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ALASKA FELONY SENTENCING PATTERNS:
A MULTIVARIATE STATISTICAL ANALYSIS
(1974-1976)

* * *

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To the Reader:

The enclosed preliminary report is a summary of patterns of felony sentencing in Alaska which occurred between August 1974 and August 1976. The findings of this report are intended strictly as interim conclusions of an ongoing project. As more information is gathered and analyzed, these efforts should provide an increasingly accurate description of the factors that influence the decision-making process in felony sentences.

The statistical analysts have cautioned against attempts to utilize this preliminary report as a tool to predict future judicial behavior, or as a judicial evaluation device. The statistical methodology employed for the study is not suited to yield such results, and attempts by the reader to adapt these findings for prospective use at this stage in the research are likely to be unsatisfactory. For example, the reader will find the report concludes that individual judicial decision-making has an important effect on the lengths of sentences imposed, independent of the facts of the cases in question. The data indicated that in each category of crime the average sentences imposed by some groups of judges were substantially shorter than the overall average sentences imposed for offenses within the same category. On the other hand, sentences of other groups of judges were considerably longer than the same general average within the offense class in question. However, further analysis revealed that in some crime categories the judge-group which appeared to be "lenient" was not in fact "lenient". The mitigating factors which contributed to relatively shorter sentences by all judges happened to have clustered in the cases set for sentencing before this particular

judge-group. More simply, the judge group did not sentence serious crimes more lightly, but rather, happened to have been assigned the least serious cases.

Further, even when a judge-group was classified as "strict" (and the relative increase in sentences could not be accounted for by the aggravated nature of the offenses themselves), the "strictness factor" could not be individually ascribed to any single judge within the group. This is so for two reasons: First, the number of cases per judge/per crime were too few to yield any evaluative statement. Only by grouping individual judges could a meaningful pattern be discerned. Second, the patterns and practices which surfaced from the data reflect consistent trends and responses only to those variables that were selected for measurement in this study. The contours on the "sentencing map", though lacking in precision are substantially reliable as far as they go. However, there is possibly important information which was not gathered that may be affecting the patterns reflected by the information that was gathered. Thus, using the example of "strict" and "lenient" judges, the most that can be reliably concluded is that during the preceding two years, in some crime categories, defendants appearing before the group of judges labeled "strict" would receive substantially longer sentences than similarly situated defendants appearing before the group of judges classed as "lenient". What cannot be determined is the strictness or leniency impact of individual judges within the group. Other important factors which cannot be determined are the impact of victim-defendant relationships and the impact of favorable or unfavorable pre-sentence recommendations, items not analyzed in the preliminary analysis, but which may have affected apparent leniency or strictness in an unknown manner. Therefore, the reader will benefit greatly by a careful reading of what has been revealed by this initial effort, as well as by what remains unknown for now.

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FORWARD

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SUMMARY

This report summarizes a study of Alaska's felony sentencing patterns occurring between August 1, 1974 and August 1, 1976. The purpose of the study, performed at the request of the Alaska Legislature, was to investigate and evaluate the impact of judicial decision-making practices on the length and severity of penal sanctions. The study sought to identify those facts about crimes and the persons who committed them which most influenced the lengths of the sentences they received.

In order to describe existing sentencing patterns and further to determine, insofar as possible, what factors contribute most significantly to these patterns, three research attorneys reviewed substantially every felony sentence rendered in Alaska between August 1974 and August 1976, totaling over 860 felony counts against 683 defendants. For each, 87 discrete informational items were gathered and "coded" on a data collection instrument for statistical analysis by computer.

The 33 different statutory offenses into which all convictions fell were grouped for analysis into seven offense classes. Five offense classes were subject to in-depth analysis. These classes included violent crimes (such as rape, robbery and assault with a dangerous weapon), crimes of theft or unlawful entry (such as burglary and

larceny), crimes of deceit (such as fraud, forgery and embezzlement), and drug felonies (such as possession of heroin or sale of marijuana).

The remaining other groups were either too heterogeneous or contained too few cases for meaningful statistical analysis.

Each of the five major categories was subject to two different analytic methods. The first method, one-way analysis of variance, scans all of the variables and eliminates those which appear to have no significant association with length of the sentence. This analysis yielded some important information about factors which were originally hypothesized to affect the sentencing decision, but which were found in fact not to matter. For example, neither type of military discharge, number of dependents, being a Native Alaskan, or having a juvenile record was found to have any significant impact on felony sentences for any of the offenses studied. The age of the defendant, surprisingly, had a significant impact on drug offenses alone, and on no other type of crime. Even for drugs, age only mattered (tending to lessen the penalty) if the defendant was under 21 years old at the time of the commission of the act. The most surprising result yielded by analysis of variance was that in the violent crime category neither extent of physical injury to the victim (short of death) nor the use of a firearm by the defendant had any significant independent impact on sentence length. This unexpected result was subjected to additional statistical testing and continued to survive the analysis.

A further statistical technique, multiple regression analysis, was employed in order to determine the independent contribution to sentence length of each of the variables surviving after the application of analysis of variance. Multiple regression analysis yields an answer to the following question: Regardless of other factors that may be present in a case, what is the independent contribution of this factor to the length of the sentence given? For example, where the average of a group of sentences rendered by Judge "X" is significantly longer than the average sentence for the same type of offense rendered by all the other judges, multiple regression analysis can tell us whether this difference in average sentence length is "real", that is, due to the independent contribution of Judge "X", or whether the difference can be attributed to the fact that Judge "X" merely happened to have passed sentence in some particularly aggravated cases, and thus only appeared more strict.

One finding which survived both methods of statistical analysis and which applied across all five offenses classes was that "strictness" or "leniency" of the judge was an important determinant of length of sentence, independent of any other factor or combination of factors. (An explanation of "strictness" and "leniency" appears at pp.20-22 of the report). In general, the impact of a strict sentencing judge was most important in violent crimes and drug crimes, while leniency played no part in these sentences. Conversely,

in thefts and crimes of deceit (all property offenses), there was a decided "leniency effect". On the whole, however, strictness tended to have a greater impact than leniency. For example, for violent crimes the average sentence by all judges during the two-year study period was 45.4 months; but the average sentence for this crime class among those judges identified as "strict" was 102.6 months. (See Tables 2 and 3.)

In addition to the judge, the specific offense within any crime class was also very important. In each crime class there were at least one or two specific offenses which regularly resulted in significantly longer sentences, regardless of any other variable. Virtually all murder or kidnapping convictions (there were only 16 altogether) resulted in very long sentences, half to life imprisonment. In the violent crime category, rape got by far the most severe treatment, with an average sentence of 95 months and not a single defendant being placed on straight probation during the study. For crimes of theft, the most serious offense was burglary in a dwelling; and for crimes of deceit, it was embezzlement. The most serious drug offense was sale of a narcotic substance.

In most offense classes, prior criminal acts (convictions) had a significant impact on sentence length. Being either on probation or parole at the time of the commission of the offense, or having a past history of probation or parole revocations, very understandably tended

to increase sentences substantially. However, one influential factor of a somewhat more questionable nature was whether or not the defendant had other charges pending at the time of sentencing for the offense in question. In violent crimes and in crimes of fraud or deceit the pending-charges factor was comparable in its influence on sentence length to the factor of prior criminal convictions. Since defendants are innocent until proven guilty, this finding has distressing implications for the presumption of innocence, at least in its practical applications. In the violent crime category in general, most of the influential factors (other than having a "strict" judge) were related to the particular statutory charge and to the seriousness of the defendant's criminal history. The notable exception to this pattern was that where the defendant had a poor employment history (substantial unemployment during the preceding two years) he was likely to receive a more severe sentence, notwithstanding any other factor.

One of the most disturbing findings of the study concerned the impact on sentence length of membership in the black race. After taking into account the independent contribution of all other factors in the study, being black in and of itself contributed an estimated 11.9 months to drug felony sentences and 6.5 months to sentences for crimes of theft or unlawful entry. This independent "blackness factor" survived both statistical tests and was shown to increase the severity of sentences entirely aside from such

considerations as employment history, educational level, occupation, income, prior criminal history and probation or parole status. Blackness was not a factor, however, in crimes of violence or in frauds, forgeries or embezzlements.

On the whole, drug offenses were distinguishable from all other offense classes in that many socio-economic considerations not strictly related to degree of culpability or prior criminal history were found to contribute very substantially to sentence length. Income, age, occupation and educational level were all very significant in drug cases, although not at all significant in any other offense class. Predictably, a "good" job, a higher income and a better education resulted in a lower sentence even in a relatively more serious offense; while less fortunate persons, regardless of type of offense or prior criminal history were seemingly unable to reap the same rewards.

I. INTRODUCTION

Under Alaska law the sentencing judge is presented with a wide range of statutory penalties when faced with the necessity to impose sentence on a person convicted of a serious offense.¹ In the selection of a fitting sanction from this spectrum of penalties, the Supreme Court of Alaska has required the trial courts to balance the frequently competing penological objectives of

rehabilitation of the offender into a non-criminal member of society, isolation of the offender from society to prevent criminal conduct during the period of confinement, deterrence of the offender himself after his release from confinement or other penological treatment, as well as deterrence of other members of the community who might possess tendencies toward criminal conduct similar to that of the offender, and community condemnation of the individual offender, or in other words, reaffirmation of societal norms for the purpose of maintaining respect for the norms of themselves.²

1. For example, the legislatively authorized punishments for serious felonies may range from no minimum sentence to life imprisonment:

Kidnapping (A.S. 11.15.260) no minimum, up to life.

Rape (A.S. 11.15.120) one to 20 years.

Manslaughter (A.S. 11.15.040) one to 20 years.

(See Table 1 for a complete list of Class A felonies and authorized punishment). Further, it should be noted that the court may suspend any portion of the authorized term of years (A.S. 12.55.080 and 12.55.085).

2. State v. Chaney, 477 P.2d 441,444 (Alaska 1970).

In deciding how to balance the foregoing penological objectives, the sentencing judge may weigh and consider the circumstances and gravity of the particular criminal act, the nature and extent of the defendant's previous criminal record, his or her personal, social, economic and family circumstances, along with a host of other factors. Faced with very general and often conflicting legal standards, and an extremely broad framework of relevancy under which virtually any circumstance concerning the criminal act and the defendant's background may conceivably be deemed pertinent to the disposition, the sentencing process invites a high degree of subjectivity, especially in the matter of selecting which facts to weigh heavily and which to discount. Inevitably, the judgment will in some measure reflect the background, training, attitudes and values of the different individuals who are required to do the judging.

