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## SIGNIFICANCE OF THE RACIAL FACTOR IN THE LENGTH OF PRISON SENTENCES

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Do Negroes generally receive differential treatment by juries in the assessment of sentence? Do they receive longer sentences than whites for certain crimes, but shorter sentences for other crimes? In an attempt to discover the validity of charges that Negroes are treated differently than whites in sentencing, Professor Bullock conducted a study of 3,644 inmates in a Texas state prison. Careful comparisons of data were made, after controlling the influence of non-racial factors, to determine the effect of race on the length of sentence. This article reports the findings and discusses their implications.—EDITOR.

Sociologists have given some attention to the problem of accounting for the Negro's disproportionate representation in the records of police departments, courts, and prisons. Many, accepting the record at face value, have sought an explanation on the basis of the Negro's greater exposure to the social and cultural conditions that foster criminal behavior.<sup>1</sup> Others, more critical in their evaluation of the record, have sought an explanation in the inadequacy of available criminal statistics. This paper represents an exploratory inquiry growing out of the latter approach. It attempts specifically to test the significance of the racial factor in the length of assessed prison sentences under conditions that control many of the other factors which also appear to be influential in determining such sentences.

The idea that racial discrimination exists in the administration of criminal law has been suggested indirectly through theoretical attacks upon the validity of criminal statistics and directly through field evidence charging racial discrimination at various levels of law enforcement.

The theoretical attack has been largely directed against the confusions inherent in the definition of "crime." One of the great barriers to adequate crime reporting has been unstable definitions of

the kinds of behavior identified in criminal records. Some scholars have persistently located this instability in the area of human judgment, where perceptual qualities are refracted by social values and attitudes. An examination of the literature dealing with the concept "crime" reveals a considerable amount of confusion among scholars who have attempted to clarify this term.<sup>2</sup> And writers have warned that interpretations and implementations of the law vary widely from place to place and from time to time even within a particular jurisdiction.<sup>3</sup> Sutherland's studies of "white collar" crime demonstrate that not *all* unlawful behavior is treated as criminal behavior; that an entire social class enjoys protection from criminal treatment for offenses committed in connection with their occupations and that criminologists have derived theories of criminal behavior from statistics loaded against the lower class and in favor of the upper.<sup>4</sup> Sellin has also based his conception of the inadequacy of criminal statistics upon our variable attitudes toward crime and what it is. He has contended that the nature of such statistics varies with social status, social customs, and social sensitivity; that a dependable crime index cannot be derived from criminal records unless they are sufficiently free of these variations to reflect real criminality.<sup>5</sup>

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<sup>1</sup> See REID, IN A MINOR KEY (1940); McKeown, *Poverty, Race, and Crime*, 39 J. CRIM. L. & C. 480 (1948); RECKLESS, THE CRIME PROBLEM 37 (1955); BERNARD, SOCIAL PROBLEMS AT MID-CENTURY 518 (1957); MERRILL, SOCIETY AND CULTURE 293 (1957).

<sup>2</sup> For a summary of this type of literature, see Wilber, *The Scientific Adequacy of Criminological Concepts*, 28 SOCIAL FORCES 165 (1949).

<sup>3</sup> SUTHERLAND, PRINCIPLES OF CRIMINOLOGY 18 (1947).

<sup>4</sup> Sutherland, *Is "White Collar Crime" Crime?*, 10 AM. SOC. REV. 132 (1945); SUTHERLAND, CRIME AND BUSINESS, 217 ANNALS 112 (1941).

<sup>5</sup> Sellin, *The Basis of a Crime Index*, 22 J. CRIM. L. & C. 335 (1931).

Field evidence of racial discrimination in the administration of criminal justice has generally indicated that public officials, under the influence of their prejudices, tend to make decisions that exaggerate Negro criminality. It is generally concluded that Negroes receive differential treatment in arrest, sentencing, and imprisonment<sup>6</sup>; apparently even Negro juveniles receive such treatment.<sup>7</sup> This type of differential treatment, some authors conclude, artificially increases the Negro's *apparent* criminality and makes any comparison of criminal statistics between the two races exceedingly hazardous.<sup>8</sup> Generally, therefore, observations of the Negro's contacts with all stages of criminal treatment suggest that statistics exaggerate his criminality because the prejudices of public officials give members of the race a higher risk of being included in the record.<sup>9</sup>

#### THE PROCEDURE

These two sets of criticisms—the charges of faulty statistics and racial discrimination in law enforcement—have one implication in common; they imply that equality before the law is impaired because decisions about criminal behavior are influenced by other than recognized legal considerations, namely racial prejudice. Is this implication supported by fact? The study reported in this paper tests this implication as regards racial bias at the judicial level of law enforcement.

