AND  
BIBLIOGRAPHY

Appendix Table III-A. Court and County Variables: Sources and Years of Availability

Variable	Source(s)	Availability
<u>COURT CONTEXT</u>		
I. <u>Caseload Pressure</u>		
Felony Filings per Judge	Administrative Office of the Courts	1976-1980
Lower Court Assistance	Administrative Office of the Courts	1976-1980
Number of Probation Officers	Administrative Office of the Courts	1980
II. <u>Prosecution Characteristics</u>		
Felony Filings per Prosecutor	Georgia State Crime Commission	1975
Percent Dismissals	Administrative Office of the Courts	1976-1980
Percent Guilty Pleas	Administrative Office of the Courts	1976-1980
Times Elected	Georgia Official and Statistical Register	1974-1982
Primary Opponents	Georgia Official and Statistical Register	1974-1982
Facing Reelection	Georgia Official and Statistical Register	1974-1982
III.-V. <u>Judicial Composition, Activism, Experience, Electoral Vulnerability and Local Involvement</u>	Georgia Official and Statistical Register	1974-1982
<u>COUNTY CONTEXT</u>		
I. <u>Urbanization</u>		
County Population	Censuses and State estimates	1975-1980
Percent Urban	Census of Population and Housing	1980
Population/Sq. Mile	Census of Population and Housing	1980

Appendix Table III-A., Continued

Variable	Source(s)	Availability
II. <u>Economic Inequality</u>	Census of Population and Housing	1980
III. <u>Occupational Division of Labor</u>	Census of Population and Housing	1980
IV. <u>Political Characteristics</u>	Georgia Department of State	1974, 1976, 1978, 1980
V. <u>Crime Characteristics</u>		
Index Crime Rate	Georgia Criminal Justice Coordinating Council	1980
Remaining Measures	Georgia Bureau of Investigation	1979
VI. <u>Press Coverage of Crime</u>	Content analysis of newspapers	1974-1980



APPENDIX III-B

DeKalb Codesheet Page 1

<u>Var #</u>	<u>Variable</u>	<u>Code</u>	<u>Response</u>	
001	Card number		<u>0</u>	<u>1</u>
			(1)	(2)
002	Case number			
			(3)	(4) (5) (6) (7)
003	Defendant age	years		
			(8)	(9)
004	Defendant sex	1 = male; 2 = female		
			(10)	
005	Defendant race	1 = white 3 = hispanic 2 = black 4 = other		
			(11)	
006	Defendant date of birth	year/month/date		
			(12)	(13) (14) (15) (16) (17)
007	Defendant place of birth	county: ; city:		
			(18)	(19) (20) (21) (22) (23) (24)
008	Defendant marital status	1 = married 4 = cohabiting 7 = single 2 = common law 5 = divorced 8 = other 3 = separated 6 = widowed		
			(25)	
009	Defendant residence	county: ; city:		
			(26)	(27) (28) (29) (30) (31) (32)
010	Defendant's living arrangements	1 = spouse + children 7 = sibling 2 = spouse w/o children 8 = friend 3 = children w/o spouse 9 = alone 4 = both parents 10 = institutionalized 5 = one parent 11 = other 6 = older relative		
			(33)	(34)
011	Defendant's number of children			
			(35)	(36)

## DeKalb Codesheet Page 2

012	Defendant's religion	1 = none specified 2 = Baptist 3 = Catholic 4 = Jewish	5 = Muslim 6 = Methodist 7 = other: _____	(37)
013	Defendant occupation	list name only: _____		(38) (39)
014	Defendant's employment status	1 = full-time 2 = part-time 3 = self-employed 4 = unemployed 5 = never worked	6 = student 7 = housewife/husband 8 = disabled/retired 9 = other	(40) (41)
015	Education	years completed		(42) (43)
016	Drug use	1 = none noted 2 = marijuana only	3 = other drug use 4 = drug addict	(44)
017	Alcohol use	1 = no, 2 = yes, 3 = alcohol abuse noted		(45)
018	SES status	1 = poor, 2 = not poor		(46)
019	Prior felony arrests for instant or lesser included offense	number		(47) (48)
020	Prior felony arrests for other crimes	number		(49) (50)
021	Prior felony convictions for instant or lesser included offense	number		(51) (52)
022	Prior felony convictions for other offenses	number		(53) (54)
023	Prior jail terms	number		(55) (56)

DeKalb Codesheet Page 3

024	Prior prison terms	number	(57)	(58)
025	Length of longest incarceration	years	(59)	(60)
026	Current probation/parole status	1 = no probation or parole at time of arrest 2 = on probation ... 3 = on parole ...	(61)	
027	Number probation and/or parole revocations in past	number	(62)	(63)
028	Prior fines	number	(64)	(65)
029	Date of offense	year/month/date	(66)	(67) (68) (69) (70) (71)
030	Arrest offense, most serious	list name only: _____	(72)	(73) (74) (75)
031	Arrest offense, 2nd serious	list name only: _____	(76)	(77) (78) (79)
032	Card number		0 (1)	2 (2)
033	Case number	see docket list or V 002	(3)	(4) (5) (6) (7)
034	Arrest offense, 3rd serious	list name only: _____	(8)	(9) (10) (11)
035	Arrest offense, 4th serious	list name only: _____	(12)	(13) (14) (15)
036	Total number of counts	number	(16)	(17)
037	Number of co-defendants		(18)	(19)

DeKalb Codesheet Page 4

038	Place of arrest	county: _____, city: _____	(20)	(21)	(22)	(23)	(24)	(25)	(26)
039	Scene of arrest	1 = street, lot 2 = vehicle 3 = business 4 = victim's residence	5 = defendant's residence 6 = other residence 7 = other building 8 = other _____	(27)					
040	Time of arrest	military hours	(28)	(29)	(30)	(31)			
041	Date of arrest	year/month/date	(32)	(33)	(34)	(35)	(36)	(37)	
042	Arrest at scene of offense	1 = no, 2 = yes	(38)						
043	Arrest via warrant	1 = no, 2 = yes	(39)						
044	Search warrant used in police work prior to arrest	1 = no, 2 = yes	(40)						
045	Type of bond	1 = ROR (own recognizance) 2 = psychiatric observation 3 = 3rd party custody 4 = cash bond	5 = property bond 6 = no bond set 7 = other	(41)					
046	Amount of cash bond	dollars	(42)	(43)	(44)	(45)	(46)	(47)	
047	Bond reduction motion	1 = no evidence re: motion 2 = motion made 3 = motion denied	4 = motion sustained/ approved 5 = not applicable	(48)					
048	Bond status	1 = in jail, no bond set 2 = in jail, no bond made 3 = bond met, pre-arraignment 4 = bond met at arraignment 5 = bond met post-arraignment	6 = bond met and forfeited 7 = bond met, forfeited and forfeiture set aside 8 = other _____	(49)					

## DeKalb Codesheet Page 5

049	Date of arraignment hearing	year/month/date	(50)	(51)	(52)	(53)	(54)	(55)
050	Judge presiding	list name only: _____	(56)	(57)	(58)			
051	Type of counsel	1 = public defender      3 = private 2 = court appointed      4 = self	(59)					
052	Prosecution charge, most serious	list name only: _____	(60)	(61)	(62)	(63)		
053	Prosecution charge, 2nd serious	list name only: _____	(64)	(65)	(66)	(67)		
054	Prosecution charge, 3rd serious	list name only: _____	(68)	(69)	(70)	(71)		
055	Prosecution charge, 4th serious	list name only: _____	(72)	(73)	(74)	(75)		
056	Card number		0 (1)	3 (2)				
057	Case number	see docket list or Y 002	(3)	(4)	(5)	(6)	(7)	
058	Date of grand jury indictment	year/month/date	(8)	(9)	(10)	(11)	(12)	(13)
059	Type of conviction	1 = guilty plea      3 = bench trial 2 = jury trial      4 = nolo contendere	(14)					
060	Judge accepting plea	list name only: _____	(15)	(16)	(17)			
061	Defendant failure to appear at arraignment	1 = no, 2 = yes	(18)					

## DeKalb Codesheet Page 6

062	Type of counsel at time of plea	1 = public defender 2 = court appointed	3 = private 4 = self	(19)
063	Psychiatric exam	1 = no evidence re: order 2 = considered, but not ordered	3 = ordered	(20)
064	If exam ordered, recommendation	list recommendation only: _____		(21)
065	Pretrial time	months		(22) (23) (24)
066	Defendant failure to appear at final disposition/trial	1 = no, 2 = yes		(25)
067	Date of final disposition/trial	year/month/date		(26) (27) (28) (29) (30) (31)
068	Type of victim	1 = person 2 = business, organization, institution: _____	3 = combination 4 = victimless	(32)
069	Number of victims			(33) (34)
070	Sex of victim listed first in indictment	1 = male, 2 = female		(35)
071	Main victim's age	years		(36) (37)
072	Main victim's race	1 = white 2 = black	3 = hispanic 4 = other _____	(38)
073	Main victim's date of birth	year/month/date		(39) (40) (41) (42) (43) (44)
074	Main victim's place of birth	county: _____, city: _____		(45) (46) (47) (48) (49) (50) (51)

DeKalb Codesheet Page 7

075	Main victim's marital status	1 = married 2 = common law 3 = separated	4 = cohabiting 5 = divorced 6 = widowed	7 = single 8 = other	(52)
076	Main victim's residence	county: _____, city: _____			(53) (54) (55) (56) (57) (58) (59)
077	Main victim's living arrangement	1 = spouse + children 2 = spouse w/o children 3 = children w/o spouse 4 = both parents 5 = one parent 6 = other older relative	7 = sibling 8 = friend 9 = alone 10 = institutionalized 11 = other 12 = not applicable	(60) (61)	
078	Main victim's number of children				(62) (63)
079	Main victim's occupation	list name only: _____			(64) (65)
080	Main victim's employment status	1 = full-time 2 = part-time 3 = self-employed 4 = unemployed 5 = never worked	6 = student 7 = housewife/husband 8 = disable/retired 9 = other	(66) (67)	
081	Main victim's SES status	1 = poor, 2 = not poor			(68)
082	Main victim's relationship to defendant	1 = spouse or common law partner 2 = child 3 = parent 4 = other family member 5 = ex-spouse 6 = co-habiting	7 = girlfriend/boyfriend 8 = acquaintance 9 = neighbor 10 = current/past employer/e 11 = stranger 12 = other	(69) (70)	
083	Victim provocation or participation	1 = no, 2 = yes			(71)