In the sections of this report which follow, we have made the first attempt at a systematic description of sentencing practices in the state of Alaska during the period 1974-1976. We have tried to determine which factors or combinations of factors were associated with increases or decreases in felony sentences. We have sought first to describe sentencing practices in terms of means, medians and frequency distributions, and then to account for sentencing variation by reference to a number of elements which we theorized may have been influential in the decision-making process.

II. STUDY DESIGN AND DATA

In response to strong interest expressed during the 1976 session of the Alaska Legislature, the Judicial Council undertook a study of felony sentences rendered in this state between August 1, 1974 and August 1, 1976. The researchers sought to record convictions and sentences and also to note in association with each a number of hypothetically relevant factors pertaining to the criminal act, the past criminal history of the defendant, his or her social and economic characteristics, the procedures leading up to final judgment, the recommendations of the pre-sentence officer and the attorneys in the case, the geographic location of the court, and the identity of the sentencing judge. A form designed for computer use was developed to capture more than eighty independent variables hypothetically related to the dependent variable -- the sentence. Data was collected on 860 separate charges representing almost all of the felonies of which defendants were convicted during the two year study period.

The data collection form was divided into six parts and used to collect the following information on each charge:

Part 1 -- Defendant's Socio-Economic Characteristics

1. Birthdate, sex, age, marital status, and number of dependents.

2. Occupation, income and employment history over the preceding two years.
3. Education and/or skills training.
4. Military service and type of discharge.
5. Place of residence.

Part 2 -- Criminal History of Defendant

1. Number and nature of prior misdemeanor and felony convictions.
2. Pending criminal actions against the defendant.
3. Previous parole or probation revocations.
4. Juvenile court dispositions.

Part 3 -- Information Relating to Offense, Bail and Defense Attorney

1. Date of offense and commencement of the speedy trial rule (Criminal Rule 45).
2. Specific offense or offenses with which defendant was charged.
3. Specific offense or offenses of which defendant was convicted.
4. Descriptive information about the offense such as type of weapon employed, extent of harm to victim, type of drug involved, etc.
5. Custodial status -- whether defendant was on probation, parole, bail or conditional release, and bail amount.

6. Type of representation (public defender, retained or appointed counsel).

Part 4 -- Sentencing Information

Items contained in the pre-sentence report or discussed at the sentencing hearing were collected in this section, including such items as:

1. Sentencing recommendations of the pre-sentence investigator, prosecutor, and defense counsel as well as special treatment requests.
2. Information concerning possible drug addiction, alcoholism and results of any psychological evaluations performed.
3. Extent of defendant's cooperation with authorities and any statements made by defendant at sentencing.
4. Identity of the sentencing judge.

Part 5 -- Sentence

1. Offense of which convicted and basis of conviction (jury, court trial or plea).
2. Actual sentence imposed expressed in terms of active prison time, suspended time and months of suspended imposition of sentence.

3. Any special recommendations or conditions.
4. If a fine or restitution was ordered, the amount involved.
5. Reasons for the imposed sentence as stated by the court. (Rehabilitation, reaffirmation of societal norms, isolation, general deterrence, specific deterrence).

III. METHODS OF ANALYSIS

A. Dependent Variable

The study dealt with the lengths of sentences imposed for felony convictions. Sentence length was defined as the length of the active prison time imposed by the court for the felony, or, if no active time was imposed, as zero. ("Active" prison time is prison time that must actually be served, as contrasted with suspended time.) Time required to be served as a condition of probation was considered active time. A sentence length of zero meant that the defendant received no active time. In most such cases the defendant received a suspended sentence and was placed on probation for a period without being required to spend any time in confinement.

B. Statistical Techniques

The statistical method consisted of an initial screening of variables using analysis of variance, followed

by a multiple regression analysis. The initial screening eliminated from further consideration some factors that showed little or no relationship to sentence length; the remaining factors were then subjected to multiple regression analysis. The multiple regression procedure indicated which factors were importantly and significantly related to sentence length and yielded an estimate of how much each factor contributed (added or subtracted) over and above the contribution of all other factors. The result of the statistical analysis is a simplified description of how various factors affected the sentencing decision during the two-year period studied.

C. Limitations of Statistical Techniques

Both of the statistical procedures used in this preliminary analysis -- analysis of variance and multiple regression -- work best when the variable being analyzed is distributed "normally", i.e. conforms to the well-known "bell-shaped curve". The variable being studied here -- sentence length -- is not normally distributed. It has a "skewed distribution" in the sense that most defendants are not clustered in the middle range of sentence, but rather at one end of the scale or the other (usually the lower end), as Table 1 indicates. Although multiple regression is not best suited to analyzing "skewed" data, it was used because it provided a simple and quick way of selecting the factors that were most strongly related to the length of sentence

and of estimating their relative strength. The results presented here are considered tentative, and will be checked further using other methods.³ However, they are reliable enough to provide considerable insight into the sentencing process.

A number of studies of the outcome of prosecution and sentencing were reviewed in a recent publication.⁴ Some of these used contingency table analysis, a method in which one or more explanatory variables are cross-tabulated with the outcome of interest (conviction, sentence length, or other court disposition). These results are informative, but are deficient in two important ways: (1) They do not provide a description of the importance of each explanatory factor adjusting for all the other explanatory factors; and (2) they do not provide any means of measuring how complete a picture they form of the process being studied. Other studies used multiple regression analysis. Usually, the

3. A more rigorous technique would be able to examine several different dichotomous (i.e. two-category) sentence variables; for example, probation versus active time, probation or less than a year versus one year in prison or more, probation or less than two years versus two years or more, and the like. This approach will be taken in further analysis of the Alaska data.

4. Clarke & Koch, "The Influence of Income and Other Factors on Whether Criminal Defendants Go to Prison", 11 Law & Society Review 57,58-65 (1976).

procedure was employed without any discussion of its shortcomings in handling a variable such as sentence length that is not normally distributed. Not all of these studies used any measure of how complete a picture they provided of the process being studied. Two studies did use a measure known as "R²" ("R-squared") which estimates the proportion of variation in the dependent variable (e.g. sentence length) explained⁵ by the statistical results. One study reported R² values of up to 19 percent; another reported a value of 48 percent. (The latter may have been inflated due to inclusion in the final statistical "model" of a number of factors that were not significantly related to sentence length; in the present study, no such variables were included in the final model.) In the Alaska study, R² values (i.e. estimates of percentage of total variation in sentence length explained) were 55, 26, 86, and 51 percent for the four felony offense classes studied.

There are a number of ways of looking at these results. One interpretation is that the percentage of "unexplained" variation is due to errors of measurement in the variables used and failure to identify and include other important variables. This interpretation certainly has some validity; we can hardly claim that we have captured the entire reality of the sentencing process. On the other

5. For a discussion of the sense in which statistical results "explain" variation, see Footnote 7 below.

hand, unless one takes a purely deterministic view of the social universe, a certain amount of purely random variation can be expected and is reflected in the large amount of "unexplained" variation. In any multiple regression analysis, it is possible to greatly inflate R^2 by simply including extra independent variables, whether or not these have any causal relationship to the dependent variables. Where categorical data are involved, the extreme limiting case of this inflation of R^2 occurs where so many variables are specified, and so many subsets of combinations of variables result, that the subsets are either empty or contain only one defendant; in this situation, "perfect" prediction is possible, and R^2 will be equal to one. In interpreting the results of this analysis, we prefer to take an "indeterminist" position. We can say that, given our present state of knowledge--or ignorance--we have identified several variables of potential importance. Also, from the final models, which fit well given the choice of variables, we can reach certain conclusions about the relative importance of the variables and their interactive effects. If later research shows that other (unknown) variables have important effects that we neglected, the tentative conclusions reached here must be revised.

In contrast to some similar recent studies, the present study provides a way of determining how complete a description of the sentencing process it has achieved, and

thus how far it fell short of the ideal goal of explaining 100 percent of the total variation in sentence length. Also, while the multiple regression procedure did not explain 100 percent of the sentence length variation in any offense class, the proportions it did explain compare favorably to those of several recent studies.

D. Precautions Concerning the Multiple Regression Results

Sections V, VI, VII and VIII of this report will indicate, for each of four offense classes, which factors were important in determining the length of the sentence received for an offense in that class, and the estimated amount each factor contributed to the sentence length, independently of other factors. The estimated contributions are shown in Tables 3, 5, 7, and 9, as numbers with plus or minus signs, representing the number of months added or subtracted by the presence of each factor listed.

The estimated contributions of the factors will be discussed in detail in later sections of the report. To avoid misinterpretation of these estimated contributions, several things should be kept in mind. One is that the results of this study are descriptive rather than predictive. They describe relationships between sentence length and a variety of factors during a specific period of time in Alaska's history (August 1974 - July 1976). The description has significance for the present and the future, but the statistical results may not be reliable predictions of the

sentence a particular defendant will receive, either at the present time or in the future. One reason is that the precise historical environment of the court system during the study period can never be duplicated, and one cannot assume that the results of the present study are independent of that specific environment. Sentencing studies need to be repeated to keep up with changes in conditions external to the sentencing process.

The second thing to keep in mind when looking at the estimated contributions of factors to sentence length is that the numbers in Tables 3, 5, 7, and 9 are estimates, not precise values. How accurate are these estimates in terms of the sentencing process during the two-year study period? Each of the estimates is at least two times as large as its standard error, and most are three or four times as large. The standard error provides a confidence limit for the estimate. For example, with regard to offenses in Class 2 (defined below), if the defendant had a record of two or more prior felony convictions, his sentence was 38.6 months longer, other things being equal, than if he had a record of one or zero prior felony convictions (see Table 3, row 7). This estimated contribution of 38.6 months had a standard error of 9.0 months. This means that if we were to say that having a record of two or more felonies added a number of months to the sentence in the range of 29.6 months (38.6 minus 9.0) to 47.6 months (38.6 plus 9.0), we would be

correct about 68 percent of the time. Similar confidence limits can be computed for each of the other estimated contributions in Tables 3, 5, 7, and 9. These confidence limits are not printed in this report, but it should be remembered that each estimated contribution should be thought of as a value that can vary upward or downward by about one-third or one-fourth the value shown in the table.

