

Determinants of Criminal Court Sentencing

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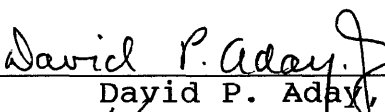
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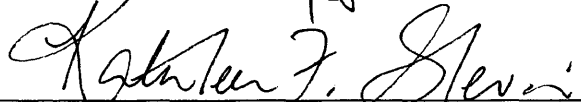


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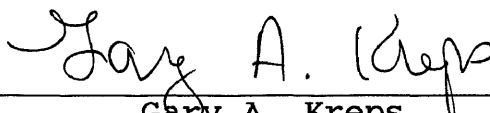
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To Arden, for lending an ear beyond the call of duty

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ABSTRACT

Previous research has provided contradictory findings regarding the determinants of criminal court sentencing. This study discusses the applicability of status characteristics theory to the study of sentencing outcomes and examines the determinants of sentencing in Michigan.

Status characteristics theory, as proposed by Unnever and Hembroff, argues that judges form expectations regarding criminal defendants based upon diffuse status and performance characteristics. Examples of diffuse status characteristics are age, gender, and race. Performance characteristics include offense severity and prior criminal record. In attempting to apply this theory to the study of sentencing outcomes, two problems are identified. The first problem revolves around the method by which judges either combine or balance expectations in situations having numerous diffuse status and performance characteristics. The second problem concerns the lack of operationalized definitions for key terms employed in the theory. The author concludes that status characteristics theory, at its present stage of development, cannot be applied validly or reliably to judicial decision making processes.

Focusing on whether legally prescribed variables, nonprescribed variables, statutory maximum, or a combination thereof provide the best prediction of sentence length, the present study examines assault and robbery cases adjudicated in Michigan. The analyses reveal that statutory maximum is the single best predictor for assault cases; legally prescribed variables provide the best prediction of sentence length for robbery cases. The author presents possible interpretations of these results and discusses their relevance for future research.

DETERMINANTS OF CRIMINAL COURT SENTENCING

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Chapter I

Introduction and History of Sentencing Research/ Sentencing Guidelines

Introduction

Questions of bias in the handling of adult criminal offenders have led to numerous studies and commentaries on sentencing decisions. Much of this research has focused on the power of such variables as race, age, gender, and social class to predict sentencing outcomes. Such variables, often called extra-legal variables, are examined in light of the assertion that the United States court system is based upon a legal model wherein defendants should be treated equally, regardless of race, class, or position.

In the 1970s, a corresponding concern with disparity in sentencing practices prompted the emergence of a determinate sentencing reform movement within the judicial branch. Numerous state jurisdictions and the federal judicial system implemented sentencing guidelines, one form of determinate sentencing, in an attempt to decrease

judicial discretion and lessen sentence discrepancies. In the current study, I examine the history of sentencing research and sentencing guidelines. Within this context, I critique status characteristics theory, as proposed by Unnever and Hembroff, and examine the determinants of sentencing in Michigan, a state employing felony sentencing guidelines.

History of Sentencing Research

After nearly a decade of research on sentencing, findings regarding the effects of legal and extra-legal variables are varied and contradictory. Reasons offered for these discrepant findings include methodological problems such as the use of inconsistent measures of sentence severity, sampling errors, lack of controls for legally relevant variables, ungeneralizability due to emphasis on single jurisdiction studies, and specification errors due to focusing on main effects versus indirect effects of extra-legal variables (Hagan and Bumiller 1983; Nagel and Geraci 1983; Zatz 1987), along with debate over the definition and germaneness of "legal" and "extra-legal" variables (Hagan 1974; Horwitz and Wasserman 1980).

In addition, while a variety of theories and perspectives have been propounded to explain the effects of legal and extra-legal variables, no governing theory has emerged (Hagan and Bumiller 1983). Some of the competing theories used to examine sentencing include conflict and labeling theory (Chambliss and Seidman 1971; Chiricos and Waldo 1975; Bernstein, Kick, Leung, and Schulz 1977; Jacobs 1978; Unnever, Frazier, and Henretta 1980; Kempf and Austin 1986; D'Alessio and Stolzenber 1993), social control theory (Kruttschnitt 1980-81, 1984; Kruttschnitt and Green 1984; Daly 1987a, 1987b, 1989), status characteristics theory (Unnever and Hembroff 1988), the liberation hypothesis (Spohn and Cederblom 1991), the Gestalt model (Maynard 1982), functionalism or the legalistic perspective (Lotz and Hewitt 1977), and the preferential treatment argument (Moulds 1978; Curran 1983; Gruhl, Welch, and Spohn 1984). Little or no theoretical basis supports other research (Clarke and Koch 1977; Thomson and Zingraff 1981; Rich, Sutton, Clear, and Saks 1982; Greenwood, Abrahamse, and Zimring 1984; Petersilia 1984; Petersilia and Turner 1985; Dailey 1993).

While much of the post-1960s research controls for legal variables such as offense seriousness and prior record, the focus continues to be on possible disparity caused by extra-legal variables. The principal extra-legal variables examined have been race, gender, socio-economic status, and age.

Numerous authors have found significant direct and indirect discriminatory race effects in the adult criminal justice system (Wolfgang and Riedel 1973; Unnever, Frazier, and Henretta 1980; Thomson and Zingraff 1981; Kruttschnitt 1984; Petersilia 1984; Petersilia and Turner 1985; Kempf and Austin 1986; Myers 1987; Unnever and Hembroff 1988; Nelson 1992); however, similar studies have found little or no effect (Hagan 1974; Chiricos and Waldo 1975; Clarke and Koch 1976; Bernstein, Kelly, and Doyle 1977; Lotz and Hewitt 1977; Steffensmeier, Kramer, and Striefel 1993). In addition, some studies have found that race affects sentencing decisions only in certain types of cases (Clarke and Koch 1977; Spohn and Cederblom 1991) or in certain jurisdictions (Rich, Sutton, Clear, and Saks 1982). Other studies have shown that Caucasian defendants receive harsher sentences than African-American defendants. Nagel and Geraci (1983) examined

judicial sentencing decisions of adult assault and larceny cases. They found that Caucasians received more severe sentences than African-Americans.

Anderson (1976), Moulds (1978), Steffensmeier (1980), Curran (1983), Visher (1983), Kruttschnitt (1984), Gruhl, Welch, and Spohn (1984), Carres (1986), Daly (1987a, 1987b, 1989), and Abrams and Greaney (1989) reported that women tend to receive more lenient dispositions than their male counterparts; however, Hagan (1974) and Steffensmeier, Kramer, and Streifel (1993) did not find any significant gender effects. Some researchers note that only certain types of women receive preferential treatment (Anderson 1976; Steffensmeier 1980; Kruttschnitt 1980-81; Visher 1983; Chesney-Lind 1987; Daly 1989). These researchers argue that female defendants who deviate from stereotypic gender expectations do not receive preferential treatment, but rather, receive sanctions similar to those of males.

Regarding measures of socio-economic status, some researchers have found a significant negative relation (Clarke and Koch 1976; Croyle 1983; Kruttschnitt 1984; D'Allesio and Stolzenberg 1993), while others have not (Chiricos and Waldo 1975; Unnever 1982).

Clarke and Koch (1976) did not find an age effect in their examination of burglary and larceny cases. Unnever, Frazier, and Henretta (1980), Greenwood, Abrahamse, and Zimring (1984), and Steffensmeier, Kramer, and Streifel (1993) did report a significant age effect on sentencing outcomes.

History of Sentencing Guidelines

Indeterminate sentencing is grounded upon the assumption that offenders can be rehabilitated into non-offenders. Under this sentencing model, the actual term of imprisonment for an offender is determined by a parole authority (Goodstein and Hepburn, 1985).

The 1970s saw a growing dissatisfaction with the use of indeterminate sentencing, which had been the prevailing sentencing policy for over a century. Concern about sentencing disparity and possible discrimination, a desire for increased accountability, and a disillusionment with the rehabilitation model are but a few of the reasons identified for this dissatisfaction (Rich, Sutton, Clear, and Saks 1982; Blumstein, Cohen, Martin, and Tonry 1983; Goodstein and Hepburn 1985; Petersilia and Turner 1985; Moore and

Miethe 1986; Myers 1993). In addition, although social science research cannot be identified as the driving force behind indeterminate sentencing's fall from favor, it did provide support for the impression of widespread discrimination in sentencing (Blumstein, Cohen, Martin, and Tonry 1983).

The criticism of indeterminate sentencing led to a reform movement that focused on determinate sentencing. Reform innovations instituted under this model include the use of guidelines for plea bargaining, parole, and sentencing; the abolition of plea bargaining and parole; statutory determinate sentencing; and mandatory minimum sentencing (Blumstein, Cohen, Martin, and Tonry 1983).

Sentencing guidelines are formal classification instruments, which are usually based upon some statistical average of past judicial sentencing behavior. Most states use a matrix format that weights various offender and offense criteria. Intersecting the offender and offense criteria scores locates an offender's overall summary score, which then identifies the appropriate sentencing range. Mitigating and aggravating circumstances often are used to adjust an offender's overall summary score, and judges usually

are allowed to depart completely from a guideline sentencing range under certain circumstances.

Since the first guidelines were instituted in Minnesota in 1980, there have been few independent studies conducted to evaluate the effectiveness of state sentencing guidelines (Tonry 1987). Those that have been done usually report that sentencing guidelines have not increased sentence uniformity, generally, (Carrow 1984; Knapp 1984; D'Allessio and Stolzenberg 1993) nor have they eliminated race effects (Rich, Sutton, Clear, and Saks 1982; Cohen and Tonry 1983), socio-economic status effects (Cohen and Tonry 1983), or gender effects (Rich, Sutton, Clear, and Saks 1982), specifically. A few reported tentative confirmation that sentencing guidelines, especially those that are presumptive in nature, increase uniformity (Moore and Miethe 1986; Tonry 1988).

Chapter II

Status Characteristics Theory

Theoretical Background

Finding the sentencing literature deficient in theoretical explanation, I originally sought to examine basic propositions of status characteristics theory as applied to criminal court sentencing in Michigan. In particular, I sought to examine the variant of status characteristics theory proposed by Unnever and Hembroff in their 1988 research.

Status characteristics theory is one of the major branches of a larger theoretical body known as expectation states theory. Focusing primarily on patterns of interaction among small groups and authored by Joseph Berger and his associates (see Berger, Cohen, and Zelditch 1972; Berger, Fisek, Norman, and Zelditch 1977; Ridgeway, Berger, and Smith 1985), status characteristics theory argues that in collective task situations, individuals develop expectations of each others' abilities to contribute to task success through the evaluation of various status characteristics*.

Unnever and Hembroff (1988) were the first authors to relate the basic propositions of status characteristics theory to the process of judicial decision making. They posit that "actors [i.e., judges] form expectations for what individuals [i.e., defendants] deserve or how competent they are based on the individuals' ranks on social characteristics. In general, actors associate having a high or desirable rank on a characteristic with deserving the more desirable type of sanction available" (p.57).

Two types of social characteristics are identified by Unnever and Hembroff: diffuse status characteristics and performance characteristics. "Diffuse status characteristics represent membership categories where the qualities attributed to members generally are assumed to be true of each particular member even though specific abilities or predispositions in a particular member have not been demonstrated" (p.58). Examples of diffuse status characteristics are age, gender, and race. Variables identified as performance characteristics combine to compose a performance characteristic set. A performance characteristic set is "a collection of interrelated specific abilities, behaviors,

dispositions, or task characteristics. Each element in the set has differentially evaluated states (i.e, one rank is preferred over the other) and different expectations for sanctions or future behaviors associated with each rank" (p.58). A performance characteristic set consists of such variables as prior criminal record and seriousness of offense.

Acknowledging that judicial decision making is not a collective task situation, Unnever and Hembroff (1988) argue, nevertheless, that status characteristics theory can be used to explain when sentencing disparities are "more likely to occur" (p.57).

