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### SENTENCING IN ALASKA:

A Description of the Process and  
Summary of Statistical Data for 1973

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## PRELIMINARY NOTE

The Alaska Judicial Council was funded in 1974 by the United States Justice Department Law Enforcement Assistance Administration to conduct a study of the sentencing process in Alaska. The project began in April, 1974, with a comprehensive statistical analysis of all 1973 Superior Court felony cases in Anchorage, Fairbanks and Juneau performed by Ray Ellis and Associates of Anchorage and Teresa White, research analyst, of Anchorage. Only felony offenses were dealt with, as a study of sentencing for serious, rather than petty, crime was desired.

Information collected included the defendant's crime, aspects of the defendant such as age, race, sex and prior criminal history, and major influences possibly affecting the defendant's conviction and sentence, such as the type of legal representation he had, his bailed or jailed condition, the manner and method in which his guilt was ascertained (trial or plea bargain), whether or not a presentence report was prepared in his case, the sentencing judge, and any known recommendations or incidents that influenced the judge. The study first analyzes the conviction process, and then compares actual sentences to determine the incidence of certain types and lengths of sentences, and possible disparity among defendants or groups of defendants similarly situated.

As the statistics were being compiled, a great deal of independent research on the sentencing process was conducted.

Major figures in the state from all stages of the process, including police, attorneys, court personnel, judges, corrections personnel, and defendants were interviewed. Alaska law and practice and recent national literature were scrutinized carefully in order that the analysis of the data be based on the best possible knowledge.

The following report contains the findings of the study. Future reports will include further findings and recommendations for improvements and reforms.

The reader must be cautioned that only 1973 felony cases in Anchorage, Fairbanks and Juneau are included in the data collection. Thus the picture given is that of what happens in the cities in Alaska, not in the outlying areas, although several cases from smaller cities such as Kenai, Kodiak and Bethel were included in the files in Anchorage or Fairbanks, and most felony offenses committed in Southeastern villages (except the Ketchikan area) appear in the files in Juneau. However, the Second Judicial District, centered in Nome, has been left out entirely.

Moreover, the cases studied demonstrate only what happened in the criminal justice system in 1973, the most recent full year that could be studied, whereas the police departments of all the major cities reported that 1974 has been a different year for crime, at least as concerns the types of arrests that have been made.<sup>1</sup>

Part I of the Report describes the criminal justice processes that lead to a defendant's conviction and sentence.

Part II contains the bulk of the statistics, mostly presented in table form with commentary and observations.

For purposes of introduction, the general statistical findings in Part II of the Report can be summarized as follows, although this general overview does not reflect differences found in different areas of the state:

1. 1973 Felony Convictions

- Males predominated in the defendant population in 1973. A higher percentage of males were convicted than females.
- Persons under age 26 predominated in the defendant population. A higher percentage of these defendants were convicted than of all other defendants.
- Caucasians predominated in the defendant population. Of all population groups, a higher percentage of Alaskan Natives were convicted than of any other group.
- About half of all convicted defendants had no prior misdemeanor or felony conviction record. Prior record had no effect on conviction rates.
- About three-fourths of all defendants were represented by the Public Defender. The type of attorney representing a defendant had no effect on conviction rates.
- In 1973, 73% of persons prosecuted for felonies were convicted.
- Thirty-eight percent of convicted defendants were convicted of property offenses, 25% of drug offenses, 21% of violent offenses against persons, 5% of robbery, 9% of check forgery and fraud offenses, and 2% of other offenses.
- 94% of all cases reached disposition without a trial.

2. 1973 Felony Sentences

- More than half the convicted felony defendants received suspended impositions of sentence.
- Forty percent of convicted felony defendants were placed immediately on probation.

- Fifty-five percent of convicted felony defendants received sentences to jail.
- Thirty-eight percent of convicted felony defendants received sentences to jail of one year or less.
- Five percent received sentences of greater than one but not more than two years.
- Five percent received sentences greater than two years but less than five years.
- Eight percent received sentences of five years or greater.
- Five percent received "other" types of sentences, such as fines not accompanied by any jail term.
- All of the above findings varied according to a number of factors, especially race, sex, and crime type. For example, 33% of convicted Black defendants received sentences of five years or greater, compared to 8% of all convicted defendants. Seventy-four percent of females were not sentenced to jail, compared to 42% of males. Forty-seven percent of convicted defendants with no prior record were placed immediately on probation, compared to only 28% of defendants with prior felony records.



SPECIAL NOTE REGARDING THE TERMS

"CASE", "COUNT" AND "DEFENDANT"

AS USED IN THIS REPORT

Although a complete description of the statistical methods that were employed is contained in Appendix I, the following definitions are placed here as well, as it is crucial to an understanding of the material presented to know what is meant by "case," "count," and "defendant." Within the criminal justice system, and even within its records, these terms are often used loosely, and adjustment of the records had to be made by the statisticians and attorney to employ these terms with precision.

Cases and Counts: A "case" technically might best be described as all offenses charged against a defendant under the same court docket number. However, two court files (often discussed loosely as "two cases") often represent the same criminal event, one file being a continuation of a previous adjudication. For example, if a person is indicted for one felony that is negotiated by counsel to a lesser included offense, sometimes the deputy clerk will record the new charge in a new file. There appears to be no standard in court recordkeeping for whether the deputy clerk should record the charge in the original file, or whether the clerk

will open a new file.

Similarly, one court file (commonly referred to as a "case") often includes many criminal "counts" charged for the same criminal event, and sometimes even includes "counts" for more than one criminal event, such as sales of drugs separated in time by several weeks. (A "count" is a single alleged violation of a single criminal law.) In Anchorage, all "counts" against a defendant (even for more than one criminal event) usually are included in the same court file if all charges appeared in the same indictment; but in other locations around the state, each criminal event often is recorded in a separate file, and sometimes even each count appears in a separate file.

Hence, total numbers of case files do not represent a statistically accurate data base for analyzing many phenomena, such as incidence of criminal activity, frequencies and volume of hearings, workloads of judges or attorneys, numbers of defendants, incidence of recidivism, or even workload of court staff.

For purposes of studying sentencing, the statisticians and lawyers working on this project sought a definition of "cases" that would prove accurate for presenting and analyzing the criminal justice "process" leading to conviction and resulting in sentence. While total court files would be an inaccurate measure for these purposes, an ideal modification of that index was economically impossible to accomplish. The definition of "case" that ultimately was chosen for the statistical base is far more accurate than "court files," but still

suffers some level of inaccuracy that the reader must allow for throughout the study.

"Cases," as that term is used in this study, are the total number of court files, minus newly opened files that simply represent a charge-reduction or continuation of a criminal event already recorded and processed. Hence, adjustments have been made in the data base for (1) case filings that are only reductions of charges, and (2) case filings that are only re-indictments for the same criminal event. However, no adjustment has been made for the fact that some files contain charges for more than one criminal event, or charges for more than one count in the same criminal event. Thus, the data base is not truly an accurate measure of the incidence of criminal activity brought to the courts.

However, simply using "counts" as a measure was equally undesirable and impossible. It was even more difficult to determine when two counts were duplicative of each other, or even whether they arose out of the same criminal event, without reading the details of every indictment. Also, the total number of "counts" is more unrepresentative of the number of defendants or workload of attorneys and judges. Thus "cases" was chosen as the principal measure of criminal events.

Defendants: While the statistical base of "cases" defined above is most accurate for discussing the judicial process of conviction and sentencing, it was not ideal for analyzing the sentencing of the individual with his personal characteristics--the criteria a judge must apply in determining the appropriate sentence for each defendant. A separate data base of

"defendants" was necessary for measuring this activity. The data base of "defendants" is defined as the total number of individual persons charged with one or more felony offenses during 1973.

Yet even this definition was not completely satisfactory, for a small number of persons had two completely separate cases open and closed against them seriatim during the one year studied. The statistical procedure required each of these defendants to be counted as one defendant, with one disposition and sentence. The disposition and sentence on the "most severe" indictment charge, as defined in Appendix V was used. Yet, including these defendants twice would have distorted the information desired as much as counting them only once. For instance, many demographic analyses of the defendant population were made, and these would be distorted by counting some persons twice.

As the above discussion illustrates, no one unit of analysis gives a complete or wholly accurate picture of occurrences transpiring in the court system. For example, there are 889 "cases" included in the study, but these represent only 749 "defendants." Thus these units of measure were employed in different sections of the data analysis, according to which unit offered the most accurate picture of the particular situation being analyzed. For example, analysis of convictions versus dismissals proceeded with both "case" and "defendant" categories, while the lengths and types of actual sentences were analyzed for individual defendants only.

It also should be noted here that the classification

of both cases and defendants by crime categories (which categories are described in the data section) is slightly distorted by the fact that each case or defendant had to be analyzed in one category only. Again, the "most serious" felony count in the case or against the defendant was used to characterize the case or defendant with a "crime type." (Appendices II, III and V contain detailed discussions of "crime categories," "most serious charge," and "most severe sentence.")

PART I - DESCRIPTION OF THE  
SENTENCING PROCESS

Introduction

Criminal sentencing is perhaps the most important function of the criminal process, for sentencing determines the future relationship between society and human beings whose behavior is condemned by the criminal law. Yet sentencing has proved to be a difficult part of law enforcement. Authorities have found it far easier to take paternalistic custody of those whose actions offend society's norms than to determine how to deal with these persons once they are convicted.

The Alaska constitution states that "penal administration shall be based on the principle of reformation and upon the need for protecting the public." There are also provisions prohibiting excessive fines and cruel and unusual punishments.<sup>2</sup> Thus, the sentencing decision is complex because it recognizes the multiple purposes of the criminal law--retribution, deterrence and rehabilitation--and attempts to find sentences that benefit not just the larger society but also the individual offender.

Although in any particular case it is the trial judge who determines the priority and relationship of these objectives within legislated bounds,<sup>3</sup> the judiciary alone is not responsible for the patterns of sentencing that result. Rather, the formal sentencing process is the culmination of many earlier "processes" of criminal justice. A defendant's sentence is significantly

related to events that occur prior to or during the determination of guilt, even though sentence is not actually meted out until after conviction. For this reason, the report that follows does not begin with a description of the post-conviction sentencing proceeding itself, but first examines the processing of a criminal case in order to put the sentencing situation into context.

## The Conviction and Sentencing Process

### Arrest

The criminal case begins when activity defined as criminal is perceived or suspected. In Alaska, both public law enforcement officials and private citizens may make arrests,<sup>4</sup> but most commonly arrests are made by the former, trained to detect crimes and exercise discretion in responding to criminal activity. In some situations, mostly misdemeanors and some felonies, arresting officers must seek warrants beforehand, and these will not issue unless there is "probable cause" to believe the person has committed a crime.<sup>5</sup> When a felony is committed in an officer's presence, however, and in certain other situations,<sup>6</sup> he may make arrests without a warrant. The prosecution of persons may be instigated without any arrest at all, through the use<sup>7</sup> of summonses (for felonies) or citations (for misdemeanors).

Following arrest, prosecution of the defendant is taken over by the state's district attorney. But it is the police who select the initial charge on which a

defendant is to be "booked," and who are responsible for providing the state's prosecutor with information necessary for the task of prosecution.

### Prosecutorial Screening

Not always does the prosecutor determine that a case merits official prosecution, however. The first function of the prosecution is to "screen" cases before formal court charges are filed, in order that criminal justice resources will not be expended unduly. If formal prosecutorial charges are filed against a person, he then becomes a criminal defendant.

In Alaska, several thousand persons were arrested for felonies in 1973,<sup>8</sup> but a much smaller number were arraigned in court on felony charges. In Anchorage, some 1600 felony arrests were made,<sup>9</sup> but only approximately 800 felony cases were filed.<sup>10</sup>

### Initial Court Activities

A whole series of legal activities follows an arrest that results in charges. Most of these activities occur within an adversary framework, although not always in an actual courtroom.

Defendants are strongly urged to have an attorney represent them, even if they cannot afford their own. Most defendants cannot, and the Public Defender is appointed for over two-thirds of all felony defendants.<sup>11</sup>

Although the attorneys often bring the case



to a disposition informally (without a trial), any final disposition must be presented to a judge and approved by him in a formal court proceeding.

First Appearance. Immediately following the arrest, a person must be brought into court without unnecessary delay, at least within 24 hours, for a "first appearance." <sup>12</sup> This is sometimes called an arraignment, although it is not a full arraignment <sup>13</sup> unless a charge is made and a plea entered by the defendant. The first appearance for felonies often takes place in District Court, even though that court does not have jurisdiction over felonies, because the Superior Court calendar is more difficult to squeeze proceedings into on less than 24 hours notice. At first appearance, the person is advised of his rights and admitted to bail, and counsel may be appointed, although prior to a complete arraignment on a felony, the person first must be afforded the right to be "indicted" by the grand jury.

The Grand Jury. The grand jury consists of 12 to 18 members who consider evidence of crime presented to it by a state district attorney called the "Intake Prosecutor." The Grand Jury returns charges or "indictments" when it believes there is evidence warranting a conviction ; thus its function is to check on police and prosecutorial discretion in arresting and charging. A grand jury indictment is required in all felonies, unless waived by the defendant. To a large extent, however, the grand jury is controlled by the prosecutor determining what evidence to bring before it, as he decides

whom to offer as witnesses (often the arresting or investigating policemen) and makes suggestions regarding what charges are appropriate. It appears that grand juries in Alaska indict on most cases brought before them, and often "rubber stamp" the prosecutor's suggestions.<sup>15</sup>

Some felony defendants are arrested only after indictments have issued with warrants for their arrest. Others, especially those arrested at or near the scene of a crime, may not be officially indicted until many days after their arrest. For these defendants, another purpose of the first appearance is for the presiding judicial officer to determine that there is probable cause to hold the defendant, or else request that a finding of such be made.<sup>16</sup>

Some defendants "waive" indictment and instead may have a preliminary hearing.<sup>17</sup> This hearing may be conducted in district court, even for a felony. In fact, many felonies at this point are dismissed or "reduced" to misdemeanor charges. In both Juneau and Fairbanks, a significant number of felony cases have preliminary hearings in district court.<sup>18</sup> (There are no statistics in this report on what percentage of cases are reduced to misdemeanors before ever reaching superior court; financial limitations permitted data collection only from cases filed or eventually filed in superior court.)

#### Pretrial Case Disposition

Once the attorneys have a chance to become familiar

with a case, the adversary process truly begins. It should be noted, however, that adversarial continuity is sometimes lost, when the attorney representing the state or the defendant changes through out the case.

Only one out of every 20 felony cases goes all the way to a trial in front of a judge and/or jury.<sup>19</sup> About 31% of all cases filed as felonies are dismissed without any conviction<sup>20</sup> (but some of these are dismissed because the defendant is acquitted at trial.) In the other 69% of cases, the vast majority of defendants plead guilty before trial, either (1) to the crime as charged (approximately 30% of all cases in Anchorage, but a higher percentage in Fairbanks and Juneau where there is more pre-indictment screening)<sup>21</sup> or (2) to a lesser offense, or (3) to one of many offenses charged against them, the others being dismissed (approximately 33% of all cases in these latter categories in Anchorage, but a smaller percent in Fairbanks and Juneau against because of more extensive screening).<sup>22</sup>

Because most sentences do not result from convictions obtained at trial, it is extremely important to analyze and evaluate the pretrial adversary process, commonly known as "plea bargaining". A multitude of factors affect such pretrial disposition. There are formal proceedings designed to screen or streamline possible trial issues or negotiations as well as informal discussions between attorneys.

One of the first formal pretrial proceedings may be the preliminary hearing, where perhaps one-fourth of all felonies are disposed (either dismissed or guilty pleas entered.)<sup>23</sup> The present study analyzes dispositions only as they occur

at arraignment, at any pretrial hearing, or at trial, so information about dispositions at the preliminary hearing alone could not be extracted.

There also may be an "omnibus" hearing, chiefly devoted to completing discovery of evidence and determining whether there are procedural or constitutional issues meriting consideration.<sup>24</sup> The pretrial conference is not too common in Alaska, but like the hearing it also is directed toward simplifying the issues and regulating evidence such as defendants' admissions and witnesses.<sup>25</sup> At either of these pretrial proceedings the parties may stipulate (agree) to facts or procedural matters and thus avoid having an adversary proceeding on them at trial, if there should be one.

The Speedy Trial Rule. Although one benefit of the pretrial process is the time provided each side for case preparation, there is an important limitation on how long the proceedings can be stretched out. The U.S. and Alaska Constitutions guarantee defendants a speedy trial, and Alaska's "speedy trial rule" requires that cases either be concluded within four months or dismissed.<sup>26</sup> In fact, in Fairbanks and Juneau, approximately 90% of felonies are disposed in less than 90 days, while in Anchorage, only about 50% of felony cases are disposed in this time frame.<sup>27</sup> Delay often works in favor of the defendant, for the more steps and procedures a case involves, the greater the chance that an illegal or unconstitutional defect in the prosecution will occur or be discovered, that some crucial evidence will be lost, forgotten or destroyed,

or that the prosecutor will be willing to plea bargain. Also, defendants sometimes "waive" their right to a speedy trial, in order to gain a specific goal, such as a deferred prosecution,<sup>\*</sup> psychiatric examination, continuances for further investigations, etc. On the other hand, occasionally the rule is violated and cases are dismissed because prosecuting attorneys simply neglect to pursue them in time. (2.8% of all case dismissals in 1973 were for violations of the Speedy Trial Rule.)<sup>29</sup> The Speedy Trial Rule is very important to the context in which pretrial negotiations take place, as the district attorney always is forced within 120 days either to try the case,<sup>30</sup> come to a plea agreement, or permit a dismissal of charges.

Plea Agreements. Case disposition without trial most frequently occurs because neither the prosecution nor the defense believes the case merits a full trial and the defendant admits his guilt.<sup>31</sup> Yet sometimes a plea is influenced by other factors. A charge or sentence lower than what normally might obtain may be offered by the prosecutor in order to induce a guilty plea and insure some conviction before the four-month period expires. Or the defendant's attorney may negotiate for the same, believing his client will be better off than if the prosecutor forced the case to trial. Or a prosecutor who is unsure of his ability to convict a defendant on the crime charged may offer the defendant a

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\*

In a deferred prosecution, the state promises to drop charges if an unofficial probationary period works out successfully.

"deal" whereby he can plead guilty to a less grave charge instead. A person charged with selling drugs, may, for example, agree to "plead out" to mere possession of drugs, especially if it is easy for the prosecution to prove that he was in possession of drugs although difficult to prove he was trying to sell them. A defendant with multiple offenses may satisfy the prosecution by pleading out to only one such as "assault" in lieu of "attempted rape" and "assault." Some bargains do not even involve plea or sentence concessions per se. Often the District Attorney and defense counsel merely agree without bargaining and concessions on a disposition, or the prosecutor may offer to defer prosecution for a period of a year or so.

Plea bargaining has at the same time both desirable and undesirable effects on criminal justice. It does help to settle many cases that probably never should go to trial, there being no real question of guilt or innocence to decide. On the other hand, the fact that plea bargaining accounts for over 90% of all case dispositions means that the constitutionally guaranteed trial has become the exception, not the rule. Another result is that about half of all convictions are for offenses different from those originally charged,<sup>32</sup> and which in some cases may not have actually occurred.

In anticipation of plea bargaining among attorneys, some police officers admit to overcharging; prosecutors are then encouraged the more to "bargain down" the charge.<sup>33</sup> Many defendants complain later that the attorneys "coerced" them to plead

guilty for one reason or another, either to get their case  
over with, or allegedly to obtain a lighter sentence.<sup>34</sup>

Defendants who "plead out" or agree to plead guilty to at least one count or charge must formally enter their plea in court, however, and the entire plea bargain must be approved by a judge. The judge must insure that the plea is made knowingly, voluntarily and intelligently and also must find that there is a substantial basis for the plea (i.e. that the conviction accurately represents actions the defendant admits). The court also must check whether prior discussions between the parties motivate the plea, and the parties must disclose in  
open court any private agreements reached.<sup>35</sup>

Of great importance to the sentencing process is the fact that the judge, when accepting a plea bargain, also accepts the sentence bargain, since many plea bargains involve sentence concessions or promises of various sorts. Judges can reject pleas, however, if they do not approve of the plea or the sentence. If rejected, the defendant is permitted to withdraw the plea and not have it prejudice him later if the case goes to  
trial.<sup>36</sup>

A defendant whose plea is accepted may withdraw it after judgment and sentence only if there was manifest in justice.<sup>37</sup>

Judges do not reject pleas very often, however, principally because there are "peremptory disqualification" rules allowing attorneys and defendants to disqualify

judges at certain times--"when they cannot obtain a fair trial."<sup>38</sup>

A judge often is peremptorily disqualified from the case after a plea has been rejected, and few judges wish to build up a record of being disqualified too often. Moreover, most judges

realize that the alternative to accepting a sentence bargain "in the ballpark" of what might have been imposed judicially<sup>39</sup> is an unfeasible number of trials and court congestion.

### The Criminal Code

Another important factor in plea bargaining, as well as in the sentencing process, is the Alaska criminal code, which<sup>40</sup> all parties interviewed unanimously agreed was outmoded. The present code is not neatly categorized, and proscribes hundreds of criminal actions in a confusing and often inconsistent manner. The code has not had a major revision for almost a<sup>41</sup> century despite numerous recent proposals to do so. As a result of the present code, attorneys, police and judges often juggle existing provisions and sentence authorizations, to obtain results that appear to them more consistent with the situation at hand.

Specific problems with the code presently are being studied in the legislature. It might be noted, however, that the chief characteristics of the criminal code that affect the sentencing process are (1) the breadth and length of sentences authorized to the discretion of the judge (many offenses carry a range of one to ten, one to fifteen, or one to twenty years); (2) the numerous overlapping categories of crimes which result in prosecuting officials choosing crimes with very different sentence authorizations even in similar circumstances; and (3) the many outmoded or irrational patterns of sentences authorized, such as the maximum penalty



for forgery exceeding the penalties for robbery, burglary, and assault with intent to kill--or the penalty authorized for concealing stolen property grossly exceeding that for shoplifting the same property.<sup>42</sup> The maximum and minimum sentences in the code are set forth as Appendix IV.

### Trial.

As noted, only about one out of 20 felony cases in Alaska goes to trial. (The actual figure statewide is 6%, with a slightly higher percentage of cases going to trial in Fairbanks, 9%, and a slightly lower percentage in Juneau, 2%.)<sup>43</sup> About 80% of these trials are jury trials.<sup>44</sup> It will be seen that the acquittal rate for cases going to trial is exactly equal to the dismissal rate of cases disposed of in the pretrial process.<sup>45</sup> It is less easy to discern from the statistics whether defendants convicted at trial receive significantly different sentences from defendants who plead guilty to the same charge, although an attempt herein is made, as there simply are not enough cases going to trial to make many comparisons. Fewer than 50 felony cases went to trial in Alaska in 1973, and these were spread across a broad range of crime types.<sup>46</sup>

### Post Conviction Proceedings

After a plea of guilty or trial conviction occurs, most defendants either are immediately sentenced (over 50% sentenced the same day) or the case is put on the calendar

for sentencing, which usually occurs within the next 1-6<sup>47</sup> weeks. Sometime before a felony sentencing, however, there must be a "pre-sentence report" prepared by the Division<sup>48</sup> of Corrections. These were not mandatory in 1973, however,<sup>49</sup> and were prepared in only about 25% of cases statewide.

The Pre-sentence Report. The pre-sentence report summarizes an investigation of a defendant performed by a probation officer after the defendant has been determined guilty. The investigating officer interviews the defendant, researches his entire personal and criminal history, and usually makes a sentence recommendation, or at least a recommendation for or against probation, to the judge. Many judges believe the reports provide valuable information, although the sentencing proceeding often is delayed by its<sup>50</sup> preparation.

A judge may even order a pre-sentence report to be prepared before conviction<sup>51</sup> as a necessary concomitant to accepting a plea bargain, although the fairness of doing so is debatable because many of the matters researched by the pre-sentence investigator necessarily pertain to facts about guilt or innocence and may be "prejudicial" prior to the determination of guilt. On the other hand, the report's findings may be considered crucial by the judge in deciding whether to accept a plea or not. In October, 1974, the Division of Corrections reported that probation officers were preparing<sup>52</sup> about one out of every 15 reports before a plea was entered. A subsequent Report to the Judicial Council will

discuss the merits of pre-sentence reports in greater detail.

### The Sentencing Proceeding.

Following conviction, defendants are entitled to a sentencing hearing, which must occur "without unreasonable delay,"<sup>53</sup> and usually occurs within a month and a half.<sup>54</sup> Judges and attorneys consider sentencing proceedings to be either "open" or "closed." An "open" sentencing is one where the attorneys have not mutually agreed to a sentence in the negotiation process, or the defendant has pleaded guilty without any understanding as to the length or type of sentence that will result, or where a defendant has been convicted at trial. In a "closed" sentencing, the attorneys already have agreed on sentence recommendations and the judge previously has agreed to accept them in accepting the defendant's guilty plea, although the sentence will be reiterated in court. There is a middle ground, however, for sometimes a defendant pleads guilty only with the promise that the district attorney will not recommend more than a certain sentence, but may recommend anything within a certain range. Moreover, not all plea bargains involve sentence agreements. In fact, some attorneys estimate that one-half of all sentencings are considered "open," even though over 90% of cases are "plea negotiated."<sup>55</sup>

At the sentencing, both the prosecution and the defendant may offer witnesses, because the sentencing hearing is considered to be an adversary proceeding. The author of the pre-sentence report, now mandatory for all felonies, also is

present to testify if requested. Usually the judge and attorneys are furnished with the pre-sentence report well before the hearing and have sufficient time to inspect and challenge its contents. Occasionally, the attorneys do not receive the report until just before the hearing, or are surprised by the contents, and have little time to challenge them.<sup>56</sup> The judge may question or investigate the defendant or the witnesses on his own, and also may impose his own sentence instead of following any of the recommendations from counsel of the pre-sentence report, unless he has previously agreed to the contrary in accepting a "negotiated" plea.

At the end of the hearing, the judge imposes a sentence, but it may not necessarily involve jail or other confinement. Almost forty percent of all convicted felony defendants do not go to jail.<sup>57</sup> Instead,

the judge may place an offender immediately on probation for up to 5 years, or he may impose a jail term but "suspend" its execution, also putting the defendant on probation.<sup>58</sup> A judge may impose any conditions on probation he feels are necessary. There are guidelines expressly authorizing the following conditions: payment of a fine, restitution to injured parties, and support of persons for whom the defendant is legally responsible.<sup>59</sup> Other conditions found in the cases studied include consenting to periodic searches (e.g. for weapons) or urinalyses, prohibitions against carrying weapons, and prohibitions against other activities.

A judge may even suspend the imposition of sentence altogether for a stated period, subject to the offender's good behavior.<sup>60</sup> The effect is somewhat similar to probation but is usually accomplished without probation officer supervision. If the defendant "succeeds" on this kind of probation, then no sentence ever will be imposed for the crime, and the defendant even may get the conviction expunged. If, however, this type of probation is revoked for one reason or another, the judge then will impose a sentence, which may be any term that could have been granted originally and is not necessarily<sup>61</sup> the term of time for which the sentence was suspended.

A suspended "imposition" differs from the suspended "execution" in two ways--under the latter, if a defendant fails probation, the term of suspended execution or probation automatically becomes his jail sentence, and even if the defendant succeeds on probation, he is not entitled to have the record expunged; or at least nothing in the statutes entitles him to this.

Certain laws do direct the sentencing authority of the judge, however. The criminal code authorizes certain ranges of sentence or fine for all offenses, and the judge may not sentence above the maximum authorized. However, a judge may sentence below the minimum authorized except in murder or rape cases, if he states his reasons for going below the minimum on the record.<sup>62</sup> A judge is supposed to state his reasons for any sentence that he metes out in any event.<sup>63</sup>

There are special authorizations for heavy sentencing

of persons who both have been convicted of numerous offenses in the past and have been prosecuted as "habitual criminals,"<sup>64</sup> but these authorizations are not mandatory. There were no felons prosecuted as habitual offenders in 1973, however, (at least none that were recorded in the court files available for this study).

Sometimes convicted defendants are sentenced at one time for several crimes. Judges then are authorized to mete out separate sentences for each crime, to be served either<sup>65</sup> concurrently or consecutively.

A section of the state statutes provides that a defendant who has spent time in custody prior to trial or sentencing is to receive credit for this time against any<sup>66</sup> jail or penitentiary sentence imposed. In 1971 the Alaska Supreme Court established that indigent or poor defendants cannot be sent to jail for inability to pay a fine, even if a fine is<sup>67</sup> the appropriate sentence.

The judge's exercise of discretion does not end after sentence has been imposed. For a period of 60 days after sentencing, or after an appeal has been taken, he may<sup>68</sup> reduce the sentence, but he may not increase it. A judge may correct an "illegal" sentence at any time. For instance, a sentence that was based on illegally obtained evidence or exceeded the statutory limit by mistake would be illegal.

Once the court has pronounced sentence, the defendant is transferred to the custody of the Division of Corrections. Where the defendant is to be confined or how he is to be

treated as a probationer is regulated by the laws and discretion of that agency.<sup>69</sup>

### Sentence Appeal

Appellate review of criminal sentences in Alaska was enacted into law in 1969.<sup>70</sup> Sentences now may be appealed by felony defendants on the grounds that they are excessive only if the sentence exceeds one year. The State may appeal any sentence on the grounds of leniency, but any decision on review is only an advisory opinion for future reference for judges in similar cases. The defendant always is advised of his right to a sentence appeal when the sentence is imposed.<sup>71</sup> Since 1969 approximately 55 sentences have been reviewed by the Supreme Court. Thirty-nine, or 71%, have been affirmed, 11, or 20%, have been reversed, and only 2 (4%) disapproved as too lenient. (The other 5% were modified or remanded for clarification.)<sup>72</sup> In 1973 six felony defendants appealed<sup>73</sup> their sentences.

### Parole

During 1973 the judge was authorized to fix a time period that had to be served before the defendant could become eligible for parole, which period was not to exceed one-third of the sentence imposed. Since mid-1974, however, a statute has provided that all defendants must serve at least one-third of any sentence before becoming eligible for parole.<sup>74</sup> Judges now may fix a period that has to be served before parole eligibility if

it exceeds one-third of the minimum sentence imposed. When the period expires, the parole board may "modify" sentences by releasing on parole persons it believes are safely rehabilitated or otherwise deserving of parole status. In its discretion it may even terminate the person's parole ahead of the date of the end of the sentence.<sup>75</sup> (This report does not include data or analysis of parole modification of sentences. The study was specifically designed to focus only upon sentencing decisions that involve the judicial process.)

This introduction has traced the procedural journey of a defendant through the conviction and sentencing process. The following section analyzes the process statistically.



## PART II - ANALYSIS OF THE DATA

### Description of the Data Presentation

The data is analyzed in three sections. Section One analyzes the felony defendant population and the cases filed by type of crime, type of disposition (conviction or dismissal), and method of disposition (trial or pretrial settlement). Section Two analyzes the types and lengths of sentences for convicted defendants. Section Three analyzes certain other features of the disposition and sentencing process, such as the timeframe for case dispositions, the timeframe for sentencings, and post-sentence proceedings.

This Report does not utilize any sophisticated formula or computer programming techniques for measuring "statistical significance," and hence the reader is cautioned to pursue comparative analyses with considerable caution. Small figures in the data bases sometimes may distort percentage representations for purposes of comparison, e.g., city to city or age group to age group. Numbers as well as percentages are provided in most Tables for purposes of evaluating the validity of comparisons that are attempted.

## SECTION ONE

### ANALYSIS OF 1973 FELONIES

#### A. The Felony Defendant Population

As noted earlier, the data was analyzed using both defendants and cases as separate bases. The following demographic analysis begins with a description of the defendant population by sex, age, race, crime type, prior record, and attorney representation. It should be emphasized that these figures pertain to all defendants against whom felony charges were filed in 1973, not merely convicted defendants. The latter are dealt with as a group in detail in Section Two. Appendix I must be read with care to understand the use of the term "all" defendants or "all" cases in the state or in a given area.

Table I shows the number of felony defendants in the state and in each major area against whom cases were filed.

TABLE I

567 (76%)	139 (19%)	43 (6%)	749 (100%)
Anchorage	Fairbanks	Juneau	Statewide

Percentages are percentage of statewide total.

Anchorage accounted for over three-fourths of the total, or 76%. The most recent population figures (1974) indicate that Anchorage has 75% of the total population of the three areas, Fairbanks 17%, and Juneau 8%. Thus, each area appears to have a proportionate percentage of felony defendants.

Race and Sex: Table II shows the defendant population by sex and race, statewide, and by individual area. Race and sex were determined from information on the defendant's fingerprint card filed with the Department of Public Safety.

Not surprisingly, the vast majority of all defendants were male. Alaska's 9% female defendant population compares with a national average of female felony defendants of 15%. Alaska does deviate from the national population norm, however, by having a general population in which males, not females, preponderate slightly.

Also as might be expected, the majority of defendants were Caucasian. However, Caucasians appear to have been "underrepresented" in the defendant population. The 1970 census showed that Caucasians compose 85-90% of the population in the three areas. Alaska's 60% Caucasian defendant figure

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\* 1974 population estimates given by the Anchorage office of the State Department of Community & Regional Affairs, Division of Local Government Assistance. Figures quoted from the Directory of Borough & City Officials.

Juneau	-	16,458 ( 8%)
Anchorage	-	154,610 (75%)
Fairbanks	-	<u>34,124 (17%)</u>
		205,192(100%)

TABLE II  
1973 FELONY DEFENDANTS, BY SEX AND RACE

Sex of 1973 Defendants

Statewide (749)	684 (91%)	65 (9%)
Anchorage (567)	507 (88%)	60 (12%)
Fairbanks (139)	135 (97%)	4 (3%)
Juneau (43)	42 (98%)	1 (2%)
	Males	Females

Race of 1973 Defendants

	Caucasian	Native* Alaskan	Black Other	Unknown
Statewide (749)	452 (60%)	131 (17%)	44 (6%) 14 (2%)	108 (14%)
Anchorage (567)	376 (66%)	85 (15%)	33 (6%) 13 (2%)	60 (11%)
Fairbanks (139)	51 (37%)	33 (24%)	8 (6%)	47 (33%)
Juneau	25 (58%)	13 (31%)	3 (7%) 1 (2%)	1 (2%)

[Percents are percentages of all defendants in each area.]

\*The term Native Alaskan includes all Eskimo, Indian and Aleut people native to the state.