The third thing to remember is that, although the estimated contributions are independent values, it may be somewhat unrealistic to add more than two or three of them together. For example, looking again at Table 3, it is realistic to say that if a defendant convicted of a Class 2 (violent) offense has a record of two or more felony convictions (row 7 in the table), and also has a record of probation or parole revocation (row 2) his sentence was about 66.2 months (43.1 plus 23.1 months) higher than if he had had neither. However, if one were to speculate about, say, a defendant convicted of rape who had all the factors in Table 3 working to his disadvantage, it would be unrealistic to add up all the estimated contributions to see how much longer his sentence would have been. The reason is that there were probably no such defendants. The estimated contributions do give us some idea of what sentence a defendant might have received if he had had all the strikes against him, but we really cannot be sure how the courts would have treated him. The best way to use the estimated contributions is to consider

them one at a time, to compare a sentence for a defendant who had a specific characteristic with a defendant who did not, or, if we wish to look at combined effects, to aggregate no more than two or three of the values.

IV. INITIAL ANALYSIS

The first step in the analysis was to examine the factors on which data were collected to see how much of the total variation in sentence length each one explained. The factor that explained the most variation in sentence length was clearly the offense for which the defendant was convicted (33 separate offenses were recognized in the study). When these 33 offenses were grouped into seven categories, called "offense classes", the factor of offense class explained about the same amount of the variation.⁶

6. Some clarification is necessary of the sense in which a factor "explains variation". There were 860 distinct felony charges in the study of which some 683 defendants were convicted. (The individual charge or "count" was the unit of analysis, but of course the characteristics of the defendant were considered along with those of the charge.) The total variation in sentence length can be defined as the sum of the squared differences between each of the 860 sentences and the overall mean sentence (27.96 months).

The amount of variation "explained" or accounted for by the seven offense classes to which the 860 charges belong is measured by summing the squared differences between the mean sentence for each offense class and the overall mean, after each such squared difference is multiplied by the number of charges in the class. This explained variation divided by the total variation gives the proportion of variation explained by offense class--about 53 percent. In other words, 53 percent of the total variation in sentence can be accounted for by simply thinking of each of the 860 charges as a member of one of the seven offense classes, and taking the sentence imposed for it not as the actual sentence but as the mean for the class to which it belongs. (The same sort of measurement of proportion of variation explained can be made with regard to any factor; here we have used offense class as one example of the many factors considered in the study.)

The seven offense classes were defined as follows; (see Table 1). First, a separate category (Class 1) was created for the 16 charges of murder in the first and second degree and for kidnapping. These were considered apart from the others because of their severity and very high sentences imposed. Other violent felonies were grouped in Class 2 (a total of 196) because they shared a common element of assault and because their statutory sentence ranges were comparable. Burglary, larceny and receiving and concealing stolen property (215 charges) were grouped in Class 3. Class 4 consisted of 108 felonies involving fraud, forgery, and embezzlement. Class 5 consisted of 203 drug felonies. The 30 charges of statutory rape and lewd and lascivious acts toward a child seemed to belong in a class by themselves, and became Class 6. Ninety-two other felony charges remained and were grouped together as Class 7--"other felonies". No offense represented among these was either numerous or severe enough to constitute a class by itself, nor was any sufficiently similar to offenses in Classes 1 through 6 to be grouped with them.

The contrast among the seven offense classes can be seen clearly in the mean sentence lengths for each class (see Table 1): 45.4 months for Class 2 (violent felonies), 8.6 months for Class 3 (burglary, larceny and receiving and concealing); 14.4 months for Class 4 (fraud, forgery and embezzlement); 11.7 months for Class 5 (drugs); 22.3 months for Class 6 (sex offense); and 10.2 months for Class 7 ("other"). No mean was computed for Class 1 (kidnapping and

murder) because it seemed inappropriate to average life sentences with lesser terms.

The next task was to identify those factors most strongly associated with sentence variation within each offense class. This task was carried out within Classes 2, 3, 4 and 5, which together accounted for 722 (84 percent) of the total of 860 charges. Class 1 (murder and kidnapping) and Class 6 (statutory rape and lewd acts toward children) were too small to permit further statistical analysis within them. Class 7 ("other" felonies) was large, but the offenses it contained were so diverse that it would have had little meaning to analyze them as if they were a homogeneous group. Thus, the only results of the analysis for Classes 1, 6 and 7 are the means, medians and frequency distributions shown in Table 1.

V. ANALYSIS OF CLASS 2:

VIOLENT FELONIES OTHER THAN MURDER AND KIDNAPPING

The offenses making up Class 2 are shown in Table 1. They range from assault with a dangerous weapon (AS 11.15.220), with a statutory prison term range from 6 to 120 months, to forcible rape (AS 11.15.120-.130), mayhem, and shooting with intent to kill, wound, or maim (AS 11. 15.140-.150), with statutory prison term ranges of 12 to 240 months (rape is punishable by life imprisonment in some circumstances). As in most of the offenses studied, the

mean sentence lengths are well below the statutory maximums. The median -- i.e. the "midpoint" sentence length, such that half the charges do not exceed it and half are equal to or greater than it--is also well below the maximum for each offense. There is great variation in sentence length within specific offenses; for example, while 30 percent of the robbery charges studied resulted in sentences over 60 months, 15 percent resulted in probation with no active imprisonment at all.

All of the factors on which data were collected were "screened" by performing a one-way analysis of variance within Class 2. Those of no apparent statistical importance were excluded. The remaining factors were subjected to a multiple regression analysis. The multiple regression analysis showed that still more factors could be excluded, since they failed to demonstrate a relationship to sentence length that was statistically significant (i.e., unlikely to be accidental).

Tables 2 and 3 list seven factors that survived the initial screening and were shown by multiple regression to be significantly related to sentence length. For violent felonies, the most important factors were the following:

1. Felony convictions accompanying this conviction (i.e. the number of other felonies, if any, the defendant for which was contemporaneously sentenced);
2. Whether the defendant had had probation or parole revoked in the past;

3. Whether the defendant was known by the court to have been unemployed 18 months or more out of the past two years;
4. Whether the sentencing judge was "strict" (This factor is explained below);
5. Whether other unrelated charges were pending against the defendant at the time of sentencing;
6. The specific offense; and
7. The defendant's prior felony convictions, if any.

Table 2 of this report, and the other tables like it (Tables 4, 6, and 8) are included in order to show, in each offense class, (1) how many charges fell into each of the categories of the factors found to be linked with sentence length, and (2) what the mean sentence length was for each such category. For example, the first factor listed in Table 2 is the total number of felony convictions occurring contemporaneously with the charge. (If a defendant were convicted of three felony charges in the same trial, each charge would constitute one unit of data in this study; for each charge, the total number of felony convictions occurring contemporaneously would be two.) Of the total of 196 charges in Class 2, 175 occurred either alone or accompanied by no more than one contemporaneous felony conviction against the same defendant (Table 2, line 1), and 21 occurred accompanied by two or more contemporaneous felony convictions (Table 2, line 2). The mean sentence for the first group of charges was 34.9 months and the mean for the second group was 143.5

months (Table 2, lines 1 and 2). The means compared in Table 2 should not be confused with the estimated contributions of each factor in Table 3. The means in Table 2 show the contrasts between categories of various individual factors, without adjusting for the contribution of all other factors. The values in Table 3 are estimated for each factor taking all others into account to determine that factor's unique contribution.

Table 3 indicates an estimate of the contribution of each of the seven factors to sentence length, independently of all other factors. The impact upon the typical sentence attributable to a factor is shown with a plus sign if the factor is associated with a higher sentence, and with a minus sign if it is associated with a lower sentence. For example, if a charge were accompanied by two or more other felony convictions (i.e. the same defendant was being sentenced contemporaneously for three or more felonies) the sentence for each charge would be an estimated 43.1 months higher, other things being equal.⁷ Past revocation of probation or parole was associated with a 23.1 month increase. The other estimated increases can be read from Table 3.

The defendant convicted of a Class 2 offense (see Table 3) received a sentence estimated at 45.6 months longer,

7. Although the sentence for each charge was higher if it was accompanied by others, the sentences for all charges were not necessarily consecutive; in fact, they were usually concurrent.

other things being equal, if the sentencing judge was in the "strict" category. This result, and similar results (discussed below) in other offense classes, provide evidence that the identity of the judge has a significant and substantial effect on sentence length, even when other mitigating and aggravating factors are taken into account.

The factor of whether the sentencing judge was "strict" requires some explanation. It is well known that judges, being human, differ in their attitudes towards persons convicted of various offenses. Some 20 judges were involved in the study, each with his own unique attitudes. Statistically, it was impossible to examine each judge as a single factor. If the cases assigned to each of the 20 judges had been analyzed separately, there would have been too little data in each batch to allow estimation of the importance of other factors. Therefore, it was decided to assign judges to one of three categories: "strict", "lenient" and "other". A tentative designation of each judge as "strict", "lenient" or "other" was made by examining the mean sentence length for each judge in each offense class and the number of charges for which the judge had imposed sentence. If a judge imposed sentence for fewer than four charges in an offense class, it was decided that there was too little information to designate him as "strict" or "lenient" and he was assigned to the "other" category. If a judge imposed sentence for four or more charges in an offense

class, he was designated as "strict" if his average sentence was at least twice as large as the average for the entire offense class, and as "lenient" if his average was no more than one-half the average for the entire offense class. Usually, judges who were designated as "strict" or "lenient" in one offense class did not turn out to be "strict" or "lenient" in other offense classes.

