Alaska Judicial Council

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ALASKA MISDEMEANOR SENTENCES: 1974-76

RACIAL DISPARITY

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Methodology

This analysis is based on 1795 cases that began as misdemeanor charges and resulted in convictions during the two-year period between August 15, 1974 and August 14, 1976. The data contains offenses against state and municipal codes in Anchorage and Fairbanks. It was originally collected for purposes of our plea bargaining study.

The population source was the Judicial Information System records which are the official records of the Alaska Court System. The Technical Operations office of the court system (Mr. Merle Martin) furnished us with a listing of about 14,000[1] misdemeanor convictions by case number for the two-year period of interest. On the basis of standard statistical procedures a sample size was determined that would be representative of this population. The size of the total sample was then increased to enhance its representativeness, and, as we will explain below, to allow for the overrepresentation of cases convicted after trials.

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[1] Although the official records for the period of the study are no longer available, Merle Martin of Technical Operations estimated that there were approximately 14,400 misdemeanor convictions during this period.

The major hypothesis that was originally to be tested under the federal grant concerned changes, if any, in plea/trial sentencing differentials--differences in sentences received by those convicted after trial vis-a-vis those who pled guilty. We sought to find out whether such differentials were affected by the new plea bargaining policy. Thus, it was important to sample a sufficient number of cases that were convicted after trial. Since proportionately few cases actually went to trial, it was decided that all of the 309 trial cases during the two-year period (309 out of 14,000) should be included in the sample. The remainder of the sample--i.e., the 1486 convictions that involved guilty pleas--were randomly selected from the Judicial Information Systems records using a standard sampling technique. According to this technique cases are selected according to random numbers taken from a table of random numbers. The overweighted trial convictions constituted 17% of the present sample N of 1795 cases, while randomly-selected guilty-plea sentences constituted the remaining 83%.[2]

The basic outcome variable of "sentence"--both jail and fine-- was adjusted to reflect periods of time and sums of money suspended from the sentence. Means (averages) of these adjusted or "net" sentences were then used in breakdown and analysis of variance procedures to

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[2] The 309 trial cases included 38 Black cases (28.1% of all Black cases in the sample), 57 Native cases (10.8% of all Native cases), and 215 White cases (18.2% of all White cases). This is fairly consistent with findings in our felony plea bargaining study indicating that Blacks go to trial more often that Whites and Natives go to trial least of all among the three groups.

compare sentences across different subpopulations or groups. Thus, for instance, mean sentences can be broken down according to the level of severity of the defendant's prior record, by his racial group, by whether the conviction was by guilty plea or trial, or by several of these variables at once. The likelihood of receiving probation is expressed by the proportion (in per cent) of a subpopulation that receives a zero jail sentence.

For purposes of analysis we classified misdemeanor offenses according to five broad categories that we believed reflected some substantive similarity. These include (1) Property, (2) Street Crimes, (3) Assaults, (4) Traffic and (5) CMVI-DWI offenses. Representative offenses included in each of these categories are listed in footnote 3, infra.

Analysis Across All Five Offense Classes

The tables that follow deal primarily with mean (average) sentences. Jail times are in days and fines in dollar amounts. These mean sentences were computed only for defendants who received active sentences--that is, sentences of at least one day in jail. Thus, cases that received no active time (0 days in jail) are omitted from the computation.

Averaging in all offenses, Natives and Blacks received substantially longer jail sentences than Whites (Table I). The mean jail

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term for Natives (13.76 days) is 83% longer than that of Whites (7.53 days). The mean jail term for Blacks (11.06 days) is 68% higher than that of Whites.

TABLE I

OVERALL MEAN JAIL SENTENCES
BY RACE (IN DAYS)

Blacks	11.06	(64)
Natives	13.76	(181)
Other	7.53	(286)

significant at .001

These mean sentences do not take into account the substantive nature of the convicted offenses or any other variables. Table II reflects a breakdown of mean sentences according to the type or class of misdemeanor at conviction.[3]

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[3] For purposes of this analysis, misdemeanors were classified in five broad groups. These classes are not the same as those we used in the felony analysis. Class I: Property Offenses. Includes petty larceny, malicious destruction, concealment of merchandise, joy riding, credit card theft, and misdemeanor embezzlement. Class II: Street Crimes. Includes disorderly conduct, vagrancy, and prostitution-related offenses, and non-traffic alcohol offenses. Class III: Assaults. Includes simple assault and battery, "misdemeanor" assault with a dangerous weapon and misdemeanor weapons offenses. Class IV: Traffic Offenses. Include reckless driving, negligent driving, and failure to render assistance. Class V: OMVIs and DWI.

TABLE II

MEAN JAIL SENTENCES FOR EACH
CLASS OF MISDEMEANOR BY RACE
(IN DAYS)
(ACTIVE JAIL ONLY)

	BLACKS	NATIVES	WHITES	SIGNIFICANCE
PROPERTY	12.04 (26)	18.30 (78)	7.39 (79)	.001
STREET	13.84 (19)	6.18 (28)	8.66 (53)	NO
ASSAULTS	9.20 (10)	9.43 (23)	8.50 (29)	NO
TRAFFIC	10.00 (1)	20.33 (12)	6.88 (26)	.001
OMVI	3.75 (8)	11.00 (39)	6.94 (100)	.05

The above table indicates that mean Native jail sentences are
substantially[4] longer than those of whites for three of the misdemeanor
types: property offenses (148% higher), traffic offenses (195% higher),
and OMVI/DWIs (59% higher). Among street offenses, Natives received a
less severe mean jail sentence than Whites (29% less than Whites).
Black mean sentences are substantially longer than White sentences
in two classes of offense--property (63%) and street (60%).

Note that there are no appreciable differences in mean sentences
among the three racial groups for misdemeanor assaults. This parallels

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[4] "Substantial has been operationally defined as a mean
sentence 50% greater than the mean sentence for Whites.

the finding of our previous felony sentencing study in which Class 2 (violent) offenses were apparently unaffected by any racial bias.