Critique of Theory

In attempting to apply status characteristics theory to my research database, two problems emerged which made the application impossible. The first problem revolves around the method by which judges either combine or balance expectations in situations having numerous diffuse status and performance characteristics. That is, how do judges arrive at an overall expectation state when the defendant is high in status on some variables and low in status on others?

•

The second problem concerns the lack of operationalized definitions for key terms employed in the theory.

The literature on status characteristics theory is filled with debate concerning the method by which expectation states are determined in situations where more than one status characteristic is differentially evaluated. Hembroff (1982) suggests that individuals balance and combine status ranks depending on the circumstances:

"...suppose that each actor's rank on P is discrepant with his/her rank on D. This is the case we identify as status inconsistency. If P were similar to the instrumental task ability... while D were not...then the actors could safely ignore their respective ranks on D. If P were totally dissimilar to the instrumental task ability...while D were not...then the actors could safely ignore their ranks on P. These would constitute conditions where the balancing of inconsistency occurs. But if neither P nor D is totally similar or totally dissimilar to the task ability, then ignoring one would be throwing away potentially relevant information and would increase the risk of an extreme error. Therefore, the discrepant ranks will be combined under these conditions. Furthermore, to equally weight characteristics which differ in their degrees of dissimilarity to the task ability also would be irrational. Therefore, *it is assumed that actors combine ranks weighted according to the degree of dissimilarity of the characteristic to that of the task.* The weighted strength of the less dissimilar characteristic becomes the principal basis for forming expectations about the relative probabilities for self and other. The strength of the discrepant, more dissimilar characteristic

tempers the expectation" (p.188, italics in the original, where P=performance set and D=diffuse status characteristic).

In their 1988 research, Unnever and Hembroff propose that variables affecting judicial decision making are both nonlinear and nonadditive. They argue that when the elements making up a performance set are consistent with each other, diffuse characteristics will have no effect. As the degree of inconsistency in the performance set increases, the effects of diffuse characteristics increases. When the performance set holds elements totally inconsistent with each other, the rank of the diffuse status characteristics will decide the interactions. That is, there is "a curvilinear relationship between the degree of inconsistency in the performance set and the effect of the diffuse status characteristic on the [judge's] decision" (p.61).

Further confusing the issue of measurement are the lack of operationalized definitions for key terms related to this theory. Regarding a definition for similarity/dissimilarity, Hembroff (1982) states that:

"[t]he similarity or dissimilarity of one set of elements to another is defined as being determined by whether any of the elements of the first set has been excluded from symmetrical relations with the elements of the second set; or whether any of

those of the first set has been excluded from having the same state of evaluation as those of the second...if one characteristic were comprised of consistently evaluated elements while another characteristic were comprised of inconsistently evaluated elements, then the two characteristics are excluded from having the same state of evaluation; they are not similar" (p.187).

This discussion argues that not only can similarity/dissimilarity occur *between* sets of elements but also *within* a characteristic. This distinction is disregarded in Unnever and Hembroff's (1988) work.

Unnever and Hembroff (1988) do not refine the similarity/dissimilarity -- consistency/inconsistency definition; rather, they state that consistency occurs when case-related variables point to some obvious dispositional sentence, and inconsistency occurs when the same variables do not point to any obvious dispositional sentence.

The problem with both Hembroff's (1982) and Unnever and Hembroff's (1988) definitions of similarity/dissimilarity - consistency/inconsistency is that they assume universal agreement regarding what types of expectations are associated with status characteristics. In the context of judicial decision making, this assumes that some normative definition of "obvious dispositional sentence" exists. It does not.

Although one might, within a sample, be able to identify the harshest case type and/or least harsh case type, problems arise when trying to identify cases with varying degrees of consistency/inconsistency. To illustrate, Table 1 contains a range of 17 hypothetical robbery case types. Which are consistent and which are inconsistent? Which cases point to an obvious dispositional sentence of prison and which point to an obvious dispositional sentence of probation? While case type 1, it could be argued, identifies a "consistent" case type and should "obviously" be placed in the dispositional category of prison, many of the other case types cannot be so easily identified. In addition, at what point does complete status inconsistency occur? That is, at what point would Unnever and Hembroff (1988) expect diffuse status characteristics to decide the interactions?

Unnever and Hembroff's (1988) Research Design

By examining Unnever and Hembroff's (1988) research, we see that the authors were able to ingeniously sidestep the measurement and definitional

Table 1. Criminal Court Case Status Characteristics:
Hypothetical Robbery Case Types

Case type 1:	Robbery, 10 felony priors, committed crime while on probation
Case type 2:	Robbery, 9 felony priors, committed crime while on probation
Case type 3:	Robbery, 8 felony priors, committed crime while on probation
Case type 4:	Robbery, 7 felony priors, committed crime while on probation
Case type 5:	Robbery, 6 felony priors, committed crime while on probation
Case type 6:	Robbery, 5 felony priors, committed crime while on probation
Case type 7:	Robbery, 4 felony priors, committed crime while on probation
Case type 8:	Robbery, 3 felony priors, committed crime while on probation
Case type 9:	Robbery, 2 felony priors, committed crime while on probation
Case type 10:	Robbery, 1 felony prior, committed crime while on probation
Case type 11:	Robbery, 0 felony priors, not on probation
Case type 12:	Robbery, 1 felony prior, not on probation
Case type 13:	Robbery, 2 felony priors, not on probation
Case type 14:	Robbery, 3 felony priors, not on probation
Case type 15:	Robbery, 4 felony priors, not on probation
Case type 16:	Robbery, 5 felony priors, not on probation
Case type 17:	Robbery, 6 felony priors, not on probation

problems discussed here. Unnever and Hembroff's database consisted of 313 Miami drug offenders convicted in 1971. The sample contained 171 Caucasians, 108 African-Americans, and 34 Hispanics. The dependent variable was whether the judge decided to sentence the defendant to prison or not (133 out of the 313 were incarcerated). Independent variables included race (Caucasian, African-American, Hispanic), employment status (employed/not employed), occupational status (professional or semiprofessional job/not a professional or semiprofessional job), prior conviction (prior conviction/no prior conviction), type of drug involved in charge (opium/non-opium), number of charges (1-5), and whether the most serious arrest charge was for sale or possession of a drug. Unnever and Hembroff identified all the variables, except race, as performance characteristics¹.

¹Unnever and Hembroff note that "we have chosen to include occupation and employment with the case-related attributes as part of the performance set for two reasons. First, employment/occupation provides performance information specific to the defendant as do the other case-related attributes. Therefore, each of the characteristics we include in the performance set is a specific individual attribute. Second, empirically, including occupation and employment in the performance set and comparing incarceration probabilities across racial or ethnic categories has the effect of holding occupation and employment constant for the different race or ethnic categories within that type of case. This allows us to isolate the influence of race/ethnicity on judicial decision making" (p.59-60).

To test their variant of status characteristics theory, the authors generated predicted probabilities for ten hypothetical drug cases types (see Table 2). Although the authors state that "[t]hese ten cases were selected to incorporate the full range of inconsistency in the performance set possible for the drug cases in the data" (p.68), the implied property space analysis is not exhausted nor adequately represented by these hypotheticals.

The authors concluded that race was least likely to affect case types 1 and 10. For those case types with a non-obvious dispositional category, "when the states of some of the traits in the performance set point to incarceration while the states of others point to probation" (p.71), the authors report that race will affect case types 5, 6, and 7 the most. In fact, the largest predicted effect, by a slight margin, was case type 7. These findings, the authors conclude, "quite clearly support the theoretical argument we have presented. That is, as the performance set approaches consistency, the likelihood of sentencing disparities decreases. As the performance set approaches inconsistency, the likelihood of judges' sentencing

Table 2. Criminal Court Case Status Characteristics:
Hypothetical Case Types Generated By Unnever and Hembroff (1988)
for Predicted Probabilities

Case type 1: No prior convictions, arrest charge for possession of illegal drugs, employed, professional or semi-professional occupation, 1 arrest charge, non-opium derivative drug

Case type 2: No prior convictions, arrest charge for possession of illegal drugs, employed, professional or semi-professional occupation, 1 arrest charge, opium derivative drug

Case type 3: No prior convictions, arrest charge for possession of illegal drugs, employed, professional or semi-professional occupation, 2 arrest charges, opium derivate drug

Case type 4: No prior convictions, arrest charge for possession of illegal drugs, employed, not a professional or semi-professional occupation, 2 arrest charges, opium derivate drug

Case type 5: No prior convictions, arrest charge for possession of illegal drugs, unemployed, not a professional or semi-professional occupation, 2 charges, opium derivate drug

Case type 6: No prior conviction, arrest charge for possession of illegal drugs, unemployed, not a professional or semi-professional occupation, 3 charges, opium derivate drug

Case type 7: No prior conviction, arrest for sale of illegal drugs, unemployed, not a professional or semi-professional occupation, 3 charges, opium derivative drug

Case type 8: Prior conviction, arrest for sale of illegal drugs, unemployed, not a professional or semi-professional occupation, 3 charges, opium derivate drug

Case type 9: Prior conviction, arrest for sale of illegal drugs, unemployed, not a professional or semi-professional, 4 charges, opium derivate drug

Case type 10: Prior conviction, arrest for sale of illegal drugs, unemployed, not a professional or semi-professional, 5 charges, opium derivate drug

decisions being influenced by the defendants' race or ethnicity increases" (p.71).

It should be noted that the authors identify case types 1 and 10 as being totally consistent. All six variables in case type 1 are ranked as having a "preferred" state. All six variables in case type 10 are ranked as having an "undesirable" state. Unnever and Hembroff (1988) also note that "five of the six traits [in case type 3] are the preferred state...four of the six traits [in case type 4] are the preferred state..three of the six [in case type 5] are the preferred state...two [in case type 6] are the preferred state" (p.70). They do not discuss the consistency/inconsistency of case types 2, 7, 8, and 9; however, using their logic, it appears that one out of the six variables in case type 7 is ranked as having a preferred state. According to their definition of status inconsistency, Unnever & Hembroff argue that race differentials are most likely to occur in case types where half of the variables point to incarceration and the other half point to probation. Within the ten hypotheticals this would appear to be case type 5; yet, the race effect is strongest for case type 7, which has only 1 preferred state variable.

To further complicate the results, remember that the findings discussed thus far are based on *predicted* probabilities. In the appendix of their 1988 article, Unnever and Hembroff discuss the actual observed proportions for each of the hypothetical case types.

When the authors went to examine the actual proportions connected with the ten hypothetical case types, they found that "this resulted in too few defendants per case type to allow for meaningful comparisons. We therefore deleted the two variables that were statistically insignificant, PROF and Opium" (p.75). This left the authors with seven case types (see Table 3).

Their findings with these seven case types revealed that "[a]lthough the number of defendants represented in each type of case is still relatively small, the general pattern in the observed data indicates nonlinearity and nonadditivity in the judge's sentencing decision. That is, the largest amount of racial sentencing disparity that occurred in these actual data was in a case in the intermediate range, case type 4. In case type 4, all of the black defendants were incarcerated, whereas only 18.2% of the

Table 3. Criminal Court Case Status Characteristics:
Case Types Generated by Unnever and Hembroff (1988) for
Observed Probabilities

Case type 1: No prior convictions, arrest charge for possession of illegal drugs, 1 arrest charge

Case type 2: No prior convictions, arrest charge for possession of illegal drugs, 2 arrest charges

Case type 3: No prior convictions, arrest charge for possession of illegal drugs, 3 arrest charges

Case type 4: No prior convictions, arrest charge for sale of illegal drugs, 2 arrest charges

Case type 5: Prior conviction, arrest charge for sale of illegal drugs, 2 arrest charges

Case type 6: Prior conviction, arrest charge for sale of illegal drugs, 3 arrest charges

Case type 7: Prior conviction, arrest charge for sale of illegal drugs, 4 arrest charges

white defendants received prison sentences. The percentage of Hispanic defendants incarcerated was 40.0. The least amount of racial disparity in these observed data occurred in case types 1 and 7. These two cases are the most dispositionally certain" (p.75).