This designation of judges as "strict" or "lenient" was tentative in the following sense. Initially, the statistical analysts knew nothing about the judge's individual attitudes; only the average sentence imposed was known. If a judge's average sentence length was high, this could have been an indication of a strict attitude, but it could equally well have been because the judge happened to have been assigned cases with a high proportion of aggravating factors. If a judge's average was low, this could have been an indication of a lenient attitude, but it also could equally well have been because the judge happened to have been assigned cases with a high proportion of mitigating factors. The multiple regression procedure was, in a sense, a test of whether the initial designation of judges as "strict" or "lenient" was correct. Because the multiple regression computations took into account many factors (other than judges' attitudes) that could have made their sentences high or low, it could be determined whether "strictness" and "leniency" (according to the initial designation) had a significant relationship to

sentence length after other factors were taken into account. In other words, in Tables 3, 5, 7, and 9 of this report, when "strict judge" or "lenient judge" is shown as contributing significantly to sentence length, this contribution is estimated separately from the contribution of other factors (criminal history, type of offense, etc.) that affected sentence length. With regard to Class 2 and 5 (Tables 3 and 9) "strictness" was shown to be statistically significant, while "leniency" was not; with regard to Class 3 and 4 (Tables 5 and 7), "leniency" was found significant, and "strictness" was not. But how can "leniency" have been important when "strictness" was not, or vice versa? The reason is that the multiple regression procedure adjusted for factors that accounted for apparent "strictness" or "leniency" of the judges.

Most of the factors shown to be important in Class 2 (see Table 3) are those one would expect to be important. For example, a defendant being sentenced at the same time for several felonies might be expected to fare worse than a person with only one conviction. Prior felony convictions were expected to be associated with higher sentences. Defendants with previous revocation of probation or parole receive higher sentences presumably because less severe sanctions had been employed in the past and found ineffective.

Even though the offenses in Class 2 were similar in that all involved a necessary element of assault, the

differences among them proved to be statistically related to difference in sentence length. In comparison with the sentence received for assault with a dangerous weapon (the most numerous and least serious offense in Class 2), the sentence was an estimated 20.3 months longer for robbery, 39.5 months longer for manslaughter, mayhem, or shooting or assault with intent to kill, etc., and 55.6 months longer for rape (see Table 3). Rape, in particular, was considered so serious that active prison time was imposed in every one of the 23 instances of the offense.

Having been unemployed for most of the last two years was associated with a longer sentence. With regard to robbery, the reason may have been the belief that a person without a legitimate job who robs does so for a living; with regard to other offenses, unemployment's importance may be due to the belief that those without lawful employment are simply less "responsible" than others. On the other hand, one may question whether a person's past employment record ought to count so heavily toward increasing his punishment.

Another thing the statistical analysis tells us is that with regard to sentences for Class 2 (violent felony) offenses, a great many of the factors studied cannot be said to have been importantly related to sentence length. These include sex, age, race, income, occupation, marital status, and drug or alcohol addiction, the degree of injury to the victim and use of a firearm, some of which do seem to affect the sentences for other types of offenses.

It was especially surprising that neither the extent of harm suffered by the victim of the offense, nor whether a firearm or other weapon was used were shown in the preliminary analysis to have had a substantial relationship to sentence length in Class 2. These factors were not included in the multiple regression computation whose results are shown in Tables 2 and 3, because the initial screening with analysis of variance indicated they were not important. For a further test of whether these variables were important, another multiple regression computation was performed, including them along with the others included in the first computation. (The others were the specific offense; prior felonies; age; sex; race; income; employment; type of military discharge; past revocation of probation or parole; unrelated pending charges; whether the defendant was on probation, parole, or bail at the time of the offense; and whether the judge was "strict" or "lenient".) The results were as follows: Most of the factors listed in Table 3 remained statistically important and continued to contribute about the same number of months to the sentence as that shown in Table 3. Whether a firearm or other weapon was used still did not show a significant relationship to sentence length. The degree of harm to the victim -- but specifically only when the victim died -- was shown to be important, adding 35.0 months to the sentence (as compared with a Class 2 offense in which no harm was inflicted). The inclusion of

this factor (i.e. whether the victim died) in the computation displaced (reduced in apparent importance) the factors of (1) whether the offense was manslaughter or assault or shooting with intent to kill, and (2) whether the offense was robbery. In the next step of the computation, however, the factor of manslaughter or assault or shooting with intent to kill was shown to be important, and displaced death as an important factor. This result means that the element of killing -- as one would suppose -- is one reason why being convicted of manslaughter or assault with intent to kill makes a long sentence likely.⁸

The conclusion from this further test was that neither use of weapons nor harm to the victim was statistically important, except that killing, as an isolated factor, appears to have been about as strongly related to sentence length as a factor combining the offense of manslaughter with assault and shooting with intent to kill.⁹

8. Manslaughter and death are nearly synonymous here. Among Class 2 offenses, only manslaughter necessarily involved killing. A total of 19 Class 2 charges involved a victim who died as a result of the offense; 17 were manslaughter, one was rape and one was assault with a deadly weapon.

9. One other result of the second multiple regression computation should be mentioned. The fact that firearms had been involved in the offense but under control of someone other than the defendant (for example, an accomplice) was associated with an increase in sentence length of 37.8 months (as compared with offenses where no firearm was used). This result may be a statistical "fluke". There were nine cases with this kind of firearm involvement; eight were robbery cases and one was in the category of manslaughter and assault with intent to kill. Five of the cases resulted in no active prison term; the other four resulted in terms averaging 70 months.

To summarize the Class 2 findings, perhaps the best statement is that aside from having a "strict" judge (+45 months) and having a poor record of employment (+18 months) -- both of which generally mean a higher sentence -- the factors that matter all have to do with the nature of the defendant's criminal acts (as shown by his record and current charges) and not with his personal characteristics. How complete was the analysis of Class 2? The seven factors in Table 3 were placed by multiple regression into a "model" or equation in which the sentence received was expressed as a function of the factors. This model explained about 55 percent of the total variation in the sentence length within Class 2, which means that the model "fits well"--i.e. provides a fairly good (but simplified) picture of how sentences were related to the factors studied. However, the model leaves much of the variation unaccounted for, which means that factors not included in the study were important too.

VI. ANALYSIS OF CLASS 3:
BURGLARY, LARCENY AND RECEIVING
AND CONCEALING STOLEN PROPERTY

Class 3 consists of burglary, larceny, and receiving and concealing of stolen property. As in Class 2, the means and medians were well under the statutory maximums for each offense; also, the maximums were very rarely imposed (see Table 1). In Class 2 there was a higher concentration of sentences at the lower end (probation and 1 to 6 months) and upper end (25 months and over) than in the middle of the

scale. In Class 3 as in Classes 4 and 5, the sentences tended to cluster at the lower end, with a high proportion of the charges (42 percent) resulting in probation without any active prison time. Sentence length varied widely depending on the specific offense.

After a number of factors were eliminated by analysis of variance, multiple regression was performed within Class 3. The results are shown in Tables 4 and 5. Seven factors were found to be significantly linked to sentence length:

1. Whether the defendant was on probation, parole, or free on bail for another charge at the time of commission of the crime;
2. The specific offense;
3. The felony convictions accompanying the charge (i.e. the number of other felonies, if any, for which the defendant was contemporaneously sentenced);
4. Whether the sentencing judge was "lenient";
5. Prior misdemeanor convictions;
6. The race of the defendant; and
7. Whether the defendant had used an alias.

Table 4 compares the mean sentence lengths of categories of these factors. Table 5 shows the estimated independent contribution of each of these factors to sentence length. As in Class 2, the specific offense was important. A conviction of burglary in a dwelling resulted in a sentence 8.3 months longer than a conviction of any of the most common offenses in this class (larceny, receiving and concealing

stolen property, and burglary not in a dwelling). If a felony conviction was accompanied by other felony convictions, each sentence tended to be higher. Prior misdemeanor convictions were associated with higher sentences, and so was the defendant's being on probation, parole, or bail at the time of the offense. If, to the court's knowledge, the defendant had used an alias, the sentence for a Class 3 offense was an estimated 7.2 months longer. This may have been because of the perception that the defendant was a "professional" criminal with a record to hide.

The judge who imposed sentence was a significant factor, although in Class 3, the only significant relationship occurred when the judge was "lenient" (as shown by an estimated reduction in sentence of 7.5 months); whereas in Class 2, the only significant relationship occurred when the judge was "strict". (The way in which judges were designated as "strict" or "lenient" is described in the previous section.)

Race was also a factor associated with sentence length in Class 3. For the 19 charges (out of a total of 215) in this class involving black defendants, the defendant's being black meant a sentence about 6.4 months longer than if he were white. This estimate takes all the other factors recorded in the study into account. In other words, entirely apart from criminal record, type of offense charged, income, etc., being black was associated with a significantly higher sentence. This is a disturbing finding, but it should be remembered that it can be interpreted in a number

of ways. One interpretation is that the criminal justice system in Alaska discriminates against blacks. Another interpretation is that the blacks' higher sentences simply reflect their other disadvantages (to which this study may not have been sensitive) as minority group members.¹⁰

The analysis of sentence length for Class 3 offenses indicated that a number of factors, including sex, age, income, occupation, marital status, and drug addiction, were not importantly related to sentence length.

In summary, the statistical analysis indicated that the factors associated with the length of sentence imposed for Class 3 offenses (burglary, larceny, and receiving stolen goods), like those associated with the length of sentence for Class 2 offenses (violent felonies), were primarily reflections of the defendant's criminal behavior. However, the analysis did not provide as complete a description of the sentencing process with regard to Class 3 as it did with regard to Class 2, 4, and 5. Even when all the factors identified as statistically significant were included, the

10. It should be pointed out that Class 3 originally consisted of 220 charges, but five of these were excluded from the final analysis. These five charges involved four defendants who had long sentences and a very large number of prior misdemeanor convictions (nine or more). Including this group made the large number of prior misdemeanors appear to be a significant factor, but this seemed misleading because so extensive a misdemeanor record occurs very rarely. All the defendants involved were Native Americans living in small towns or villages and unemployed; three had prior felony records. These facts taken together made these defendants appear to be a very unusual group, and for this reason they were excluded.

statistical "model" explained only about 26 percent of the variation in sentence length. One reason for this incompleteness may be that the dollar value of the property stolen or received, although recorded on the data collection instruments, was not included in the computer analysis. (This factor will be included prior to the preparation of the final report.) Another reason may be that plea bargaining for specific sentence recommendations played a greater role with regard to Class 3 offenses in comparison with other offenses. If so, then factors that may directly affect pleas of guilty, such as the strength of the evidence against the defendant, would be expected to influence sentence length. This possibility will be investigated in the Alaska Judicial Council's study of the attempt to abolish plea bargaining in Alaska, now in progress.

