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PARAMETERS OF CRIMINAL PROSECUTION: AN APPLICATION OF PATH ANALYSIS TO A PROBLEM OF CRIMINAL JUSTICE

JOHN HAGAN *

A sociological concern with the process of criminal sentencing is well-established.¹ Similarly well-demonstrated is a sociological interest in the process of criminal prosecution.² Surprisingly, however, the two concerns have not been linked systematically in empirical research. The tendency, instead, has been to treat sentencing and prosecution as separate dependent variables, to be linked individually to other variables in the legal process. The current study combines consideration of prosecution and sentencing, using the techniques of path analysis.³ Before turning to the analysis itself, however, we will review several approaches taken to the study of criminal prosecution.⁴

THE LITERATURE

The process of criminal prosecution is a sub-

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¹ E. GREEN, *JUDICIAL ATTITUDES IN SENTENCING* (1961); S. NAGEL, *THE LEGAL PROCESS FROM A BEHAVIORIAL PERSPECTIVE* (1969); Lemert and Rosberg, *The Administration of Justice to Minority Groups in Los Angeles County*, 11 UNIV. CALIF. PUBLICATIONS CULTURE AND SOCIETY (1948); Sellin, *Race Prejudice in the Administration of Justice*, 41 AM. J. SOCIOLOGY 212 (1935).

² F. MILLER, *PROSECUTION: THE DECISION TO CHARGE A SUSPECT WITH A CRIME* (1970); D. J. NEWMAN, *CONVICTION: THE DETERMINATION OF GUILT OR INNOCENCE WITHOUT TRIAL* (1966); Newman, *Pleading Guilty for Considerations: A Study of Bargain Justice*, 46 J. CRIM. L.C. & P.S. 780 (1956).

³ For basic discussions of the techniques of path analysis, see Heise, *Problems in Path Analysis and Causal Inference*, 1969 SOCIOLOGICAL METHODOLOGY 38 (E. Borgatta ed. 1969); Land, *Principles of Path Analysis*, 1969 SOCIOLOGICAL METHODOLOGY 3 (E. Borgatta ed. 1969).

⁴ A review of the sentencing literature has previously been provided in Hagan, *Extra-Legal Attributes and Criminal Sentencing: An Assessment of a Sociological Viewpoint*, 8 L. & Soc'y REV. 357 (1974).

Discussions of criminal sentencing are largely atheoretical, focusing on the role of legal and extra-legal variables in the judicial process. Discussions of criminal prosecution are similarly attentive to these variables, while additionally concerned with linking such variables into theoretical perspectives on the prosecutorial process. For

ject of international concern⁵, an issue of constitutional debate⁶, a forum for social theoretical speculation⁷, and a focus of empirical research.⁸ For current purposes, we will restrict our attention to several theoretical and empirical discussions of criminal prosecution.

Two dominant theoretical approaches can be discerned. Although the approaches are not mutually exclusive, they differ in emphasis, focusing on two distinct concepts: bureaucratization and class conflict.

Blumberg focuses on the role of bureaucratization in Anglo-American systems of criminal justice.⁹ Drawing on Weber's discussions of the process of rationalization in modern legal systems, it is argued that the proper focus for study lies in the organization of the criminal court: "Sociologists and others have focused their attention on the deprivations and social disabilities of such variables as race, ethnicity, and social class as being the source of an accused person's defeat in a criminal court. Largely overlooked is the variable of the court organization itself, which possesses a thrust, purpose, and direction of its own."¹⁰ Blumberg argues that bureaucratic demands for efficiency exert an exogenous influence on the prosecution process. These organizational pressures are operationalized procedurally through the ac-

these reasons, the current review is confined to discussions of criminal prosecution.

⁵ See 8 AM. J. COMPARATIVE L. (1970) (entire volume).

⁶ Chambliss, *The Unconstitutionality of Plea Bargaining*, 83 HARV. L. REV. 1387 (1970).

⁷ A. BLUMBERG, *CRIMINAL JUSTICE* (1967); W. CHAMBLISS & R. SEIDMAN, *LAW, ORDER, AND POWER* (1971); Blumberg, *The Practice of Law as a Confidence Game*, 1 L. & Soc'y REV. 15 (1967); Sudnow, *Normal Crimes: Sociological Features of the Penal Code in a Public Defender's Office*, 12 SOCIAL PROBLEMS 255 (1965).