Many factors affect the decisions of public officials concerning a subject and his criminal behavior. The type of offense, number of previous felonies, nature of the plea, and nature of community sensitivity are factors that enter at various stages of law enforcement.<sup>10</sup> It is possible, therefore, that previous studies that failed to control these variables have derived conclusions concerning racial bias from comparisons of white and Negro subjects whose characteristics differed significantly in factors other than race.

We have attempted to make an objective study of racial and non-racial bias at the judicial level of law enforcement by seeking to test these assumptions:

1. The length of prison sentence will be found significantly associated with non-racial characteristics of the offender, of both legal and "extra-legal" nature.
2. Negro prisoners will be found to possess these non-racial characteristics in greater proportion to their number than will white prisoners.
3. Negro prisoners will be found to receive long sentences in greater proportion to their number than will white prisoners, even when the two groups are similar in other characteristics found to be associated with length of prison sentence.

Our data were provided through a survey of prisoners in the Texas State Prison at Huntsville in 1958.<sup>11</sup> Specific facts designed to characterize each prisoner were secured from the Prison Classification and Identification Department concerning 3,644 white and Negro inmates who had been committed for burglary, rape, and murder.<sup>12</sup> These facts were: (1) his racial identity, (2) type of offense for which he was committed, (3) number of previous felonies for which he had been convicted, (4) nature of his plea before the court, (5) county from which he was committed, and (6) number of years to which he was sentenced.

Prisoners were classified on the basis of these facts to test the significance of racial differences in length of sentence for each class. The data were coded, placed on IBM cards, and sorted according to the above characteristics. A series of dichotomous tables was constructed, first resulting in a classification of prisoners according to length of sentence and their characteristics excluding race, and later according to length of sentence and race under conditions that held other characteristics constant. Sentences representing less than ten years were defined as "short"; those ten years and over were defined as "long." By this method we were able to observe the number and per cent of prisoners in each racial group actually receiving short or long sentences as compared with the quantity expected to receive such sentences if judgments were not passed on the basis of race. We used values of chi square to determine the statistical significance of differences in observed and expected frequencies, and we used the contingency coefficient of association, represented by

<sup>11</sup> The survey was made by Professor R. C. Koeninger and students of the Department of Sociology at Sam Houston State Teachers College, Huntsville, Texas.

<sup>12</sup> Prisoners awaiting the death sentence were omitted. All subjects included in the study were male.

<sup>6</sup> Weaver, *SOCIAL PROBLEMS* 596 (1951). See also Donald, *The Negro Migration of 1916-1918*, 4 *J. NEGRO HIST.* 383 (1921).

<sup>7</sup> Axelrod, *Negro and White Male Institution sized Delinquents*, 47 *AM. J. SOC.* 569 (1952).

<sup>8</sup> Sellin, *The Negro Criminal*, 140 *ANNALS* 52 (1928).

<sup>9</sup> Taft, *CRIMINOLOGY*, 134 (1956).

<sup>10</sup> See WALTER, *RACE AND CULTURE RELATIONS* 436 (1952); Johnson, *The Negro and Crime*, 217 *ANNALS* 93 (1941).

TABLE 1  
PER CENT DISTRIBUTION OF 3,644 PRISONERS  
ACCORDING TO SELECT CHARACTERISTICS  
AND LENGTH OF SENTENCE

Select Characteristics	Per Cent Short Sentences	Per Cent Long Sentences	Total Prisoners
Type of Offense			
Burglary	77.0	23.0	1,482
Rape	36.1	63.9	374
Murder	39.3	60.7	1,788
Total	54.3	45.7	3,644
$\chi^2 = 521.67, P < .001, 2\text{-df}$			
Type of Plea			
Guilty	64.5	35.5	2,118
Not Guilty	40.1	59.9	1,526
Total	54.3	45.7	3,644
$\chi^2 = 211.96, P < .001, 1\text{-df}$			
No. of Previous Felonies			
Less than two	53.9	46.1	3,063
Two and over	56.3	43.7	581
Total	54.3	45.7	3,644
$\chi^2 = 1.21, P < .300, 1\text{-df}$			

the symbol *Q*, to measure the degree of relationship existing between the main variables.

