

Alaska Judicial Council

420 L Street, Suite 502
ANCHORAGE, ALASKA
99501
(907) 279-2526

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN, EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

INTERIM REPORT OF THE ALASKA JUDICIAL COUNCIL
ON FINDINGS OF APPARENT
RACIAL DISPARITY IN SENTENCING

(August 15, 1974 - August 14, 1976)

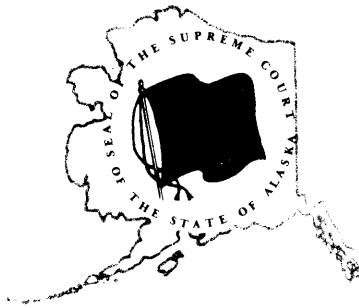
Prepared by:

Michael L. Rubinstein

Stevens H. Clarke

Teresa J. White

October 12, 1979



Alaska Judicial Council

420 L Street, Suite 502
ANCHORAGE, ALASKA
99501
(907) 279-2526

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN, EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

October 12, 1979

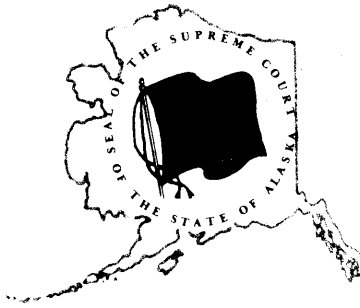
To the Reader:

A little over a year ago, the Judicial Council reported to the Governor's Commission on the Administration of Justice the conclusions of its study and evaluation of the official abolition of plea bargaining in this state. A major derivative conclusion flowing from the plea bargaining analysis was the finding that significant sentencing disparities were apparent among different elements of the defendant population. Specifically, it was found that Alaskan native and black defendants convicted of property crimes, offenses involving fraud, forgery and bad checks, and drug felonies received longer sentences and were denied probation under circumstances in which white defendants received more lenient treatment.

Three memoranda were prepared following the Council's report to the Governor's Commission. These separate memoranda have been slightly revised and bound together to comprise the present interim report for circulation. The Judicial Council is at this time engaged in the analysis of a new set of felony sentencing data drawn from Superior Court locations throughout the state between July of 1976 and July of 1979. The results of these new studies on the sentencing process should be available by February of 1980.

The Judicial Council staff welcomes further inquiries from the readers of this report. If you have any questions, please don't hesitate to contact this office directly.

Michael L. Rubinstein
Executive Director



Alaska Judicial Council

420 L Street, Suite 502
ANCHORAGE, ALASKA
99501
(907) 279-2526

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

LAY MEMBERS
KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS
MARCUS R. CLAPP
MICHAEL M. HOLMES
JOSEPH L. YOUNG

CHAIRMAN, EX OFFICIO
JAY A. RABINOWITZ
CHIEF JUSTICE
SUPREME COURT

September 6, 1978

APPARENT RACIAL SENTENCING DISPARITIES

In the process of studying the effects of the official abolition of plea bargaining on criminal courts in Anchorage, Fairbanks, and Juneau, using data on 3500 felony cases filed from August 15, 1974 until August 14, 1976, an analysis of sentencing was done. The plea bargaining ban's effects were analyzed in the context of a number of other factors that could have affected sentencing; one of these factors was the defendant's race.

The sentencing analysis, as described in the Tables which follow, showed that in three categories of offenses race was significantly associated with increases in sentence length when other factors were taken into account. More specifically, the study indicated that blacks and natives tended to have longer sentences, other things taken into consideration, than whites. They were also more likely than whites to receive a jail sentence of 30 days or more (rather than probation, or a very short active sentence).

It should be stated that this study does not prove that the judges in Anchorage, Fairbanks and Juneau in 1974-1976 were racially prejudiced. It does show, however, a pattern in which blacks and natives apparently received longer sentences and were denied probation under circumstances in which whites received more lenient treatment. Statistical analysis may accurately describe a significant association between a number of factors--here, race and sentence.

However, association is one thing and causality is another. The findings are not intended as an accusation against the judiciary for racism. This would not be warranted on the facts now available.

* * *

To review the findings, blacks and natives received significantly longer sentences than whites in Class 3 (burglary, larceny, receiving) and Class 4 (fraud, forgery, embezzlement) offenses, and blacks had much longer sentences than whites in Class 5 (drug offenses). (All offenses were originally charged as felonies, although some were later reduced to misdemeanors at conviction.) We found the same kinds of racial differences with respect to the probability of receiving an active (jail) sentence of at least 30 days, rather than a lesser sentence.