## DeKalb Codesheet Page 8

084	Property lost, stolen, damaged	1 = no, 2 = yes	(72)
085	Personal injury to victim	1 = no, 2 = yes	(73)
086	Restitution received by victim	1 = no, 2 = yes	(74)
087	Victim drug use	1 = no 2 = marijuana	3 = other drugs 4 = drug addict (75)
088	Victim alcohol use	1 = no, 2 = yes	(76)
089	Victim vulnerability	1 = no, 2 = yes (child, elder, handicapped)	(77)
090	Card number		0 (1) 4 (2)
091	Case number	see docket list or V 002	(3) (4) (5) (6) (7)
092	Time between offense and arrest	days	(8) (9) (10) (11)
093	Police eyewitness to offense	1 = no, 2 = yes	(12)
094	Other eyewitnesses to offense	1 = no, 2 = yes	(13)
095	Total number of non-police eyewitnesses		(14) (15)
096	Total number of other witnesses (e.g., supplying circumstantial info)		(16) (17)
097	Number of affidavits from eyewitnesses and witnesses		(18) (19)



098 Relationship of first witness to defendant

1 = spouse, common law partner	8 = acquaintance	(20)	(21)
2 = child	9 = neighbor		
3 = parent	10 = current/past employer/e		
4 = other family member	11 = stranger		
5 = ex-spouse	12 = other		
6 = co-habiting	13 = police		
7 = girlfriend/boyfriend			

099 Relationship of second witness to defendant

1 = spouse, common law partner	7 = girlfriend/boyfriend	(22)	(23)
2 = child	8 = acquaintance		
3 = parent	9 = neighbor		
4 = other family member	10 = current/past employer/e		
5 = ex-spouse	11 = stranger		
6 = co-habiting	12 = other		
	13 = police		

100 Relationship of third witness to defendant

1 = spouse, common law partner	7 = girlfriend/boyfriend	(24)	(25)
2 = child	8 = acquaintance		
3 = parent	9 = neighbor		
4 = other family member	10 = current/past employer/e		
5 = ex-spouse	11 = stranger		
6 = co-habiting	12 = other		
	13 = police		

101 Promptness in reporting crime

hours

102 Time of offense

military hours

103 Defendant statement

1 = none, 2 = oral, 3 = written

104 Defendant confession

1 = none, 2 = oral, 3 = written

105 Police recovery of stolen property or weapon

1 = none	4 = property and weapon
2 = stolen property	5 = not applicable
3 = weapon	

(26) (27) (28)

(29) (30) (31) (32)

(33)

(34)

(35)

## DeKalb Codesheet Page 10

106	Identifiable physical evidence linking defendant to crime	list name only: _____	(36)	(37)
107	If drug offense, type of drug	list name only: _____	(38)	(39)
108	Amount of drug	ounces	(40)	(41) (42) (43) (44)
109	Value of stolen property	dollar estimate	(45)	(46) (47) (48) (49) (50)
110	Type of weapon	1 = none 2 = hands, fist, feet 3 = blunt instrument 4 = sharp instrument 5 = firearm 6 = other _____ 7 = not applicable	(51)	
111	Type of injury inflicted on main victim	1 = none 2 = some, unknown extent 3 = minor, self-treated 4 = minor, doctor/hospital treated 5 = hospitalized 6 = fatal 7 = other _____ 8 = not applicable	(52)	
112	Type of injury inflicted on other victims	1 = none 2 = some, unknown extent 3 = minor, self-treated 4 = minor, doctor/hospital treated 5 = hospitalized 6 = fatal 7 = other _____ 8 = not applicable	(53)	
113	Motion to suppress evidence, confession, testimony, etc.	1 = no evidence re: motion 2 = motion made 3 = motion denied 4 = motion sustained/ approved 5 = none made	(54)	
114	Total number of motions		(55)	(56) (57)
115	Final charge, prosecutorial change from original	1 = no, 2 = yes	(58)	
116	Conviction offense, most serious	list name only: _____	(59)	(60) (61) (62)

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117	Conviction offense, 2nd serious	list name only: _____	(63)	(64)	(65)	(66)
118	Conviction offense, 3rd serious	list name only: _____	(67)	(68)	(69)	(70)
119	Conviction offense, 4th serious	list name only: _____	(71)	(72)	(73)	(74)
120	Type of counsel at final disposition/trial	1 = public defender 2 = court appointed	3 = private 4 = self	(75)		
121	Judge residing at final disposition/trial	list name only: _____	(76)	(77)	(78)	
122	Card number		0 (1)	5 (2)		
123	Case number	see docket list or V 002	(3)	(4)	(5)	(6) (7)
124	District Attorney presiding at final disposition/trial	list name only: _____	(8)	(9)	(10)	
125	If offense nolleed, reason for most serious	list reason only: _____	(11)	(12)	(13)	(14)
126	If offense nolleed, reason for 2nd serious	list reason only: _____	(15)	(16)	(17)	(18)
127	If offense nolleed, reason for 3rd serious	list reason only: _____	(19)	(20)	(21)	(22)
128	If offense nolleed, reason for 4th serious	list reason only: _____	(23)	(24)	(25)	(26)
129	Date of sentencing	year/month/date	(27)	(28)	(29)	(30) (31) (32)
130	Judge sentencing	list name only: _____	(33)	(34)	(35)	

DeKalb Codesheet Page 12

131	District Attorney at sentencing	list name only: _____	(36)	(37)	(38)
132	Sentence type	<div style="display: flex; justify-content: space-between;"> <div> 1 = none  2 = suspended  3 = fine  4 = probation  5 = fine and probation  6 = fine, probation, sus-            pended sentence  7 = probation and suspended            sentence  8 = fine and suspended sentence </div> <div> 9 = prison  10 = prison and pro-            bation (split)  11 = jail  12 = jail and probation  13 = jail, probation, fine  14 = jail, probation, sus-            pended sentence  15 = civil commitment  16 = other _____ </div> </div>	(39)	(40)	
133	Length of probation	years _____	(41)	(42)	
134	Special conditions attached to probation	1 = no, 2 = yes _____	(43)		
135	Length of incarceration	years _____	(44)	(45)	
136	Fine	dollars _____	(46)	(47)	(48) (49) (50) (51)
137	Special conditions judge attached to sentence	list only: _____	(52)	(53)	
138	PSI Requested/Ordered	1 = no, 2 = yes _____	(54)		
139	PSI Sentence Recommendation	1 = none, 2 = yes _____, 3 = not applicable	(55)		
140	District Attorney sentence recommendation	1 = no evidence re: recommendation 2 = none, 3 = yes _____	(56)		
141	Defense Attorney sentence recommendation	1 = no evidence re: recommendation 2 = none, 3 = yes _____	(57)		

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142 Defendant file appeal

1 = no, 2 = yes

143 Date of appeal

year/month/date

144 Defendant request sentence review

1 = no, 2 = yes

(58)

(59) (60) (61) (62) (63) (64)

(65)



# GEORGIA DEPARTMENT OF OFFENDER REHABILITATION

Room 756 East Tower Floyd Veterans Memorial Building Atlanta, Georgia 30334

David C. Evans  
Commissioner

January 30, 1984

Dr. Suzette Talarico  
Department of Political Science  
University of Georgia  
Athens, Georgia 30602

Dear Dr. Talarico,

In response to your inquiry about the strange-looking statistics that you got from the "Number of Prior Convictions" field on the inmate research file we sent you: I'm sorry to report that that data is garbage. We only recently discovered that the code clerks who were transcribing the data were not sure what they were supposed to be counting, and were not consistent among themselves in recording whatever they thought they were recording.

I regret any inconvenience that this may have caused you. It certainly caused us quite a bit of embarrassment.

The "number of prior arrests" field should be more reliable as an indicator of previous criminal behavior. However, please be aware that there are some counties in Georgia that are not reporting any arrests at all.

Sincerely,

*Tim*

Timothy S. Carr, Ph.D.  
Director, Systems Section

Appendix Table III-D. Circuits and Counties of Newspaper Content Analysis

Circuit	County	Newspaper(s)
Alapaha	Berrien	Tifton Gazette
Alcovy	Newton	Convington News
Atlanta	Fulton	Atlanta Constitution
Atlantic	Evans	Claxton Enterprise
Augusta	Burke	True Citizen
	Richmond	Augusta Chronicle
Blue Ridge	Cherokee	Cherokee Tribune
Brunswick	Camden	Southeast Georgian
Chattahoochee	Muscogee	Columbus Enquirer
Cherokee	Bartow	Daily Tribune
		Herald Tribune
	Gordon	Calhoun Times
Cobb	Cobb	Marietta Daily
Conasauga	Whitfield	Daily Citizen
Cordele	Ben Hill	Fitzgerald Herald
	Crisp	Cordele Dispatch
Coweta	Carroll	Carroll County
		Times Free Press
Dougherty	Dougherty	Albany Herald
Eastern	Chatham	Savannah Morning
Gwinnett	Gwinnett	Gwinnett Daily
Lookout Mountain	Chattooga	Summerville News
Macon	Bibb	Macon Telegraph
Middle	Emanuel	Swainsboro Forest
Northeastern	Hall	Times-Gainesville
Northern	Elbert	Elberton Star
	Hart	Hartwell Sun
Ocmulgee	Baldwin	Union Recorder
	Green	Herald-Journal
Oconee	Dodge	Times Journal
Ogeechee	Bulloch	Statesboro Herald
	Screven	Sylvania Telephone
Patuala	Terrell	Dawson News
Rome	Floyd	Rome News
Southern	Lowndes	Valdosta Daily
Southwestern	Sumter	Americus Times
Stone Mountain	DeKalb	Decatur-DeKalb
Tallapoosa	Paulding	Dallas News Era
Tifton	Tift	Daily Tifton
Waycross	Brantley	Brantley Enterprise
	Coffee	Coffee County
		Douglas Enterprise
	Ware	Waycross Journal
Western	Clarke	Athens Banner Herald

## NEWSPAPERS CONTENT ANALYSIS

## Codesheet

1. Paper \_\_\_\_\_
2. Issue \_\_\_\_\_
3. Type of Coverage
- |             |   |                      |   |       |
|-------------|---|----------------------|---|-------|
| None        | 0 | Letter to Editor     | 5 | _____ |
| Front Page  | 1 | Syndicated Columnist | 6 | _____ |
| Inside Page | 2 | Local Columnist      | 7 | _____ |
| Back Page   | 3 | Front Page Metro/    | 8 | _____ |
| Editorial   | 4 | State Section        |   | _____ |
|             |   | Sunday               |   | _____ |
4. General Topic
- |                                     |    |       |
|-------------------------------------|----|-------|
| Local Crime                         | 1  | _____ |
| Local Criminal Justice              | 2  | _____ |
| Local Crime and Criminal Justice    | 3  | _____ |
| State Crime                         | 4  | _____ |
| State Criminal Justice              | 5  | _____ |
| State Crime and Criminal Justice    | 6  | _____ |
| National Crime                      | 7  | _____ |
| National Criminal Justice           | 8  | _____ |
| National Crime and Criminal Justice | 9  | _____ |
| Local and State                     | 10 | _____ |
| Local and National                  | 11 | _____ |
| State and National                  | 12 | _____ |
| Non-Georgia State Crime             | 13 | _____ |
| Military Offense                    | 14 | _____ |
5. Type of Crime (See Codesheet. Enter primary focus first; secondary second; tertiary third) \_\_\_\_\_
6. Type of Criminal Justice
- |                |   |              |       |       |
|----------------|---|--------------|-------|-------|
| Police         | 1 | Court Clerks | 7     | _____ |
| Prosecutors    | 2 | Court Adm.   | 8     | _____ |
| Juries         | 3 | Probation    | 9     | _____ |
| Judges         | 4 | Parole       | 10    | _____ |
| Bail           | 5 | Jails        | 11    | _____ |
| Defense Attys. | 6 | Prisons      | 12    | _____ |
|                |   | Other        | _____ | _____ |
7. Tone of article/unit
- |                           |   |                 |       |       |
|---------------------------|---|-----------------|-------|-------|
| Description               | 1 | Moralizing      | 5     | _____ |
| Critical                  | 2 | Cause           | 6     | _____ |
| Supportive                | 3 | Fearful         | 7     | _____ |
| Reform/<br>recommendation | 4 | Denial/mitigate | 8     | _____ |
|                           |   | Other           | _____ | _____ |