Another way of representing the overall differences in the sentences received by the three racial groups is to compare the proportion of each population receiving a categorical sentence. Five categories of length of jail sentence were used in this analysis, including (1) no active time (all suspended), (2) one to three days in jail, (3) four to seven days, (4) eight to fourteen days, and (5) over fifteen days.[5] Table III (a bar graph) represents in graphic form the proportion of Black, Native and White defendants receiving these categorical sentences.

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[5]   These categories were selected based on a frequency distribution of all misdemeanor sentences. We were interested in utilizing a scheme where each level (or category) would have a substantial number of cases.
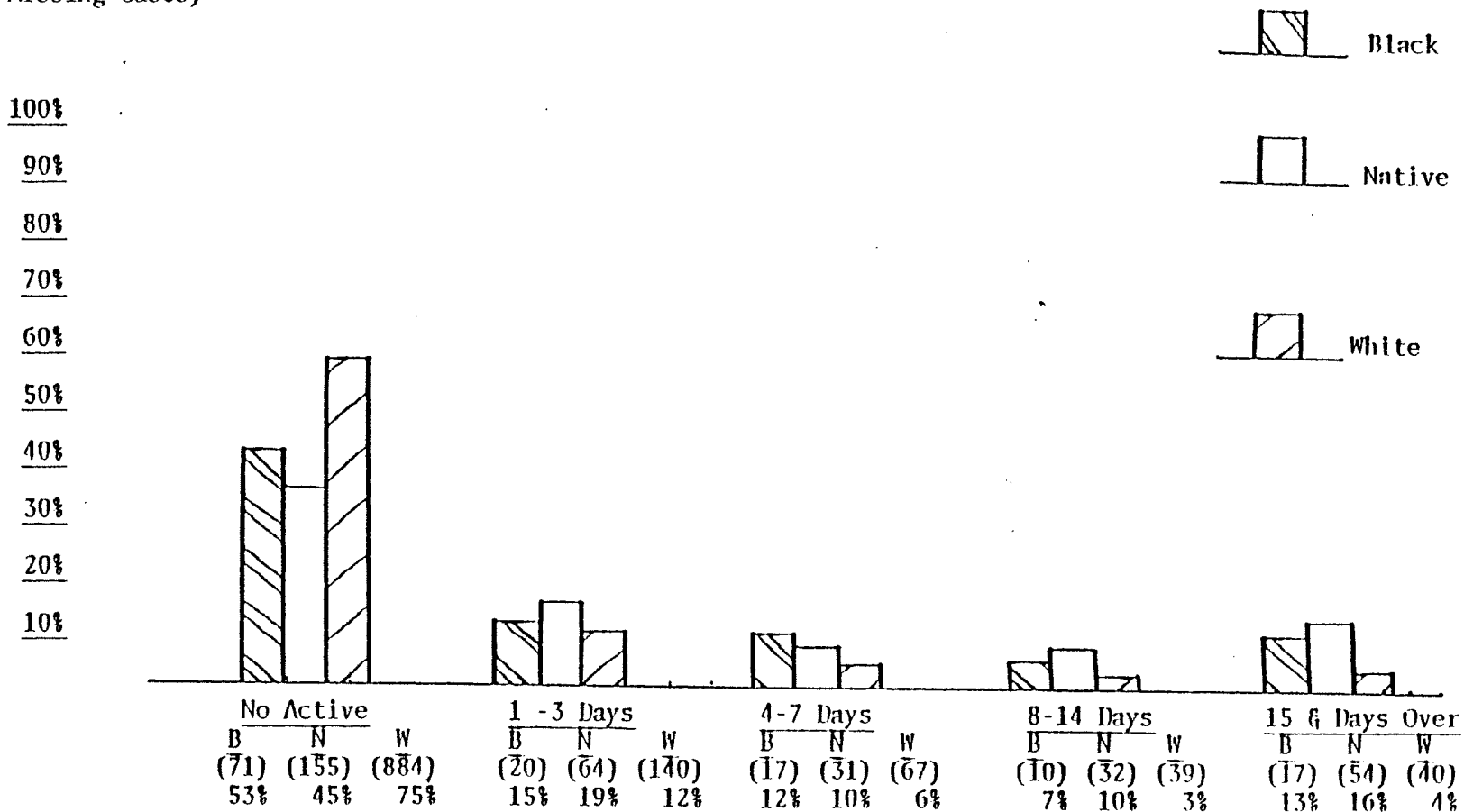
TABLE III

PROPORTION OF RACIAL SUBGROUPS
RECEIVING CATEGORICAL SENTENCES

PROPORTION OF RACIAL GROUP
(in %)

(135 Blacks = 100%)

(342 Natives = 100%)

(1180 Whites = 100%)

TOTAL N= 1657 (138 Missing Cases)

Black

Native

White

	No Active			1 -3 Days			4-7 Days			8-14 Days			15 & Days Over		
	B	N	W	B	N	W	B	N	W	B	N	W	B	N	W
	(71)	(155)	(884)	(20)	(64)	(140)	(17)	(31)	(67)	(10)	(32)	(39)	(17)	(54)	(40)
	53%	45%	75%	15%	19%	12%	12%	10%	6%	7%	10%	3%	13%	16%	4%

100%
90%
80%
70%
60%
50%
40%
30%
20%
10%

Prior Record

The severity of the defendant's prior criminal record shows a strong positive association with length of jail sentence. As Table IV shows, mean jail sentence increases as the prior record increases in severity. This table indicates that those defendants with the worse prior _misdemeanor_ records (10 or more prior misdemeanor convictions) received longer mean sentences than those with two or more prior felony convictions.

TABLE IV

MEAN JAIL SENTENCES
BY LEVEL OF SEVERITY OF
PRIOR RECORD
(IN DAYS)
(ACTIVE JAIL SENTENCES ONLY)

All Defendants	10.08	(566)
No prior record	7.42	(188)
1-3 misdemeanors	9.10	(195)
4-9 misdemeanors	10.20	(84)
10/more misdemeanors	19.00	(19)
2/more felonies	17.25	(73)

Given the relationship between severity of prior record and length of jail sentence it is important to consider the distribution of Natives and Whites within the prior-record variable. Perhaps Natives have considerably worse prior records than Whites, and perhaps this difference in prior records explains their longer mean jail sentences.