⁸ Newman, *Pleading Guilty for Considerations: A Study of Bargain Justice*, 46 J. CRIM. L.C. & P.S. 780 (1956); Note, *Compromises by Prosecutors to Secure Guilty Pleas*, 112 U. Pa. L. REV. 865 (1964).

⁹ A. BLUMBERG, *CRIMINAL JUSTICE* (1967).

¹⁰ *Id.* at 19.

tions of defense counsel, client and prosecutor in the process of plea negotiation.¹¹

Chambliss and Seidman differ from Blumberg in assigning an intervening role to procedural variables in the causal sequence.¹² Arguing from a Marxian view of class conflict, negotiation between defense counsel and prosecutor is conceptualized as a mediating mechanism that facilitates protection of the powerful and exploitation of the powerless. Procedural variables thus assume an endogenous position, subject to the direct effects of the social class position of the defendants involved: "How favorable a 'bargain' one can strike with the prosecutor in the pretrial confrontations is a direct function of how politically and economically powerful the defendant is. In terms of day-to-day prosecutorial activities, what this comes down to is that the lower class, indigent, and minority group member is most likely to be prosecuted for his offenses. . . ." ¹³

Moving from theory to research, two empirical studies are available for review. Vetri has published results of a survey questionnaire completed by prosecutors in forty-three states.¹⁴ It is important to note that the response rate to the questionnaire was low (40 per cent), and also that the accuracy of the responses obtained is dependent on the honesty and perceptual acuity of the respondents involved. Nonetheless, the findings are of interest. Among findings relevant to our discussion, it is reported that prosecutors consider prior convictions, type of offense, and multiple charges as important factors in the decision to alter charges.

Newman's study of the prosecution process used as its data source the recollections of ninety-seven felons under active sentence.¹⁵ Although this study is also limited by the accuracy of the respondents' reports, it is again of importance in terms of the insights offered for further research. Data reported by Newman cast doubt on the class based hypotheses of Chambliss and Seidman. For example, when

defendants are compared in terms of their initial pleas, no significant differences are found by education, occupation, and residence. Similarly, "[a]nalysis of the sample of offenders showed no clear-cut categories separating bargained and non-bargained convictions."¹⁶ Nevertheless, Newman reports that among those cases where negotiation was perceived to have occurred, approximately 33 per cent involved communication regarding alteration of charges, while 67 per cent involved discussion of sentencing considerations. A concluding hypothesis suggests that "[t]he way bargaining now works, the more experienced criminals can manipulate legal processes to obtain light sentences and better official records. . . ." ¹⁷

This discussion of the literature relating to criminal prosecution suggests several different themes. Chambliss and Seidman clearly hypothesize that class conflict, operationalized through the extra-legal attributes of the defendants, is a dominant disadvantaging factor in the process of criminal prosecution. Just as clearly, Blumberg argues that the prosecution process is guided by a set of bargaining procedures whose thrust is constrained more by organizational priorities than class interests. Newman, in contrast, argues that it is the "conviction-wise" offender who benefits from the prosecutorial process. Finally, Vetri indicates that a number of more conventional legal variables must be considered in discussions of criminal prosecution.

Unfortunately, although the literature surrounding the prosecution process is helpful in isolating potentially important variables, it does not suggest a set of propositions sufficiently precise to allow a *deductive* model-testing approach to the research problem.¹⁸ In response to this situation, techniques of path analysis are explored as a means of *inductively* determining causal linkages between the variables concerned. At the same time, an assessment is attempted of the overall impact of factors involved in the prosecutorial process. The intent is to provide an empirical grounding for additional theory construction and research.¹⁹

¹¹ Blumberg, *The Practice of Law as a Confidence Game*, 1 L & Soc'y Rev. 15 (1967).

¹² W. CHAMBLISS AND R. SEIDMAN, *supra* note 7, ch. 19.

¹³ *Id.* at 412.

¹⁴ Note, *Guilty Plea Bargaining: Compromises by Prosecutors to Secure Guilty Pleas*, 112 U. PA. L. Rev. 865 (1964).

¹⁵ Newman, *supra* note 8.

¹⁶ *Id.* at 789.

¹⁷ *Id.* at 790.

¹⁸ See H. BLALOCK, *CAUSAL INFERENCES IN NONEXPERIMENTAL RESEARCH* (1964).