\*\*For undetermined reasons, the race of a significant number of Fairbanks defendants was not recorded on their Public Safety cards. In 62% of these instances, however, the defendant was born outside Alaska according to "Place of Birth" information on the same card, and thus it may be supposed that 62% of the unknowns were not Alaskan Natives.

TABLE II - Continued

Race and Sex of 1973 Felony Defendants

		Caucasian	Native Alaskan	Black	Other Unknown
Statewide	Males (684)	419 (61%)	120 (18%)	38 (6%)	11 (2%) 96 (13%)
	Females (65)	33 (51%)	11 (17%)	6 (9%)	3 (5%) 12 (18%)
Anchorage	Males (507)	345 (67%)	74 (15%)	28 (6%) 10 (2%)	50 (10%)
	Females (60)	31 (52%)	11 (18%)	5 (8%) 3 (5%)	10 (17%)
Fairbanks	Males (135)	50 (38%)	33 (24%)	7 5%	45 (33%)
	Females (4)	1 (25%)	1 (25%)	2 (50%)	
		Caucasian	Black	Unknown	
Juneau	Males (42)	24 (58%)	13 (31%)	3 (7%)	1 (2%)
	Females (1)	1 Caucasian Female (100%)			

[Percents are percentages of all male or female defendants in each area.]

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compares with a national average of near 70%. However, it is unwise to make national comparisons for the non-Caucasian populations in Alaska, because Alaska has a disproportionately low percentage of Blacks and a high percentage of other "minority" population groups such as Native Alaskans.

It should be noted, however, that a much higher percentage of Native Alaskan defendants was found in Fairbanks and Juneau than in Anchorage (24% in Fairbanks and 31% in Juneau, compared to 17% in Anchorage), while approximately the same percentage of Black defendants was found in each (6-7%). Extrapolations from the most recent census figures available show the relative populations of Native Alaskans to be 3.8% in Anchorage, 4% in Fairbanks, and 18% in Juneau.<sup>80</sup> Thus in all areas, but especially in Fairbanks, Native Alaskans were overrepresented in the defendant population. However, it should be noted that the superior court in each city handles many felony matters brought to it from outlying areas where there is no superior court and where the population often is predominantly Alaskan Native.

Extrapolations from the same census figures show that Blacks compose approximately 4.3% of the Anchorage area population, 7% of Fairbanks, and 1% of Juneau. Thus while Blacks perhaps were "overrepresented" in Juneau (the 7% represents three defendants only), they appear to have been underrepresented in Fairbanks.

It should also be noted that while Caucasians accounted for 62% of all defendants statewide and Caucasian males accounted

TABLE III

## AGE OF 1973 FELONY DEFENDANTS

AREA	A G E									
	18-19	20-21	22-25	26-30	31-35	36-45	46-60	over 60	Unknown	Total
Anchorage	96(17%)	112(20%)	135(24%)	73(13%)	54(10%)	40( 7%)	24(4%)	8(1%)	26(5%)	567(100%)
Fairbanks	33(24%)	29(21%)	31(22%)	12( 9%)	7( 5%)	13(10%)	3(2%)	-	11(7%)	139(100%)
Juneau	4( 9%)	6(14%)	11(26%)	10(23%)	7(16%)	3( 7%)	-	-	2(5%)	43(100%)
Statewide	133(18%)	147(20%)	177(24%)	94(13%)	68(9%)	56( 7%)	27(3%)	8(1%)	39(5%)	749(100%)

	A G E							46-60 over 60	Unknown
	18-19	20-21	22-25	26-30	31-35	36-45	46-60		
Statewide (749)	133 (18%)	147 (20%)	177 (24%)	94 (13%)	68 (9%)	56 (7%)	39 (5%)	8 (1%)	
Anchorage (567)	96 (17%)	112 (20%)	135 (24%)	72 (13%)	54 (10%)	40 (7%)	26 (4%)	8 (1%)	
Fairbanks (139)	33* (24%)	29 (21%)	31 (22%)	12 (9%)	7 (5%)	13 (10%)	3 (2%)	(None over 60 in Fairbanks)	
Juneau (43)	4 (9%)	6 (14%)	11 (26%)	10 (23%)	7 (16%)	3 (7%)	2 (5%)	(None over 46 in Juneau)	

\*In Fairbanks, one 17-1/2 year-old defendant was tried as an adult. The court waived his right to juvenile status. He is included in the group of 18-19 year-olds.

Percentages are percentages of all defendants in each area.

for nearly the same percent of all male defendants (61%), Caucasian females accounted for only 51% of all female defendants. Blacks accounted for 6% of all defendants, and Black males accounted for 6% of all male defendants, but Black females accounted for a slightly higher percent of all female defendants, 9%. For Native Alaskans, the relative proportions were almost equal, 17% of all defendants, 18% of all male defendants, and 17% of all female defendants.

Age: The defendant population is next described by age, and age is correlated with race and sex. The age of each defendant at the time of case disposition was used as his or her age. (5% of defendants' ages could not be determined.) Table III shows the ages of the felony defendant population.

In general, the felony defendant population was very young, the majority of all defendants being only 25 years old or younger (shaded area of Table III). Over one-third of all defendants were under the age of 22 (criss-crossed area of Table III).

Defendants in Juneau were slightly older than in the rest of the state, while there were more young defendants in Fairbanks. Anchorage was the only area with defendants over the age of 60, and with the exception of one Fairbanks defendant, also was the only area with defendants between the ages of 46 and 60.

Table IV, while somewhat more complicated than the preceding tables, shows interesting correlations of race, age and sex. The table is most easily interpreted by looking



TABLE IV

AGE, RACE AND SEX OF 1973 FELONY DEFENDANTSRace, Age, Sex: All Defendants, Statewide (749)

<u>Age</u>	<u>Caucasian</u>		<u>Alaskan Native</u>		<u>Black</u>		<u>Other</u>		<u>Unknown</u>		<u>Total</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
18-19 yr	77	6	25	3	5	-	4	-	13	-	124	9
20-21 yr	92	6	26	1	5	2	1	-	13	1	137	10
22-25 yr	103	10	26	4	8	3	4	-	17	2	158	19
SUBTOTAL	272 (65%)	22 (67%)	77 (64%)	8 (73%)	18 (38%)	5 (83%)	9 (82%)	0 (-%)	43 (45%)	3 (25%)	419 (61%)	38 (58%)
26-30 yr	58	4	9	2	7	1	2	1	9	1	85	9
31-35 yr	36	3	17	1	5	-	-	1	2	3	60	8
36-45 yr	25	3	14	-	5	-	-	1	7	1	51	5
46-60 yr	16	1	2	-	2	-	-	-	5	1	25	2
Over 60 yr	6	-	-	-	1	-	-	-	1	-	8	-
Unknown	6	-	1	-	-	-	-	-	29	3	36	3
	419	33	120	11	38	6	11	3	96	12	684	65
	452		131		44		14		108		749	

[Percents are percentage of all defendants of each race and sex in each area.]

(Continued)

TABLE IV - Continued

Race, Age, Sex: Anchorage Defendants (567)

Total This Age Group	<u>Caucasian</u>		<u>Alaskan Native</u>		<u>Black</u>		<u>Other</u>		<u>Unknown</u>		<u>Total</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
	<u>Age</u>											
96	18-19 yr	62	6	14	3	5	4	-	2	-	87	9
112	20-21 yr	82	5	16	1	2	1	-	4	-	105	7
135	22-25 yr	87	9	13	4	5	3	-	9	2	117	18
SUBTOTAL		231 (67%)	20 (65%)	43 (58%)	8 (73%)	12 (43%)	4 (80%)	8 (80%)	15 (30%)	2 (20%)	309 (61%)	34 (57%)
72	26-30 yr	44	4	5	2	5	1	2	7	1	63	9
54	31-35 yr	29	3	12	1	5	-	-	-	3	46	8
40	36-45 yr	16	3	12	-	4	-	-	3	1	35	5
24	46-60 yr	15	1	2	-	1	-	-	4	1	22	2
8	Over 60 yr	6	-	-	-	1	-	-	1	-	8	-
26	Unknown	4	-	-	-	-	-	-	20	2	24	2
		345	31	74	11	28	5	10	50	10	507	60
		376		85		33		13	60		567	

[Percents are percentage of all defendants of each race and sex in each area.]

(Continued)

TABLE IV - Continued

Race, Age, Sex: Fairbanks Defendants (139)

<u>Age</u>	<u>Caucasian</u>		<u>Alaskan Native</u>		<u>Black</u>		<u>Other</u>		<u>Unknown</u>		<u>Total</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
18-19 yr	14*	-	8	-	-	-	10	-	-	-	32	-
20-21 yr	5	1	9	-	3	1	9	1	9	1	26	3
22-25 yr	15	-	6	-	2	-	8	-	-	-	31	-
SUBTOTAL	34 (68%)	1 (100%)	23 (70%)	0	5 (71%)	1 (100%)	27 (60%)	1 (50%)	89 (66%)	3 (75%)		
26-30 yr	6	-	4	-	1	-	1	-	1	-	12	-
31-35 yr	2	-	3	-	-	-	2	-	2	-	7	-
36-45 yr	7	-	2	-	-	-	4	-	4	-	13	-
46-60 yr	1	-	-	-	1	-	1	-	1	-	3	-
Over 60 yr	-	-	-	-	-	-	-	-	-	-	-	-
Unknown	-	-	1	-	-	-	9	1	9	1	10	1
*Under 18	-	-	-	-	-	-	1	-	1	-	1	-
	50	1	33	-	7	1	45	2	135	4		
	51		33		8		0		47		139	

[Percents are percentage of all defendants of each race and sex in each area.]

\*In Fairbanks, one 17-1/2 year-old defendant was tried as an adult. The court waived his right to juvenile status. He is included in the group of 18-19 year-olds.

(Continued)

TABLE IV - Continued

Race, Age, Sex: Juneau Defendants (43)

<u>Age</u>	<u>Caucasian</u>		<u>Native Alaskan</u>		<u>Black</u>		<u>Other</u>		<u>Unknown</u>		<u>Total</u>	
	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>	<u>Male</u>	<u>Female</u>
18-19 yr	1	-	3	-	-	-	-	-	-	-	4	-
20-21 yr	5	-	1	-	-	-	-	-	-	-	6	-
22-25 yr	<u>1</u>	<u>1</u>	<u>7</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>1</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>10</u>	<u>1</u>
SUBTOTAL	7 (29%)	1 (100%)	11 (85%)	0	1 (33%)	0	1 (100%)	0	0	0	20 (48%)	1 (100%)
26-30 yr	8	-	-	-	1	-	-	-	1	-	10	-
31-35 yr	5	-	2	-	-	-	-	-	-	-	7	-
36-45 yr	2	-	-	-	1	-	-	-	-	-	3	-
46-60 yr	-	-	-	-	-	-	-	-	-	-	-	-
Over 60 yr	-	-	-	-	-	-	-	-	-	-	-	-
Unknown	<u>2</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2</u>	<u>-</u>
	24	1	13	-	3	-	1	-	1	-	42	1
	25		13		3		1		1		43	

[Percents are percentage of all defendants of each race and sex in each area.]

at line 4 of each individual table, the subtotal figures of all defendants age 25 or younger.

Female defendants statewide tended to be younger than male defendants in all three major population groups, but this phenomenon was most pronounced among Blacks (83% of females compared to 31% of males) and secondly among Native Alaskans (73% of females compared to 64% of males). Comparisons among the three areas are of dubious value because only Anchorage had a significant number of female defendants.

Comparing males only, by race, it appears notable that Blacks statewide tended to be older. While 65% of Caucasian male defendants and 64% of Alaskan Native male defendants were only 25 years old or younger, only 38% of Black male defendants were this young.

Crime Type. The defendant population is next described by the crime type charged against each defendant, and crime type is correlated with age and race. The following crime categories were used to describe the offenses charged against defendants:

Violent crimes

Robbery (shown separately from violent or property offenses, as it contains elements of each)

Property crimes

Check and Fraud crimes (most forgeries and frauds)

Drug crimes, and

Other crimes not fitting any of the above categories.

The specific crimes contained in each category may be found in Appendix II. Necessary statistical qualifiers placed on crime

categories are described in Appendix III. Table V shows the relative distributions found among the defendant population.

TABLE V

1973 FELONY DEFENDANTS, BY CRIME TYPE

	Violent	Robbery*	Property	Drugs	Check and Fraud	Other
Statewide (749)	177 (24%)	35 (5%)	250 (33%)	188 (25%)	78 (11%)	21 (3%)
Anchorage (567)	132 (23%)	35 (6%)	181 (32%)	147 (26%)	57 (10%)	15 (3%)
	Violent		Property	Drugs	Check and Fraud	Other
Fairbanks (139)	33 (24%)		55 (40%)	36 (25%)	12 (9%)	3 (2%)
Juneau (43)	12 (27%)		14 (33%)	5 (12%)	9 (21%)	3 (7%)

[Percents are percentage of all defendants in each area.]

\*All defendants charged with robbery were in Anchorage.

81

It can be seen that property crimes predominated everywhere (over 30%) and were most prevalent in Fairbanks. Drug crimes and violent crimes were next in number (by relative percentages), but in Juneau drug crimes were distinctly lower in percent than in the rest of the state, while check and fraud crimes were a proportionately higher percentage. There is no obvious explanation for the Juneau figures. One observation might be that more drug traffic passes through Anchorage and Fairbanks. One judge in the Juneau area speculated that perhaps more people accept bad checks in a small city and also believed that as a result the district attorney devotes more attention to check and fraud crimes.

Crime type also was found to have a significant relation to age, as shown in Table VI. Throughout the state and in each area older persons (over age 25) were more frequently charged with violent crimes and check and fraud crimes than younger persons. The latter were more frequently charged with drug crimes and property crimes.

It should be noted also that young persons accounted for the vast majority of all robbery defendants. Of all 35 defendants charged with robbery, 28, or 80%, were only 25 years old or younger (these percentages are not displayed on Table VI) and 18 defendants, or 51%, were under age 22. The percentage of persons charged with property crimes varied from area to area, although statewide young persons tended to be charged with property crimes more often.

Race also was found to have a significant relation to

TABLE VI

## AGE AND CRIME TYPE OF 1973 FELONY DEFENDANTS

Statewide

Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Age</u>							
18-21	43(15%)	18( 6%)	115(42%)	82(30%)	18(6%)	4(1%)	280(100%)
22-25	34(19%)	10( 6%)	56(32%)	53(30%)	19(11%)	5(2%)	177(100%)
26-35	56(35%)	7( 4%)	48(30%)	26(16%)	21(13%)	4(2%)	162(100%)
36 & Over	34(37%)	--	19(21%)	15(16%)	17(19%)	6(7%)	91(100%)
Unknown	10(26%)	--	12(31%)	12(31%)	3( 8%)	2(5%)	<u>39(100%)</u>
							749

	Violent	Robbery	Property	Drugs	Check and Fraud	Other	
18-21 yr	43 (15%)	18 (6%)	115 (42%)	82 (30%)	18 (6%)	4 (1%)	
22-25 yr	34 (19%)	10 (6%)	56 (32%)	53 (30%)	19 (11%)	5 (2%)	
26-35 yr	56 (35%)	7 (4%)	48 (30%)	26 (16%)	21 (13%)	4 (2%)	
36 and Over	34 (37%)		19 (21%)	15 (16%)	17 (19%)	6 (7%)	No Robbery
Unknown	10 (26%)		12 (31%)	12 (31%)	3 (8%)	2 (5%)	No Robbery

[Percents are percentage of all defendants in each age group in each area.]

-- continued



TABLE VI - continued

Anchorage

Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Age</u>							
18-21	31(15%)	18(9%)	85(41%)	60(29%)	11(5%)	3(1%)	208(100%)
22-25	23(17%)	10(7%)	43(32%)	41(30%)	16(12%)	2(1%)	135(100%)
26-35	44(35%)	7(6%)	33(26%)	21(17%)	17(13%)	4(3%)	126(100%)
36 & Over	27(38%)	--	15(21%)	15(21%)	11(15%)	4(6%)	72(100%)
Unknown	7(27%)	--	5(19%)	10(38%)	2(8%)	2(8%)	26(100%)

	Violent	Robbery	Property	Drugs	Check & Fraud	Other	567
18-21 yr	31 (15%)	18 (9%)	85 (41%)	60 (29%)	11 (5%)	3 (1%)	
22-25 yr	23 (17%)	10 (7%)	43 (32%)	41 (30%)	16 (12%)	2 (1%)	
26-35 yr	44 (35%)	7 (6%)	33 (26%)	21 (17%)	17 (13%)	4 (3%)	
36 and Over	27 (38%)	--	15 (21%)	15 (21%)	11 (15%)	4 (6%)	
Unknown	7 (27%)	--	5 (19%)	10 (38%)	2 (8%)	2 (8%)	

No Robbery

Fairbanks

Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Age</u>							
18-21	10(16%)	--	28(45%)	20(33%)	4(6%)	--	62(100%)
22-25	7(23%)	--	9(29%)	12(39%)	2(6%)	1(3%)	31(100%)
26-35	6(32%)	--	8(42%)	3(15%)	2(11%)	--	19(100%)
36 & Over	7(44%)	--	4(25%)	--	3(18%)	2(13%)	16(100%)
Unknown	3(27%)	--	6(55%)	1(9%)	1(9%)	--	11(100%)

	Violent	Property	Drugs	Check & Fraud	Other	139
18-21 yr	10 (16%)	28 (45%)	20 (33%)	4 (6%)	--	
22-25 yr	7 (23%)	9 (29%)	12 (39%)	2 (6%)	1 (3%)	
26-35 yr	6 (32%)	8 (42%)	3 (15%)	2 (11%)	--	
36 and Over	7 (44%)	4 (25%)	--	3 (18%)	2 (13%)	
Unknown	3 (27%)	6 (55%)	1 (9%)	1 (9%)	--	

No Robbery  
No Other  
No Drug  
No Other

TABLE VI - continued

Juneau

Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Age</u>							
18-21	2(20%)	--	2(20%)	2(20%)	3(30%)	1(10%)	10(100%)
22-25	4(36%)	--	4(36%)	--	1(9%)	2(19%)	11(100%)
26-35	6(35%)	--	7(41%)	2(12%)	2(12%)	--	17(100%)
36 & Over	--	--	--	--	3(100%)	--	3(100%)
Unknown	--	--	1(50%)	1(50%)	--	--	2(100%)
							43

	Violent	Property	Drug	Check and Fraud	Other	
18-21 yr	2 (20%)	2 (20%)	2 (20%)	3 (30%)	1 (10%)	
22-25 yr	4 (36%)		4 (36%)	1 (9%)	2 (19%)	No Drug
26-35 yr	6 (35%)		7 (41%)	2 (12%)	2 (12%)	No Other
36 and Over			3 (100%)	Check and Fraud		
Unknown	1 (50%)	Property		1 (50%)	Drug	

crime type as shown in Table VII. Proportionately more Alaskan Natives were charged with violent crimes and property crimes than any other group, 37%, compared to 25% for Blacks and 19% for Caucasians. When robbery is combined with violent crimes, however, both Blacks and Alaskan Natives show approximately the same percentage charged with these crimes (over 40%). In fact, it should be noted that a very high percentage of Blacks was charged with robbery, higher than any other group (18%), compared to 4% of Caucasians and 4% of Alaskan Natives. On the other hand, Blacks were charged with property offenses less often than either of the other population groups, 16%, compared to 41% for Alaskan Natives and 34% for Caucasians.

These statistics dispel a major myth, that it is justifiable to associate Black defendants with the state's drug traffic, by showing that proportionately as many Caucasians (27%) as Blacks (28%) are charged with drug crimes. Alaskan Natives charged with drug crimes were only 11% of defendants in that group. Also, only 5% of Alaskan Natives were charged with check and fraud crimes, compared to 12% for Caucasians and 11% for Blacks.

Prior Records. The prior records of all defendants also were analyzed. Defendants were grouped according to whether they had no prior record, a prior record of misdemeanor convictions only, a prior record of felony convictions (including persons with records of both misdemeanor and felony convictions), or a miscellaneous prior record, which group includes persons with prior records of arrests but no dispositions

TABLE VII  
RACE AND CRIME OF 1973 FELONY DEFENDANTS

	Robbery		Property		Drugs		Check and Fraud		Other
	Violent								
Caucasian	88 (19%)	17 (4%)	155 (34%)		127 (28%)		53 (12%)	12 (3%)	
Native Alaskan	48 (37%)	5 (4%)	54 (41%)				14 (11%)	8 (5%)	2 (2%)
Black	11 (25%)	8 (18%)	7 (16%)		12 (27%)		5 (11%)	1 (2%)	
Unknown*	24 (22%)	5 (5%)	31 (29%)		33 (31%)		11 (10%)	4 (4%)	
Other	6 (43%)		3 (21%)		2 (14%)		1 (7%)	2 (14%)	No Robbery

Statewide							
Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Race</u>							
Caucasian	88(19%)	17(4%)	155(34%)	127(28%)	53(12%)	12(3%)	452(100%)
Native Alaskan	48(37%)	5(4%)	54(41%)	14(11%)	8( 5%)	2(2%)	131(100%)
Black	11(25%)	8(18%)	7(16%)	12(27%)	5(11%)	1(2%)	44(100%)
Unknown	24(22%)	5( 5%)	31(29%)	33(31%)	11(10%)	4(4%)	108(100%)
Other	6(43%)	--	3(21%)	2(14%)	1( 7%)	2(14%)	14(100%)
							749

[Percents are percentage of all defendants of each race in each area.]

\* For undetermined reasons the race of a significant number of Fairbanks defendants was not recorded on their Public Safety cards. In 62% of these instances, however, the defendant was born outside Alaska according to "Place of Birth" information on this card; thus it may be supposed that 62% of the unknowns were not Alaskan Natives.

TABLE VII - continued

	Robbery		Property		Drug		Check & Fraud	Other
	Violent							
Caucasian	74 (20%)	17 (5%)	128 (34%)		105 (28%)		42 (10%)	10 (3%)
Native Alaskan	30 (35%)		5 (6%)	35 (41%)		11 (13%)	4 (5%)	No Other
Black	6 (18%)		8 (24%)	6 (18%)	9 (28%)		3 (9%)	1 (3%)
Unknown	16 (27%)		5 (8%)	10 (17%)				
Other								

Anchorage							
Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Race</u>							
Caucasian	74 (20%)	17 (5%)	128 (34%)	105 (28%)	42 (10%)	10 (3%)	376 (100%)
Native Alaskan	30 (35%)	5 (6%)	35 (41%)	11 (13%)	4 (5%)	--	85 (100%)
Black	6 (18%)	8 (24%)	6 (18%)	9 (28%)	3 (9%)	1 (3%)	33 (100%)
Unknown	16 (27%)	5 (8%)	10 (17%)	20 (33%)	7 (12%)	2 (3%)	60 (100%)
Other	6 (47%)	--	2 (15%)	2 (15%)	1 (8%)	2 (15%)	13 (100%)
							567

-- continued

TABLE VII - continued

		Violent	Property	Drug	Check and Fraud	Other
Fairbanks (139)	Caucasian	10 (20%)	17 (33%)	18 (35%)	5 (10%)	1 (2%)
	Native Alaskan	13 (39%)		16 (48%)	2 (6%)	2 (6%)
	Black	3 (37%)	1 (13%)	3 (37%)	1 (13%)	1 (13%)
	Unknown*	7 (15%)	21 (45%)	13 (28%)	4 (8%)	2 (4%)
	Other					

Fairbanks							
Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Race</u>							
Caucasian	10 (20%)	--	17 (33%)	18 (35%)	5 (10%)	1 (2%)	51 (100%)
Native Alaskan	13 (39%)	--	16 (48%)	2 (6%)	2 (6%)	--	33 (100%)
Black	3 (37%)	--	1 (13%)	3 (37%)	1 (13%)	--	8 (100%)
Unknown	7 (15%)	--	21 (45%)	13 (28%)	4 (8%)	2 (4%)	47 (100%)
Other	--	--	--	--	--	--	--
							139

-- continued

TABLE VII - continued

		Violent	Property	Drug	Check & Fraud	Other
Juneau (43)	Caucasian	4 (16%)	10 (40%)	4 (16%)	6 (24%)	1 (4%)
	Native Alaskan	5 (39%)	3 (23%)	1 (8%)	2 (15%)	2 (15%)
	Black	2 (67%) Violent			1 (33%)	Check and Fraud
	Unknown	1 (100%) Violent				
	Other	1 (100%) Property				

Juneau							
Crime Category:	Violent	Robbery	Property	Drugs	Check & Fraud	Other	TOTALS
<u>Race</u>							
Caucasian	4(16%)	--	10(40%)	4(16%)	6(24%)	1(4%)	25(100%)
Native Alaskan	5(39%)	--	3(23%)	1( 8%)	2(15%)	2(15%)	13(100%)
Black	2(67%)	--	--	--	1(33%)	--	3(100%)
Unknown	1(100%)	--	--	--	--	--	1(100%)
Other	--	--	1(100%)	--	--	--	1(100%)
							43

indicated and persons with military or juvenile conviction records but with no misdemeanor or felony conviction records.

Table VIII below shows that less than one-fourth of the 1973 defendants had a prior felony record, this figure being noticeably higher in Juneau. Thirty-eight percent of all defendants, or over one-third, had no prior record at all.

TABLE VIII

PRIOR RECORDS OF 1973 FELONY DEFENDANTS

	No Prior Record	Miscellaneous Prior Record	Misdemeanor Record	Felony Record	Record Unknown
Statewide (749)	287 (38%)	88 (12%)	141 (19%)	183 (24%)	50 (7%)
Anchorage (567)	219 (39%)	73 (13%)	101 (18%)	137 (24%)	37 (6%)
Fairbanks (139)	54 (39%)	10 (7%)	32 (23%)	31 (22%)	12 (9%)
Juneau (43)	14 (33%)	5 (12%)	8 (18%)	15 (35%)	1 (2%)

[Percents are percentage of all defendants in each area.]

Table IX shows the proportion of defendants in each population group who had prior records. Forty-two percent of Caucasians had no criminal record, while only 21% of Alaskan Natives and 20% of Blacks had no prior record. These percentages differ noticeably in Fairbanks and Juneau, however, although



## Miscellaneous

Statewide (749)	Record					(Totals)
	No Prior Record	Prior Record	Misdemeanor Record	Felony Record	Unknown	
Caucasian	190 (42%)	62 (14%)	82 (18%)	108 (24%)	10 (2%)	452
Native Alaskan	28 (21%)	10 (8%)	47 (36%)	41 (31%)	5 (4%)	131
Black	9 (20%)	4 (9%)	8 (18%)	21 (48%)	2 (5%)	44
Unknown	49 (45%)	11 (10%)	3 (3%)	12 (11%)	33 (31%)	108
Other		11 (79%)		1 (7%)	1 (7%)	14

Anchorage (567)						8	
Caucasian	167 (44%)	52 (14%)	59 (16%)	90 (24%)	8	(2%)	376
Native Alaskan	16 (19%)	10 (11%)	32 (38%)	24 (28%)	3	(4%)	85
Black	8 (24%)	3 (9%)	7 (21%)	13 (40%)	2	(6%)	33
Unknown	17 (28%)	7 (12%)	3 (5%)	9 (15%)	24 (40%)		60
Other			11 (84%)		1 (8%)	1 (8%)	13

Miscellaneous Felony

Category	White	Black	Native Alaskan	Other	Unknown	Total
Fairbanks (139)	14 (27%)	5 (10%)	21 (41%)	10 (20%)	1 (2%)	51
Caucasian	8 (24%)	10 (30%)	13 (39%)	2 (6%)	No Misc. Prior Records	33
Native Alaskan	1 (13%)	1 (13%)	1 (13%)	5 (61%)	No Unknown Records	9
Black	31 (66%)	4 (9%)	3 (6%)	9 (19%)	No Misdemeanor Records	47
Unknown	0					0
Other						

Juneau (43)		
Caucasian	9 (36%)	5 (20%) 2 (8%) 8 (32%) 1 (4%)
Native Alaskan	No Prior Record 4 (31%)	Misdemeanor Record 5 (38%) Felony Record 4 (31%)
Black	3 (100%) Felony Record	
Unknown	1 (100%) No Prior Record	
Other	1 (100%) Misdemeanor Record	

[Percents are percentage of all defendants of each race in each area.]

it must be remembered that the small number of defendants there often makes statistical analysis less meaningful. State-wide, and in each area, Native Alaskan defendants with misdemeanor records were a disproportionately higher percentage of the total Native Alaskan defendant population than appeared for other population groups.

Table X shows the relationships found between type of prior record and type of crime charged against each defendant. The proportionately largest group of persons with no prior record were those charged with drug crimes, in every area of the state. The largest group of persons with a prior felony record were persons charged with check and fraud crimes, 36% statewide. The second largest groups were defendants charged with robbery crimes (29%) and property crimes (also 29%), possibly confirming the findings of many recidivism studies,<sup>82</sup> that property offenders are the most frequent recidivists.

Less than one-fourth of all defendants charged with violent crimes had a prior felony record.

Table XI charts the relation of three variables--prior record, race, and crime type, on a statewide basis only.

Of defendants charged with violent crimes, a higher percentage of Blacks had a felony record (55%), compared to other population groups, the closest being Caucasians, 25%. A higher percentage of Alaskan Natives charged with violent crimes had a misdemeanor record (48%), compared to 27% of Black violent crime defendants and only 15% of Caucasians. A high percentage of Caucasians had no prior record (44%), compared

TABLE X

PRIOR RECORD AND CRIME TYPE OF 1973 FELONY DEFENDANTS

<u>Statewide</u>	Miscellaneous					Totals
	No Prior Record	Prior Record	Misdemeanor Record	Felony Record	Record Unknown	
Violent	65 (37%)	19 (11%)	39 (22%)	41 (23%)	13 (7%)	177
Robbery	12 (34%)	6 (17%)	6 (17%)	10 (29%)	1 (3%)	35
Property	91 (36%)	29 (12%)	39 (16%)	73 (29%)	18 (7%)	250
Drugs	86 (46%)	21 (11%)	44 (23%)	27 (14%)	10 (5%)	188
Check and Fraud	25 (32%)	10 (13%)	10 (13%)	28 (36%)	5 (6%)	78
Other	7 (33%)	3 (14%)	4 (19%)	5 (24%)	2 (10%)	21

<u>Anchorage</u>	Miscellaneous					Totals
	No Prior Record	Prior Record	Misdemeanor Record	Felony Record	Record Unknown	
Violent	50 (38%)	16 (12%)	25 (19%)	30 (23%)	11 (8%)	132
Robbery	12 (34%)	6 (17%)	6 (17%)	10 (29%)	1 (3%)	35
Property	67 (37%)	24 (13%)	25 (14%)	55 (30%)	10 (6%)	181
Drugs	66 (45%)	17 (12%)	34 (23%)	21 (14%)	9 (6%)	147
Check and Fraud	17 (30%)	8 (14%)	9 (16%)	19 (33%)	4 (7%)	57
Other	7 (48%)	2 (13%)	2 (13%)	2 (13%)	2 (13%)	15

- Continued -

TABLE X - Continued

	Miscellaneous					Totals
	No Prior Record	Prior Record	Misdemeanor Record	Felony Record	Record Unknown	
<u>Fairbanks</u>						
Violent	11 (33%)	1 (3%)	11 (33%)	8 (24%)	2 (6%)	33
Property	22 (40%)	4 (7%)	10 (18%)	12 (22%)	7 (13%)	55
Drug	16 (44%)		4 (11%)	10 (28%)	5 (14%)	36
Check and Fraud	4 (34%)	1 (8%)	1 (3%)	5 (42%)	1 (8%)	12
Other	1 (33%) Misdemeanor	2 (67%)	Felony Record			3

	Miscellaneous				Totals
	No Prior Record	Prior Record	Misdemeanor Record	Felony Record	
<u>Juneau</u>					
Violent	4 (33%)	2 (17%)	3 (25%)	3 (25%)	12
Property	2 (14%)	1 (7%)	4 (29%)	6 (43%)	14
Drug	4 (80%) No Prior Record			1 (20%) Felony Record	
Check and Fraud	4 (44%) No Prior Record	1 (12%) Misc.	4 (44%) Felony Record		9
Other	1 (33%) Misc.	1 (33%) Misdemeanor Record	1 (33%) Felony Record		3

[Percents are percentage of all defendants of each crime type in each area.]

TABLE XI

PRIOR RECORD, RACE AND CRIME TYPE OF 1973 FELONY DEFENDANTS

Race and Prior Record	Crime Category						Total
	Violent	Robbery	Property	Drugs	Check and Fraud	Other	
CAUCASIAN							
No Prior Record	39 (44%)	7 (41%)	65 (42%)	60 (47%)	15 (28%)	4 (33%)	190 (42%)
Miscellaneous Record	14 (16%)	2 (12%)	17 (11%)	16 (13%)	10 (19%)	3 (25%)	62 (14%)
Misdemeanor Record	13 (15%)	2 (12%)	24 (15%)	35 (28%)	6 (11%)	3 (25%)	82 (18%)
Felony Record	22 (25%)	6 (35%)	45 (29%)	13 (10%)	20 (38%)	2 (17%)	108 (24%)
Unknown Record	-	-	4 (3%)	3 (2%)	2 (4%)	-	10 (2%)
SUBTOTAL	88 (100%)	17 (100%)	155 (100%)	127 (100%)	53 (100%)	12 (100%)	452 (100%)
NATIVE ALASKAN							
No Prior Record	8 (17%)	-	12 (22%)	4 (29%)	4 (50%)	-	28 (21%)
Miscellaneous Record	3 (6%)	-	5 (9%)	2 (14%)	-	-	10 (8%)
Misdemeanor Record	23 (48%)	2 (40%)	14 (26%)	5 (36%)	2 (25%)	1 (50%)	47 (36%)
Felony Record	11 (23%)	3 (60%)	21 (39%)	3 (21%)	2 (25%)	1 (50%)	41 (31%)
Unknown Record	3 (6%)	-	2 (4%)	-	-	-	5 (4%)
SUBTOTAL	48 (100%)	5 (100%)	54 (100%)	14 (100%)	8 (100%)	2 (100%)	131 (100%)
BLACK							
No Prior Record	1 (9%)	2 (25%)	1 (14%)	4 (33%)	-	1 (100%)	9 (20%)
Miscellaneous Record	1 (9%)	2 (25%)	1 (14%)	-	-	-	4 (9%)
Misdemeanor Record	3 (27%)	2 (25%)	-	2 (17%)	1 (20%)	-	8 (18%)
Felony Record	6 (55%)	1 (12%)	5 (72%)	5 (42%)	4 (80%)	-	21 (48%)
Unknown Record	-	1 (13%)	-	1 (8%)	-	-	2 (5%)
SUBTOTAL	11 (100%)	8 (100%)	7 (100%)	12 (100%)	5 (100%)	1 (100%)	44 (100%)

- Continued -

TABLE XI - Continued

Race and Prior Record	Crime Category					
	Violent	Robbery	Property	Drugs	Check and Fraud	Other
OTHER						
No Prior Record	6 (100%)	-	1 (33%)	1 (50%)	1 (100%)	2 (100%)
Miscellaneous Record	-	-	-	1 (50%)	-	-
Misdemeanor Record	-	-	1 (34%)	-	-	-
Felony Record	-	-	1 (33%)	-	-	-
Unknown Record	-	-	-	-	-	-
SUBTOTAL	6 (100%)	-	3 (100%)	2 (100%)	1 (100%)	2 (100%)
						14 (100%)
RACE UNKNOWN						
No Prior Record	11 (46%)	3 (60%)	12 (39%)	17 (52%)	5 (46%)	-
Miscellaneous Record	1 (4%)	2 (40%)	6 (19%)	2 (6%)	-	-
Misdemeanor Record	-	-	-	2 (6%)	1 (9%)	-
Felony Record	2 (8%)	-	1 (3%)	5 (15%)	2 (18%)	2 (50%)
Unknown Record	10 (42%)	-	12 (39%)	7 (21%)	3 (27%)	2 (50%)
SUBTOTAL	24 (100%)	5 (100%)	31 (100%)	33 (100%)	11 (100%)	4 (100%)
						108 (100%)
TOTAL	177	35	250	188	78	21
						749

(Percents are percentage of defendants in each population group  
and crime type of each prior record type.)

to 17% of Alaskan Natives charged with violent crimes and 9% of Blacks.