TABLE V

PROPORTION OF RACIAL
GROUP BY LEVEL OF
SEVERITY OF PRIOR RECORD
(PROPORTION EXPRESSED IN %)

	Natives	Whites
No prior record	28% (97)	53% (623)
1-3 misdemeanors	38% (127)	30% (341)
4-9 misdemeanors	17% (59)	8% (91)
10/more misdemeanors	4% (12)	1% (14)
2/more felonies	13% (43)	8% (89)

significant at .001

Table V, above, indicates that Natives do have worse prior records than Whites. Subsequent tables consider the hypothesis that these worse prior records account for their longer mean jail sentences. Accordingly, mean jail sentences were broken down according to the above levels of severity of prior record for Natives and Whites.

Table VI (below) shows that Natives consistently received longer sentences than Whites among all levels of prior record. Whether the Natives had many prior convictions or few prior convictions, when compared to Whites in the same prior-record group, the Natives always received more severe sentences. Note that Natives with no prior convictions at all received jail sentences almost twice as long as those of similarly situated Whites (11.00 days vs. 6.05 days).

TABLE VI

MEAN JAIL SENTENCES BY
LEVEL OF SEVERITY OF PRIOR
RECORD BY RACE
(IN DAYS)
(ACTIVE JAIL SENTENCES ONLY)

	Natives	Whites	Significance
No prior record	11.00 (41)	6.05 (112)	.005
1-3 misdemeanors	11.82 (65)	6.69 (102)	.05
4-9 misdemeanors	11.96 (38)	9.15 (34)	NO
10/more misdemeanors	26.33 (9)	12.40 (5)	.05
2/more felonies	21.81 (26)	13.57 (30)	.05

However, when mean _fines_ are broken down according to this scheme, the pattern is reversed. (See Table VII). That is, Natives consistently received lower fines than Whites (with the exception of first offenders, where fines are substantially equal).

TABLE VII

MEAN FINES BROKEN DOWN
BY LEVEL OF SEVERITY OF
PRIOR RECORD BY RACE
(IN DOLLARS)

	Natives	Whites	Significance
No prior record	$158.40 (53)	$157.27 (519)	NO
1-3 misdemeanors	$139.69 (65)	$195.11 (282)	NO
4-9 misdemeanors	$189.17 (24)	$216.26 (66)	NO
10/more misdemeanors	$141.67 (3)	$287.50 (8)	NO
2/more felonies	$197.69 (13)	$206.33 (64)	NO

Staying Out of Jail

As noted earlier, all sentences of zero days (no jail time at all) were omitted from the above computations. We will now consider zero sentences separately in order to deal with the following possibility: When jail sentences are handed out Natives are incarcerated for more time, but perhaps this fact is "balanced" by Natives more frequently receiving sentences requiring no time at all, omitted from the previous averaging. Accordingly, Table VIII indicates the proportion of cases that received no jail time, by race, among the five substantive classes of misdemeanors.

TABLE VIII

PROPORTION OF CASES RECEIVING
NO ACTIVE JAIL SENTENCE
BY CLASS OF MISDEMEANOR AND
BY RACE
(PROPORTION EXPRESSED
IN PERCENT)

	Natives	Whites	Significance
Property	25% (26)	52% (87)	.001
Street	62% (46)	78% (191)	.005
Assaults	44% (18)	60% (42)	NO
Traffic	66% (23)	91% (260)	.001
OMVI	55% (47)	76% (314)	.001

Table VIII was compiled to test the alternative hypothesis that more Natives received zero sentences than did Whites, which might have "balanced out" the tendency for Natives to get more active time once the basic incarceration or "in" decision was made. However, Table VIII refutes this hypothesis and actually strenghtens the opposite case. Natives avoided incarceration less often than Whites among all classes of misdemeanor convictions. The numbers of cases in each group are reasonably large. Note that the previously-observed "pro-Native" sentencing differential in street offenses dissipates when the incarceration (in/out) decision is analyzed separately.

Defendants With Clean Records

In an effort to "neutralize" the effect of prior record and simplify comparisons we constructed Table IX, which compares _first offense_ Native and White mean jail sentences for each of the five classes of misdemeanors.

TABLE IX

MEAN JAIL SENTENCES
FOR FIVE CLASSES OF MISDEMEANORS
BY RACE
FIRST OFFENDERS ONLY

	Natives	Whites	Significance
Property	13.00 (11)	4.73 (40)	.01
Street	4.57 (7)	8.62 (21)	NO
Assaults	9.14 (7)	8.33 (9)	NO
Traffic	22.00 (7)	5.25 (12)	.01
OMVI	14.80 (10)	5.69 (29)	.05

As can be seen from this table, the Native-White sentence differentials among property, traffic and OMVI offenses are even greater for first offenders than for defendants generally. Native jail sentences

for property offenses were 175% greater than for Whites, while mean sentences for traffic offenses were 319% longer than the White mean. Finally, Native CMVI sentences were 160% greater than for Whites. However, in street crimes Native first offenders were accorded more lenient treatment than Whites. ("Street" includes prostitution, disorderly conduct, vagrancy, etc.)

Defendants With Bad Records

To contrast with the "clean" first offenders, let us consider a "bad" group of defendants. We selected those with the worst records[6] (10 or more prior misdemeanor convictions) for analysis. Since the number of cases involved in this table is too small to break down by type of crime, we chose to look at this group on an overall basis, regardless of the nature of the last charge. This seems reasonable, since by the time a person has accumulated a record of over 10 previous convictions, what kind of mischief he has been up to "lately" may not be of overriding importance (if it is still on the misdemeanor level).

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[6] As Table IV indicates, overall, defendants with 10 or more prior misdemeanor convictions received the highest mean sentence (19.00 days).

