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MARSHALL UNIVERSITY

AN ANALYSIS OF PRISON SENTENCE DISPARITY
IN
WEST VIRGINIA

by

DEANNA J. SHIELDS

A thesis submitted to
the Department of Criminal Justice
in partial fulfillment of the
requirements for the degree of
Master of Science

Approved:

Robert J. Mitchell
Major Professor

David Kattusa

Timothy Harper

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THIS THESIS WAS ACCEPTED ON Aug. 18 1942
Month Day Year

as meeting the research requirement for the master's degree.

Advisor Robert J. Mutchnick
Department of Criminal Justice

P. D. Stewart
Dean of Graduate School

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PREFACE

This study was conducted to determine if selected variables influenced the length of sentence a defendant received in felony cases in West Virginia courts from March 1968 to February 1982. The data contained in this study was obtained with the approval of the West Virginia Department of Corrections. However, the writer is solely responsible for the contents of this study.

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Chapter 1

REVIEW OF LITERATURE

The sentencing of individuals is a very important stage in the Criminal Justice System in the United States. The sentence is the basic decision which determines how, where, and for how long an offender should be dealt with by the state (LaBeff, 1978, p. 1). This study will focus on the question of whether or not sentence disparity exists in West Virginia.

Sentencing processes in our Criminal Justice System today are in keeping with the "Treatment Model" of Corrections. According to Fogel (1975) in We Are The Living Proof, the treatment model has three main goals: (1) diagnosis and classification of inmates into a limited number of types with prescriptive treatments for each; (2) ongoing evaluation of the treatment's progress, in order to determine the point of recovery called "parole readiness"; and (3) all this should occur in an indefinite time sequence so that a sentence will not expire before the most favorable therapeutic time for release occurs.

This model was used for the rehabilitation of prisoners in the period following the Civil War. Fixed sentences were coming to be seen as "retributive and too mechanical" to be

effective on prisoners by reformers of that era. Indefinite sentences which consist of judicially determined minimum and maximum lengths (for example, one to three years) were put into use. These indeterminate sentences, hopefully, would provide incentive to prisoners who wanted to get out early and keep those in who did not want to be or could not be rehabilitated (Greenberg, 1980, p. 206).

When looking toward the future of the prison systems in our country, most reformers are now moving toward the "Justice Model" of Corrections, which involves a "just deserts" concept with determinate or fixed sentences (Greenberg, p. 214). Fogel also outlines the Justice Model. He says, "The entire effort of the prison should be seen as an influence attempt based upon operationalizing justice" (p. 204). Opportunities for self-improvement should be offered but should not be made a condition of freedom. The prison, says Fogel, is responsible for executing the sentence, not for rehabilitating the convict (p. 202).

The demise of the treatment model is seen by Greenberg as a result of the deterioration of the economy in the 1970's, with high levels of inflation and unemployment--this being responsible for destroying the ideal of rehabilitation. At the same time, politicization and rebellion of prisoners destroyed the organizational basis of the treatment model (Greenberg, p. 218).

Most of today's reformers agree with the above explanation of the treatment model's failure. One author, Sol Rubin, says that we cannot just move into fixed sentences until we thoroughly examine what is wrong with our system now. Rubin states that the treatment model, along with its indeterminate sentence has not had a fair chance. The original concept is not really prevalent in today's correctional field. Almost 100 years ago, in the Elmira Reformatory in New York, sentences were relatively short (usually 2 to 3 years) with a person being eligible for parole at any time. The way it is utilized today, however, is very different. There is a mandatory minimum term to be served before parole eligibility, usually of several or many years in duration. There is a statutory maximum automatically imposed in all instances, which many times lengthens the term of imprisonment. These mandatory parole terms and automatic maximum statutory terms deny individualization. The automatic minimum term keeps the judge from exercising his own discretion in fixing sentence lengths and the automatic maximum makes it difficult for an early release to be granted by a parole board (Rubin, 1979, p. 23-24). Table 1 is an example of how prison lengths have increased from 1945 to 1979. Although more persons were imprisoned in 1945, the average length of imprisonment was 16.5 months. In 1960, the average length jumped to 29.6 months and in 1979 the change was even more drastic, 49.0

TABLE I

DEFENDANTS DISPOSED OF IN U.S. DISTRICT COURTS,
by Type of Disposition and Type and Length of Sentence
years ending June 30th, 1945 - 1979

	1945	1960	1979
Total Defendants	43,755	31,984	41,175
Not convicted	7,641	3,828	8,262
Convicted	36,114	28,156	32,913
Imprisoned	17,095	14,170	14,580
Average Imprisonment	16.5 months	29.6 months	49.0 months

months (Sourcebook of Criminal Justice Statistics, 1980, p. 428-429). Still, we know from experience that these longer sentences improve neither an individual nor society.

Rubin also writes that our prison system is not a failure. It is the prison policies and practices that have failed. It is desirable to avoid imprisonment of nondangerous offenders and to "avoid destructive processes in the prison/parole experience" for offender treatment to be successful. Making constructive use of time in nonpunitive, active facilities such as work and recreation would be of utmost importance. Mandatory aspects slow down the rehabilitation process. Shorter sentences than we have today should be called for (Rubin, p. 25-26).

Many critics of the indeterminate sentence indicate that it and parole are inseparable. The fact is that every state has some type of parole system even if it has determinate sentencing procedures. Rubin informs us that doing away with indeterminate sentencing and parole would be "throwing the baby out with the bath water." We miss the mark if we blame prison failure on the indeterminate sentence, although "money spent to maintain the present system is wasted (Rubin, p. 27).

Charles Silberman tends to agree with Rubin's points. The onset of the determinate sentence will only cause sentences to become longer. Silberman does not think that equal

sentences at double the length is what prisoners want. Sentences in the United States are now longer than anywhere else in the world. The crime problem is what we really need to worry about. Silberman continues that the only things that can help our crime problem are redistribution of income and reorganization of communities. In his view, the only existing disparities in sentencing within a state are reflections of different norms and values which are different from one part of a state to another (Silberman, 1979, p. 29-31). Moreover, if discretion of judges is the problem with sentencing, fixed terms are simplistic in that they will only transfer discretion rather than eliminate it (Morris, 1977, p. 280).

On the other side of the coin are those who believe that determinate sentencing is the best thing we can do for our prison system. Many legislators believe that our present system is too lenient. One variation on methods of how to designate specific sentences for convicted criminals is given by Nagel, et. al. Nagel states, "The less discretion there is, the less disparity there will be among different types of judges hearing the same cases" (Nagel, et. al., 1978, p. 372). There are three parts in this type of sentencing process: (1) normative reactions of judges and a qualitative analysis of previous sentencing should be combined; (2) increasing or decreasing by a given percentage for aggravating

or mitigating circumstances; and (3) adding a given percentage to the base figure to please those who feel the system is too easy on criminals. Illinois drafted these three variations into their sentencing system in February 1978 (Nagel, et. al., p. 371).