Of persons charged with robbery, however, the figures are very different. A high percentage of Alaskan Natives charged with robbery had a felony record, 60% (but this represents only 3 out of 5 Alaskan Native robbery defendants). However, Caucasians charged with robbery had a higher percentage of felony records (25%) than Blacks, (12%).

For property crimes, a high percentage of Black defendants again had a prior felony record, 72% (but only a few Blacks were charged with property crimes.) A higher percentage of Alaskan Natives charged with property crimes had felony records (39%) than did Caucasian property defendants (29%). In drug crimes, the same pattern is repeated, but not as high a percent of Blacks had felony records, only 42%.

In check and fraud crimes, however, where a higher percentage of Black defendants had felony records, 80%, Caucasians had the second highest percent, 38%, and only 25% of Alaskan Native check and fraud defendants had felony records.

Public Defender Representation. Defendants also were grouped according to the type of attorney who represented them. Unfortunately, information regarding attorney representation in Fairbanks was inadequately recorded by the research staff.<sup>83</sup> For this reason Table XII shows the incidence of public defender representation in Anchorage and Juneau only.

The statistics indicate that the percentage of defendants

TABLE XII

ATTORNEY REPRESENTATION OF 1973 FELONY DEFENDANTS

(Excluding Unknowns")	Anchorage (567)		Juneau (43)		Statewide* (610)	
	25%	48 Unknown (8%) Private Attorney 130 defendants (23%)	Unknown 10 (23%)	30%	25%	58 Unknown (10%) Private Attorney 140 defendants (23%)
		Public Defender 389 defendants (69%)	Private Attorney 10 defendants (23%)			Public Defender 412 defendants (67%)
	75%		Public Defender 23 defendants (54%)	70%	75%	

\*Fairbanks not included.

Note: The incidence of persons having a private attorney in one case, and a Public Defender in another was very low, 2-3%. Where the type of attorney varied, a defendant's most serious crime was used and he was listed under the type of attorney who represented him in that case.

(Percents are percentage of all defendants in each area against whom cases were filed.)



hiring a private attorney in 1973 was substantially higher than might have been expected from the estimates of many assistant public defenders that their office represented over 90% of all criminal defendants.

It appears that Anchorage had a somewhat higher incidence of public defender representation than Juneau, but the type of attorney a defendant had was "unknown" for a higher percent of Juneau defendants. If the "unknowns" are excluded from each area and the percentages recomputed, the figures would be closer--75% public defender representation in Anchorage and 70% in Juneau.

Type of attorney representation is compared with crime types in Table XIII. The analysis is shown for Anchorage only because the Juneau cases were too few in number to enable meaningful comparison among crime types.

By comparing to the figure above (75% public defender representation), it can be seen that the Public Defender Agency represented proportionately more robbery, property, and check and fraud offenders, while representing fewer drug offenders and violent offenders than private attorneys. Combining robbery with violent offenses, however, public defenders represented a proportionate amount of these persons. (With robbery considered separately, however, it followed the pattern of other property offenses. The statistics lead to a logical observation: the person unable to afford a private attorney is more likely to be a person who is more frequently involved in larcenies, burglaries and robberies.)

TABLE XIII

TYPE OF ATTORNEY REPRESENTATION AND CRIME TYPE OF 1973 FELONY DEFENDANTS\*

	PUBLIC DEFENDER	PRIVATE ATTORNEY	
Violent	85 defendants (69%)	38 defendants (31%)	
Robbery	29 defendants (94%)		2 defendants (6%)
Property	138 defendants (81%)	32 defendants (19%)	
Check and Fraud	44 defendants (86%)	7 defendants (14%)	
Drugs	88 defendants (68%)	42 defendants (32%)	
Other	5 defendants (36%)	9 defendants (64%)	
[Violent and Robbery Combined]	114 defendants (74%)	40 defendants (26%)	

\*Excludes defendants whose attorney type was unknown.

(Percents are percentage of all defendants of each crime type for whom the type of attorney was known.)

There are many more comparisons and cross comparisons that can be made with the set of data above, but the basic composition of the felony defendant population already can be seen. By sex, the vast majority of defendants were male. In age, the majority of defendants were young (under 26). Over half the defendant population was Caucasian. However, Caucasian males under 26 composed only 36% of the entire felony defendant population in the state in 1973.

The majority of defendants had some kind of prior record, but only a minority had a felony record. Three-fourths of all defendants were represented by the public defender.

The following section describes the felony cases filed against these defendants.

#### B. Felony Cases in 1973

\*

The relative distribution of cases in the state and in each area is shown in Table XIV below. Each area accounted for exactly the same percentage of cases filed as defendants, even though there were 889 cases and only 749 defendants.

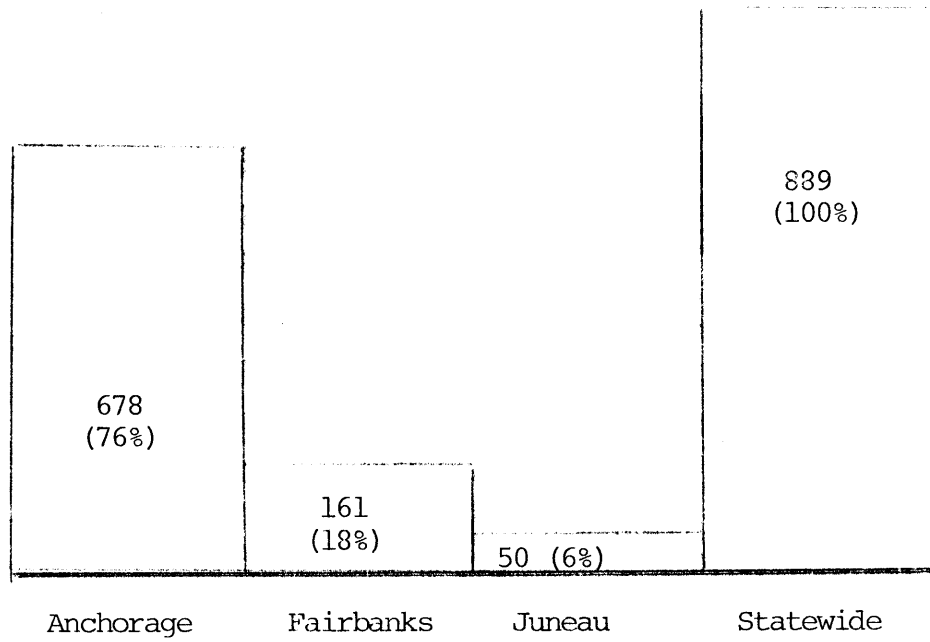
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\*

As defined on p. 7

TABLE XIV

NUMBER OF 1973 FELONY CASES



(Percents are percentage of total number of cases filed statewide.)

Crime Type. The distribution of cases by crime type also was computed, using the same categories as before. If a case included multiple charges of different crime types, the case was categorized according to the "most serious" charge. (See Appendix III.) Table XV below displays the distributions found, and compares them to the defendant figures displayed above in Table V.

It can be seen that the distribution of crime types among cases filed is very similar to the distribution of crime types among defendants. There are no significant differences, despite the fact that in the previous analysis of defendants many had more than one case against them, and only the "most serious" charge against them was displayed.

Type of Attorney Representation. The cases filed in 1973 are distinguished by type of attorney representation in Table XVI below. Again it can be seen that there is little difference from the previous analysis by defendant.

Varying Attorney Representation. The cases filed also were analyzed in terms of how often the prosecutor or defense attorney in the case "varied significantly." (This phenomenon was alluded to briefly in Part I.) As used in the data analysis, the term "varying attorney" indicates instances where more than two members of the District Attorney's office, or more than two defense attorneys represented their client during the case. A limit of two attorneys was allowed before the case was considered to have "varying" attorneys because quite commonly two attorneys from the office of either the

TABLE XV

1973 FELONY CASES BY CRIME TYPE

	Robbery		Property	Drugs	Check and Fraud	Other
	Violent					
STATEWIDE (889) By Case	188 (21%)	49 (6%)	300 (34%)	239 (27%)	86 (10%)	28 (2%)
(By Defendant from Table V for comparison only)	24%	5%	33%	25%	10%	3%

## ANCHORAGE

(678)

138 (20%)	48 (7%)	221 (33%)	191 (28%)	63 (9%)	18 (3%)
23%	6%	32%	26%	10%	3%

## FAIRBANKS

(161)

37 (23%)	63 (40%)	42 (26%)	14 (8%)	5 (3%)
24%	40%	25%	9%	2%

## JUNEAU

(50)

13 (26%)	17 (34%)	6 (12%)	9 (18%)	5 (10%)
27%	33%	12%	21%	7%

(Percents are percentage of cases-- or defendants-- of each crime type in each area.)

TABLE XVI

TYPE OF ATTORNEY REPRESENTATION IN 1973 FELONY CASES\*

		Public Defender	Private Attorney	Unknown
Statewide (728)	By Case	501 Cases (69%)	166 Cases (23%)	62 cases (9%)
	(By Defendant From Table XIII for comparison only)	67%	23%	10%
Anchorage (678)		473 Cases (70%)	155 Cases (23%)	51 cases (7%)
		69%	23%	8%
Juneau (50)		28 Cases (56%)	11 Cases (22%)	11 Cases (22%)
		23 defendants (54%)	10 defendants (23%)	10 defendants (23%)

\*Fairbanks not included.  
See p. 59 above.

(Percents are percentage of all cases in each area.)

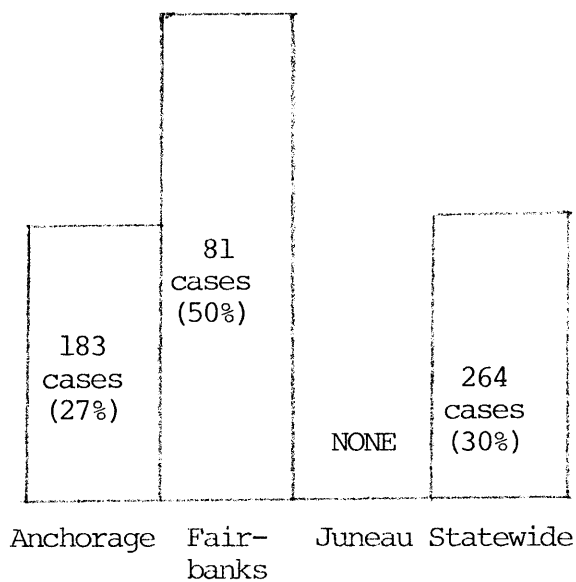
District Attorney or Public Defender are involved in a case, one of them serving as an "intake" attorney. (Although no exact information regarding public defender representation was researched for Fairbanks cases, information was recorded regarding the number of attorneys representing the defendant, although it cannot be presumed that they were public defenders.) The analysis was made chiefly for use later in comparing conviction rates, to see if there are differences in case outcome when the factor of "varying attorney" is considered. (This analysis was not done on defendants, above.)

It appears from Table XVII that prosecuting attorneys "varied" more often than defense attorneys. It also appears that attorneys "varied" more often in Fairbanks than in Anchorage. (In Juneau there were never more than two attorneys involved on one side of a case.) The significance of attorney variation to the conviction and sentencing process is discussed in the following subsection analyzing dispositions.

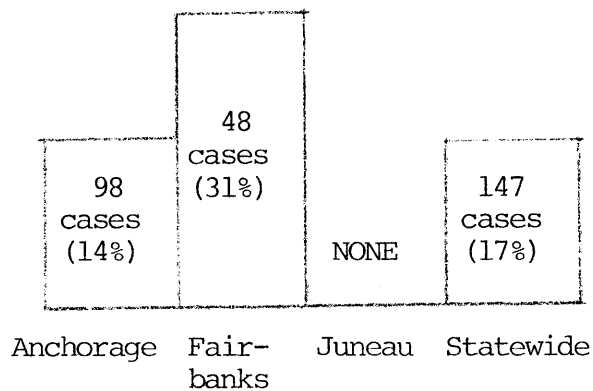
The above brief analysis of 1973 felony cases demonstrates that "case" statistics do not differ markedly from "defendant" statistics in characteristics such as crime type or attorney involvement. Cases were not analyzed for "race of defendant," "sex of defendant," and other similar factors because the preceding analysis of defendants gives a more appropriate picture of those characteristics. Thus the data analysis proceeds to distinguish which of the above cases and defendants resulted in conviction.



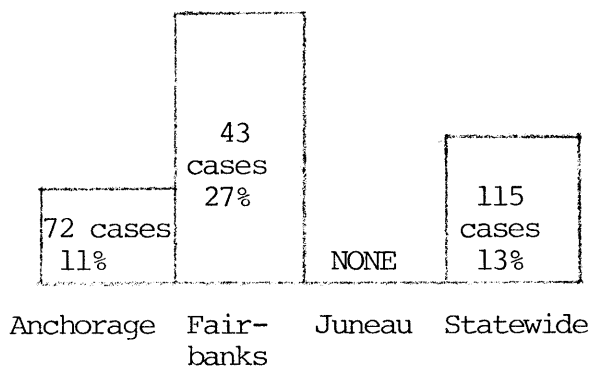
TABLE XVII

INCIDENCE OF ATTORNEY "VARYING" IN 1973 FELONY CASES

Cases Where Prosecutor Varied  
(including cases where attorneys on both sides varied, pictured separately below)



Cases Where Defense Attorney Varied  
(including cases where attorneys on both sides varied, pictured separately below)



Cases Where Both Defense Attorney and Prosecutor Varied

(Percents are percentage of all cases in each area.)

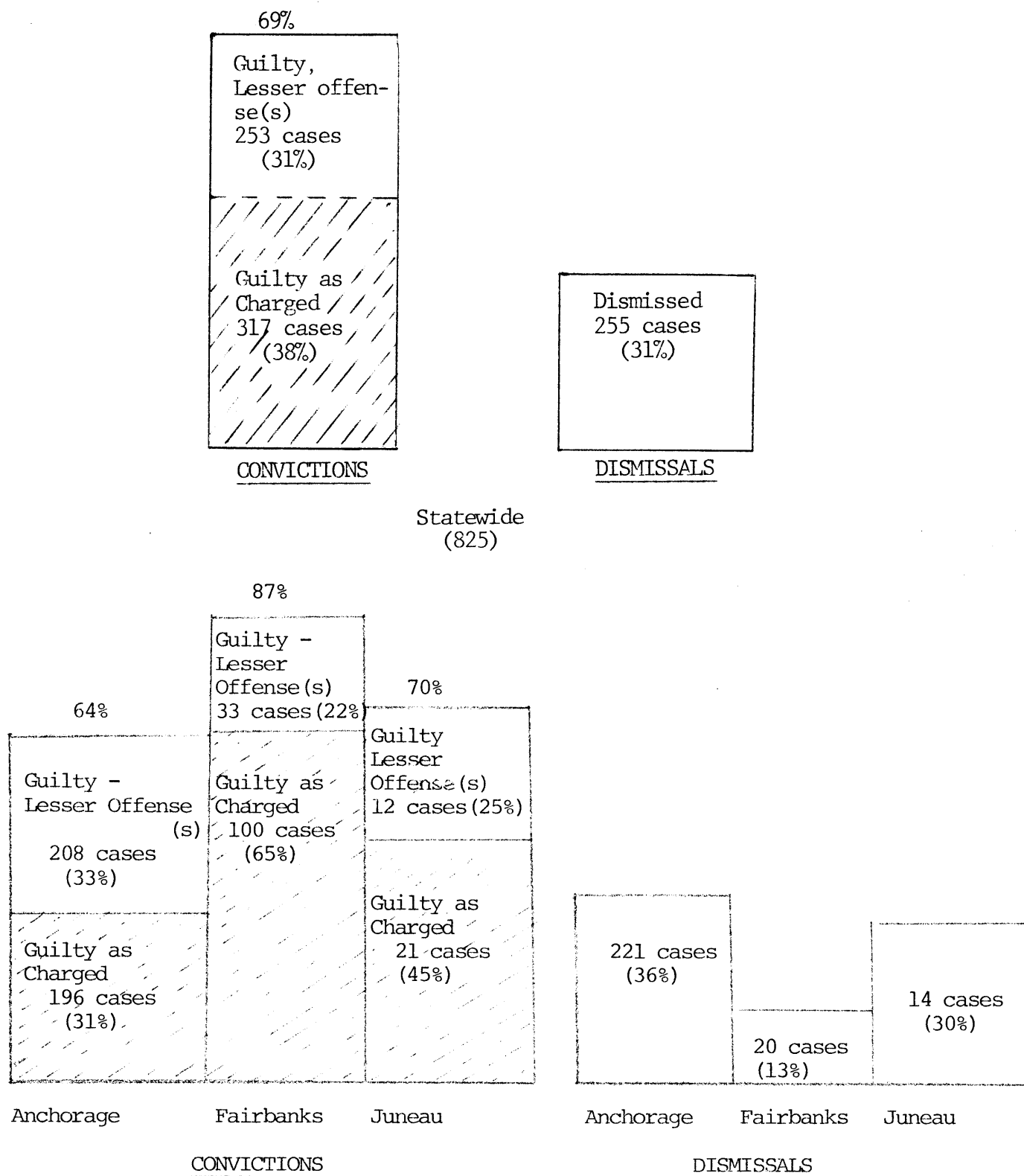
## C. Disposition of Felonies Filed in 1973

### Closed Cases

Only matters that were closed could be considered in analyzing types of dispositions, in order to present an accurate picture of phenomena such as conviction rates. (64 cases statewide still were open when the data search was completed in December 1974.) The analysis of dispositions first is done by cases. Dispositions were divided into three categories for the analysis: "Guilty as Charged," "Guilty to Lesser Offense(s) than Charged," and "Dismissed."

"Guilty as Charged" includes cases where there were trial convictions with no charge reduction, cases where nolo contendere pleas were entered, and cases where the defendant pled guilty to all of the charges filed against him in that case and all other cases. "Guilty - Lesser Offense(s)" includes cases where the defendant was convicted of or pled guilty to a lesser or different (and lesser) offense than was charged, or where the defendant pled guilty to the charge(s) but other cases against him were dismissed, and cases where the defendant pled guilty on some count or counts with other count(s) dismissed. "Dismissals," without being further analyzed for the moment, include all types of dismissals, such as trial acquittals, "outright" dismissals by prosecutors, and cases dismissed as the result of a plea bargain (where a case conviction on another case was recorded in the category "Guilty - Lesser Offense(s).") These "plea bargained" dismissals (which accounted for about 22% of all case dismissals [see Table XXVII, infra. at p. 94]) will be

TABLE XVIII

DISPOSITION OF 1973 FELONY CASES (Closed Cases Only)

Anchorage - 625 closed cases  
 Fairbanks - 153 closed cases  
 Juneau - 47 closed cases  
 825

[Percents are percentage of all closed cases in each area.]

seen separately in a complete analysis of dismissals, which shows how many dismissals resulted from plea bargains and how many for particular other reasons.

Table XVIII shows the dispositions for the closed cases statewide and in each area. Approximately 69% of closed cases statewide resulted in some conviction and approximately 31% were dismissed. Fairbanks had a noticeably higher number of cases resulting in conviction--87%--as well as a higher number of convictions "as charged." Both Fairbanks and Juneau show a higher percentage of convictions "as charged" than Anchorage. This phenomenon was investigated by the research staff in interviews with attorneys and judges in all three areas. Part of the explanation is that more detailed screening procedures are employed in Fairbanks and Juneau before a felony reaches Superior Court, and thus fewer cases are reduced to misdemeanors or dismissed for lack of evidence or similar reasons.

Unfortunately, there is no meaningful way of comparing Alaska's conviction rate with other states or jurisdictions' felony conviction rate. There are simply too many discrepancies in police arrests, criminal definitions, and court procedures, as well as statistical methods used to analyze such procedures, to embark on such comparisons. Even comparing Fairbanks with Anchorage or Juneau may be misleading, for more cases in one area or another may be dismissed before even reaching Superior Court. While the conviction rate in Fairbanks does appear very high, Section Two will show that sentences meted out in Fairbanks are not more severe than in the rest of the state, and it does not

appear from the sentencing patterns that judges or prosecutors there are "tougher."

Table XIX shows the conviction rate for defendants (as opposed to cases, Table XVIII) to highlight the fact that a higher percentage of defendants actually was convicted and sentenced than mere "cases" represents. The same percentage of defendants is "convicted as charged" as cases "convicted as charged," and 4% more defendants are convicted, "lesser offenses."

Some interesting comparisons can be made to previous figures to give a general picture of the workings of the court system in 1973.

With 825 closed cases and only 519 defendants convicted, there were about 1.6 cases filed per convicted defendant. The statewide average is heavily weighted by Anchorage numbers, however, where the average was about 1.7 cases per convicted defendant. In Fairbanks, on the other hand, there were only 1.2 cases filed per convicted defendant. In Juneau there were 1.5 cases per convicted defendant.

The analysis of dispositions by defendants will be abandoned for the moment, and the disposition of cases concentrated on. Then disposition by defendants will be taken up again, to determine who were the defendants who were convicted and sentenced.

Crime Type. By crime type, the conviction and dismissal rates of cases varied slightly, as depicted in Table XX.

Statewide, robbery and "check and fraud" show the highest percentage of convictions as charged (50% and 49%),

TABLE XIX  
DISPOSITIONS FOR 1973 FELONY DEFENDANTS  
(DEFENDANTS WITH CLOSED CASES ONLY)

(73%)	
Guilty, Lesser Offense(s) 251 defendants (35%)	
Guilty as Charged 268 Defendants (38%)	Dismissed 189 defendants (27%)

STATEWIDE

708 defendants with closed cases

93%		
68%	Guilty, Lesser Of- fense(s) 33 (24%)	76%
Guilty, Lesser Of- fense(s) 207 (39%)	Guilty as Charged 93 (69%)	Guilty, Lesser Of- fense(s) 11 (27%)
Guilty as Charged 155 (29%)	Guilty as Charged 20 (49%)	
Anchorage	Fairbanks	Juneau
<u>Convicted</u>		
Dismissed		
169 (32%)	10 (7%)	10 (24%)
Anchorage	Fairbanks	Juneau

Anchorage - 531 closed cases  
Fairbanks - 136 closed cases  
Juneau - 41 closed cases

[Percents are percentage of all defendants with closed cases in each area.]

TABLE XX

## DISPOSITION OF 1973 FELONY CASES BY CRIME TYPE

Statewide (825)	Guilty as Charged	Guilty-Lesser Offense(s)	Dismissed	(Totals)
Violent	51 (29%)	62 (35%)	63 (36%)	(176)
Robbery	22 (50%)	7 (16%)	15 (34%)	(44)
Property	114 (40%)	102 (36%)	70 (24%)	(286)
Drug	82 (38%)	65 (30%)	68 (32%)	(216)
Check and Fraud	38 (49%)	13 (17%)	27 (34%)	(78)
Other	10 (38%)	4 (15%)	12 (47%)	(26)

Anchorage  
(625)

Violent	29 (23%)	43 (34%)	55 (43%)	(127)
Robbery	22 (51%)	7 (16%)	14 (33%)	(43)
Property	62 (29%)	88 (42%)	61 (29%)	(211)
Drug	54 (31%)	56 (33%)	61 (36%)	(172)
Check and Fraud	24 (42%)	11 (19%)	22 (39%)	(57)
Other	5 (31%)	3 (19%)	8 (50%)	(16)

Fairbanks  
(153)

Violent	20 (56%)	12 (33%)	4 (11%)	(36)
Robbery	--	--	--	--
Property	41 (69%)	12 (20%)	6 (11%)	(59)
Drug	26 (67%)	8 (21%)	5 (12%)	(39)
Check and Fraud	10 (77%)	1 (8%)	2 (15%)	(13)
Other	3 (60%)	2 (40%)		(5)

No "Guilty-Lesser Offenses(s)"

Juneau  
(47)

Violent	2 (15%)	7 (54%)	4 (31%)	(13)
Robbery	--	--	--	--
Property	11 (69%)	2 (13%)	3 (18%)	(16)
Drug	2 (40%)	1 (20%)	2 (40%)	(5)
Check and Fraud	4 (50%)	1 (13%)	3 (37%)	(8)
Other	2 (40%)	1 (20%)	2 (40%)	(5)

[Percents are percentage of all closed cases of each crime type in each area.]

although neither of these shows a lower percentage of dismissals. Violent crimes show a significantly lower rate of convictions as charged, about ten percentage points below all other crimes. In Juneau this percentage for violent crimes was very low (15%), although Juneau had a fairly high overall rate of convictions as charged (Table XVIII). Property crimes show the highest percentage of convictions when both types of convictions are considered together.

Excluding the category "other," which does not easily lend itself to statistical interpretation because the crimes are so various (see Appendix II), and the number of cases or defendants represented usually small, dismissals statewide were almost evenly balanced among crime types, with the exception of property cases, in which there were fewer dismissals. The same appears true in individual areas, except that violent crimes had a noticeably higher dismissal rate in Anchorage.

Effect of Attorney on Conviction Rates. Table XX~~II~~  
below attempts to show whether the type of attorney involved in a case had any effect on conviction rates.

It appears that cases with a private attorney did not have a higher dismissal rate. In Anchorage the percentages are equal, and in Juneau cases with a private attorney were dismissed much less frequently, giving a statewide picture showing cases with a public defender having been dismissed slightly more often than cases with a private attorney. This finding appears to counter any notion that cases where a defendant could not afford his own counsel were more likely to end in conviction.



TABLE XXI

1973 FELONY CASE DISPOSITIONS BY TYPE OF  
ATTORNEY REPRESENTING THE DEFENDANT\*

(a)

		Guilty as Charged	Guilty-Lesser Offense(s)	Dismissed
STATEWIDE	Public Defender	155 (32%)	160 (33%)	166 (35%)
	Private Attorney	45 (30%)	55 (37%)	50 (33%)
ANCHORAGE	Public Defender	145 (32%)	154 (34%)	154 (34%)
	Private Attorney	38 (27%)	52 (37%)	49 (34%)
JUNEAU	Public Defender	10 (36%)	6 (21%)	12 (43%)
	Private Attorney	7 (64%)	3 (27%)	1 (9%)

(b)

		Guilty as Charged	Guilty - Lesser Offense(s)	Dismissed
VIOLENT	Public Defender	17 (18%)	31 (33%)	46 (49%)
	Private Attorney	9 (23%)	17 (44%)	13 (33%)
ROBBERY	Public Defender	19 (53%)	6 (17%)	11 (30%)
	Private Attorney	2 (67%)	1 (33%)	No "Dis- missed"
PROPERTY	Public Defender	57 (31%)	72 (40%)	53 (29%)
	Private Attorney	13 (33%)	18 (45%)	9 (22%)
DRUGS	Public Defender	35 (33%)	38 (36%)	32 (31%)
	Private Attorney	17 (33%)	15 (30%)	19 (37%)
CHECK & FRAUD	Public Defender	24 (45%)	10 (19%)	19 (36%)
	Private Attorney	2 (22%)	2 (22%)	5 (56%)
OTHER	Public Defender	3 (27%)	3 (27%)	5 (46%)
	Private Attorney	2 (25%)	2 (25%)	4 (50%)

\* Excluding cases in which the type of attorney was unknown (34 cases, or 5% of Juneau and Anchorage)  
[Percents are percent of all closed cases of each attorney type in each area.]

However, it was true in Anchorage (and in the state picture presented) that cases where the public defender represented the defendant resulted in "conviction as charged" more often than those involving a private attorney.

It is important to note that other studies (outside Alaska) have made findings contrary to the above, sometimes explaining the difference in conviction rates by the difference in crime types represented by each type of attorney. The one crime type shown to have a higher conviction rate than others in Alaska was property crimes (Table XX above). Table XIII showed that the Public Defender Agency represented a disproportionately high number of property offenders. Thus perhaps the conviction rate for cases with a public defender would be lower if there were not a disproportionate amount of property offenders represented.

Conviction rates for the different types of attorney did vary by crime type, however, as shown in part (b) of Table XXI. A lower percentage of violent, robbery and property cases with a public defender resulted in some conviction, while a higher percent of public defender check and fraud cases resulted in both conviction and conviction as charged. For all crime types combined, however, the conviction/dismissal rates were equal.

The effect of the "varying attorney" on conviction rates was most interesting, as shown in Table XXII below. Statewide, the least number of dismissals occurred when the attorneys did not vary on either side of the case, but there was not a very wide margin from any of the instances when there was

TABLE XXII

## EFFECT OF "VARYING ATTORNEY" ON DISPOSITION OF 1973 FELONY CASES

<u>Statewide</u>		Guilty as Charged		Dismissed	
Prosecutor Varied	96 cases (37%)	80 cases (31%)	82 cases (32%)		
Defense Attorney Varied	56 (40%)	36 (26%)	49 (34%)		
Both Varied	45 (40%)	29 (26%)	39 (34%)		
Neither Varied	210 (39%)	166 (31%)	163 (30%)		

<u>Anchorage</u>		Guilty as Charged		Dismissed	
Prosecutor Varied	50 cases (28%)	56 cases (32%)	71 cases (40%)		
Defense Attorney Varied	23 (25%)	29 (31%)	41 (44%)		
Both Varied	17 (24%)	22 (31%)	31 (45%)		
Neither Varied	140 (33%)	145 (34%)	140 (33%)		

<u>Fairbanks</u>		Guilty as Charged		Dismissed	
Prosecutor Varied	46 cases (57%)	24 cases (30%)	11 cases (13%)		
Defense Attorney Varied	33 (68%)	7 (16%)	8 (19%)		
Both Varied	28 (65%)	7 (16%)	8 (19%)		
Neither Varied	49 (74%)	9 (13%)	9 (13%)		

<u>Juneau</u>		Guilty as Charged		Dismissed	
Neither Varied	21 cases (45%)	12 cases (25%)	14 cases (30%)		

(Percents are percentage of all closed cases of each attorney type in each area.)

was variation. When only the prosecutor varied, more convictions were obtained than when only the defense attorney varied, but again, not by a very wide margin. When both attorneys varied, the conviction and dismissal rates were no different than when the defense attorney only varied.

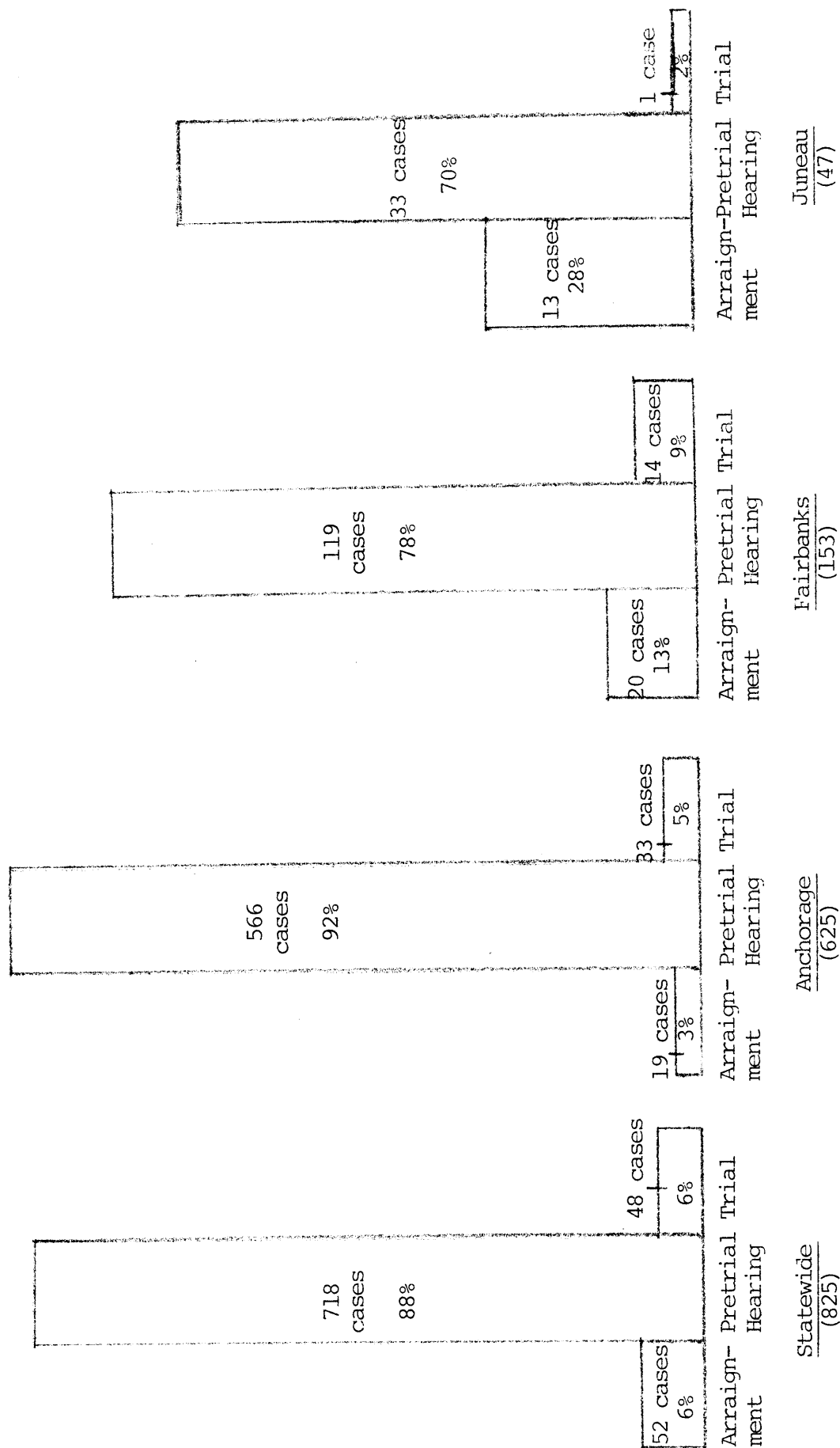
It is thus noteworthy that "varying counsel" does not appear to have been very significant on conviction or dismissal rates. The findings are not strong enough to support a view that cases are more likely to end in dismissal when not pursued by a single attorney, or just two attorneys.