#### THE FINDINGS

Absolute equality before the law is difficult to realize. The imprecise nature of legal norms allows the values, attitudes, and prejudices of individuals to influence their responses to criminal behavior. The statutes of many states, including Texas, not only set a relatively wide range within which punishment for a given felony may fall, but also empower juries to assess a particular punishment within that range.<sup>13</sup> The assessment tends to vary significantly according to characteristics not necessarily involved by law in criminal punishment. One of these characteristics is a prisoner's racial identity.

#### *The Influence of Non-Racial Characteristics*

The assumption that non-racial factors of both legal and "extra-legal" nature influence the length of prison sentences is validated by the stable relationship existing between these sentences and certain traits that may characterize a prisoner at the bar. Obviously, the first sign that the validation is likely appears in the close relationship be-

tween length of sentence and type of offense. The Texas Penal Code provides that one found guilty of burglary shall be confined to the penitentiary not less than two nor more than twelve years.<sup>14</sup> It specifies that punishment for rape or murder shall be death, life imprisonment, or prison sentences for any term of years not less than five for rape nor less than two for murder.<sup>15</sup> According to the statutes, therefore, juries could assess the same penalty for each of these offenses. As one would expect, however, they exact the shorter sentences for burglary; the longer ones are for rape and murder. Prisoners convicted of burglary constituted 40.7 per cent of our study group, but 57.7 per cent of those receiving short sentences. Those committed for murder formed 49.1 per cent of the total group, but 65.2 per cent of those receiving long sentences. Similar disproportion existed among those committed for rape. The chi square value of 521.67, computed from data presented in Table 1, virtually eliminates the probability that these variations are due to chance.<sup>16</sup> The dichotomous distribution resulting from a combination of those committed for rape and those committed for murder yields a coefficient of association ( $Q = .68$ ) that indicates a substantial relationship between length of sentence and type of offense.

The variation of length of sentence with type of offense indicates, not surprisingly, that the sentences studied and the Texas Penal Code reflect like views concerning the relative seriousness of the offenses involved.

In contrast, despite statutory recognition of previous conviction as a factor tending to increase the length of sentence, this factor does not appear to influence significantly the length of sentence which a jury imposes. The Texas Penal Code stipulates that a second felonious offender be given the maximum rather than the minimum sentence; and that a third be given a life sentence.<sup>17</sup> However, the length of sentence received by our study group did not vary significantly when prisoners were classified according to this factor. Slightly more than four-fifths of them had been convicted of less than two previous felonies, and relatively the same proportion received long sentences. It should be noted that juries tended to favor shorter

<sup>14</sup> See TEX. PEN. CODE art. 1397 (Vernon, 1948).

<sup>15</sup> See TEX. PEN. CODE arts. 1188-89, 1257 (Vernon, 1948).

<sup>16</sup> In all tables chi square accepted as indicating genuine association if large as 3.84 for probability of .05 with one degree of freedom.

<sup>17</sup> TEX. PEN. CODE art. 62-64 (Vernon, 1952).

<sup>13</sup> See TEXAS CODE CRIM. PROC. art. 693 (1950).

TABLE 2  
PER CENT DISTRIBUTION OF 3,644 PRISONERS  
ACCORDING TO TYPE OF AREA AND  
LENGTH OF SENTENCE

Type of Area	Per Cent Short Sentences	Per Cent Long Sentences	Total Prisoners
Type of Region			
East Texas	51.8	48.2	2,526
West Texas	59.8	40.2	1,118
Total	54.3	45.7	3,644
$\chi^2 = 19.99, P < .001, 1\text{-df}$			
Degree of Urbanization			
Large Cities	51.5	48.5	1,548
Small Cities	56.3	43.7	2,096
Total	54.3	45.7	3,644
$\chi^2 = 8.37, P < .010, 1\text{-df}$			

sentences for those convicted of the greater number of previous felonies, but the differences were apparently an accident of sampling.

More important to our view is the variation of length of sentence with factors not reflected in the penal code. One such factor is the nature of the offender's plea before the court. Prisoners pleading "guilty" were given short sentences in a significantly greater proportion to their number than were those pleading "not guilty."<sup>18</sup> As an index of this imbalance, prisoners pleading "guilty" composed 69.1 per cent of those receiving short sentences, but only 58.1 per cent of the total group. The chi square value of 211.96 validates the statistical significance of these differences, and the coefficient  $Q = .46$  indicates a fairly high degree of relationship between the two variables. These facts tend to support the view that bargaining between the prosecution and the offender operates through the plea, and those pleading guilty are rewarded for their cooperation.