Nagel also indicates that longer sentences contribute to incapacitation, maturation, deterrence and rehabilitation. Longer sentences allow young inmates more time to mature into less antisocial persons and postpone recidivistic behavior, thus having a more deterrent effect. Longer sentences sometimes prolong the opportunity for rehabilitation therapy (Nagel, p. 373). Nagel goes on to say that whatever system is chosen, it should be justified in terms of "maximizing benefits minus costs" (p. 372). For example, a method is needed which minimizes the sum of recidivism costs (which are associated with short sentences) and incarceration costs (which are associated with long sentences).

The Problem of Sentencing Disparity

Sentencing disparity is defined as discrepant sentences which are assigned for similar offense and similar offenders (Austin and Williams, 1977, p. 306). When one looks at the prison population in the United States, sentence disparities which exist, in terms of lengths of sentences from one inmate to another are overwhelming to many, but to others do not even exist. Many believe that disparate sentences show gross

injustices to convicted offenders and have undermined the deterrent effect of the law (Austin and Williams, p. 306). Whatever the case, it is obvious that judicial decisions are not made uniformly.

Many research efforts in the area of sentencing have provided us with conflicting results. One area of conflict is related to what extent disparities reflect judicial attitude differences (prejudices, ways of categorizing offenders, etc.). These categories include "extralegal" variables such as sex, race, social class, age, etc., and are considered to be discriminatory.

It is also not clear the extent that legal variables enter into judicial attitudes. These variables include mitigating and/or incriminating factors such as seriousness of offense, previous arrest record, type of plea, and so forth-- matters considered to be legitimately used in the judicial process (Austin and Williams, p. 306-307; Horwitz and Wasserman, 1980, p. 411-412).

Society plays a large part in the sentencing through people's speaking out on their values and morals. We can see this process has been very effective when enforcing drug laws in this country. In Table 2 (Sourcebook, 1980, p. 446-447) we see that the average sentence length was relatively low in 1945 and peaked in the 1960's when society raised its voice against the "hippies and their drugs." In the 1970's

TABLE 2

DEFENDANTS CHARGED WITH VIOLATION OF DRUG LAWS IN U.S. DISTRICT COURTS,
 by Type of Disposition, and Type and Length of Sentence
 years ending June 30, 1945 - 1978.

Year	Total Defendants	Not Convicted	Convicted	Average Sentence
1945	1,413	228	1,185	22.2 months
1960	1,846	340	1,506	72.8 months
1970	3,420	959	2,461	64.8 months
1975	10,901	2,750	8,151	45.3 months
1978	7,860	2,043	5,817	38.6 months

the average sentence length for drug law violations slowly started dropping off. People were then worrying more and more about inflation, unemployment and so forth, thus putting a much less emphasis on the so-called drug problem.

The Two Views Of Sentence Disparity

One body of research focuses on the belief that sentencing disparity does not exist. This is the legalistic point of view. This includes those who deny any influence of extralegal factors such as race, sex, social class, etc., on sentence length variations. Their research puts forth the belief that differences in judicial dispositions stem only from legal variables, especially seriousness of offense (Burke and Turk, 1975, p. 313; Waldo, 1975, p. 753-772).

Carter and Wilkins (1967, p. 58) analyzed factors used for sentencing alternatives by district court judges in the Northern District of California. They concluded that offense, confinement status, prior record and number of arrests were the first four factors to influence sentencing. They concluded that race, a nonlegal factor, ranked last in the variables influencing sentencing.

Another study analyzed 662 homicides which occurred in Cleveland from 1947 to 1954. It was concluded that no evidence of racial discrimination existed once seriousness of offense was controlled for. Although blacks who killed whites were more harshly treated than blacks who killed blacks,

those blacks who killed whites were more likely to be facing more serious charges, for example, homicide while perpetrating robbery or rape (Bensing and Schroeder, 1960).

Still, another study concluded that when the control variables of severity of offense and prior record were used, no relationships existed. The author agreed that sentencing differences existed but were the direct result of actual legal differences in those cases (Green, 1964, 348-358).

Willick, et. al. (1975, p. 57-77) researched social class as a factor in sentencing homosexuals. They concluded that when prior convictions were controlled for, the finding that the lower a defendant's social class the more likely he was to get a bad disposition all but disappeared. It was explained that prior convictions mean worse dispositions and it is more likely that lower class defendants have had prior convictions.

The other body of research on sentencing disparities proposes that disparities do, indeed, exist. It is even believed to reach far into the juvenile justice system and their court dispositions. These researchers find important effects of extralegal factors related to sentencing in their studies (Thomas and Cage, 1977, p. 237-252; Lizotte, 1978, p. 564-580).

One study on social class linkages to judicial treatment of homosexuals suggests that defendants with higher social

class receive lesser sentences than those of the lower class. The reasons are suggested that persons of higher social class are better able to: (1) pay bail; (2) pay for counsel; (3) present a favorable image at the trial; (4) receive empathy from a middle class jury or other persons judging them; (5) make those passing judgment feel that they have already paid much for their crime in the form of lost social status; and (6) impress that their social stability means they are less likely to commit future crimes (Farrell, 1971, p. 65).

Joseph C. Howard, an associate judge of the Supreme Bench of Baltimore City produced a large study on race discrimination in sentencing. He states that it is usual for those who are responsible for the administration of justice to "discount racial discrimination as a basic cause of disparity and assign other reasons for this inequity." Human beings do not acknowledge their tendency to see positively or negatively individuals or happenings which come before them for any kind of evaluation. There is a subconscious effect that stems from their history and social climate which is reflected in their orientation, attitudes and actions. A judge, as does anyone else, tends to show empathy and sympathy much more easily toward people who look and think like he does, or share the same history or life style as he does (Howard, 1975, p. 122).

Howard also states that findings in other fields show

that differences in culture determine attitudes and tolerance--the greater the cultural distance, the greater the tendency for judgments and decisions to be influenced by imagination and bias (Howard, p. 122).

People, in general, do not recognize the great contribution that social climate plays when translated into judicial behavior. The way a judge relates to various crimes depends on his position in society and the desires and fears of his community.

According to Howard, there are three conceptions about people which grow out of society. There are, first, those who are seen as less than human. Society sees most people who are different psychologically, physically, mentally, etc., as somehow deserving of less than other people. This must account, says Howard, for the treatment of minorities over the past 300 years. Howard's study dealt with the administration of rape cases in Baltimore and the state of Maryland in 1968. He revealed:

There were 55 death penalties issued for rape in the state for attacks on white women.

50 of the 55 men were non-white

Black women were raped 10 times as often as white women, but never in Maryland's history had any man been executed for raping a black woman.

From 1960 to 1967, 47 percent of the blacks who were convicted of assaulting blacks were immediately returned to the community on

probation, thus confirming Maryland's judges' low regard for black women and the black community in general. The average sentences for rape were as follows:

4.2 years for blacks who raped blacks
16.4 years for blacks who raped whites
5.7 years for whites who raped blacks
4.7 years for whites who raped whites

Almost 25 percent of the whites who raped blacks avoided the sentencing stage of trial by pleading "not guilty by reason of insanity."