Effect of Bailed or Jailed Condition of Defendant. Information regarding whether the defendant was free on bail was not available for any cases (or defendants) except those in Anchorage. However, the Judicial Council's study, Bail in Anchorage, showed that bail status had a slight effect on conviction rates.<sup>87</sup> It was learned that the conviction rate for cases where the defendant was not bailed was 68% whereas the conviction rate for all cases in Anchorage was 64%. It was also learned, however, that in the vast majority of cases de-<sup>89</sup>fendants are free on bail.

Type of Proceeding at which Disposition Occurred. The type of proceeding at which cases were disposed--arraignment, pretrial hearing, or trial--was studied to determine what relationships there might be with the type of disposition. Table XXIII first shows the type of proceedings at which cases are disposed, statewide and for individual areas, showing that the vast majority of cases in Alaska in 1973 were settled at a pretrial hearing.

TABLE XXIII

## TYPE OF PROCEEDING AT WHICH 1973 FELONY CASES WERE DISPOSED



[Percents are percentage of all closed cases in each area.]

Statewide, only 48 felony cases (6%) went to trial. However, there was a higher percentage of trials in Fairbanks, 9%, and a lower figure in Juneau, 2%.\*

Table XXIV compares the convictions rates for cases settled at each type of proceeding, on a statewide basis only, since Fairbanks' and Juneau's small number of trials makes them incomparable to Anchorage in this regard. It can be seen that cases going to trial have a conviction rate equal to that of cases not going to trial (Table XXIV(A)). When cases settled at arraignment are considered separately, however, (Table XXIV(B)), trial convictions are obtained at a slightly higher rate than all other pretrial convictions. (Arraignment convictions are considered separately because the usual manner in which a case is disposed at arraignment is in conviction--when the defendant pleads guilty immediately upon being charged.)

Plea Bargaining in Alaska. The figures in Table XXIII and XXIV, along with Table XVIII above (and XXV, below at p.88 ), show that a very large number of case dispositions in Alaska occurred without a trial or were "plea bargained." (Not even all cases going to trial escape plea bargaining, however, because sometimes a defendant "pleads out" part way through a trial. However, all such cases were treated as trials in this study.)

Considering the estimate that some 90% of cases nationally are plea bargained, Alaska's figure

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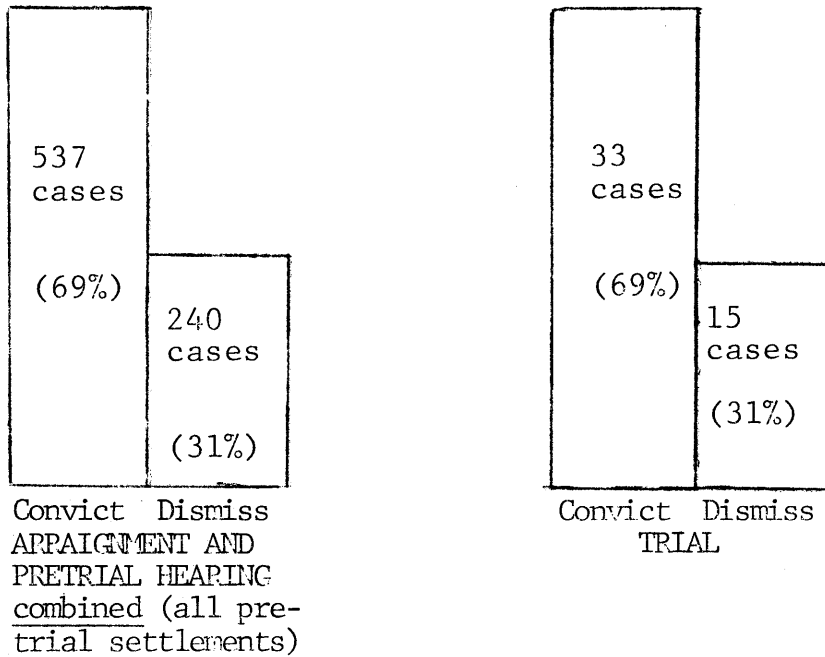
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It should be noted that only one case is represented in this 2% figure. Because of the small case load there, obviously a single case could change the figure significantly.

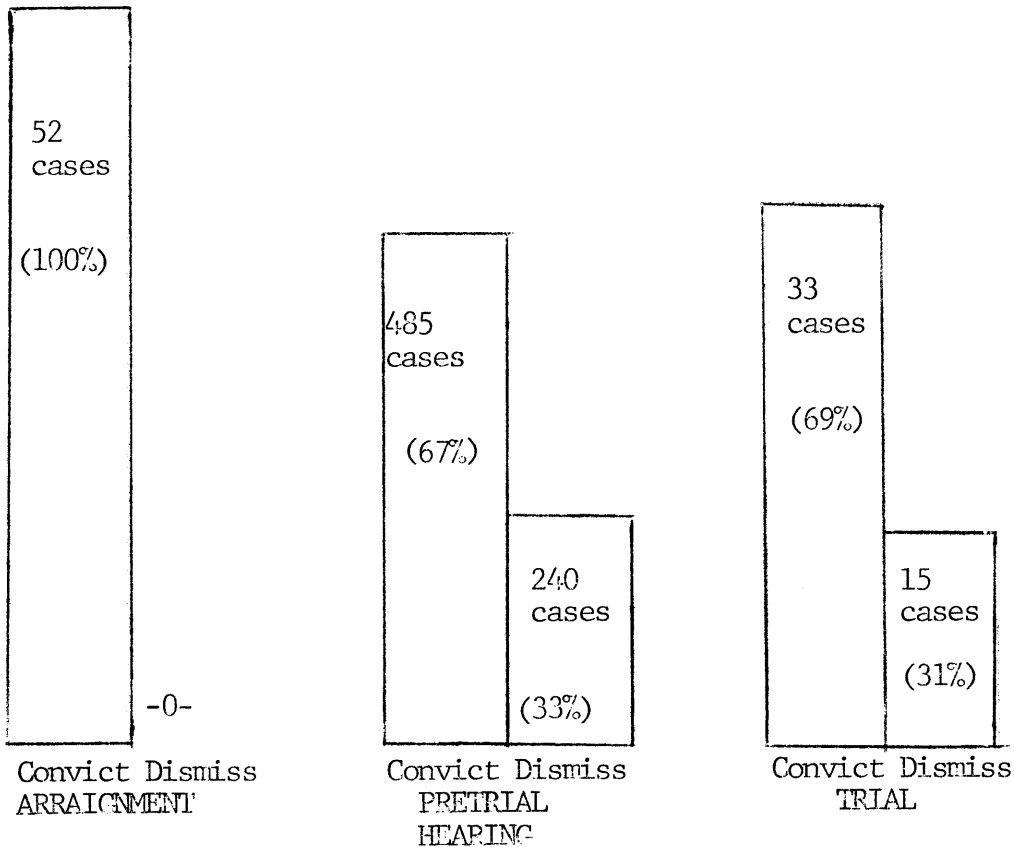
TABLE XXIV

COMPARISON OF CONVICTION RATES FOR TYPES OF PROCEEDING  
AT WHICH CASES DISPOSED, STATEWIDE

A.



B.



[Percents are percentage of all closed cases statewide (825) with each type of disposition.]

of 94% is fairly high. Cases ending in convictions to lesser offense(s),<sup>\*</sup> usually as a result of plea negotiations, are discussed below and dismissals resulting from plea bargains are discussed in the following subsection on dismissals.

Table XXV shows the percentage of cases of each crime type statewide that ended in convictions to lesser offense(s). Although these figures include a few cases that went to trial, as sometimes a person at trial was convicted of lesser or fewer charges than he was tried on, the vast majority of the cases represent negotiated cases. (These 253 cases are the same 253 cases shown on Table XVIII in the column "Guilty--Lesser Offense(s).")

For most crime types, the majority of plea bargains involved reductions to a "lesser included offense." This was not true for the crime categories of robbery and check and fraud crimes, however. For these two crime types more plea bargains involved dismissals of some charges in return for the defendant pleading guilty to other charge(s).

A small number of the "lesser included offenses" on which conviction resulted were misdemeanors. The exact percentage of convicted defendants which these reductions to misdemeanors represent will be seen further on, and the sentences on these misdemeanors will be included in Section Two.

In addition to the reductions described above, the data was analyzed to determine if there were any reductions that appeared to be "routine." For example, it was thought that there might be more persons charged with sale of a drug who were con-

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\* As defined on p. 73



TABLE XXV

TYPE OF PLEA NEGOTIATION IN 1973 FELONY CASES WHERE  
PLEA NEGOTIATIONS RESULTED IN CONVICTIONS TO LESSER  
OFFENSES, BY CRIME TYPE  
(Statewide, 253 cases)

Type of Plea Negotiation	<u>Violent</u>	<u>Robbery</u>	<u>Property</u>	<u>Drugs</u>	<u>Check &amp; Fraud</u>	<u>Other</u>	<u>TOTAL</u>
1. Guilty this case, other(s) dismissed	3	1	9	7	2	1	23 ( 9%)
2. Guilty this count(s), other(s) dismissed.	19	4	26	21	5	2	77 (30%)
3. Guilty to lesser included offense.	37 (60%)	2 (29%)	60 (59%)	37 (57%)	3 (23%)	1 (25%)	140 (55%)
4. Guilty to a different of- fense.	2	-	1	-	-	-	3 ( 1%)
5. Prosecution Deferred	<u>1</u>	<u>-</u>	<u>6</u>	<u>-</u>	<u>3</u>	<u>-</u>	<u>10*</u> (5%)
TOTAL:	62	7	102	65	13	4	253 (100%)

\* Deferred prosecution is explained briefly in Part I, p.17. In 1973, Anchorage was the only area in which prosecution was deferred for any charges.

[Horizontal percents are percentage of all plea-reduced case convictions in each crime category. Vertical percents (on right-hand side) are percentage of all plea-reduced case convictions statewide.]

victed of only possession of the drug than there were persons "convicted as charged" of sale of the drug. No such findings resulted, however, as no specific reduced charge was found to occur for a certain other charge more than a small percent of the time. For example, while many defendants had pleas reduced to mere possession of a hard or soft drug, these offenses were a plea-down from a variety of other offenses. Likewise, petty larceny, a common plea reduction, was a reduction from a variety of property felonies. Assault and battery was a common reduction from a variety of violent crimes.

Section Two investigates the possibility that defendants who "plead out" are sentenced more leniently than defendants who go to trial. For most crimes, however, there were not enough trial convictions to enable meaningful comparisons.

Cases Where There Were Trials. The 48 felony trials that were held in Alaska during 1973 were studied to see what could be learned about the types of cases that go to trial. Since the cases that went to trial in Fairbanks and Juneau were so few in number, all cases that went to trial are presented together in Table XXVI.

As noted previously in Table XXIV, the conviction/dismissal rate for cases going to trial was not significantly different from that of cases disposed of without a trial. However, the cases tried did differ in some respects, and even differed in conviction rate when crime type is considered. (Differences in defendant characteristics at these trials such as race, sex, and age will be reserved for the subsection on convicted defendants following.)

TABLE XXVI

## CHARACTERISTICS OF 1973 CASE TRIALS, STATEWIDE

Crime Type	Number of Trials	% of Cases of this Type Filed Statewide (from Table XV)	Number of Convictions	% of All Convictions of This Crime Type, Statewide (from Table XX)
Violent	20 (42%)	22%	12 (60%)	64%
Robbery	4 ( 8%)	5%	3 (75%)	66%
Property	14 (29%)	35%	8 (57%)	76%
Drugs	7 (15%)	26%	7 (100%)	68%
Check & Fraud (and "Other")	3 ( 6%)	12%	3 (100%)	49% (check and fraud)
	48 (100%)			
Attorney Type*				
Public Defender	25 (74%)	75%	(from Table XVI, "Unknowns" excluded)	
Private Attorney	9 (26%)	25%		
	34 (100%)			

\* Anchorage and Juneau only, as no "type of attorney" information was available in Fairbanks.

Half of the trials in the state were for violent crimes or robbery, whereas only 27% of all cases filed were for violent crimes or robbery (Table X above). A low percentage of drug cases were tried, 15%, compared to the number of drug cases that were filed (26%), and a low percentage of check and fraud cases tried.

The conviction rate of property cases that went to trial is lower by almost twenty percentage points than the conviction rate for property cases not going to trial. However, many of the convictions in the latter group (those not tried) were convictions to lesser offenses, as discussed previously. For violent crimes too, however, and even for violent and robbery crimes combined, the conviction rate was slightly lower than for cases not going to trial, although the rate for robbery alone was higher, and the non-trial conviction rate again includes many convictions to lesser offenses. However, one might expect a lower conviction rate among cases going to trial because defense attorneys generally reserve for trial only the cases they feel most confident might be won.

Since 80% of the trials were jury trials, cases tried were not compared on the basis of whether the trial was by judge or by jury.

Table XXVI also shows that the Public Defender took cases to trial as often as the private attorney, at least in Anchorage and Juneau combined. The public defender was involved in 75% of cases (in Anchorage and Juneau) and in 74% of trials in these areas. Private attorneys were involved in 25%

of cases, and in 26% of trials in these two areas.

Analysis of Dismissed Cases. Before looking at the disposition process by defendant, the dismissed cases are analyzed in more detail to show specific reasons cases were dismissed. Types of dismissals were grouped into 3 categories, only for purposes of having figures large enough to compare, not because all types of dismissals neatly divide into three categories.

The groups chosen were (I) cases "Insufficient for Prosecution," which includes cases dismissed "outright," dismissed in the interests of justice, dismissed for insufficient evidence, dismissed because the key witness was unavailable, dismissed because of constitutional infirmities in the prosecution, dismissed because the speedy trial rule was violated, or dismissed because of a faulty indictment; (II) cases dismissed as part of a plea bargain, although probably a few dismissals stemming from plea bargains also were placed inadvertently in Groups I and III; and (III) cases dismissed because the defendant's innocence or lack of criminal responsibility apparently had been demonstrated, either through acquittal at trial, or such events as a finding of insanity or the defendant's death. These three categories were chosen in hopes of showing how much prosecutorial and public concern there should be over these dismissals. Cases in Category I were dismissed for reasons other than guilt or innocence; dismissals in Category II were accompanied by convictions on some other charge; and dismissals in Category III either were based on the defendant

having been found innocent, or on the defendant having been extradited, found insane and committed, or having died, etc.). The categorization of dismissals unfortunately is far from perfect, one reason being that judges, in describing the reason for a case's dismissal, used a variety of imprecise labels such as "in the interests of justice," that may inadvertently have concealed a more specific reason not discernible on the written record.

Table XXVII below shows the types of dismissed cases, statewide and in each area. Of course, the statewide figures for dismissals are heavily weighted by Anchorage figures. More cases were dismissed as "Insufficient for Prosecution" than for any other reason. In Fairbanks, however, a much lower percentage of dismissals was in the category "Insufficient for Prosecution," and a much higher percentage of dismissals resulted from plea bargains--50%--but Fairbanks also had the highest percentage of "convictions as charged" (Table XVIII). Dismissals in Juneau were equally distributed among all three categories. There are no obvious reasons for the differences in these figures by areas. They could reflect differences in prosecutorial policy, in law enforcement efforts or possibly the differences between large and small town relations between prosecutors and defense counsel.

If the 56 cases that were dismissed to gain pleas of guilty in other cases is subtracted from the number of case dismissals shown on Table XVIII, the case dismissal rate statewide would be 24%.

The type of dismissal, compared to type of crime, is

TABLE XXVII

ANALYSIS OF 1973 FELONY CASE DISMISSALS

	Statewide			Anchorage			Fairbanks			Juneau		
	I	II	III	I	II	III	I	II	III	I	II	III
163 cases	64%			69%			50%			36%		
	56 cases	22%	36 cases	41 cases	19%	27 cases	5 cases	25%	10 cases	5 cases	25%	5 cases
			14%			12%				36%	36%	4 cases
												26%

GROUP I

"Insufficient for Prosecution"  
 ("insufficient evidence," "key  
 witness unavailable," "outright"  
 dismissals, "interests of justice,"  
 "constitutional infirmity," "speedy  
 trial rule violated," "faulty in-  
 dictment")

GROUP II

"Plea Bargain"

Group III

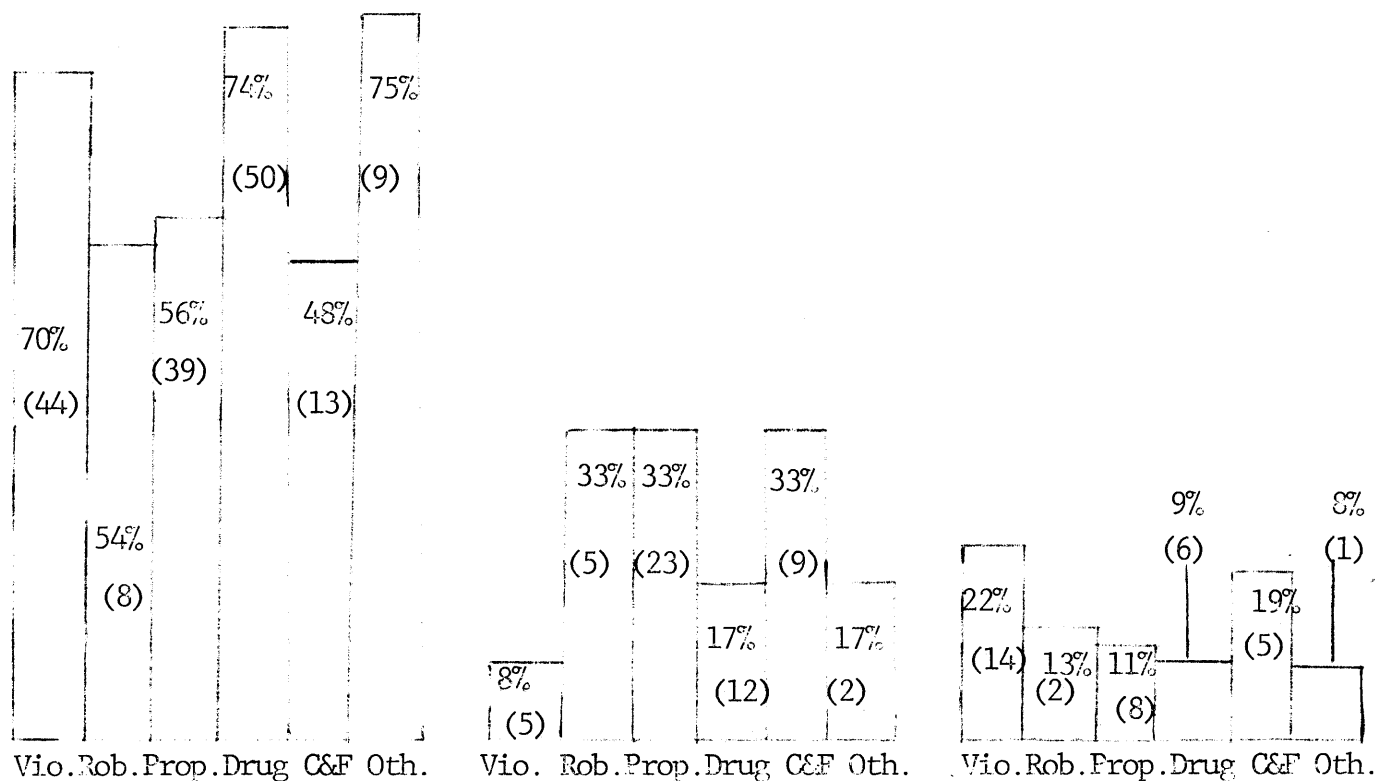
Trial Acquittal  
 Extradition  
 Defendant Deceased  
 Defendant Committed

[Percents are percentage of all dismissals in each area.]

also of interest. Table XXVIII shows this relationship (state-wide only). 79% of drug dismissals were in the category of

TABLE XXVIII

TYPES OF DISMISSALS IN 1973 FELONY  
CASE DISMISSALS, BY CRIME TYPE (Statewide)



GROUP I

"Insufficient for Prosecution"  
("insufficient evidence," "key  
witness unavailable," "outright"  
dismissals, "Interests of justice,"  
"constitutional infirmity," "speedy  
trial rule violated," "faulty in-  
dictment")

GROUP II

"Plea Bargain"

GROUP III

Trial Acquittal  
Extradition  
Defendant Deceased  
Defendant Committed

[Percents are percentage of all dismissals in each area.]



"Insufficient for Prosecution," and 70% of violent case dismissals, but only 48% of check and fraud dismissals, the lowest percentage of a crime's dismissals in this category. One explanation for the high number of drug dismissals is that numerous drug cases were dismissed in Anchorage during 1973 due to the deaths of two "key witnesses."<sup>91</sup>

Property crimes, robbery, and check and fraud had the highest case dismissal rate associated with plea bargains--33%, while violent crimes were lowest in this category with only 8%. Violent, and check and fraud crimes, had proportionately more dismissals in Group III than other crimes. Analysis of the Anchorage dismissals in detail showed that this phenomenon for violent crimes was due to a large number of "dismissals for reasons of insanity," and for check and fraud crimes the figure resulted mainly from "deceased defendants" and "trial acquittals."

Case dismissals by attorney type were examined briefly to determine if type of attorney representation had any relation to reasons for dismissals. Of interest was finding that 21% of all public defender case dismissals (35 out of 166) were for "plea bargains" (Category II). For private attorney case dismissals, numbering 50, only 6 or 12% were connected with plea bargains.

#### Dispositions by Defendants

Further analysis of the 1973 felony dispositions shows which defendants were convicted. The number of convicted defendants already was shown in Table XIX, there being

a larger proportion from the original defendant population in Fairbanks than from Anchorage or Juneau, and a larger proportion from Juneau than from Anchorage.

The two tables below show the percentage of defendants who were convicted of each crime type (Table XXIX), and the percentage of the entire convicted defendant population each crime type accounted for, Table XXX. The convictions are similar in proportion to the proportions of convictions for the various crime types seen according to case earlier in Table XX, and those figures are superimposed on Table XXIX for comparison. Table XXIX also shows the percentage of convictions in each crime type where the conviction was to a charge that had been reduced to a misdemeanor.

Of all crime types, a higher percentage of defendants charged with property offenses were convicted (83%) followed by robbery (76%) and drugs (72%). These figures vary only slightly in each area.

About 15% of all persons accused of felonies were convicted of misdemeanors only. However, for the 94 defendants who were convicted on more than one charge (see Appendix V, Table LIV), the convictions displayed here (and the subsequent sentence shown in the following section) derived only from the defendant's "most serious" charge, as previously noted. It is possible that any of those defendants also were convicted and sentenced for one of the other charges, and that the other charge was not reduced to a misdemeanor.

In Fairbanks a lower percentage of defendants were convicted of misdemeanors

TABLE XXIX

PERCENTAGE OF 1973 FELONY DEFENDANTS  
CONVICTED OF EACH CRIME TYPE

		Misde- meanors	Felonies	
STATEWIDE	<u>Violent</u>	19% (32)	48% (80)	(67%)
	(By case, from Table XX for comparison)	64%		
	<u>Robbery</u>	(No misdemeanors)	(25) 76%	
	(By Case)	66%		
	<u>Property</u>	41 (17%)	(158) 66%	(83%)
	(By Case)	76%		
	<u>Drugs</u>	(31) 17%	(97) 55%	(72%)
	(By Case)	68%		
	<u>Check &amp; Fraud</u>	(3) 4%	(42) 59%	(63%)
	(By Case)	65%		
	<u>Other</u>	(No Misdemeanors)	59% (10)	
	(By Case)	54%		

106 Defendants convicted of misdemeanors (15%).

		Misde- meanors	Felonies	
ANCHORAGE	<u>Violent</u>	(23) 19%	(48) 39%	(58%)
	<u>Robbery</u>	(No misdemeanors)	(25) 76%	
	<u>Property</u>	(40) 23%	55% (95)	(78%)
	<u>Drugs</u>	(27) 20%	(68) 43%	(68%)
	<u>Check &amp; Fraud</u>	(3) 6%	(27) 53%	(59%)
	<u>Other</u>	(No misdemeanors)	46% (6)	

93 Defendants convicted of misdemeanors (18%).

--continued

TABLE XXIX  
[continued]

		Misde- mean- ors	Felonies	
<u>FAIRBANKS</u>	<u>Violent</u>	(3) 9%	(29) 88%	(97)
	<u>Robbery</u>	(NONE CONVICTED)		
	<u>Property</u>	(1) 2%	50 (94%)	(96%)
	<u>Drugs</u>	(3) 8%	(27) 75%	(83%)
	<u>Check &amp; Fraud</u>	(NO MISDEMEANORS) (11) 92%		
	<u>Other</u>	(NO MISDEMEANORS) (2) 100%		

7 Defendants convicted of misdemeanors (5%).

		Misde- meanors	Felonies	
<u>JUNEAU</u>	<u>Violent</u>	(6) 50%	(3) 25%	(75%)
	<u>Robbery</u>	(NONE CONVICTED)		
	<u>Property</u>	(NO MISDEMEANORS)	100%	(13)
	<u>Drug</u>	(NO MISDEMEANORS) (3) 60%		
	<u>Check &amp; Fraud</u>	(NO MISDEMEANORS) (2) 50%		
	<u>Other</u>	(NO MISDEMEANORS) (2) 50%		

6 Defendants convicted of misdemeanors (15%).

[Percents are percentage of defendants with closed cases convicted of each crime type.]

TABLE XXX

1973 CONVICTED FELONY DEFENDANT  
POPULATION BY CRIME TYPE

		Violent	Rob- bery	Property	Drug	Check and Fraud	Other
STATEWIDE	By Convicted Defendants	21%	5%	38%	25%	9%	2%
	(By case convic- tions, for com- parison only)	20%	5%	38%	26%	9%	2%
ANCHORAGE	Convicted Defendants	20%	6%	38%	26%	8%	2%
	(Case con- victions)	18%	7%	37%	27%	9%	2%
FAIRBANKS	Convicted Defendants	25%		40%	24%	9%	2%
	(Case con- victions)	24%		40%	26%	8%	2%
JUNEAU	Convicted Defendants	26%		42%	13%	13%	6%
	(Case con- victions)	27%		39%	9%	16%	9%

[Percents are percentage of all defendants  
with closed cases in each area.]

than in Anchorage or Juneau. Most misdemeanor convictions everywhere were in only three major crime categories--violent crimes (assault and battery), property crimes (petty larceny), and drug crimes (possession of a soft drug). (Most charge reductions, Table XX, were in these categories also.)

The relative numbers of defendants convicted according to sex, age and race are shown below, with very interesting results.

TABLE XXXI  
CONVICTION RATE OF 1973 FELONY  
DEFENDANTS BY SEX  
(Statewide)

482 Males	(75%)
36 Females	(60%)

Sex: A notably higher percentage of males was convicted than females, indicating that the convicted defendant population is even more heavily male than the original defendant population. This result may be a product of the types of crimes committed by each group. Although these were not analyzed on a male/female basis due to the small number of females, Table XXIX showed that the two crime types with the lowest conviction rates were violent crimes and check and fraud crimes. A significant number of females were recorded in the latter category, though not in the former.

Age: Table XXXII shows the percentage of defendants convicted in each age group. Most notably, younger people were

TABLE XXXII

1973 CONVICTED FELONY DEFENDANTS, BY AGE

## STATEWIDE

18-19	83%
20-21	76%
22-25	76%
26-30	65%
31-35	67%
36-45	60%
over 45	60%
unknown	73%

## ANCHORAGE

18-19	78%
20-21	71%
22-25	74%
26-30	62%
31-35	62%
36-45	49%
over 45	56%
unknown	60%

--continued

TABLE XXXII - continued

## FAIRBANKS

18-19	97%
20-21	100%
22-25	87%
26-30	83%
31-35	100%
36-45	85%
over 45	100%
unknown	91%

## JUNEAU

18-19	100%
20-21	67%
22-25	73%
26-30	67%
31-35	71%
36-45	100%
over 45	No defendants in this group
unknown	100%

[Percents are percentage of all defendants with closed cases of each age group.]



convicted more often than older people, indicating that the convicted defendant population is even younger than the original defendant population. Again, the small number of convicted defendants in Juneau, and in the upper age groups in Fairbanks, may render their figures less statistically significant.

This higher conviction rate for young persons may be related to the types of charges against them. Table VI showed young persons to be more frequently charged with robberies, property crimes and drug crimes, and these are the crimes with the highest conviction rates (Table XXIX above).

Race. Table XXXIII shows the percentage of defendants of each population group that were convicted. Each "conviction rate" also is compared with the rate for all persons not of that group.

On a statewide basis, both Caucasians and Blacks were convicted slightly less often than all non-Caucasians or all non-Blacks. In Anchorage, however, Caucasians were convicted more often. Alaskan Natives were convicted significantly more often than non-Natives, in all areas of the state except Anchorage.

Again, the factor explaining why Alaskan Natives were convicted more often may be crime type. However, Alaskan Natives were charged with proportionately more violent crimes (Table VII above), which did not have a high conviction rate, and with fewer drug crimes, which did have a higher conviction rate. Yet Natives also were charged with proportionately more property

TABLE XXXIII

## CONVICTION RATE OF 1973 FELONY DEFENDANTS BY RACE

		Convicted	
STATEWIDE	Caucasians	(310)	72%
	ALL Non-Caucasians	(210)	75%
	Alaskan Natives	(95)	78%
	ALL Non-Alaskan Natives	(423)	73%
	Blacks	(27)	68%
	ALL Non-Blacks	(493)	70%
ANCHORAGE	Caucasians	(247)	70%
	ALL Non-Caucasians	(116)	66%
	Alaskan Natives	(54)	68%
	ALL Non-Alaskan Natives	(307)	69%
	Blacks	(20)	67%
	ALL Non-Blacks	(343)	68%
FAIRBANKS	Caucasians	(45)	90%
	ALL Non-Caucasians	(81)	94%
	Alaskan Natives	(32)	100%
	ALL Non-Alaskan Natives	(94)	92%
	Blacks	(7)	88%
	ALL Non-Blacks	(119)	93%
JUNEAU	Caucasians	(18)	75%
	ALL Non-Caucasians	(13)	76%
	Alaskan Natives	(11)	85%
	ALL Non-Alaskan Natives	(20)	71%
	Blacks	NONE CONVICTED	
	ALL Non-Blacks	(31)	76%

[Percents are percent of all defendants with closed cases of each population group in each area.]

crimes than other groups, and property crimes showed the highest conviction rate (Table XXIX).

It is possible that age is a factor explaining the Native Alaskan conviction figure, but there were not proportionately more Alaskan Natives age 25 or under than Caucasians (Table IV).

On the other hand, the conviction rate for Alaskan Natives might have been expected to be lower than other groups, since there was a higher proportion of Alaskan Native females than females in any other group (Table II), and females were shown to have a relatively low conviction rate (Table XXI above).

Further analysis of these convictions is shown using two variables, race and crime type, in Table XXXIV. For almost every crime type, a different population group had a higher conviction rate. Caucasians had a higher conviction rate for robbery and drug crimes than other groups, Blacks had a higher conviction rate for violent crimes and check and fraud crimes--along with Alaskan Natives--and Alaskan Natives had a slightly higher conviction rate for property crimes, while being equal with Blacks in having a high rate of check and fraud convictions. Thus there are probably more important factors in conviction than race alone, or even crime type alone, as shown above in Table XXIX.

Focusing on which groups were least often convicted of each crime type in Table XXXIV, it is interesting to note that Caucasians were much less frequently convicted of check and fraud crimes and violent crimes than the other groups.

TABLE XXXIV

1973 CONVICTED FELONY DEFENDANTS  
BY RACE AND CRIME TYPE (Statewide)

VIOLENT	Caucasian	(48)	58%
	Alaskan Native	(33)	72%
	Black	(9)	82%
	Other, Unknown	(21)	75%
ROBBERY	Caucasian	(13)	81%
	Alaskan Native	(2)	40%
	Black	(6)	75%
	Other, Unknown	(4)	100%
PROPERTY	Caucasian	(122)	82%
	Alaskan Native	(44)	85%
	Black	(2)	29%
	Other, Unknown	31	94%
DRUG	Caucasian	(94)	77%
	Alaskan Native	(7)	58%
	Black	(6)	60%
	Other, Unknown	(21)	60%
CHECK & FRAUD	Caucasian	(27)	56%
	Alaskan Native	(8)	100%
	Black	(4)	100%
	Other, Unknown	(6)	55%
OTHER	Caucasian	(6)	60%
	Alaskan Native	(1)	50%
	Black	NONE CONVICTED	
	Other, Unknown	(3)	75%

[Percents are percentage of all defendants with closed cases  
of each race charged with each crime type, statewide.]

Blacks were much less frequently convicted of property crimes, and Alaskan Natives much less frequently convicted of robbery, but both these latter statements are based on a rather small number of defendants (fewer than ten).

Prior Record. The relation of prior records to conviction rates was examined, although a person's prior record is not considered evidence of likelihood of guilt during the plea negotiation or trial process. Table XXXV below shows that there was no relationship between a defendant's prior record and his likelihood of conviction, except in Fairbanks, where a slightly higher percentage of defendants with felony records were convicted. In Juneau, persons with a prior record, even a prior felony record, were convicted less often than persons without records.

Perhaps it is worth noting that persons with an "unknown" prior record had a lower conviction rate. (The usual reason a person's record was unknown was that he had not been arrested for the crime but only summoned into court. Thus he was never fingerprinted nor put "on file" at the Department of Public Safety, where the research process was conducted.)

Race was correlated with prior record to determine if prior record then would appear significant. Again there was little relationship, except that more Native defendants without prior records were convicted, and slightly fewer Black defendants with felony records were convicted.