Appendix Table IV-A. Summary of Case and Court Interactions for Sentence Type, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
BUREAUCRATIZATION					
Felony Filings per Judge	White	.308	White	.211	-.097
	Male	.113	Male	.206	.093
	More Serious	.244	More Serious	.189	-.055
Lower Court Assistance	White	.280	White	.026	-.254
	More Serious	.238	More Serious	.154	-.084
Number of Probation Officers	Male	.039	Female	.091	.052
	Violent (v. Victimless)	.023	Violent	.283	.260
PROSECUTION CHARACTERISTICS					
Felony Filings per Prosecutor	Younger	.003	Older	.099	.097
	More Serious	.174	More Serious	.266	.092
	Violent	.345	Victimless	.079	-.266
	Violent (v. Property)	.297	Violent	.001	-.296
Percent Dismissals	Female	.129	Male	.078	-.051
Percent Guilty Pleas	More Serious	.135	More Serious	.053	-.082
Number of Times Elected	Female	.129	Female	.017	-.112
	Black	.090	White	.014	-.076
	Younger	.024	Younger	.081	.057
	More Serious	.154	More Serious	.330	.176
	Violent (v. Victimless)	.433	Violent	.161	-.272
	Violent (v. Property)	.359	Violent	.079	-.280
	Female	.129	Female	.001	-.128
	Younger	.024	Older	.096	.072
Facing Reelection	Female	.129	Female	.079	-.050
	Violent (v. Victimless)	.433	Violent	.353	-.080



Appendix Table IV-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
JUDICIAL COMPOSITION					
Mean Age	Older	.260	Older	.097	-.163
Percent Married	Male	.170	Female	.026	-.148
	Older	.430	Older	.370	-.060
Mean Percent Urban Background	Male	.374	Male	.588	.214
	Older	.492	Older	.535	.043
	More Serious	.297	More Serious	.114	-.156
	Victimless	.280	Victimless	.117	-.163
	Violent (v. Property)	.596	Violent	.426	-.170
Percent born outside Circuit	Male	.374	Male	.204	-.170
	More Serious	.297	More Serious	.352	.055
	Violent (v. Property)	.596	Violent	.486	-.110
Percent born outside Georgia	Older	.492	Older	.732	.240
	More Serious	.297	More Serious	.517	.220
	Violent (v. Property)	.596	Violent	.346	-.250
Percent born outside South	More Serious	.297	More Serious	.187	-.110
	Violent (v. Property)	.596	Violent	.886	.290
JUDICIAL ACTIVISM AND EXPERIENCE					
Mean Bar Associations	More Serious	.238	More Serious	.253	.015
	Violent	.235	Victimless	.046	-.189
	Violent (v. Property)	.248	Violent	.071	-.177
Mean Attorney Associations	Black	.045	Black	.142	.097
	Older	.024	Younger	.018	-.006
Mean Years Other Judicial Experience	More Serious	.154	More Serious	.104	.050

Appendix Table IV-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
Mean Years District Attorney Experience	Male	.097	Male	.197	.100
	Older	.024	Younger	.057	.033
	More Serious	.154	More Serious	.079	-.075
JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT					
Mean Times Elected	Male	.061	Male	.178	.117
	Older	.027	Younger	.039	.012
Mean Primary Opponents	Male	.022	Male	.126	.104
	More Serious	.154	More Serious	.138	-.016
	Violent (v. Victimless)	.291	Violent	.067	-.224
Percent Facing Reelection	Male	.022	Male	.122	.100
	White	.047	Black	.053	.006
	Older	.048	Older	.168	.120
	Violent (v. Victimless)	.291	Violent	.191	-.100
Mean Community Organizations	More Serious	.154	More Serious	.090	-.064
	Violent (v. Victimless)	.291	Violent	.550	.259
Mean Years in Local Government	White	.047	Black	.083	.036
	Older	.048	Older	.115	.067
	More Serious	.154	More Serious	.276	.122
	Violent	.291	Victimless	.153	-.138
	Violent	.140	Property	.008	-.132
Mean Years in State Government	Male	.022	Female	.110	-.098
	Older	.048	Younger	.005	-.043
	More Serious	.154	More Serious	.203	.049
	Violent	.140	Property	.002	-.138

Note: Predicted sentences capture only the effects of varying one possible determinant of imprisonment risk (e.g., felony filings). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Appendix Table IV-B. Summary of Case and Court Interactions for Sentence Type, Single-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
BUREAUCRATIZATION					
Felony Filings per Judge	Female	.077	Males	.201	.124
	Older	.005	Younger	.172	.167
	More Serious	.139	More Serious	.092	-.047
Lower Court Assistance	Black	.314	Black	.038	-.276
	Property	.536	Violent	.016	-.520
Number of Probation Officers	Black	.614	Black	.494	-.120
	Older	.156	Older	.276	.120
	More Serious	.130	More Serious	.030	-.100
	Property (v. Violent)	1.100	Property	.680	-.420
JUDICIAL ACTIVISM AND EXPERIENCE					
Bar Associations	Black	.100	Black	.272	.172
	Older	.011	Older	.107	.096
Attorney Associations	Older	.010	Younger	.121	.111
	More Serious	.165	Less Serious	.033	-.132
Years District Attorney Experience	Male	.160	Female	.092	-.068
	Black	.100	White	.026	-.074
	More Serious	.165	More Serious	.073	-.092
	Violent (v. Victimless)	.079	Violent	.604	.525
	Violent (v. Property)	.087	Violent	.444	.357
JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT					
Times Elected	White	.173	Black	.079	-.079
	Violent (v. Property)	.366	Violent	.120	-.246

Appendix Table IV-B., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
Primary Opponents	Male	.020	Male	.277	.257
	White	.215	White	.507	.292
Facing Reelection	White	.185	White	.135	-.050
	Older	.012	Older	.042	.030
	More Serious	.152	More Serious	.178	.022
Community Organizations	Male	.020	Male	.260	.240
	White	.215	White	.031	-.184
	Younger	.006	Younger	.294	.288
	Violent	.401	Victimless	.205	-.196
	Violent	.407	Property	.209	-.198
Years in State Government	Male	.020	Male	.260	.240
	White	.215	White	.119	-.096
	Younger	.006	Younger	.063	.057

Note: Predicted sentences capture only the effects of one possible determinant of imprisonment risk (e.g., felony filings). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Appendix Table IV-C. Summary of Case and County Interactions for Sentence Type

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprisonment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
URBANIZATION	Male Black More Serious	.066 .061 .070	Male Black Less Serious	.238 .105 .041	.172 .044 -.029
ECONOMIC INEQUALITY					
Income Inequality	Older Violent	.037 .336	Older Victimless	.210 .041	.173 -.295
Percent Black	White Younger	.010 .228	White Younger	.150 .415	.140 .187
DIVISION OF LABOR	Younger More Serious Violent (v. Victimless)	.028 .173 .108	Older More Serious Violent	.018 .122 .317	.039 -.051 .209
POLITICAL CHARACTERISTICS					
Voter Participation	Younger More Serious	.024 .266	Younger Less Serious	.086 .185	.062 -.081
Percent Wallace Vote	Older	.021	Younger	.173	.152
Percent Reagan Vote	Female White Older More Serious Violent (v. Property) Victimless	.132 .183 .043 .297 .076 .132	Male Black Older More Serious Violent Violent	.228 .037 .057 .209 .276 .068	.096 -.146 .014 -.088 .200 -.064
Percent Kennedy Vote	Female White Older	.266 .279 .029	Male White Younger	.056 .181 .021	-.210 -.098 -.008

Appendix Table IV-C., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
CRIME CHARACTERISTICS					
Index Crime Rate	White	.186	White	.004	-.182
	Older	.096	Older	.018	-.078
	Victimless	.034	Violent	.360	.326
	Property	.008	Violent	.266	.258
Percent Stranger-Stranger Index Crimes	White	.186	White	.308	.122
	Victimless	.034	Violent	.418	.384
	Violent (v. Property)	.007	Violent	.067	.060
Percent Residential Index Crime	White	.186	White	.022	-.064
	Victimless	.034	Violent	.362	.328
	Property	.008	Property	.295	.287
Percent Index Crimes Involving Weapons	Male	.138	Male	.312	.174
	Older	.096	Older	.185	.089
Percent Index Crimes Occurring at Night	White	.186	Black	.041	-.145
	More Serious	.132	More Serious	.315	.183
	Victimless	.034	Victimless	.470	.436
	Property	.008	Property	.327	.319
Percent Black Arrestees	White	.186	White	.094	-.092
	Older	.096	Younger	.009	-.087
	Victimless	.034	Victimless	.140	.106
Percent Young Arrestees	Victimless	.034	Violent	.334	.300
PRESS COVERAGE OF CRIME					
Articles per Issue	Male	.291	Male	.142	-.149
	Younger	.060	Older	.048	-.012
	More Serious	.275	More Serious	.154	-.121

Appendix Table IV-C., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Imprison- ment Risk
	Greater Imprisonment Risk	Difference in Risk	Greater Imprisonment Risk	Difference in Risk	
Prominence of Coverage	Black Younger	.462 .070	White Younger	.048 .427	-.414 .367
Local Crime Coverage	Male Younger More Serious	.303 .065 .283	Male Older More Serious	.140 .056 .209	-.163 -.009 -.074
Violent Crime Coverage	Black Violent (v. Property)	.462 .336	White Violent	.038 .036	-.424 -.300

Note: Predicted sentences capture only the effects of varying one possible determinant of imprisonment risk (e.g., urbanization). Variation in the remaining determinants, all of which to some extent affect the actual sentences imposed on any given offender, was held constant.