The findings with respect to sentence length were arrived at after taking into account statistically a number of other factors, including the specific offense of which the defendant was convicted, whether he had other companion cases pending against him or any co-defendants, the extent of his criminal record, whether the case arose under the old or the new plea bargaining policy, the extent of injury, damage, and property loss caused by the crime, the defendant's income, sex, and age, the defendant's relationship to the victim, the type of counsel the defendant had, and whether the sentencing judge was "strict" (i.e., had a sentence average at least twice that of the average of all judges) or "lenient" (i.e., had a sentence average one-half or less of the overall average). The findings with respect to likelihood of jail time of at least 30 days were obtained after controlling for the defendant's criminal record, whether he had companion felony cases (i.e., more than one felony charge), and the specific offense of which he was convicted.

In our analysis of factors associated with variation in sentence length, and in our calculation of the probability of receiving active jail time of at least 30 days, very different statistical methods were used. Yet both methods identified approximately the same factors--including race--as having an important association with sentencing. This agreement gives us more confidence in our results. Also, an earlier study using some of the same data as in the present study and some data not included in the present study, but limited to defendants convicted of felonies, showed that blacks received significantly longer sentences in Class 3

(theft-type) and Class 5 (drug) offenses. (See Alaska Judicial Council, Alaska Felony Sentencing Patterns: A Multivariate Statistical Analysis, (1974-1976)). Thus, these are three studies using different methods, or partially different data, or both, that indicate that non-whites were sentenced more severely.

It must be noted that although our calculation of the association between race and sentencing took account of a number of characteristics in which natives, blacks, and whites may differ, there still may well have been characteristics other than race as such--characteristics we were unable to measure in our study--that could explain away the apparent effect of race. This is why it should be said that the study's findings on race raise a question of discriminatory treatment rather than proving discrimination beyond a reasonable doubt.

In the rest of this memo the race-sentencing relationship is presented in more detail. The Judicial Council will use these findings as a basis for further, more intensive investigation, and we expect to have additional results within the coming months.

1. Sentence Distributions

Table A (column 1) shows that a respectable number of blacks and natives showed up as defendants in the convicted cases in our study; the numbers range from 23 (natives, in Class 5 cases) to 106 (natives, in Class 3 cases). The mean sentence lengths shown in column 2 suggest the racial differences found in later analysis, without any adjustment for other factors; the means for blacks and natives are higher than those of whites in Classes 3 and 4, and the blacks' mean is much higher than whites' in Class 5. The proportion of "zero sentences" (probation with no active imprisonment) was about half as large for blacks and natives as for whites in Class 3, one-eighth as large for natives as for whites in Class 4, and one-third to two-thirds as large in Class 5. Generally, the sentence length distribution (column 5 of Table A) was heavier to the right in non-whites' cases than in whites'. There was an especially high concentration of longer sentences for blacks in Classes 4 and 5, and a small number of blacks received extremely high sentences in Class 5.

2. Comparing Characteristics of the Three Racial Groups

Blacks, natives, and whites differed in terms of certain characteristics and factors we found to be strongly related to sentence length, as shown in the top two rows of Table B. In property cases (Class 3), non-whites were more likely to have felony companion cases (multiple charges) than whites, and blacks were more likely to have a felony conviction record. In check and fraud (Class 4) cases blacks and natives were less likely than whites to have "lenient" judges, and blacks were more likely to have "strict" judges (as defined earlier); blacks were more likely than whites to be on probation or parole at the time of their offenses. Black defendants in drug cases (Class 5) were more likely to have companion felony charges and a felony record than white defendants. Do the differences in severity of prior record and in the occurrence of multiple-count charges account for the apparent sentencing disparities? We believe they do not.

As the rest of Table B indicates, when the mean sentences of the three racial groups are compared within each category of the factors importantly related to sentence, (prior record and companion cases), it can be seen that non-whites generally had longer mean sentences than whites. This difference is not completely consistent--in a few comparisons whites' sentences are longer--but the overall pattern shows the race difference. (The apparent pattern of race differences that we can see by inspection of the figures in Table B was confirmed by loglinear multiple regression analysis.)

Table C shows a similar pattern of differences with respect to the proportion of cases in which the defendant received at least 30 days of active jail time. (The race effect was confirmed with a cluster analysis using the Mantel-Haenszel partial correlation statistic.)

3. Non-whites' Estimated Sentences If They Had Been White

Another way of describing race differences in sentences is to compare the actual median sentences of blacks and natives with the median estimated sentences if they had been white. The estimated sentences were computed from the multiple regression equations, including all the correct information on each non-white defendant except that

he was considered white. In other words, taking all the relevant characteristics of each non-white defendant's case into account, we estimated what sentence he would have received if he had been white.