TABLE X

COMPARISON OF NATIVES AND
WHITES WITH 10 OR MORE
PRIOR MISDEMEANOR CONVICTIONS

	Natives (n=12)	Whites (n=14)
Proportion receiving no active jail	25%	64%
Mean jail sentence	19.75 days	4.43 days
Mean fine	$35.42	$164.29
Mean number of prior misdemeanors	11.5	13.0

N too small for significance tests

As these comparisons indicate, Native sentences persist in being longer than those of Whites, while their likelihood of receiving probation is less. The sizes of the two groups are very comparable, and within this group the Whites actually have somewhat more previous convictions.

Alcohol Intoxication At Time of Arrest

In an effort to obtain information concerning the effect on sentences of alcohol use among the defendants in the sample, the coding instrument included the following item which was to be completed from information on the police report.

What was condition of defendant? (1=Defendant alleged
by reporting officer to be under influence of liquor;
2=Defendant alleged by reporting officer to be under
influence of drugs; 3=neither or no indication)

While this variable does not provide a perfect measure of the information
we seek, it is a fairly good proxy.

Overall, in 37% (n=123) of Native cases and in 47% (n=512) of
White cases the reporting police officer said the defendant was under
the influence of alcohol at the time of arrest. Information was un-
obtainable (missing) for 236 defendants (13% of the total N in the
sample). A reasonable assumption is that the police reports made no
mention of alcohol or drugs in most of the "missing" cases.

TABLE XI

MEAN JAIL SENTENCES
BY RACIAL GROUPS FOR
ALCOHOL INTOXICATION
AT TIME OF ARREST
(IN DAYS)
(ACTIVE JAIL SENTENCES ONLY)

	Natives	Whites
No alcohol	15.13	8.07
	(124)	(169)
Alcohol intoxication at arrest	10.79	6.76
	(57)	(117)

Table IX indicates that alcohol intoxication at the time of arrest--for those defendants for whom this data was available--was associated with lower mean sentences for both Natives and Whites. However, Native defendants received substantially longer mean jail sentences than Whites, whether or not intoxicated at arrest.

Multiple Regression Analysis

The preceding breakdown tables allow us to consider the relationship between two variables--for example jail time and race-- while controlling for variation in other variables, e.g., severity of prior record. However, they do not allow us to control for variation among several variables at once, or to take into account the inter-relationships among these variables. Accordingly, we turned to multiple regression analysis which shows us the independent effect of a single variable on length of sentence, while at the same time controlling for variation among a number of other factors. Multiple regression analysis provides a set of coefficients for each of the variables considered in the analysis. These coefficients are an index to the relative con-tribution of each variable while controlling for the others. Consider the coefficients in Table XII, below.

TABLE XII

MULTIPLE REGRESSION COEFFICIENTS
(ALL OFFENSE CLASSES)

CMVI conviction	-0.789
Native	+2.391
White	-1.400
Each prior misdemeanor conviction	+0.658
Property conviction	+3.811

The above coefficients indicate that a property conviction is the single most important factor associated with a positive jail sentence when the other listed factors (or variables) are controlled for. Moreover, the Native-White disparity noted in the earlier break-down analysis is confirmed by the coefficients. Whereas being Native has a coefficient of +2.391, being White has a coefficient of -1.400. Any easy (but very crude) way to interpret these coefficients is that, other things being equal (e.g. the number of prior misdemeanor convictions of the defendant and the substantive class of offense) Native defendants receive average jail terms four (4) days longer than Whites.

One hypothesis that we considered earlier concerns the effect of being intoxicated at the time of arrest. Specifically, we ask whether it is Nativeness, in and of itself, that accounts for the higher jail sentences of Natives, or whether these higher sentences are in actuality a function of alcohol intoxication. The following multiple

regression coefficients, which add alcohol intoxication to the list of variables in Table XII, above, allow us to test this hypothesis.

TABLE XIII

MULTIPLE REGRESSION COEFFICIENTS
(ALL OFFENSE CLASSES)

OMVI conviction	-0.818
Native	+2.367
White	-1.420
Each prior misdemeanor conviction	+0.670
Alcohol intoxication	+0.127
Property conviction	+3.852

Table XIII, above, indicates that this hypothesis fails. First, the coefficient for alcohol intoxication at the time of arrest is very small, indicating that its independent contribution to jail sentence is slight. More importantly, the Native-White disparity remains nearly the same. Thus, it is not alcohol intoxication which accounts for the higher Native sentences.

PROPERTY OFFENSES

This section is exclusively concerned with misdemeanor property sentences. These include sentences for petty larceny, malicious destruction, concealment of merchandise, credit card theft, misdemeanor embezzlement and trespass. There were a total of 104 Native and 166 Whites convicted of property offenses.

Table XI indicates the overall mean jail sentence and fines for Natives and Whites convicted of property offenses.

TABLE XIV

MEAN SENTENCES FOR
PROPERTY OFFENSES BY RACE
(IN DAYS AND DOLLARS)
(ACTIVE SENTENCES ONLY)

	Natives	Whites	Significance
Mean Jail	18.30 (78)	7.39 (79)	.001
Mean Fine	$73.27 (26)	$89.20 (94)	NO

Thus, while Native mean jail sentences were 148% longer than those of whites, their mean fines were 18% less.

Differences between Native and White categorical sentences for property offenses are indicated graphically in Table XV. (See the discussion of these categorical sentences in the preceding section).