Appendix Table V-A. Summary of Case and Court Interactions for Probation Sentence Length, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
BUREAUCRATIZATION					
Felony Filings per Judge	Male	1.329	Male	.497	- .832
	Black	1.705	Black	2.423	.718
	Younger	2.377	Younger	2.876	.499
Lower Court Assistance	Female	2.125	Female	2.644	.519
	Black	.450	White	.476	.026
	Younger	.746	Older	.554	- .191
	More Serious	3.032	More Serious	1.884	-1.148
	Violent	1.075	Violent	.015	-1.060
	(v. Victimless)				
	Violent	.660	Property	.099	- .561
Number of Probation Officers	Male	1.612	Male	2.004	.392
	Younger	2.207	Younger	1.971	.235
	Violent	1.689	Violent	2.428	.739
	(v. Property)				
PROSECUTION CHARACTERISTICS					
Felony Filings per Prosecutor	Older	.215	Younger	.650	.434
	Victimless	.940	Violent	1.392	.452
	Property	.032	Violent	.689	.657
Percent Dismissals	White	2.226	White	.246	-1.980
	More Serious	1.480	More Serious	2.287	.807
Percent Guilty Pleas	White	1.813	Black	.010	-1.803
	Older	.497	Older	.947	.450
Number of Times Elected	More Serious	1.480	More Serious	.843	- .640
	Victimless	1.424	Violent	.144	-1.280



Appendix Table V-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Number of Primary Opponents	Female	.438	Male	.233	- .204
	White	2.226	White	.639	-1.587
	Older	.395	Younger	.210	- .185
	More Serious	1.483	More Serious	2.341	.858
	Victimless	1.424	Victimless	.090	-1.334
Facing Reelection	More Serious	1.483	More Serious	1.063	- .420
JUDICIAL COMPOSITION					
Percent Male	Black	4.220	Black	3.590	- .630
	More Serious	12.800	More Serious	11.100	-1.700
	Victimless	14.427	Victimless	15.717	1.290
Mean Age	Black	2.040	Black	.050	-1.989
	Older	1.398	Older	2.601	1.203
Percent Married	Younger	1.466	Younger	2.630	1.164
	More Serious	10.400	More Serious	6.300	-4.100
	Victimless	5.707	Violent	1.723	-3.985
	Property	3.067	Violent	.478	-2.589
Mean Percent Urban Background	Black	4.850	Black	6.333	1.483
	Younger	.302	Younger	.770	.467
	More Serious	14.500	More Serious	13.573	- .927
	Victimless	13.137	Victimless	12.006	-1.131
	Property	6.612	Property	5.926	- .686
Percent Born Outside Circuit	Male	.971	Male	.526	- .445
	Black	4.850	Black	4.404	- .446
	More Serious	14.500	More Serious	14.120	- .380
	Property	6.612	Property	6.972	.360

Appendix Table V-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Percent Born Outside Georgia	More Serious	14.500	More Serious	13.301	-1.199
	Victimless	13.137	Victimless	14.110	.973
	Property	6.612	Property	7.367	.755
Percent Born Outside South	Male	.971	Male	.120	-.850
	Younger	.302	Younger	.740	.438
	Victimless	13.137	Victimless	13.932	.795
JUDICIAL ACTIVISM/EXPERIENCE					
Mean Bar Associations	Violent	.729	Property	.290	-.439
Mean Attorney Associations	Male	.319	Female	.244	-.068
	More Serious	1.214	More Serious	1.715	.501
	Violent	1.134	Victimless	.234	-.900
	Violent	.729	Property	.210	-.519
Mean Years Other Judicial Experience	More Serious	1.214	More Serious	2.450	1.236
	Violent	1.134	Victimless	.419	-.719
Mean Years District Attorney Experience	Black	.282	White	.826	.544
	Male	.312	Male	.924	.612
	More Serious	1.214	More Serious	3.037	1.903
	Violent	1.134	Violent	.151	-.983
	(v. Victim- less)				
JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT					
Mean Times Elected	Male	.089	Male	.746	.657

Appendix Table V-A., Continued

Court Characteristics	<u>Minimum Court Value</u>		<u>Maximum Court Value</u>		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Mean Primary Opponents	Older	.453	Older	.778	.325
	Female	.099	Male	.440	.341
	Black	.004	Black	.682	.678
	Older	.364	Younger	.634	.274
Percent Facing Reelection	Older	.360	Younger	.120	-.240
	More Serious	3.119	More Serious	2.359	-.760
	Victimless	.247	Violent	1.033	.786
	Violent	.015	Property	.650	.635
Mean Community Organizations	More Serious	3.119	More Serious	3.740	.621
	Victimless	.247	Victimless	1.168	.921
	Violent	.015	Property	.824	.809
Mean Years in Local Government	Female	.099	Female	.654	.555
	Victimless	.247	Violent	1.148	.099
	Violent	.015	Violent	.680	.664
	(v. Property)				
Mean Years in State Government	Black	.004	Black	.565	.561
	More Serious	3.119	More Serious	2.146	-.973
	Property	.247	Property	.689	.442

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentences (e.g., felony filings). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Appendix Table V-B. Summary of Interactions between Case Context and Court Bureaucratization for Probation Sentence Length, Single-Judge Courts

Bureaucratization Indicator	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Felony Filings per Judge	Older	1.191	Younger	.030	-1.161
	Less Serious	.362	More Serious	1.856	1.494
	Victimless	2.333	Violent	.946	-1.387
	Property	3.165	Property	.348	2.817
Lower Court Assistance	Property	2.277	Property	.911	1.366
Number of Probation Officers	Female	.091	Male	1.299	1.208
	Black	.041	White	1.249	1.208
	Property	4.061	Property	5.061	1.000

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentences (e.g., felony filings). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Appendix Table V-C. Summary of Case and County Interactions for Probation Sentence Length

County Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
URBANIZATION	Female Violent Violent	.013 .298 .007	Female Victimless Property	.753 .671 .463	.740 .373 .456
ECONOMIC INEQUALITY					
Income Inequality	White Older Victimless	.298 .169 .058	White Younger Violent	1.095 .393 1.867	.797 .224 1.809
Percent Black	Male Black Older Victimless	1.364 .989 1.079 3.169	Male Black Older Victimless	.426 2.159 1.719 5.119	-.939 1.170 .640 1.950
DIVISION OF LABOR	Male Younger Violent Violent	.139 .214 1.444 .751	Female Older Victimless Property	.394 .196 .534 .367	.255 -.018 -.910 -.384
POLITICAL CHARACTERISTICS					
Voter Participation	Violent (v. Victimless)	1.987	Violent	1.200	-.787
Percent Wallace Vote	Female White Older More Serious Violent (v. Victimless) Violent (v. Property)	.635 2.440 .374 .384 3.065 .175	Male White Younger More Serious Violent	.747 1.684 .241 1.933 4.782	.112 -.756 -.133 1.549 1.717
			Violent	3.421	3.256

Appendix Table V-C., Continued

County Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Percent Reagan Vote	White	1.704	White	.060	-1.644
	Violent (v. Victim- less)	2.174	Violent	.646	-1.528
	Property	.876	Property	2.496	1.620
Percent Kennedy Vote	White	2.372	White	1.505	-.867
	Violent (v. Property)	.004	Violent	.493	.489
CRIME CHARACTERISTICS					
Index Crime Rate	White	2.010	White	.447	-1.563
Percent Stranger-Stranger Index Crimes	White	2.010	White	3.105	1.095
	More Serious	.947	Less Serious	.213	-.734
	Property	.158	Property	1.163	1.005
Percent Residential Index Crime	White	2.010	White	.987	-1.023
	Violent (v. Victim- less)	2.300	Violent	.182	-2.118
Percent Index Crimes Involving Weapons	Male	.707	Female	.233	-.474
	White	2.010	White	2.702	.692
	Older	.072	Older	.389	.317
	More Serious	.947	More Serious	2.746	1.799
	Violent (v. Victim- less)	3.000	Violent	.465	-2.535
	Property	.158	Property	2.383	2.225

Appendix Table V-C., Continued

County Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Percent Index Crimes Occuring at Night	White	2.010	White	.239	-1.771
Percent Black Arrestees	Male	.707	Female	.137	- .570
	More Serious	1.905	Less Serious	.619	- .328
	Property	.158	Violent	1.234	1.076
Percent Young Arrestees	White	2.010	White	1.520	- .490
	More Serious	.947	More Serious	1.877	.930
	Violent	3.000	Violent	1.080	-1.920
	(v. Victim- less)				
	Property	.158	Property	1.093	.935
PRESS COVERAGE OF CRIME					
Articles/Issue	Male	3.534	Male	1.902	-1.632
	White	1.924	White	.171	-1.753
	Older	1.032	Older	.366	- .666
	Violent	1.499	Victimless	.598	- .901
	Violent	1.384	Violent	.165	-1.219
	(v. Property)				
Prominence of Coverage	Male	3.681	Male	2.193	-1.488
	White	2.082	White	.067	-2.015
	Older	1.093	Older	.318	- .775
	More Serious	5.725	More Serious	4.365	-1.360
	Violent	1.688	Violent	3.439	1.751
	(v. Victimless)				
	Violent	1.494	Violent	2.455	.961
	(v. Property)				

Appendix Table V-C. , Continued

County Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Probation Sentence	Sentence Length Difference	Longer Probation Sentence	Sentence Length Difference	
Local Crime Coverage	Male	3.622	Male	2.181	-1.441
	White	2.043	White	.082	-.961
	More Serious	5.691	More Serious	3.845	-1.846
	Violent (v. Victimless)	1.661	Violent	.988	-.673
	Violent (v. Property)	1.448	Violent	.304	-1.114
Violent Crime Coverage	Male	3.681	Male	1.881	-1.800
	White	2.082	White	.282	-1.800
	More Serious	5.725	More Serious	2.125	-3.566
	Violent (v. Victimless)	1.688	Violent	2.888	1.200
	Violent (v. Property)	1.220	Violent	2.714	1.494

Note: Predicted sentences capture only the effects of varying one possible determinant of probation sentences (e.g., urbanization). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.