The actual median sentence is shown in column 3 of Table A, and the median sentence estimated if white is shown in column 4. In property cases, blacks' median (3.0 months) was ten times higher than that estimated if they had been white (0.3 months), while natives' was twice as high (0.4 months compared with 0.2 months). In check and fraud cases, natives' median (14.0 months) was 23 times higher than the estimated median if white (0.6 months); the actual and estimated medians for blacks were the same (0.0 months).¹ The most striking difference occurred in drug cases (Class 5) where blacks' actual median sentence was 24.0 months, as compared with the median estimated if white of 1.0 months.²

-
- 1 If this last is true, how could the multiple regression analysis show that being black was associated with longer sentences? This is because multiple regression is based on means, rather than medians, and black defendants in Class 4 cases had a high mean sentence and a rather high concentration (21 per cent) of sentences in the 36 to 60-month range.
 - 2 In drug cases (Class 5), natives' estimated median was also lower than their true median, but probably because their mean sentence was low, the multiple regression analysis found no effect on the sentence of being a native.

TABLE A SENTENCE DISTRIBUTIONS BY RACE IN OFFENSE CLASSES 3, 4, AND 5 (CONVICTED CASES ONLY--SENTENCE LENGTH IN MONTHS)

	1 (Total Cases-1001)	2 Actual Mean Sent.	3 Actual Median Sent.	4 Median Est. Sent.	Distribution of Sentence Length										Highest Sentence		
					Zero Sentence (Probation Only)	1 day-3 mos.	3-6 mos.	6-12 mos.	12-18 mos.	18-24 mos.	24-36 mos.	36-60 mos.	60 mos. or More				
Class 3* (Murkery, Larceny, Receiving)																	
Black (55)		9.4	3.0	0.3	31%	23%	9%	11%	9%	7%	2%	7%	0%	30.0, 42.0			
Native (106)		6.4	0.4	0.2	32%	48%	4%	8%	0%	2%	4%	2%	2%	46.0 (3) 35.0 (2), 40.0 (1), 42.0 (1), 120.0 (2)			
White (338)		4.4	0.0	---	57%	28%	3%	4%	2%	3%	2%	1%	1%	60.0 (1), 60.0 (1), 180.0 (2)			
Class 4* (Fraud, Forgery, Embezzlement)																	
Black (24)		14.0	0.0	0.0	54%	4%	8%	8%	4%	0%	0%	21%	0%	42.0, 60.0 (4)			
Native (28)		14.9	14.0	0.6	7%	22%	0%	21%	4%	43%	4%	0%	0%	24.0 (12), 30.0			
White (143)		6.1	0.0	---	57%	16%	10%	4%	1%	3%	4%	4%	0%	60.0 (5)			
Class 5* (Drug Offenses)																	
Black (42)		51.2	24.0	1.0	24%	4%	5%	0%	2%	17%	12%	12%	24%	(144.0 (2), 240.0 (2), 300.0			
Native (23)		6.1	1.0	0.2	39%	18%	13%	17%	0%	13%	0%	0%	0%	12.0 (4), 24.0 (3)			
White (190)		8.8	0.0	---	61%	15%	3%	2%	0%	6%	5%	7%	2%	60.0 (11), 72.0 (2), 84.0			

* Offense originally charged in each case was felony of class (type) shown.

TABLE B COMPARISON OF SENTENCE LENGTH MEANS (IN MONTHS) BY RACE, WITHIN OFFENSE CLASS, CONTROLLING FOR SINGLE FACTORS IMPORTANTLY RELATED TO SENTENCE LENGTH (CLASSES 3, 4, AND 5; CONVICTED CASES ONLY)

Class 3 (N=499)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases having one or more felony companions	64%	(55)	43%	(106)	36%	(338)	.000
Percent of cases where defendant has prior felony conviction	20%	(55)	27%	(106)	18%	(338)	.000

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
No felony comp. cases	5.2	(20)	2.8	(61)	2.3	(218)	2.6	(299)
One or more fel. comp. cases	11.9	(35)	11.2	(45)	8.2	(120)	9.5	(200)
No prior conv. or unknown	10.8	(35)	2.5	(25)	2.9	(205)	3.9	(265)
Misd. but no felonies	3.5	(9)	3.6	(52)	2.6	(74)	3.0	(135)
One prior felony	12.4	(5)	26.9	(13)	5.6	(30)	12.0	(48)
Two or more prior felonies	8.0	(6)	4.9	(16)	18.6	(29)	13.1	(51)

Class 4 (N=195)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>P</u>
Percent of cases where judge "lenient"	8%	(24)	7%	(28)	23%	(143)	.05
Percent of cases where def. has prior felony conv.	25%	(24)	64%	(28)	36%	(143)	.001
Percent of cases where judge "strict"	0%	(24)	32%	(28)	6%	(143)	.000
Percent of cases where def. on probation or parole	21%	(24)	32%	(28)	22%	(143)	.508