Secondly, there are those who belong. An entire race takes on behavior patterns of a few--referring to white society seeing themselves as belonging and those who are different because of certain social or cultural defects as not belonging (Howard, p. 123). For example, if a defendant is without education, vocational skills or probability of employment at the time of sentencing, he/she is seen as a burden on society and the solution is incarceration or extended imprisonment (Howard, p. 124).

Thirdly, there are those who are threats to the system. Society tends to punish people who are regarded as threats to the system. This affects equitable sentencing procedures. We tend to think that there must be something intrinsically wrong with people who speak out for change (Howard, p. 124).

This study does not mean to implicate that judges are the total cause of inequality in the Criminal Justice system, but, Howard thinks that judges should realize that they bear a major part of the responsibility for ensuring equal justice

in the courts. Judges must come to appreciate how racial discrimination affects thinking at the time of sentencing. He says, "We should engage in introspection to create the kind of consciousness which will permit a broader base for judgment and an even larger vision of a just society" (Howard, p. 125).

The study by William Austin and Thomas A. Williams, III (1977, p. 306-310) reveals the inequities that exist in judicial decision-making. The authors gathered their data from forty-seven (47) Virginia district court judges who were attending the Virginia Judicial Conference of the American Academy of Judicial Educators in 1975. The goal of the study was to estimate sentence disparity by eliminating variance in five different legal cases. Each judge was given an identical booklet containing descriptions of the five cases. The cases were as follows: (1) possession of marijuana; (2) reckless driving; (3) shoplifting; (4) burglary; and (5) drunken driving. Each case included basic evidential factors needed for a verdict--the defendant's name, the criminal charge, and a synopsis of the testimony. Other nonevidentiary information was also given. The sponsors were identified as The Joint Executive Committee and the Education Committee. It was clearly stated that the study was "a survey of comparative judgments designed to assess the rate of agreement among judges." The judges were asked to read each case carefully, recommend a verdict and to suggest an appropriate

sentence if a guilty verdict was rendered.

The results of the survey showed a high rate of agreement on the verdict rendered, but substantial variance in the choice of sentencing mode and the magnitude of penalty within the mode. For example, in the shoplifting case, 41 of the 47 judges (87.2%) voted guilty. However, nine different types of sentences were recommended. Twelve judges (29.3%) recommended a fine and a suspended jail term. Seven judges (17.1%) recommended a jail term. Seven judges (17.1%) recommended a fine plus a jail term, ranging from \$25/110 days to \$150/60 days. The remaining judges voted for five other modes of sentencing.

Six conclusions were drawn from this study:

When legal cases are equalized within offense categories, judges still show substantial disparity.

The strength of evidence against a defendant is related to sentence disparity.

Strong evidence does not guarantee a high agreement on the appropriate sentence.

The type of offense appears to be related to the degree of disparity.

It is not possible to give an exact quantitative index of the degree of sentence disparity because the qualitative nature of sentencing. Disparity is reflected in the magnitude of punishment and also in the type of sentence as well.

Differences in the types and magnitudes of sentences suggest that judges operate with

a variety of theories of legal sanction or decision-making guides (Austin and Williams, p. 310).

The foregoing review of the literature serves the purpose of establishing the present state of research knowledge which surrounds the question of whether or not discrimination exists in the sentencing of adult offenders.

This thesis will focus on sentencing disparity in West Virginia. The information contained herein will be utilized to determine whether or not selected variables are related to the length of sentence a convicted offender receives.

Chapter 2

RESEARCH METHODOLOGY

The sample for this study was drawn from a population consisting of all male and female inmates in the West Virginia Prison System on March 22, 1982. All of the cases (367)* received their present prison sentences between March 1968 and February 1982. The sample was selected randomly from the records of The West Virginia Department of Corrections, Charleston, West Virginia. A random starting point was selected with every 4th file card becoming a member of the sample. The data was transferred to a pre-coded data sheet which included the following variables: sex, race, age at time of sentence, marital status at time of sentence, offense category for which the inmate was incarcerated, county of sentencing, and sentence length. These are the variables which are recorded in each inmate's file. Other variables which would add substantially to the study, such as the number of prior offenses, the inmates' educational background, or the inmates' socioeconomic status were not maintained by the Department of Corrections. If more than one sentence was involved, the very first crime and sentence for which

*The original sample included 3 widowed persons who were dropped from the data for statistical purposes, leaving 367 cases in the sample.

the inmate was incarcerated was used. (See Appendix A for a sample of the master card. The items with check marks were the ones available for the study).

Sentence length is to be the dependent variable for this study. The sentence lengths will be categorized and recorded as to number of years. For the indeterminate sentences (73% of the sentences in the sample were indeterminate) the midpoint of the minimum and maximum lengths will be used. For example, a sentence length of 1-10 years will be categorized as a 5 year sentence. This number will best represent the magnitude of the sentence pronounced by the court.

The variables of sex, race, age at time of sentencing, marital status at time of sentencing, offense category for which the inmate is incarcerated, and county of sentencing will be utilized for this thesis as independent variables.

Sex - Because there were only ten (10) females in the sample (2.7%) no statistical tests were performed. The mean sentence length for the females was 13 years as compared to the average length for males of 10 years. It appeared that the women were only imprisoned when convicted of a more serious type of offense, such as homicide.

Race - Race will be divided into two categories, black and white. The black category includes one inmate who was classified as "Indian." It was not clear from the data

whether this person was from India or was an American Indian. In either case the person would be considered non-white, therefore was placed in the black category.

Age - Age will be divided into four (4) categories: (1) 18-24; (2) 25-29; (3) 30-39; and (4) 40+. The categories will represent the age of the offender at the time of sentencing.

Marital Status - Marital Status will be divided into three (3) categories: (1) Married; (2) Single; and (3) Separated/Divorced. These categories will represent the marital status of the offender at the time of sentencing.

Offense Category for Which the Inmate is Imprisoned - Types of offenses will be divided into five (5) groups: (1) Sex Offenses; (2) Drug Offenses; (3) Burglaries; (4) Crimes Against Person (other than sex offenses); and (5) Crimes Against Property (other than burglaries). Table 13 displays the five types of offenses along with a list of crimes found in the sample cases appropriately categorized underneath.

County of Sentencing - West Virginia's fifty-five (55) counties will be divided into three (3) groups according to population. The first group will include those counties with a population of 50,000 or more. These counties will be considered urban counties. The second group will include those counties with a population of 25,000 to 49,999. The

TABLE 3
CATEGORIES AND CRIMES FOR THE VARIABLE
SERIOUSNESS OF OFFENSE

I.	<u>Sex Offenses</u>
	Sexual Assault (1st, 2nd, or 3rd Degree)
	Rape
	Incest
	Sexual Abuse
II.	<u>Drug Offenses</u>
	Possession of a Controlled Substance
	Possession with Intent to Deliver a Controlled Substance
	Delivery of a Controlled Substance
	Transfer of a Controlled Substance
	Unlawful and Felonious Manufacture of Marijuana
III.	<u>Burglary</u>
	Daytime or Nighttime Burglary
	Housebreaking
IV.	<u>Crimes Against Person (other than sex)</u>
	Robbery
	Abduction
	Murder
	Assault
	Unlawful Wounding
	Manslaughter (Voluntary or Involuntary)
	Kidnapping
V.	<u>Crimes Against Property (other than burglary)</u>
	Forgery
	Uttering
	Receiving Stolen Goods
	Breaking and Entering
	Grand Larceny
	Arson
	Fraud
	Embezzlement

third group will be comprised of counties with a population of less than 25,000.