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TABLE XV

PROPORTION OF RACIAL GROUP
RELIEVING CATEGORICAL SENTENCES

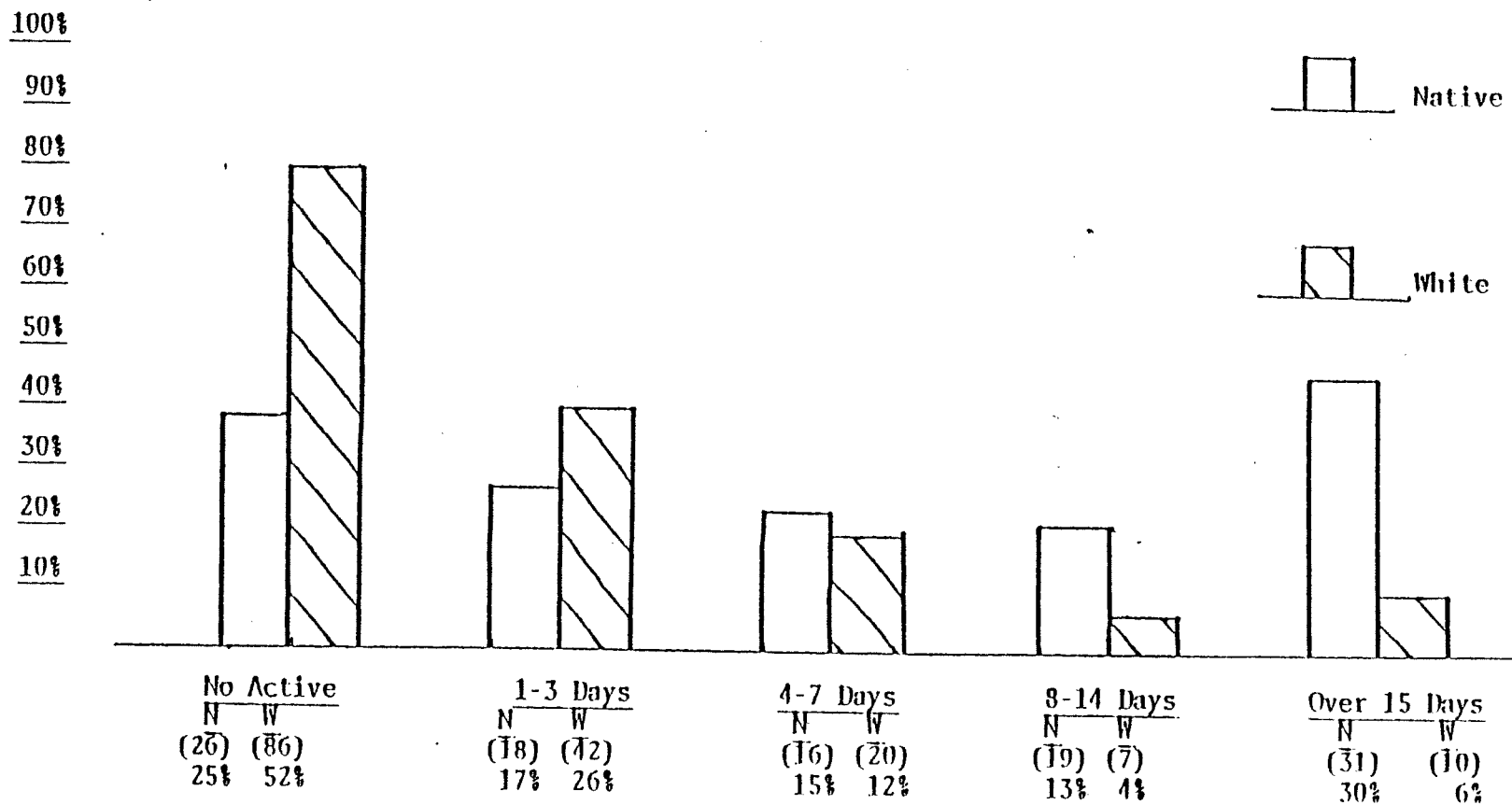PROPORTION OF RACIAL GROUP

(In %)

PROPERTY OFFENSES

	No Active		1-3 Days		4-7 Days		8-14 Days		Over 15 Days	
	N	W	N	W	N	W	N	W	N	W
	(26)	(86)	(18)	(42)	(16)	(20)	(19)	(7)	(31)	(10)
	25%	52%	17%	26%	15%	12%	13%	4%	30%	6%

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TABLE XVI

PROPORTION OF RACIAL GROUP
BY LEVEL OF SEVERITY OF
PRIOR RECORD
(PROPORTION EXPRESSED IN %)

	Natives	Whites
No prior record	17% (17)	56% (92)
1-3 misdemeanors	38% (39)	28% (45)
4-9 misdemeanors	17% (17)	7% (12)
10/more misdemeanors	6% (6)	1% (2)
2/more felonies	22% (22)	8% (13)

significant at .001

Table XII reflects the distribution of level of severity
of prior record for Natives and Whites. As this table indicates,
Natives convicted of property offenses have substantially worse prior
records than comparable Whites. The tables that follow consider the
hypothesis that the worse prior record of Natives account for their
longer property-offense sentences.

Tables XVII and XVIII, which follow, indicate the impact of
the level of severity of the defendant's prior record on the disparities
noted in Table XIV. Zero sentences are not computed.

TABLE XVII

MEAN JAIL SENTENCES FOR PROPERTY OFFENSES BY LEVEL OF SEVERITY OF PRIOR RECORD BY RACE (IN DAYS)

	Natives	Whites	Significance
No prior record	13.00 (11)	4.73 (40)	.01
1-3 misdemeanors	11.36 (25)	8.16 (25)	NO
4-9 misdemeanors	17.73 (15)	10.83 (6)	.05
10/more misdemeanors	41.00	-----	
2/more felonies	25.75 (20)	15.75 (8)	.05
Missing	(2)		

TABLE XVIII

MEAN FINES FOR PROPERTY OFFENSES BY LEVEL OF SEVERITY OF PRIOR RECORD BY RACE (IN DOLLARS)

	Natives	Whites	Significance
No prior record	$100.00 (6)	$ 99.14 (58)	NO
1-3 misdemeanors	55.33	78.40	NO
4-9 misdemeanors	75.00 (3)	100.00 (3)	NO
10/more misdemeanors	-----	50.00 (1)	
2/more felonies	100.00 (1)	50.00 (5)	NO
Missing	(1)		

As these tables show, Natives receive substantially longer jail sentences than Whites among all levels of severity of prior record. This suggests that severity of prior record does not explain the Native-White jail disparity in property crimes. With regard to fines, Whites in the one-to-three and four-to-nine prior misdemeanor categories received larger fines than comparable Natives, while Natives with prior felony convictions received greater fines than comparable Whites.