TABLE XXXV

## 1973 CONVICTED FELONY DEFENDANTS, BY PRIOR RECORD

CONVICTED	
STATEWIDE	
NO PRIOR RECORD*	74%
MISDEMEANOR	74%
FELONY	74%
UNKNOWN	64%
ANCHORAGE	
NO PRIOR RECORD	69%
MISDEMEANOR	68%
FELONY	69%
UNKNOWN	56%
FAIRBANKS	
NO PRIOR RECORD	92%
MISDEMEANOR	91%
FELONY	97%
UNKNOWN	83%
JUNEAU	
NO PRIOR RECORD	84%
MISDEMEANOR	75%
FELONY	64%
UNKNOWN	None

[Percents are percent of all defendants with closed cases in each area with each type of prior record.]

\* "No Prior Record" refers to no prior record of misdemeanor or felony convictions, although the defendant may have had a military or juvenile record, or many arrests with no dispositions (i.e., the category "Miscellaneous" used previously was included with "None.")

TABLE XXXVI

1973 CONVICTED FELONY DEFENDANT CONVICTIONS COMPARED  
BY RACE AND PRIOR RECORD (statewide)

NO PRIOR RECORD	CAUCASIANS	72%	
	ALASKAN NATIVES	84%	
	BLACKS	73%	
MISDEMEANOR RECORD	CAUCASIANS	74%	
	ALASKAN NATIVES	73%	
	BLACKS	75%	
FELONY RECORD	CAUCASIANS	74%	
	ALASKAN NATIVES	77%	
	BLACKS	68%	
UNKNOWN RECORD	CAUCASIANS	60%	
	ALASKAN NATIVES	60%	
	BLACKS	NONE CONVICTED	

[Percents are percent of all defendants with closed cases statewide of each race and prior record type.]

Attorney Representation: Table XXXVII below shows the effect of type of attorney on conviction rates. The table

TABLE XXXVII

1973 CONVICTED FELONY DEFENDANTS  
ACCORDING TO TYPE OF ATTORNEY REPRESENTATION\*

STATEWIDE\*

Public Defender	70%
Private Attorney	73%

ANCHORAGE

Public Defender	70%
Private Attorney	71%

JUNEAU

Public Defender	61%
Private Attorney	100%

\* Includes only Anchorage and Juneau

shows that the person resorting to the public defender was not more likely to be convicted. In fact, in Juneau, defendants hiring a private attorney were convicted one hundred percent of the time. (cf. Table XXI, where only one private attorney case in Juneau did not end in conviction.)

Defendants at Trial (Table XXXVIII): 45 defendants went to trial in the 48 cases brought to trial and discussed



previously. The defendants were predominantly male (96%) and predominantly Caucasian (51%), although this percent is less than the proportion of Caucasians in the defendant population as a whole. Proportionately more Blacks went to trial than any other group, all males.

The conviction rate for all defendants going to trial was 64% (plus 3 insanity commitments), which is lower than the statewide conviction rate for defendants of 73%. Alaskan Natives going to trial had the highest conviction rate, 78%. It is unwise to generalize too much about defendants who had trials, however, for their number is small and the crime types and other factors varied. Prior records were distributed among these defendants as they were in the population as a whole, and did not seem to have any relation to verdict.

TABLE XXXVIII

1973 FELONY DEFENDANTS AT TRIAL

<u>Race and Sex</u>								
		Caucasians		23 (51%)	Male		43 (96%)	
		Alaskan Natives		9 (20%)				
		Blacks		8 (18%)	Female		2 (4%)	
		Other, Unknown		5 (11%)				
Total Defendants Tried				45 (100%)			45 (100%)	
	<u>Caucasians</u>		<u>Alaskan Natives</u>		<u>Blacks</u>		<u>Other, Unknown</u>	
	<u>Tried</u>	<u>Convicted</u>	<u>Tried</u>	<u>Convicted</u>	<u>Tried</u>	<u>Convicted</u>	<u>Tried</u>	<u>Convicted</u>
Male	21	11*	9	7(78%)	8	5(63%)	5	4
Female	2	2						
	23	13(57%)						
Total Convicted 29 (64%)								

\* Plus three insanity commitments.

### Summary of Part One.

The preceding section has shown certain characteristics of the conviction process in Alaska and of the felony defendant population passing through this process. The following section will be concerned with the sentencing of the group of defendants who were convicted. The previous analysis has revealed this group to be heavily male, very young (younger even than the defendant population as a whole), predominantly Caucasian but having slightly more Alaskan Natives than the original defendant population, and representing the entire spectrum of crime types. About half these defendants had no prior criminal record (discounting possible juvenile and military records), and only one quarter had a prior felony record.

## SECTION TWO

### 1973 FELONY SENTENCES

By way of introduction to this section, Table XXXIX below summarizes previous information regarding the number and crime type of felonies in 1973, and the number of convicted defendants, whose sentences are studied in this section.

Sentences were analyzed in different ways for different purposes. All analyses are based on defendants only, as it was felt that more insights would be gained looking at sentencing by defendants. As noted earlier, sometimes a defendant had multiple charges against him. The sentence shown here is the sentence for the most serious charge resulting in any conviction. Appendix V describes in detail the defendants to whom the qualification applies.

Sentences were analyzed according to whether they were "imposed sentences" or "suspended impositions" of sentence (see description of sentences in Part I), and according to whether they were sentences to jail or to probation. Both analyses are made because neither distinction by itself is satisfactory in analyzing sentencing. A defendant may go to jail even under a suspended imposition, if the judge requires him to serve time as a condition of the suspended imposition, while a defendant receiving an imposed sentence of a term of time often is placed immediately on probation because the judge often suspends the full term - or the "execution" of the sentence - after imposing it. (As used

TABLE XXXIX

COMPARISON OF 1973 FELONY DEFENDANTS, CASES  
AND CONVICTED DEFENDANTS BY CRIME TYPE

		Violent	Pob.	Property	Drug	C&F	Other
STATE- WIDE	All Cases Filed (889 cases)	188 21%	49 6%	300 34%	239 27%	86 10%	28 2%
	All Defendants agai- nst whom cases filed	177 24%	35 5%	250 33%	188 25%	78 10%	21 3%
	Convicted Defendants	111 21%	25 5%	199 38%	128 25%	45 9%	10 2%
ANCH- ORAGE	By Case (673 Cases)	138 20%	48 7%	221 33%	191 28%	63 9%	18 3%
	By Defendant	132 23%	35 6%	181 32%	147 26%	57 10%	15 3%
	By Convicted Defendant	71 20%	25 6%	135 38%	94 26%	30 8%	6 2%
FAIR- BANKS	By Case (161 cases)	37 23%		63 40%	42 26%	14 8%	5 3%
	By Defendant	33 24%		55 40%	36 25%	12 9%	3 2%
	By Convicted Defendant	32 25%		51 40%	30 24%	11 9%	2 2%
JUNEAU	By Case (50 cases)	13 26%		17 34%	6 12%	9 18%	5 10%
	By Defendant	12 27%		14 33%	5 12%	9 21%	3 7%
	By Convicted Defendant	8 26%		13 42%	4 13%	4 13%	2 6%

in this Report, sentences of "probation" include both sentences where the judge directly places the defendant immediately on probation, and sentences where the defendant is placed on probation indirectly, by the judge's suspending any jail time meted out.)

Sentences and their lengths are compared for different crimes, different conviction types, different attorney representation, and different defendant characteristics such as age, race, sex, and prior criminal histories. All of these comparisons are not made for "suspended imposition" versus "imposed sentence," however, because it was felt that better comparisons could be made on the basis of whether or not defendants went to jail and for how long.)

A. Incidence of Suspended Impositions of Sentence and Imposed Sentences.

Table XL shows how frequently the imposition of sentences was suspended. Table XLIII infra will show that many of these persons did go to jail, however, at least for a short period of time.

It can be seen that statewide, sentence was imposed on convicted felons only 41% of the time. This figure may indicate prosecutorial and judicial consideration of the young age of so many of the convicted defendants, as well as the fact that so many were first offenders.

Table XLI below shows how sentence impositions varied among crime types. Hard and soft drug offenses were separated for sentencing analysis because the sentences found were vastly

TABLE XL  
INCIDENCE OF SUSPENDED IMPOSITION  
OF SENTENCE (SIS) FOR  
CONVICTED FELONY DEFENDANTS

	SIS	Imposed Sentence	Other*
STATEWIDE	54%	41%	5%
ANCHORAGE	54%	39%	7%
FAIRBANKS	52%	47%	1%
JUNEAU	61%	39%	

\* For Tables XL - LI, Other includes:

Deferred Prosecution  
Fine or Restitution Only  
Convicted, but open for sentence  
Sentenced, but sentence unknown

[Percents are percentage of all convicted defendants.]

TABLE XLI

INCIDENCE OF SUSPENDED IMPOSITION OF SENTENCE  
FOR CONVICTED DEFENDANTS BY CRIME TYPE

	SIS		Imposed Sentence		Other
	( )	%	( )	%	( ) %
Violent	(41)	37%	(64)	57%	(7) 6%
Robbery	(5)	20%	(20)	80%	
Property	(111)	56%	(75)	38%	
Hard Drug	(9)	56%	(7)	44%	
Soft Drug	(39)	79%	(20)	17%	3 4%
Check & Fraud	(21)	47%	(21)	47%	(3) 6%
Other	(3)	30%	(6)	60%	(1) 10%

STATEWIDE

	SIS		Imposed Sentence		Other
	( )	%	( )	%	( ) %
Violent	(27)	38%	(37)	52%	(7) 10%
Robbery	(5)	20%	(20)	80%	
Property	(75)	56%	(49)	36%	(11) 8%
Hard Drug	(9)	64%	(5)	36%	
Soft Drug	(63)	79%	(14)	17%	(3) 4%
Check & Fraud	(14)	47%	(13)	43%	(3) 10%
Other	(2)	33%	(3)	50%	(1) 17%

ANCHORAGE

-- continued

TABLE XLI - continued

INCIDENCE OF SUSPENDED IMPOSITION  
OF SENTENCE FOR CONVICTED  
DEFENDANTS BY CRIME TYPE

	SIS		Imposed Sentence		Other
	(8)	26%	(23)	74%	
Violent					
Robbery	-----				
FAIRBANKS Property	(29)	57%	(21)	41%	(1) 2%
Hard Drug	(2)	100% Imposed Sentence			
Soft Drug	(23)	79%		(6)	21%
Check & Fraud	(4)	36%	(7)	64%	
Other	(1)	50%	(1)	50%	

Violent	(6)	60%	(4)	40%
Robbery	-----			
Property	(7)	58%	(5)	42%
Hard Drug	-----			
Soft Drug	100% SIS (3)			
Check & Fraud	(3)	75%	(1)	25%
Other	(2)	100% Imposed Sentences		



different. The same qualification would apply to some crimes in other categories also, but it was impractical in this analysis to show any other crimes separately. Again, it is emphasized that findings regarding suspending imposition of sentence may be of limited significance, as they do not reveal which defendants actually served time in jail and which did not.

The incidence of suspended imposition of sentence did vary considerably by crime type. Imposition of sentence was suspended most frequently for soft drug offenses, and least frequently for robbery and violent offenses. These tendencies may show that judges (and attorneys and prosecutors) were more likely to deal harshly with the violent offender and leniently with the soft drug offender. Yet violent crimes showed the highest percentage of defendants convicted of misdemeanors (Table XXIX). Conclusions should await the jail/probation analysis infra.

Age also appears as a relatively significant factor in suspended impositions, as shown in Table XLII below. A higher percentage of younger people received a suspended imposition. A higher percentage of older people received a sentence that was "other" than suspended or imposed, such as a fine or order to make restitution only, or a deferred prosecution.

The incidence of suspended imposition also varied for persons who went to trial. They received suspended impositions only 28% of the time (8 out of 29 defendants convicted at trial).

TABLE XLII

SUSPENDED IMPOSITION OR IMPOSED  
SENTENCE FOR 1973 CONVICTED  
FELONY DEFENDANTS, BY AGE

STATE- WIDE	SIS		Imposed Sentence		Other
	( )	%	( )	%	
18-19	(78)	72%	(29)	26%	(2) 2%
20-21	(57)	53%	(48)	45%	(2) 2%
22-25	(66)	52%	(55)	44%	(6) 4%
26-30	(24)	41%	(30)	52%	(4) 7%
31-35	(15)	36%	(23)	54%	(4) 10%
36-45	(12)	40%	(15)	50%	(3) 10%
over 45	(5)	28%	(12)	66%	(1) 6%
Unknown	(21)	78%	(2) 7%	(4) 15%	

ANCHO- RAGE	SIS		Imposed Sentence		Other
	( )	%	( )	%	
18-19	(53)	72%	(19)	25%	(2) 3%
20-21	(43)	57%	(30)	40%	(2) 3%
22-25	(50)	54%	(37)	41%	(5) 5%
26-30	(14)	33%	(24)	57%	(4) 10%
31-35	(11)	35%	(16)	52%	(4) 13%
36-45	(8)	47%	(6)	35%	(3) 18%
over 45	(5)	33%	(9)	60%	(1) 7%
Unknown	(10)	66%	(1) 7%	(4) 27%	

--continued

TABLE YLII - Continued

SUSPENDED IMPOSITION OR IMPOSED  
SENTENCE FOR 1973 CONVICTED  
FELONY DEFENDANTS, BY AGE

	SIS		Imposed		Other
	( )	( ) %	( )	( ) %	
18-19	(21)	68%	(10)	32%	
20-21	(11)	39%	(17)	61%	
22-25	(14)	52%	(12)	44%	14%
26-30	(5)	50%	(5)	50%	
31-35	(2)	33%	(4)	67%	
36-45	(3)	27%	(8)	73%	
over 45	(3)	100%	Imposed		
Unknown		(9)	90%		(1) 10%

	SIS		Imposed	
	( )	( ) %	( )	( ) %
18-19	(4)	100% SIS		
20-21	(3)	75%	(1)	25%
22-25	(2)	25%	(6)	75%
26-30	(5)	83%	(1)	17%
31-35	(2)	40%	(3)	60%
36-45	(1)	50%	(1)	50%
over 45	NO DEFENDANTS			
Unknown	(2)	100%	Suspended Imposition	

B. Sentences to Probation or Jail and Amount of Jail Time to Serve

As stated above, better observations are made by comparing sentences according to whether the defendant was sent to jail, and how much time he was sentenced to serve. Sentences first were analyzed to determine whether their effect was to send the defendant to jail or to place the offender immediately on probation. Sentences to jail were further divided into sentences of 30 days or less (since a fair percentage of sentences to jail were only for a short period of time,) and sentences of longer lengths. (A favorite sentence of many judges appears to have been either to suspend imposition of sentence but require the defendant to spend a short term in jail as a condition of the suspended imposition, or to impose a sentence of a year or two, suspending all but a very short term of time, such as 30 days.)

It should be emphasized that the following analyses do not show how much probation time a defendant serves. Nor does any probation sentence that was in addition to a jail sentence show. Such analysis is more complicated and would have spoiled the simplicity of looking merely at whether or not a defendant goes to jail. (Sentences to psychiatric institutions or alcohol or other rehabilitation centers were considered as sentences to "serve time," but are discussed further on in the report. Defendants who were committed without having been convicted are not included here, of course.)

It also must be understood that the jail sentences shown on the following tables reflect only the actual amount of time

a defendant was sentenced to serve. For example, if a defendant was sentenced to "3 years, 2 suspended," his sentence shows up as one year, not 3 years. Sentences were recorded in this fashion in order to compare the most important aspect of each sentence-- the actual amount of time the defendant is to serve.

Table XLIII below shows the incidence of probation and jail sentences in the state and in each area. (Subsequent tables show these sentences in relation to the crime type, age,

Statewide, 39% of convicted felons\* were not sentenced to jail but were placed immediately on probation. This is a lesser number than received suspended impositions, which percentage is superimposed on the table for comparison only. As noted, however, persons receiving probation comprise a group distinguishable from and not necessarily overlapping with the group of persons receiving suspended impositions.

A total of 61% of the convicted defendants were sentenced to jail, but only three-fourths of them for <sup>\*</sup>more than 30 days. Thus fewer than half the convicted felons in the state went to jail for more than thirty days. It might be noted that statistics for federal offenders in the U. S. District Courts for the years 1964-1970 show that only 40% were sent to jail, 44%  
92 placed on probation, and 16% fined only.

It is important also to note the following. A.S. 11.05.040 requires that defendants be "credited" against any sentence imposed with all time they have spent in jail pending trial. It is impossible to know how often a judge did not mete

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\* A small percent of these defendants, as shown on Table XXIX, were actually convicted of only misdemeanors, though charged with felonies.

TABLE XLIII

INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS

Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
AREA							
Anchorage	136(38%)	53(15%)	84(22%)	19(5%)	17(5%)	28(8%)	24(7%)
Fairbanks	53(42%)	13(10%)	31(25%)	8(6%)	9(7%)	11(9%)	1(1%)
Juneau	15(43%)	5(16%)	8(26%)	--	2(6%)	1(4%)	--
STATEWIDE	204(39%)	71(14%)	123(24%)	27(5%)	28(5%)	40(8%)	25(5%)

[Percents are percentage of  
all convicted defendants in each area.]

	Probation	30 Days or Less	1 Yr or Less (Greater than 30 Days)	2 Yrs or Less Under 5 yrs	5 Yrs and Over	Other
Statewide	(204) 39%	(71) 14%	(123) 24%	(27) 5%	(28) 5%	(40) 8% (25) 5%
	54% SIS		41% Imposed Sentence			5% Other
Anchorage	(136) 38%	(53) 15%	(84) 22%	(19) 5%	(17) 5%	(28) 8% (24) 7%
Fairbanks	(53) 42%	(13) 10%	(31) 25%	(8) 6%	(9) 7%	(11) 9% (1) 1%
Juneau	(15) 48%	(5) 16%	(8) 26%	(2) 6%	(1) 4%	

out a short sentence such as 60 or 90 days because he knew the defendant had already served that much time in jail.

Table XLIII also shows that the likelihood of going to jail differed by area. In Juneau a higher percentage of convicted defendants were not sent to jail, 48% (compared to 42% in Fairbanks and 39% in Anchorage), and only a low percent were sent to jail for more than 30 days, 36% (compared to 48% in Fairbanks, and 47% in Anchorage). The following analyses indicate, however, that no conclusions can be drawn until other factors and variables are considered.

Statewide, 18% of all convicted defendants received sentences of over one year, and 8% received sentences of five years or over. These figures are noticeably smaller only in Juneau, where 10% received sentences over one year (only three defendants, including one sentenced to over five years) and 4% received sentences over five years (the one defendant only). Although the number of defendants sentenced to greater than one year (95 or 18%) may appear small, defendants convicted of "dangerous" felonies (homicides, assault or shooting with intent to kill, rape, armed robbery and robbery, carrying a weapon during a burglary, and first degree arson) composed only 10% of the convicted defendant population statewide. There were even fewer convictions for the four major felonies (which the legislature has considered so serious as to make them non-bailable between conviction and sentencing)<sup>93</sup> murder, armed robbery, kidnapping and rape--only 12 altogether statewide. Most of these persons were sent to jail. Sentencing for the various serious felonies will be discussed below.

Crime Type. Whether a sentence was a sentence to probation or to jail, and the length of the jail term, also varied noticeably by crime type. Yet the reader must be aware that each crime type category used contains a variety of individual crimes varying in seriousness (except the category which contains robbery alone). For this reason, sentences meted out for certain individual crimes, such as murder, manslaughter, rape, arson and burglary also will be discussed separately.

Table XLIV shows that probation sentences were given most often for drug crimes (both hard and soft) and check and fraud crimes, 44% for each, and least often for robbery, 12%. "Short" jail terms of thirty days or less were meted out for 10-20% of all crimes except "hard drug" and "robbery."

Sentences of one year or less were given to the vast majority of property offenders, soft drug offenders, and check and fraud offenders (82-86%). Sentences of over two years were given to a relatively high percent of hard drugs, violent, and robbery offenders--37% of hard drug offenders, 20% of violent offenders, and 56% of robbery offenders. Thus, although a large proportion of hard drug offenders were put on probation, a nearly equal proportion received heavy sentences.

By area of the state, these proportions varied slightly (Fairbanks' and Juneau's small number of defendants in each category makes comparison somewhat difficult.) In Anchorage, proportionately more hard drug than soft drug defendants were placed immediately on probation, but still over



INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS,  
BY CRIME TYPE

Statewide							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
Crime Category							
Violent	39(35%)	15(13%)	23(21%)	5( 4%)	8( 7%)	15(13%)	7( 7%)
Robbery	3(12%)	--	5(20%)	3(12%)	3(12%)	11(44%)	--
Property	81(41%)	33(17%)	47(24%)	10( 5%)	10( 5%)	8( 3%)	11( 5%)
Hard Drugs	7(44%)	--	3(19%)	--	4(25%)	2(12%)	--
Soft Drugs	49(44%)	18(16%)	30(26%)	7( 6%)	4( 4%)	--	4( 4%)
Check & Fraud	20(44%)	4( 9%)	13(30%)	2( 4%)	--	4( 9%)	2( 4%)
Other	5(50%)	1(10%)	3(30%)	--	--	--	1(10%)

Statewide	Probation	2 Yrs or Less		5 Yrs or Less		5 Yrs Over		Other
		30 Days or Less	1 year or Less	Under 5 Yrs	Under 5 Yrs	5 Yrs Over	Other	
Violent	(39) 35%	(15) 13%	(23) 21%	4% (5)	7% (8)	13% (15)	7% (7)	
Robbery	(3) 12%	(5) 20%	(3) 12%	11 (44%)				No 30 Days or Less. No Other
Property	(81) 41%	(33) 17%	(47) 24%	5% (10)	5% (10)	5% (11)	3% (3)	
Hard Drugs	(7) 44%	(3) 19%	(4) 25%	(2) 12%				No 30 Days or Less No 2 Yrs or Less
Soft Drugs	(49) 44%	(18) 16%	(30) 26%	6% (7)	4% (4)	4% (4)	No other No 5 Yrs and Over	
Check and Fraud	(20) 44%	9% (4)	(13) 30%	4% (2)	9% (4)	4% (2)	No Under 5 Yrs	
Other	(5) 50% Probation	(1) 10%	(3) 30%	1 Year and Under				(1) 10% Other

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TABLE XLIV - Continued

Length of Sentence	Anchorage						
	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
Crime Category							
Violent	26(37%)	7(10%)	15(20%)	4( 6%)	5( 7%)	7(10%)	7(10%)
Robbery	3(12%)	--	5(20%)	3(12%)	3(12%)	11(44%)	--
Property	54(40%)	27(20%)	30(22%)	4( 3%)	4( 3%)	6( 4%)	10( 8%)
Hard Drugs	7(50%)	--	3(21%)	--	3(21%)	1( 8%)	--
Soft Drugs	32(40%)	15(19%)	22(27%)	6( 7%)	2( 2%)	--	4( 5%)
Check & Fraud	11(36%)	3(10%)	9(30%)	2( 7%)	--	3(10%)	2( 7%)
Other	3(49%)	1(17%)	1(17%)	--	--	--	1(17%)

Anchorage	Probation Only		30 Days or Less	1 Year or Less	2 Yrs or Less		5 Yrs and Over		Other
					Under 5 Yrs				
Violent	(26) 37%		10% (7)	(15) 20%	6% (4)	7% (5)	10% (7)	10% (7)	
Robbery	(3) 12%	(5) 20%	(3) 12%	(3) 12%	(11) 44%				No Other
Property	40% (54)		20% (27)	22% (30)	4% (4)	3% (3)	4% (6)	8% (10)	No 30 Days and Under
Hard Drugs	50% (7)			21% (3)	21% (3)			8% (1)	No 2 Years and Under
Soft Drugs	40% (32)		19% (15)	27% (22)		7% (6)	5% (4)	2% (2)	No 5 Years and Over
Check and Fraud	36% (11)		10% (3)	30% (9)	7% (2)	10% (3)	7% (2)		No Under 5 Years
Other	49% (3)		17% (1)	17% (1)	17% (1)				

[Percents are percentage of all defendants convicted of each crime type in each area.]

-Continued-

TABLE XLIV-continued

Fairbanks							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
Crime Category							
Violent	9(28%)	4(13%)	7(22%)	1( 3%)	3( 9%)	8(25%)	--
Robbery	--	--	--	--	--	--	--
Property	21(41%)	6(12%)	13(25%)	6(12%)	3( 6%)	1( 2%)	--
Hard Drug	--	--	--	--	1(50%)	1(50%)	1( 2%)
Soft Drug	14(50%)	3(11%)	8(29%)	1( 4%)	2( 6%)	--	--
Check & Fraud	7(64%)	--	3(27%)	--	--	1( 9%)	--
Other	2(100%)	--	--	--	--	--	--

Fairbanks

Probation      30 Days or Less      1 Year or Less      2 Years or Less      Under 5 Yrs      5 Years and Over

Violent	28% (9)	13% (4)	22% (7)	3% (1)	9% (3)	25% (8)	
Robbery	No Defendants						
Property	(21) 41%	12% (6)	25% (13)	12% (6)	6% (3)	2% (1)	2% (1) "Other"
Hard Drugs	(1) 50% Under 5 Years Jail			(1) 50% 5 Years and Over			
Soft Drugs	(14) 50%	11% (3)	29% (8)	4% (1)	6% (2)	No 5 Years and Over	
Check and Fraud	(7) 64% Probation			(3) 27% 1 Year & Under		9% (1)	5 Years and Over
Other	(2) 100% Probation						

TABLE XLIV-continued

Length of Sentence	Juneau						
	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
Crime Category							
Violent	4(44%)	4(44%)	1(12%)	--	--	--	--
Robbery	--	--	--	--	--	--	--
Property	6(46%)	--	4(31%)	--	2(15%)	1(8%)	--
Hard Drugs	--	--	--	--	--	--	--
Soft Drugs	3(100%)	--	--	--	--	--	--
Check & Fraud	2(50%)	1(25%)	1(25%)	--	--	--	--
Other	--	--	2(100%)	--	--	--	--

Juneau	Probation	30 Days or Less	1 Year or Less	
Violent	(4) 44%	(4) 44%	(1) 12%	
Robbery	No Defendants			
Property	(6) 46% Probation	(4) 31% 1 Year or Less	(2) 15% Under 5yr	(1) 8% No 30 Days or Less 5 Years and Over
Hard Drugs	No Defendants			
Soft Drugs	(3) 100% Probation			
Check and Fraud	(2) 50%	(1) 25%	(1) 25%	
Other	(2) 100% 1 Year or Less			

[Percents are percentage of all defendants convicted of each crime type in each area.]

twenty percent of hard drug defendants were sentenced to long terms (five years and over). In Juneau, all soft drug defendants were placed on probation. No violent crime defendants in Juneau received over one year. (There was one Juneau defendant convicted of second degree murder who will be discussed separately, but the most serious of the other violent crime convictions were "assault with a dangerous weapon" and "lewd and lascivious acts toward children.")

Sentences for the most serious felony offenses throughout the state (mostly violent offenses) are shown below, extracted from their categories. Statewide there were 53 defendants sentenced for "serious" violent offenses, defined as presented:

(No First Degree Murder)

Second Degree Murder	-	2 defendants convicted
Manslaughter	-	7 defendants convicted
Negligent Homicide	-	5 defendants convicted
Assault or Shooting with Intent to Kill	-	4 defendants convicted
Rape	-	7 defendants convicted
Armed Robbery	-	3 defendants convicted
Robbery	-	22 defendants convicted
Carrying a Weapon during a Burglary	-	2 defendants convicted
First Degree Arson	-	1 defendant convicted

Displayed together under "Robbery" on previous tables

The complete sentences for these crimes are given below (amount of time to serve plus amount of probation or time suspended).

The two sentences for second degree murder were 30 years jail (order of no parole until one-half served) and 5 years

probation. The seven sentences for manslaughter were 10 years with none suspended (two defendants); 10 years with 5 suspended (one defendant, a five year sentence shown in Table XLIV); 10 years, 10 suspended, 5 years probation (one defendant); 8 years, 5 suspended (three defendants, three-year sentences shown on Table XLIV), and 5 years, 2-1/2 suspended, (one defendant, 2-1/2 year sentence on Table XLIV). The sentences for negligent homicide were 7-1/2 years jail (one defendant), 3 years probation (two defendants), 2 years probation (one defendant), plus one defendant with a case open for sentencing.

The sentences for assault or shooting with intent to kill were 10 years; 7 years; 5 years, 4 suspended (a one-year sentence shown on Table XLIV); and 3 years, 2 suspended (also a one-year sentence shown).

The sentences for rape were 10 years (concurrent with a 10 year sentence for robbery); 8 years; 10 years, 5 suspended (five year sentence shown on Table XLIV); 5 years with 4 years, 10 months suspended; and 5 years with 5 suspended (three defendants, probation sentences shown on Table XLIV).

The sentences for armed robbery (included with robbery on Table XLIV) were 7 years; 5 years; and 4 years. (The other sentences for robbery are shown on Table XLIV.)

The sentences for carrying a weapon during a burglary were 10 years jail; and 10 years with 5 suspended (5 year sentence shown on Table XLIV).

The one sentence for first degree arson was 5 years.

Age. Table XLV shows age to have slight significance

TABLE XLV

JAIL OR PROBATION SENTENCES FOR 1973 CONVICTED FELONY DEFENDANTS, BY AGE

<u>Statewide</u>	Probation	Less than 30 Days Jail	Greater than 30 Days Jail	Other
18-19	(45) 41%	(16) 15%	(46) 42%	(2) 2%
20-21	(37) 35%	(22) 21%	(45) 42%	(2) 2%
22-25	(48) 38%	(15) 12%	(58) 46%	(6) 4%
26-30	(18) 31%	(6) 10%	(30) 52%	(4) 7%
31-35	(14) 33%	(3) 7%	(21) 50%	(4) 10%
36-45	(14) 43%	(1) 7%	(12) 40%	(3) 10%
Over 45	(9) 50%	(3) 17%	(5) 27%	(1) 6%
Unknown	(18) 67%	(2) 7%	(3) 11%	(4) 15%

<u>Anchorage</u>	Probation	Less than 30 Days Jail	Greater than 30 Days Jail	Other
18-19	(29) 39%	(11) 15%	(32) 43%	(2) 3%
20-21	(28) 37%	(18) 24%	(27) 36%	(2) 3%
22-25	(35) 38%	(11) 12%	(41) 45%	(5) 5%
26-30	(12) 29%	(3) 7%	(23) 55%	(4) 9%
31-35	(8) 26%	(3) 10%	(16) 52%	(4) 12%
36-45	(9) 53%	(1) 6%	(4) 24%	(3) 17%
Over 45	(6) 40%	(3) 20%	(5) 33%	(1) 7%
Unknown	(7) 47%	(2) 13%	(2) 13%	(4) 27%

- Continued -

TABLE XLV - Continued

Fairbanks

	Probation	Less than 30 Days Jail	Greater than 30 Days Jail
18-19	(13) 42%	(5) 16%	(13) 42%
20-21	(7) 25%	(4) 15%	(17) 60%
22-25	(11) 41%	(2) 7%	(13) 48%
26-30	(3) 30%	(2) 20%	(5) 50%
31-35	(3) 50% Probation		(3) 50% Greater than 30 Days Jail
36-45	(4) 36% Probation	(7) 74% Greater than 30 Days Jail	
Over 45	(3) 100% Probation		
Unknown	(9) 90% Probation		(1) 10% Greater than 30 Days Jail

Juneau

	Probation	Less than 30 Days Jail	Greater than 30 Days Jail
18-19	(3) 75% Probation		(1) 25% Greater than 30 Days Jail
20-21	(2) 50%	(1) 25%	(1) 25%
22-25	(2) 25%	(2) 25%	(4) 50%
26-30	(3) 50%	(1) 17%	(2) 33%
31-35	(3) 60% Probation		(2) 40% Greater than 30 Days Jail
36-45	(1) 50% Less than 30 Days Jail	(1) 50% Greater than 30 Days Jail	
Over 45	No Defendants		
Unknown	(2) 100% Probation		

[Percents are percentage of all convicted defendants of each age group in each area.]



to whether or not a convicted defendant was sentenced to jail. However, persons over 35 received "probation only" as often as persons twenty-five or younger. This young age group, and persons over 45, were most often given just a "taste" of jail, 30 days or less.

By area of the state, these figures again remained relatively constant where there were enough defendants to make meaningful comparison, except that persons age 20-21 in Fairbanks did not receive probation very often (only 25%). Perhaps this figure is smaller as a result of the crime types represented, or the defendants' prior records (to be discussed). However, none of these persons were convicted of robbery, the only crime type where such a low percentage statewide received probation. It should also be noted that in Fairbanks, all crime types showed a higher percentage of probation (Table XLIV) than this age group (20-21 year olds) received.

(Lengths of sentences beyond 30 days were not analyzed according to defendants' ages alone, because other factors such as crime type, race and prior record appear to be needed first to make meaningful comparison.)

Sex. Sex was found to have a strong effect on whether or not a convicted defendant went to jail. Fifty-six percent of females statewide were placed on probation, compared to only 38% of males. (100% of Fairbanks females--4 in number--were placed on probation.) While the high incidence of probation for females may relate to crime type, which was not analyzed on a male/female basis due to the small number of females (see p.101),

TABLE XLVI

## INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS, BY SEX

Statewide								
Length of Sentence	Probation	30 Days or Less	1 Year or less	2 Years or less	Under 5 Years	5 Years or More	Other	Total
<u>Sex</u>								
Male	184(38%)	70(14%)	117(24%)	27(6%)	27(6%)	39(8%)	18(4%)	482
Female	20(56%)	1(3%)	6(19%)	--	1(3%)	1(3%)	7(18%)	36

		Probation	30 Days or Less	1 Year or Less	2 Yrs or Less	5 Yrs and Over	Other	
Statewide					Under 5 Yrs			
482	Males	(184) 38%	(70) 14%	(117) 24%	(27) 6%	(27) 6%	(39) 8%	(18) 4%
36	Females	(20) 56%	(1) 3%	(6) 19%	(1) 3%	(1) 3%	(7) 18%	No 2 Yrs or Less

Anchorage								
Length of Sentence	Probation	30 Days or Less	1 Year or less	2 Years or Less	Under 5 Years	5 Years or More	Other	Total
<u>Sex</u>								
Male	120(36%)	52(16%)	78(24%)	19(6%)	16(5%)	27(8%)	17(5%)	329
Female	16(50%)	1(3%)	6(19%)	--	1(3%)	1(3%)	7(22%)	32

		Probation	30 Days or less	1 year or less	5% (16)	8% (27)	5% (17)	
Anchorage					3% (1)	3% (1)		
329	Males	(120) 36%	(52) 16%	(78) 24%	(19) 6%	(27) 8%	(17) 5%	No 2 Yrs or Less
32	Females	(16) 50%	(1) 3%	(6) 19%	(1) 3%	(1) 3%	(7) 22%	

--continued

TABLE XLVI - continued

Fairbanks								
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other	Total
<u>Sex</u>								
Male	49 (40%)	13 (11%)	31 (25%)	8 (7%)	9 (7%)	11 (9%)	1 (1%)	122
Female	4 (100%)	--	--	--	--	--	--	4

Fairbanks		Probation	30 days or less	1 year or less	2 yr or less	5 years	less than five years	greater than five years
122 Males		(49) 40%	(13) 11%	(31) 25%	(8) 7%	(9) 7%	(11) 9%	1 (1%) Other
4 Females		(4) 100% Probation Only						

Juneau								
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other	
<u>Sex</u>								
Male	15 (48%)	5 (16%)	3 (26%)	--	2 (6%)	1 (4%)	--	31
Female	--	--	--	--	--	--	--	0

Juneau		Probation	30 Days or Less	1 Year or Less	Under 5 Yrs	5 Yrs and Over
Males		(15) 48%	(5) 16%	8 (26%)	6 (2)	4 (1)
Females		No Defendants Convicted				

[Percents are percentage of all male or female convicted defendants in each area.]

it should be remembered that females also were convicted less often. (The 4 females in Fairbanks were all sentenced for property or check and fraud crimes, both of which had a relatively high incidence of probation sentences, but neither higher than 44%; Table XLIV above.)