VII. ANALYSIS OF CLASS 4:
FRAUD, FORGERY, AND EMBEZZLEMENT

The offenses in Class 4--forgery and uttering, writing bad ("N.S.F.") checks over \$250, obtaining property by false pretenses, and embezzlement--are similar to Class 3 offenses in that they involve obtaining property unlawfully, but different in that they involve fraud, deception, or abuse of a relationship of trust, rather than "direct" stealing and/or unlawful entry. Perhaps for these reasons, the factors associated with sentence length in Class 4 are somewhat different from those in Class 3.

After initial screening, the multiple regression analysis identified nine factors (see Tables 6 and 7) as significantly related to sentence length in Class 4:

1. Prior felony convictions;
2. Whether the defendant had used an alias;
3. Whether the defendant had had probation or parole revoked in the past;
4. Whether the defendant was (or had been in the past) dependent on drugs or alcohol;
5. The defendant's occupation;
6. Whether other unrelated charges were pending against the defendant at the time of sentencing;
7. Whether the sentencing judge was "lenient";
8. The specific offense; and
9. Whether the defendant was known by the court to have been unemployed 18 months or more out of the past two years.

Together, these nine factors provided quite a good description of sentence variation in Class 4; the "model" formed from them explained 86 percent of the variation in sentence length.

As expected, the specific charge was a significant factor. A charge of embezzlement--as compared with the most common charges in Class 5, forgery and uttering--was associated with a 6.9 month increase in sentence (see Table 7). This may appear to be a mistake; after all, as shown in Table 6, embezzlement had a much lower mean sentence (5.7 months) than forgery (19.3 months). Nevertheless, although forgery offenses had a higher average sentence than embezzlement (or

any other offense in Class 4), the multiple regression results indicate that the higher sentence for those convicted of forgery was not due to the offense itself but to other factors. Present information does not show which other factors are responsible, but a likely candidate is the criminal history of those convicted of forgery. In any case, when all other factors of importance are taken into account, being convicted of embezzlement rather than forgery was associated with a longer, not a shorter, sentence.

Three of the factors associated with greater sentence length were those related to past or alleged criminal acts--prior felonies, prior revocation of probation or parole, and pending unrelated charges.

The fact that the defendant had used an alias was associated with a sentence longer by 22.3 months. As in Class 3, the reason for this may be that an offender with an alias was perceived as an habitual criminal.

If the defendant at the time of conviction was known to be dependent on heroin, barbiturate drugs, or alcohol (or had a history of such dependence), he was likely to receive a longer sentence. This may have been due to a belief that drug dependence was the motive for the offense, and, being difficult to cure, made the defendant more likely to repeat his offense. However, it is not clear why drug dependence was significantly associated with an increased sentence in forgery, fraud and embezzlement offenses (Class 4) but not in burglary and larceny offenses (Class 3).

The defendant's occupation was also related to his sentence. Being a "white collar" worker, or having a professional, supervisory, or other occupation other than a "blue collar" job, was associated with a decrease of 4.6 months in the sentence received. This may reflect some discrimination (conscious or unconscious) in favor of middle class defendants, or may be the result of other middle class advantages to which the study was not sensitive. Oddly, having no reported occupation whatever was also associated with a lower sentence.

The identity of the sentencing judge played a role in Class 4, as in all other offense classes. Having a "lenient" judge meant a sentence shorter by 5.1 months, other things being equal. (A description of how judges were classified as "strict" or "lenient" is given in Section V of the report.)

VIII. ANALYSIS OF CLASS 5: DRUG FELONIES

The mean sentences for the four drug offenses in Class 5 are ranked as one might expect, (see Table 8). Sentences were lowest for possession for sale of hallucinogenic, depressant, and stimulant ("HDS") drugs, next lowest for possession of narcotics, next lowest for sale of HDS drugs, and highest for sale (or possession with intent to sell) of narcotics. This scale conforms generally to the Alaska Supreme Court's guidelines in Waters v. State.¹¹

11. 483 P.2d 199 (Alaska 1971).

However, most of this pattern was apparently attributable to the other factors of statistical significance shown in Table 9, and not to type of conviction per se. Being convicted of sale or possession for sale of a narcotic meant a 6.9-month increase in sentence as compared with the most common drug felony (sale of HDS drugs), but none of the other specific drug offenses had an independent relationship to sentence length. A record of three or more prior misdemeanors was significantly associated with a higher sentence in Class 5, but, surprisingly, a prior felony record was not.

If the sentencing judge was in the "strict" category, the sentence received for a drug felony was 22.0 months longer, other things being equal. (The classification of judges as "strict" or "lenient" is described in Section V of the report.)

One would expect the fact that the defendant was drug-dependent to have affected the sentence he received for a drug felony, but it apparently did not. Surprisingly, being alcoholic was associated with a longer sentence.

Multiple regression identified the following nine factors as significantly related to the sentence length in Class 5:

1. The defendant's education;
2. The defendant's age;
3. The defendant's income;
4. The defendant's occupation;
5. The defendant's race;

6. Whether the defendant was (or had been in the past) dependent on alcohol;
7. Prior misdemeanor convictions
8. The specific offense (possession for sale of HDS drug or narcotic);
9. Whether the sentencing judge was "strict".

These nine factors provided a reasonably good description of the sentencing process with regard to drug felonies. The "model" formed from the nine explained 51 percent of the total variation in sentence length. The three of the nine factors listed -- prior misdemeanor convictions, specific offense, and whether the judge was classified as "strict" -- were the same as, or very similar to, factors found associated with sentence length in Classes 2, 3, and 4. This was not true of the first five factors. Race was found to be linked to sentence length in Class 3 (burglary, larceny, and receiving stolen goods) and occupation was found to be associated with sentence length in Class 4 (fraud, forgery, and embezzlement), but otherwise, education, age, income, occupation, and race were not associated with length of sentence for non-drug felonies.

Being black was associated with a longer drug felony sentence. Having education beyond high school was associated with a shorter one. Being under 21 was also an advantage. Having a low income (less than \$500 per month) was associated with a longer sentence. Having a "white collar", professional, or supervisory job generally meant a shorter sentence, but being in military service generally

meant a longer one. These findings are both disturbing and difficult to explain. The fact that many socio-economic factors unrelated to culpability were associated with the length of sentences imposed for drug felonies suggests that sentencing drug offenders was more subjective (and thus more susceptible to "individualization" on questionable grounds) than sentencing those who committed felonies against persons or property.

IX. SUMMARY: RELATION OF FACTORS STUDIED TO SENTENCE LENGTH

As explained in Section IV of this report, felony offenses were divided into seven offense classes for further analysis. Class 1, murder and kidnapping, and Class 6, statutory rape and lewd and lascivious acts toward children, were unique and too small to permit further statistical analysis of the determinants of sentences. Class 7--consisting of a variety of dissimilar offenses such as negligent homicide, malicious mischief involving more than \$250, and escape from prison--was too heterogeneous for further analysis. The average sentence distributions of the sentence lengths for these offenses are shown in Table 1. The remainder of this summary concerns Class 2 (violent felonies other than murder and kidnapping), Class 3 (burglary, larceny, receiving and concealing), Class 4 (fraud, forgery, and embezzlement), and Class 5, (drug felonies).

A. The Offense of Which the Defendant was Convicted

As expected, the offense of which the defendant was convicted was strongly related to the length of the sentence throughout the statistical analysis. Initially, the 33 specific felony offenses of which defendants were convicted during the study period, as well as the seven offense classes into which the 33 were grouped, explained more of the total variation in sentence length than any other factor studied. When analysis was done within each of the four large and homogeneous offense classes (Class 2, 3, 4 and 5), certain specific offenses still proved to be strongly related to sentence length. In Class 2 (violent felonies other than murder and kidnapping), each of the specific offense categories had an effect on sentence length. The most severe was rape; the next most severe were manslaughter, mayhem, and shooting or assault with intent to kill, etc.; the next most severe was robbery; and the least severe was assault with a dangerous weapon. (In comparison with the sentence imposed for assault with a dangerous weapon, the sentence for rape was an estimated 55.6 months longer, the sentence for manslaughter, mayhem, and shooting or assault with intent to kill, etc., was 39.5 months longer, and the sentence for robbery was 20.3 months longer.) In each of the other offense classes, only one specific offense had an independent effect on sentence length. For example, in Class 5 (drug felonies), being convicted of sale or possession

for sale of a narcotic had an independent, incremental effect on the sentence (see Table 9); however, if the defendant was not convicted of a "commercial" hard drug offense, then the specific drug felony he was convicted of did not appear to affect his sentence when other factors were taken into account.

B. The Defendant's Criminal History

The defendant's criminal history had a strong and positive relationship to sentence length in each of the four offense classes studied in depth. In some, prior felony convictions were associated with a longer sentence (violent felonies; fraud, forgery, and embezzlement). In others, prior misdemeanor convictions meant a longer sentence (burglary, larceny, receiving and concealing; drug felonies). The fact that the defendant's probation or parole had been revoked in the past, or that he was on probation, parole, or pretrial release (for an earlier offense) at the time he committed the crime, meant a higher sentence in all offense classes except drug felonies. Having a prior felony or misdemeanor record meant a longer sentence, ranging from 38.6 months longer (for a violent felony) to 4.4 months longer (for burglary, larceny, receiving and concealing). The effect of past or present probation, parole, or pretrial release violations ranged from +23.1 months (for violent felonies) to one of +8.3 months (for burglary, larceny, receiving and concealing).

C. Multiple or Pending Charges

The unit of study was the charge ("count"). Thus, it was possible to estimate the effect on the sentence for a particular charge of the fact that the defendant had other charges pending against him. If a felony of which the defendant was convicted was accompanied by other felony charges of which he was convicted--in other words, if the defendant was convicted of several felonies for which he was sentenced at about the same time--the sentence for each felony tended to be longer. This effect was large with regard to violent felonies (a 43.1 months increase in sentence if there were two or more contemporaneous felony convictions), and small with regard to burglary, larceny, and receiving and concealing (a 5.8 months increase if there were one or more contemporaneous felony convictions).