Each independent variable will be placed in a contingency table along with dependent variable information. Appropriate tests of significance will be applied to determine whether or not the relationships between each independent variable and the dependent variable are significant. If significance is established, appropriate tests of association will be applied. The data will be subject to further examination and explanation.

The basic questions posed by this thesis are: (1) Does sentence disparity exist in the West Virginia Prison System? If so, to what extent? (2) If differences in sentence lengths do exist, what are some of the factors which contribute to these disparities?

This study will attempt to answer these questions by testing eight (8) hypotheses. It is anticipated that the independent variables will have a significant relationship to the dependent variable, sentence length.

HYPOTHESES

Two-Variable Hypotheses

Hypothesis 1: Black defendants receive longer prison sentences than white defendants.

It is believed that a relationship will be found between prison sentences which blacks receive and prison sentences which whites receive--specifically, that blacks receive longer prison sentences than whites. Quinney, (1970, p. 142), says that blacks are convicted with less evidence and sentenced to more severe punishment than whites. Other findings suggest that anti-black judges are associated with the traditional southern culture (of which West Virginia is a part)--a culture that is concerned with crime, prejudiced against blacks and relatively punitive in their sentencing philosophies (Gibson, 1978, p. 455-478).

Hypothesis 2: There is a relationship between the marital status of a defendant and the length of sentence he/she receives.

This research project will attempt to identify a relationship between the marital status of a defendant and the length of sentence he or she receives. It is believed that married defendants will be favored over unmarried defendants. Roscoe Martin (1934) found that marrieds received shorter sentences than the divorced. His sample consisted of 10 percent of the felony cases disposed of in the Texas district courts in 1930. However, Martin used no tests of significance

or measures of association in his study.

Hypothesis 3: There is a relationship between the age of a defendant and the length of sentence he/she receives.

It is believed that a relationship will develop between the age of the offender at the time of sentencing and the length of sentence received. Roscoe Martin concluded that age has little or no effect on the severity of sentences. Again, it should be stressed that Martin's study is not a recent one and no tests of significance or measures of association were used in his study. It is the position of this researcher that a relationship will be found.

Hypothesis 4: There is a relationship between the type of offense and the length of sentence a defendant receives.

It is expected that a relationship will develop between type of offense and length of sentence. It is common knowledge that people who commit violent crimes such as murder get longer sentences than those who commit a crime such as shoplifting. Table 4 gives representative examples of types of crimes and the average sentence lengths received in U.S. District Courts in 1979 (Sourcebook of Criminal Justice Statistics, 1980, p. 434-435).

Green (1960, p. 348-358) found that the seriousness of offense along with the number of bills of indictment exerts the most influence in regard to length of penitentiary sentences. Chiricos and Waldo (1975, p. 753-772) found

TABLE 4

DEFENDANTS SENTENCED IN U.S. DISTRICT COURTS,
by Type of Offense and Length of Sentence
year ending June 30, 1979

OFFENSE	TOTAL DEFENDANTS	TOTAL IMPRISONED	AVERAGE SENTENCE
Homicide	119	85	167.1 months
Robbery	1,230	1,133	147.2 months
Assault	419	229	36.1 months
Burglary	174	109	43.7 months
Larceny/Theft	3,919	1,517	34.8 months
Embezzlement	1,652	473	29.7 months
Fraud	5,149	1,878	29.1 months
Auto Theft	615	451	44.0 months
Forgery/Counterfeiting	2,712	1,360	38.5 months
Sex Offenses	118	86	73.5 months
Drug Prevention and Control Act	5,067	3,641	50.8 months
Kidnapping	73	61	211.2 months

seriousness of offense to be of considerable importance when related to length of sentence.

Hypothesis 5: There is a relationship between the type of county from which a defendant comes and the length of sentence he/she receives.

This study will attempt to identify a relationship between the type of county from which a defendant comes (either urban or rural) and the length of sentence he/she receives. West Virginia's fifty-five (55) counties will be divided into three groups according to 1980 census population figures. See Table 5 for complete information (West Virginia Blue Book, 1980 Census Counts, 1981, p. 984). It is anticipated that defendants from urban counties will receive longer sentences than defendants from rural counties.

Three-Variable Hypotheses

Hypothesis 6: Blacks receive longer prison sentences than whites for comparable offenses.

It is expected that a relationship will develop between black prison sentences and white prison sentences when controlling for type of offense. This is an attempt to show that not only are blacks sentenced to lengthier terms than whites, but that blacks are sentenced more severely than whites for committing the very same type of crime.

Hypothesis 7: There is a relationship between the age of a defendant and the length of sentence he/she receives for comparable offenses.

It is believed that there is a relationship between the

TABLE 5

WEST VIRGINIA COUNTIES, ACCORDING TO POPULATION

County	Pop.	County	Pop.
<u>Group 1</u>		<u>Group 3</u>	
Kanawha	231,414	Lincoln	23,675
Cabell	106,835	Upshur	23,427
Wood	93,648	Wetzel	21,874
Raleigh	86,821	Lewis	18,813
Harrison	77,710	Barbour	16,639
Monongalia	75,024	Taylor	16,584
Mercer	73,942	Roane	15,952
Marion	65,789	Summers	15,875
Ohio	61,389	Hampshire	14,867
Fayette	57,863	Braxton	13,894
Logan	50,679	Monroe	12,873
		Webster	12,245
		Ritchie	11,442
		Tyler	11,320
		Clay	11,265
<u>Group 2</u>		Morgan	10,711
McDowell	49,899	Grant	10,210
Berkeley	46,775	Hardy	10,030
Wayne	46,021	Pocahontas	9,919
Marshall	41,608	Tucker	8,675
Hancock	40,418	Gilmer	8,334
Putnam	38,181	Calhoun	8,250
Greenbrier	37,665	Pleasants	8,236
Mingo	37,336	Pendleton	7,910
Wyoming	35,993	Doddridge	7,433
Brooke	31,117	Wirt	4,922
Preston	30,460		
Boone	30,447		
Jefferson	30,302		
Randolph	28,734		
Nicholas	28,126		
Mineral	27,234		
Mason	27,045		
Jackson	25,794		

age of a defendant and the length of sentence he or she receives when controlling for type of offense. It is the position of the researcher that younger defendants receive shorter sentences than older defendants for committing the same crime. This position is based on the belief that judges use their discretion to the benefit of younger defendants.

Hypothesis 8: There is a relationship between the marital status of a defendant and the length of sentence received for comparable offenses.

This hypothesis is based on the belief that judges will use their discretionary power when determining sentence lengths of married or unmarried defendants. There is always the societal position that married persons have responsibilities and cannot fulfill these responsibilities when in prison. Thus, married persons will receive shorter sentences.