¹⁹ Heise, *supra* note 3, at 64.

THE SAMPLE AND METHODOLOGY

The sample consists of 1018 cases, involving over 1500 charges, drawn at random from files covering a six month period of prosecutions in a medium-sized western Canadian city.²⁰ Our

²⁰ For a discussion of criminal prosecution in Canada, see Grossman, *The Role of the Prosecutor in Canada*, 18 AM. J. COMPARATIVE L. 498 (1970). Grossman generally concludes that criminal prosecution in Canada is much like that in the United States.

primary interest was in the offender as the unit of analysis. Thus, it was necessary to select the salient charge facing each offender. This was accomplished by choosing the offense assigned the most severe sentence. If none of the charges received sentence (i.e., if all charges were dismissed), or if the sentences were of equal severity, the offense providing the most severe sentencing option by statute was chosen. Three groups of independent variables, presented in Table I, are considered in the

TABLE I: VARIABLES

| Notation | Variable | Scale | | | |
|-------------------------------|--|---|-----|----------------|-----|
| X ₁ | Race | White | (1) | Indian & Metis | (2) |
| X ₂ | Socioeconomic Status (Index: Edward's Social-Economic Group of Occupations) | Professional, Technical and Related Workers | | | (1) |
| | | Business Managers, Officials, and Proprietors | | | (2) |
| | | Clerical and Related Workers | | | (3) |
| | | Craftsmen, Foremen, and Related Workers | | | (4) |
| | | Operatives and Related Workers | | | (5) |
| | | Laborers | | | (6) |
| X ₃ | Prior Arrests | None | (1) | One or More | (2) |
| X ₄ | Legal Seriousness of Initial Charge (measured as maximum statutory sentence) | 6 Months | (1) | 7 Years | (6) |
| | | 18 Months | (2) | 10 Years | (7) |
| | | 2 Years | (3) | 14 Years | (8) |
| | | 3 Years | (4) | Life or Death | (9) |
| | | 5 Years | (5) | | |
| X ₅ | Number of Charges | One | (1) | Six | (6) |
| | | Two | (2) | Seven | (7) |
| | | Three | (3) | Eight | (8) |
| | | Four | (4) | Nine or more | (9) |
| | | Five | (5) | | |
| X ₆ | Defense Counsel | No | (1) | Yes | (2) |
| X ₇ | Initial Plea | Guilty | | | (1) |
| | | Plea Reserved or Withheld | | | (2) |
| | | Not Guilty | | | (3) |
| X ₈ | Charge Alterations | No Charge Alteration | | | (1) |
| | | Secondary Charge Alteration | | | (2) |
| | | Primary Charge Alteration | | | (3) |
| X ₉ | Final Disposition Sentence | Charge Dismissed | | (1) | (0) |
| Absolute Discharge | | | (2) | (1) | |
| Conditional Discharge or Fine | | | (3) | (2) | |
| Probation | | | (4) | (3) | |
| Prison | | | (5) | (4) | |

analysis. A brief discussion of each set of variables follows, with the order of presentation representing an assumed sequence of causal priority.

The first group of variables consists of extra-legal offender characteristics: race (X_1) and socio-economic status (X_2). The minority group represented in the sample is of Indian and Metis descent.²¹ In several respects, the presence of Native persons in the sample can be considered an asset of this research. In comparison with other North American groups, it can plausibly be argued that Indian and Metis defendants understand less and resist least their fate in the hands of the law. Thus, if race in itself is a disadvantaging factor in criminal prosecution, it would seem likely that Native persons would be among those experiencing the undesired effects.

The racial background of the defendant was indicated as (1) white or (2) Indian or Metis on the basis of designation as such in the case file.²² Additional information on the current or customary occupation of the defendant was gathered from the files, and socio-economic status was then indicated on the basis of Edward's Social-Economic Grouping of Occupations.²³

The second group of variables includes legally defined offender and offense characteristics: prior arrest (X_3), legal seriousness of the initial charge (X_4), and the number of charges (X_5). Information regarding the presence or absence of prior arrests and the number of charges facing the offender was indicated directly from the files. The seriousness of the initial charge selected for analysis was operationally defined in terms of the maximum sentence provided for the offense in the Criminal Code of Canada.