The Incarceration Decision

TABLE XIX

PROPORTION OF RACIAL
GROUP RECEIVING NO
ACTIVE JAIL SENTENCE
(PROPORTION EXPRESSED IN %)

	Natives	Whites	
	No Jail	No Jail	Significance
No prior record	35% (6)	57% (52)	.05
1-3 misdemeanors	36% (14)	44% (20)	NO
4-9 misdemeanors	12% (2)	46% (5)	.05
10/more misdemeanors	17% (1)	100% (2)	.05
2/more felonies	9% (2)	39% (5)	NO

Table XIX indicates that White defendants are proportionately much more likely than Natives to avoid going to jail for property offense convictions. Moreover, it indicates that this pattern persists despite differences in the level of severity of the prior record of the defendants.

A potentially significant variable among property offenses is the value of property stolen in applicable cases. Table XX indicates that the mean value of property stolen by Whites was 145% greater than that stolen by Native defendants ($64.95 for Natives compared with $159.04 for Whites).

TABLE XX

MEAN VALUE OF PROPERTY STOLEN AMONG PROPERTY OFFENSES BY RACE (IN DOLLARS)

Natives	$64.96	(99)
Whites	$159.04	(166)
Missing	(5)	

significant at .05

In an effort to control for the impact of differences in the value of property stolen this variable was categorized into a four-level measure. These values include (1) none, (2) $1 to $50, (3) $51 to $100, and (4) over $101.

TABLE XXI

MEAN JAIL SENTENCES
BY CATEGORICAL VALUE OF
PROPERTY STOLEN BY
RACE
(IN DAYS)
(ACTIVE SENTENCES ONLY)

	Natives	Whites	Significance
None	17.67 (9)	5.44 (9)	.05
$1 to $50	16.36 (57)	7.24 (55)	.01
$51 to $100	35.60 (5)	9.83 (6)	.05
Over $101	9.00 (2)	8.67 (9)	NO

Table XXI indicates that except among those cases with the greatest value of property stolen, Natives received substantially longer jail sentences than Whites. It would appear that cases involving stolen property of the greatest value are treated more uniformly by sentencing judges; Native-White differences are greatest when the amounts in question are smallest.

Alcohol Intoxication

Another potentially important factor to consider in analyzing the Native-White sentence disparity concerns alcohol intoxication at the time of arrest. Nine percent of the Natives (n=9) and 7% of the Whites (n=11) were intoxicated at the time of

this arrest for property crimes, according to the police reports. Table
XXII indicates two important things: First, alcohol intoxication at the
time of arrest is associated with a less severe jail sentence when
compared to non-alcohol arrests. Second, Native defendants who were
intoxicated at the time of arrest received a mean jail sentence nearly
five times as great as comparable Whites.

TABLE XXII

MEAN JAIL SENTENCES
BY RACE FOR ALCOHOL
INTOXICATION AT TIME
OF ARREST AND NO
INTOXICATION
(IN DAYS)
(ACTIVE JAIL SENTENCES ONLY)

	Natives	Whites	Significance
No intoxication	18.53 (72)	7.74 (73)	.05
Alcohol intoxication at arrest	15.50 (6)	3.17 (6)	*

*(N too small for significance test)

To summarize, neither level of severity of prior record,
value of property stolen, or alcohol intoxication at the time of arrest
appear to explain the disparity of the Native-White jail sentences in
property crimes. The analysis will now turn to a consideration of
specific offenses within the class of property crimes. Perhaps differ-
ences in specific offense of conviction explain the apparent racial
sentencing disparity.

Specific Offense

A frequency distribution of specific offenses of conviction reveals no appreciable differences between Native and White offenses. The majority of both groups (n=70, or 67% of Natives and n=87, or 52% of Whites) were convicted of petty larceny (AS 11.20.140). Nearly equal proportions of Natives and Whites were convicted of defrauding an innkeeper (AS 11.20.480) (n=4 or 3.8% of Natives, n=5 or 3.0% of Whites), and unauthorized entry (AS 11.20.135) (n=6 or 5.8% of Natives, n=6 or 3.6% of Whites). Proportionately more Whites (n=29 or 17.5% were convicted of concealment of merchandise (AS 11.20.275) than Natives (n=8 or 7.7%), and of trespass (AS 11.20.630) (n=7 or 6.7% of Natives, n=25 or 15.1% of Whites).

Larceny

Insofar as larceny convictions constitute the majority of Native and White property convictions and also involve some of the longest property sentences we chose to analyze larceny sentences separately.

Table XXIII (below) indicates that the Native mean jail sentence for larceny is 128% longer than that of Whites (17.16 days for Natives compared to 7.54 days for Whites). (No significance tests were computed for the following tables because the numbers were too small).

TABLE XXIII

MEAN SENTENCES FOR
LARCENY CONVICTIONS
BY RACE
(IN DAYS AND DOLLARS)
(ACTIVE SENTENCES ONLY)

	Natives	Whites
Mean Jail	17.16 (58)	7.54 (52)
Mean Fine	$82.67 (15)	$98.93 (42)

However, mean fines for Whites were 19% greater than those for Natives.

Table XXIV reflects a breakdown of larceny sentences by level of severity of prior record, and by race.