Chapter 3

GENERAL FINDINGS

The purpose of this study was to identify which specified variables were related to the variable length of prison sentence. The majority of sentences (48.3%) fell into the 1-5 year category, while life sentences were handed down to only 11.7 percent of the offenders (See Table 6). The 1-5 year sentences usually consisted of crimes against property (69.5%). This category also included 91.7% of the drug related crimes in the sample. The 6-10 year category consisted mainly of burglaries (26%) and crimes against person (54%). The 11+ category, which includes sentences from 11 years to 45 years, was composed of a majority of crimes against person (87.3%), while 95.3 percent of the life sentences were crimes against person.

TABLE 6

NUMBER OF CASES IN SAMPLE
by Length of Sentence

Length of Sentence	# Of Cases	Percent
1-5 years	177	48.3%
6-10 years	76	20.7%
11+ years	71	19.3%
Life*	43	11.7%
Totals	367	100.0%

*This category includes one sixteen (16) year old who was transferred from juvenile court and tried as an adult.

When analyzing the types of offenses in the sample, five distinct categories emerged. These were (1) Sex offenses; (2) Drug offenses, (3) Burglaries; (4) Crimes Against Person (other than sex offenses); and (5) Crimes Against Property (other than burglaries). (See Table 7). Crimes against person was the largest category and included 44.6 percent of the total crimes. Crimes against property comprised 35 percent of the sample while sex offenses, drug offenses and burglaries were equally represented at close to 7 percent each.

TABLE 7
NUMBER OF CASES IN SAMPLE
by Type of Offense

Type of Offense	# Of Cases	Percent
Sex	25	6.8%
Drug	24	6.5%
Burglary	26	7.1%
Crimes Against Person	164	44.6%
Crimes Against Property	<u>128</u>	<u>35.0%</u>
Totals	367	100.0%

An examination of the variable race showed that white offenders make up a very large percentage (84.5%) of the inmate population in the West Virginia Prison System, leaving the black category with only 15.5 percent of the sample population (See Table 8).

TABLE 8
NUMBER OF CASES IN SAMPLE
by Race

Race	# Of Cases	Percent
White	310	84.5%
Black	<u>57</u>	<u>15.5%</u>
Totals	367	100.0%

A further analysis of race shows that whites and blacks were evenly represented in each age category (See Table 9). Forty-nine (49) percent of white offenders were in the 18-24 category as compared to 52.6 percent blacks in that same category. The Kolmogorov-Smirnov Test of Significance failed to show any significant relationship at the .05 level of significance between race and age of the offender.

TABLE 9
 NUMBER OF CASES IN SAMPLE
 by Race and Age of Offender

Age of Offender	White	Percent	Black	Percent
18 - 24 yrs.	152	49.0%	30	52.6%
25 - 29 yrs.	68	21.9%	13	22.8%
30 - 39 yrs.	56	18.1%	9	15.8%
40+ yrs.	34	11.0%	5	8.8%
Totals	310	100.0%	57	100.0%
Kolmogorov-Smirnov: $D=.04, p.>.05$				

Age of the offender at the time of sentencing was broken down into four categories (See Table 10). Half those incarcerated (49.6%) were young offenders, eighteen to twenty-four years of age when sentenced. Further examination reveals that a large percentage (72%) were twenty-nine years old or younger. Only 10.6 percent were forty years old or older when sentenced.

TABLE 10
 NUMBER OF CASES IN SAMPLE
 BY Age

Age of Offender	# Of Cases	Percent
18 - 24 years	182	49.6%
25 - 29 years	81	22.1%
30 - 39 years	65	17.7%
40+ years	<u>39</u>	<u>10.6%</u>
Totals	367	100.0%

An analysis of the marital status of the inmates in the sample discloses that more than half those incarcerated (52.1%) were single at the time of sentencing. (See Table 11). This corresponds to the fact that half the offenders were relatively young when sentenced, therefore being less likely to be married. Twenty-nine (29) percent of the inmates were married, 14.9 percent were divorced and a small percentage (3.8%) were separated.

TABLE 11
 NUMBER OF CASES IN SAMPLE
 by Marital Status

Marital Status	# Of Cases	Percent
Married	107	29.2%
Single	191	52.1%
Separated	14	3.8%
Divorced	<u>55</u>	<u>14.9%</u>
Totals	367	100.0%

Table 12 divides the sample cases into groups according to type of county. It was found that 56.7 percent of those incarcerated came from urban counties (those with a population of 50,000 or more). Twenty-six percent fell into Group 2 counties (25,000 - 49,999), while only 17.2 percent came from Group 3 counties (less than 25,000 population).

A further analysis submits to us that 60 percent of the sex offenses took place in urban counties as did 62.5 percent of the drug crime, 42.3 percent of the burglaries, 59.7 percent of the crimes against person and 53.1 percent of the crimes against property (See Table 13).

TABLE 12
NUMBER OF CASES IN SAMPLE
by Type of County

Type of County	# Of Cases	Percent
Group 1 (50,000+)	208	56.7%
Group 2 (25,000-49,999)	96	26.1%
Group 3 (Less than 25,000)	<u>63</u>	<u>17.2%</u>
Totals	367	100.0%

TABLE 13
 TYPE OF OFFENSE
 by Type of County

Type of County	Sex	%	Drug	%	Burglary	%	Person	%	Property	%
Group 1	15	60	15	62.5	11	42.3	98	59.7	68	53.1
Group 2	5	20	7	29.2	4	15.4	47	28.7	34	26.6
Group 3	<u>5</u>	<u>20</u>	<u>2</u>	<u>8.3</u>	<u>11</u>	<u>42.3</u>	<u>19</u>	<u>11.6</u>	<u>26</u>	<u>20.3</u>
Totals	25	100%	24	100.0%	26	100.0%	164	100.0%	128	100.0%

Hypothesis 1: Black defendants receive longer prison sentences than white defendants.

As noted previously, blacks comprised only 15.5 percent of the sample cases. This figure is comparable to the black population in West Virginia. It was expected that blacks would receive longer prison terms than whites--in other words, race would influence the length of sentence a person receives. The Kolmogorov-Smirnov Test of Significance confirmed this expectation. Kolmogorov-Smirnov demonstrated a significant relationship at the .05 level of significance, between race and length of sentence. Therefore, we rejected the null hypothesis which implies that race does not have a significant bearing on length of sentence received. The Contingency Coefficient demonstrated a mild association level between the two variables ($C = .22$). (See Table 14).

TABLE 14
LENGTH OF SENTENCE (years)
according to Race

Sentence Length	White		Black		Totals
	#	%	#	%	
1 - 5 yrs.	161	51.9%	16	28.0%	177
6 - 10 yrs.	63	20.3%	13	22.8%	76
11+ yrs.	49	15.8%	22	38.6%	71
Life	<u>37</u>	<u>11.9%</u>	<u>6</u>	<u>10.5%</u>	<u>43</u>
Totals	310	99.9%	57	99.9%	367
Kolmogorov-Smirnov: $D = .24, p. < .05$					

Hypothesis 2: There is a relationship between the marital status of a defendant and the length of sentence he/she receives.