The third group of variables involves procedural factors: presence of defense counsel

(X_6), initial plea (X_7), and charge alteration (X_8). The presence or absence of defense counsel and the nature of the initial plea were recorded from the files. The type of initial plea was then ranked according to the intensity of the denial of guilt indicated: (1) plea of guilty, (2) plea reserved or withheld, (3) plea of not guilty.

Measurement of charge alteration presented a more difficult problem. Discussions of charge alteration have typically focused on the distinction between situationally and necessarily included offenses,²⁴ the nature of the interaction between the negotiating parties,²⁵ and the disjunction between the expected and effected sentencing "considerations."²⁶ However, in the jurisdiction under study, judges customarily sentence offenses concurrently. Thus, more important than any of the previously mentioned concerns, for the purpose of predicting final disposition, is an indication of the particular charge being altered. In short, the most important consideration for the defendant is whether or not the *most serious charge* facing him is changed. Thus, charge alterations are ranked in our analysis as follows: (1) no charge alteration, (2) secondary charge alteration, (3) primary charge alteration.²⁷

The dependent variable for this analysis is the outcome of the defendant's case. To provide a comprehensive assessment of the prosecution and sentencing process, it was necessary to consider not only those persons who were actually sentenced, but also persons whose cases were dismissed. To demonstrate the implications of considering the latter group, the dependent variable was coded first with, and second without, the inclusion of this set of defendants. The ranking of the variable was determined by the decision of guilt and/or restriction of civil liberties imposed; the two codings are presented in Table I.²⁸ For pur-

²¹ The term "Metis" refers to persons of mixed, in this case white and Indian, ancestry.

²² Persons of Indian and Metis backgrounds are combined in one category in the same sense that persons of mixed white and Negro background are usually treated synonymously with Negroes, for the purpose of study. The concern is not with the biological accuracy of these designations, but rather with the presumed consequences of the *attribution* of racial status.

²³ For a discussion of this scale see F. MILLER, *supra* Note Z.

²⁴ Sudnow, *supra* note 7.

²⁵ Blumberg, *supra* note 11.

²⁶ Newman, *supra* note 8.

²⁷ The frequency distribution of charge alterations is as follows: (1) no charge alteration: N = 594; (2) secondary charge alteration: N = 326; (3) primary charge alteration: N = 98.

²⁸ The distinction between charge dismissal and absolute discharge is based on the acknowledgment of guilt involved in the latter disposition. Each of the following dispositions, conditional discharge or fine, probation, and prison involves a

poses of clarity, the first ranking is designated as "final disposition," and the second as "sentence."

The data are examined using techniques of path analysis and multiple regression procedures. Dichotomized measures included in the analysis are treated as "dummy variables,"²⁹ while the remaining ordinal variables are treated as interval measures. This strategy is in agreement with arguments presented by Bohrnstedt and Carter,³⁰ Labovitz,³¹ Boyle,³² and Land.³³ Within the field of the sociology of law, a precedent for this approach is available in the work of Cartwright and Schwartz.³⁴

successive increase in the curtailment of the civil liberties of the offender. The frequency distribution of final dispositions is as follows: (1) charge dismissal: N = 142; (2) absolute discharge: N = 25; (3) conditional discharge or fine: N = 678; (4) probation: N = 74; (5) prison: N = 99.

²⁹ For a discussion of the use of "dummy variables" in regression analysis, see Boyle, *Path Analysis and Ordinal Data*, 75 AM. J. SOCIOLOGY 461 (1970).

³⁰ Bohrnstedt and Carter, *Robustness in Regression Analysis*, 1971 SOCIOLOGICAL METHODOLOGY 118 (H. L. Costner ed. 1971).

³¹ Labovitz, *The Assignment of Numbers to Rank Order Categories*, 35 AM. SOCIOLOGICAL REV. 515 (1970); Labovitz, *Some Observations on Measurement and Statistics*, 46 SOCIAL FORCES 151 (1967).

³² Boyle, *supra* note 29.

³³ Land, *supra* note 3.