Females also received "Other" sentences more often than males (such as "deferred prosecutions" or "fine or restitution only") --18% compared to 4% of males. Females received long sentences very infrequently--only 6% of females received over two years compared to 14% of males. It must be remembered, however, that many factors possibly affected these sentences, such as the circumstances of the crime committed or any prior record the defendant might have had.

Particular female sentences are quite interesting. One of the females receiving no jail was a defendant who pled guilty to four cases of larceny (both grand larceny and larceny in a building), who had a prior record indicating that she had been convicted of the same offenses several different times, but who had never been sentenced to more than 90 days. For her conviction of these four larcenies, she received two years probation (with a requirement of treatment for drug problems). In another case a woman who stabbed her husband seven times received a deferred prosecution for two years, the judge recommending "marital counseling."

At the other extreme was a woman with two 1973 cases who had no prior record when she committed her first offense, a robbery for which she received three years probation, but who

received eight years in jail, none suspended, on her second offense, possession of heroin. The only comparable sentence in the state for mere possession of a hard drug was 6 years given to an Anchorage male who had a prior record of misdemeanors only. A second case in which a female received a very heavy sentence was a ten year sentence (five suspended) for embezzlement. While the woman embezzled a fairly large amount of money (around \$10,000), most other defendants receiving such heavy sentences had prior records (she had none) or had committed rapes, robberies, murder or manslaughter.

Race. Table XLVII below shows that the incidence of both probation sentences and lengthy sentences varied more by race than any other factor previously examined. Statewide, only 23% of Blacks and only 25% of Alaskan Natives received probation, while 43% of Caucasians received probation. It should be remembered, however, that proportionately more Blacks and Alaskan Native defendants were convicted of violent crimes (and proportionately more Blacks convicted of robbery), which crimes had the lowest incidence of probation sentences, Table XLIV. However, it is questionable whether the violent and robbery sentence figures shown previously merely were influenced by the large percent of Blacks and Natives here shown to have received a high incidence of jail terms. Table XXXIV ( at p. 107) showed that Blacks and Natives convicted of violent crimes accounted for 38% of all defendants convicted of violent crimes (42 out of 111 defendants) and accounted for 32% of all defendants convicted of robbery (8 out of 25 defendants).

TABLE XLVII

## INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS, BY RACE

Statewide	Probation		30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years		Over 5 Yrs	Other
						6%	6%		
Caucasian	(133) 43%		(42) 13%	(70) 22%	(18) 6%	(18) 6%	(18) 6%		(12) 4%
Native Alaskan	(24) 25%	(14) 15%	(34) 35%		(4) 5%	(6) 6%	(9) 9%	(5) 5%	
Black	(6) 23%	(3) 11%	(5) 19%	(2) 7%	(2) 7%	(9) 33%			No Other
Other/Unknown	(40) 47%		(12) 14%	(14) 16%	(3) 4%	(4) 5%	(9) 11%		
						3%	5%		

Statewide							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Race</u>							
Caucasian	133(43%)	42(13%)	70(22%)	18(6%)	18(6%)	18(6%)	12(4%)
Native Alaskan	24(25%)	14(15%)	34(35%)	4(5%)	6(6%)	9(9%)	4(5%)
Black	6(23%)	3(11%)	5(19%)	2(7%)	2(7%)	9(33%)	--
Other & Unknown	40(47%)	12(14%)	14(16%)	3(4%)	2(3%)	4(5%)	9(11%)

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TABLE XLVII\_continued

Anchorage	Anchorage						
	Probation	30 Days or Less	1 Yr or Less	2 Yr or Less	5 Yr or Less	5 Yrs and Over	Other
Caucasian	(102) 41%	(38) 15%	(56) 23%	(13) 5%	(14) 6%	(12) 5%	
Native Alaskan	(16) 30%	(9) 17%	(15) 27%	(3) 6%	(2) 4%	(4) 8%	(4) 8%
Black	(3) 15%	(1) 5%	(4) 20%	(2) 10%	(2) 10%	(3) 40%	
Other/Unknown	(15) 36%	(5) 12%	(10) 24%	(1) 2%	(2) 5%	(8) 19%	

Anchorage							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Race</u>							
Caucasian	102(41%)	38(15%)	56(23%)	13(5%)	12(5%)	14(6%)	12(5%)
Native Alaskan	16(30%)	9(17%)	15(27%)	3(6%)	2(4%)	4(8%)	4(8%)
Black	3(15%)	1( 5%)	4(20%)	2(10%)	2(10%)	8(40%)	--
Other & Unknown	15(36%)	5(12%)	10(24%)	1( 2%)	1( 2%)	2(5%)	8(19%)

Fairbanks	Fairbanks						
	Probation	30 Days or Less	1 Yr or Less	2 Yrs or Less	Under 5 Yrs	5 Yrs and Over	
Caucasian	(20) 44%	(2) 4%	(9) 21%	(5) 11%	(5) 11%	(4) 9%	
Native Alaskan	(5) 16%	(3) 9%	(16) 50%	(1) 3%	(3) 9%	(4) 13%	
Black	(3) 43%	(2) 29%	(1) 14%	(1) 14%	(1) 14%	(1) 14%	No 2 Yrs or Less
Other/Unknown	(25) 60%	(6) 14%	(5) 12%	(2) 5%	(2) 5%	(2) 5%	No Under 5 Yr: 2%(1) Other

Fairbanks							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	under 5 Years	5 Years or More	Other
<u>Race</u>							
Caucasian	20(44%)	2(4%)	9(21%)	5(11%)	5(11%)	4( 9%)	--
Native Alaskan	5(16%)	3(9%)	16(50%)	1( 3%)	3( 9%)	4(13%)	--
Black	3(43%)	2(29%)	1(14%)	--	--	1(14%)	--
Other & Unknown	25(60%)	6(14%)	5(12%)	2( 5%)	1( 2%)	2( 5%)	1(2%)

TABLE XLVII-continued

Juneau							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Race</u>							
Caucasian	11(58%)	2(11%)	5(26%)	--	1(5%)	--	--
Native Alaskan	3(30%)	2(20%)	3(30%)	--	1(10%)	1(10%)	--
Black	--	--	--	--	--	--	--
Other & Unknown	1(50%)	1(50%)	--	--	--	--	--

<u>Juneau</u>	30 Days or Less				Under 5 Yrs	
	Probation		1 Yr or Less		5 Yrs and Over	
Caucasian	(11) 58%	(2) 11%	(5) 26%	(1) 5%	(1)	
Native Alaskan	(3) 30%	(2) 20%	(3) 30%	(1) 10%	(1) 10%	
Black	None Convicted					
Other/Unknown	(1) 50% Probation	(1) 50% 30 Days or Less				

[Percents are percentage of all convicted defendants of each population group in each area.]



Yet Blacks were not as young in age as Caucasians (young persons received probation more often), and both Blacks and Alaskan Natives were more likely to have prior records (to be examined in the next subsection). Yet Alaskan Natives in Fairbanks received probation especially infrequently compared to other population groups, only 16%, and Blacks in Anchorage received probation especially infrequently, only 15%.

With regard to length of sentence, Blacks received sentences of five years or over much more often than any other group--33% statewide compared to 9% of Alaskan Natives, and 6% of Caucasians. Although many Blacks were convicted of violent crimes and robbery, where there was a high incidence of heavy sentences, proportionately more Caucasians were convicted of robbery than Blacks, and nearly as many Alaskan Natives were convicted of violent crimes as Blacks. Most probably it would be enlightening to look at the exact crime charged, as well as the category. (It should be remembered, however, that proportionately more Blacks had a prior felony record than any other population group.)

Although sentenced to jail quite often, Alaskan Natives were sent to jail for shorter periods than other population groups. Statewide 50% of Alaskan Natives were sent to jail for one year or less, while only 35% of Caucasians are, and only 30% of Blacks were. The figures may relate to the finding that a high percentage of Alaskan Natives was convicted of property crimes (Table XXXIV), which crime category had a high incidence of sentences of one year or less, 41% (Table XLIV).

Table XLVIII below shows sentences in relation to

TABLE XLVIII

INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS,  
BY RACE AND CRIME TYPE, STATEWIDE\*

	Probation	30 Days or Less	1 Yr or Less	2 Yrs or Less		5 Yrs or More	Other
				Under 5 Yrs			
Violent Crimes							
Caucasian	(22) 46%	8% (4)	(7) 14%	2% (1)	8% (4)	(7) 14%	8% (4)
Native Alaskan	(8) 24%	(4) 12%	(11) 34%	6% (2)	6% (2)	15% (5)	3% (1)
Black	(2) 22%	(3) 34%	(1) 11%	(1) 11%	(1) 11%	(1) 11%	No Other
Other and Unknown	(7) 33%	(4) 19%	(4) 19%	5% (1)	5% (1)	10% (2)	10% (2)

Violent Crimes							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 years or Less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	22(46%)	4( 8%)	7(14%)	1(2%)	4( 8%)	7(14%)	4(8%)
Native Alaskan	8(24%)	4(12%)	11(34%)	2(6%)	2(6%)	5(15%)	1(3%)
Black	2(22%)	3(34%)	1(11%)	1(11%)	1(11%)	1(11%)	--
Other & Unknown	7(33%)	4(19%)	4(19%)	1(5%)	1(5%)	2(10%)	2(10%)

\*Excludes defendants convicted of "Other" crimes.

-Continued-

TABLE XLVIII-continued

<u>Robbery</u>							
Length of Sentence	Probation	30 Days or less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	3(23%)	--	3(23%)	2(15%)	1(8%)	4(31%)	--
Native Alaskan	--	--	1(50%)	--	--	1(50%)	--
Black	--	--	--	1(17%)	1(17%)	4(66%)	--
Other & Unknown	--	--	1(25%)	--	1(25%)	2(50%)	--

		Probation	1 Yr or Less	2 Yrs or Less	Under 5 Yrs	5 Yrs and Over
<u>Robbery</u>	Caucasian	(3) 23%	(3) 23%	(2) 15%	(1) 8%	(4) 31%
	Native Alaskan	(1) 50% 1 Year or Less		(1) 50% 5 Years and Over		
	Black	(1) 17% 2 Years or Less	(1) 17% Under 5 Years	(4) 66% 5 Years and Over		
	Other and Unknown	(1) 25% 1 Year or Less	(1) 25% Under 5 Years	(2) 50% 5 Years and Over		

TABLE XLVIII - Continued

		Probation	30 Days or Less	1 Year or Less	2 Yrs or Less	5 Yrs or Less	5 Yrs or More	Other
<u>Property</u>	Caucasian	(57) 45%	(20) 16%	(24) 20%	(7) 6%	(6) 5%	(4) 3%	
	Native Alaskan	(7) 16%	(8) 18%	(19) 42%	(2) 5%	(3) 7%	(3) 7%	(2) 5%
	Black	(1) 50% Probation	(1) 50% 5 Years and Over					
	Other and Unknown	(16) 52%	(5) 16%	(4) 13%	(1) 3%	(5) 16%	No Under 5 Years and Over	

<u>Property</u>							
Length of Sentence	Probation	30 Days or Less	1 Year or less	2 Years or Less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	57(45%)	20(16%)	24(20%)	7(6%)	6(5%)	4(3%)	4(3%)
Native Alaskan	7(16%)	8(18%)	19(42%)	2(5%)	3(7%)	3(7%)	2(5%)
Black	1(50%)	--	--	--	--	1(50%)	--
Other & Unknown	16(52%)	5(16%)	4(13%)	1(3%)	--	--	5(16%)

-Continued-

TABLE XLVIII-continued

Hard  
Drugs

	Probation	1 Year or Less	Under 5 Years
Caucasian	(5) 50%	10% (1)	(4) 40%
Native Alaskan	(1) 100% 1 Year or Less		
Black	(1) 33% Probation	(2) 67% 5 Years and Over	
Other and Unknown	(1) 50% Probation	(1) 50% 1 Year or Less	

Hard Drugs

Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	5(50%)	--	1(10%)	--	4(40%)	--	--
Native Alaskan	--	--	1(100%)	--	--	--	--
Black	1(33%)	--	--	--	--	2(67%)	--
Other & Unknown	1(50%)	--	1(50%)	--	--	--	--

TABLE XLVIII - Continued

	Probation	30 Days or Less	1 Year or Less	2 Yrs or Less		Other
				Under 5 Years	5 Years or Less	
Caucasian	(34) 41%	(14) 17%	(24) 29%	(6) 7%	(1) 1%	(3) 3%
Native Alaskan	(4) 66% Probation		(1) 17% 30 Days or Less	(1) 17% Under 5 Yrs		
Black	(1) 33% Probation	(2) 67% 1 Year or Less				
Other and Unknown	(10) 53% Probation	(3) 16% 30 Days or Less	(4) 21% 1 Year or Less	(1) 5%	(1) 5%	(1) 1% Other

2 Yrs  
or Less

Length of Sentence	Soft Drugs						
	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	34(41%)	14(17%)	24(29%)	6(7%)	3(3%)	--	3(3%)
Native Alaskan	4(66%)	1(17%)	1(17%)	--	--	--	--
Black	1(33%)	--	2(67%)	--	--	--	--
Other & Unknown	10(53%)	3(16%)	4(21%)	1(5%)	--	--	1(5%)

TABLE XLVIII-continued

	Probation	30 Days or Less	1 Year or Less	2 Years or Less			Other
				5 Yrs or More			
Caucasian	(9) 33%	(3) 11%	(9) 33%	(2) 7%	(3) 11%	(1) 5%	
Native Alaskan	(5) 61% Probation		(1) 13% 30 Days or Less	(1) 13% 1 Year or Less	(1) 13% Other		
Black	(1) 25% Probation	(2) 50% 1 Year or Less		(1) 25% 5 Yrs or More			
Other and Unknown	(5) 83% Probation				(1) 17% 1 Year or Less		

Check  
and  
Fraud

Check & Fraud							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years & Over	Other
<u>Race</u>							
Caucasian	9(33%)	3(11%)	9(33%)	2(7%)	--	3(11%)	1(5%)
Native Alaskan	5(61%)	1(13%)	1(13%)	--	--	--	1(13%)
Black	1(25%)	--	2(50%)	--	--	1(25%)	--
Other & Unknown	5(83%)	--	1(17%)	--	--	--	--

two variables, both race and crime type (on a statewide basis only).

Considering violent crimes first, both Alaskan Natives and Blacks received probation much less often than Caucasians. However, approximately equal proportions of sentences of five years or greater were given to all three groups. Sentences over one year were received by 33% of Black defendants compared to 24% of Alaskan Natives and Caucasians.

For robbery, Blacks again appear to have been sentenced much more heavily than other groups. All Black defendants received sentences over one year, and two-thirds received sentences of five years or greater. Forty-six percent of Caucasian robbery defendants received sentences of one year or less.

For property crimes, despite the above finding that property crimes had a high incidence of probation (Table XLIV), Alaskan Natives received relatively few sentences to probation only--only 16% compared to 47% for Caucasians, 50% for Blacks and 52% for "Other and Unknown." There appears to be no factor explaining why Alaskan Natives were sentenced this much more heavily for property crimes. The exact crimes charged were examined, and they did not appear significantly different from the property crimes charged against the other groups, although not individually shown here. Table XI did show that a relatively low percentage of Alaskan Natives charged with property crimes had no prior records (only 22%), but this figure was not a significantly different "no prior record" figure than Blacks had for this crime type or than Alaskan Natives had for all crimes.

Very few defendants were sentenced for hard drug crimes, making comparison among different population groups difficult, and for soft drugs, most defendants sentenced either



were Caucasian or "Other and Unknown," again making comparison difficult.

For check and fraud crimes, Alaskan Natives were sentenced very leniently, receiving probation very frequently, 61%, and receiving no sentences greater than one year, while many other defendants received sentences of five years or more, several for check forgery of checks fairly small in amount. However, all of those defendants sentenced to greater than 5 years for check and fraud crimes had at least one "factor" explaining the severe sentence, such as a long prior record, recidivism while on bail, or embezzlement of a very large amount of money.

Prior Record. As expected, prior record appears to have had a significant effect on sentencing. Table XLIX shows that defendants were much more likely not to go to jail if they had no prior record, and more likely to have received a sentence of greater than one year if they did have a prior record. As the record becomes more serious, a higher percentage of defendants received heavy sentences.

The sentencing of defendants with serious prior felony records, as defined below was given special attention.

18 convicted defendants statewide had very long felony records, with more than 4 felony convictions in the past. Fifty-six convicted defendants with prior felony records had a record of committing the same or very similar felony at least once before, including 14 of the 18 with long felony records, giving a total of 60 defendants with "serious" felony records.

TABLE XLIX

INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS,  
BY PRIOR RECORD\*

		30 Days or Less		1 Year or Less		2 Years or Less	Under 5 Years	5 Yrs or More	Other
<u>Statewide</u>		Probation							
No Prior Record	(96) 47%	(36) 17%		(41) 20%		3%	3%	5%	5%
Prior Miscellaneous Record	(25) 42%	(7) 12%		(16) 27%		3%	5%	7%	2% (1)
Misdemeanor Record	(30) 30%	(21) 22%		(25) 25%		7%	6%	8%	2%
Felony Record	(36) 28%	(5) 4%		(40) 31%		11%	14%	14%	3%

Statewide							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Prior Record</u>							
No Prior Record	96 (47%)	36 (17%)	41 (20%)	6 (3%)	7 (3%)	11 (5%)	10 (5%)
Miscellan- eous Record	25 (42%)	7 (12%)	16 (27%)	1 (2%)	2 (3%)	3 (5%)	4 (7%)
Misdemeanor Record	30 (30%)	21 (22%)	25 (25%)	7 (7%)	6 (6%)	8 (8%)	2 (2%)
Felony Record	36 (28%)	5 (4%)	40 (31%)	11 (9%)	14 (11%)	18 (14%)	4 (3%)

\*Excludes all convicted defendants whose prior records were unknown.

-Continued-

TABLE XLIX - Continued

Anchorage		Probation	30 Days or Less	1 Year or Less	2 Years or Less Under 5 Years 5 Yrs or More Other			
No Prior Record	(59) 41%	(29) 20%	(32) 22%	4%	6%	6%	1%	(2)
Miscellaneous Record	(22) 47%	7%	(3)	(12) 26%	2%	2%	7%	9%
Misdemeanor Record	(21) 32%	(16) 25%	(13) 20%	8%	6%	6%	3%	
Felony Record	(26) 29%	4%	(4)	(26) 29%	10%	8%	16%	4%

Anchorage							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
Prior Record							
No Prior Record	59(41%)	29(20%)	32(22%)	2( 1%)	6(4%)	8(6%)	9(6%)
Miscellan- eous Record	22(47%)	3( 7%)	12(26%)	1( 2%)	1(2%)	3(7%)	4(9%)
Misdemeanor Record	21(32%)	16(25%)	13(20%)	5( 8%)	4(6%)	4(6%)	2(3%)
Felony Record	26(29%)	4( 4%)	26(29%)	9(10%)	7(8%)	13(16%)	4(4%)

TABLE XLIX-continued

2 Years or Less

Under 5 Years

5 Yrs or More

Other

Fairbanks

No Prior Record

Miscellaneous  
RecordMisdemeanor  
Record

Felony Record

Probation	30 Days or Less	1 Year or Less	2 Years or Less Under 5 Years	5 Yrs or More	Other
(28) 55%	(5) 10%	(9) 18%	(4) 8%	(3) 6%	2% (1)
(2) 29% Probation	(2) 29% 30 Days or Less	(2) 29% 1 Year or Less	(1) 14%		Under 5 Yrs
(6) 21%	(5) 18%	(10) 36%	(2) 7%	(2) 7%	(3) 11%
(8) 27%	(10) 33%	(2) 6%	(5) 17%	(5) 17%	

↑  
No "30 Days or Less"

## Fairbanks

Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Prior Record</u>							
No Prior Record	28(55%)	5(10%)	9(18%)	4(8%)	1( 2%)	3( 6%)	1(2%)
Miscellan- eous Record	2(29%)	2(29%)	2(29%)	--	1(14%)	--	--
Misdemeanor Record	6(21%)	5(18%)	10(36%)	2(7%)	2( 7%)	3(11%)	--
Felony Record	8(27%)	--	10(33%)	2(6%)	5(17%)	5(17%)	--

TABLE XLIX-continued

Juneau

No Prior Record

Miscellaneous  
RecordMisdemeanor  
Record

Felony Record

(9) 82% Probation				(2) 18%	30 Days or Less
(1) 20% Probation	(2) 40% 30 Days or Less	(2) 40% 1 Year or Less			
(3) 50% Probation		(2) 33% 1 Year or Less	(1) 17% 5 Yrs or More		
(2) 22% Probation	(1) 11% 30 Days or Less	(4) 45% 1 Year or Less	(2) 22% Under 5 Years		

Juneau							
Length of Sentence	Probation	30 Days or Less	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	Other
<u>Prior Record</u>							
No Prior Record	9(82%)	2(18%)	--	--	--	--	--
Miscellaneous Record	1(20%)	2(40%)	2(40%)	--	--	--	--
Misdemeanor Record	3(50%)	--	2(33%)	--	--	1(17%)	--
Felony Record	2(22%)	1(11%)	4(45%)	--	2(22%)	--	--

Hypothesizing that such records might increase the likelihood of a sentence of 5 years or more, the sentences of these defendants were looked at individually. Of the sixty defendants considered, 12 (20%) were sentenced to serve 5 years or more, representing 30% of all defendants sentenced to 5 years or more. For comparison, however, persons with no prior convictions represented 35% of defendants who were sentenced to terms of 5 years and over. Thus it is clear that prior record is only one of many factors determining whether a defendant will receive a sentence over five years.

The effects of prior record and crime type are considered together in Table L, on a statewide basis only. In all crime categories, persons with no prior records received probation more often than persons with records, and persons with felony records received more long sentences. Thus prior records again appear of fairly strong effect in the general pattern of sentencing. However, persons with misdemeanor records were as likely to receive sentences of 30 days or less as persons with no records. Proportionately more persons with misdemeanor records than with no record did receive sentences up to one year, however.

Type of Attorney. Incidence of probation and jail sentences was compared according to whether the defendant was represented by a public defender or private attorney. As noted above, the type of attorney had little effect on conviction rates. However, Table LI shows that a larger percentage of the

TABLE L

INCIDENCE OF PROBATION AND JAIL SENTENCES FOR CONVICTED DEFENDANTS,  
BY PRIOR RECORD AND CRIME TYPES, STATEWIDE\*

	Probation	30 Days or Less	1 Year or Less	2 Years or Less		Other	
				Under 5 Yrs	5 Years and Over		
<u>Violent</u>							
No Record	(17) 41%	(7) 17%	(5) 12%	(6) 14%	(5) 12%		2% (1) 2% (1)
Miscellaneous Record	(5) 42% Probation	(3) 25% 30 Days or Less	(3) 25% 1 Year or Less	(3) 25%	(1) 8%		2 Years or Less
Misdemeanor Record	(6) 23%	(5) 19%	(5) 19%	(2) 8%	(3) 12%	(5) 19%	No "Other"
Felony Record	(7) 27%	(2) 8%	(8) 31%	(1) 4%	(4) 15%	(4) 15%	No "Other"

	Probation	1 Year or Less	2 Years or Less	Under 5 Years	5 Years or More	
<u>Robbery</u>						
No Record	(2) 20%	(3) 30%	(1) 10%	(2) 20%	(2) 20%	
Miscellaneous Record	(1) 33% Under 5 Years	(2) 67% 5 Years or More				
Misdemeanor Record	(1) 25% 1 Year or Less	(1) 25% 2 Years or Less	(1) 25% Under 5 Years	(1) 25% 5 Yrs or More		
Felony Record	(1) 14% Probation	(6) 86% 5 Years or More				

-Continued-

TABLE L - Continued

Property	Probation		30 Days or Less		1 Year or Less		2 Yrs or Less		Under 5 Yrs		5 Yrs or More		Other	
No Record	(30) 44%		(16) 23%		(14) 20%		(2) 3%	(2) 3%	(3) 4%		(2) 3%			
Miscellaneous Record	(11) 50% Probation		(3) 14% 30 Days or Less		(6) 27% 1 Year or Less				(2) 9% Other					
Misdemeanor Record	(12) 39% Probation		(8) 26% 30 Days or Less		(8) 26% 1 Year or Less		(2) 6%		(2) 3%		(1) 5 Years or More			
Felony Record	(17) 27%	5% (3)	(20) 33%		10% (6)	11% (7)	7% (4)	7% (4)						

Hard Drug

No Record	(3) 60% Probation	(2) 40% Under 5 Years
Miscellaneous Record	(2) 67% 1 Year or Less	(1) 33% Under 5 Years
Misdemeanor Record	(2) 50% Probation	(1) 25% Under 5 Years
Felony Record	(2) 50% Probation	(1) 25% 1 Year or Less

-Continued-



TABLE L - Continued

Soft Drug				2 Years or Less
	Probation	30 Days or Less	1 Year or Less	Other
No Record	(32) 51%	(12) 19%	(16) 25%	3% (2) 2% (1)
Miscellaneous Record	(7) 64% Probation		(2) 18% 1 Year or Less	(2) 18% Other
Misdemeanor Record	(7) 28% Probation	(5) 20% 30 Days or Less	(10) 40% 1 Year or Less	4% (1) 4% (1) 4% (1) Other 2 Years or Less Under 5 Years
Felony Record	(3) 27% Probation	(2) 19% 1 Year or Less	(3) 27% 2 Years or Less	(3) 27% Under 5 Years

Check and Fraud				30 Days or Less	1 Year or Less	Other
	Probation	30 Days or Less	1 Year or Less	Other		
No Record	(10) 66%			7% (1)	(3) 20%	7% (1)
Miscellaneous Record	(2) 33% Probation	(1) 17% 30 Days or Less	(2) 33% 1 Year or Less		(1) 17% 5 Years or More	
Misdemeanor Record	(3) 43% Probation	(2) 29% 30 Days or Less	(1) 14% 1 Year or Less	(1) 14% 2 Years or Less		
Felony Record	(4) 29% Probation	(6) 43% 1 Year or Less	(1) 7% 2 Yrs or Less	(3) 21% 5 Years or More		

\*Excluding defendants with unknown records and defendants convicted of "Other" crimes.

public defender's clients were sentenced to jail. Moreover, private attorneys represented proportionately more persons charged with violent crimes (Table XIII), who received probation sentences less often (Table XLIV). Yet private attorneys also represented proportionately more persons charged with drug offenses (Table XIII), who had a high incidence of probation sentences (Table XLIV).

For both types of attorneys, however, nearly equal percentages of defendants were sentenced to over one year, 17% for the public defender, 15% for the private attorney. Defendants with a private attorney had a higher incidence of "Other" sentences (deferred prosecutions, fines or restitution only, etc.).

TABLE LI

INCIDENCE OF PROBATION AND JAIL SENTENCES  
FOR CONVICTED DEFENDANTS, BY ATTORNEY TYPE

	Probation Only	30 Days Jail or Less	1 Year or Less Jail	2 Years or Less	Under 5 Years	5 Years or More	Other
Public Defender	33%	17%		28%	5%	5%	7%
Private Attorney (Anchorage & Juneau Only)	49%		9%	17%	2%	5%	10%

\*Excluding "Attorney Type Unknown"

(Percents are percentage of all convicted defendants of each attorney type)

The Sentencing Judge. Originally, one aim of this Report was to analyze sentencing using the judge as a variable, to determine whether a defendant's sentence was significantly affected by the judge who sentenced him. However, as should be evident by this point in the Report, meaningful comparison cannot be made unless defendants with similar conviction charges and background factors can be discerned. Selecting such defendants is difficult because of the small number of convicted felons and the vast array of crimes for which they were convicted, complicated by the many other variables that must be found to be similar.

There were only 519 defendants convicted of at least 75 different crimes. There are few, if any, defendants with "similar" convictions resulting from "similar" pretrial negotiation, who were of "similar" age, had "similar" prior records, "similar" criminal circumstances, and different sentencing judges. With more time to study the data, possibly some defendants "similarly situated" could be discerned in Anchorage, but a single superior court judge performed the majority of the sentencing in Anchorage during 1973, and thus it might be difficult to make any comparisons between judges.

Bailed or Jailed Condition. Another interesting comparison of defendants similarly situated might be made by comparing sentences of similar defendants who were free on bail with those who were incarcerated. However, because of the small number of persons who do not secure bail release,<sup>94</sup> again it is difficult to discern defendants similarly situated. Such an analysis must await further study of the data.

The Presentence Report. This project originally intended to study how important the presentence reports were in the sentencing process. However, in 1973 these reports were not mandatory, and according to court records were prepared only for approximately 25% of sentencings statewide-- 18% in Anchorage, 27% in Juneau and 44% in Fairbanks.

The incidence of presentence report preparation was analyzed for defendants who received sentences of 3 years or more (actual time to serve). Presentence reports were ordered for twice as many of these defendants as for all other defendants. It thus appears that a judge was more likely to order a presentence report when he was considering the possibility of a long sentence.

More could not be learned about the effect of presentence reports without reading each one to determine how often the judge followed their recommendation. The manner and method of making and presenting the reports was studied, however, and the Council hopes to prepare a short paper on the subject as a sequel to this Report.

#### C. Disparity in Sentencing

Although the preceding analysis reveals many interesting phenomena, it is not specific enough to compare individual defendants' sentences for "disparity." To determine disparities among defendants "similarly situated," many more exact determinations must be made, such as the specific crime or crimes, not

the general category, the specific prior record, and the specific sentence to jail or probation, not simply the range.

Certain analyses were performed on special groups of defendants, however. For example, sentences meted out to defendants who had trials were compared to the sentences of all other defendants, with very interesting results.

Sentences After Trials. As noted previously, imposition of sentence was suspended less often for defendants who had trials. As for the lengths of sentences meted out, certain observations merit attention. The longest sentence received by any of the Caucasian males who were convicted at trial in ANchorage was 6 months in jail (although 3 others were adjudged insane and committed). Yet all 5 Black males who were convicted at trial in Anchorage received sentences of 5 years or more. The charges against the Caucasians were distributed across the range of crime types, but the most serious were burglary not in a dwelling and sale of a hard drug. The charges against the Blacks were 3 robberies (some with multiple counts, and one rape and robbery), one attempt to pass a forged check, and one hard drug possession. (The latter defendant had a misdemeanor record only and was sentenced to 6 years, while the Caucasian male above who sold a hard drug received 4 years probation and had a prior felony record.)

There were three Alaskan Natives sentenced after trial in Anchorage, again with somewhat disparate results. Two received probation (for violent crimes) and one person with a misdemeanor record only received 10 years (4 suspended) for burglary. The latter sentence was appealed, however,

and the defendant won his appeal<sup>95</sup> (to be discussed infra).

Of the two women convicted at trial in Anchorage, both were sentenced to jail, one for 60 days for a misdemeanor and the other for 8 years for possession of a hard drug, an unusually harsh sentence even though the woman had one prior felony and was on probation at the time of the hard drug offense.

In Fairbanks, no such leniency appears in the sentencing of Caucasian males at trial. Six were convicted, two for drug crimes, one for manslaughter, one for rape, and two for assault and battery (a misdemeanor). All but the defendants convicted of misdemeanors received sentences of three years or more to serve. Other Fairbanks sentences after trial (for 3 Alaskan Natives and 3 whose race was "other" or "unknown") were, with one exception, also jail sentences (of various lengths for a range of different crimes). Altogether in Fairbanks, 8 out of 11 defendants convicted at trial were sentenced to jail, or 73%. This figure compares with 58% of all defendants convicted in Fairbanks having received jail sentences (Table XLIII).

In Juneau the one person convicted at trial, an Alaskan Native male convicted of first degree arson, was sentenced to five years.

Plea Reduced Charges. Another interesting comparison of sentences was performed with the charge Possession of a Soft Drug. Persons originally charged with this offense in Superior Court were excluded from the general data base because the offense is a misdemeanor, but there were several such defendants whose

cases were eliminated from the study but whose sentences were looked at for comparison. Of defendants originally charged in Superior Court with possession of a soft drug, only 17% were sentenced to serve any time in jail. Meanwhile, of all persons "pleading down" to possession of a soft drug from a more serious charge, fully 64% were sentenced to jail.

Consecutive Sentences: While the previous analysis of sentencing is constructed on the basis on one sentence per defendant, some defendants were sentenced on more than one charge, approximately 18%. Approximately 16% of this 18%, or 3% of all defendants, received consecutive sentences--terms to be served one after the other. (Consecutive sentencing is authorized in Alaska, and is within the discretion of the sentencing judge. See Part I.)

The defendants with consecutive sentences were distributed around the areas of the state (proportionately fewest in Fairbanks), and across a range of crime types. While it has been impossible so far to compare select defendants who might be similarly situated to them (see p.162), it at least can be noted that only one set of consecutive sentences added up to as much as ten years.

Sentencing Below Minimum or Above Maximum Provided By Law. The sentences meted out for felonies in 1973 were surveyed to determine if any were below the minimum or above the maximum provided by law. In Alaska, the judge may fix a sentence below the minimum provided by the criminal code except

in murder or rape cases, if he gives reasons (see Part I). However, some statutes like the Narcotic Drug Act provide mandatory minimum penalties which cannot be suspended if they are imposed; yet the Supreme Court has held that a judge may suspend the imposition of sentence in any case, including drug cases.