It is not surprising that the sentence for a felony was higher if it was accompanied by other convictions, especially in view of the fact that multiple sentences were usually concurrent rather than consecutive. It is surprising, however, that in two offense classes (violent felonies and fraud, forgery, and embezzlement), the fact that there were other unrelated charges pending against the defendant at the time of his sentencing, of which he was not yet convicted, meant a longer sentence--about 27.3 months longer in the violent felony class and 7.4 months longer in the fraud, forgery, and embezzlement class. (The latter effect was

about the same magnitude as that of having a record of two or more felony convictions.) This finding has disturbing implications for the presumption of innocence, because it suggests a tendency to equate a pending accusation with guilt.

D. "Strictness" or "Leniency" of Sentencing Judge

Judges who sentenced four or more cases appearing in the study data were given a preliminary classification of "strict", "lenient" or "other" in each offense class depending on the average length of the sentences they imposed in comparison with the overall average for the class. (Details of this procedure are given in Section V of the report.) In two offense classes (violent felonies and drug felonies), being sentenced by a "strict" judge was associated with a longer sentence, and in two other classes (burglary, larceny, etc., and fraud, forgery, and embezzlement), being sentenced by a "lenient" judge was associated with a shorter sentence. (The reason that both "strictness" and "leniency" did not turn out to be significant in any offense class is that, as it turned out, the preliminary designation of "strict" or "lenient" was often superseded, statistically, by other aggravating and mitigating factors taken into account in the analysis.)

The effect of judicial "strictness", as defined here, was estimated as quite large. With regard to Class 2 offenses (violent felonies other than murder and kidnapping),

a defendant sentenced by a "strict" judge received an estimated 45.6 months more than one who was not. This effect is as large as or larger than all the effects of other factors found related to sentence length in Class 2, except for being convicted of rape. In Class 5 (drug felonies), judicial "strictness" added an estimated 22.0 months to the sentence. This effect was much larger than any other except that of alcohol dependence. "Leniency" did not have as great a relationship to sentence length. In Class 3 and 4 (burglary, larceny, etc., and fraud, forgery, and embezzlement), being sentenced by a "lenient" judge meant a sentence shorter by 8.2 months and 5.1 months, respectively. These preliminary findings--which will be subjected to further statistical confirmation--suggest that the individual practices of some judges have a very great effect on sentence length, and an effect which is independent and apart from all other factors included in this study. By and large this effect is on the strict side, rather than the reverse.

E. Defendant's Employment Status

In two offense classes (violent felonies and fraud, forgery, and embezzlement), the fact that the defendant had been unemployed 18 months or more out of the two years prior to prosecution was associated with a longer sentence. This seems harsh and unfair if one takes the view that the

offender could not help being unemployed, or that his unemployment may have provided a motive for his offense (especially if it was an offense against property). On the other hand, depending on other circumstances, it may be reasonable to consider a convicted forger or robber who has no legitimate employment to be earning his living by forging or robbing. Also, the unemployed offender may have been regarded as less responsible and therefore more refractory than the employed offender, and this may explain why he was incarcerated longer.

F. Defendant's Use of Alias

The fact that the defendant had in the past assumed names other than his true name was associated with an increase of sentence of 7.2 months in Class 3 (burglary, larceny, etc.), and 22.3 months in Class 4 (fraud, forgery, and embezzlement). Having used an alias may have been regarded by judges, prosecutors, and others who contributed to the sentencing decision, either as evidence that the defendant was concealing past criminal activity, or that he was a habitual or frequent offender. Thus, the use of an alias may have been similar to criminal history and unemployment with regard to its effect on sentence length.

G. Defendant's Socio-Economic Characteristics Other Than Employment

The defendant's race, age, income, education level, and occupation were generally not related to sentence

length except in Class 5 (drug felonies). Considering non-drug offenses first, race was associated with sentence length in the burglary and larceny offense class. Specifically, being black was associated with a sentence 6.5 months longer. Occupation was associated with sentence length in the fraud, forgery, and embezzlement class: A "white collar", professional, or supervisory occupation meant a sentence 4.6 months shorter than the one a "blue collar" worker received; and, inexplicably, having no occupation at all also meant a sentence shorter by about 6.5 months. Otherwise, socio-economic characteristics did not seem to affect the sentence imposed for felonies other than drug felonies.

All of the characteristics mentioned above were associated with the length of the sentence imposed for drug felonies. Youth was an advantage to those sentenced for drug felonies (being under 21 years of age meant a sentence about 9.3 months shorter than if the defendant were older). Treating young defendants leniently is not surprising; what is surprising is that age was not important as a factor in sentencing for any of the other felony classes.

Being black contributed an estimated 11.9 months to the sentence imposed for a drug felony. This is more than the estimated contribution of a record of three or more prior misdemeanors, or that of being convicted of sale of narcotics (the most serious drug felony studied). Low income meant a longer drug felony sentence (about 6.2 months); and education beyond high school meant a shorter sentence

(6.4 months). In comparison with what a "blue collar" worker received, a drug felon with a "white collar", professional, supervisory, or other job (other than military service) received a sentence about 7.2 months shorter. A drug felon in military service received a sentence about 12.9 months longer. Thus, this preliminary analysis indicates that social class and race had much to do with the sentence a drug felon received, but had considerably less impact on the sentences of those convicted of other kinds of felonies.

H. Drug and Alcohol Dependence

A history of drug dependence was significantly associated with sentence length in fraud, forgery, and embezzlement offenses; the estimated increase was 12.4 for dependence on heroin, cocaine, or barbiturates, and 5.0 for a dependence on alcohol. Perhaps this was because the drug-dependent offender was thought of as having a continuing motive for crime, calling for longer incarcerations. If so, we may ask why drug dependence was not a significant factor in connection with violent felonies and burglary, larceny, receiving and concealing.

Surprisingly, those convicted of drug felonies tended to receive longer sentences, not for being dependent on heroin and the like, but for being alcoholic. (This result followed from the fact that the ten charges in the drug felony class involving alcoholic defendants received high sentences that were not explained statistically by any

of the other factors studied.) Of course, it is possible that the high sentences in this group can be attributed to another factor or factors to which this study was not sensitive-- factors themselves (coincidentally) associated with a history of alcohol dependence in these ten cases. Judicial Council Staff will undertake an in-depth individual case-by-case analysis of this group of cases to determine whether there is a logical explanation for this anomaly.

I. Other Factors

The defendant's marital status, the number of his dependents, his juvenile court record, his type of military discharge (if any), were not found to be significantly related to sentence length in any offense class. Some of the other data captured in the study--specifically, information on pretrial release, sentencing recommendations by the probation officer, prosecutor, and defense attorney, and reasons for the sentence as stated by the court--were not included in this preliminary analysis. The reason they were not is that factors such as whether the defendant was released before trial or received favorable recommendations are too close to the sentencing decision to be studied apart from it. In other words, whatever explains bail conditions, a sentence recommendation, etc., will also probably explain sentence length. In later analysis, an effort will be made to measure the independent effects, if any, of "process variables" of this type.

TABLE I

OFFENSES, OFFENSE CLASSES, STATUTORY PRISON RANGES AND SENTENCE DISTRIBUTION

CLASS	(CODE)	OFFENSE	STATUTE	STATUTORY PRISON TERM RANGE (MONTHS)	(N) TOTAL CONVICTIONS	MEAN SENTENCE (MONTHS)	MEDIAN SENTENCE (MONTHS)	PROBATION AND NO ACTIVE TIME	ACTIVE TIME				OVER 100 MONTHS	HIGHEST SENTENCE (MONTHS)	
									1-6 MONTHS	7-12 MONTHS	13-24 MONTHS	25-60 MONTHS			
								NO. (%)	NO. (%)	NO. (%)	NO. (%)	NO. (%)			
Class 1															
		Murder and Kidnapping			16	-----A	300	0	0	0	0	0	0	16(100)	Life
(920)		Murder 1	AS 11.15.010	240 to life	5	-----A	Life	0	0	0	0	0	0	5(100)	Life
(922)		Murder 2	AS 11.15.050	180 to life	8	-----A	240	0	0	0	0	0	0	8(100)	Life
(1020)		Kidnapping	AS 11.15.260	Up to life	3	-----A	Life	0	0	0	0	0	0	3(100)	Life
Class 2															
(923)		Other Violent Felonies			196	45.4	24	40 (20)	34 (17)	18 (9)	16 (8)	40 (20)	48 (24)	360	
(1120)		Manslaughter	AS 11.15.040	12 to 240	18	66.8	36	2 (11)	1 (6)	3 (17)	1 (6)	3 (17)	8 (44)	180	
		Forcible Rape	AS 11.15.120												
(1220)		Robbery	AS 11.15.240	12 to 240 ^B	23	95.4	120	0 (0)	1 (4)	4 (17)	1 (4)	3 (13)	14 (61)	360	
(1321 & 1320)		Mayhem or Shooting	AS 11.15.140	12 to 180	60 ^C	57.6	60	9 (15)	4 (7)	4 (7)	7 (12)	18 (30)	18 (30)	180	
		w/intent to kill, wound or maim	11.15.150												
(1322)		Assault w/ intent to kill, rape or rob	AS 11.15.160	12 to 180	7	53.1	36	2 (29)	0 (0)	0 (0)	0 (0)	2 (29)	3 (43)	120	
(1325)		Assault w/ dangerous weapon	AS 11.15.220	6 to 120	10	48.3	6	1 (10)	4 (40)	1 (10)	0 (0)	2 (20)	2 (20)	180	
Class 3															
(2220)		Burglary, Larceny and Receiving			215 ^D	8.6	1	91 (42)	59 (27)	24 (11)	20 (9)	21 (10)	0 (0)	60	
(2221)		Burglary in dwelling, night dwelling, burglary in dwelling, other	AS 11.20.080	12 to 240	16	18.0	12	5 (31)	1 (6)	3 (19)	4 (25)	3 (19)	0 (0)	60	
(2222)		Burglary in dwelling, other	AS 11.20.080	12 to 180	12	15.7	12	3 (25)	1 (8)	4 (33)	2 (17)	2 (17)	0 (0)	48	
		other	AS 11.20.080	12 to 120	5	12.8	1	2 (40)	2 (40)	0 (0)	0 (0)	1 (20)	0 (0)	60	

TABLE I (CONTINUED)