Appendix Table VI-A. Summary of Case and Court Interactions for Split Sentences, Multiple-Judge Courts

Court Characteristic	Total Sentence Length					Change in Disparity	Severity of Sentence					Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Min		(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>			
BUREAUCRATIZATION												
Felonies Filings per Judge												
Sex	M	(3.273)	M	(.732)	-2.541							
Age	O	(6.133)	O	(6.965)	.832	Y	(.195)	Y	(.112)	-.083		
Marital Status						Mar	(.127)	Mar	(.169)	.042		
Employment Status	NE	(5.788)	NE	(.614)	-5.174	NE	(.017)	NE	(.248)	.231		
Offense Seriousness	MS	(6.454)	MS	(5.289)	-1.165	LS	(.038)	LS	(.163)	.125		
Type of Crime II	P	(3.402)	P	(4.835)	1.433	P	(.132)	P	(.226)	.094		
Prior Arrests	Arr	(1.086)	NArr	(.346)	-.740							
Prior Incarceration						NI	(.135)	NI	(.088)	-.046		
Lower Court Assistance												
Race						W	(.029)	B	(.031)	.002		
Age	O	(2.190)	Y	(1.032)	-1.158	Y	(.106)	Y	(.012)	-.094		
Marital Status	NMar	(.772)	Mar	(2.191)	1.419	Mar	(.020)	NMar	(.063)	.043		
Employment Status	NE	(5.159)	NE	(3.515)	-1.644	NE	(.084)	NE	(.190)	.106		
Offense Seriousness	MS	(3.938)	MS	(1.521)	-2.417	MS	(.056)	MS	(.110)	.054		
Type of Crime I						Vic	(.223)	Vic	(.112)	-.111		
Type of Crime II	P	(.471)	V	(1.751)	1.280							
Prior Incarceration						NI	(.028)	I	(.074)	.046		
Number of Probation Officers												
Race	B	(.954)	W	(.156)	-.798							
Sex	M	(4.614)	M	(8.184)	3.570							
Marital Status	NMar	(4.549)	NMar	(6.249)	1.700							
Employment Status	NE	(4.303)	NE	(8.493)	4.190	E	(.100)	E	(.400)	.300		
Offense Seriousness						MS	(.002)	MS	(.047)	.045		
Type of Crime I						Vic	(.304)	Vic	(.064)	-.240		
Type of Crime II						P	(.084)	V	(.046)	-.038		

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length				Change in Disparity	Severity of Sentence				Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>		Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	
Prior Arrests	Arr	(1.660)	Arr	(2.760)	1.100	Arr	(.022)	Arr	(.132)	.110
Prior Incarcerations	NI	(.157)	NI	(.214)		NI	(.157)	NI	(.214)	.057
PROSECUTION CHARACTERISTICS										
<u>Felony Filings per Prosecutor</u>										
Sex						M	(.329)	M	(.517)	.188
Race						W	(.084)	W	(.190)	.106
Marital Status	NMar	(2.942)	NMar	(5.402)	2.459	Mar	(.062)	Mar	(.146)	.085
Offense Seriousness	MS	(6.398)	MS	(7.696)	1.297					
Type of Crime I	V	(5.958)	V	(1.082)	-4.876	V	(.463)	V	(.119)	-.343
Type of Crime II						V	(.648)	V	(.492)	-.157
Prior Arrests						NArr	(.157)	NArr	(.093)	-.064
<u>Percent Dismissals</u>										
Sex	F	(7.289)	F	(.251)	-7.038	M	(.291)	F	(.013)	-.278
Race						W	(.062)	B	(.255)	.193
Age						O	(.204)	O	(.005)	-.199
Marital Status	NMar	(2.432)	NMar	(.155)	-2.277					
Employment Status	E	(5.300)	NE	(3.394)	-1.906	NE	(.444)	E	(.246)	-.198
Offense Seriousness	MS	(6.129)	MS	(2.403)	-3.726	LS	(.045)	MS	(.017)	-.028
Type of Crime I	V	(6.970)	V	(10.144)	3.174	V	(.534)	V	(.479)	-.055
Type of Crime II						V	(.681)	V	(.515)	-.166
Prior Arrests	Arr	(2.590)	Arr	(5.074)	2.484	NArr	(.170)	Arr	(1.072)	.902
Prior Incarceration						I	(.118)	NI	(.103)	-.015
<u>Percent Guilty Pleas</u>										
Sex	F	(4.994)	M	(5.131)	.137	M	(.249)	M	(.061)	-.188
Race	W	(1.592)	B	(2.158)	.566	W	(.025)	B	(.140)	.115
Age	O	(1.991)	Y	(.079)	-1.912	O	(.182)	O	(.083)	-.099
Marital Status	NMar	(1.599)	Mar	(2.076)	.417	Mar	(.027)	NMar	(.048)	.021

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
Employment Status	E	(3.906)	NE	(2.244)	-1.662	NE	(.403)	NE	(.223)	-.180
Offense Seriousness	MS	(5.410)	MS	(2.237)	-3.173	LS	(.014)	MS	(.121)	.107
Type of Crime I						V	(.486)	V	(.276)	-.210
Type of Crime II						V	(.581)	V	(.138)	-.443
Prior Arrests						NArr	(.143)	NArr	(.023)	-.120
Prior Incarceration	NI	(1.262)	NI	(2.338)	1.076					
<u>Times Elected</u>										
Sex	F	(7.289)	F	(13.273)	5.984	M	(.291)	M	(.295)	.004
Race	W	(2.442)	W	(5.010)	2.568	W	(.062)	W	(.121)	.059
Age						O	(.204)	O	(.108)	-.096
Marital Status	NMar	(2.432)	NMar	(.384)	-2.048					
Employment Status	E	(5.300)	E	(7.436)	1.608					
Type of Crime II	V	(4.208)	V	(2.056)	-2.152					
<u>Electoral Vulnerability</u>										
Sex	F	(7.289)	F	(4.429)	-2.860	M	(.291)	M	(.185)	-.106
Race						W	(.062)	W	(.186)	.124
Marital Status	NMar	(2.432)	NMar	(4.600)	2.168	Mar	(.044)	NMar	(.010)	-.034
Offense Seriousness	MS	(6.129)	MS	(4.617)	-1.512					
Type of Crime I						V	(.534)	V	(.484)	-.050
Type of Crime II						V	(.681)	V	(.519)	-.162
Prior Arrests						NArr	(.170)	NArr	(.096)	-.074
Prior Incarceration	I	(.078)	NI	(1.296)	1.218	I	(.118)	I	(.190)	.072
<u>JUDICIAL COMPOSITION</u>										
<u>Percent Male</u>										
Age	Y	(5.040)	Y	(7.980)	2.940	O	(.168)	O	(.108)	-.060
Offense Seriousness	MS	(1.485)	MS	(5.580)	4.095					

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length				Change in Disparity	Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>		Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>
Type of Crime I						Vic (.002)	Vic (.201)		.199
Prior Incarceration						I (.989)	I (1.304)		.315
<u>Mean Age</u>									
Sex	M	(18.109)	M	(13.150)	-4.959				
Race	W	(3.230)	W	(7.481)	4.251	W (.624)	W (.428)		-.196
Marital Status	NMar	(7.026)	NMar	(4.846)	-2.180	NMar (.559)	NMar (.415)		-.144
Employment Status	NE	(8.941)	NE	(5.099)	-3.842				
Offense Seriousness	LS	(5.382)	LS	(7.344)	1.962	LS (.424)	LS (.571)		.147
Type of Crime I	V	(8.297)	V	(12.157)	3.870	V (.478)	V (.677)		.199
Type of Crime II	V	(19.581)	V	(19.935)	.354	V (.139)	V (.286)		.147
Prior Arrests	NArr	(10.901)	NArr	(14.170)	3.269	NArr(1.252)	NArr(1.438)		.186
Prior Incarceration	I	(9.316)	I	(12.559)	3.243				
<u>Percent Married</u>									
Sex						F (.464)	M (.586)		.122
Race						W (.681)	W (.461)		-.220
Age	O	(1.800)	O	(5.700)	3.900				
Marital Status						NMar (.473)	NMar (.183)		-.290
Employment Status	E	(10.620)	E	(6.870)	-3.750	NE (.129)	E (.051)		-.078
Offense Seriousness						MS (.144)	MS (.504)		.360
Type of Crime I	Vic	(1.970)	Vic	(6.770)	4.800				
Type of Crime II	V	(9.730)	V	(.380)	-9.350				
Prior Arrests	NArr	(1.780)	Arr	(2.720)	.940	NArr (.390)	Arr (.210)		-.180
Prior Incarceration	NI	(3.016)	NI	(10.766)	7.750	I (.124)	NI (.426)		.302
<u>Mean Percent Urban Background</u>									
Race	B	(2.776)	B	(5.186)	2.410				
Age	Y	(2.100)	Y	(1.099)	-1.001				
Marital Status						NMar (.763)	NMar (.828)		.065

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length				Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
Employment Status	E	(14.370)	E	(16.780)	2.410	NE	(.309)	NE (.624) .315
Urban Background	R	(3.070)	U	(8.517)	5.447	R	(.003)	U (.136) .133
Offense Seriousness	LS	(2.610)	LS	(4.279)	1.669	LS	(.216)	LS (.141) -.075
Type of Crime I						V	(.197)	V (.039) -.158
Type of Crime II						P	(.069)	P (.217) .148
Prior Arrests	NArr	(6.280)	NArr	(8.690)	2.410	NArr	(.990)	NArr (.934) -.056
Prior Incarceration	I	(4.735)	I	(4.457)	-.278			
Judicial Background								
Sex	M	(25.116)	M	(22.395)	-2.721	W	(.901)	W (.949) .048
Race	B	(2.776)	B	(4.051)	1.275	O	(.228)	O (.271) .043
Age						NMar	(.763)	NMar (.718) -.045
Marital Status	NMar	(10.110)	NMar	(9.321)	-.789	NE	(.309)	NE (.408) .099
Employment Status	E	(14.370)	E	(15.477)	1.107	LS	(.216)	LS (.262) .046
Offense Seriousness	LS	(2.610)	LS	(1.584)	-1.026	V	(.197)	V (.278) .081
Type of Crime I	V	(2.830)	V	(.937)	-1.893	V	(.069)	V (.027) -.042
Type of Crime II	V	(19.080)	V	(16.239)	-2.841	NArr	(.990)	NArr(1.080) .090
Prior Arrests								
JUDICIAL ACTIVISM AND EXPERIENCE								
Mean Bar and Attorney Associations								
Sex	M	(3.300)	M	(.771)	-2.529	B	(.034)	W (.038) .004
Race	B	(.210)	W	(1.923)	1.713	Y	(.012)	O (.060) .048
Age						NE	(.041)	NE (.188) .147
Employment Status						V	(.117)	Vic (.015) -.102
Type of Crime I	V	(1.920)	Vic	(.300)	-1.620	NArr	(.044)	NArr (.104) .060
Type of Crime II	V	(1.033)	P	(1.760)	.727	I	(.043)	I (.172) .129
Prior Arrests								
Prior Incarceration	NI	(2.404)	I	(2.033)	-.371			