How small were the samples used in the observed probabilities analysis? One hundred nine offenders (58 Caucasian, 36 African-American, and 15 Hispanic) fit into one of the seven case types. Regarding case type 4, the 100% incarceration rate for African-Americans, noted by Unnever and Hembroff (1988), was obtained by examining five offenders. The 18.2% incarceration rate for Caucasians is the result of 2 out of 11 offenders being incarcerated, and the 40% incarceration rate for Hispanics is the result of 2 out of 5 offenders being incarcerated.

Furthermore, it is interesting to note that the authors picked case type 4 to represent a case of inconsistency. Using the authors own rationale, 2 out of 3 of the variables in case type 4 are ranked as having preferred states. Case type 3 also has 2 out of 3 variables ranked as having preferred states; yet, the authors did not identify case type 3 as a case of inconsistency. Perhaps this is because the

incarceration proportion for Caucasians in case type 3 was $2/7$; $1/2$ for African-Americans; and $0/1$ for Hispanics.

As Unnever and Hembroff's (1988) research reveals, the problems surrounding measurement and definitions for status characteristics theory have not yet been solved. While Hembroff (1982) believed that expectation states were formed by (1) combining status characteristics through a mathematical weighting process and (2) balancing status characteristics in situations of total status inconsistency, Unnever & Hembroff (1988) omit any process of mathematical weighting. They do state that equal weighting of characteristics is probably a false assumption but a "simplifying" one. Furthermore, Unnever and Hembroff's identification of consistent and inconsistent case types had to rely upon hypotheticals, and, even then, the decision as to what constitutes consistency/inconsistency remained quite arbitrary.

This critique has thus far focused on the issue of measurement and definition; however, other problems exist. For one, the status characteristics theory literature notes that some characteristics may not give rise to any expectations (Berger, Cohen, and Zelditch,

1972; Hembroff 1982). Berger, Cohen, and Zelditch (1972) state that "[s]tatus characteristics do not operate in every situation...When they do we say the status characteristic is *activated*...We know almost nothing about the conditions under which a status characteristic is activated" (p.244, italics in the original).

In addition, while Unnever and Hembroff (1988) examined the effects of the offender's race upon sentencing decisions, they did not consider the race of the judge. Berger, Fisek, Norma, and Zelditch (1977) state that "status characteristics, and the expectations they create, are properties of relations, not of individuals. Perhaps this is just another way of making the process depend upon the structure of the situation, but it is important to emphasize that...it is uninformative to talk simply about 'females', 'blacks', 'managers', and 'good readers'. The status of the object matters as much as the status of the subject: the interaction of a black male with a white male should be different from the interaction of the same black with a black female" (p.10).

At its present stage of development, status characteristics theory cannot be applied validly or

reliably to judicial decision making processes. My efforts to test this theory identified both measurement and definitional problems that, at this stage of the theory's development, are insurmountable.

Chapter III

Design of the Current Research

Data

Data for this research were collected by Brian Ostrom for partial fulfillment of the requirements for a degree of Doctor of Philosophy (see Ostrom, 1988). The database contains information on the cases of 255 assault and 386 robbery offenders convicted in 1987 under the auspices of the Michigan Sentencing Guidelines².

Eighteen different offenses have been statutorily placed in the assault crime classification in Michigan. The robbery classification contains ten statutory offenses (see Table 4).

The database contains 16 legally prescribed variables, 11 nonprescribed variables, and statutory maximum (see Table 5).

²The database originally contained 257 assault cases and 391 robbery cases; however, after removing cases whose standardized residual exceeded 3 in absolute value, 2 assault cases and 5 robbery cases were eliminated from the analyses.

Table 4. Statutory Offenses for
Assault and Robbery Crime Classifications, Michigan 1987

Statutory Maximum	Statutory Offenses for Assault Crime Classification	Statutory Offenses for Robbery Crime Classification
Life or Term of Years	<ul style="list-style-type: none"> •Assault w/ intent to commit murder •Kidnapping 	<ul style="list-style-type: none"> •Robbery armed •Bank robbery •Assault w/ intent to rob armed
180 Months		<ul style="list-style-type: none"> •Robbery unarmed •Assault w/ intent to rob unarmed
120 Months	<ul style="list-style-type: none"> •Assault w/ intent to do great bodily harm •Assault w/ intent to commit felony •Assault w/ intent to maim •Torture children 	<ul style="list-style-type: none"> •Larceny from person
60 Months	<ul style="list-style-type: none"> •Assault w/ intent to commit murder ATT •Kidnapping ATT •Assault w/ intent to do great bodily harm ATT •Assault w/ intent to commit felony ATT •Assault w/ intent to maim ATT •Torture children ATT 	<ul style="list-style-type: none"> •Robbery armed ATT •Robbery unarmed ATT •Assault w/ intent to rob unarmed ATT •Assault w/ intent to rob unarmed ATT •Larceny from person ATT
48 Months	<ul style="list-style-type: none"> •Felonious Assault •Cruelty to children 	
24 Months	<ul style="list-style-type: none"> •Resisting Officer •Kill or injure, negligent use of firearm •Felonious assault ATT •Cruelty to children ATT 	

Table 5. Legally Prescribed and Nonprescribed Status
 Characteristics: Assault and Robbery Case Variables, Michigan
 Database 1987

<u>Legally Prescribed</u>	<u>Nonprescribed</u>
Prior High Severity Felony	Race
Prior Low Severity Felony	Gender
Prior High Severity Juvenile	Number of Dependents
Prior Low Severity Juvenile	Highest Grade Completed
Prior Misdemeanor	Assets of at Least \$1500
Prior Relationship to the Criminal Justice System	Drug Use
Subsequent/Concurrent Convictions	Type of Attorney
Weapon Use	Plea Bargain Occurrence
Physical Attack	Alcohol Use
Victim Carried Away	Marital Status
Multiple Victims	Age
Offender Exploitation	
Professional/Organized Crime Member	
Offender's Role	
Contemporaneous Acts	
Actual Sentence in Months	

Note: The database also contains the variable, statutory maximum, which is neither a legally prescribed nor a non-prescribed variable.

Hypotheses

As was stated earlier, while research on judicial decision making has drawn heavily on labeling and conflict theory, much of the research has draw on little or no theoretical foundation. In addition, research has provided inconsistent and sometimes contradictory results regarding the determinants of sentencing.

Regardless of the theory used or the findings reported, questions of bias have led to numerous studies and commentaries on the determinants of judicial decision making. These same questions of bias were also important in motivating the determinate sentencing reform movement that began in the late 1960s-early 1970s (Clear, Hewitt, and Regoli 1978; Blumstein, Cohen, Martin, and Tonry 1983).

Judges in Michigan use the Michigan Sentencing Guidelines to determine the appropriate sentence for individuals convicted of assault, robbery, criminal sexual conduct, drug, fraud, homicide, larceny, negligent homicide (second degree and manslaughter), property destruction, and weapons possession offenses.

Within each crime group classification there is a sentencing guidelines grid for sets of offenses carrying the same statutory maximum penalty. In scoring a conviction to determine the appropriate sentence, the judge must determine a prior record score, offense score, and mitigation variable score. The variables used to determine the prior record score for all crime classifications include: prior high severity felony convictions, prior low severity felony convictions, prior high severity similar felony convictions, prior low severity similar felony convictions, prior juvenile delinquency adjudications, prior misdemeanor convictions, current relationship to the criminal justice system, prior driving record (applies only to negligent homicide crimes), and prior adult convictions or juvenile felony type adjudications (applies only to negligent homicide crimes).

For assault and robbery crimes, the following variables are used to determine offense scores: presence, type, and use of weapon; physical attack and/or injury; victim carried away or held captive; multiple victims; offender exploitation of victim's vulnerability; offender's membership in professional/

organized crime; offender's role; contemporaneous criminal acts.

Scoring for mitigating circumstances requires that "one or more of the following circumstances existed at the time of the offense. i. Avoiding Harm - While apprehensive of harm to person or property, the offender used reasonable force to avoid the harm. ii. Provocation/Passion - Circumstances which are not the fault of the offender, and which would similarly provoke a reasonable person, caused the offender emotional disturbance and temporary loss of self-control; while so disturbed, the offender used force against the reasonably perceived source of the disturbance. iii. Mistake/Inadvertence - The Offender's criminal activity was due in significant part to a misunderstanding, or ignorance, of a significant fact" (Tab 15, Michigan Sentencing Guidelines Advisory Committee, 1984).

As Table 5 reveals, the database does not contain information on prior high severity similar felony convictions, prior low severity similar felony convictions, and mitigating circumstances. In addition, the data on juvenile adjudications were

collected as prior high severity juvenile adjudications and prior low severity adjudications.

The prior record score is placed on the "x" axis of the sentencing guidelines grid employed by Michigan judges. Offense severity scores are located on the "y" axis. The cross-section of these two scores identifies a recommended sentence range, in months.

Based upon concerns investigated in past sentencing research, the current research examines the following questions: * Do either legally prescribed or nonprescribed variables alone explain a significant portion of the sentencing decision? If neither type of variable explains the variance, what combination of legally prescribed and nonprescribed does?

To answer these research questions, the following general hypotheses will be tested using stepwise multiple regression:

Hypothesis 1: Among legally prescribed and nonprescribed variables, legally prescribed variables alone will provide the best prediction (explained variance) in sentencing length.

Hypothesis 2: Among legally prescribed and nonprescribed variables, nonprescribed variables alone will provide the best prediction (explained variance) in sentencing length.

Hypothesis 3: Among legally prescribed and nonprescribed variables, a combination of legally prescribed and nonprescribed variables will provide the best prediction (explained variance) in sentencing length.

Results

A summary of frequencies for all variables used in the analyses is included in Appendices A and B. It should be noted that for both assault and robbery cases, the majority of offenders had no prior record (i.e., no prior high severity felony convictions, no prior low severity felony convictions, no prior high severity juvenile adjudications, no prior low severity juvenile adjudications, zero or one prior misdemeanor).

Correlations for all variables are presented in Tables 6 and 7. The correlation analyses reveal a high degree of independence among most of the legally prescribed and nonprescribed variables for both assault and robbery cases.

Looking at the most salient correlations for assault cases, significant at the .001 level, the highest correlation (.8801) is for prior high felony convictions and prior high juvenile adjudications. Additionally, statutory maximum for the convicted offense is correlated at .7076 with actual sentence; number of dependents is correlated at -.3995 with marital status.