³⁴ Cartwright and Schwartz, *The Invocation of Legal Norms: An Empirical Investigation of*

THE ANALYSIS

The analysis is carried out in two stages, corresponding to the two codings of the dependent variable. The first stage of the analysis involves the eight independent variables and final disposition (X_9). Correlation and path coefficients relating the nine variables involved in this stage of the analysis are presented in Table II. Correlation coefficients (r_{ij}) are presented in the upper right-hand section of the Table, while path coefficients (p_{ij}) are presented in the lower left-hand section of the Table. Following the inductive strategy described earlier, a causal model was developed and presented in Figure I. Path coefficients were selected for the model (from Table II) on the basis of two criteria: (1) attainment of statistical significance at the .01 level, and (2)

Durkheim and Weber, 38 AM. SOCIOLOGICAL REV. 340 (1973).

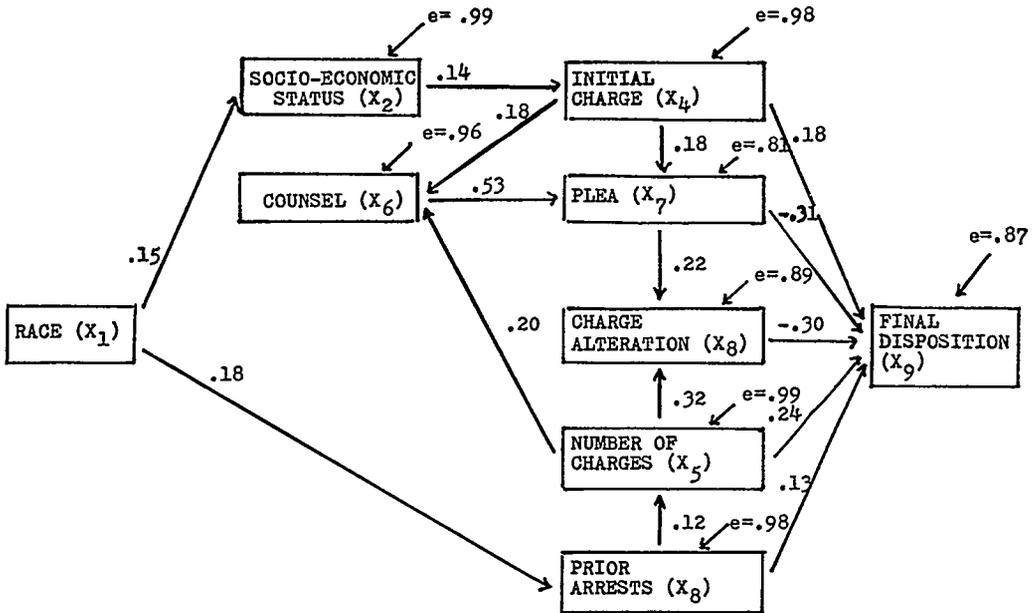
Labovitz, *supra* note 30 at 523, argues that, "... treating ordinal variables as if they are interval has these advantages: (1) the use of more powerful, sensitive, better developed and interpretable statistics with known sampling error, (2) the retention of more knowledge about the characteristics of the data, and (3) greater versatility in statistical manipulation..." Similarly impressed by the advantages of such procedures, Bohrnstedt and Carter, *supra* note 29 at 132, advise that, "... when one has a variable which is measured at least at the ordinal level, parametric statistics not only can be, but should be, applied." (emphasis added).

TABLE II:
Correlation and Path Coefficients
(N = 1018)

| PATH COEFFICIENTS | CORRELATION COEFFICIENTS | | | | | | | | |
|-------------------|--------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | X ₁ | X ₂ | X ₃ | X ₄ | X ₅ | X ₆ | X ₇ | X ₈ | X ₉ |
| X ₁ | | .15 | .17 | .11 | .03 | .01 | .03 | -.04 | .07 |
| X ₂ | .15** | | -.01 | .16 | -.01 | -.03 | -.01 | -.08 | .13 |
| X ₃ | .18** | -.03 | | -.07 | .12 | .06 | .05 | .05 | .13 |
| X ₄ | .10 | .14** | -.09 | | -.01 | .17 | .26 | -.01 | .12 |
| X ₅ | .01 | -.01 | .12** | -.01 | | .20 | .06 | .35 | .16 |
| X ₆ | -.01 | .05 | .05 | .18** | .20** | | .55 | .26 | -.04 |
| X ₇ | .01 | -.03 | .04 | .18** | -.05 | .53** | | .27 | -.25 |
| X ₈ | .04 | -.06 | -.01 | -.06 | .32** | .08 | .22** | | -.27 |
| X ₉ | .01 | .08 | .13** | .18** | .24** | .12* | -.31** | -.30** | |

* Statistically significant at the .01 level.