It was anticipated that marital status would be related to the length of sentence a defendant received. However, by utilizing Chi Square we were unable to reject the null hypothesis which says that there is no relationship between marital status and length of sentence. Thus, the marital status of an offender does not appear to influence the length of sentence handed down by the courts ($\chi^2 = .61$, $p > .05$). (See Table 15).

TABLE 15

LENGTH OF SENTENCE (years)
according to Marital Status

Sentence Length	Married		Single		Sep/Div.*		Totals
	#	%	#	%	#	%	
1-5 years	52	48.6%	91	47.6%	34	49.3%	117
6-10 years	22	20.5%	41	21.5%	13	18.8%	76
11+ years	22	20.5%	36	18.8%	13	18.8%	71
Life	<u>11</u>	<u>10.4%</u>	<u>23</u>	<u>12.1%</u>	<u>9</u>	<u>13.1%</u>	<u>43</u>
Totals	107	100.0%	191	100.0%	69	100.0%	367

$\chi^2 = .61$, $p > .05$

Hypothesis 3: There is a relationship between the age of a defendant and the length of sentence received.

It was believed that a relationship would develop between the age of an offender at the time of sentencing and the length of sentence received. The Chi Square Test of Statistical Significance demonstrated a relationship between these two variables ($X^2 = 18.2$, $p < .05$). However, Gamma showed a very weak association level between the variables (Gamma = .075). This implies that a very small amount of variation among the sentence lengths can be explained by the age of the offender at the time of sentencing. (See Table 16).

TABLE 16

LENGTH OF SENTENCE (years)
according to Age of Offender

Sentence Length	18-24		25-29		30-39		40+		Totals
	#	%	#	%	#	%	#	%	
1-5 yrs	86	46.7%	43	53.7%	33	51.6%	15	38.5%	177
6-10 yrs	46	25.0%	18	22.5%	8	12.5%	4	10.3%	76
11+ yrs	36	19.6%	12	15.0%	11	17.2%	12	30.7%	71
Life	<u>16</u>	<u>8.7%</u>	<u>7</u>	<u>8.8%</u>	<u>12</u>	<u>18.7%</u>	<u>8</u>	<u>20.5%</u>	<u>43</u>
Totals	184	100.0%	80	100.0%	64	100.0%	39	100.0%	367

$$X^2 = 18.2, p < .0$$

Hypothesis 4: There is a relationship between the type of offense and the length of sentence a defendant receives.

The Chi Square Test of Significance demonstrated a relationship between type of offense and length of sentence ($\chi^2 = 290.3$) in that we rejected the null hypothesis at the .05 level of significance. (See Table 17). Thus, the type of offense a person commits appears to influence the length of sentence he or she receives. Furthermore, the Contingency Coefficient shows a very strong association between the variable type of offense and the variable sentence length ($C = .66$). This implies that a large amount of variation among sentence lengths can be explained by the type of offense committed.

We can see from the table that 41 of the 43 life sentences (95.3%) were handed down for crimes against person. The remaining two life sentences were for sex offenses. Relatively short sentences were given for drug offenses and crimes against property. These sentence lengths demonstrate the values our society places on human life. As long as one human being is not hurting or killing another human being, the sentence lengths given by the courts are usually short in duration .

TABLE 17
 LENGTH OF SENTENCE (years)*
 according to Type of Offense

Sentence Length	Sex	Drug	Burglary	Person	Property	Totals
1-5 yrs	7 28.0%	22 91.6%	6 23.0%	20 12.2%	123 96.1%	177
6-10 yrs	8 32.0%	2 8.4%	20 77.0%	41 25.0%	5 3.9%	76
11+ yrs	8 32.0%	0 - -	0 - -	62 37.8%	0 - -	71
Life	<u>2 8.0%</u>	<u>0 - -</u>	<u>0 - -</u>	<u>41 25.0%</u>	<u>0 - -</u>	<u>43</u>
Totals	25 100.0%	24 100.0%	26 100.0%	164 100.0%	128 100.0%	367

$\chi^2 = 290.3, p. .05$

*The 11+ category and the Life category were combined in order to compute Chi Square. The 11+ category includes sentences anywhere from 11 years to 45 years.

Hypothesis 5: There is a relationship between the type of county from which a defendant comes (either urban or rural) and the length of sentence received.

It was anticipated that defendants from urban counties would receive longer sentences than defendants from rural counties. However, the Chi Square Test of Statistical Significance failed to show a relationship between the type of county and sentence length received ($\chi^2 = 10.07$, $p = .05$). (See Table 18). Thus, the type of county from which a person comes does not appear to influence the length of sentence received. This might be explained by the statewide sentencing guidelines by which West Virginia abides.

TABLE 18
SENTENCE LENGTH (years)
according to Type of County

Sentence Length	Group 1		Group 2		Group 3		Total
	#	%	#	%	#	%	
1 - 5 years	97	46.6%	48	50.0%	32	50.8%	177
6 - 10 years	44	21.1%	14	14.6%	18	28.6%	76
11+ years	45	21.6%	17	17.7%	9	14.3%	71
Life	22	10.5%	17	17.7%	4	6.3%	43
Totals	208	99.8%	96	100.0%	63	100.0%	367

$$\chi^2 = 10.07, p > .05$$

Hypothesis 6: Blacks receive longer prison sentences than whites for comparable offenses.

Table 19 displays race, the five types of offenses and the sentence lengths received for each. This table will be broken down into five (5) categories according to type of crime and race according to length of sentence. One type of offense will be studied at a time. Hypothesis 6 will be broken down into five (5) sub-hypotheses. The Kolmogorov-Smirnov Test of Significance will be utilized to examine the hypotheses.

Hypothesis 6-1: Blacks receive longer prison sentences than whites for sex offenses.

We were unable to reject the null hypothesis which says that there is no difference in sentence lengths between blacks and whites for sex offenses ($D = .41$, $p > .05$). (See Table 19-1).

Hypothesis 6-2: Blacks receive longer prison sentences than whites for drug offenses.

We were unable to reject the null hypothesis which proposes that there is no difference in prison sentences for drug offenses between blacks and whites ($D = .95$, $p > .05$). Blacks accounted for only 4 percent of those incarcerated for drug offenses (See Table 19-2).