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Drug Offenses: Soft Drugs. There are no minimum sentences provided by statute for "soft" drug charges (Appendix IV, PP. 9-10), and no felony defendant in 1973 received more than the maximum allowable sentence for any soft drug charge, including possession of soft drugs (a misdemeanor with a maximum of one year).

Drug Offenses: Hard Drugs. Out of 16 defendants convicted of hard drug offenses, all of which have mandatory minimums of two years or more (see Appendix IV, p. 9) two-thirds were sentenced to less than the required minimum. Seven received immediate probation. Three received sentences of one year or less in jail (for sale). However, seven or 70% of these defendants were first offenders. The remaining 3 defendants had prior criminal records, one a drug record.

No defendant received more than the maximum sentence.

Robbery. The minimum sentence for robbery is one year. Although it is not a mandatory minimum, only 5 out of 25 persons sentenced for robbery were sentenced to less than the minimum. Three of these five defendants were sentenced to probation only and one was sentenced to 90 days or less, plus probation. Only one robbery defendant received the maximum



sentence, 15 years. One received two ten-year consecutive sentences. None were sentenced to more than the maximum.

Burglary (In a Dwelling/Not In a Dwelling. The minimum sentence provided in the criminal code for burglary "in a dwelling" is one year, and the minimum for burglary "not in a dwelling" is two years, but neither is a mandatory minimum. For both crimes, however, the sentences meted out frequently were below the minimum. Two-thirds of the sentences for Burglary in a Dwelling were for less than the minimum: one-third were for probation only (or all jail suspended) and the other one-third were jail sentences of less than one year (with some amount of probation). Of the one-third sentenced to one year or more, none received more than the maximum of ten years.

The sentencing pattern for Burglary Not in a Dwelling was similar to that for Burglary in a Dwelling, with a majority sentenced below the minimum, and none sentenced above the maximum (5 years only). Peculiarly, the statutory minimum for Burglary not in a Dwelling is 2 years, higher than that for Burglary in a Dwelling, but the maximum for Burglary Not in a Dwelling is lower by half. Such inconsistent authorizations of the criminal code are alluded to in Part I.

Manslaughter. The minimum for manslaughter is one year. There were seven manslaughter sentences in the state. One person received five years probation, and the other manslaughter convictions resulted in sentences of 5-10 years, well within the 20 year maximum.

Other Homicide Cases: Two persons were convicted of murder (second-degree murder). One was sentenced to 30 years, with the provision that he not be paroled until one-half of his sentence had been served. (The judge also recommended treatment for alcohol and mental problems.) This sentence appears "illegal" as the law then existed (see Part I, P.<sup>26</sup>) for a judge in 1973 was not allowed to fix a parole eligibility period in excess of one-third of the sentence imposed. Attorneys involved in the case were contacted and affirmed the accuracy of the sentence as recorded, without being able to offer a satisfactory explanation. The other defendant convicted of second degree murder was sentenced to 5 years probation (he was noted as being epileptic).

#### D. Other Types of Sentences

Fines and Restitutions. Orders to pay fines or to make restitution also were analyzed. The criminal code authorizes fines for many offenses (see Appendix IV), but defendants also received fines for some other offenses, such as Grand Larceny (9 instances of fines for this crime), Negligent Homicide (1 instance), Burglary Not in a Dwelling (1 instance), and Rape (1 instance).

Approximately 25% of defendants in Anchorage and Fairbanks received fines or restitution orders (mostly in conjunction with a sentence to jail or probation) while 44% of defendants in Juneau received a fine or order to make restitution, also usually in conjunction with a sentence. Fines mostly were associated with violent crimes, property crimes, and drug offenses, and

restitution orders with property and check and fraud offenses. However, several defendants in Anchorage were ordered to make restitution for a violent crime (one for robbery and 4 for assault with a deadly weapon, a crime in which the defendant does not usually gain money or property).

Less than one-third of all fines were over \$500, higher fines being associated with violent or drug offenses. (There were proportionately more high fines in Juneau than anywhere else.) Further study of the policy of fining defendants must await further analysis.

Sentences Involving Treatment for Psychiatric, Alcohol or Drug Problems. The court records on the type and nature of any treatment that was recommended unfortunately are very unspecific. Often it could be determined that some treatment was recommended by an attorney or the judge, but it was not known what kind, or if the recommendation was adopted by the judge or the Division of Corrections. Also, when a defendant was sentenced to receive some treatment as a condition attached to the rest of his sentence (about 125 defendants statewide), the procedure of data collection and sorting allowed only for a notation of "sentence plus conditions," without specifying the type of condition. As a result of hand sorting, it is estimated that about half of these 125 defendants were recommended to have treatment for the above types of problems, while many other conditions attached to sentences included prohibitions against carrying weapons or a requirement of submitting to periodic urinalyses. Only an estimate of the number of de-

defendants for whom some sort of treatment was recommended or required can be given.

Possibly because treatment facilities are found mainly in or near Anchorage, most sentences in Fairbanks and Juneau did not include treatment of any sort as a condition of the sentence.

While in Anchorage the judge often recommended treatment, he usually did not make treatment either a condition of probation or part of the sentence, because usually the Division of Corrections makes the final decision regarding special rehabilitation treatment for a defendant.<sup>97</sup>

Psychiatric or Psychological Treatment. Statewide, fewer than 10 convicted felony defendants (or less than 1%) were committed to psychiatric institutions. All defendants committed for an indeterminate time had committed violent crimes, murder or assault with a deadly weapon. Only 25 defendants statewide had psychiatric reports during the course of their case, according to information available in the Superior Court case files. An additional 14 defendants were noted in the court files as having psychological problems. These figures offer a striking contrast to the view of most defense attorneys that many of their clients have psychiatric or "psychological" problems and may be more in need of therapeutic<sup>98</sup> counseling than legal assistance.

Treatment for Alcohol Addiction. According to court records, only one person in the whole state (an Anchorage defendant) was specifically sentenced to an alcohol rehabilitation

facility for a term of time, although 10-15% of Anchorage defendants were noted in the files to have alcohol problems or to have committed "alcohol-related" crimes. Many times the judge recommended treatment for alcoholism, but rarely was this the defendant's primary sentence, and rarely did it appear as part of the judgment in the case file.

These figures must be compared with the estimate of the police chiefs in all 3 cities that between 50% and 90%<sup>99</sup> of all crime is alcohol related.

Drug Treatment. For the few persons recommended to receive treatment for drug problems, treatment usually was recommended as a condition of the sentence, meaning that treatment was to be received in order for the sentence to be satisfactorily executed. For example, the few persons sentenced to a residential program in Anchorage, The Family House, were given long jail sentences and the sentences were suspended under the condition that they complete the program. Of course, the Division of Corrections may have sent other persons to facilities for drug treatment, although most facilities in the state are not in-patient and thus do not provide an alternative for the person who is sentenced to be incarcerated.

### SECTION THREE

Certain other features of the sentencing process could be discerned from the data, among them the incidence of sentence appeal, and the timeframe in which convictions and sentencings occur.

#### Post-Sentencing Proceedings

Available information about post-sentence proceedings for 1973 cases was limited because many case files involving such proceedings were not available to the research staff. (Many were in judges' chambers or circulating for some other use.) Thus there is no exact data on sentence modification, probation revocation, or revocation of suspended impositions of sentence. Sentence appeals to the Supreme Court were noted in the Supreme Court files, however.

Six 1973 felony defendants appealed their sentences to the Supreme Court. The Supreme Court affirmed two sentences-- one of five years with two suspended for a defendant convicted of assault with a dangerous weapon who had 81 prior misdemeanor including 6 larcenies and 5 assaults,<sup>100</sup> and one sentence of 11 years (two consecutive terms) for burglary in a dwelling and larceny in a building, the defendant having two prior convictions for burglary and having been put in a narcotics program.<sup>101</sup>

Two defendants withdrew their appeals, one defendant's appeal still was pending, and one defendant won a reversal<sup>102</sup> of his sentence (and a remand for new sentencing). This defen-

dant, noted earlier on p.164, originally had been sentenced to ten years with four suspended, for burglary in a dwelling. He was only 21 years old and had a prior record of 2 misdemeanors only. The Supreme Court, although reversing on other grounds, viewed his sentence as excessive. <sup>103</sup> In its opinion the court spoke out about sentencing in general, emphasizing that maximum sentences like the one above should be given only to "the worst type of offender," which it said this defendant, was not, and giving approval to the American Bar Association view that maximum terms ought not exceed five years except for cases involving particularly serious offenses, dangerous offenders <sup>104</sup> and professional criminals.

Timeframe for Dispositions and Sentencings. In addition to analyzing the disposition process (Section One), it also was possible to examine the amount of time that passes before a case reaches disposition or sentencing. While the effects of these timeframes on the disposition or on the sentencing have not been analyzed, the information is useful in describing the workings of the court system.

Timeframe for Dispositions. Statewide, the majority of felony cases (60%) were disposed of 90 days or less from the date of arraignment. (The Speedy Trial Rule, discussed in Part I, allows four months or 120 days with certain periods exempted. The 90-day count above exempted no periods.) However, Anchorage Superior Court disposed of only half its cases in 90 days or less, while Juneau and Fairbanks disposed of most of theirs (90%) within this timeframe.

As might be expected, cases where there was only a single charge or count were disposed of more quickly than cases with multiple charges or counts against the defendant. There also was a relation between the type of crime and the length of timeframe. More property crimes were settled in 90 days or less than any other crime type.

Timeframe for Sentencings. The interval between the date of conviction and date of sentencing composes the timeframe for sentencing. In Anchorage, 75% of all defendants were sentenced the same day as they were convicted (coinciding with the low incidence of presentence reports, which generally are not ordered until after conviction; see Part I). In both Fairbanks and Juneau, only 50% of defendants were sentenced the same day as conviction. Eighty percent of remaining defendants in these two areas were sentenced within 45 days of conviction. Only a few defendants statewide, 5%, were sentenced more than 60 days after conviction, and very few, 3%, more than 90 days after conviction. However, 1% (5 defendants) were sentenced more than 180 days after conviction, for no apparent reason. Usually the defendants had entered a guilty plea, but the attorneys had not made any sentence recommendations. Whether or not these defendants were incarcerated or released on bail remains unknown until future study.



## SUMMARY

Many factors other than what have been presented in this Report must be considered in drawing responsible conclusions concerning sentencing discretion and sentencing practices. This Report is primarily descriptive and only begins the analysis of salient and interesting phenomena apparent from the statistics. Most of the data here still are "raw" in the sense that variables must be interchanged in more exhaustive analyses to permit valid conclusions concerning apparent "trends" and tendencies.

To summarize, however, one can observe that the majority of offenders were young and without serious criminal records. Many were given short sentences or sentences to probation only. Yet, the majority of convictions were for the less serious felonies.

A higher percentage of some groups of persons were convicted or sentenced more harshly than other groups, however. Even when many other factors were held equal, some groups of persons still appeared to receive disparate treatment. For example, two-thirds of all Blacks sentenced for robbery received sentences of five years or greater, while less than one-third of Caucasians did, even though twice as many Caucasians sentenced for robbery had prior felony records as Blacks.

The precise circumstances of each offense and the particular character traits of each offender influence the sentencing decision substantially. Thus it is possible that apparent disparities in sentencing are really the correct result of

differences in individual sentencing needs. However, disparities of such great proportion as noted here, especially among racial groups, suggests strongly an anomalous influence in the sentencing process that warrants careful follow-up investigation.

The Supreme Court recently has begun to develop criteria for sentencing through appellate review of sentences. As noted, the Court has endorsed the view that sentences in excess of five years are appropriate only for particularly serious offenses, dangerous offenders and professional criminals.<sup>105</sup>

(Forty persons received sentences of five years or greater in 1973, many of whom had no prior criminal record.)

Undoubtedly, there should be further study of the sentencing process, which either may justify many of the findings presented here, or show some of the sentences to have been unwarranted. At the same time, it could provide information to guide the courts in the future sentencing of persons similarly situated.

## APPENDIX I

### SUMMARY OF STATISTICAL ACTIVITY AND ANALYSIS:

#### Problems Encountered and Recommendations for Solutions

By Teri White, Statistical Analyst

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## I. Procedures for Data Collection

The data in this sentencing study were collected primarily from the superior court case files in Anchorage, Fairbanks and Juneau, and from the fingerprint files of the Department of Public Safety in Juneau. The procedure for determining which defendants to study was as follows:

- Step 1. Obtain names of all 1973 superior court defendants from alphabetical files of the Alaska Court System in each city.
- Step 2. Eliminate all files (a) that were appeals from district court, (b) that had superior court numbers but were misdemeanors, (c) that had superior court case numbers but all activity took place in district court, and (d) that were secret indictments with no arrest yet.
- Step 3. List all case files associated with 1973 defendants, beginning with January 1965 and ending with March 31, 1974. (The purpose of this step was to assemble as complete a "profile" as possible for each defendant. (However, sentencing histories of defendants other than their prior records have not been analyzed.)
- Step 4. Record pertinent data for each defendant on field sheets (one for each case). At this point, more cases and defendants were eliminated for the following reasons:

- A. sealed case, no data available;
- B. defendant's entire records in judge's chambers (for appeal, or because some of his cases were still open and unavailable;
- C. files could not be found (this was more often true of cases prior to 1973);
- D. case was open and the defendant had been arraigned, but no other events had occurred and the information available was deemed too scanty to be of any value.

Step 5. Record race, age, sex, and prior record for each defendant from Public Safety fingerprint files in Juneau. For prior record information, only charges of which the defendant had been convicted were considered.

Step 6. Record arrest date. It had been planned that the "booking sheets" (information recorded at the jail in each area at time of defendant's arrest) would be used for this purpose. Unfortunately, most "booking sheets" are not kept in any permanent location. The jails send them to the Division of Corrections in Juneau; and as far as the research staff was able to discern, the Division of Corrections keeps only selected "booking sheets" on file. Therefore, the arrest date was recorded from the fingerprint files of the Department of Public Safety, as often as was possible.

Step 7. Prepare data for computer; key-punch; computer

sort. To allow a reasonable margin for coding and key-punch errors, a factor of plus or minus 2.5% should be allowed on most figures in the statistical analysis.

To the extent possible, every relevant 1973 Anchorage, Fairbanks, and Juneau felony case was studied. Many cases which originated in a bush area had some proceedings in Fairbanks or Bethel, then were transferred to Anchorage, and then transferred back to Bethel. Many of these cases were eliminated from the data base if there was little information available other than a blank file noting their transfer.

## II. Court Records

The superior court case file for each defendant contained a variety of information. Usually the indictment, minute orders of all hearings (short notes of discussions, custodial status of defendant, and names of judge and attorneys), and the final judgment (showing final disposition of case) are included. There also may be information on district court events (if any occurred), information about the defendant's personal circumstances (military, alcohol problems, etc.) and information on post-sentencing events (probation revocations, expunging of record in deferred prosecutions, appeals, etc.).

However, the superior court file does not always give a complete picture of the defendant's contacts with the court. Types of information not clearly recorded in many files

included the type of attorney (private or public defender) representing the defendant, and, most importantly, the attorneys' and judge's recommendations and reasons for a given sentence. The latter is particularly important information for determining why two similar defendants with the same charge and sentence might be treated differently. Unless such information is recorded and capable of retrieval, the criminal adjudication process may be subject to unfounded and unnecessary criticism for apparent disparities and seeming irrationalities.

Only superior court actions were studied for each defendant and case. The research omitted a fairly important aspect of court action by not studying district court actions; however, the reason was the formidable difficulty of searching, finding and correlating the file of a defendant in one court with the corresponding file of the same defendant in the other level of court. There simply was not enough time or money to undertake this ambitious task.

### III. Cases, Counts, and Defendants

One of the most difficult tasks in the effort to achieve statistically meaningful and accurate data bases, was understanding and adjusting for imprecise useage of such words as "cases," "counts" and "defendants." For example, two court files (often discussed loosely as "two cases") might represent a continuation of the same adjudication rather than a new criminal event. If a person is indicted for one felony that is nego-

tiated by counsel to a lesser included offense, the new charge usually will proceed by "information" (waiver of a new grand jury indictment), and there appears to be no standard in court record-keeping for whether the deputy clerk will record the new charge in the original file or whether the deputy clerk will open a new file. Determining when subsequent files for any one defendant constituted a new criminal event was a laborious and time-consuming activity during this study.

Similarly, one court file (commonly referred to as a "case") might include many criminal "counts" charged for the same criminal event or may include multiple "counts" for more than one criminal event. In Anchorage, all "counts" (even for more than one criminal event) were usually included in the same court file if all charges appeared in the same indictment; but in other locations around the state, each count might appear as a separate file, or each criminal event might be recorded in a separate file.

Hence, total numbers of case files do not represent a statistically accurate data base for analyzing such phenomena as incidence of criminal activity, frequencies and volume of pre-trial hearings, workloads of judges or attorneys, numbers of defendants, or even workload of court staff (other than the activity of the staff in making new files).

For purposes of studying conviction and sentencing activities, the statisticians and lawyers working on this project sought a definition of "cases" that would prove accurate for presenting and analyzing these phenomena as part



of the judicial "process"--in terms of the frequency and substance of the events, the timeframe for the court event and between various court events, and the volume of the event from a judicial standpoint. While total court files would be an inaccurate measure for these purposes, an ideal modification of that index was economically impossible to accomplish. The definition of "case" that ultimately was chosen for the statistical base is far more accurate than "court files," but still suffers some level of inaccuracy that the reader must allow for throughout the study.

"Cases," as that term is used in this study, are the total number of court files, minus newly opened files that simply represent a charge-reduction or continuation of a criminal event already recorded and processed. Hence, adjustments have been made in the data base for (1) case filings that are only reductions of charges, and (2) case filings that are only reindictments for the same criminal event. However, no adjustment has been made for the fact that some files contain charges for more than one criminal event, or charges for more than one count in the same criminal event. Thus, the data base is not an accurate measure of the incidence of criminal activity brought to the courts.

While the statistical base of "cases" defined above is most accurate for discussing the judicial process of conviction and sentencing, it does not lend itself to an analysis of sentencing of the individual by his personal characteristics--the criteria a judge must apply in determining the appropriate sentence for each defendant. A separate data base was

necessary for measuring this activity.

Hence, the data base of "defendants" also was employed, and is defined as the total number of individual persons charged with one or more felony offenses during 1973.

Ideally, it would have been preferable to count persons two or more times when they re-enter the judicial process a second or more times during the year, thus using a "defendant" data base equal to the number of criminal events processed through the courts. However, this definition would have resulted in distortions of such information as the percentage of defendants (as persons) who are convicted or receive a certain sentence. As discussed earlier, a problem also was encountered in attempting to distinguish criminal events when two or more might be found in one file without clear information indicating that the two charges occurred at the same time or different times.

As the above discussion illustrates, no one unit of analysis gives a complete or wholly accurate picture of occurrences transpiring after a given criminal event. For example, there are 889 "cases" but only 749 "defendants." To give another illustration, an attempt was made at the beginning of the data-analysis stage to determine the disposition of "counts" in Anchorage. It was found that 51% of all "counts" were dismissed. However, only 36% of all "cases" were dismissed, and only 32% of "defendants" have all of the "cases" and all of the "counts" against them dismissed!

Consequently, the unit of measure chosen for each

section of the Report was chosen because that unit offered the most accurate picture of the particular situation being analyzed. From one perspective, one can observe that of 825 cases, only 48 went to trial. From another perspective, one can observe that 45 out of 707 defendants went to trial on felony charges. The choice of the data base depends on whether the purpose is to analyze the processing of events, the activity of attorneys and judges, or the impact of the conviction and sentencing process on individual defendants.

During 1973 (and preceding years) there was no uniform "set" of information recorded in court files, and hence the composite of data retrieved for each defendant is quite variable. In the files, the information on a second charge recorded in a defendant's file at a later date and while the first charge still was pending did not always include the date when the second crime was committed. It was necessary in some situations for the data analyst to decide subjectively whether the second filing was sufficiently later than the first filing to permit the conclusion that the second offense was a different one from the first, or whether the proceedings were really proceedings arising from the same criminal event.

Finally, it should be noted here that the description of cases or defendants by "crime categories" also is slightly distorted when a defendant or case had multiple charges, to the extent that only the "most serious" felony count is considered in the data base as the criminal charge in the particular conviction or sentence. (See Appendix II for a detailed discussion of "crime categories,"--and Appendix V for a listing of all cases and convicted defendants with multiple charges.)

#### IV. Recommendations

In the original funding proposals for the Bail and Sentencing Studies, one of the objectives stated was to provide "recommendations concerning how the record-keeping of the Court System can be improved so that sentencing (and bail) programs and policies can be evaluated periodically without great expense and effort." Many of the problems in attempting to retrieve meaningful data for these studies will be ameliorated when the Alaska Justice Information System (AJIS) is fully operational sometime during 1975. However, the 1973 (and 1974) information on any given felony defendant is recorded in several places according to several different record-keeping systems. The defendant is arrested, booked and fingerprinted at the local jail. His fingerprint card showing date and charge are kept on file at the Juneau office of the Department of Public Safety. The "booking sheet," containing much more information (such as bail at arrest and extensive description of the defendant, charges, and the custodial status), is sent to the Juneau office of the Division of Corrections, where some records are preserved and others are destroyed.

The defendant is arraigned, usually in the district court, and a Court System case file is opened at this time. During 1973 in Anchorage the defendant also may have been interviewed by personnel from the Court System's Pretrial Services agency, and his district and superior court file might contain a report by this interviewer. Later the defendant would be arraigned in superior court and a new file opened under his name.

At the time of sentencing (if the defendant is ultimately convicted of the felony offense), the Division of Corrections may submit a presentence report (not mandatory during 1973) with recommendations.

Thus, in order to obtain a complete picture of any one "event" in the criminal justice process, the researcher must grapple with at least three and often more sets of independently maintained files. The magnificent irony of the record-keeping bureaucracies of police, courts and corrections is that none of these agencies have information systems designed to analyze their substantive effectiveness in fulfilling their respective responsibilities in the criminal justice process. That is to say, each agency maintains files designed primarily to measure internal operational and management efficiencies in the mechanical administration of the agency's function. None of the agencies have information systems specifically designed to capture a meaningful body of information about the accused defendant from earlier stages in the process, or to retrieve substantial feedback about the accused defendant from later stages in the process, such that the respective functions of law enforcement, adjudication and disposition might be improved from knowledge of where they are working at cross-purposes, or where no agency is functioning effectively.

A. Court Records. During the time these statistical studies have been in progress, the Alaska Court System has been revising its docket sheets. On the old docket sheet, for example, bail information was extremely limited. At the suggestion of

the research staff involved in this study, the new docket sheet of the Court System will include more detailed notice of arraignment and bail hearings and remands to custody. However, while the information on the new docket sheet will provide much general information and will serve as an indicator for cases of special interest, the sheet still does not allow space to record the defendant's custodial status at each point in the process, or the attorneys actually present at each hearing or court event.

There is also much information contained on the booking sheet which should be of interest to the judge setting bail and sentencing convicted defendants. However, there presently is no procedure by which that information would reach the judge. The Court System should consider some procedure for transferring a copy of the booking sheet to the court file or placing responsibility on the investigators of the Pretrial Services for making relevant information from the booking sheet available to the judge.

Another problem experienced with court records in this study has been alleviated somewhat since 1973. Researchers found little or no information in superior court files concerning activities in the district court during initial hearings and rehearings. Sometimes the superior court judge requested information from the district court determination, but as often the superior court judge simply rearraigned the defendant without detailed information.

Consolidation of court administration in Anchorage,

Fairbanks and Juneau either has already eliminated this fragmentation of recordkeeping or is presently in the process of eliminating it. For purposes of allowing a complete view of the defendant's case, the results can only be beneficial. But there are other locations in the state where no formal move toward consolidation is contemplated, and some procedure should be adopted to ensure that the information in the district court file is available to the judge of the superior court when the defendant is arraigned again in the higher court.

B. Incomplete Information in Files. Another difficulty for the researchers during these studies was the fact that much information available and normally expected to be recorded simply was not recorded in the files. This was a far more frequent problem in Fairbanks and Juneau files, although it also occurred in Anchorage.

Once again, the new docket sheets presently being introduced throughout the state will provide specific questions and spaces for deputy clerks and in-court clerks to complete. However, there will be no guarantee that court personnel will complete the forms unless they are made to understand the long-range importance of doing so. The Court System should ensure that employees understand why particular information is being required, and should ensure that employees are adequately trained in recordkeeping to make the process meaningful. For 1973, the files of Juneau and Fairbanks were so incomplete that no meaningful relationships and observations concerning bail could be developed.

Minute Orders. In all of the courts studied, minute orders recorded in long-hand by the in-court clerk caused some difficulty. The minute order forms provide space to record the nature of the hearing (arraignment, omnibus hearing, sentencing hearing, etc.), the attorneys present, the defendant's custodial status, a summary of remarks by parties and attorneys, and the outcome of the hearing.

The forms are not always completed by the clerk, so that the defendant's custodial status, names of attorneys, or nature of the hearing are omitted. In addition, the handwriting of the clerks ranges from excellent to almost unreadable. Because minute orders provide a very important summary of events when the researcher is unable to take the time to listen to the taped recording of every court hearing, the Court System should encourage both completeness and legibility in these forms.

The in-court clerk should also make an effort to note factors such as drug use and family problems which affect case disposition and sentencing, as well as recording recommended treatment and training.

C. Case Numbering. The closest definition one can find for the word "case" among court administrators and employees is a court file. As described earlier, "case" is a very artificial and elusive word. It may include several defendants and/or several events. It often includes more than one criminal "count." The term is not used with any consistency around the state, or even within one city. In one area, a new case number is assigned to each count against a particular defendant; in another area, all counts may be included under one case number, even if some of the counts charge the defendant with criminal activity at another time.

The confusion is further complicated by re-indictments



and informations filed pursuant to plea negotiations. It appears from interviews with Court System employees in Anchorage that during 1973 the policy was to open a new case file for a re-indictment arising from the same event, but to keep the original file active where a felony count was dismissed and the defendant pled to a lesser included offense for the same event. However, if the clerk felt that the lesser included offense was too different from the original charge, a new case file might have been opened.

An illustration of an extremely confused sequence of events would be the situation where the defendant was charged with two counts of sale of narcotics, each occurring at different times, and one count of burglary. If the two counts of sale were reduced through plea negotiations to possession of narcotic drugs and the defendant filed an information to these reduced charges, and if procedural errors in the grand jury indictment required reindicting the defendant on the charge of burglary, the filing activity would occur as follows: The original file would first record three separate criminal events (two sales and one burglary), and then would continue as an open file recording two criminal events (possession). The burglary charge would appear to be dismissed if one looked at the original file. However, a second file would then be opened to record judicial activities regarding the original burglary event, now proceeding against the same defendant who had been reindicted.

Still another filing practice that causes difficulties is to include multiple defendants in the same court file. Sometimes these co-defendants are charged with different crimes arising from the same event. In many instances, the files were incomplete for one or more of the co-defendants. Deputy clerks

claim that it is more difficult to ensure that all information is recorded when the file includes records on more than one person.

Ideally, it would be desirable for the Court System to develop a uniform (statewide) filing system that distinguishes between co-defendants and among criminal events, and that also maintains some continuity to ensure that subsequent activities related to the same criminal "event" (e.g. following reindictment) remained in the original file. The Court System could, for example, develop a filing system that not only distinguished between criminal events (such as the above burglary being designated file #75-101 and the narcotic sales being designated file #75-102), but also distinguished between co-defendants (such that the co-defendants in the burglary would have separate files designated file #75-101A and file #75-101B).

Minimally, the Court System should require that separate files be maintained for all co-defendants, to ensure that files do not become so voluminous that they cannot be checked effectively for completeness with regard to each of the defendants. Also, the Court System should require that subsequent activities relating to the same event, such as reindictments and informations filed for a lesser included offense, will always continue to be recorded in the original file rather than being subject to the arbitrary decision of a deputy clerk concerning whether a new file should be opened or not.

Finally, it has been suggested by some Court System personnel that prosecutors have the primary responsibility for

the determination of how a case will be filed, because "case" is defined according to the information and counts charged in the indictment. However, this claim shifts far too much of the responsibility for recordkeeping on the prosecutors. There is nothing compelling upon the Court System to define its files according to the form of the indictment. On the other hand, prosecutors should accommodate the filing system of the courts to whatever extent possible, and may even assist substantially in some of the inevitable discretionary decisions which will be required of deputy clerks (e.g., at what point do two counts become separate criminal "events" for filing purposes?).

D. Future Analysis of Bail and Sentencing. These studies of 1973 data have resulted in two major products. The first is a body of data offering significant insights to the operations of the criminal justice system in 1973. The second is the development of a structure for future reports. Well over 100 graphs and tables have been designed already. Procedures for collecting and encoding the required information have been developed and refined in the face of extreme obstacles. All of this preliminary work and experience ensures that future reports can be compiled more quickly and more easily.

Studies for the years succeeding 1973 should proceed, not only to provide interested persons with an analysis of the criminal process during each year, but also for purposes of comparing data from one year to the next. For example, no evidence of "pipeline impact" is discernible from the data and analysis in the present 1973 reports. However, a subsequent study of 1974

data would provide the desired comparison.

The question, however, is what agency should conduct the research in future years. A realistic approach to the agencies of the criminal justice process is to view them as consciously independent "components." It is unrealistic to suppose that any one agency (police, prosecutors, public defenders, courts or corrections) would be willing or able to conduct such data collection studies that require cross-agency correlations of information. Yet the desirability of such data collection efforts is undisputable.

Hence, the Governor's Commission on the Administration of Justice should endorse such activities annually by the Criminal Justice Planning Agency. If the Criminal Justice Planning Agency does not have the staff or resources to conduct such studies, that agency should subcontract with the Alaska Judicial Council, or in the near future with the Research Department of the University of Alaska Law Center. In any event, action should be taken to ensure that the experience developed in this effort is not lost, and to ensure that the process of interagency data collection becomes more refined and more extensive during future years.

APPENDIX II  
EXPLANATION OF CRIME CATEGORIES

The only manageable way to analyze conviction and sentencing according to the crime charged was to divide crimes into categories. Four major categories were chosen--Violent Crimes against Persons, Property Crimes, Drug Crimes, and Check Forgery and Fraud Crimes. Robbery was considered a special category of its own, for it contains elements of both "violence" and "property offense," and has unique conviction and sentencing trends. (The category "Other" contains miscellaneous offenses which were not sufficient in number to warrant separate categorization.)

Each category contains the following individual crimes:

"Violent"

1. All Homicides (Murders, manslaughter, and negligent homicide).
2. All Assaults (Shooting with intent to kill, assault with a dangerous weapon, assault and battery, assaults with intent to rob, rape, etc.).
3. All "Weapons" charges (Felon in possession, careless use of firearms, carrying weapon during commission of a felony).
4. Rape, and other sex-related crimes that are "violent" (lewd and lascivious acts, statutory rape, sodomy, incest, and contributing to the delinquency of a minor [a misdemeanor, which frequently occurs as a charge bargain for one of the preceding]).
5. Kidnapping and child-stealing.

"Property"

1. Burglary in a dwelling, burglary not in a dwelling, attempted burglaries.

2. Grand larceny, larceny in a building, larceny from a person, larceny of money or property, petty larceny, attempted larcenies.
3. Receiving and concealing, retention of lost property, concealment of merchandise.
4. Misdemeanors such as joy-riding, unlawful entry, and malicious mischief and trespass - usually resulting from plea bargains.
5. All arsons, burning to defraud insurer, malicious destruction of property (not included under "violent" because not against persons).
6. Accessory after the fact. (In all cases where this charge was used, it was associated with property crimes.)

#### "Fraud and Forgery" or "Check and Fraud"

1. Check forgeries, attempts, and passing forged checks; altering checks and passing altered checks.
2. Issuing checks without sufficient funds (both felony and misdemeanor charge).
3. Obtaining property or money under false pretenses.
4. All forms of embezzlement.
5. Defrauding innkeeper.
6. All other forgeries, false statements, and fraudulent use of credit card.

#### "Drugs"

1. All "soft" drug charges (hallucinogenic, stimulant or depressant drugs, chiefly marijuana, hashish, LSD, etc.) - Possession, possession for sale, and sale.
2. All "hard" drug charges (heroin, cocaine, etc.) - Possession, possession for sale, and sale.
3. Manufacture of hard drug.
4. Attempted sales, and sales to minors.

#### "Other"

1. Escape.

2. Perjuries.
3. Concealment of evidence.
4. Inciting commission of a felony.
5. Tax evasion, and false tax returns.
6. Attempting to procure female for prostitution.
7. Failure to render assistance, leaving scene of accident, reckless driving.

### APPENDIX III

#### QUALIFIERS FOR THE ANALYSIS OF SENTENCING BY CRIME CATEGORIES

(1) Where the defendant was charged with both a felony and a misdemeanor in the same case, only the felony was used for purposes of determining the crime category for that case. Most often, the misdemeanor charge against the defendant was a charge arising from the same criminal occurrence.

(2) Where the defendant was charged with two or more offenses in the same crime category, they are recorded as a single offense in this category. No allowance was made in the computer program for more than one "sentencing" offense per defendant, and hence a hidden reason for some of the heavier sentences may be that the defendant had more than one felony conviction in that case or other cases. Appendix V describes the situations where this qualification of the data would apply.

(3) Where a defendant was charged with two or more felonies in different crime categories, the charge, disposition and sentence recorded in the crime category of the "most serious" offense charged. Appendix V describes the situations where this qualification would apply to the defendant's sentence, also defining "most serious" by showing the crime category in which the event was recorded.



## Appendix IV

### STATUTORY MAXIMUM AND MINIMUM FELONY PENALTIES AS DESIGNATED BY THE CRIMINAL CODE (Effective in 1973)

\*M = Misdemeanor to which  
a Felony Commonly Reduced  
J = Jail Sentence  
P = Penitentiary Sentence

[Historically the penitentiary was for  
felons and the jail for misdemeanants  
and persons awaiting trial.]