Sentence Means

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
Judge not "lenient"	15.0	(22)	15.1	(26)	7.9	(110)	10.1	(158)
Judge "lenient"	3.0	(2)	12.0	(2)	0.0	(33)	0.3	(37)
Judge not "strict"	14.0	(24)	10.2	(19)	5.7	(134)	7.3	(177)
Judge "strict"	----	(0)	24.7	(9)	12.3	(9)	18.5	(18)
No prior conv. or unknown	13.2	(5)	1.2	(4)	3.1	(56)	3.7	(65)
Misd. but no felonies	0.5	(13)	13.3	(6)	3.6	(36)	3.9	(55)

Sentence Means (cont'd.)

	<u>Black</u>	<u>(N)</u>	<u>Native</u>	<u>(N)</u>	<u>Other</u>	<u>(N)</u>	<u>Total</u>	<u>(N)</u>
One prior fel.	60.0	(4)	19.7	(15)	4.3	(32)	13.2	(51)
Two or more prior felonies	12.0	(2)	12.0	(3)	22.6	(19)	20.4	(24)
Not on prob. or parole	4.2	(19)	13.5	(19)	6.9	(111)	7.4	(149)
On prob. or parole	51.6	(5)	17.7	(9)	3.2	(32)	11.3	(46)

Class 5 (N=255)

Percent of cases having one or more fel. comp.	93%	(42)	57%	(23)	57%	(190)	P=.0001
Percent of cases where def. has prior felony conviction	31%	(42)	17%	(23)	17%	(190)	P=.12

Sentence Means

No fel. comp. case	20.0	(3)	0.8	(10)	2.9	(81)	3.3	(94)
One or more	53.6	(39)	10.2	(13)	13.2	(109)	22.8	(161)
No prior conv.	16.8	(19)	1.8	(11)	7.2	(113)	8.1	(143)
Misd.but no felony	39.4	(10)	15.0	(8)	4.3	(44)	11.3	(62)
One felony	47.0	(6)	0.0	(2)	17.4	(24)	21.8	(32)
Two or more felonies	164.6	(7)	0.6	(2)	28.9	(9)	78.5	(18)

TABLE C PERCENT OF CONVICTED CASES IN WHICH DEFENDANT RECEIVED ACTIVE SENTENCE OF 30 DAYS OR MORE, BY RACE (CLASS 3, 4, AND 5)

Offense Class	Companion Comparison Felonies	Seriousness of Specific Offense	Prior Convictions	Per Cent Receiving 30 Days or More		
				Black	Native	Other
<u>Class 3</u>						
	0	Low ¹	0	33%	20%	20%
	0	Low	1+	0	36	13
	0	High	0	91	67	59
	0	High	1+	100	71	82
	1+	Low	0	0	33	14
	1+	Low	1+	75	0	42
	1+	High	0	44	80	80
	1+	High	1+	83	81	88
			TOTAL	60	45	28
<u>Class 4</u>						
	-- ³	Low ²	0	0	33	17
	--	High	0	100	100	24
	--	Low	Misd. only	8	100	39
	--	High	Misd. only	--*	60	57
	--	Low	Felony (1+)	100	100	31
	--	High	Felony (1+)	100	93	81
			TOTAL	46	82	36
<u>Class 5</u>						
	0	Low ⁴	0	0	0	5
	0	Low	1+	--*	100	13
	0	High	0	--*	50	19
	0	High	1+	100	0	33
	1+	Low	0	38	67	47
	1+	Low	1+	0	100	52
	1+	High	0	89	0	60
	1+	High	1+	95	100	65
			TOTAL	76	52	36

* No cases in this category.

¹ High seriousness includes burglary and felonious larceny; low seriousness includes receiving, malicious mischief, unauthorized entry, and misdemeanor larceny.

² Offense of high seriousness is forgery of debt; all others are considered low. Companion felonies not controlled for in Class 4.

⁴ High seriousness includes possession and sale of narcotics; all others considered low.

Table VII-4. Class 3 Felonies ¹ (Burglary, Larceny, and Receiving):
Estimated Effect on Prison Sentence Length ² of Various
Factors

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ³		
Burglary in occupied dwelling	+523%	
Unauthorized entry (misd.)	-52	
2. <u>Companion Felony Case</u>		
For each companion case	+34	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+57	
If on probation or parole at time of offense	+169	
4. <u>Defendant's Characteristics</u>		<u>Number of cases (N):</u> 499
If unemployed	+58	<u>Proportion of total variance explained (R²):</u> 27%
If black	+277	
If native ⁴	+94	
5. <u>Type of Counsel</u>		
If private or pre-paid	-44	
6. <u>Sentencing Judge</u>		
If "lenient"	-59	
7. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	(None)	

¹ Cases in which defendant initially charged with Class 3 felony; offense of conviction may have been misdemeanor.