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
<u>Mean Years Other Judicial Experience</u>										
Marital Status						Mar	(.033)	NMar	(.087)	.054
Employment Status						NE	(.041)	NE	(.208)	.167
Offense Seriousness						MS	(.099)	LS	(.009)	-.090
Type of Crime II	V	(1.033)	V	(4.021)	2.988	V	(.117)	V	(.189)	.072
Prior Arrests						NArr	(.044)	Arr	(.076)	.032
<u>Mean Years District Attorney Experience</u>										
Sex						M	(.079)	F	(.016)	-.064
Race						B	(.034)	B	(.169)	.135
Employment Status						NE	(.041)	E	(.135)	.094
Type of Crime I	V	(1.920)	V	(5.188)	3.268	V	(.079)	Vic	(.045)	-.034
Type of Crime II	V	(1.033)	V	(5.354)	4.321	V	(.117)	P	(.045)	-.072
Prior Arrests						NArr	(.044)	Arr	(.119)	.075
Prior Incarceration	NI	(2.404)	I	(.863)	-1.541					
<u>JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT</u>										
<u>Mean Times Elected</u>										
Sex	F	(1.799)	M	(.077)	-1.722	W	(.063)	B	(.164)	.101
Race	B	(1.405)	W	(.160)	-1.245	O	(.084)	Y	(.042)	-.042
Age						NMar	(.013)	Mar	(.050)	.037
Marital Status	Mar	(.642)	Mar	(4.286)	3.644	NE	(.409)	E	(.007)	-.402
Employment Status	E	(3.200)	E	(1.420)	-1.780	V	(.019)	V	(.057)	.038
Offense Seriousness	MS	(6.390)	MS	(4.541)	-1.859	V	(.067)	V	(.161)	.094
Type of Crime I	Vic	(1.779)	V	(1.165)	-.614	NArr	(.090)	Arr	(.015)	-.075
Type of Crime II						I	(.132)	NI	(.008)	-.124
Prior Arrests										
Prior Incarceration	I	(1.358)	NI	(.189)	-1.169					

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length				Severity of Sentence			
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity
<u>Electoral Vulnerability</u>								
Sex	F	(2.335)	M	(.311)	-2.024	M	(.039)	M (.167) .128
Race	B	(1.852)	W	(1.270)	-.582			
Age						O	(.120)	O (.072) -.048
Marital Status	NMar	(.399)	NMar	(2.417)	2.018			
Employment Status	E	(4.520)	E	(.732)	-3.788	NE	(.528)	NE (.332) -.196
Offense Seriousness	MS	(6.921)	MS	(4.563)	-2.358			
Prior Arrests	NArr	(1.770)	Arr	(1.010)	-.760			
<u>Community Organizations</u>								
Race	B	(1.852)	B	(3.048)	1.196	W	(.128)	W (.184) .056
Marital Status	NMar	(.399)	NMar	(3.142)	2.743	NMar	(.031)	NMar (.100) .069
Employment Status	E	(4.520)	E	(8.792)	4.272	NE	(.528)	NE (.678) .150
Offense Seriousness	MS	(6.921)	MS	(3.350)	-3.571	MS	(.036)	LS (.068) .031
Type of Crime I	Vic	(2.620)	V	(1.532)	-1.089			
Type of Crime II	P	(1.396)	V	(1.560)	.164	V	(.040)	P (.040) .000
<u>Mean Years in Government</u>								
Sex	F	(2.335)	M	(1.966)	-.369			
Race	B	(1.852)	B	(3.876)	2.024			
Age	O	(.468)	Y	(1.050)	.582			
Employment Status						NE	(.528)	NE (.422) -.106
Offense Seriousness						MS	(.036)	MS (.160) .124
Type of Crime I						V	(.008)	Vic (.130) .122
Type of Crime II	P	(1.396)	V	(.669)	-.727	V	(.040)	P (.029) -.011
Prior Arrests	NArr	(1.770)	Arr	(.760)	-1.010			
Prior Incarceration	I	(1.800)	NI	(2.225)	.425			

Note: M = male; F = female; B = black; W = white; Y = younger; O = older; NMar = unmarried; Mar = married;

Appendix Table VI-A., Continued

Court Characteristic	Total Sentence Length			Severity of Sentence		
	Min	(Diff) <sup>a</sup>	Max (Diff) <sup>b</sup> Change in Disparity	Min	(Diff) <sup>c</sup>	Max (Diff) <sup>d</sup> Change in Disparity

NE = unemployed; E = employed; R = rural backg.ound; U = Urban background; LS = less serious offenses; MS = more serious offenses; V = violent offenders; Vic = victimless offenders; P = property offenders; NArr = no prior arrests; Arr = prior arrests; NI = no prior incarceration; I = prior incarceration.

Predicted sentences capture only the effects of varying one possible determinant of split sentences (e.g., felony filings). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

<sup>a</sup>These two columns note, for the minimum value of the court variable, which group receives the longer split sentence, and the amount of disparity, expressed in sentence-years.

<sup>b</sup>These two columns note, for the maximum value of the court variable, which group receives the longer split sentence, and the amount of disparity, expressed in sentence-years.

<sup>c</sup>These two columns note, for the minimum value of the court variable, which group receives the more severe sentence and the amount of disparity, expressed as the difference in proportions of total sentence mandating prison.

<sup>d</sup>These two columns note, for the maximum value of the court variable, which group receives the more severe sentence and the amount of disparity, expressed as the difference in proportions mandating prison.



Appendix Table VI-B. Summary of Interactions between Case and Court Contexts for Severity of Split Sentence, Single-Judge Courts

Court Characteristic	Minimum Court Value		Maximum Court Value		Change in Disparity
	More Severe	Difference	More Severe	Difference	
PROSECUTION CHARACTERISTICS					
Felony Filings per Prosecutor	Younger	.156	Younger	.346	.190
	Married	.102	Married	.292	.190
	Unemployed	.049	Employed	.109	.060
	More Serious	.009	Less Serious	.275	.266
	Violent (vs. (Victimless)	.168	Violent	.421	.253
	Arrested	1.260	Arrested	1.418	.158
Percent Dismissals	Younger	.096	Older	.156	.060
	Married	.042	Unmarried	.294	.252
	Arrested	1.210	Arrested	1.058	-.150
Percent Guilty Pleas	Younger	.013	Older	.235	.222
	More Serious	.182	More Serious	.432	.248
	Arrested	.980	Arrested	.290	-.690
Times Elected	Younger	.132	Younger	.312	.180
	Married	.098	Married	.378	.280
	Unemployed	.130	Employed	.285	.155
Electoral Vulnerability	Unemployed	.099	Employed	.131	.032
	Arrested	1.210	Arrested	.890	-.320
JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT					
Times Elected	Unemployed	.053	Employed	.097	.044
Electoral Vulnerability	Unemployed	.078	Employed	.058	-.020
	Victimless	.066	Violent	.150	.084
	Never Incarcerated	.079	Incarcerated	.047	-.030

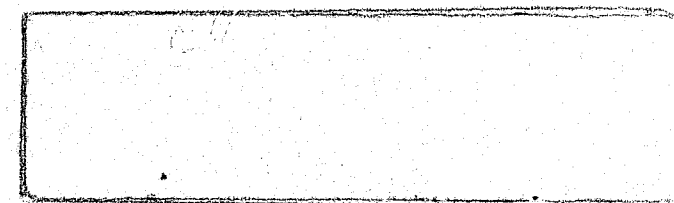
Appendix Table VI-B., Continued

Court Characteristic	Minimum Court Value		Maximum Court Value		Change in Disparity
	More Severe	Difference	More Severe	Difference	
Community Organizations	Black	.018	White	.166	.144
	Unmarried	.014	Married	.266	.212
	Unemployed	.078	Unemployed	.326	.248
	More Serious	.144	Less Serious	.007	-.137
	Arrested	.180	Never Arrested	1.100	.920
Years in Government	More Serious	.144	Less Serious	.022	-.122
	Victimless	.066	Violent	.095	.029

Note: Severity refers to the proportion of total sentence length that mandates imprisonment.

Predicted sentences capture only the effects of varying one possible determinant of split sentences (e.g., percent guilty pleas). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

**CONTINUED**



Appendix Table VI-C. Summary of Case and County Interactions for Split Sentences

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>
URBANIZATION								
Sex	M	(1.370)	F	(.669)				
Race					B	(.018)	B	(.120)
Age					Y	(.011)	O	(.030)
Marital Status	NMar	(.714)	Mar	(1.325)	Mar	(.021)	NMar	(.013)
Employment Status	NE	(1.787)	E	(.252)	NE	(.001)	NE	(.205)
Offense Seriousness					MS	(.107)	MS	(.067)
Type of Crime I	V	(2.129)	V	(.430)				
Type of Crime II	V	(1.697)	P	(.342)				
Prior Arrests	Arr	(1.141)	NArr	(.218)	Arr	(.041)	NA	(.027)
Prior Incarceration	NI	(.268)	I	(.751)	I	(.019)	I	(.104)
ECONOMIC INEQUALITY								
Income Inequality								
Sex	M	(5.935)	M	(.617)	M	(.151)	M	(.329)
Race	B	(1.797)	W	(12.705)	B	(.135)	W	(.059)
Age	O	(1.829)	Y	(2.571)				
Marital Status					NMar	(.005)	NMar	(.178)
Employment Status	NE	(3.241)	E	(3.267)	E	(.099)	NE	(.337)
Offense Seriousness	MS	(4.200)	MS	(10.254)	MS	(.183)	LS	(.098)
Type of Crime I	Vic	(2.031)	Vic	(10.327)				
Type of Crime II	V	(3.476)	V	(.963)	V	(.039)	V	(.234)
Prior Arrests	Arr	(1.164)	Arr	(8.786)				
Percent Black								
Race	B	(22.940)	B	(35.810)				
Marital Status					Mar	(.246)	Mar	(.442)
Offense Seriousness	LS	(4.626)	LS	(11.646)				
Type of Crime I					V	(.187)	Vic	(.047)
Type of Crime II					P	(.246)	P	(.341)

Appendix Table VI-C., Continued

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>
Prior Arrests	NArr	(9.950)	NArr	(19.310)				
Prior Incarceration				9.36	I	(.143)	I	(.285)
								.142
OCCUPATIONAL DIVISION OF LABOR								
Sex	M	(4.329)	F	(.141)				
Race				-4.188	W	(.072)	B	(.087)
Age					Y	(.031)	O	(.008)
Marital Status	NMar	(2.979)	Mar	(1.145)	Mar	(.044)	NMar	(.013)
Employment Status	NE	(3.146)	NE	(.240)	E	(.108)	NE	(.144)
Offense Seriousness	MS	(4.135)	MS	(2.451)				
Type of Crime I	V	(2.890)	V	(1.280)				
Type of Crime II	V	(3.413)	V	(.401)				
Prior Arrests	Arr	(3.360)	NArr	(.197)	Arr	(.161)	Arr	(.021)
Prior Incarceration	NI	(2.377)	I	(.838)	NI	(.104)	I	(.098)
				-3.162				
				-1.538				-.140
								-.006
POLITICAL CHARACTERISTICS								
Voter Participation								
Marital Status	Mar	(2.749)	NMar	(1.414)	Mar	(.260)	Mar	(.130)
Employment Status	E	(2.826)	NE	(3.134)	NE	(.022)	NE	(.132)
Offense Seriousness	MS	(10.751)	MS	(8.689)	MS	(.300)	MS	(.266)
Type of Crime I				-2.063	V	(.177)	V	(.082)
Type of Crime II					V	(.205)	V	(.024)
Prior Arrests	NArr	(1.068)	NArr	(5.652)				
				4.584				-.081
Percent Wallace Vote								
Sex	F	(4.305)	M	(.123)				
Race				-4.182	W	(.058)	W	(.262)
Age	O	(.156)	Y	(2.436)				
Marital Status	Mar	(6.213)	NMar	(.591)	Mar	(.406)	Mar	(.697)
Employment Status	E	(8.132)	E	(3.110)	E	(.102)	E	(.345)
				-5.022				.291
								.243