** Statistically significant at the .01 level and explains more than one per cent of the variation in the endogenous variable.



explanation of more than one per cent of the variation in the endogenous variable.³⁵ The resulting model can be discussed in terms of the three groupings of variables originally described.

Our attention is directed first to the three procedural variables: defense counsel, initial plea, and charge alteration. Charge alteration has an inverse direct effect on final disposition (p_{98}) of $-.30$, indicating that as the primacy of charge alteration increases, the severity of final disposition diminishes. It is significant to note that there is an element of conceptual overlap involved in this relationship. In those cases of primary charge alteration where the prosecutor withdraws all charges against the defendant, the final disposition is predetermined: the case is dismissed. Thus, in these cases, the prosecutor effectively imposes the final judgment. The relationship between charge alteration and final disposition reflects this aspect of the prosecutor's role in the decision-making process.

The defendant's initial plea has an inverse direct effect on final disposition (p_{97}) of $-.31$.

³⁵ The F-test is used as the test of significance. For a discussion of this test, see H. BLALOCK, *SOCIAL STATISTICS* (1960). For a discussion of the liabilities of using significance tests alone as the criterion for selecting causal paths, see Heise, *supra* note 3 at 61, and Hagan, *supra* note 4.

Assertion of innocence, in short, is linked to favorability of disposition. The nature of this causal sequence is elaborated with consideration of the role of defense counsel. Presence of defense counsel operates indirectly through plea and charge alteration to again effect inversely the severity of final disposition. With initial plea alone as the mediating variable, the indirect effect of defense counsel on final disposition ($p_{76}p_{97}$) is $-.16$. Added to this is the indirect influence of defense counsel operating through initial plea and charge alteration ($p_{76}p_{97}p_{98} = -.03$). The resulting estimate of the indirect effect of defense counsel on final disposition is $-.19$.

Our focus shifts next to the legal variables included in the model. Each legal variable directly affects final disposition, as well as directly or indirectly affecting a procedural variable. Final disposition is linked: (1) with the initial charge, by a path coefficient (p_{94}) of $.18$; (2) with a number of charges, by a path coefficient (p_{95}) of $.24$; and (3) with prior arrests, by a path coefficient (p_{93}) of $.13$. Thus the seriousness of the initial charge, the number of immediate charges, and the number of prior arrests are all substantively and causally related to final disposition. It is appropriate to note, however, that none of the legal variables taken

alteration in its direct effect on final disposition.

Seriousness of the initial charge and the number of charges are also related directly to the presence of defense counsel by respective path coefficients (p_{64p65}) of .18 and .20. Further, the number of charges operates through presence of defense counsel to produce an indirect effect on the initial plea (p_{65p76}) of .11. Finally, the number of charges facing an offender has a direct effect on charge alteration (p_{58}) of .32. As one might expect, then, the number of offenses available for negotiation is related causally to the probability of alteration in charges.

Our attention turns finally to the role of extra-legal offender characteristics in the prosecution and sentencing process. Links between these and remaining variables in the model are as conspicuous in their absence as they are in their presence. Thus, there are no direct links between extra-legal offender characteristics and the procedural variables or final disposition. Percentage comparisons, by race, for the three procedural variables, are provided in Table III. Thus, while 33.4 per cent of the white defendants retained counsel, 35.1 per cent of the Native defendants were also represented by counsel; while 26.2 per cent of the white defendants entered pleas of not guilty, 30.8 per cent of the Native defendants also denied their guilt; and while 9.6 per cent of the whites received primary charge alterations, 9.1 per cent of the Native persons similarly benefited from alterations in primary charges. These findings

suggest that Indian and Metis defendants are involved at a rate similar to whites in the procedural maneuvers that characterize the prosecutorial process.

It is of interest to note that the connection of extra-legal offender characteristics to the remainder of the model is through the mediating influence of legal variables. Thus, race is linked directly to prior arrests by a path coefficient (p_{31}) of .18, while socio-economic status has a direct effect on initial charge of .14. Finally, the direct effect of race on socio-economic status is indicated by a path coefficient (p_{21}) of .15. Summarizing, the effect of race and socio-economic status on final disposition is indirect, and mediated by legal categorizations.