² Probation treated as zero if no active imprisonment imposed.

³ Increase or decrease is in comparison with sentence for other Class 3 offenses not listed, including other burglary, larceny, receiving stolen property, and malicious mischief, whose combined mean sentence was 5.7 months.

⁴ Effects are as compared with "white" (non-native, non-black) defendants.

Table VII-4 Property felonies: estimated effects of various factors on sentence length.

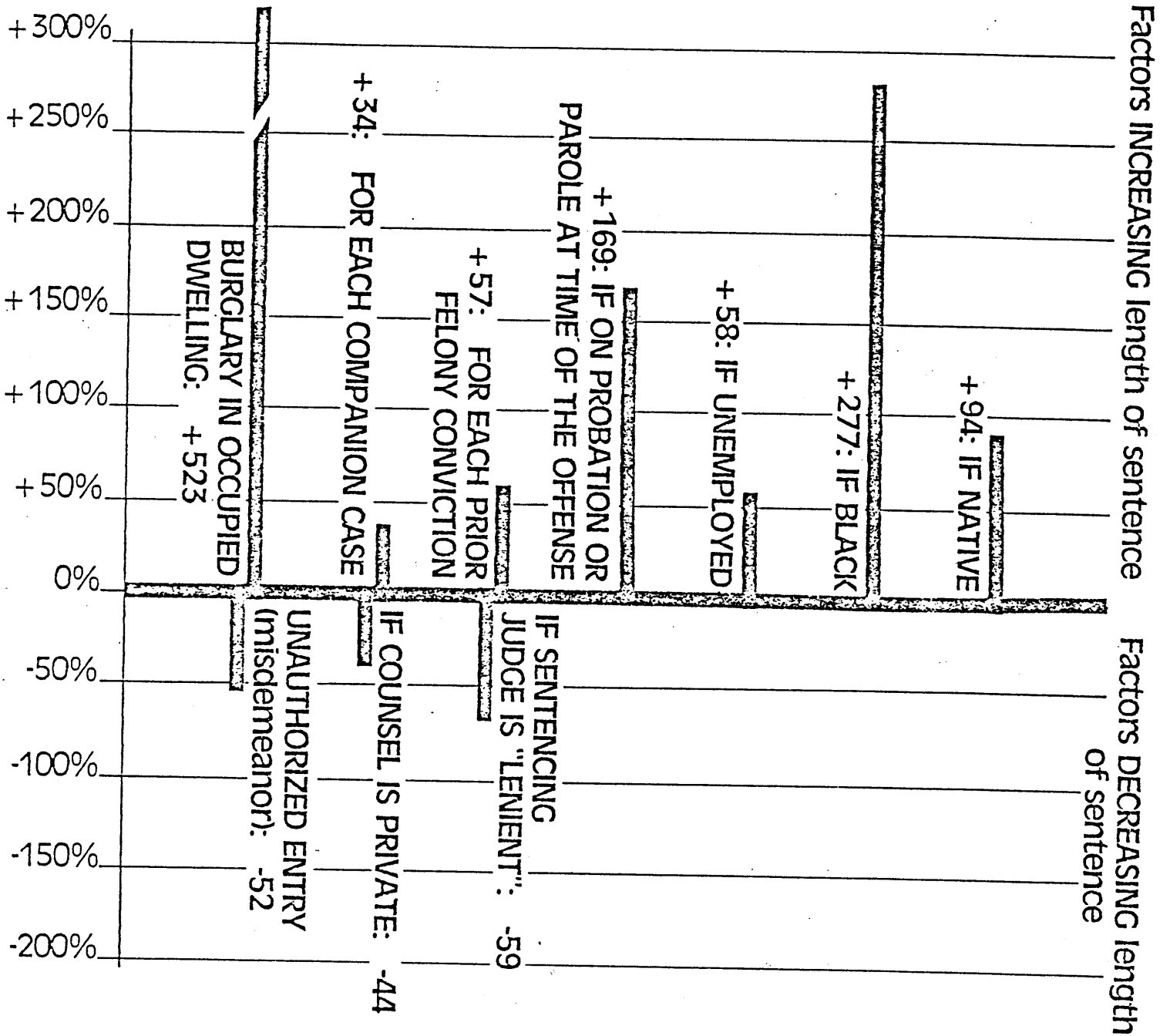


Table VII-5. "Low-Risk"¹ Class 3 Felony Cases: Estimated Effect on Prison Sentence Length of Various Factors.