Another set of non-racial factors apparently associated with length of prison sentence pertains to the type of area from which prisoners are committed. Assuming community sensitivity to criminal behavior to be based upon the type of culture area in which the prisoner is tried, we grouped the counties from which our prisoners were committed according to the cultural regions of Texas and the degree of urbanization characterizing these counties. As shown in Table 2, those committed from

<sup>18</sup> "Guilty" also includes those pleading guilty to one charge though "not guilty" to another.

TABLE 3  
PER CENT DISTRIBUTION OF 3,644 PRISONERS  
ACCORDING TO SELECT CHARACTERISTICS  
AND RACE

Characteristics	Per Cent Negro	Per Cent White	Total
Type of Offense			
Burglary	38.6	61.4	1,482
Rape	31.8	68.2	374
Murder	58.0	42.0	1,788
Total	47.4	52.6	3,644
$\chi^2 = 78.28, P < .001, 2\text{-df}$			
Type of Plea			
Guilty	47.7	52.3	2,118
Not Guilty	47.0	53.0	1,526
Total	47.4	52.6	3,644
$\chi^2 = 0.22, P < .634, 1\text{-df}$			
No. of Previous Felonies			
Less than two	48.5	51.5	3,063
Two and over	41.8	58.2	581
Total	47.4	52.6	3,644
$\chi^2 = 8.94, P < .010, 1\text{-df}$			
Type of Region			
East Texas	51.5	48.5	2,526
West Texas	38.1	61.9	1,118
Total	47.4	52.6	3,644
$\chi^2 = 55.98, P < .001, 1\text{-df}$			
Urbanization			
Large Cities	52.0	48.0	1,548
Small Cities	44.0	56.0	2,096
Total	47.4	52.6	3,644
$\chi^2 = 22.71, P < .001, 1\text{-df}$			

counties composing the traditional East Texas region tended to get long sentences in greater proportion to their representation in the total group, while those from West Texas tended to get short sentences.<sup>19</sup> Likewise, prisoners committed from counties having large cities tended to get long sentences in greater proportion than did those committed from counties having small cities.<sup>20</sup> Although the coefficients of association were low,

<sup>19</sup> Geographically, the line which divides East and West Texas is hazy. It may be said to follow roughly the 98th meridian. Culturally, it is more definite. It separates two different types of economies—East Texas, the region of lumbering, small farms and oil industries; West Texas, the region of large ranches. For cultural descriptions, see STEEN, *THE TEXAS STORY* 290-305 (1948); GOODWYN, *LONE STAR LAND* 39-47 (1955).

<sup>20</sup> A county was identified as a "large city" county if it had one or more cities 50,000 or over in population size. Others were identified as "small city" counties.

the chi square value in each instance indicates that such areal factors are significantly associated with the length of sentences which juries of these areas tend to assess.

It appears, therefore, that established legal norms are not the only grounds upon which juries decide the fate of an offender. Whether he pleads guilty or not guilty and whether he is committed from a highly urbanized area or one less urbanized also operate as factors determining how long a prison sentence he will be required to serve.

#### *Exposure of Negro Prisoners to Effective Non-Racial Factors*

Because of the inclination of jurors to be influenced by these particular characteristics of prisoners, Negroes who possess such characteristics to a greater degree than do white prisoners would be expected to receive longer sentences, even when their racial identity is not being considered. From the point of view of expressed criminality, Negro prisoners do run such a "risk." They appear more likely than white prisoners to be committed for a type of offense for which juries usually assess long sentences. According to Table 3, a greater proportion of them were committed for murder. Approximately 60 per cent of the Negro prisoners were committed for this offense as compared with 39 per cent of the whites. On the other hand, only one-third of them were committed for burglary, while 47.5 per cent of the white prisoners were committed for this offense. Approximately the same proportion of the prisoners of each racial group entered pleas of guilty and not guilty, and a smaller proportion of the Negro prisoners had committed two or more previous felonies.

Negro prisoners also run a greater confinement risk from the point of view of the areal factor. They were committed from the East Texas region in greater proportions than were whites, and a greater proportion of them were committed from counties having large cities. It should be recalled that these are the kinds of areas in which juries tend to give long sentences. These are the kinds of factors which must be controlled if the influence of the racial factor is to be objectively tested. When the effects of these factors are eliminated, the association of race and length of prison sentence should decrease and become less significant.