In the second stage of our analysis, our attention is directed to only those offenders who actually receive sentence; those offenders whose cases are dismissed are eliminated from the sample. Correlation and path coefficients relating to this phase of the analysis are presented in Table IV, and the resulting path diagram is pictured in Figure II. Criteria used in selecting path coefficients for the diagram are identical to those used in the first phase of the analysis.

The salient differences between the first and second path diagrams involve the legal and procedural variables. In Figure II, the seriousness of the initial charge ($p_{10,4} = .50$) and prior record ($p_{10,3} = .24$) are both increased in their importance as predictors of the sentence imposed. In contrast, the number of charges ($p_{10,5}$), defense counsel ($p_{10,6}$), initial plea ($p_{10,7}$), and charge alteration ($p_{10,8}$) each account for less than one per cent of the variation in sentencing. In brief, the procedural variables are decreased in importance, while the legal variables are increased in their influence. There are two immediate implications of these findings. First, the procedural variables (i.e., defense counsel, initial plea, and charge alteration) are clearly of less consequence for sentencing than for the dispositional process considered in broader terms (i.e., with cases of charge dismissals included). Second, the increased importance of initial charge seriousness in sentencing heightens somewhat the indirect effect of socio-economic status. Thus, as a result of lower socio-economic status and defendants being charged with more serious offenses, the

TABLE III:
Proportion of White and Native Offenders
Retaining Counsel, Pleading Guilty, and
Receiving Charge Alterations

| Race | Procedural Variables | | |
|----------------|--------------------------|----------------------------|---------------------------|
| | Defense Counsel Retained | Initial Plea of Not Guilty | Primary Charge Alteration |
| White | 33.4% (291) | 26.2% (226) | 9.6% (86) |
| Indian & Metis | 35.1% (40) | 30.8% (36) | 9.1% (11) |

TABLE IV:
Correlation and Path Coefficients
(N = 1018)

| PATH COEFFICIENTS | CORRELATION COEFFICIENTS | | | | | | | | |
|-------------------|--------------------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| | X ₁ | X ₂ | X ₃ | X ₄ | X ₅ | X ₆ | X ₇ | X ₈ | X ₉ |
| X ₁ | | | | | | | | | |
| X ₂ | .17** | | | | | | | | |
| X ₃ | .16** | .17 | | | | | | | |
| X ₄ | .07 | .18** | -.12** | | | | | | |
| X ₅ | .01 | .01 | .09 | .08 | | | | | |
| X ₆ | -.02 | -.01 | .05 | .19 | .02 | -.01 | .02 | -.06 | .15 |
| X ₇ | .01 | -.05 | .06 | -.10 | .01 | .02 | -.01 | -.11 | .19 |
| X ₈ | -.05 | -.09 | -.02 | .02 | .09 | .05 | .07 | .04 | .21 |
| X ₉ | .06 | .07 | .24** | .03 | .14 | .21 | -.08 | .50 | .10 |
| X ₁₀ | | | | .14** | .24** | .25 | .15 | .51 | .10 |
| | | | | .15** | .01 | .54** | .28 | .12 | .10 |
| | | | | -.12** | .45** | .20** | .13** | -.07 | .12 |
| | | | | .50** | .10* | .03 | -.01 | -.09 | -.07 |

* Statistically significant at the .01 level.