Table 6. Correlation Analyses: Assault Cases

	ACTSEN	SMAX	HIFEL	LOFEL	HIJUV	LOJUV
ACTSEN	1.0000	.7076**	.1629	.0076	.1452	-.0184
SMAX	.7076**	1.0000	.0699	-.0394	.0670	-.0779
HIFEL	.1629	.0699	1.0000	.3381**	.8801**	.0058
LOFEL	.0076	-.0394	.3381**	1.0000	.2696**	.2421**
HIJUV	.1452	.0670	.8801**	.2696**	1.0000	-.0652
LOJUV	-.0184	-.0779	.0058	.2421**	-.0652	1.0000
MISD	.1465	.0062	.1718*	.0713	.1965*	-.0675
PRIORREL	-.0310	-.0505	.1221	.2158*	.0313	.1230
SUBCONV	.1024	.0092	.2121*	.2878**	.2348**	-.0073
WEAPON	.1883*	.1217	-.0052	.0820	.0397	.0223
PHATTACK	.1892*	.0387	.0091	.1031	-.0274	.0551
KIDNAP	.1632	.2574**	.0559	.0331	-.0184	.0809
MULTVICT	.0973	.0566	.0214	.0123	.0059	.0112
EXPLOIT	.1524	.2033*	-.0007	-.0226	-.0082	-.0287
MOB	.3936**	.2183**	-.0551	-.0717	-.0502	-.0174
OFFROLE	.2029*	.0997	.0902	-.0121	.0757	-.0522
CONTEMP	.1039	.1711*	.0699	.0166	.0169	-.0320
AGE	-.0084	.1310	.2213**	.1682	.2180**	.0093
RACE	.1918*	.1300	.1772*	.1320	.1684	.0215
SEX	-.1882*	-.1184	-.0848	-.1103	-.0658	-.0504
DEPEND	-.0584	-.0791	-.0075	.0396	-.0155	-.0239
GRADE	.0057	-.0472	.0007	.0396	-.0193	.0021
ASSETS	.1443	.0833	.1686	.1433	.1758*	-.0058
DRUGS	.0100	.0315	.0623	.0606	.0460	-.1139
ATTORNEY	-.0618	.0034	-.1356	-.1041	-.1362	-.0042
PLEA	.2512**	.2655**	-.0065	-.0736	.0261	-.0684
ALC	-.0122	-.0591	.0657	-.0039	.0842	-.0096
WED	.0592	-.0329	-.0359	.0420	-.0105	-.0058

	MISD	PRIORREL	SUBCONV	WEAPON	PHATTACK	KIDNAP
ACTSEN	.1465	-.0310	.1024	.1883*	.1892*	.1632
SMAX	.0062	-.0505	.0092	.1217	.0387	.2574**
HIFEL	.1718*	.1221	.2121*	-.0052	.0091	.0559
LOFEL	.0713	.2158*	.2878**	.0820	.1031	.0331
HIJUV	.1965*	.0313	.2348**	.0397	-.0274	-.0184
LOJUV	-.0675	.1230	-.0073	.0223	.0551	.0809
MISD	1.0000	.0904	.1556	.0002	.0670	-.0922
PRIORREL	.0904	1.0000	.1150	-.0281	-.1154	.0535
SUBCONV	.1556	.1150	1.0000	-.0031	.0908	.0298
WEAPON	.0002	-.0281	-.0031	1.0000	.1488	-.0747
PHATTACK	.0670	-.1154	.0908	.1488	1.0000	.0396
KIDNAP	-.0922	.0535	.0298	-.0747	.0396	1.0000
MULTVICT	.0937	-.0118	-.0940	.1271	-.1517	.0199
EXPLOIT	.0769	.0896	.1101	-.3830**	-.0119	.2630**
MOB	.0673	.0233	.0316	.0769	.1435	-.0308
OFFROLE	.0614	-.0069	.0349	.1136	.0699	.0742
CONTEMP	-.0958	-.0292	-.0489	-.0129	-.1860*	.2112*
AGE	-.1667	.1223	-.0232	.0656	.0300	.0825
RACE	.0152	.0900	.0973	.1803*	.0519	.0736
SEX	-.1059	.0788	-.0376	-.0780	-.0774	-.0893
DEPEND	-.0707	.0863	-.0237	.0105	.0299	.0594
GRADE	-.0224	.1206	.0241	-.0837	.0332	.0502
ASSETS	.2144*	.0885	.1164	.0636	-.0586	.0354
DRUGS	.1821*	.2021*	.1924*	-.1205	-.0465	.0926
ATTORNEY	-.1328	.0290	-.1451	.1076	-.1229	-.0509
PLEA	-.0603	.0103	.0115	.0316	.0806	.1609
ALC	.1033	.1408	-.0126	-.0400	-.1030	-.1244
WED	.0388	-.0168	.0616	.0636	-.0586	-.1016

Table 6
(Continued)

	MULTVICT	EXPLOIT	MOB	OFFROLE	CONTEMP	AGE
ACTSEN	.0973	.1524	.3936**	.2029*	.1039	-.0084
SMAX	.0566	.2033*	.2183**	.0997	.1711*	.1310
HIFEL	.0214	-.0007	-.0551	.0902	.0699	.2213**
LOFEL	.0123	-.0226	-.0717	-.0121	.0166	.1682
HIJUV	.0059	-.0082	-.0502	.0757	.0169	.2180**
LOJUV	.0112	-.0287	-.0174	-.0522	-.0320	.0093
MISD	.0937	.0769	.0673	.0614	-.0958	-.1667
PRIORREL	-.0118	.0896	.0233	-.0069	-.0292	.1223
SUBCONV	-.0940	.1101	.0316	.0349	-.0489	-.0232
WEAPON	.1271	-.3830**	.0769	.1136	-.0129	.0656
PHATTACK	-.1517	-.0119	.1435	.0699	-.1860*	.0300
KIDNAP	.0199	.2630**	-.0308	.0742	.2112*	.0825
MULTVICT	1.0000	.0474	.1785*	.1589	.1540	-.1650
EXPLOIT	.0474	1.0000	.0120	.0545	.1595	.0059
MOB	.1785*	.0120	1.0000	.1048	-.0246	-.1102
OFFROLE	.1589	.0545	.1048	1.0000	-.0991	-.1564
CONTEMP	.1540	.1595	-.0246	-.0991	1.0000	.1580
AGE	-.1650	.0059	-.1102	-.1564	.1580	1.0000
RACE	-.1012	-.0851	.1093	.0796	-.0389	.0198
SEX	-.0713	.0134	-.0389	-.0345	-.0715	-.0478
DEPEND	.0907	-.0170	-.0295	-.1362	.0348	.2159*
GRADE	.0659	-.0014	.0016	.0396	-.0040	-.0672
ASSETS	.0143	.0007	.0551	.0378	.1015	-.2542**
DRUGS	-.0180	.1666	-.0879	-.0233	.0594	-.1219
ATTORNEY	.0353	-.0655	-.0599	.1241	-.0777	.0617
PLEA	.0231	.1248	.1518	.2148*	-.0617	.0086
ALC	.0904	.0185	-.1009	-.0858	.1100	.0130
WED	-.0392	-.0244	.0551	.1018	-.0356	-.2436**

	RACE	SEX	DEPEND	GRADE	ASSETS	DRUGS
ACTSEN	.1918*	-.1882*	-.0584	.0057	.1443	.0100
SMAX	.1300	-.1184	-.0791	-.0472	.0833	.0315
HIFEL	.1772*	-.0848	-.0075	.0007	.1686	.0623
LOFEL	.1320	-.1103	.0396	.0396	.1433	.0606
HIJUV	.1684	-.0658	-.0155	-.0193	.1758*	.0460
LOJUV	.0215	-.0504	-.0239	.0021	-.0058	-.1139
MISD	.0152	-.1059	-.0707	-.0224	.2144*	.1821*
PRIORREL	.0900	.0788	.0863	.1206	.0885	.2021*
SUBCONV	.0973	-.0376	-.0237	.0241	.1164	.1924*
WEAPON	.1803*	-.0780	.0105	-.0837	.0636	-.1205
PHATTACK	.0519	-.0774	.0299	.0332	-.0586	-.0465
KIDNAP	.0736	-.0893	.0594	.0502	.0354	.0926
MULTVICT	-.1012	-.0713	.0907	.0659	.0143	-.0180
EXPLOIT	-.0851	.0134	-.0170	-.0014	.0007	.1666
MOB	.1093	-.0389	-.0295	.0016	.0551	-.0879
OFFROLE	.0796	-.0345	-.1362	.0396	.0378	-.0233
CONTEMP	-.0389	-.0715	.0348	-.0040	.1015	.0594
AGE	.0198	-.0478	.2159*	-.0672	-.2542**	-.1219
RACE	1.0000	.1416	.0276	-.1382	.2091*	-.0344
SEX	.1416	1.0000	.0680	.0276	-.0280	.0179
DEPEND	.0276	.0680	1.0000	-.0761	-.0983	.0799
GRADE	-.1382	.0276	-.0761	1.0000	-.0840	.0105
ASSETS	.2091*	-.0280	-.0983	-.0840	1.0000	.1733*
DRUGS	-.0344	.0179	.0799	.0105	.1733*	1.0000
ATTORNEY	-.2458**	-.1024	-.0314	.1884*	-.3089**	-.1243
PLEA	.1259	-.0368	.0179	.0247	.0065	-.0306
ALC	-.2282**	.0021	.0054	-.0346	.0259	.2801**
WED	.0728	-.0280	-.3995**	-.0900	.2404**	.0084

Table 6
(Continued)

	ATTORNEY	PLEA	ALC	WED
ACTSEN	-.0618	.2512**	-.0122	.0592
SMAX	.0034	.2655**	-.0591	-.0329
HIFEL	-.1356	-.0065	.0657	-.0359
LOFEL	-.1041	-.0736	-.0039	.0420
HIJUV	-.1362	.0261	.0842	-.0105
LOJUV	-.0042	-.0684	-.0096	-.0058
MISD	-.1328	-.0603	.1033	.0388
PRIORREL	.0290	.0103	.1408	-.0168
SUBCONV	-.1451	.0115	-.0126	.0616
WEAPON	.1076	.0316	-.0400	.0636
PHATTACK	-.1229	.0806	-.1030	-.0586
KIDNAP	-.0509	.1609	-.1244	-.1016
MULTVICT	.0353	.0231	.0904	-.0392
EXPLOIT	-.0655	.1248	.0185	-.0244
MOB	-.0599	.1518	-.1009	.0551
OFFROLE	.1241	.2148*	-.0858	.1018
CONTEMP	-.0777	-.0617	.1100	-.0356
AGE	.0617	.0086	.0130	-.2436**
RACE	-.2458**	.1259	-.2282**	.0728
SEX	-.1024	-.0368	.0021	-.0280
DEPEND	-.0314	.0179	.0054	-.3995**
GRADE	.1884*	.0247	-.0346	-.0900
ASSETS	-.3089**	.0065	.0259	.2404**
DRUGS	-.1243	-.0306	.2801**	.0084
ATTORNEY	1.0000	.0501	-.0157	-.0311
PLEA	.0501	1.0000	-.1376	.0065
ALC	-.0157	-.1376	1.0000	.1404
WED	-.0311	.0065	.1404	1.0000

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Table 7. Correlation Analyses: Robbery Cases

	ACTSEN	SMAX	HIFEL	LOFEL	HIJUV	LOJUV
ACTSEN	1.0000	.3333**	.3471**	.2917**	.3184**	-.0137
SMAX	.3333**	1.0000	.0424	.1048	.0387	.0460
HIFEL	.3471**	.0424	1.0000	.3131**	.8844**	.0839
LOFEL	.2917**	.1048	.3131**	1.0000	.3180**	.2690**
HIJUV	.3184**	.0387	.8844**	.3180**	1.0000	.0623
LOJUV	-.0137	.0460	.0839	.2690**	.0623	1.0000
MISD	.1390*	.0859	-.0426	.1368	-.0600	-.0055
PRIORREL	.0278	-.0186	.1031	.2780**	.0798	.1195
SUBCONV	.1467*	.0641	.2579**	.2453**	.2311**	.0310
WEAPON	.1739*	.4214**	-.0631	-.0580	-.0657	.0485
PHATTACK	.1663*	-.0626	-.0583	.0451	-.1075	-.0254
KIDNAP	.1855**	.0843	-.0557	-.0756	-.0853	-.0601
MULTVICT	.1038	.0818	.0604	.0099	.0661	.0908
EXPLOIT	.0548	-.0895	.0126	-.0117	-.0015	-.0991
MOB	.1710*	.0490	.0910	.1298	.0836	.0844
OFFROLE	.0156	.0376	-.1005	-.0408	-.0923	-.0347
CONTEMP	.2639**	.0241	-.0252	-.0429	-.0232	-.0195
AGE	-.0415	-.0806	-.0293	-.0377	-.0269	-.0101
RACE	.1286	-.0734	.1093	.1398*	.1277	-.0342
SEX	-.0456	-.1014	-.0823	-.0589	-.0712	.0374
DEPEND	-.0298	-.0098	-.0509	-.0655	-.0468	-.0176
GRADE	.0754	.0485	.0729	.0828	.0323	-.0801
ASSETS	-.0296	.0518	-.0811	-.1011	-.1272	-.0479
DRUGS	.0542	.0796	.0699	-.0014	.0228	-.0818
ATTORNEY	-.1078	.0372	-.1591*	-.0684	-.1591*	-.0299
PLEA	.1080	-.0037	.0892	.1587*	.0581	.1587*
ALC	.0854	.0303	-.0137	-.0081	-.0499	-.0441
WED	-.0441	-.0444	-.1648*	-.0591	-.1954**	-.0515