Appendix Table VI-C., Continued

County Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
Offense Seriousness						MS	(.326)	MS	(.229)	-.097
Type of Crime I	Vic	(.998)	Vic	(10.826)	9.828	V	(.267)	V	(.084)	-.184
Type of Crime II						NArr	(.038)	Arr	(.124)	.086
Prior Arrests	Arr	(3.500)	Arr	(6.200)	2.700	NI	(.240)	NI	(.597)	.356
Prior Incarceration										
<u>Percent Reagan Vote</u>										
Sex	F	(2.213)	M	(2.627)	.414	W	(.066)	B	(.094)	.028
Race	W	(3.106)	B	(1.694)	-1.412	Y	(.016)	Y	(.064)	.048
Age						Mar	(.264)	Mar	(.024)	-.240
Marital Status						V	(.327)	V	(.581)	.254
Type of Crime I	V	(3.590)	V	(11.210)	7.620	V	(.345)	V	(.503)	.158
Type of Crime II	P	(3.751)	P	(9.511)	5.760	NArr	(.010)	Arr	(.070)	.060
Prior Arrests	Arr	(5.300)	Arr	(9.300)	4.000	NI	(.114)	I	(.086)	-.028
Prior Incarceration										
CRIME CHARACTERISTICS										
<u>Percent Stranger-Stranger Index Crimes</u>										
Sex						M	(.207)	M	(.403)	.026
Race	W	(1.900)	W	(5.893)	3.993	W	(.102)	B	(.046)	-.056
Age						Y	(.132)	Y	(.055)	-.077
Marital Status	Mar	(5.280)	Mar	(1.673)	-3.607	NE	(.377)	NE	(.126)	-.251
Employment Status	E	(3.090)	NE	(.839)	-2.251	NI	(.079)	NI	(.214)	.135
Prior Arrests	NArr	(7.700)	NArr	(3.191)	-4.509					
Prior Incarceration										
<u>Percent Residential Index Crimes</u>										
Sex						M	(.207)	F	(.040)	-.167
Race	W	(1.900)	B	(.500)	-1.400	W	(.102)	B	(.011)	-.091
Age						Y	(.132)	Y	(.051)	-.081

Appendix Table VI-C., Continued

County Characteristic	Total Sentence Length					Severity of Sentence				
	Min	(Diff) <sup>a</sup>	Max	(Diff) <sup>b</sup>	Change in Disparity	Min	(Diff) <sup>c</sup>	Max	(Diff) <sup>d</sup>	Change in Disparity
Marital Status	Mar	(5.280)	Mar	(1.045)	-4.235	NMar	(.099)	Mar	(.035)	-.064
Employment Status	E	(3.090)	NE	(3.615)	.525	NE	(.377)	E	(.159)	-.218
Type of Crime I	V	(1.220)	V	(7.360)	6.140					
Type of Crime II	P	(.325)	V	(4.333)	4.008					
Prior Arrests	NArr	(7.700)	NArr	(2.054)	-5.646					
Prior Incarceration	I	(6.156)	I	(2.829)	-3.317					
<u>Percent Index Crimes occurring at Night</u>										
Marital Status	Mar	(5.280)	Mar	(1.990)	-3.290					
Offense Seriousness						MS	(.162)	LS	(.142)	-.020
Type of Crime II						P	(.080)	V	(.232)	.152
Prior Arrests	NArr	(7.700)	Arr	(.737)	-6.963	Arr	(.120)	Arr	(.036)	-.084
Prior Incarceration	I	(6.156)	NI	(2.239)	-3.917	NI	(.079)	I	(.073)	-.006
<u>Percent Young Arrestees</u>										
Race	W	(1.900)	B	(.600)	-1.300					
Age						Y	(.132)	Y	(.072)	-.060
Offense Seriousness						MS	(.162)	MS	(.252)	.090
Type of Crime II	P	(.325)	P	(2.575)	2.250					
Prior Arrests						Arr	(.120)	NArr	(.030)	-.090
Prior Incarceration						NI	(.079)	I	(.156)	.077
<u>PRESS COVERAGE OF CRIME</u>										
<u>Articles/Issue</u>										
Sex						M	(.408)	M	(.264)	-.144
Marital Status						Mar	(.066)	Mar	(.017)	-.049
Employment Status						E	(.118)	NE	(.204)	.086
Offense Seriousness						MS	(.022)	LS	(.138)	.117
Type of Crime I						V	(.189)	V	(.013)	-.176
Type of Crime II						V	(.438)	V	(.138)	-.300

Appendix Table VI-C., Continued

County Characteristic	Total Sentence Length			Change in Disparity	Severity of Sentence			Change in Disparity	
	Min	(Diff) <sup>a</sup>	Max		(Diff) <sup>b</sup>	Min	(Diff) <sup>c</sup>		Max
Prior Arrests					Arr	(.014)	NArr	(.053)	.039
Prior Incarceration					NI	(.039)	I	(.049)	.009
<u>Prominence of Coverage</u>									
Sex					M	(.406)	M	(.166)	-.240
Employment Status					E	(.142)	E	(.062)	-.080
Prior Incarceration					NI	(.032)	I	(.208)	.176
<u>Local Crime Coverage</u>									
Sex					M	(.410)	M	(.121)	-.289
Race					W	(.017)	B	(.070)	.053
Age					Y	(.152)	Y	(.060)	-.092
Marital Status					Mar	(.067)	NMar	(.008)	-.059
Offense Seriousness					MS	(.041)	MS	(.171)	.130
Type of Crime I					V	(.289)	Vic	(.047)	-.242
Type of Crime II					V	(.446)	P	(.015)	-.431
Prior Arrests					Arr	(.019)	NArr	(.005)	-.014
Prior Incarceration					NI	(.043)	I	(.050)	.007
<u>Violent Crime Coverage</u>									
Offense Seriousness					MS	(.036)	MS	(.162)	.126
Type of Crime I					V	(.303)	V	(.503)	.200
Prior Arrests					Arr	(.020)	Arr	(.120)	.100

Note: M = male; F = female; B = black; W = white; Y = younger; O = older; NMar = unmarried; Mar = married; NE = unemployed; E = employed; LS = less serious; MS = more serious; V = violent offenders; Vic = victimless offenders; P = property offenders; NArr = no prior arrests; Arr = prior arrests; NI = no prior incarceration; I = prior incarceration.



Appendix Table VI-C., Continued

County Characteristic	Total Sentence Length			Severity of Sentence		
	Min (Diff) <sup>a</sup>	Max (Diff) <sup>b</sup>	Change in Disparity	Min (Diff) <sup>c</sup>	Max (Diff) <sup>d</sup>	Change in Disparity

Predicted sentences capture only the effects of varying one possible determinant of split sentences (e.g., urbanization). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

<sup>a</sup>These two columns note, for the minimum value of the county variable in question, which group receives the longer split sentence, and the amount of disparity, expressed in years.

<sup>b</sup>These two columns note, for the maximum value of the county variable in question, which group receives the longer split sentence, and the amount of disparity, expressed in years.

<sup>c</sup>These two columns note, for the minimum value of the county variable in question, which group receives the larger proportion of total sentence to be served in prison, and the amount of disparity, expressed as the difference in proportions mandating prison.

<sup>d</sup>These two columns note, for the maximum value of the county variable in question, which group receives the larger proportion of total sentence to be served in prison, and the amount of disparity, expressed as the difference in proportions mandating prison.

APPENDIX TABLE VII-A. Summary of Case and Court Interactions for Prison Sentences, Multiple-Judge Courts

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
BUREAUCRATIZATION					
Felony Filings per Judge	Younger	6.401	Younger	5.015	-1.386
	Unmarried	4.104	Unmarried	2.277	-1.824
	Violent (v. Victimless)	7.994	Violent (v. Victimless)	5.562	-2.432
	Never Incarcerated	6.073	Never Incarcerated	4.553	-1.520
Lower Court Assistance	Black	4.748	White	1.350	-3.398
	Younger	1.837	Older	1.212	- .625
	Victimless	.193	Victimless	6.546	6.353
	Violent	.179	Property	2.616	2.437
Number of Probation Officers	Female	13.624	Male	3.393	-10.232
	Younger	2.196	Younger	1.044	-1.152
	Married	1.587	Married	4.035	2.448
	Unemployed	3.515	Unemployed	.335	-3.180
	Violent (v. Victimless)	1.410	Violent (v. Victimless)	4.146	2.736
	Violent (v. Property)	.986	Violent (v. Property)	2.798	1.812
PROSECUTION CHARACTERISTICS					
Felony Filings per Prosecutor	Male	12.114	Male	7.026	-5.088
	White	5.749	White	8.717	2.968
	Older	7.978	Older	5.942	-2.035
	Unemployed	6.112	Unemployed	12.048	5.936
	Victimless	5.050	Violent	1.310	-3.740
	Property	3.150	Violent	5.330	2.180
	Previously Incarcerated	.079	Previously Incarcerated	3.895	3.816

Appendix Table VII-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Difference	Longer Prison Sentence	Difference	
Percent Dismissals	Married	5.910	Married	2.253	-3.657
	Unemployed	4.880	Employed	3.883	- .997
	Property (v. Violent)	4.910	Property (v. Violent)	8.015	3.105
Percent Guilty Pleas	Male	10.229	Female	2.746	-7.483
	White	3.518	Black	3.607	.089
	Older	7.584	Older	3.984	-3.600
	Unemployed	2.993	Employed	5.332	2.339
Times Elected	Older	8.400	Older	3.408	-4.992
	Married	5.910	Married	.590	-5.320
	No Prior Arrests	2.870	Previously Arrested	.890	-1.980
Electoral Vulnerability	Male	13.170	Male	.070	-13.100
	Older	8.400	Older	4.320	-4.080
	Married	5.910	Married	3.904	-2.006
	Unemployed	4.880	Unemployed	6.762	1.882
	Property (v. Violent)	4.910	Property (v. Violent)	6.940	2.030
	No Prior Arrests	2.870	No Prior Arrests	.750	-2.120
	Never Incarcerated	.713	Never Incarcerated	2.107	1.394
JUDICIAL COMPOSITION					
Percent Male	White	3.374	Black	7.726	4.352
	Female	92.790	Female	107.890	15.100
Mean Age	White	9.457	White	13.763	4.306
	Unemployed	12.667	Unemployed	17.081	4.414
	Never Incarcerated	17.481	Never Incarcerated	14.375	-3.106