<u>Factor</u>	<u>Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ² Burglary in occupied dwelling	+6212%	
2. <u>Defendant's Criminal Record</u> For each prior felony conviction	+54%	
If on probation or parole at time of offense	+434%	
3. <u>Defendant's Characteristics</u> If unemployed	+101%	
If black	+301%	
If native ³	+108%	<u>Number of cases (N):</u> 281
4. <u>Sentencing Judge</u> If "strict"	+186%	<u>Proportion of total variance explained (R²):</u> 25%
5. <u>New Plea Bargaining Policy</u> (1975-76 compared with 1974-75)	+53%	

1 "Low-risk" cases are those where no more than one of these "risk" factors were present: (a) companion felony case(s); (b) defendant had prior felony conviction record; (c) specific offense of conviction was burglary or felonious larceny.

2 Increase or decrease is in comparison with sentence for other Class 3 offenses not listed, including other burglary, larceny, receiving stolen property, unauthorized entry, and malicious mischief.

3 Effects are as compared with "white" (non-black, non-native) defendants.

Table VII-6. Class 4 Felonies ¹ (Fraud, Forgery, Embezzlement):
Estimated Effect on Prison Sentence Length ² of
Various Factors

<u>Factor</u>	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by <u>Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ³		
Felonious bad check	-65%	
2. <u>Companion Conviction</u>		
For each companion conviction	-11	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+27	
If on probation or parole at time of offense	+232	
4. <u>Defendant's Characteristics</u>		
If female	-78	
If age 21 to 26 (as compared with older and younger)	+158	<u>Number of cases (N):</u> 194
If black	+452	<u>Proportion of total</u>
If native ⁴	+441	<u>variance explained (R²):</u> 58%
5. <u>Type of Counsel</u>		
If appointed	+683	
6. <u>Sentencing Judge</u>		
If "lenient"	-90	
If "strict"	+1836	
7. <u>New Plea Bargaining Policy</u>		
(1974-75 compared with 1975-76)	+117	

¹ Cases in which defendant initially charged with Class 4 felony; offense of conviction may have been misdemeanor.

² Probation treated as zero if no active imprisonment imposed.

³ Increase or decrease is in comparison with sentence for other Class 4 offenses not listed, including forgery, false pretenses, embezzlement, credit card fraud, and related misdemeanors, whose combined mean sentence was 9.3 months.

⁴ Effects are as compared with "white" defendants.

Table VII-6 Check and Fraud felonies: estimated effects of various factors on sentence lengths.