	MISD	PRIORREL	SUBCONV	WEAPON	PHATTACK	KIDNAP
ACTSEN	.1390*	.0278	.1467*	.1739*	.1663*	.1855**
SMAX	.0859	-.0186	.0641	.4214**	-.0626	.0843
HIFEL	-.0426	.1031	.2579**	-.0631	-.0583	-.0557
LOFEL	.1368	.2780**	.2453**	-.0580	.0451	-.0756
HIJUV	-.0600	.0798	.2311**	-.0657	-.1075	-.0853
LOJUV	-.0055	.1195	.0310	.0485	-.0254	-.0601
MISD	1.0000	-.0062	.1177	.0312	.0311	.1696*
PRIORREL	-.0062	1.0000	.1226	-.1059	.0282	-.0576
SUBCONV	.1177	.1226	1.0000	.0191	.0525	.0031
WEAPON	.0312	-.1059	.0191	1.0000	-.0024	.0148
PHATTACK	.0311	.0282	.0525	-.0024	1.0000	.1124
KIDNAP	.1696*	-.0576	.0031	.0148	.1124	1.0000
MULTVICT	.0105	-.0246	-.0645	.2205**	.0528	.0352
EXPLOIT	-.0562	.0090	.0527	-.0945	.1593*	.1718*
MOB	.0982	.0889	.0479	-.0610	-.0543	.0029
OFFROLE	.0297	.0075	-.0115	.1291	.1510*	.1081
CONTEMP	.0221	-.0161	.0022	-.0425	-.0057	.0975
AGE	-.0277	.0975	-.0385	-.0313	-.0372	-.0171
RACE	.0131	-.0514	.0924	-.0005	.0115	-.0172
SEX	-.0269	-.0165	-.0325	-.0627	.0740	-.0675
DEPEND	-.0027	-.0514	-.0668	.0351	.0048	-.0297
GRADE	-.1689*	-.0933	-.0203	.0786	-.0631	-.1018
ASSETS	-.0426	-.0254	-.0796	.0607	-.0408	-.0389
DRUGS	.0968	.1031	.1127	-.0115	.0608	.0887
ATTORNEY	-.1698*	-.1020	-.0929	.0546	-.0074	-.0696
PLEA	-.0156	.0661	.0251	-.0444	.0705	-.0361
ALC	.1087	.0661	.0666	-.0091	.0253	.0706
WED	.0729	-.0187	.0322	.0662	.0702	.0995

Table 7
(Continued)

	MULTVICT	EXPLOIT	MOB	OFFROLE	CONTEMP	AGE
ACTSEN	.1038	.0548	.1710*	.0156	.2639**	-.0415
SMAX	.0818	-.0895	.0490	.0376	.0241	-.0806
HIFEL	.0604	.0126	.0910	-.1005	-.0252	-.0293
LOFEL	.0099	-.0117	.1298	-.0408	-.0429	-.0377
HIJUV	.0661	-.0015	.0836	-.0923	-.0232	-.0269
LOJUV	.0908	-.0991	.0844	-.0347	-.0195	-.0101
MISD	.0105	-.0562	.0982	.0297	.0221	-.0277
PRIORREL	-.0246	.0090	.0889	.0075	-.0161	.0975
SUBCONV	-.0645	.0527	.0479	-.0115	.0022	-.0385
WEAPON	.2205**	-.0945	-.0610	.1291	-.0425	-.0313
PHATTACK	.0528	.1593*	-.0543	.1510*	-.0057	-.0372
KIDNAP	.0352	.1718*	.0029	.1081	.0975	-.0171
MULTVICT	1.0000	-.0610	.1976**	.1304	.0611	-.0338
EXPLOIT	-.0610	1.0000	-.0448	.0899	.0594	-.0281
MOB	.1976**	-.0448	1.0000	.0545	.2524**	-.0136
OFFROLE	.1304	.0899	.0545	1.0000	-.0077	-.0508
CONTEMP	.0611	.0594	.2524**	-.0077	1.0000	-.0208
AGE	-.0338	-.0281	-.0136	-.0508	-.0208	1.0000
RACE	-.0448	-.0310	.0154	-.0288	-.1252	-.0643
SEX	.0130	-.0080	.0651	.0364	-.0340	-.0114
DEPEND	.0793	.0267	-.0236	.0539	-.0362	-.0050
GRADE	.0752	-.0912	.0284	-.1355	.0095	-.0339
ASSETS	-.0345	-.0448	.0371	-.0742	.0254	-.0136
DRUGS	.0920	.0820	.0357	.0127	.0952	-.0592
ATTORNEY	-.0298	.0538	-.0664	.0153	-.1125	-.0215
PLEA	-.0071	.0018	-.0633	-.0330	-.1225	-.0209
ALC	-.0582	.1141	-.0654	.0528	.0041	.0713
WED	-.0122	.0412	-.0478	.1113	-.0511	.0168

	RACE	SEX	DEPEND	GRADE	ASSETS	DRUGS
ACTSEN	.1286	-.0456	-.0298	.0754	-.0296	.0542
SMAX	-.0734	-.1014	-.0098	.0485	.0518	.0796
HIFEL	.1093	-.0823	-.0509	.0729	-.0811	.0699
LOFEL	.1398*	-.0589	-.0655	.0828	-.1011	-.0014
HIJUV	.1277	-.0712	-.0468	.0323	-.1272	.0228
LOJUV	-.0342	.0374	-.0176	-.0801	-.0479	-.0818
MISD	.0131	-.0269	-.0027	-.1689*	-.0426	.0968
PRIORREL	-.0514	-.0165	-.0514	-.0933	-.0254	.1031
SUBCONV	.0924	-.0325	-.0668	-.0203	-.0796	.1127
WEAPON	-.0005	-.0627	.0351	.0786	.0607	-.0115
PHATTACK	.0115	.0740	.0048	-.0631	-.0408	.0608
KIDNAP	-.0172	-.0675	-.0297	-.1018	-.0389	.0887
MULTVICT	-.0448	.0130	.0793	.0752	-.0345	.0920
EXPLOIT	-.0310	-.0080	.0267	-.0912	-.0448	.0820
MOB	.0154	.0651	-.0236	.0284	.0371	.0357
OFFROLE	-.0288	.0364	.0539	-.1355	-.0742	.0127
CONTEMP	-.1252	-.0340	-.0362	.0095	.0254	.0952
AGE	-.0643	-.0114	-.0050	-.0339	-.0136	-.0592
RACE	1.0000	-.0240	-.0485	.0389	-.0827	-.2056**
SEX	-.0240	1.0000	-.0198	-.0546	-.0538	.0787
DEPEND	-.0485	-.0198	1.0000	-.0007	.1069	.0845
GRADE	.0389	-.0546	-.0007	1.0000	.1265	-.0260
ASSETS	-.0827	-.0538	.1069	.1265	1.0000	.0115
DRUGS	-.2056**	.0787	.0845	-.0260	.0115	1.0000
ATTORNEY	-.1063	-.0439	-.0373	.1587*	.1786**	.0277
PLEA	.1190	-.0411	-.0364	.1564*	.0080	-.1236
ALC	-.3673**	-.0127	.0591	-.1924**	-.0905	.3226**
WED	.0464	.0664	.0292	-.0545	-.1749*	.0206

Table 7
(Continued)

	ATTORNEY	PLEA	ALC	WED
ACTSEN	-.1078	.1080	.0854	-.0441
SMAX	.0372	-.0037	.0303	-.0444
HIFEL	-.1591*	.0892	-.0137	-.1648*
LOFEL	-.0684	.1587*	-.0081	-.0591
HIJUV	-.1591*	.0581	-.0499	-.1954**
LOJUV	-.0299	.1587*	-.0441	-.0515
MISD	-.1698*	-.0156	.1087	.0729
PRIORREL	-.1020	.0661	.0661	-.0187
SUBCONV	-.0929	.0251	.0666	.0322
WEAPON	.0546	-.0444	-.0091	.0662
PHATTACK	-.0074	.0705	.0253	.0702
KIDNAP	-.0696	-.0361	.0706	.0995
MULTVICT	-.0298	-.0071	-.0582	-.0122
EXPLOIT	.0538	.0018	.1141	.0412
MOB	-.0664	-.0633	-.0654	-.0478
OFFROLE	.0153	-.0330	.0528	.1113
CONTEMP	-.1125	-.1225	.0041	-.0511
AGE	-.0215	-.0209	.0713	.0168
RACE	-.1063	.1190	-.3673**	.0464
SEX	-.0439	-.0411	-.0127	.0664
DEPEND	-.0373	-.0364	.0591	.0292
GRADE	.1587*	.1564*	-.1924**	-.0545
ASSETS	.1786**	.0080	-.0905	-.1749*
DRUGS	.0277	-.1236	.3226**	.0206
ATTORNEY	1.0000	.0407	-.0413	.0081
PLEA	.0407	1.0000	-.1881**	-.1162
ALC	-.0413	-.1881**	1.0000	.0047
WED	.0081	-.1162	.0047	1.0000

2-tailed Signif: * - .01 ** - .001

For robbery cases, the most notable correlations, significant at the .001 level, are among prior high felony convictions and prior high juvenile adjudications (.8844) and weapon use and statutory maximum (.4214).

Stepwise regression analyses, with actual sentence as the dependent variable, were done using legally prescribed and non-prescribed variables, as well as statutory maximum, as predictor variables. Six equations were tested for both assault and robbery cases (see Tables 8 and 9). The first equation regressed the dependent variable of actual sentence on all legally prescribed variables. In the second equation, actual sentence is regressed on all legally prescribed variables and statutory maximum. Actual sentence is regressed on all nonprescribed variables in the third equation and all nonprescribed variables and statutory maximum in the fourth equation. In the fifth equation, actual sentence is regressed on all legally prescribed and nonprescribed variables; the final equation regressed actual sentence on all legally

Table 8. Multiple Regression (Method Stepwise),
Dependent Variable = Actual Sentence in Months;
Assault Cases

Equation 1 -- Legally Prescribed Variables

Step	Variable	R ²	Beta	Sig T
1	OFFROLE	.04295	OFFROLE .207233	.0009
2	HIFEL	.07427	OFFROLE .194264 HIFEL .177450	.0016 .0038
3	WEAPON	.10440	OFFROLE .173920 HIFEL .177023 WEAPON .174782	.0043 .0034 .0040
4	EXPLOIT	.14897	OFFROLE .144435 HIFEL .179148 WEAPON .260328 EXPLOIT .228416	.0158 .0024 .0001 .0004
5	PHATTACK	.16710	OFFROLE .138806 HIFEL .178939 WEAPON .232710 EXPLOIT .222158 PHATTACK .137392	.0194 .0023 .0003 .0005 .0207

Equation 2 -- Legally prescribed variables and statutory maximum

Step	Variable	R ²	Beta	Sig T
1	SMAX	.49236	SMAX .701684	.0000
2	PHATTACK	.51455	SMAX .693558 PHATTACK .149188	.0000 .0008
3	MISD	.53145	SMAX .691120 PHATTACK .143173 MISD .130168	.0000 .0011 .0029
4	OFFROLE	.54285	SMAX .678309 PHATTACK .136733 MISD .125083 OFFROLE .107917	.0000 .0016 .0038 .0132
5	HIFEL	.55185	SMAX .670452 PHATTACK .137950 MISD .102159 OFFROLE .102827 HIFEL .098185	.0000 .0014 .0203 .0174 .0262