#### *Significance of the Racial Factor Under Controlled Conditions*

However, control of these non-racial factors fails to reduce the gross association which we observe to exist between race and length of prison sentence. Instead, it increases the degree of this association, changes its direction, and strengthens its validity. Although the total coefficient is low, "being black" generally means one type of sentence while "being white" means another. This conclusion, however, is much more valid when observed through white and Negro prisoners who were committed for the same offense. Table 4 shows that there is a slightly higher degree of association between race and length of sentence among prisoners who were committed for burglary and murder. Juries tended to give Negro prisoners committed for murder shorter sentences than they gave whites who were committed for the same offense. They gave Negroes committed for burglary longer sentences than they gave whites committed for this offense. These judicial responses possibly represent the indulgent and non-indulgent patterns that

TABLE 4  
PER CENT DISTRIBUTION OF 3,644 PRISONERS ACCORDING TO TYPE OF OFFENSE, LENGTH OF SENTENCE, AND RACE

Offense	Short			Long			Q	$\chi^2$	P* <
	Per Cent Negro	Per Cent White	Total	Per Cent Negro	Per Cent White	Total			
Burglary	35.9	64.1	1,141	47.5	52.5	341	.23	14.45	.001
Rape	36.3	63.7	135	29.3	70.7	239	.16	1.92	.250
Murder	62.1	37.9	702	55.3	44.7	1,086	.14	8.10	.010
Total	45.2	54.8	1,978	50.0	50.0	1,666	.10	8.20	.010

\*With one degree of freedom.

TABLE 5  
COEFFICIENT OF ASSOCIATION BETWEEN RACE AND LENGTH OF SENTENCE FOR PRISONERS CLASSIFIED BY AREA AND TYPE OF OFFENSE

Area and Type of Offense	Q	$\chi^2$ 1-df	P <
1—East Texas Counties			
a. Burglary	.25	5.36	.050
b. Rape	.27	2.32	.200
c. Murder	.10	1.57	.300
2—West Texas Counties			
a. Burglary	.33	5.43	.020
b. Rape	.00	0.00	
c. Murder	.15*	4.12	.050
3—Large City Counties			
a. Burglary	.10	2.55	.200
b. Rape	.13*	0.55	.500
c. Murder	.23*	7.70	.010
4—Other City Counties			
a. Burglary	.31	12.62	.001
b. Rape	.18	1.46	.300
c. Murder	.12*	3.91	.050

\* "Being Negro" and receiving shorter sentences.

characterize local attitudes concerning property and interracial morals. Murder is an intra-racial crime.<sup>21</sup> Since the victims of most of the Negroes committed for this offense were also Negroes, local norms tolerate a less rigorous enforcement of the law; the disorder is mainly located within the Negro society. On the other hand, burglary is mainly an interracial offense. When a Negro is an offender, his attack is usually against the property of a white person.<sup>22</sup> Local norms are less tolerant, for the motivation to protect white property and to protect "white" society against disorder is stronger than the motivation to protect "Negro" society.

These indulgent and non-indulgent patterns of racial discrimination are even more firmly established when other variables are controlled. In three of the four types of areas a significantly greater proportion of Negroes received short sentences for murder. Only in the cases of prisoners from East Texas committed for murder were racial differences in length of sentence not statistically significant.

<sup>21</sup> Bullock, *Urban Homicide in Theory and Fact*, 45 J. CRIM. L., C. & P.S. 565 (1955).

<sup>22</sup> That burglary offenses committed by Negroes are usually or more often directed against the property of whites than the property of Negroes has been verified by evidence secured from the District Attorney's offices of sample counties.

TABLE 6  
COEFFICIENT OF ASSOCIATION BETWEEN LENGTH OF SENTENCE AND RACE FOR PRISONERS CLASSIFIED BY TYPE OF OFFENSE AND PLEA

Type of Offense and Plea	Q	$\chi^2$ 1-df	P <
1—Total Prisoners:			
a. Plea of Guilty	.24	29.75	.001
b. Plea of Not Guilty	.08	2.46	.200
2—Committee for Burglary:			
a. Plea of Guilty	.31	14.00	.001
b. Plea of Not Guilty	.03	0.01	.900
3—Committee for Rape:			
a. Plea of Guilty	.40*	4.79	.050
b. Plea of Not Guilty	.12*	0.82	.800
4—Committed for Murder:			
a. Plea of Guilty	.28*	8.40	.010
b. Plea of Not Guilty	.12*	3.69	.100

\* "Being Negro" and receiving shorter sentences.