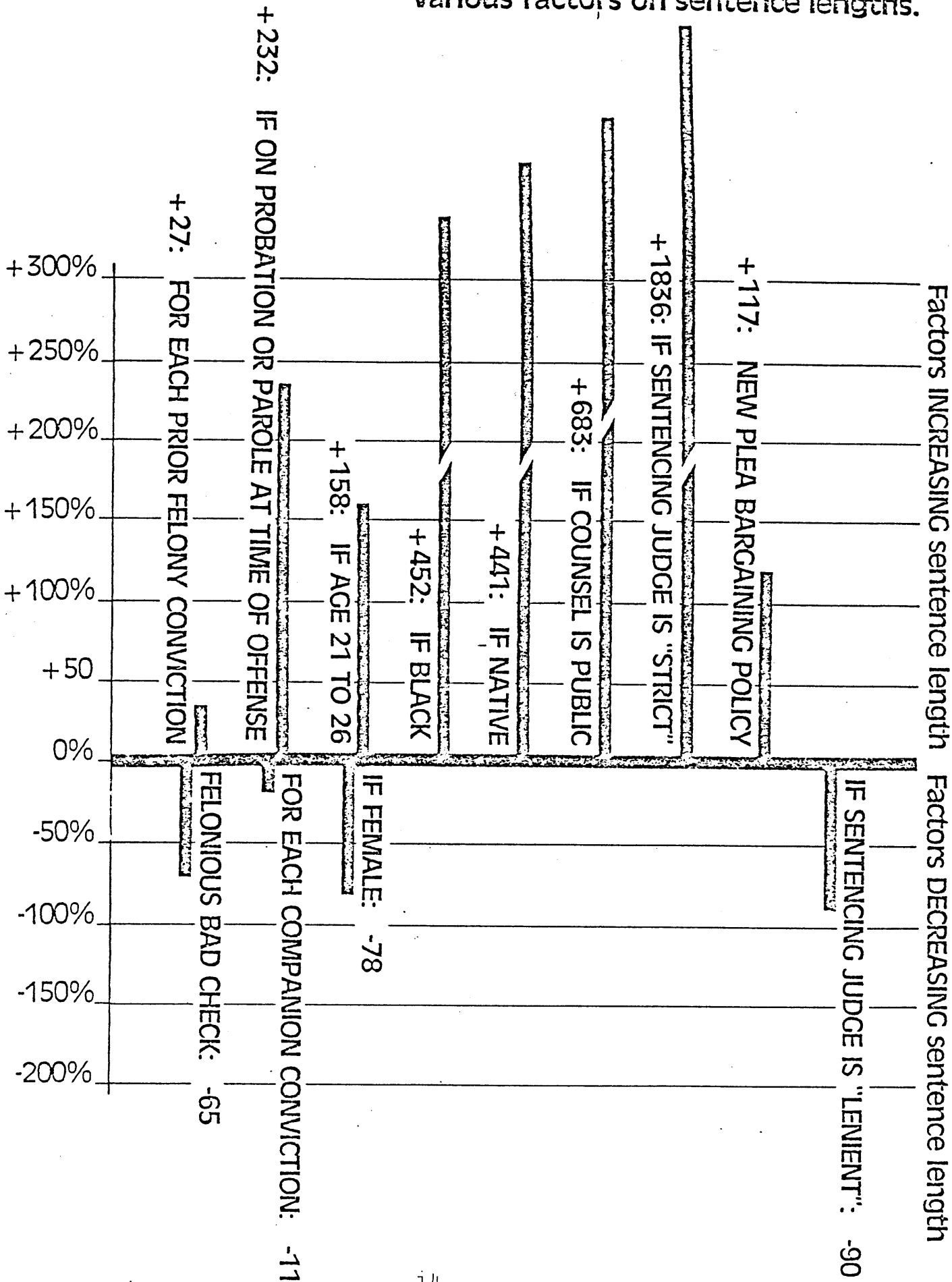


Table VII-7. Class 5 Felonies ¹ (Drug Offenses): Estimated Effect on Prison Sentence Length ² of Various Factors

<u>Factor</u>	Effect: Presence of Factor Estimated to Increase (+) or Reduce (-) Sentence Length by <u>Percentage Shown</u>	
1. <u>Specific Offense of Conviction</u> ³		
Sale of narcotics to person age 21 or older	+130%	
2. <u>Companion Felony Cases</u>		
For each companion felony <u>case</u>	+51	
For each companion <u>conviction</u>	+76	
For each companion conviction of a <u>co-defendant</u>	+57	
3. <u>Defendant's Criminal Record</u>		
For each prior felony conviction	+134	<u>Number of cases (N):</u> 255
If on probation or parole at time of offense	+183	<u>Proportion of total variance explained (R²):</u> 49%
4. <u>Defendant's Characteristics</u>		
If black	+467	
5. <u>City Where Court Located</u>		
If Fairbanks (as compared with Anchorage and Juneau)	-49	
6. <u>New Plea Bargaining Policy</u>		
(1975-76 compared with 1974-75)	+233	

¹ Cases in which defendant initially charged with Class 5 felony; offense of conviction may have been misdemeanor.

² Probation treated as zero if no active imprisonment imposed.

³ Increase is in comparison with sentence for other Class 5 offenses not listed, including possession of narcotics, sale and possession of "HDS" drugs, and related misdemeanors, whose combined mean sentence was 8.9 months.

Table VII-7 Drug felonies: estimated effects of various factors on sentence lengths.