Equation 3 -- Nonprescribed variables

Step	Variable	R ²	Beta	Sig T
1	PLEA	.06310	PLEA .251199	.0001
2	SEX	.09518	PLEA .244598 SEX -.179229	.0002 .0053
3	RACE	.13124	PLEA .219179 SEX -.207569 RACE .193545	.0006 .0012 .0026

Table 8
(Continued)

Equation 4 -- Nonprescribed variables and statutory maximum

Step	Variable	R ²	Beta	Sig T
1	SMAX	.50069	SMAX .707593	.0000
2	SEX	.51176	SMAX .695049 SEX -.105953	.0000 .0252
3	RACE	.52590	SMAX .676965 SEX -.125296 RACE .121493	.0000 .0083 .0105
4	AGE	.53723	SMAX .690485 SEX -.128960 RACE .122381 AGE -.107430	.0000 .0061 .0093 .0206

Equation 5 -- Legally prescribed and nonprescribed variables

Step	Variable	R ²	Beta	Sig T
1	PLEA	.06310	PLEA .251199	.0001
2	WEAPON	.09568	PLEA .245488 WEAPON .180576	.0001 .0049
3	EXPLOIT	.13933	PLEA .214134 WEAPON .269158 EXPLOIT .228701	.0008 .0001 .0009
4	HIFEL	.16683	PLEA .215137 WEAPON .270115 EXPLOIT .229053 HIFEL .165839	.0006 .0001 .0008 .0073
5	SEX	.18913	PLEA .210175 WEAPON .257648 EXPLOIT .226901 HIFEL .152982 SEX -.150465	.0007 .0001 .0007 .0126 .0144
6	RACE	.20884	PLEA .190423 WEAPON .231284 EXPLOIT .232282 HIFEL .124096 SEX -.176855 RACE .148914	.0021 .0006 .0005 .0446 .0044 .0201
7	PHATTACK	.22367	PLEA .182451 WEAPON .212445 EXPLOIT .227116 HIFEL .124180 SEX -.168433 RACE .145240 PHATTACK .123906	.0031 .0016 .0006 .0430 .0064 .0225 .0420

Equation 6 -- Legally prescribed and nonprescribed variables and statutory maximum

Step	Variable	R ²	Beta	Sig T
1	SMAX	.50069	SMAX .707593	.0000
2	PHATTACK	.52692	SMAX .701328 PHATTACK .162091	.0000 .0005

Table 8
(Continued)

Equation 6 continued

Step	Variable	R ²	Beta	Sig T
3	MISD	.54424	SMAX .700846	.0000
			PHATTACK .153270	.0009
			MISD .131893	.0040
4	OFFROLE	.55752	SMAX .689572	.0000
			PHATTACK .146022	.0013
			MISD .125315	.0056
			OFFROLE .116259	.0105

Table 9. Multiple Regression (Method Stepwise),
Dependent Variable = Actual Sentence in Months;
Assault Cases

Equation 1 -- Legally prescribed variables					
Step	Variable	R ²	Beta		Sig T
1	HIFEL	.14407	HIFEL	.379570	.0000
2	CONTEMP	.18988	HIFEL	.386386	.0000
			CONTEMP	.214134	.0000
3	WEAPON	.23087	HIFEL	.393419	.0000
			CONTEMP	.222159	.0000
			WEAPON	.202742	.0000
4	PHATTACK	.26353	HIFEL	.403034	.0000
			CONTEMP	.226521	.0000
			WEAPON	.203045	.0000
			PHATTACK	.181012	.0000
5	LOFEL	.28778	HIFEL	.349209	.0000
			CONTEMP	.231036	.0000
			WEAPON	.211459	.0000
			PHATTACK	.172268	.0001
			LOFEL	.165257	.0004
6	MISD	.29590	HIFEL	.356515	.0000
			CONTEMP	.229412	.0000
			WEAPON	.208875	.0000
			PHATTACK	.170542	.0001
			LOFEL	.148439	.0015
			MISD	.091566	.0372
7	EXPLOIT	.30445	HIFEL	.352288	.0000
			CONTEMP	.224908	.0000
			WEAPON	.215916	.0000
			PHATTACK	.156005	.0004
			LOFEL	.151910	.0011
			MISD	.096187	.0281
			EXPLOIT	.094129	.0318
Equation 2 -- Legally prescribed variables and statutory maximum					
Step	Variable	R ²	Beta		Sig T
1	HIFEL	.14407	HIFEL	.379570	.0000
2	SMAX	.23358	HIFEL	.359232	.0000
			SMAX	.299875	.0000
3	PHATTACK	.27445	HIFEL	.368650	.0000
			SMAX	.317693	.0000
			PHATTACK	.203216	.0000
4	CONTEMP	.31651	HIFEL	.376002	.0000
			SMAX	.308925	.0000
			PHATTACK	.207394	.0000
			CONTEMP	.205432	.0000
5	LOFEL	.33018	HIFEL	.335955	.0000
			SMAX	.298079	.0000
			PHATTACK	.199861	.0000
			CONTEMP	.209038	.0000
			LOFEL	.124434	.0056

Table 9
(Continued)

Equation 2 continued

Step	Variable	R ²	Beta	Sig T	
6	WEAPON	.33944	HIFEL	.339150	.0000
			SMAX	.253169	.0000
			PHATTACK	.195604	.0000
			CONTEMP	.215408	.0000
			LOFEL	.134827	.0027
			WEAPON	.106273	.0217
7	EXPLOIT	.34838	HIFEL	.334334	.0000
			SMAX	.256222	.0000
			PHATTACK	.181120	.0000
			CONTEMP	.210701	.0000
			LOFEL	.138874	.0019
			WEAPON	.112333	.0149
			EXPLOIT	.096180	.0233

Equation 3 -- Nonprescribed variables

Step	Variable	R ²	Beta	Sig T	
1	RACE	.01963	RACE	.140123	.0063
2	ALC	.03359	RACE	.186020	.0007
			ALC	.126741	.0203
3	GRADE	.04920	RACE	.170949	.0018
			ALC	.143175	.0089
			GRADE	.127613	.0135
4	PLEA	.06105	RACE	.163156	.0028
			ALC	.160076	.0036
			GRADE	.141674	.0063
			PLEA	.111239	.0304

Equation 4 -- Nonprescribed variables and statutory maximum

Step	Variable	R ²	Beta	Sig T	
1	SMAX	.10636	SMAX	.326129	.0000
2	RACE	.13177	SMAX	.335439	.0000
			RACE	.159681	.0010
3	ALC	.14497	SMAX	.334315	.0000
			RACE	.204247	.0001
			ALC	.123245	.0166
4	GRADE	.15865	SMAX	.331511	.0000
			RACE	.189978	.0002
			ALC	.138666	.0071
			GRADE	.119525	.0141
5	PLEA	.16977	SMAX	.330415	.0000
			RACE	.182366	.0004
			ALC	.155052	.0028
			GRADE	.133172	.0064
			PLEA	.107744	.0260

Table 9
(Continued)

Equation 5 -- Legally prescribed and nonprescribed variables

Step	Variable	R ²	Beta	Sig	T
1	HIFEL	.12970	HIFEL .360142	.0000	
2	CONTEMP	.18323	HIFEL .365274 CONTEMP .231423	.0000 .0000	
3	WEAPON	.22495	HIFEL .373049 CONTEMP .238468 WEAPON .204509	.0000 .0000 .0000	
4	PHATTACK	.25590	HIFEL .384574 CONTEMP .241702 WEAPON .204311 PHATTACK .176346	.0000 .0000 .0000 .0001	
5	LOFEL	.28200	HIFEL .330626 CONTEMP .245759 WEAPON .212616 PHATTACK .167915 LOFEL .170717	.0000 .0000 .0000 .0002 .0003	
6	MISD	.29313	HIFEL .340695 CONTEMP .244480 WEAPON .209706 PHATTACK .166382 LOFEL .152028 MISD .107126	.0000 .0000 .0000 .0002 .0012 .0160	
7	AGE	.30376	HIFEL .330538 CONTEMP .240938 WEAPON .210540 PHATTACK .171939 LOFEL .153564 MISD .105466 AGE .103796	.0000 .0000 .0000 .0001 .0010 .0170 .0178	
8	RACE	.31116	HIFEL .324107 CONTEMP .249921 WEAPON .210008 PHATTACK .171125 LOFEL .143256 MISD .105512 AGE .090093 RACE .088787	.0000 .0000 .0000 .0001 .0022 .0165 .0412 .0468	
9	ALC	.32297	HIFEL .319601 CONTEMP .252821 WEAPON .211331 PHATTACK .167932 LOFEL .144541 MISD .092889 AGE .100362 RACE .130732 ALC .117982	.0000 .0000 .0000 .0001 .0019 .0345 .0227 .0059 .0116	
10	PLEA	.33054	HIFEL .314639 CONTEMP .262465 WEAPON .214257 PHATTACK .161859 LOFEL .134675 MISD .093886 AGE .110614 RACE .127768 ALC .132031 PLEA .090519	.0000 .0000 .0000 .0002 .0038 .0319 .0123 .0069 .0051 .0421	

Table 9
(Continued)

Equation 6 -- Legally prescribed and nonprescribed variables and statutory maximum

Step	Variable	R ²	Beta	Sig T
1	HIFEL	.12970	HIFEL .360142	.0000
2	SMAX	.22255	HIFEL .341500 SMAX .305275	.0000 .0000
3	CONTEMP	.27025	HIFEL .346927 SMAX .295810 CONTEMP .218660	.0000 .0000 .0000
4	PHATTACK	.31130	HIFEL .359157 SMAX .313552 CONTEMP .221640 PHATTACK .203839	.0000 .0000 .0000 .0000
5	RACE	.33031	HIFEL .341390 SMAX .322222 CONTEMP .235077 PHATTACK .203674 RACE .139963	.0000 .0000 .0000 .0000 .0012
6	LOFEL	.34179	HIFEL .307221 SMAX .311287 CONTEMP .236807 PHATTACK .197165 RACE .127279 LOFEL .114360	.0000 .0000 .0000 .0000 .0033 .0113
7	ALC	.35302	HIFEL .304859 SMAX .310062 CONTEMP .239962 PHATTACK .193270 RACE .169212 LOFEL .113263 ALC .113851	.0000 .0000 .0000 .0000 .0003 .0114 .0116
8	AGE	.36161	HIFEL .296878 SMAX .308284 CONTEMP .235552 PHATTACK .197882 RACE .157409 LOFEL .116163 ALC .122861 AGE .094874	.0000 .0000 .0000 .0000 .0007 .0092 .0064 .0263
9	WEAPON	.37035	HIFEL .300293 SMAX .264001 CONTEMP .240761 PHATTACK .193474 RACE .153931 LOFEL .126541 ALC .124470 AGE .096698 WEAPON .103428	.0000 .0000 .0000 .0000 .0008 .0046 .0055 .0228 .0243
10	PLEA	.37692	HIFEL .295650 SMAX .262101 CONTEMP .249858 PHATTACK .187651 RACE .151070 LOFEL .117754 ALC .137707 AGE .106319 WEAPON .106976 PLEA .084349	.0000 .0000 .0000 .0000 .0010 .0083 .0023 .0126 .0194 .0496

prescribed and nonprescribed variables and statutory maximum³.