OFFENSES, OFFENSE CLASSES, STATUTORY PRISON RANGES AND SENTENCE DISTRIBUTION

CLASS	(CODE)	OFFENSE	STATUTE	(MONTHS) STATUTORY PRISON RANGE	(N) TOTAL CONVICTIONS	MEAN SENTENCE (MONTHS)	MEDIAN SENTENCE (MONTHS)	PROBATION AND NO ACTIVE TIME NO. (%)	ACTIVE TIME				OVER 100 MONTHS NO. (%)	HIGHEST SENTENCE (MONTHS)	
									1-6 MONTHS NO. (%)	7-12 MONTHS NO. (%)	13-24 MONTHS NO. (%)	25-60 MONTHS NO. (%)			
(2223)		Burglary not in a													
		dwelling AS 11.20.100		24 to 60	78	7.6	2	27 (35)	29 (37)	6 (8)	9 (12)	7 (9)	0 (0)	0 (0)	36
(2320)		Larceny from the person AS 11.15.250		12 to 60	6	19.0	6	1 (17)	2 (33)	0 (0)	0 (0)	3 (50)	0 (0)	0 (0)	36
(2321)		Larceny over \$100 AS 11.20.140		12 to 20	43	4.7	0	25 (58)	11 (26)	3 (7)	1 (2)	3 (7)	0 (0)	0 (0)	48
(2323)		Larceny in a building AS 11.20.150		12 to 84	20	7.0	1	8 (40)	5 (25)	5 (25)	0 (0)	2 (10)	0 (0)	0 (0)	42
(2821)		Buying, re- ceiving, or concealing stolen property AS 11.20.350		12 to 36	35	4.2	0	20 (57)	8 (23)	3 (9)	4 (11)	0 (0)	0 (0)	0 (0)	24
Class 4	(2525)	Fraud, Forgery and Embezzlement			108	14.4	2	45 (42)	13 (12)	9 (8)	23 (21)	18 (17)	0 (0)	0 (0)	60
		Forgery or uttering of forged record or AS 11.25.010		12 to 240 ^F	58	19.3	12	13 (22)	9 (16)	8 (14)	16 (28)	12 (21)	0 (0)	0 (0)	60
	(2622)	debt Bad check over \$250 ^E AS 11.20.230		12 to 120	10	15.3	14	3 (30)	0 (0)	1 (10)	5 (50)	1 (10)	0 (0)	0 (0)	36
	(2637)	False pre- tenses AS 11.20.360		12 to 60	11	11.1	0	7 (64)	2 (18)	0 (0)	0 (0)	2 (18)	0 (0)	0 (0)	60
	(2720)	Embezzle- ment AS 11.20.280, .290,.300,.330		12 to 120 ^G	29	5.7	0	22 (76)	2 (7)	0 (0)	2 (7)	3 (10)	0 (0)	0 (0)	48
Class 5	(3420)	Drug Felonies ----- Possession AS 17.10.010		-----	203	11.7	0	104 (51)	40 (20)	11 (5)	16 (8)	28 (14)	4 (2)	4 (2)	144
	(3422)	of narcotic Sale or posses- sion for sale of nar- cotic AS 17.10.010 -200(a)		24 to 120 ^H	25	5.9	0	17 (68)	5 (20)	0 (0)	1 (4)	2 (8)	0 (0)	0 (0)	60
		AS 17.10.010 -200(a)		120 to 360 ^I	64	20.2	6	27 (42)	6 (9)	7 (11)	11 (17)	9 (14)	4 (6)	4 (6)	144

TABLE I (CONTINUED)

OFFENSES, OFFENSE CLASSES, STATUTORY PRISON RANGES AND SENTENCE DISTRIBUTION

CLASS	(CODE)	OFFENSE	STATUTE	(MONTHS) STATUTORY PRISON RANGE	(N) TOTAL CONVICTIONS	MEAN SENTENCE (MONTHS)	MEDIAN SENTENCE (MONTHS)	PROBATION AND NO ACTIVE TIME	ACTIVE TIME				OVER 100 MONTHS	HIGHEST SENTENCE (MONTHS)	
									1-6 MONTHS NO. (%)	7-12 MONTHS NO. (%)	13-24 MONTHS NO. (%)	25-60 MONTHS NO. (%)			
(3521)		Poss. for Sale													
		of HDS	AS 17.12.010												
		Drug	-.110(b)	Up to 300 ^J	28	0.9	0	20 (71)	8 (29)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	6
(3522)		Sale of HDS	AS 17.12.010												
		Drug	-110(b)	Up to 300 ^K	86	10.7	1	40 (47)	21 (24)	4 (5)	4 (5)	17 (20)	0 (0)	60	
Class 6	(3621)	Morals Felonies	-----		30	22.3	10	7 (23)	7 (23)	4 (13)	5 (17)	5 (17)	2 (7)	120	
		"Statutory" rape (consenting victim under 16)	AS 11.15.120	12 to 240 ^L	7	20.3	24	2 (29)	0 (0)	1 (14)	3 (43)	1 (14)	0 (0)	60	
(3638)		Lewd & Las- civious act toward child	AS 11.15.134	12 to 120	23	22.9	6	5 (22)	7 (30)	3 (13)	2 (9)	4 (17)	2 (9)	120	
		All Other Felonies	-----		92	9.3	0	48 (52)	21 (23)	9 (10)	4 (4)	7 (8)	3 (3)	96	
(926)		Negligent homicide	AS 11.15.080	12 to 240	14	11.0	0	7 (50)	3 (21)	2 (14)	1 (7)	0 (0)	1 (7)	96	
	(2920)	Malicious mischief			12	1.0	0	8 (67)	4 (33)	0 (0)	0 (0)	0 (0)	0 (0)	6	
(4920)		Escape if held for felony	AS 11.20.515(a)	Up to 120	10	13.2	12	2 (20)	2 (20)	4 (40)	0 (0)	2 (20)	0 (0)	36	
(5424)		"Hit & Run" ^M	AS 28.35.060	Up to 120	5	0.4	0	3 (60)	2 (40)	0 (0)	0 (0)	0 (0)	0 (0)	1	
(9819)		Attempted felony	AS 11.05.020	(various) ^N	22	15.3	0	12 (55)	2 (9)	1 (5)	3 (14)	2 (9)	2 (9)	84	
(9999)		All other felonies	(various)	(various)	29	7.5	0	16 (55)	8 (28)	2 (7)	0 (0)	3 (10)	0 (0)	60	

TABLE I (CONTINUED)

OFFENSES, OFFENSE CLASSES, STATUTORY PRISON RANGES AND SENTENCE DISTRIBUTION

CLASS (CODE)	OFFENSE	STATUTE	STATUTORY PRISON RANGE (MONTHS)	(N)	MEAN SENTENCE (MONTHS)	MEDIAN SENTENCE (MONTHS)	PROBATION AND NO ACTIVE TIME	ACTIVE TIME					
								1-6 MONTHS	7-12 MONTHS	13-24 MONTHS	25-60 MONTHS	OVER 100 MONTHS	HIGHEST SENTENCE (MONTHS)
								NO. (%)	NO. (%)	NO. (%)	NO. (%)	NO. (%)	

FOOTNOTES:

- A. Mean not computed because some sentences were life imprisonment.
- B. Rape punishment, if victim is under 16 or is offender's daughter, son, sister, or brother, is up to life if offender is 19 or older, and up to 240 months if offender is under 19; otherwise, 12 to 240 months.
- C. Includes one armed robbery (AS 11.15.295, punishable by 120 to life for first offense, 300 to life for second offense).
- D. Five cases excluded for reasons explained in footnotes to the text.
- E. Before 1975, amount was over \$50.
- F. Includes 6 cases of record forgery for which prison term range is 24 to 240 months (AS 11.25.010).
- G. Includes 3 cases of embezzlement of public money for which prison term range is 12 to 180 months (AS 11.20.300).
- H. Prison term up to 240 months for second offense, 480 months for third offense.
- I. Includes 2 cases of possession of narcotic for sale for which prison term range is as on line above this one.
- J. Second offense punishable by up to life.
- K. Second offense punishable by up to life.
- L. See note B.
- M. Failure to give assistance to person injured in vehicle accident.
- N. Maximum is half of maximum for completed offense, or ten years if latter is life.

TABLE 2
 CLASS 2, VIOLENT FELONIES
 OTHER THAN MURDER AND KIDNAPPING:
 COMPARISON OF MEAN SENTENCE LENGTHS

	<u>Number</u>	<u>Percent of Total</u>	<u>Mean Sentence in Months</u> ^A
1. Other felony convictions contemporaneous with this conviction			
*None or one	175	(89)	34.9
Two or more	21	(11)	143.5
Total	196	(100)	45.4
2. Past revocation of probation or parole known to court?			
*No	167	(85)	41.0
Yes	29	(15)	82.3
Total	196	(100)	45.4
3. Known to have been unemployed 18 mos. or more in last 2 years?			
*No	157	(80)	41.4
Yes	39	(20)	70.1
Total	196	(100)	45.4
4. Sentencing judge "Strict" ^B	28	(14)	102.6
"Lenient"	21	(11)	6.7
*Other	147	(75)	43.1
Total	196	(100)	45.4
5. Other unrelated charges known to be pending at time of sentencing?			
*None	149	(76)	38.4
One or more	47	(24)	67.3
Total	196	(100)	45.4
6. Specific offense			
*Assault w/dangerous weapon	78	(40)	15.4
Manslaughter, mayhem, shooting or assault w/intent to kill, rape or rob	35	(18)	58.8
Forcible rape	23	(12)	95.4
Robbery	60	(31)	57.6
Total	196	(100)	45.4
7. Prior felony convictions			
*None or one	166	(85)	37.8
Two or more	30	(15)	92.9
Total	196	(100)	45.4

* Denotes most common category.