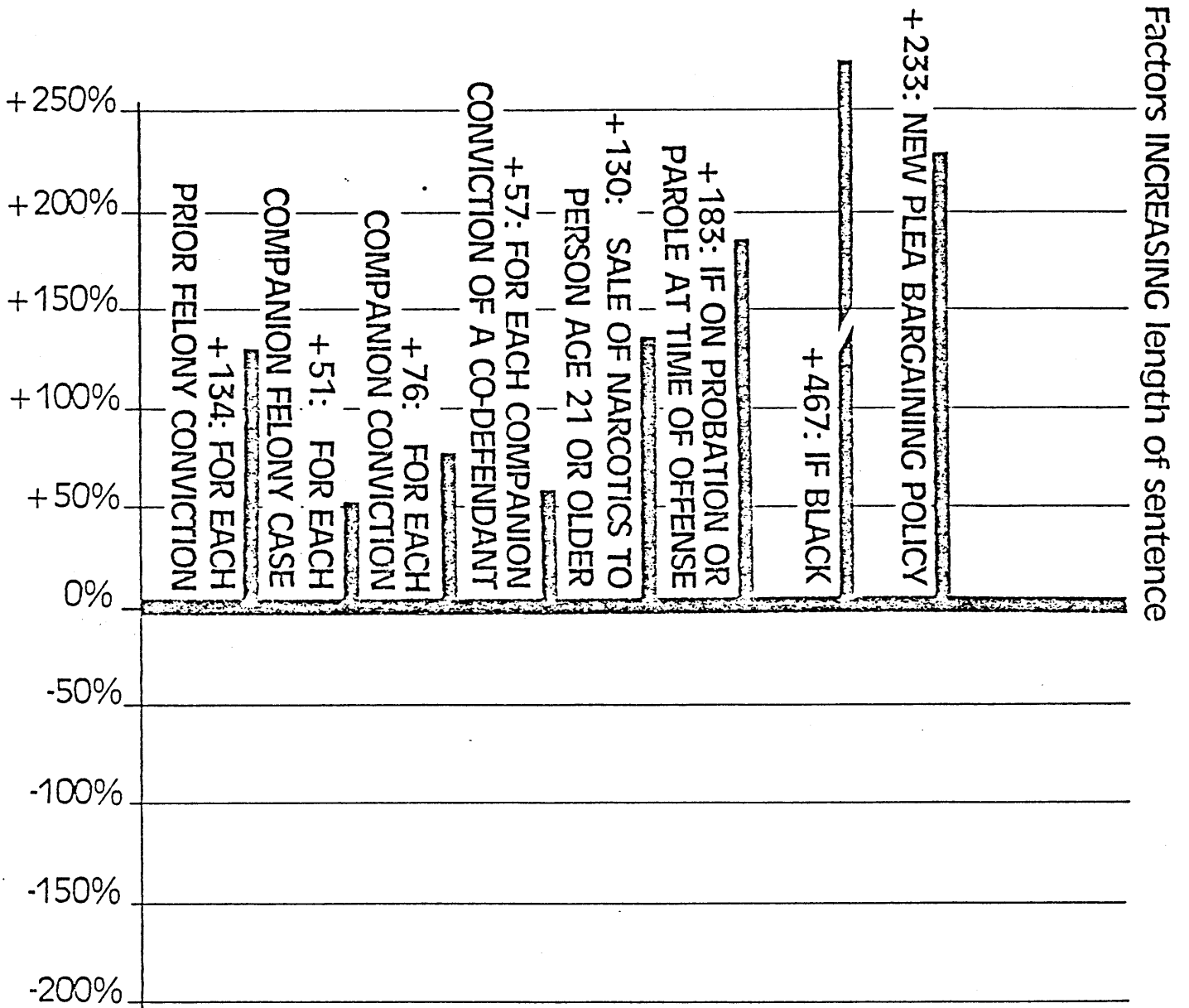


Table VII-8. Factors Having Significant ¹ Association ² with Likelihood of Active Sentence of 30 Days or More, in Offense Classes 2, 3, 4, and 5.

A. Class 2 Cases (Violent Felonies Other Than Murder and Kidnapping)

1. Companion felony case (+)
2. Specific offense of conviction was Rape, Robbery, Assault with Intent to Kill, Assault with Dangerous Weapon, or Felonious Escape (+)
3. Prior felony convictions (+)
Controlling for Factors 1, 2, and 3:
4. Companion convictions (+)
5. Defendant unemployed (+)
6. Defendant and victim had family, acquaintance, or employment relationship (-)
7. Defendant's counsel was appointed (+) or privately paid (-)

B. Class 3 Cases (Burglary, Larceny, and Receiving)

1. Companion felony case (+)
2. Specific offense of conviction was burglary or felonious larceny (+)
3. Prior felony convictions (+)
Controlling for Factors 1, 2, and 3:
4. Defendant was on probation or parole (+)
5. Defendant was black or native (+)
6. Defendant was unemployed (+)
7. Defendant's counsel was appointed (+), public defender (+), or private (-); defendant had no counsel (-)
8. Sentencing judge was "strict" (+) or "lenient" (-)
- [9. New plea bargaining policy (+) only in "low risk" cases; see text of report]

C. Class 4 Cases (Fraud, Forgery, Embezzlement, Bad Checks)

1. Prior misdemeanor and felony convictions (three groups: none, misdemeanors only, felonies) (+)
2. Specific offense was forgery of debt(+)
Controlling for Factors 1 and 2:
3. Defendant was black or native (+)
4. Defendant was female (-)
5. Defendant had no counsel (-)
6. Sentencing judge was "strict" (+) or "lenient" (-)
7. New plea bargaining policy (+)

¹ All factors shown have association significant at .05 or less, unless otherwise indicated.

² If factor is associated with increased likelihood of active sentence, it is marked (+); association with decreased likelihood is shown by (-).

Table VII-8. (Page 2)

D. Class 5 Cases (Drug Offenses)

1. Companion felony case (+)
2. Specific offense was sale or possession of narcotics (+)
3. Prior felony convictions (+)
Controlling for Factors 1, 2, and 3:
4. Defendant was on probation or parole (+)
5. Defendant was black or native (+) [Significant at .07]
6. New plea bargaining policy (+) [Significant at .12]