TABLE XXIV

MEAN LARCENY SENTENCES BY
LEVEL OF SEVERITY OF
PRIOR RECORD BY RACE
(IN DAYS AND DOLLARS)
(ACTIVE SENTENCES ONLY)

	Natives		Whites	
	Mean Jail	Mean Fine	Mean Jail	Mean Fine
No prior record	10.22 (9)	$100.00 (2)	4.30 (27)	$106.88 (32)
1-3 misdemeanors	13.42 (19)	'69.00 (10)	6.13 (16)	79.38 (8)
4-9 misdemeanors	17.10 (10)	100.00 (1)	18.33 (3)	50.00 (1)
10/more misdemeanors	45.00 (3)	----	----	----
2/more felonies	21.87 (15)	100.00 (1)	20.50 (6)	----

Table XXIV indicates that among larceny defendants with no prior records and defendants with one-to-three prior misdemeanors, Natives received substantially longer jail sentences than Whites. Natives with no prior records received mean jail sentences 138% longer than Whites. Further, among those defendants with four-to-nine prior misdemeanor convictions and two or more prior felony convictions mean sentences were nearly uniform. This would tend to indicate that having a severe prior record (over four misdemeanors) is the most important or significant factor for a defendant convicted of larceny. Native-White disparities dissipate among these groups with the more severe prior records (with the exception of the 10 or more prior misdemeanor group).

The Incarceration Decision (In or Out)

Table XXV

PROPORTION OF RACIAL GROUP
RECEIVING NO ACTIVE JAIL SENTENCE
FOR LARCENY CONVICTION
(PROPORTION EXPRESSED IN %)

	Natives	Whites
No active jail	16% (11)	40% (35)

With regard to the incarceration decision, Table XXV indicates that a far greater proportion of White defendants convicted of larceny stayed out of jail than did Natives (40% of Whites compared to 16% of Natives).

Multiple Regression Analysis

In an effort to study Native-White property offense sentence disparities by a more statistically rigorous method, and as a check on the earlier breakdown analysis, we used a multiple regression analysis of sentence length. This procedure tells us the independent impact of a given variable on sentence length while controlling for the effects of (or variation in) other variables. Consider the regression coefficients represented in Table XXVI.

TABLE XXVI

MULTIPLE REGRESSION
COEFFICIENTS FOR SIGNIFICANT
VARIABLES ON SENTENCE
PROPERTY OFFENSES

Native	2.927
White	-4.359
Alcohol intoxication at arrest	-1.009
Each prior misdemeanor conviction	0.810
Each dollar of value stolen	0.001
Larceny conviction	2.154

$$R^2 = .24$$

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Perhaps the best way to consider the above coefficients
is to view them relative to one another. Thus, a present conviction of
·larceny, considered by itself and controlling for the other listed factors,
has an impact nearly three times as great as having one prior misdemeanor
conviction. The interesting thing to note regarding the Native and
White coefficients is the magnitude of the negative White coefficient.
An interpretation that we believe is consistent with these values is
that, other things being equal (or controlled for), a Native defendant
starts with the disadvantage of getting some jail time (+2.8) while a
comparable White starts with the advantage of getting "negative" time
(4.4). The important point, analytically, is that these coefficients
confirm the findings of our breakdown analysis.

METHODOLOGICAL APPENDIX

The following description of the methodology used in collecting
and analysing the data for this project is provided to give the reader a
general idea of the steps involved in arriving at the tables and text we
have presented.

Data Collection

1. <u>Sources</u>. Our previous studies of Alaskan felony and mis-
demeanor sentences suggested three potential sources of information that
had to be consulted thoroughly to understand misdemeanor sentencing
patterns: court case files, police reports, and Department of Public
Safety records of prior criminal histories. Court case files alone were
not sufficient because they generally do not include information about
hypothetically important factors such as alcohol use, race, age, prior
offenses, and a detailed account of what actually occurred at the time of
the offense. On the other hand, the two other sources usually do not
contain reliable information about the precise offense of conviction,
mode of disposition (plea or trial), the sentence imposed, or conditions
of that sentence.

Public Safety Department records of prior offenses are used by
prosecutors and police and are reported to court officials as the primary
source of information about a defendant's previous contacts with the
criminal justice system. Similarly, our other sources of information
were also the primary records available to criminal justice personnel.
The records for individual defendants tended to vary from one another in
completeness; some included many pages of information while others
consisted of nothing more than one or two forms that had been sketchily

prepared. In order to maintain the maximum consistency in our information about each defendant we attempted to include only those items of pertinent information recorded for the majority of defendants. We also chose to take our information from specific sources: for example, we coded information about alcohol intoxication only from the police report since this was the record in which it was most consistently recorded. The lack of presentence reports for misdemeanants limited the kinds of socio-economic data which could be included in the study. Prior criminal histories, however, could be (and were) coded in great detail.

2. <u>Coders and Coding</u>. Our coding staff came from various backgrounds. Most had a year or more of college education. Several were graduate students with research experience, and others had worked with the Judicial Council as coders on earlier studies. The coding supervisor had two years of research experience beyond her college degree, and was closely supervised in turn by more experienced Judicial Council staff.

The coding form was designed by Judicial Council staff to meet several needs: it had to be easy for coders to use and understand, structured to maximize efficiency in key-punching, and had to reduce the possibilities for either unwarranted exercise of coder discretion or errors at every step. The entire flow of the data from original records through coders, checkers, key-punchers, and computer programming to final analysis was taken into account during the design of the form. Besides the coding forms themselves, coders were given a detailed instruction manual and supplementary materials such as lists of codes for each offense. The coding supervisor kept a notebook of questions which arose during training and

coding along with the clarifications and explanations given to coders so that neither lapses of memory nor hiring of new coders would change the interpretations of the coding manual or forms. This procedure promoted uniformity.

Two days of training using the actual coding forms and case files preceded work on the court files in Anchorage and Fairbanks. Judicial Council staff conducted the training given for all aspects of coding court files, police reports, and Public Safety records. Coders were given experience in coding, in checking each coding form, and in use of the manual and supplementary materials. To fit their work into context, Council staff also described the criminal justice system, meanings of various terms, and reasons for the study, in detail.

3. <u>Checking</u>. Accuracy, (validity) consistency and (reliability) are crucial in a study of this type. Acceptable error rates for coding data from records have been established through years of experience by scientists in various fields who have not only analysed the data collected in studies but coders and the coding process as well. A five percent error rate has been considered acceptable in many similar studies. Throughout our analysis, we attempted to reduce our error rates below the "acceptable" levels through a series of checking procedures.