A. Some means computed with up to 13 charges missing; mean for total of 196 is accurate.

B. Defined in text of report.

TABLE 3

CLASS 2, VIOLENT FELONIES OTHER THAN
MURDER AND KIDNAPPING: ESTIMATED CONTRIBUTION
OF FACTORS TO SENTENCE LENGTH

<u>Factor</u>	<u>Estimated Increase in Typical Sentence (Months) When Factor Is In Category Indicated</u>
1. Other felony convictions contemporaneous with this conviction	+43.1 if two or more
2. Past revocation of probation or parole known to court	+23.1 if revocation known to court
3. Unemployment	+18.2 if known to have been unemployed 18 months or more out of last two years
4. Sentencing judge	+45.6 if "strict"
5. Other charges pending at time of sentencing for this charge	+27.3 if one or more pending
6. Specific offense (Increase is in comparison with sentence for assault with dangerous weapon)	+55.6 if rape +39.5 if manslaughter, mayhem, shooting with intent to kill, wound or maim, or assault with intent to kill, rape or rob +20.3 if robbery
7. Prior felony convictions	+38.6 if two or more

Amount of variation in sentence length
explained by above factors: 55 per cent^B

A. All numbers with plus or minus signs are regression coefficients significant beyond the .05 level.

B. $R^2 = .55$

TABLE 4

CLASS 3, BURGLARY, LARCENY AND RECEIVING:
COMPARISON OF MEAN SENTENCE LENGTHS

	<u>Number</u>	<u>(Percent of Total)</u>	<u>Mean Sentence in Months</u>
1. Defendant known to be on probation, parole or bail at time of conviction?			
*No	168	(78)	8.0 ^B
Yes	47	(22)	16.0 ^B
Total	215	(100)	8.6
2. Specific Offense			
*Burglary not in a dwelling, larceny over \$100, larceny in a building, receiving stolen property	176	(82)	6.1
Burglary in a dwelling	33	(15)	16.4
Larceny from the person	6	(3)	19.0
Total	215	(100)	8.6
3. Other felony convictions contemporaneous with this conviction			
*None	175	(81)	7.4 ^B
One or more	40	(19)	19.1 ^B
Total	215	(100)	8.6
4. Sentencing judge			
"Strict" ^A	16	(7)	29.9 ^B
"Lenient"	17	(8)	0.7 ^B
*Other	182	(85)	8.6 ^B
Total	215	(100)	8.6
5. Prior misdemeanor convictions			
*None	124	(58)	5.3 ^B
One or more	91	(42)	15.1 ^B
Total	215	(100)	8.6
6. Defendant's race			
Black	19	(9)	16.5 ^B
*Caucasian or other	196	(91)	9.1 ^B
Total	215	(100)	8.6
7. Has defendant used alias?			
*Not Court's knowledge	202	(94)	8.5 ^B
Yes	13	(6)	27.1 ^B
Total	215	(100)	8.6

* Denotes most common category.

A. Defined in text.

B. This mean was computed from total of 221 charges, including 6 charges not included in later analysis for reasons explained in text. Resulting value slightly larger than true value.

TABLE 5

CLASS 3, BURGLARY, LARCENY, RECEIVING AND CONCEALING:
ESTIMATED CONTRIBUTION OF FACTORS TO SENTENCE LENGTH

<u>Factor</u>	<u>Estimated Increase or Decrease in Typical Sentence (Months) When Factor is in Category Indicated^A</u>
1. Defendant on probation, parole or bail at time offense committed	+8.3 if on probation, parole or bail
2. Specific offense (Increase is in comparison with sentence for larceny, receiving and burglary not in a dwelling)	+8.3 if burglary in dwelling
3. Other felony convictions contemporaneous with this conviction	+5.8 if one or more
4. Sentencing judge	-8.2 if "lenient"
5. Prior misdemeanor convictions	+4.4 if one or more
6. Defendant's race	+6.5 if black
7. Has defendant used alias known to court?	+7.2 if use of alias known

Amount of variation explained by above factors: 26 per cent^B

A. All numbers with plus and minus signs are regression coefficients significant at the .05 level.

B. $R^2 = .26$

TABLE 6

CLASS 4, FRAUD, FORGERY AND EMBEZZLEMENT:
COMPARISON OF MEAN SENTENCE LENGTHS

	<u>Number</u>	<u>(Percent of Total)</u>	<u>Mean Sentence in Months</u>
1. Prior felony convictions			
*None	61	(56)	4.8
One	21	(19)	13.9
Two or more	26	(24)	37.8
Total	108	(100)	14.4
2. Has defendant used alias?			
*Not to court's knowledge	93	(86)	9.4
Yes	15	(14)	45.6
Total	108	(100)	14.4
3. Past revocation of probation or parole known to court?			
*No	69	(64)	5.1
Yes	39	(36)	30.9
Total	108	(100)	14.4
4. Drug dependence (present or history) known to court?			
*None	52	(48)	4.4
Heroin, cocaine or barbituate	20	(19)	33.6
Alcohol	36	(33)	18.3
Total	108	(100)	14.4
5. Occupation			
*Blue collar	51	(47)	14.7
None	25	(23)	31.7
White collar, professional, supervisory, other (in- cludes 4 "unknown")	32	(30)	0.5
Total	108	(100)	14.4
6. Other charges pending at time of sentencing for this charge			
*None	59	(55)	4.5
One or more	49	(45)	26.4
Total	108	(100)	14.4
7. Sentencing judge			
"Strict" ^A	5	(5)	60.0
"Lenient"	43	(40)	3.5
Other	60	(55)	16.7
Total	108	(100)	14.4
8. Specific offense			
*Forgery or uttering	58	(54)	19.3
Bad check over \$250	10	(9)	15.3
False pretenses	11	(10)	11.1
Embezzlement over \$100 by employee	29	(27)	5.7
Total	108	(100)	14.4

TABLE 6 (Continued)

	<u>Number</u>	<u>(Percent of Total)</u>	<u>Mean Sentence in Months</u>
9. Known to have been unem- ployed 18 months or more in last 2 years?			
*No	74	(69)	8.2
Yes	34	(31)	28.0
Total	108	(100)	14.4

* Denotes most common category
A. Defined in text

TABLE 7

CLASS 4, FRAUD, FORGERY AND EMBEZZLEMENT:
ESTIMATED CONTRIBUTION OF FACTORS TO SENTENCE LENGTH

<u>Factor</u>	<u>Estimated Increase or Decrease in Typical Sentence When Factor is in Category Indicated^A</u>
1. Prior felony convictions	+5.6 if two or more
2. Use of alias	+22.3 if defendant known to have used alias
3. Past revocation of probation or parole	+10.9 if defendant ever had revocation
4. Drug dependence (Increase is in comparison with no drug dependence)	+12.4 if dependent on heroin, cocaine or barbiturates +5.0 if dependent on alcohol
5. Occupation Decrease is in comparison with blue collar)	-6.5 if no occupation -4.6 if white collar, professional, supervisory or other (not including blue collar)
6. Other charges pending at the time of sentencing for this charge	+7.4 if one or more pending
7. Sentencing judge	-5.1 if "lenient"
8. Specific offense (Increase is in comparison with forgery; see text of report)	+6.9 if embezzlement
9. Unemployment	+6.9 if known unemployed 18 months or more out of last two years

Amount of variation in sentence length explained by above factors: 86 per cent^B

A. All numbers with plus or minus signs are regression coefficients significant at the .05 level.

B. $R^2 = .86$

TABLE 8

CLASS 5, DRUG FELONIES
COMPARISON OF MEAN SENTENCE LENGTHS

	<u>Number</u>	<u>(Percent of Total)</u>	<u>Mean Sentence in Months</u>
1. Sentencing judge			
"Strict" ^A	24	(12)	41.5
"Lenient"	21	(10)	2.7
*Other	158	(78)	8.6
Total	203	(100)	11.7
2. Defendant's race			
Black	26	(13)	34.6
*Caucasian or other	177	(87)	8.4
Total	203	(100)	11.7
3. Drug dependence (present or history) known to court?			
*None	139	(68)	9.9
Heroin, cocaine or barbiturate	54	(27)	10.5
Alcohol	10	(5)	44.1
Total	203	(100)	11.7
4. Defendant's education			
*None beyond high school (in- cludes 5 unknown and all who did not finish high school)	132	(65)	15.8
Education beyond high school	71	(35)	4.1
Total	203	(100)	11.7
5. Defendant's age			
*21 or over (includes 3 of unknown age)	158	(78)	14.7
17 to 20	45	(22)	1.4
Total	203	(100)	11.7
6. Defendant's income			
*\$500 or more per month	102	(50)	8.9
Less than \$500 per month or unknown (21 were unknown)	101	(50)	14.6
Total	203	(100)	11.7
7. Defendant's occupation			
*Blue collar	147	(72)	11.9
Military service	12	(6)	36.0
Other (white collar, professional, supervisory, other, or unknown)	44	(22)	4.5
Total	203	(100)	11.7
8. Specific offense			
Possession of narcotic	25	(12)	5.9
Sale or possession for sale of narcotic	64	(32)	20.2
Possession for sale of HDS drug	28	(14)	0.9
*Sale of HDS drug	86	(42)	10.7
Total	203	(100)	11.7

TABLE 8 (Continued)

	<u>Number</u>	<u>(Percent of Total)</u>	<u>Mean Sentence in Months</u>
9. Prior misdemeanor convictions			
*None, one or two	177	(87)	9.7
Three or more	26	(13)	26.6
Total	203	(100)	11.7

* Denotes most common category

A. Defined in text of report

TABLE 9

CLASS 5, DRUG FELONIES:
ESTIMATED CONTRIBUTION OF FACTORS TO SENTENCE LENGTH

<u>Factor</u>	<u>Estimated Increase or Decrease in Typical Sentence (Months) When Factor is in Category Indicated</u>
1. Sentencing judge	+22.0 if "strict"
2. Defendant's race	+11.9 if black
3. Alcohol dependence known to court	+26.5 if alcohol dependence
4. Defendant's education	-6.4 if beyond high school
5. Defendant's age	-9.3 if defendant under 21
6. Defendant's income	+6.2 if low
7. Defendant's occupation (Increase or decrease is in comparison with sentence for blue collar defendant)	-7.2 if white collar, professional, supervisory, or occupation <u>other</u> <u>than</u> blue collar or military service +12.9 if military
8. Specific offense (Increase is in comparison with sentence for sale of HDS drug)	+6.9 if sale or possession for sale of narcotic
9. Prior misdemeanor convictions	+7.5 if three or more prior misdemeanor convictions

Amount of variation in sentence length
explained by above factors: 51 per cent^B

A. All numbers with plus or minus signs are regression coefficients significant at the .05 level.

B. $R^2 = .51$