TABLE 7  
COEFFICIENT OF ASSOCIATION BETWEEN RACE AND LENGTH OF SENTENCE FOR PRISONERS CLASSIFIED BY AREA OF ORIGIN, TYPE OF OFFENSE AND PLEA

Area, Type of Plea and Offense	Q	$\chi^2$ 1-df	P <
1—East Texas Counties:			
a. Burglary, Guilty	.33	5.78	.02
b. Rape, Guilty**	.61*	5.02	.05
c. Murder, Guilty	.31*	4.64	.05
d. Murder, Not Guilty	.09	0.88	.80
2—West Texas Counties:			
a. Burglary, Guilty	.53	15.64	.001
b. Rape, Guilty	.00	0.00	
c. Murder, Guilty	.23*	4.38	.05
d. Murder, Not Guilty	.00	0.00	
3—Large City Counties:			
a. Burglary, Guilty	.09	0.80	.80
b. Rape, Guilty	.22*	4.31	.05
c. Murder, Guilty	.27*	4.48	.05
d. Murder, Not Guilty	.15*	2.20	.20
4—Other City Counties:			
a. Burglary, Guilty	.43	24.87	.001
b. Rape, Guilty	.15*	0.78	.50
c. Murder, Guilty	.75*	111.99	.001
d. Murder, Not Guilty	.15*	2.19	.20

\* "Being Negro" and receiving shorter sentences.

\*\* Those pleading not guilty except in the case of murder, when distributed for these variables, yielded frequencies smaller than 10 for the different cells of our tables.

However, the higher coefficients of association derived from a comparison of white and Negro prisoners committed for burglary from East and West Texas counties indicate that the greater risk which Negroes run with regard to this offense persists under the control of areal variables. This is also true for those counties that have small cities.

Although juries generally favor with short sentences those who plead guilty of the charges held against them, their attitude appears different when their judgments are observed through the influence of the racial factor. Negro prisoners who entered a plea of guilty received long sentences in greater proportion than did whites who entered this plea. When racial differences were observed under conditions that controlled both type of offense and plea, as shown in Table 6, the degree and significance of the association increased while the direction remained the same. Negro offenders who plead guilty of murder also get shorter sentences than do whites who plead guilty of this offense, and those who plead guilty of burglary get longer sentences. The indulgent and non-indulgent patterns appear to operate undisturbed by the nature of an offender's plea.

According to Table 7, racial differences in the assessment of prison sentences tend to persist even though the prisoners are alike in all effective characteristics except race. Negro prisoners committed for murder get short sentences more often than whites committed for this offense even when prisoners of the two racial groups are alike in terms of plea and area from which they were committed. Those committed from East Texas counties and from counties having large cities also received short sentences in greater proportion than did white prisoners of similar characteristics.

Rape, too, is a form of intra-racial crime that elicits short sentences when Negroes are the offenders. Despite the wide publicity given interracial cases, the victim and the assailant are usually of the same race. That Negroes are given short sen-

tences in greater proportion than are whites is probably another expression of the employment of a double standard of moral expectation from the Negro society. In addition to responding to the law, jurors appear also to respond to the race of an offender. If his offense carries him across racial lines, his penalty is heavier than that given whites who appear in court under the same circumstances. If his offense remains within the confines of his segregated community life, his punishment is less than that imposed upon his white counterpart. These patterns, indulgent and non-indulgent, seem to operate irrespective of the area from which he was committed, the nature of his plea, or the number of previous felonies for which he was convicted.

#### SUMMARY AND CONCLUSIONS

In light of basic criticisms directed against criminal statistics, and certain charges directed against the agencies of law enforcement, an exploratory study designed to observe the significance of racial differences in length of prison sentences was undertaken. Certain factors other than those specified in the law were found significantly associated with the length of sentences imposed by a jury upon an offender. Negro prisoners were observed to be more greatly exposed to these factors than white prisoners, but were also observed to receive sentences significantly different from those given white prisoners even when these factors were controlled. Assuming indulgent and non-indulgent patterns in which Negro offenders are apparently under-penalized for one type of offense and over-penalized for another, racial discrimination appears to be motivated more by the desire to protect the order of the white community than to effect the reformation of the offender. If the study has any theoretical suggestion at all, it is this: Those who enforce the law conform to the norms of their local society concerning racial prejudice, thus denying equality before the law. That criminal statistics reflect social customs, values, and prejudices appears to be further validated.