Each case in our study was coded by one coder. It was then checked through completely by a second coder. Finally, the coding supervisor and Council staff spot-checked at least every fifth case to make sure that no systematic errors were occurring through coder misunderstanding of instructions. Any errors found during this process were corrected. A

random check of coding forms after coding had been completed suggested that the actual error rate was approximately two percent, well below the acceptable five percent level.

4. _Keypunching_. The second major step in collection and analysis of data is to transfer information from the coding forms to a tape which can be read by the computer. This process requires a person to read the coding form and type (key-punch) the codes recorded on the form onto either computer cards or magnetic tape. While paper cards have traditionally been used and have some advantages, the Council decided to turn to a more sophisticated approach in which the data is punched directly onto a magnetic tape which can be read immediately by the computer. Paper cards can be lost, damaged, or placed out of order. Each of these problems can be corrected, but all are eliminated with the use of a magnetic tape, thus reducing both cost and chance of errors.

Key-punched cards or tapes can be "verified", a technique for insuring accuracy at this stage of the process. Just as each of our cases was checked completely after having been coded, each record on the magnetic tape was re-done completely by a different operator after having been key-punched. Should the second punching disagree with the first, a signal alerts the key-punch operator to the discrepancy and the work is re-done. This verification procedure was guaranteed by the company employed to key-punch our data to give an error rate of three-quarters of one percent (.75%) or less. Superior Business Services of San Francisco, Inc. performed the work for the Council.

5. _Computer Analysis_. The computer analysis of the data involved two stages: a final checking for errors in the data, and the actual analysis.

Error checking was performed by printing out each variable in two different ways and looking for mistakes. The first procedure, frequency distributions, shows each bit of information coded and how many times it occurs. For example, race in our study could be coded as "1" (=Black defendant), "2" (=Native), or "3) (=Caucasian or other race). If the frequency distribution showed a code of "4" or "7", this indicated an error at some point. The error would then be corrected by printing out the defendant's number, checking his coding form (if necessary and possible, also checking the original source of information), and entering the correct information onto the computer tape. Frequency distributions served other purposes as well. For example, a frequency distribution of all sentences imposed showed that the most fell between 0 days and 21 days in length. In fact, only 11 sentences were of 150 days or more. Because there were so few of these cases with long sentences (they constituted .6% of the entire sample), their inclusion in the study would have skewed or distorted the more typical sentences given to misdemeanor defendants. After a careful analysis of their effects on the other data, we eliminated them from consideration. [1]

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[1] The 11 cases also tend to balance each other out in terms of their effects on our findings of racial disparity. The 11 sentences include the following defendants:

  a) 4 sentences were 360 days (1 year), imposed on 1 Black, 1 Native, and 2 Caucasian defendants;
  b) 4 were 180 days (6 months), again 1 Black, 1 Native, and 2 Whites;
  c) 1 was 176 days (a Native defendant); and
  d) 2 were 150 days (5 months), one Native and one White.

  The mean sentences among these 11 were 270 days for Blacks, 221.5 days for Natives, and 246 days for whites. Because these means are so close, their exclusion from the study was further justified.

A second procedure for checking the accuracy of our data on the computer was to cross tabulate different variables, for example, type of offense by use of alcohol. Thus, if no defendants convicted of drunken driving had been coded as "intoxicated at arrest", this would have led us to check our key-punching and coding for accuracy. (No cross-tabulations of our variables, however, suggested any such systematic errors). Cross-tabulations also help to describe the defendant population and show relationships among the different variables.

6. _Statistical Analysis_. We chose to utilize SPSS (Statistical Package for the Social Sciences), an integrated system of computer programs designed for the analysis of social science data. (SPSS was also used in our analysis of the felony plea bargaining data.) SPSS programs are considered to be among the most useful and powerful procedures available for analysis of large aggregations of data. The package provides the researcher with a full range of statistical routines for description and analysis.

The primary purpose of using statistics to analyze information is to identify relationships or associations among different factors (e.g., the relationship between race and trial rates, alcohol use and petty larceny, sentence length and prior record, and so forth). Having identified a certain relationship between or among variables, the researcher must also determine the likelihood that the observed relationship is likely to occur by chance. This second aspect of the analysis, statistical significance, is discussed in b), below.

a) _Statistical Methods_. We used contingency tables, breakdowns, and multiple regression techniques in order to arrive at the findings of our report. Contingency tables are simply two- or three-way cross-tabulations

of variables (see Table VIII, page 12). Breakdowns allow the researcher to compare the mean sentences imposed for various groups of defendants. Tables constructed from this analysis (such as Table XVII, page 23) can show differences among groups of defendants with regard to one or several variables. Each of these two techniques allows the researcher to look closely at the effects of one or several variables simultaneously while controlling the effects of other variables. Multiple regression however, allows more variables to be considered simultaneously, and gives the independent contribution of each variable to the final outcome (in this case, sentence) while controling for each other variable. (See Table XXVI, page 31 for an example). Multiple regression has different limitations on its usefulness than the other two techniques, but can be considered the most rigorous tests of associations among variables.

b) <u>Statistical Significance</u>. Having established certain relationships between variables and outcomes, it is still necessary to know whether the observed differences are "real" or whether they occurred by chance. We relied upon T-tests, Chi Squares, and analysis of variance tests to measure the significance of observed differences presented in this report. We used the traditional level of .05 significance as our criterion for statistical significance. The .05 level measures that the observed differences could be due to chance in only 5 out of 100 cases. Conversely, the researcher can be confident that the relationship or association noted would be the same in 95 out of 100 samplings. Should the test result in a number greater than .05 (such as .08 or .10), the result is not considered to be statistically significant. Significance levels for the tables included in this report are noted on each table. They range from .001 (1 chance in 1000) to .05 (5 chances in 100), which indicates that there is very little

likelihood that any of the results could have occurred by chance. Where the level of significance is greater than the .05 level "NO" appears for the significance level.