TABLE 19
 LENGTH OF SENTENCE (years)
 according to Race and Type of Offense

Length of Sentence	#	SEX %	#	DRUG %	#	BURGLARY %	#	PERSON %	#	PROPERTY %
<u>for Blacks</u>										
1-5 yrs.	0	- -	0	- -	2	50.0%	4	12.2%	11	100.0%
6-10 yrs.	4	50.0%	1	100.0%	2	50.0%	6	18.2%	0	- -
11+ yrs	3	37.5%	0	- -	0	- -	18	54.5%	0	- -
Life	1	12.5%	0	- -	0	- -	5	15.1%	0	- -
Totals	8	100.0%	1	100.0%	4	100.0%	33	100.0%	11	100.0%
<u>for Whites</u>										
1-5 yrs.	7	41.2%	22	95.6%	4	18.2%	16	12.2%	111	94.8%
6-10 yrs.	4	23.5%	1	4.4%	18	81.8%	36	27.5%	5	4.2%
11+ yrs	5	29.4%	0	- -	0	- -	43	32.8%	1	.8%
Life	1	5.9%	0	- -	0	- -	36	27.5%	0	- -
Totals	17	100.0%	23	100.0%	22	100.0%	131	100.0%	117	99.8%

TABLE 19-1
 LENGTH OF SENTENCE (years)
 according to Race and Sex Offenses

Sentence Length	Black		White		Totals
	#	%	#	%	
1 - 5 years	0	- -	7	41.2%	7
6 - 10 years	4	50.0%	4	23.5%	8
11+ years	3	37.5%	5	29.4%	8
Life	<u>1</u>	<u>12.5%</u>	<u>1</u>	<u>5.9%</u>	<u>2</u>
Totals	8	100.0%	17	100.0%	25

Kolmogorov-Smirnov: $D = .41, p. > .05$)

TABLE 19-2
 LENGTH OF SENTENCE (years)
 according to Race and Drug Offenses

Sentence Length	#	Black		White		Totals
		#	%	#	%	
1 - 5 years	0	- -		22	95.0%	22
6 - 10 years*	<u>1</u>	<u>100.0%</u>		<u>1</u>	<u>4.3%</u>	<u>2</u>
Totals	1	100.0%		23	100.0%	24

Kolmogorov-Smirnov: $D = .95, p. > .05$)

* There were no sentence lengths beyond 10 years for drug offenses.

Hypothesis 6-3: Blacks receive longer prison sentences than whites for burglary offenses.

Again, we were not able to reject the null hypothesis which says that there is no relationship between prison sentences for blacks and whites for burglaries ($D = .32$, $p. > .05$). (See Table 19-3).

TABLE 19-3

LENGTH OF SENTENCE (years)
according to Race and Burglaries

Length of Sentence	Black		White		Totals
	#	%	#	%	
1 - 5 years	2	50.0%	4	18.2%	6
6 - 10 years*	2	50.0%	18	81.8%	20
Totals	4	100.0%	22	100.0%	26

Kolmogorov-Smirnov: $D = .32$, $p. > .05$

*There were no sentence lengths beyond 10 years for burglary offenses.

Hypothesis 6-4: Blacks receive longer prison sentences than whites for crimes against person.

We were not able to reject the null hypothesis which states that there is no difference in prison sentences for crimes against person between blacks and whites ($D = .13$, $p. > .05$). (See Table 19-4)

TABLE 19-4
 LENGTH OF SENTENCE (years)
 according to Race and Crimes Against Person

Length of Sentence	Black		White		Total
	#	%	#	%	
1 - 5 years	4	12.1%	16	12.2%	20
6 - 10 years	6	18.2%	36	27.5%	42
11+ years	18	54.5%	43	32.8%	61
Life	5	15.1	36	27.4%	41
Totals	33	99.9%	131	99.9%	164

Kolmogorov-Smirnov: $D = .13, p. > .05$

Hypothesis 6-5: Blacks receive longer prison sentences than whites for crimes against property.

Lastly, for property offenses we were, again, not able to reject the null hypothesis ($D = .05, p. .05$). (See Table 19-5).

It appears that the percentage of blacks in the sample received longer prison sentences than did whites in the sample (See Hypothesis 1, Table 14). This seems contradictory to the findings in Hypothesis 6, which present to us that when comparing sentence lengths with race and types of offenses, there is no relationship.

We can conclude from these findings that a larger percentage of blacks must be convicted and imprisoned for the

more serious crimes. We can see from Table 19 that 33 or 58 percent of the blacks in the sample were convicted of crimes against person, while 131 or 42 percent of the whites in the sample were convicted of this offense. Furthermore, we see that 8 blacks (14%) were convicted of sex offenses while just 17 whites (5%) were imprisoned for this offense.

TABLE 19-5

LENGTH OF SENTENCE (years)
according to Race and Crimes Against Property

Sentence Length	Black	White	Total
1 - 5 years	11 100.0%	111 94.9%	122
6 - 10 years	0 - -	5 4.3%	5
11+ years*	<u>0</u> - -	<u>1</u> .8%	<u>1</u>
Totals	11 100.0%	117 100.0%	128

Kolmogorov-Smirnov: D = .05, p. .05

*There were no life sentences for crimes against property.

Hypothesis 7: There is a relationship between the age of a defendant and the length of sentence he/she receives for comparable offenses.

Table 20 shows us the age of the offender at time of sentencing, the type of offense, and the length of sentence handed down for each offense. The observed and expected frequencies for the crimes of sex, drugs, and burglaries are not large enough to perform statistical tests. Chi square will be performed on crimes against person to test for significance. Kolmogorov-Smirnov will be used for crimes against property because there will be only two categories of sentence lengths for property offenses.

Hypothesis 7-1: There is a relationship between the age of a defendant and the length of sentence he/she receives for crimes against person.

We were able to reject the null hypothesis at the .05 level of significance with Chi Square. It appears that there is a relationship between the age of a defendant and the length of sentence he/she receives for crimes against person. The Contingency Coefficient shows a moderate level of association between the variables ($C = .31$). (See Table 20-1). It seems that younger offenders receive longer prison sentences than older offenders for crimes against person.

TABLE 20

LENGTH OF SENTENCE (years)
according to Age and Type of Offense

Sentence Length	18-24			25-29			30-39			40+		
	S	D	Pr.	S	D	Pr.	S	D	Pr.	S	D	Pr.
1 - 5 yrs.	2	7	3	1	6	2	3	6	1	1	3	0
6 - 10 yrs.	3	0	12	3	1	5	1	1	2	1	0	1
11 + yrs.	5	0	0	1	0	0	2	0	0	0	0	0
Life	0	0	0	0	0	0	1	0	0	1	0	0
Totals	10	7	15	5	7	7	7	7	3	3	1	25
			74			31			16			7
			74			31			16			7

TABLE 20-1
 LENGTH OF SENTENCE (years)
 according to Age and Crimes Against Person

Sentence Length	18-24		25-29		30-39		40+		Total
	#	%	#	%	#	%	#	%	
1-5 yrs	2	2.5%	5	16.6%	7	21.9%	5	20.0%	19
6-10 yrs	27	35.1%	7	23.3%	4	12.5%	3	12.0%	41
11+ yrs	31	40.2%	12	40.0%	10	31.3%	10	40.0%	63
Life	<u>17</u>	22.1%	<u>6</u>	20.0%	<u>11</u>	<u>34.3%</u>	<u>7</u>	<u>28.0%</u>	<u>41</u>
Totals	77	100.0%	30	99.9%	32	100.0%	25	100.0%	164
χ^2 Corrected for Continuity = 18.1, p. < .05									

Hypothesis 7-2: There is a relationship between the age of a defendant and the length of sentence he/she receives for crimes against property.