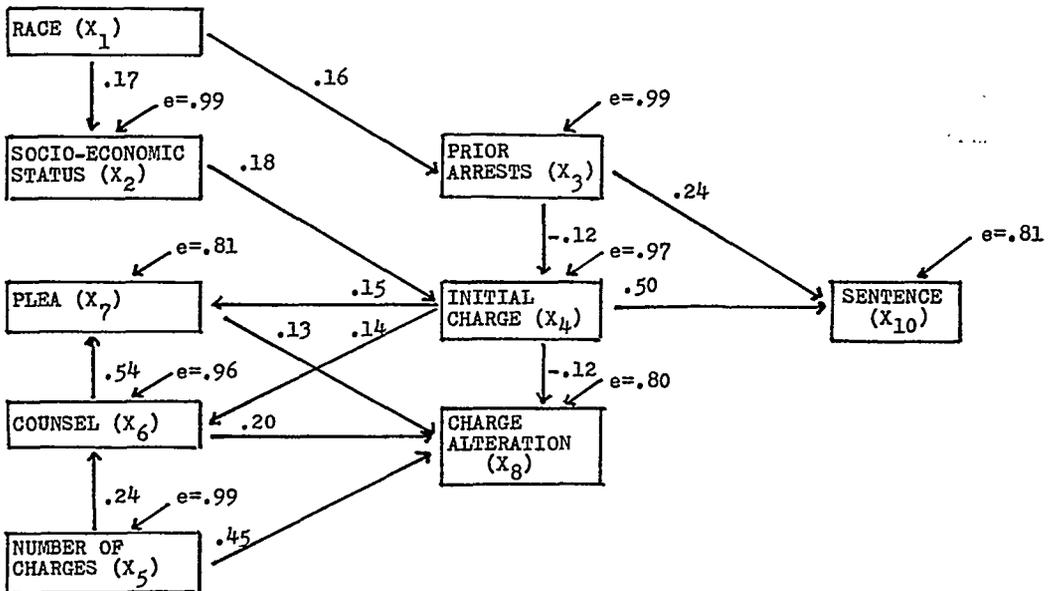
** Statistically significant at the .01 level and explains more than one per cent of the variation in the endogenous variable.

indirect effect of socio-economic status on sentence ($p_{10,4p_{4,2}}$) is .09. The direct effect of socio-economic status on sentence ($p_{10,2}$) is .07. The result is a combined total effect ($p_{10,4p_{4,2}} + p_{10,2}$) of .16.

DISCUSSION AND CONCLUSIONS

The first stage of our analysis revealed that the presence of defense counsel, the initial plea, and charge alteration played a major role in

determining final disposition. Race and socio-economic status were not significant influences in this process. Thus, the first phase of our analysis replicates several of Newman's findings; support is also provided for Blumberg's argument that organizationally constrained procedures exert an influence in the court process that is independent of extra-legal offender characteristics. These data are not supportive of the conflict perspective, as presented



by Chambliss and Seidman. Several comments may help to place this conclusion in proper context.

A literal translation of the conflict perspective into the study of criminal prosecution overlooks the extensive social sifting that occurs in the earliest phases of the legal process. It should be noted that although variation in the socio-economic status of offenders in our sample was statistically sufficient for analysis, it was at the same time limited in theoretically relevant terms. Assignment of the numbers one through six to each of Edward's Social Economic Groupings of Occupations (see Table I) resulted in a mean offender status of 4.97, and a standard deviation of 1.31. In short, the socio-economic status of offenders prosecuted was persistently low. Thus, the salience of class-linked factors at points preceding actual prosecution may have muted the potential importance of such factors in later stages of the dispositional process.

Second, it is important to note that in the charges initially filed against offenders, there is some indication of the process of social sifting. Lower socio-economic status offenders are charged with more serious offenses, while Native offenders more often have prior records. The importance of such class-linked factors became apparent in the second stage of our analysis. The seriousness of the offense charged against lower socio-economic status defendants was revealed as a mediating variable in the more severe sentences received by this group of offenders.

Findings reported in both phases of the analysis have implications for issues posed in Newman's research. In neither of the causal

models presented is prior record prominently linked to the process of charge alteration. However, confirmation is provided for the expectation that offenders with more extensive cases (i.e., involving multiple offenses) are more likely to experience alterations in charges. This finding supports a hypothesis that offenders often may be systematically "over-charged" in anticipation of "rewards" to be distributed later in the bargaining process. At the same time, it is significant that the number of charges is related both to prior record and charge alteration, while prior record has a negligible *direct* effect on charge alteration. This finding serves to question the initial causal importance assigned in Newman's data to a prior conviction history.

The benefits of charge alteration become obscure in the second phase of our analysis. Here it is revealed that presence of defense counsel, initial plea, and charge alteration are relatively unimportant for those offenders who are actually sentenced. This finding suggests that "considerations" won in early stages of the legal process may ultimately prove illusionary, a finding that fits well with Blumberg's characterization of the bargaining process as a "confidence game." Notwithstanding the significance of this finding, this phase of the analysis also suggests the importance of considering those offenders who are able to *avoid* conviction and sentencing through the help of defense counsel and protestations of innocence. If the full effects of the prosecution process are to be realized, it will be important for future research to attend to those defendants whose cases are dismissed, as well as to those who are actually sentenced.