For assault cases, the sixth equation, which regressed actual sentence on all legally prescribed variables, nonprescribed variables, and statutory maximum, accounted for the largest amount of variance ($r^2=.55752$), followed closely by equation 2, which regressed actual sentence on all legally prescribed variables and statutory maximum ($r^2=.55185$) and equation 4, which regressed actual sentence on all nonprescribed variables and statutory maximum ($r^2=.53723$). The single best predictor overall for assault cases was statutory maximum (with a Beta range of .670452 to .707593). While the equation of legally prescribed and nonprescribed variables (equation 5) was able to explain 22 percent of the variance ($r^2=.22367$), the addition of statutory maximum (equation 6) increased explained variance to 56 percent ($r^2=.55752$).

Of the 11 legally prescribed variables used in equations 1, 2, 5, and 6 for assault cases, the

³Due to lack of variance, the following variables were not entered in regression analyses for assault cases: prior low severity juvenile adjudications, victim carried away, professional/organized crime member, contemporaneous acts. Similarly, the following variables were not entered in regression analyses for robbery cases: prior low severity juvenile adjudications, victim carried away, professional/ organized crime member, gender, assets, and marital status.

following were identified as significant predictors: offender's role in the convicted offense, prior high severity felony convictions, weapon use, exploitation of the victim's vulnerability, physical attack, and prior misdemeanors. Of the 11 nonprescribed variables used in equations 3, 4, 5, and 6, plea, gender, race, and age were significant predictors.

For robbery cases, the sixth equation, which regressed actual sentence on all legally prescribed variables, nonprescribed variables, and statutory maximum, accounted for the largest amount of variance ($r^2=.37692$), followed by equation 1, which regressed actual sentence on all legally prescribed variables ($r^2=.30445$), equation 2, which regressed actual sentence on all legally prescribed variables and statutory maximum ($r^2=.34838$), and equation 5, which regressed actual sentence on all legally prescribed and nonprescribed variables ($r^2=.33054$). The single best predictor for robbery cases overall was prior high severity felony convictions (with a Beta range of .295650 to .403034). The second best predictor was statutory maximum (with a Beta range of .253169 to .335439).

Of the 12 legally prescribed variables used in equations 1, 2, 5, and 6, the following were identified as significant predictors: prior high severity felony convictions, contemporaneous acts, weapon use, physical attack, prior low severity felony convictions, prior misdemeanors, and exploitation of the victim's vulnerability. Of the 8 nonprescribed variables used in equations 3, 4, 5, and 6, race, alcohol use, highest grade completed, plea, and age were significant predictors.

While the results of the regression analyses for assault cases provides some support for hypothesis 3, that among legally prescribed and nonprescribed variables, a combination of legally prescribed and nonprescribed variables will provide the best prediction (explained variance) in sentencing length, the strongest predictor of variance is neither legally prescribed nor nonprescribed variables but, rather, statutory maximum. For robbery cases, hypothesis 1 received the strongest support. That is, among legally prescribed and nonprescribed variables, legally prescribed variables alone will provide the best prediction (explained variance) in sentencing length.

Chapter IV

Discussion

While much of the past research on sentencing has focused on the effects of extra-legal variables, a growing number have included an examination of legal variables as well. As has been stated previously, findings from these studies have been varied and contradictory. While all have found that various legal variables explain some of the variance in sentencing decisions, not all have reported extra-legal variable effects. Of those that have found significant extra-legal variable effects, the relationship between extra-legal variables and sentencing is frequently not large (Hagan and Bumiller, 1983).

The analyses of Michigan sentencing data reveal that nonprescribed variables (i.e., extra-legal variables) are the least predictive. As with past research, this does not negate the significance of disparity caused by such variables as race, gender, and age; rather, it supports the assertion that sentencing decisions are best understood through a combination of legal and extra-legal variables.

The Michigan Sentencing Guidelines are intended to "promote consistency in sentencing" by providing judges with extensive criteria for making case determinations. Furthermore, the Guidelines were developed "to reflect past sentencing practices of the state's trial judges". The present study was able to examine virtually all prior record and offense severity criteria promoted by the Michigan Sentencing Guidelines Project for this purpose. In addition, 11 extra-legal variables and statutory maximum were examined.

The selected independent variables were able to explain 56% of the variance in assault cases and 38% of the variance in robbery cases. Unexplained variance may have been due to sampling error. Or, unmeasured variables may be critical. For example, attributes of judges such as race, age, and gender may influence decisions, or the relationship between original and conviction charges may be a critical factor. Regardless, it is surprising that criteria specifically developed for the purpose of increasing sentence uniformity and reflecting past sentencing practices were able to explain at best slightly more than half of •sentencing variance.

While the present research cannot reveal whether sentencing uniformity has increased or decreased due to the use of sentencing guidelines, the results suggest that determinants of sentence length for convicted felons differ by offense type (i.e., assault versus robbery). For assault cases, six of the offender and offense criteria were significant predictors of sentence length (i.e., offender's role in the convicted offense, prior high severity felony convictions, weapon use, exploitation of the victim's vulnerability, physical attack, and prior misdemeanors). Seven of the offender and offense criteria for robbery cases were significant predictors (i.e., prior high severity felony convictions, contemporaneous acts, weapon use, physical attack, prior low severity felony convictions, prior misdemeanors, and exploitation of the victim's vulnerability). In spite of the fact that the Michigan Sentencing Guidelines Project provides that the exact same variables should be used in determining the sentence length of assault and robbery cases⁴, it

⁴Although the Michigan Sentencing Guidelines Project determined that judges should examine the same offender and offense criteria when determining sentence length for assault and robbery cases, the weight of the offense score is slightly different for the two offenses. That is, once judges have obtained an offense score based upon weapon use, physical attack, victim carried away, multiple victims, offender exploitation of victim's vulnerability, professional/ organized crime member, offender's role, and contemporaneous acts, they place an offender at an offense

appears that not all criteria are being considered in a significant or uniform manner.

Moreover, statutory maximum of the conviction charge was the best predictor of sentence length in assault cases and the second best predictor of sentence length in robbery cases. It may be that statutory maximum is a proxy measure of offense severity and/or reflects some shared understanding within the judiciary regarding sentence length determination. If this is the case, it seems possible that Sentencing Guidelines criteria are not discerning variables relevant to the sentencing decision.

Future research and theory may wish to explore the relationship between sentencing determinants and nature of the offense more closely. Additionally, the relationship of statutory maximum to the sentencing process requires further examination.

severity level. Offense severity level I is the least severe; offense severity level III is the most severe. For assault cases, a total offense score of 0-3 places an offender at offense severity level I; a score of 4-5 places an offender at offense severity level II; a score of 5+ places an offender at offense severity level III. For robbery cases, a total offense score of 0-3 places an offender at offense severity level I; a score of 4-7 places an offender at offense severity level II; a score of 8+ places an offender at offense severity level III.

Appendix A. Frequencies for Assault Case Variables

ACTSEN actual sentence in months

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	39	15.3	15.3	15.3
	1	4	1.6	1.6	16.9
	2	2	.8	.8	17.6
	3	7	2.7	2.7	20.4
	4	2	.8	.8	21.2
	6	15	5.9	5.9	27.1
	8	2	.8	.8	27.8
	9	10	3.9	3.9	31.8
	10	1	.4	.4	32.2
	12	41	16.1	16.1	48.2
	13	2	.8	.8	49.0
	16	1	.4	.4	49.4
	18	7	2.7	2.7	52.2
	24	21	8.2	8.2	60.4
	30	3	1.2	1.2	61.6
	32	2	.8	.8	62.4
	36	17	6.7	6.7	69.0
	48	9	3.5	3.5	72.5
	54	1	.4	.4	72.9
	60	13	5.1	5.1	78.0
	66	3	1.2	1.2	79.2
	72	5	2.0	2.0	81.2
	76	1	.4	.4	81.6
	80	9	3.5	3.5	85.1
	86	1	.4	.4	85.5
	90	1	.4	.4	85.9
	120	6	2.4	2.4	88.2
	144	1	.4	.4	88.6
	156	2	.8	.8	89.4
	160	1	.4	.4	89.8
	180	7	2.7	2.7	92.5
	216	1	.4	.4	92.9
	240	10	3.9	3.9	96.9
	276	2	.8	.8	97.6
	300	4	1.6	1.6	99.2
	360	1	.4	.4	99.6
	480	1	.4	.4	100.0
	Total	255	100.0	100.0	

SMAX statutory maximum in months

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	24	10	3.9	3.9	3.9
	48	86	33.7	33.7	37.6
	60	6	2.4	2.4	40.0
	120	100	39.2	39.2	79.2
(Life or term of years)	450	53	20.8	20.8	100.0
	Total	255	100.0	100.0	

HIFEL prior high severity felony convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	207	81.2	81.2	81.2
Priors	1	48	18.8	18.8	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

LOFEL prior low severity felony convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	185	72.5	72.5	72.5
Priors	1	70	27.5	27.5	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

HIJUV prior high severity juvenile adjudications

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	214	83.9	83.9	83.9
Priors	1	41	16.1	16.1	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

LOJUV prior low severity juvenile adjudications

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	249	97.6	97.6	97.6
Priors	1	6	2.4	2.4	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

MISD prior misdemeanors

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No more than 1 prior	0	209	82.0	82.0	82.0
2-3 priors	1	19	7.5	7.5	89.4
4+ priors	2	27	10.6	10.6	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

PRIORREL prior relationship to the criminal justice system

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No prior relationship	0	186	72.9	72.9	72.9
Other/post relationship	1	69	27.1	27.1	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

SUBCONV subsequent/concurrent convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	194	76.1	76.1	76.1
Yes	1	61	23.9	23.9	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

WEAPON presence/type of weapon

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No weapon used	0	45	17.6	17.6	17.6
Use of non-firearm weapon	1	42	16.5	16.5	34.1
Use of firearm	2	168	65.9	65.9	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

PHATTACK physical attack on victim

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Victim not touched/assaulted	0	39	15.3	15.3	15.3
Victim touched beyond that needed to commit instant offense	1	6	2.4	2.4	17.6
Victim suffered bodily injury	2	162	63.5	63.5	81.2
Victim suffered a serious impairment or permanent disfigurement	3	47	18.4	18.4	99.6
Victim was killed	4	1	.4	.4	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

KIDNAP victim carried away

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	238	93.3	93.3	93.3
Yes	1	17	6.7	6.7	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

MULTVICT multiple victims

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No multiple victims	0	188	73.7	73.7	73.7
2 victims	1	43	16.9	16.9	90.6
3+ victims	2	24	9.4	9.4	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

EXPLOIT offender exploitation of victim's vulnerability

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	185	72.5	72.5	72.5
Yes	1	70	27.5	27.5	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

MOB professional/organized crime member

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	252	98.8	98.8	98.8
Yes	1	3	1.2	1.2	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

OFFROLE offender's role

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Role was minor/peripheral	0	7	2.7	2.7	2.7
Acted alone	1	205	80.4	80.4	83.1
Active participant in multiple offender situation	2	35	13.7	13.7	96.9
Leader in multiple offender situation	3	8	3.1	3.1	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

CONTEMP contemporaneous acts

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No more than 1 act	0	244	95.7	95.7	95.7
2 acts	1	6	2.4	2.4	98.0
3+ acts	2	5	2.0	2.0	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