Appendix Table VII-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Percent Married	Female	43.290	Male	6.210	-37.080
	Younger	5.820	Younger	.420	-5.400
	Unmarried	4.790	Unmarried	.340	-4.450
	Employed	1.820	Employed	10.070	8.250
	Victimless	16.620	Violent	.880	-15.740
	Property	.310	Violent	5.190	4.880
	Previously Arrested	3.100	No Prior Arrests	5.900	2.800
	Never Incarcerated	10.220	Previously Incarcerated	1.430	-8.790
Mean Percent Urban Background	Female	92.790	Female	96.591	3.801
	White	3.374	White	.222	-3.152
	Younger	11.220	Younger	13.222	2.002
	Unmarried	9.240	Unmarried	11.743	2.503
	Unemployed	6.430	Unemployed	2.815	-3.615
	Property (v. Violent)	5.810	Property (v. Violent)	3.956	-1.854
	Never Incarcerated	21.870	Never Incarcerated	24.188	2.318
Judicial Background	Female	92.790	Female	89.070	-3.720
	White	3.374	White	4.493	1.119
	Unmarried	9.240	Unmarried	10.938	1.698
	Unemployed	6.430	Unemployed	10.087	3.657
	Victimless (v. Violent)	34.120	Victimless (v. Violent)	31.585	-2.535
	Property (v. Violent)	5.810	Property	9.110	3.300
	Previously Arrested	12.100	Previously Arrested	10.870	-1.230
JUDICIAL ACTIVISM AND EXPERIENCE					
Mean Years Other Judicial Experience	Female	2.510	Female	12.561	10.051
	White	1.820	Black	6.065	4.245
	Unemployed	1.010	Employed	10.181	9.171
	Victimless (v. Violent)	2.420	Victimless (v. Violent)	9.203	6.783
	Property	2.920	Violent	1.773	-1.147
	Previously Incarcerated	.800	Never Incarcerated	4.577	3.777

Appendix Table VII-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Mean Years District Attorney Experience	Younger	.456	Older	7.608	7.152
	Married	1.820	Unmarried	1.414	-.406
	Unemployed	1.010	Employed	4.156	3.146
	Victimless	2.420	Violent	1.990	-.430
	Property	2.920	Violent	6.992	4.072
Mean Bar and Attorney Associations	Female	2.510	Female	7.025	4.515
	White	1.820	White	3.383	1.563
	Younger	.456	Younger	1.536	1.080
	Married	1.820	Unmarried	2.065	.245
	Unemployed	1.010	Unemployed	3.980	2.970
	Victimless (v. Violent)	2.420	Victimless (v. Violent)	4.571	2.151
JUDICIAL ELECTORAL VULNERABILITY AND LOCAL INVOLVEMENT					
Mean Times Elected	Black	.623	White	2.839	2.216
	Unemployed	5.108	Employed	7.804	2.696
	Victimless	4.131	Violent	1.563	-2.568
	Property	2.532	Violent	1.416	-1.116
	Never Incarcerated	1.246	Previously Incarcerated	3.278	2.032
Electoral Vulnerability	Black	1.200	White	1.876	.676
	Younger	.648	Younger	2.064	1.416
	Married	.755	Unmarried	3.573	2.818
	Unemployed	7.260	Unemployed	3.242	-4.018
	Victimless (v. Violent)	5.080	Victimless (v. Violent)	7.892	2.812
	Property (v. Violent)	3.190	Property (v. Violent)	5.308	2.118

Appendix Table VII-A., Continued

Court Characteristics	Minimum Court Value		Maximum Court Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Mean Community Organizations	Black	1.200	Black	6.352	5.152
	Younger	.648	Older	4.920	4.272
	Married	.755	Married	4.787	4.032
	Never Incarcerated	2.000	Never Incarcerated	7.760	5.760
Mean Years in Government	Female	9.900	Female	4.610	-5.290
	Younger	.648	Younger	2.304	1.656
	Married	.755	Married	3.262	2.507
	Unemployed	7.260	Unemployed	12.688	5.428
	Victimless	5.080	Violent	1.567	-3.513
	Property	3.190	Violent	1.479	-1.711

Note: Predicted sentences capture only the effects of varying one possible determinant of prison terms (e.g., percent guilty pleas). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

Appendix Table VII-B. Summary of Case and County Interactions for Prison Sentences

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
URBANIZATION	Female	6.158	Female	7.727	1.569
	Younger	.541	Younger	1.700	1.158
	Unmarried	.818	Unmarried	1.662	.884
	Employed	.639	Employed	1.001	.362
	Previously Arrested	.474	Previously Arrested	.836	.362
	Never Incarcerated	.008	Never Incarcerated	.611	.603
ECONOMIC INEQUALITY					
Income Inequality	Female	.904	Female	9.871	8.967
	Employed	1.652	Unemployed	4.225	2.574
	Property (v. Violent)	4.339	Property (v. Violent)	1.430	-2.909
	Previously Arrested	.446	No Prior Arrests	3.343	2.987
Percent Black	White	.733	Black	5.039	4.306
	Employed	10.220	Employed	13.964	3.744
	Previously Arrested	5.970	Previously Arrested	9.480	3.510
OCCUPATIONAL DIVISION OF LABOR					
	Female	.578	Female	6.569	5.990
	White	3.016	White	1.519	-1.498
	Older	3.414	Younger	.741	-2.673
	Married	2.487	Unmarried	1.164	-1.323
	Unemployed	1.277	Employed	.997	-.280
	Violent	.930	Victimless	4.503	3.573
	Violent	.876	Property	2.648	1.773
	No Prior Arrests	1.435	Previously Arrested	.577	-.858
	Previously Incarcerated	2.388	Never Incarcerated	.368	-2.020
POLITICAL CHARACTERISTICS					
Voter Participation	Female	5.751	Female	8.080	2.329

Appendix Table VII-B., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change In Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Percent Wallace Vote	Black	5.483	Black	4.604	-.879
	Unmarried	.427	Married	1.980	1.553
	Violent (v. Victimless)	3.466	Violent (v. Victimless)	5.528	2.062
	Property(v. Violent)	3.624	Property (v. Violent)	2.096	-1.528
	Previously Arrested	5.476	No Prior Arrests	.636	-4.840
	Female	3.078	Male	3.024	-.054
	Black	6.048	Black	2.376	-3.672
	Unmarried	2.200	Married	4.820	2.620
	Unemployed	3.198	Unemployed	7.896	4.698
	Violent (v. Victimless)	2.364	Violent (v. Victimless)	14.028	11.664
Percent Reagan Vote	Property	4.232	Violent	7.216	2.984
	Previously Arrested	11.060	Previously Arrested	7.820	-3.240
	Female	.190	Male	6.490	6.300
	Black	4.160	White	.160	-4.000
	Older	.312	Older	3.192	2.880
	Unmarried	4.060	Unmarried	6.740	2.680
	Unemployed	1.350	Employed	1.650	.300
	Victimless (v. Violent)	6.440	Victimless (v. Violent)	22.320	15.880
	Property (v. Violent)	7.980	Property (v. Violent)	13.780	5.800
	Never Incarcerated	.710	Previously Incarcerated	5.930	5.220
CRIME CHARACTERISTICS					
Percent Stranger-Stranger Index Crimes	Female	9.960	Male	2.342	-7.618
	Younger	1.764	Younger	4.856	3.092
	Married	.636	Married	7.399	6.763
	Employed	2.270	Unemployed	2.754	.484
	Violent	2.740	Victimless	9.369	6.629



Appendix Table VII-B., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change in Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
	Violent	2.610	Property	5.184	2.574
	Previously Arrested	1.040	No Prior Arrests	6.689	5.649
	Never Incarcerated	6.310	Never Incarcerated	2.574	-3.736
Percent Residential Index Crimes	Female	9.960	Male	2.094	-7.866
	Younger	1.764	Older	2.172	.408
	Violent	2.740	Victimless	1.688	-1.052
	Never Incarcerated	6.310	Never Incarcerated	1.062	-5.248
Percent Index Crimes occurring at Night	White	5.820	White	2.192	-3.628
	Younger	1.764	Older	2.286	.522
	Employed	2.270	Unemployed	1.105	-1.165
	Violent	2.610	Property	1.102	-1.508
Percent Young Arrestees	Female	9.960	Female	15.560	5.600
	White	5.820	White	3.370	-2.450
	Married	.636	Unmarried	4.514	3.878
	Never Incarcerated	6.310	Never Incarcerated	.460	-5.850
PRESS COVERAGE OF CRIME					
Articles/Issue	Female	7.862	Female	19.761	11.899
	White	8.565	White	4.402	-4.163
	Older	9.888	Older	1.097	-8.791
	Married	3.342	Married	.367	-2.975
	Unemployed	8.217	Unemployed	5.076	-3.141
	Violent	.036	Property	6.668	6.632
	Previously Arrested	.660	Previously Arrested	4.101	3.441
	Previously Incarcerated	.598	Never Incarcerated	5.540	4.942

Appendix Table VII-B., Continued

County Characteristics	Minimum County Value		Maximum County Value		Change In Disparity
	Longer Prison Sentence	Differ- ence	Longer Prison Sentence	Differ- ence	
Prominence of Coverage	Female	6.790	Male	3.070	-3.720
	White	8.940	White	2.140	-6.800
	Older	10.680	Older	11.190	.510
	Victimless (v. Violent)	1.840	Victimless (v. Violent)	10.255	8.415
	Violent	.640	Property	7.435	6.795
Local Crime Coverage	Female	6.938	Female	10.590	3.652
	White	8.878	White	7.340	-1.538
	Older	10.446	Older	4.680	-5.766
	Married	3.481	Married	.310	-3.171
	Unemployed	8.368	Unemployed	5.100	-3.268
	Victimless (v. Violent)	1.957	Victimless (v. Violent)	4.840	2.883
	Violent	.504	Property	2.860	2.356
	Previously Arrested	.545	Previously Arrested	5.350	4.805
Violent Crime Coverage	Previously Incarcerated	1.057	Never Incarcerated	1.249	.192
	Female	6.790	Male	4.210	-2.580
	White	8.940	White	4.740	-4.200
	Older	10.680	Older	7.080	-3.600
	Unemployed	8.500	Employed	2.200	-6.300
	Victimless	1.840	Violent	3.360	1.520
	Violent (v. Property)	.640	Violent (v. Property)	8.340	7.700
	Previously Arrested	.350	No Prior Arrests	8.650	8.300
	Previously Incarcerated	1.151	Previously Incarcerated	8.751	7.600

Note: Predicted sentences capture only the effects of varying one possible determinant of prison sentences (e.g., urbanization). Variation in the remaining determinants, all of which to some extent affect the actual sentence imposed on any given offender, was held constant.

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