#### OFFENSES AGAINST THE PERSON

<u>Offense</u>	<u>Minimum</u>	<u>Maximum</u>
1st Degree murder	20 yrs	life
Obstructing or injuring R.R. or aircraft	20 yrs	life
2nd Degree murder	15 yrs	life
Manslaughter	1 yr	20 yrs
Procuring another to commit self-murder (manslaughter)	1 yr	20 yrs
Abortion (illegal)	---	\$1000 or 5 yrs] both
Physician administering poison or causing death while intoxicated (manslaughter)	1 yr	20 yrs
Negligent homicide (manslaughter)	1 yr	20 yrs
Rape (defendant 19 yrs or older, female 16 yrs or younger, or daughter or sister)	---	Penitentiary unlimited
(defendant less than 19, female 16 yrs or younger, or daughter or sister)	---	20 yrs
(all others)	1 yr	20 yrs
Lewd and lascivious acts toward children	1 yr	10 yrs
Mayhem	1 yr	20 yrs
Shooting, stabbing or cutting with intent to kill, wound, maim	1 yr	20 yrs
Assault with intent to kill, rape or rob	1 yr	15 yrs
Dueling	1 yr	10 yrs
Posting another for not engaging in duel	1 yr	2 yrs
Assault while armed	1 yr	10 yrs

<u>Offense</u>	<u>Minimum</u>	<u>Maximum</u>
* <u>M</u> Careless use of firearms		1 yr or \$1000 <sup>1</sup> both
Assault with dangerous weapon	P 6 mo J 1 mo \$100	10 yrs 1 yr \$1000
* <u>M</u> Assault and battery		6 mo, or \$500 <sup>1</sup> both
Robbery	1 yr	15 yrs
Larceny from a person	1 yr	5 yrs
Kidnapping (and conspiracy to kidnap carried out by any overt act)	any term of years	life
Receiving, possessing or disposing of ransom	1 yr	10 yrs or \$10,000 <sup>1</sup> both
Child stealing	P 6 mo J	10 yrs 1 yr or \$500 <sup>1</sup> both
Use of firearms during commission of robbery, assault, murder, rape, burglary, kidnapping		
	1st offense	10 yrs
	2nd offense	25 yrs
Blackmail	P 6 mo J 3 mo	5 yrs 1 yr
* <u>M</u> Libel and Slander	J 6 mo \$50	1 yr \$500
Sodomy	1 yr	10 yrs
Threat and false report of bombing	1 yr	\$5000 5 yrs
<u>OFFENSES AGAINST PROPERTY</u>		
1st Degree arson	2 yrs	20 yrs
2nd Degree arson	1 yr	10 yrs, or \$5000 <sup>1</sup> both
3rd Degree arson	1 yr	3 yrs, or \$3000 <sup>1</sup> both

Offenses Against Property Cont.MinimumMaximum

4th D. arson	1 yr	2 \$1000]	or both
Burning to defraud insurer	1 yr	5 \$3000]	or both
Burglary in a dwelling	1 yr	10 yrs	
Burglary in a dwelling at night	1 yr	15 yrs	
Burglary in a dwelling if occupied	1 yr	20 yrs	
Burglary not in a dwelling	2 yrs	5 yrs	
Burglary in leaving dwelling	1 yr	3 yrs	
*M [Unauthorized use, entry or occupation]			
Larceny of money or property more than \$100	1 yr	10 yrs	
*M Larceny of money or property less than \$100	J 1 mo \$25	1 yr \$100	
*M [Driving or taking vehicle without consent]		1 yr, \$1000]	or both
Larceny in building or vessel	1 yr	7 yrs	
Larceny of Animals worth more than \$50	1 yr	10 yrs	
Making, altering or defacing marks on brands (larceny)	1 yr	5 yrs	
Larceny of minerals (grand larceny)	1 yr	10 yrs	
*M Issuing checks without funds or credit		1 yr, \$1000]	or both
Issuing checks with intent to defraud (unclear) amount greater than \$50	1 yr	10 yrs	
Retention of lost property worth more than \$100 (larceny of money or property)	1 yr	10 yrs	
Embezzlement by employee or servant more than \$100	1 yr	10 yrs	
Embezzlement by bailee or servant more than \$100	1 yr	10 yrs	
Embezzlement of public money or servant more than \$100	1 yr (plus double fine of amount converted)	15 yrs	

	<u>Offenses against property, cont.</u>	<u>Minimum</u>	<u>Maximum</u>
* <u>M</u>	Embezzlement by trustee	3 mo \$50	1 yr \$1000
* <u>M</u>	Embezzlement by fiduciary	3 mo \$50	1 yr \$1000
	Buying, receiving or concealing stolen property	1 yr	3 yrs \$1000] plus
	Obtaining money or property by false pretenses	1 yr	5 yrs
	False invoice to defraud insurer	6 mo	3 yrs
	Fraudulent conveyance	6 mo	2 yrs
* <u>M</u>	Fraudulent sale of personalty subject to security interest		1 yr, or \$500] both
	Fraudulently producing heir	1 yr	10 yrs
	Substituting another child for infant	1 yr	10 yrs
	Defrauding innkeeper, more than \$100	---	5 yrs, or \$1000] both
* <u>M</u>	Defrauding innkeeper, less than \$100		
	Malicious or wanton injury to animals or other personalty	P 6 mo J 3 mo \$50	3 yrs 1 yr \$1000
	Stealing, removing or damaging parts of aircraft	---	10 yrs, or \$10,000] both
	Destroying boats	3 yrs	10 yrs
	Fitting out boat with intent that it be destroyed	1 yr	5 yrs
	Forgery of credit card	1 yr	3 yrs, or \$3000] both

<u>Offenses against property, cont.</u>	<u>Minimum</u>	<u>Maximum</u>
Fraud more than \$500 in 6 mo period, person authorized to provide goods or services upon presentation of credit card	1 yr	3 yrs \$3000] or both
Possession of incomplete credit cards with intent to complete	1 yr	3 yrs \$3000] or both
Forgery of record or certificate and uttering forged instrument	2 yrs	20 yrs
Forgery of evidence of debt or uttering forged evidence of debt	1 yr	20 yrs
Making or possessing tool designed for counterfeiting	1 yr	5 yrs
Making or possessing tool designed for counterfeiting coins	1 yr	10 yrs
Making or passing counterfeit coins	1 yr	10 yrs
Joining parts of genuine instruments (forgery)	2 yrs	20 yrs
Making false receipts or altering receipts of goods in warehouse	P 1 J 3 mo	5 yrs 1 yr
Affixing fictitious signature	2 yrs	20 yrs
Adulterating gold dust	1 yr	5 yrs
Possession of mixed or adulterated gold dust with intent to pass or sell	1 yr	5 yrs
Punishment on subsequent conviction of all forgeries	1 yr	5 yrs

#### OFFENSES AGAINST PUBLIC JUSTICE

Perjury and subornation of perjury - in criminal action punishable by life	2 yrs	20 yrs
Perjury and subornation of perjury - in other court action	3 yrs	10 yrs

<u>Offenses against public justice, cont.</u>		<u>Minimum</u>	<u>Maximum</u>
	Perjury and subornation of perjury - not in court action, or subornation of perjury	1 yr	5 yrs
	Endeavor to procure perjury	1 yr	3 yrs
	Bribery	2 yrs	10 yrs
	Accepting bribe (judicial or executive officer)	5 yrs	15 yrs
	Aiding escape from confinement	1 yr	3 yrs
	Fugitive escape from custody or confinement (if felon)	1 yr	3 yrs, or \$5000 both
*M	Fugitive escape from custody or confinement (if misdemeanor)	---	1 yr, or \$1000 both
	Officer allowing escape or refusing to receive prisoner	1 yr \$200	5 yrs, or \$1000 plus
	Rescue of prisoner	2 yrs	10 yrs
	Assault on officer in penitentiary	3 yrs	20 yrs
	Assault by person aiding escape from penitentiary	2 yrs	15 yrs
	Assault on officer in jail	10 yrs	20 yrs
	Assault by person aiding escape from jail	3 yrs	10 yrs
	Act of officer having custody (destroying evidence)	1 yr	5 yrs, or \$5000 both
	Act of other than officer destroying evidence	1 yr	3 yrs, or \$2000 both
	Filing (or offering) false or forged instruments	1 yr	2 yrs, or \$2000 both
	False certificate by public officer	1 yr	2 yrs, or \$5000 both
	Offering false evidence	1 yr	2 yrs, or \$10,000 both

<u>Offenses against public justice, cont.</u>	<u>Minimum</u>	<u>Maximum</u>
Preparing false evidence	1 yr	2 yrs or \$10,000 } both
Influencing witnesses, judges, jurors, etc. or obstructing the administration of justice	1 yr	5 yrs or \$5000 } both

CRIMES AGAINST MORALITY AND DECENCY

	Cohabiting in state of adultery or fornication	1 yr	2 yrs or \$500 } both
	Polygamy	1 yr	7 yrs
	Seduction	J 3 mo P 1 yr \$500	1 yr 5 yrs \$1000
* <u>M</u>	Lewd and lascivious	J 3 mo	1 yr
	Incest	3 yrs	15 yrs
	Sodomy	1 yr	10 yrs
	Contributing to delinquency of minor	1 yr	2 yrs
	Taking female under 16 for prostitution or marriage	J 3 mo P 1 yr \$100	1 yr 2 yrs \$500
* <u>M</u>	Prostitution (soliciting, receiving)		
	Male employed in house of prostitution or living off earnings	2 yrs	5 yrs
	Importing or exporting females for prostitution	2 yrs \$1000	20 yrs or \$5000 } both
	Placing female in house of prostitution	2 yrs \$1000	21 yrs or \$5000 } both
	Procuring or attempting to procure female for prostitution	2 yrs \$1000	20 yrs or } both

<u>Crimes against morality and decency, cont.</u>	<u>Minimum</u>	<u>Maximum</u>	
Procuring chaste female for prostitution (single act)	2 yrs	5 yrs	
Receiving money for placing female in house of prostitution	2 yrs \$1000	20 yrs \$5000	or both
Detaining female to pay debts	2 yrs \$1000	20 yrs \$5000	or both
Accepting earnings of prostitute	2 yrs \$1000	20 yrs \$5000	or both
Male living with or on earnings of prostitute	2 yrs	20 yrs	
* <u>M</u> Pimping	J 3 mo P 6 mo	1 yr 2 yrs	

#### OFFENSE AGAINST PUBLIC PEACE

Riot (if felony or misd. results, punished as a principal accordingly)			
Riot with dangerous weapon or encouraging force and violence	3 yrs	15 yrs	
Threat and false report of bombing	1 yr	5 yrs \$5000	or both
* <u>M</u> Disorderly Conduct		10 days \$300	

#### SYNDACALISM

Advocacy of criminal syndicalism	1 yr	10 yrs \$5000	or both
Participating in assembly to advocate criminal syndicalism	1 yr	10 yrs \$5000	or both



<u>WEAPONS</u>		<u>Minimum</u>	<u>Maximum</u>
Possession of weapon by convict		1 yr	5 yrs ] or \$500 ] both
<u>OFFENSES AGAINST PUBLIC POLICY</u>			
Conspiracy against rights of person		---	2 yrs ] or \$1000 ] both
<u>DRUG OFFENSES</u>			
<u>HARD DRUGS</u>			
Violation of UNDA - (heroin)	1st offense	2 yrs	10 yrs ] plus \$5000 ]
	2nd offense	10 yrs	20 yrs ] plus \$7500 ]
	3rd offense	20 yrs	40 yrs ] plus \$10,000 ]
Violating UNDA record keeping		\$500	5 yrs ] or \$5000 ] both
Illegally selling to minor (under 21)			
	1st offense	10 yrs \$5000	30 yrs \$10,000 ] plus
	2nd offense	15 yrs	30 yrs \$25,000 ] plus
	3rd offense		life
(no suspended sentences allowed, and imprisonment for minimum required before parole eligibility)			
<u>SOFT DRUGS</u>			
Depressant, Halucinogenic, Stimulant Drugs (grass, speed, etc.) - violation of possession or control laws		[misd]	1 yr

\*M

Drug offenses, cont.MinimumMaximum

Violation with intent to sell or dispose  
to another:

1st offense

---

25 yrs, or  
\$20,000] both

2nd offense

---

any term  
including  
life ] or  
\$25,000 bot

Selling to minor (under 19)

---

any term  
including  
life ] o  
\$25,000 bot

ALCOHOL

1 yr  
\$500

\*M Minor in possession

---

1 yr  
\$500

\*M Sale to a Minor

---

(plus possible license so  
revocation if judge sends  
to board)

1st offense

10 - 45 days

2nd offense

30 - 90 days

3rd offense

revocation

PARTIES TO CRIME

Accessory

---

P 1 - 5  
J 3 mo 1 yr  
\$100--\$500

MOTOR VEHICLES

	<u>Minimum</u>	<u>Maximum</u>
* <u>M</u> Driving while intoxicated	---	\$1000 1 yr (plus possible 1 yr. susp. of license)
* <u>M</u> Leaving scene of accident	---	1 yr \$500
Failure to render assistance	---	10 yrs \$10,000

PAROLE, PROBATION VIOLATIONS

Parole	---	up to original sentence
Probation	---	up to original sentence of probation or if imposition suspended any sentence that might have been imposed

APPENDIX V

TABLE LII

DISTRIBUTION OF MULTIPLE CHARGES AGAINST DEFENDANTS

A. Defendants with One Felony Charge

Crime Category	Number of Defendants
Violent	118
Robbery	20
Property	173
Drugs	96
Check & Fraud	49
Other	<u>15</u>
TOTAL:	471

B. Defendants with More Than One Felony Charge in Same Crime Category, by Numbers of Felony Charges

Crime Category	Total Number of Charges						Total Number of Defendants
	2	3	4	5	6	More	
Violent	29	12	2	1	3	--	47
Robbery	2	1	-	-	-	--	3
Property	42	10	5	3	-	4	64
Drugs	35	23	11	9	1	4	83
Check & Fraud	6	6	1	3	-	-	16
Other	2	2	-	1	-	-	5
TOTAL							218

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TABLE LII - continued

C. Defendants with More Than One Charge in Different Crime Categories, by Crime Category Coded for Statistical Purposes

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
Anchorage			
1.	Burglary in a Dwelling Assault with a Dangerous Weapon	Property Violent	Property
2.	Receiving & Concealing Drawing Check with In- sufficient Funds	Property Check & Fraud	Check & Fraud
3.	Sale, Soft Drug Felon in Possession of Firearm	Drug Violent	Violent
4.	Robbery Burglary in a Dwelling	Robbery Property	Robbery
5.	Burglary in a Dwelling Larceny of Money or Property Obtaining Money by False Pretenses Receiving & Concealing Sale, Hard Drug	Property Property Check & Fraud Property Drug	Check & Fraud
6.	Robbery Forgery - Check	Robbery Check & Fraud	Robbery
7.	Robbery Attempt to Pass a Forged Check Burglary not in a Dwelling (2 counts) Grand Larceny (2 Counts) Sale, Hard Drug(2 counts)	Robbery Check & Fraud Property Property Drug	Property
8.	Rape Sodomy Robbery	Violent Violent Robbery	Violent
9.	Burglary in a Dwelling Assault with a Dangerous Weapon	Property Violent	Property
10.	Burglary in a Dwelling Attempt to Pass a Forged Check Robbery (3 counts)	Property Check & Fraud Robbery	Robbery

--continued

TABLE LII - continued

C. continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
11.	Sale, Soft Drug Receiving & Concealing	Drug Property	Drug
12.	Contributing to Delinquency of a Minor Sale, Soft Drug	Violent Drug	Drug
13.	Burglary not in a Dwelling (2 counts) Escape	Property Other	Property
14.	Assault with a Dangerous Weapon Escape	Violent Other	Violent
15.	Contributing to Delinquency of a Minor Sale, Soft Drug	Violent Drug	Drug
16.	Tax Evasion False Tax Return (2 counts) False Writing by Public Official Embezzlement of Public Money(5 counts)	Other Other Other Check & Fraud	Other
17.	Larceny in a Building Sale, Hard Drug Possession, Hard Drug	Property Drug Drug	Drug
18.	Receiving & Concealing Assault with a Dangerous Weapon (2 counts) Attempt to Pass a Forged Check	Property Violent Check & Fraud	Violent
19.	Attempted Robbery Burglary in a Dwelling Grand Larceny(2 counts) Robbery	Robbery Property Property Robbery	Robbery
20.	Burglary in a Dwelling (2 counts) Robbery (2 counts) Assault with a Dangerous Weapon Escape	Property Robbery Violent Other	Robbery

--continued

TABLE LII - continued

C. continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
21.	Sale, Soft Drug Robbery (3 counts)	Drug Robbery	Robbery
22.	Embezzlement by Employee (2 counts) Receiving & Concealing (2 counts)	Check & Fraud Property	Check & Fraud
23.	Fraud Receiving & Concealing	Check & Fraud Property	Property
24.	Drawing Check with Insufficient Funds Grand Larceny	Check & Fraud Property	Check & Fraud
25.	Robbery Possession, Hard Drug	Robbery Drug	Robbery
26.	Robbery Receiving & Concealing (2 counts )	Robbery Property	Robbery
27.	Assault with a Dangerous Weapon Possession, Hard Drug	Violent Drug	Violent
28.	Assault with a Dangerous Weapon Attempted Sale of a Hard Drug	Violent Drug	Violent
29.	Grand Larceny Obtaining Money by False Pretenses (10 counts) Sale, Hard Drug(3 counts)	Property Check & Fraud Drug	Check & Fraud
30.	Attempt to Pass a Forged Check (2 counts) Passing a Forged Check (2 counts) Burglary in a Dwelling (4 counts)	Check & Fraud Check & Fraud Property	Check & Fraud
31.	Burglary in a Dwelling (2 counts) Robbery Sale, Hard Drug	Property Robbery Drug	Robbery

TABLE LII - continued

C. Continued

Defendant	Multiple Charges	Crime Categories represented	Crime Category Coded
32.	Robbery (3 counts) Assault with a Dangerous Weapon (3 counts) Burglary in a Dwelling Grand Larceny Larceny in a Building	Robbery  Violent Property Property Property	Robbery
33.	Burglary in a Dwelling Negligent Homicide	Property Violent	Property
34.	Assault with Intent to Rob Robbery	Violent Robbery	Robbery
35.	Larceny from a Person (3 counts) Assault with a Dangerous Weapon	Property  Violent	Property
36.	Passing a Forged Check (2 counts) Robbery Assault with Intent to Rob	Check & Fraud Robbery  Violent	Robbery
37.	Rape Burglary in a Dwelling	Violent Property	Violent
38.	Assault with a Dangerous Weapon Burglary in a Dwelling	Violent Property	Property
39.	Burglary in a Dwelling Felon in Possession of Firearms (2 counts)	Property  Violent	Property
40.	Sale, Soft Drug Escape	Drug Other	Drug
41.	Defrauding an Innkeeper Assault with a Dangerous Weapon	Check & Fraud  Violent	Check & Fraud
42.	Possession for Sale, Soft Drug Obtaining money by False Pretenses	Drug  Check & Fraud	Drug

--continued



TABLE LII - continued

## C. Continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
43.	Larceny in a Building Passing an Altered Check Receiving & Concealing	Property Check & Fraud Property	Property
44.	Burglary not in a Dwelling Possession for Sale, Soft Drug Grand Larceny Receiving & Concealing	Property  Drug Property Property	Property
45.	Robbery Burglary not in a Dwelling (2 counts) Grand Larceny	Robbery  Property Property	Robbery
46.	Burglary not in a Dwelling Receiving & Concealing Sale, Soft Drug	Property Property Drug	Property
47.	Robbery (2 counts) Sale, Soft Drug (2 counts) Sale, Hard Drug (2 counts)	Robbery Drug Drug	Drug
48.	Grand Larceny Passing a Forged Check Receiving & Concealing (2 counts)	Property Check & Fraud  Property	Check & Fraud
49.	Embezzlement by Employee (2 counts) Receiving & Concealing (2 counts)	Check & Fraud  Property	Check & Fraud
Fairbanks	50.	Rape Burglary in a Dwelling	Violent Property
	51.	Assault & Battery Obstruction of Justice	Violent Other
	52.	Sale, Soft Drug (4 counts) Solicit Another to Murder Assault & Battery Obstruction of Justice	Drug Violent Violent Other
	53.	Sale, Soft Drug Assault & Battery Obstruction of Justice	Drug Violent Other
			Drug

--continued

TABLE LII - continued

C. continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
54.	Sale, Soft Drug Burglary not in a Dwelling Carrying Weapon during a Burglary	Drug Property Violent	Violent
55.	Burglary in a Dwelling Embezzlement by Employee	Property Check & Fraud	Check & Fraud
56.	Burglary not in a Dwelling Carrying Weapon during a Burglary	Property Violent	Violent
57.	Passing a Forged Check Escape	Check & Fraud Other	Check & Fraud
Juneau 58.	Kidnap Burglary not in a Dwelling Escape	Violent Property Other	Property
59.	Assault with a Dangerous Weapon Possession for Sale, Soft Drug	Violent Drug	Violent
60.	Grand Larceny Forgery of Debt (3 counts)	Property Check & Fraud	Check & Fraud

TABLE LIII  
DISTRIBUTION OF MULTIPLE CHARGES  
CASES

A. Number of Cases with Only One Charge

Crime Category	Number of Indictments
Violent	135
Robbery	37
Property	238
Drugs	152
Check & Fraud	65
Other	20
TOTAL:	646

B. Number of Cases with More Than One Charge in the Same Crime Category, by Number of Charges

Crime Category	2	3	4	5	6	More	Total Number of Indictments
Violent	28	11	3	1	3	-	46
Robbery	1	1	-	-	-	-	2
Property	44	4	5	1	-	3	57
Drugs	42	29	8	2	-	3	84
Check & Fraud	10	5	1	2	-	1	19
Other	1	2	-	1	-	-	<u>4</u>
						TOTAL:	212

TABLE LIII - continued

C. Cases with More Than One Charge in Different Crime Categories,  
by Crime Category Coded for Statistical Purposes

Case	Multiple Charges	Crime Categories Represented	Crime Category Coded
Anchorage	1. Sale, Soft Drug Felon in Possession of Firearm	Drug Violent	Violent
	2. Robbery Burglary in a Dwelling	Robbery Property	Robbery
	3. Larceny of Money or Property Obtaining Money by False Pretenses	Property Check & Fraud	Check & Fraud
	4. Rape Sodomy Robbery	Violent Violent Robbery	Violent
	5. Burglary in a Dwelling Assault with a Dangerous Weapon Larceny in a Building	Property Violent Property	Property
	6. Sale, Soft Drug Contributing to Delin- quency of a Minor	Drug Violent	Drug
	7. Sale, Soft Drug Contributing to Delin- quency of a Minor	Drug Violent	Drug
	8. Tax Evasion False Tax Return (2 Counts) False Writing by Public Official  Embezzlement of Public Money (5 Counts)	Other  Other  Other  Check & Fraud	Other
	9. Burglary in a Dwelling Grand Larceny (2 counts) Robbery	Property Property Robbery	Robbery
	10. Burglary in a Dwelling Robbery	Property Robbery	Robbery
	11. Assault with a Dan- gerous Weapon Robbery Escape	Violent Robbery Other	Robbery

TABLE LIII - continued

C. continued

Case	Multiple Charges	Crime Categories Represented	Crime Category Coded
12.	Embezzlement by Employee (2 Counts) Receiving & Concealing (2 Counts)	Check & Fraud Property	Check & Fraud
13.	Embezzlement by Employee (2 Counts) Receiving & Concealing (2 Counts)	Check & Fraud Property	Check & Fraud
14.	Receiving & Concealing Fraud	Property Check & Fraud	Property
15.	Robbery Burglary in a Dwelling	Robbery Property	Robbery
16.	Robbery Assault with a Dangerous Weapon	Robbery Violent	Robbery
17.	Robbery Assault with a Dangerous Weapon (2 Counts) Burglary in a Dwelling	Robbery Violent Property	Robbery
18.	Assault with Intent to Rob Robbery	Violent Robbery	Robbery
19.	Assault with Intent to Rob Robbery	Violent Robbery	Robbery
20.	Rape Burglary in a Dwelling	Violent Property	Violent
21.	Assault with a Dangerous Weapon Burglary in a Dwelling	Violent Property	Property
22.	Possession for Sale, Soft Drug Obtaining Money by False Pretenses	Drug Check & Fraud	Drug
23.	Burglary Not in a Dwelling Possession for Sale, Soft Drug Grand Larceny Receiving & Concealing	Property Drug Property Property	Property

TABLE LIII - continued

C. continued

	Case	Multiple Charges	Crime Categories Represented	Crime Category Coded
Fairbanks	24.	Possession for Sale, Soft Drug Receiving & Concealing	Drug Property	Property
	25.	Rape Burglary in a Dwelling	Violent Property	Violent
	26.	Obstruction of Justice Assault & Battery	Other Violent	Other
	27.	Obstruction of Justice Assault & Battery	Other Violent	Other
	28.	Obstruction of Justice Assault & Battery	Other Violent	Other
	29.	Burglary Not in a Dwelling Carrying a Weapon during a Burglary	Property Violent	Violent
	30.	Burglary Not in a Dwelling Carrying a Weapon during a Burglary	Property Violent	Violent

TABLE LIV  
DEFENDANTS SENTENCED ON  
MULTIPLE CHARGES

A. Number of Defendants Sentenced on Only One Charge

Crime Category	Number of Defendants
Violent	99
Robbery	16
Property	171
Drugs	94
Check & Fraud	36
Other	9
TOTAL	425

B. Defendants Sentenced on More than One Charge in the Same Crime Category, by Numbers of Charges

Crime Category	Total Number of Charges				Total Number of Defendants
	2	3	4	5	
Violent	7	-	-	1	8
Robbery	2	-	-	-	2
Property	22	1	3	-	26
Drugs	21	8	1	1	31
Check & Fraud	5	-	-	1	6
Other	1	-	-	-	1
TOTAL:					74

TABLE LIV - continued

C. Defendants Sentenced on More than One Charge in Different Crime Categories, by Crime Category Coded for Statistical Purposes

	Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
Anchorage	1.	Possession, Soft Drug Felon in Possession of a Firearm	Drugs Violent	Violent
	2.	Rape Robbery	Violent Robbery	Violent
	3.	Assault & Battery (2 counts) Attempt to Pass a Forged Check	Violent Check & Fraud	Violent
	4.	Burglary in a Dwelling Robbery (2 counts)	Property Robbery	Robbery
	5.	Robbery Burglary in a Dwelling	Robbery Property	Robbery
	6.	Possession, Soft Drug Robbery (3 counts)	Drugs Robbery	Robbery
	7.	Robbery Receiving and Con- cealing	Robbery Property	Robbery
	8.	Burglary in a Dwelling (2 counts) Robbery	Property Robbery	Robbery
	9.	Robbery Larceny in a Building	Robbery Property	Robbery
	10.	Passing a Forged Check (2 counts) Robbery Assault with Intent to Rob	Check & Fraud Robbery Violent	Robbery
	11.	Burglary not in a Dwell- ing Receiving and Concealing Sale, Soft Drug	Property Property Drug	Property



TABLE LIV - continued

Defendant	Multiple Charges	Crime Categories Represented	Crime Category Coded
12.	Larceny in a Building Passing an Altered Check	Property Check & Fraud	Property
13.	Petty Larceny Sale, Hard Drug Possession for Sale, Hard Drug	Property Drug	Drug
14.	Sale, Soft Drug Escape	Drug Other	Drug
15.	Passing a Forged Check Receiving and Con- cealing	Check & Fraud Property	Check & Fraud
16.	Attempt to Pass a Forged Check (2 counts) Passing a Forged Check (2 counts) Burglary in a Dwel- ling	Check & Fraud Check & Fraud Property	Check & Fraud
17.	Defrauding an Inn- keeper Assault & Battery	Check & Fraud Violent	Check & Fraud
18.	Rape Burglary in a Dwel- ling	Violent Property	Violent
19.	Sale, Soft Drug Carrying a Weapon during a Burglary	Drug Violent	Violent
20.	Sale, Soft Drug Assault & Battery	Drug Violent	Drug

Fairbanks

## FOOTNOTES

1. Personal interview with police chiefs in Juneau and Fairbanks, and police officers in Anchorage.
2. Alaska Constitution, Article I, Section 12.
3. Nicholas v. State, 477 P.2d 447 (1970).
4. AS 12.25.010.
5. Ak. R. Crim. P. 4(a)(1).
6. AS 12.25.030.
7. Ak. R. Crim. P. 4(a)(2).
8. Estimates given by John Denning, Anchorage Police Department.
9. Estimates given by Alaska Court System, Administrative Manager, Technical Operations.
10. Id.
11. See, Table XII, p. 60
12. AS 12.25.150; Ak. R. Crim. P. 5.
13. Ak. R. Crim. P. 10.
14. AS 12.40.020-030; Ak. R. Crim. P. 10.
15. Personal interviews with Assistant District Attorneys in Anchorage, August, 1974.
16. Ak. R. Crim. P. 5(e)(1).
17. Ak. R. Crim. P. 5(e)(2).
18. Personal interviews with criminal attorneys and judges in these areas.
19. See Table XXIII, p. 84
20. See Table XVIII, p. 74
21. Id. The exact figure for defendants pleading guilty as charged is slightly lower than the figure shown on the Table, for the latter includes a small number of cases where the defendant was convicted as charged at trial.
22. See Table XVIII, p. 74

23. Alaska Court System Statistical Research Project, Final Report, December 31, 1973, R. L. Ellis, Table 5. Exact figures are not quoted because plea-reduced charges were included as dismissals, rendering figures misrepresentative of whether or not the cases were truly "disposed."
24. Ak. R. Crim. P. 16(f).
25. S. Elmann, Alaska's Criminal Litigation Process, Working Paper for the Alaska Judicial Council, July 1974.
26. Ak. R. Crim. P. 45(b).
27. See p. 173.
28. Interviews with prosecutors, defense counsel and judges in Anchorage, Fairbanks and Juneau, 1974.
29. Seven dismissals for this reason were found in the cases studied, all in Anchorage.
30. Id.
31. Stated by the Public Defender at a workshop of the Third Annual Criminal Justice Conference, June 1974, Eagle River, Alaska.
32. Interviews with prosecutors, defense counsel and judges in Anchorage, Fairbanks and Juneau, 1974.
33. Personal interview with police chiefs in Juneau and Fairbanks, and police officers in Anchorage.
34. Interviews with defense attorneys in Anchorage, Fairbanks and Juneau.
35. Ak. R. Crim. P. 11.
36. Id.
37. Ak. R. Crim. P. 32(d).
38. AS 22.20.022; Ak. R. Crim. P. 10(c).
39. Interviews with Alaska superior court judges.
40. Interviews with prosecutors, defense counsel and judges in Anchorage, Fairbanks and Juneau, 1974.
41. Interview with Joel Bennett, Legislative Affairs Agency, Juneau, September, 1974.
42. AS 11.25.010-020; AS 11.15.240; AS 11.20.080; AS 11.15.160; AS 11.20.350; AS 11.20.140.

43. See Table XXIII, p. 84
44. See Part II, 89.
45. See Table XXIV, p. 86
46. See Table XXVI, p. 90
47. See Part II, Section Three, p.172 et seq.
48. Ak. R. Crim. P. 32.
49. See Part II, Section Two, p.162.
50. Interviews with Alaska superior court judges.
51. Ak. R. Crim. P. 32(c).
52. Interview with Fred Fowler, Probation and Parole Supervisor, Department of Health and Social Services, Division of Corrections, Anchorage, October 1974.
53. Ak. R. Crim. P. 32(a).
54. See Part II, Section Three, p.172
55. See Table XXIII, p. 84
56. Interviews with Public Defenders in Anchorage, Fairbanks and Juneau.
57. See Table XLIII, p. 125
58. AS 12.55.080, 090.
59. AS 12.55.100.
60. AS 12.55.085.
61. AS 12.55.085(d) and (e).
62. AS 11.05.150.
63. AS 12.55.075.
64. AS 12.55.040-050.
65. AS 11.05.050.
66. AS 11.05.040.
67. Hood v. Smedley, 198 P.2d 120 (1971).
68. Ak. R. Crim. P. 35(a), (k); AS 12.55.080.

69. AS 11.05.060; AS 33.30.100.
70. AS 12.55.120.
71. Ak. R. Crim. P. 32.2(a).
72. Interview with Justice Robert Erwin of the Alaska Supreme Court, October 1974.
73. See Part II, Section Three, p.172et. seq.
74. AS 33.15.230(a)(1).
75. AS 33.15.080.
76. Hindelang, et. al., Sourcebook of Criminal Justice Statistics, 1973. U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service. Table 4.5, p. 270.
77. U.S. Bureau of the Census, Census Population 1970, General Social and Economic Characteristics, Alaska.
78. Id. Also Greater Anchorage Area Borough Planning Department, July 1974 population estimates.
79. Id. at Table 4.7, p. 272.
80. Id. Also Greater Anchorage Area Borough Planning Department, July 1974 population estimates.
81. One dismissed robbery case against a Fairbanks defendant was discovered. He was also convicted of an embezzlement, and is classified throughout the report as a check and fraud defendant.
82. The Challenge of Crime in a Free Society, Report of the President's Commission on Law Enforcement and the Administration of Justice, U.S. Government Printing Office, February 1967, at p. 45.
83. The information desired was imperfectly researched by the staff. Names of defense attorneys were recorded, but whether or not the attorneys were public defenders was not recorded properly.
84. According to assistant public defenders interviewed in Anchorage and Fairbanks during 1974.
85. Taylor, An Analysis of Defender Counsel in the Processing of Felony Defendants in San Diego, California, 49 Denver L.J. 233, 249 (1972).
86. Id.
87. Bail in Anchorage, Alaska Judicial Council, 1975.
88. Id. at p. 70.

89. Id. at p. 19.

90. Donald J. Newman, Conviction, The Report of the American Bar Foundation's Survey of the Administration of Criminal Justice in the United States, Little, Brown and Company, 1966, at p. 3.

91. The well-publicized deaths of Dennis Cronin and Bernard Lono, Jr., in Anchorage late in 1973.

92. Hindelang, et. al., Sourcebook of Criminal Justice Statistics, 1973. U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service. Figure 5.4 at p. 328.

93. AS 12.30.040(b).

94. Bail in Anchorage, Alaska Judicial Council, 1974, p. 19.

95. Donlun v. State, 527 P.2d 472 (Alaska, 1974).

96. Speas v. State, 511 P.2d 130 (Alaska, 1973).

97. AS 11.05.060; AS 33.30.100.

98. Interviews with defense attorneys in Anchorage, Fairbanks and Juneau, 1974.

99. Personal interview with police chiefs in Juneau and Fairbanks, and police officers in Anchorage.

100. Crow v. State, 517 P.2d 756 (Alaska 1973).

101. Adams v. State, 521 P.2d 516 (Alaska, 1974).

102. Donlun v. State, 527 P.2d 472 (Alaska, 1974), at 475.

103. Id.

104. Id.

105. Id.