AGE year of birth

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	2	.8	.8	.8
	17	1	.4	.4	1.2
	18	5	2.0	2.0	3.1
	19	12	4.7	4.7	7.8
	20	13	5.1	5.1	12.9
	21	14	5.5	5.5	18.4
	22	13	5.1	5.1	23.5
	23	17	6.7	6.7	30.2
	24	15	5.9	5.9	36.1
	25	15	5.9	5.9	42.0
	26	12	4.7	4.7	46.7
	27	15	5.9	5.9	52.5
	28	10	3.9	3.9	56.5
	29	12	4.7	4.7	61.2
	30	6	2.4	2.4	63.5
	31	7	2.7	2.7	66.3
	32	10	3.9	3.9	70.2
	33	7	2.7	2.7	72.9
	34	9	3.5	3.5	76.5
	35	5	2.0	2.0	78.4
	36	6	2.4	2.4	80.8
	37	5	2.0	2.0	82.7
	38	4	1.6	1.6	84.3
	39	5	2.0	2.0	86.3
	40	2	.8	.8	87.1
	41	1	.4	.4	87.5
	43	2	.8	.8	88.2
	44	1	.4	.4	88.6
	45	2	.8	.8	89.4
	46	2	.8	.8	90.2
	47	1	.4	.4	90.6
	49	3	1.2	1.2	91.8
	50	1	.4	.4	92.2
	52	3	1.2	1.2	93.3
	53	1	.4	.4	93.7
	54	2	.8	.8	94.5
	56	1	.4	.4	94.9
	59	1	.4	.4	95.3
	60	1	.4	.4	95.7
	63	2	.8	.8	96.5
	70	1	.4	.4	96.9
	99	8	3.1	3.1	100.0
	Total	255	100.0	100.0	

RACE race

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Caucasian	0	118	46.3	46.3	46.3
Non-Caucasian	1	137	53.7	53.7	100.0
Total		255	100.0	100.0	

SEX gender

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Male	0	227	89.0	89.0	89.0
Female	1	28	11.0	11.0	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

DEPEND number of dependents

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	130	51.0	51.0	51.0
	1	53	20.8	20.8	71.8
	2	36	14.1	14.1	85.9
	3	17	6.7	6.7	92.5
	4	14	5.5	5.5	98.0
	5	1	.4	.4	98.4
	6	2	.8	.8	99.2
	7	1	.4	.4	99.6
	9	1	.4	.4	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

GRADE highest grade completed

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	2	.8	.8	.8
	1	1	.4	.4	1.2
	3	2	.8	.8	2.0
	4	1	.4	.4	2.4
	7	3	1.2	1.2	3.5
	8	9	3.5	3.5	7.1
	9	27	10.6	10.6	17.6
	10	37	14.5	14.5	32.2
	11	42	16.5	16.5	48.6
	12	110	43.1	43.1	91.8
	13	6	2.4	2.4	94.1
	14	11	4.3	4.3	98.4
	15	3	1.2	1.2	99.6
	16	1	.4	.4	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

ASSETS assets-\$1500

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	46	18.0	18.0	18.0
Yes	1	209	82.0	82.0	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

DRUGS drug use

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	163	63.9	63.9	63.9
Yes	1	92	36.1	36.1	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

ATTORNEY type of attorney

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Public defender	0	204	80.0	80.0	80.0
Privately retained	1	51	20.0	20.0	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

PLEA plea

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty plea	0	214	83.9	83.9	83.9
Not guilty plea	1	41	16.1	16.1	100.0
		-----	-----	-----	
Total		255	100.0	100.0	

ALC alcohol use

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	148	58.0	58.5	58.5
Yes	1	105	41.2	41.5	100.0
.	.	2	.8	Missing	
		-----	-----	-----	
Total		255	100.0	100.0	

WED marital status

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Married	0	42	16.5	18.5	18.5
Single	1	185	72.5	81.5	100.0
.	.	28	11.0	Missing	
		-----	-----	-----	
Total		255	100.0	100.0	

Appendix B. Frequencies for Robbery Case Variables

ACTSEN actual sentence in months

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	24	6.2	6.2	6.2
	2	1	.3	.3	6.5
	3	4	1.0	1.0	7.5
	6	9	2.3	2.3	9.8
	7	2	.5	.5	10.4
	8	2	.5	.5	10.9
	9	4	1.0	1.0	11.9
	12	42	10.9	10.9	22.8
	13	2	.5	.5	23.3
	15	2	.5	.5	23.8
	18	23	6.0	6.0	29.8
	21	1	.3	.3	30.1
	24	38	9.8	9.8	39.9
	26	1	.3	.3	40.2
	28	1	.3	.3	40.4
	30	10	2.6	2.6	43.0
	36	38	9.8	9.8	52.8
	40	2	.5	.5	53.4
	42	4	1.0	1.0	54.4
	48	17	4.4	4.4	58.8
	54	2	.5	.5	59.3
	60	33	8.5	8.5	67.9
	66	2	.5	.5	68.4
	72	18	4.7	4.7	73.1
	78	3	.8	.8	73.8
	84	18	4.7	4.7	78.5
	90	7	1.8	1.8	80.3
	96	16	4.1	4.1	84.5
	102	1	.3	.3	84.7
	108	1	.3	.3	85.0
	120	28	7.3	7.3	92.2
	129	1	.3	.3	92.5
	144	4	1.0	1.0	93.5
	160	1	.3	.3	93.8
	168	4	1.0	1.0	94.8
	180	2	.5	.5	95.3
	240	11	2.8	2.8	98.2
	244	1	.3	.3	98.4
	300	5	1.3	1.3	99.7
	480	1	.3	.3	100.0
	Total	386	100.0	100.0	

SMAX statutory maximum in months

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	60	12	3.1	3.1	3.1
	120	10	2.6	2.6	5.7
	180	77	19.9	19.9	25.6
(Life or term of years)	450	287	74.4	74.4	100.0
	Total	386	100.0	100.0	

HIFEL prior high severity felony convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	290	75.1	75.1	75.1
Priors	1	96	24.9	24.9	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

LOFEL prior low severity felony convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	256	66.3	66.3	66.3
Priors	1	130	33.7	33.7	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

HIJUV prior high severity juvenile adjudications

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	302	78.2	78.2	78.2
Priors	1	84	21.8	21.8	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

LOJUV prior low severity juvenile adjudications

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No priors	0	369	95.6	95.6	95.6
Priors	1	17	4.4	4.4	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

MISD prior misdemeanors

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No more than 1 prior	0	298	77.2	77.2	77.2
2-3 priors	1	41	10.6	10.6	87.8
4+ priors	2	47	12.2	12.2	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

PRIORREL prior relationship to the criminal justice system

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No prior relationship	0	294	76.2	76.2	76.2
Other/post relationship	1	92	23.8	23.8	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

SUBCONV subsequent/concurrent convictions

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	253	65.5	65.5	65.5
Yes	1	133	34.5	34.5	100.0
	Total	386	100.0	100.0	

WEAPON presence/type of weapon

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No weapon used	0	43	11.1	11.1	11.1
Use of non-firearm weapon	1	144	37.3	37.3	48.4
Use of firearm	2	199	51.6	51.6	100.0
	Total	386	100.0	100.0	

PHATTACK physical attack of victim

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Victim not touched/assaulted	0	248	64.2	64.2	64.2
Victim touched beyond that needed to commit instant offense	1	52	13.5	13.5	77.7
Victim suffered bodily injury	2	80	20.7	20.7	98.4
Victim suffered a serious impairment or permanent disfigurement	3	4	1.0	1.0	99.5
Victim was killed	4	2	.5	.5	100.0
	Total	386	100.0	100.0	

KIDNAP victim carried away

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	352	91.2	91.2	91.2
Yes	1	34	8.8	8.8	100.0
	Total	386	100.0	100.0	

MULTVICT multiple victims

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No multiple victims	0	259	67.1	67.1	67.1
2 victims	1	82	21.2	21.2	88.3
3+ victims	2	45	11.7	11.7	100.0
	Total	386	100.0	100.0	

EXPLOIT offender exploitation of victim's vulnerability

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	301	78.0	78.0	78.0
Yes	1	85	22.0	22.0	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

MOB professional/organized crime member

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	363	94.0	94.0	94.0
Yes	1	23	6.0	6.0	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

OFFROLE offender's role

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Role was minor/peripheral	0	11	2.8	2.8	2.8
Acted alone	1	160	41.5	41.5	44.3
Active participant in multiple offender situation	2	187	48.4	48.4	92.7
Leader in multiple offender situation	3	28	7.3	7.3	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

CONTEMP contemporaneous acts

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No more than 1 act	0	330	85.5	85.5	85.5
2 acts	1	23	6.0	6.0	91.5
3+ acts	2	33	8.5	8.5	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

AGE year of birth

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	17	5	1.3	1.3	1.3
	18	28	7.3	7.3	8.5
	19	37	9.6	9.6	18.1
	20	40	10.4	10.4	28.5
	21	33	8.5	8.5	37.0
	22	31	8.0	8.0	45.1
	23	20	5.2	5.2	50.3
	24	20	5.2	5.2	55.4
	25	21	5.4	5.4	60.9
	26	11	2.8	2.8	63.7
	27	14	3.6	3.6	67.4
	28	8	2.1	2.1	69.4
	29	12	3.1	3.1	72.5
	30	9	2.3	2.3	74.9
	31	14	3.6	3.6	78.5
	32	10	2.6	2.6	81.1
	33	5	1.3	1.3	82.4
	34	5	1.3	1.3	83.7
	35	9	2.3	2.3	86.0
	36	4	1.0	1.0	87.0
	37	1	.3	.3	87.3
	38	6	1.6	1.6	88.9
	39	4	1.0	1.0	89.9
	40	4	1.0	1.0	90.9
	41	2	.5	.5	91.5
	42	1	.3	.3	91.7
	43	1	.3	.3	92.0
	45	3	.8	.8	92.7
	46	1	.3	.3	93.0
	47	2	.5	.5	93.5
	52	1	.3	.3	93.8
	55	1	.3	.3	94.0
	87	1	.3	.3	94.3
	.	22	5.7	Missing	100.0
	Total	386	100.0	100.0	

RACE race

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Caucasian	0	149	38.6	38.6	38.6
Non-Caucasian	1	237	61.4	61.4	100.0
Total		386	100.0	100.0	

SEX gender

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Male	0	369	95.6	95.6	95.6
Female	1	17	4.4	4.4	100.0
Total		386	100.0	100.0	

DEPEND number of dependents

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	0	239	61.9	61.9	61.9
	1	71	18.4	18.4	80.3
	2	39	10.1	10.1	90.4
	3	19	4.9	4.9	95.3
	4	6	1.6	1.6	96.9
	5	4	1.0	1.0	97.9
	6	1	.3	.3	98.2
	.	7	1.8	Missing	100.0
	Total	386	100.0	100.0	

GRADE highest grade completed

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
	1	1	.3	.3	.3
	4	1	.3	.3	.5
	6	1	.3	.3	.8
	7	6	1.6	1.6	2.3
	8	11	2.8	2.8	5.2
	9	37	9.6	9.6	14.8
	10	61	15.8	15.8	30.6
	11	67	17.4	17.4	47.9
	12	142	36.8	36.8	84.7
	13	20	5.2	5.2	89.9
	14	13	3.4	3.4	93.3
	16	1	.3	.3	93.5
	.	25	6.5	Missing	100.0
	Total	386	100.0	100.0	

ASSETS assets-\$1500

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	365	94.6	94.6	94.6
Yes	1	21	5.4	5.4	100.0
	Total	386	100.0	100.0	

DRUGS drug use

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	178	46.1	46.1	46.1
Yes	1	201	52.1	52.1	98.2
	.	7	1.8	Missing	100.0
	Total	386	100.0	100.0	

ATTORNEY type of attorney

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Public defender	0	337	87.3	87.3	87.3
Privately retained	1	49	12.7	12.7	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

PLEA plea

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Guilty plea	0	339	87.8	87.8	87.8
Not guilty plea	1	47	12.2	12.2	100.0
		-----	-----	-----	
Total		386	100.0	100.0	

ALC alcohol use

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
No	0	248	64.2	65.4	65.4
Yes	1	131	33.9	34.6	100.0
	.	7	1.8	Missing	
		-----	-----	-----	
Total		386	100.0	100.0	

WED marital status

Value Label	Value	Frequency	Percent	Valid Percent	Cum Percent
Married	0	32	8.3	9.1	9.1
Single	1	318	82.4	90.9	100.0
	.	36	9.3	Missing	
		-----	-----	-----	
Total		386	100.0	100.0	

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