We were not able to reject the null hypothesis which states that there is no relationship between age and sentence length for crimes against property ($D = .18$, $p. > .05$). (See Table 20-2). Since 123 (96%) of the property crimes fell into the 1-5 year sentence category, we can assume that there is no relationship between age and length of sentence for property crimes.

TABLE 20-2

LENGTH OF SENTENCE (years)
according to Age and Crimes Against Property

Sentence Length	18-24		25-29		30-39		40+		Total
	#	%	#	%	#	%	#	%	
1-5 yrs	71	95.9%	30	93.7%	16	100.0%	6	100.0%	123
6-10 yrs	<u>3</u>	<u>4.1%</u>	<u>2</u>	<u>6.3%</u>	<u>0</u>	<u>- -</u>	<u>0</u>	<u>- -</u>	<u>5</u>
Totals	74	100.0%	32	100.0%	16	100.0%	6	100.0%	128

kolmogorov-Smirnov: $D = .18, p > .05$

Hypothesis 8: There is a relationship between the marital status of a defendant and the length of sentence he/she receives for comparable offenses.

Table 21 shows the marital status, type of offense, and the length of sentence received for each. The observed and expected frequencies are not large enough to test for significance. Table 21 will be broken down into percentages in order to get a more thorough picture. Table 21-1 shows the percent represented by each number in Table 21. The percentages are all comparable throughout each type of offense, except for Drug Crimes in the Married category. Drug crimes comprise a much larger percentage in the Married category than in the other two categories.

TABLE 21
 LENGTH OF SENTENCE (years)
 according to Marital Status and Type of Offense

Sentence Length	<u>Married</u>			<u>Single</u>			<u>Sep/Div</u>			<u>Total</u>						
	S	D	Pr.	S	D	Pr.	S	D	Pr.							
1 - 5 yrs.	3	13	2	32	3	7	4	10	67	1	2	1	8	22	177	
6 - 10 yrs.	5	1	5	10	1	3	1	11	22	4	0	0	3	9	1	76
11+ yrs.	1	0	0	20	1	5	0	0	31	0	2	0	0	11	0	71
Life	0	0	0	11	0	1	0	0	22	0	1	0	0	8	0	43
	9	14	7	43	34	12	8	15	85	71	4	2	4	36	23	367

TABLE 21-1
 LENGTH OF SENTENCE (years)
 according to Marital Status and Type of Offense

Sentence Length	<u>Married</u>				
	Sex	Drug	Burglary	Person	Property
1-5	2.8	12.1	1.8	1.8	29.9
6-10	4.6	.9	4.6	9.3	.9
11+	.9	--	--	18.7	.9
Life	--	--	--	10.3	--

Sentence Length	<u>Single</u>				
	Sex	Drug	Burglary	Person	Property
1-5	1.5	3.6	2.0	9.3	35.0
6-10	1.5	.5	5.7	11.5	2.1
11+	2.6	--	--	16.2	--
Life	.5	--	--	11.5	--

Sentence Length	Separated/Divorced				
	Sex	Drug	Burglary	Person	Property
1-5	1.4	2.9	1.4	11.5	31.8
6-10	--	--	4.3	13.0	1.4
11+	2.9	--	--	15.9	--
Life	1.4	--	--	11.6	--

Chapter 4

SUMMARY AND CONCLUSIONS

This study attempted to identify certain variables which might have an effect on the length of prison sentence in West Virginia. The current state of the literature is split between those who believe that sentencing disparity exists and is related to "extralegal factors" such as race, age, sex, etc, and those who believe that sentencing disparity does not exist. These researchers propose that legal variables, such as seriousness of offense, prior arrest record, etc., are the sole basis for sentences rendered by judges, courts, etc. In response to the literature, eight hypotheses were tested. This study examined the issue of sentence disparity and produced data related to the lengths of sentences existing in the West Virginia Prison System currently.

Four of the proposed relationships were found to be significant. A relationship was found to exist between race and length of sentence (Hypothesis 1). A mild degree of association was found between the variables, but not enough to suggest an extremely close relationship or establish causality. Furthermore, when type of offense was controlled for in Hypothesis 6, the relationship disappeared. This finding agrees with the studies of Bensing and Schroeder,

Green, and Carter and Wilkins.

The second significant relationship was found to exist between the age of the offender and the length of sentence received. The measure of association showed only a weak association between the two variables. Later, when controlling for type of offense, age was found to be a significant factor related to crimes against person, but not to crimes against property. Young offenders received longer sentences than did older offenders for crimes against person.

The fourth significant relationship was found to exist between the type of offense and the length of sentence the defendant received. The Chi Square value for this test was extremely high (290.3). Furthermore, the Contingency Coefficient was very high, showing a strong association between type of offense and length of sentence.

This study did not show significant relationships between marital status and length of sentence or county types and lengths of sentences.

It is the position of this researcher that sentence lengths cannot be solely based on extralegal or legal variables separately. Both kinds of variables need to be used in order for the system to be "individualized." Being individualized does not necessarily mean being prejudiced. As in the case of racial disparities, it is not clear whether prejudice exists or not. When type of offense was controlled, no

disparities existed. But, this leaves a question in the mind of the researcher that perhaps the prejudice goes farther back than the courts. It could be that the black man arrested on the street was charged with a more serious crime than his white companions. Much more research needs to be done in the area of sentencing in order to pull together the pieces.

West Virginia does not appear to base its prison sentences on extralegal variables to the extent that other states, especially the southern states, are accused of doing. This study was done in order to analyze the disparity or lack of disparity in prison sentences in West Virginia and the goals of the researcher were met. The study was a very worthwhile attempt to discover new information about one of the most important areas in Criminal Justice today.

BIBLIOGRAPHY

- A Talk with Charles Silberman: If You Wipe Out Disparities, You May End Up With Longer Sentences. Corrections Magazine, 1979, 5:1, 29-30.
- Austin, William and Thomas A. Williams, III. A Survey of Judges' Responses to Simulated Legal Cases: A Research Note on Sentencing Disparity. The Journal of Criminal Law and Criminology, 1977, 68:2, 306-310.
- Bensing, Robert C. and Schroeder, Oliver, Jr. Homicide in an Urban Community. Springfield, Illinois: Charles C. Thomas, 1960.
- Carter, Robert M. and Wilkins, Leslie T. Some Factors in Sentencing Policy. Journal of Criminal Law, Criminology and Police Science, 1967, 58, 503.
- Chiricos, Theodore G. and Waldo, Gordon P. Socioeconomic Status and Criminal Sentencing: An Empirical Assessment of a Conflict Position. American Sociological Review, 1975, 40, 753-772.
- Farrell, R. A. Class Linkages of Legal Treatment of Homosexuals. Criminology, May, 1971, 49-68.
- Fogel, David. We Are the Living Proof: The Justice Model for Corrections, The W. H. Anderson Company, 1975, 56-57, 202-204.
- Gibson, James L. Race as a Determinant of Criminal Sentences: A Methodological Critique and a Case Study. Law and Society Review, Denver, Colorado, 1978, 12:3, 455-478.
- Green, Edward. Inter- and Intra- Racial Crime Relative to Sentencing. Journal of Criminal Law, Criminology and Police Science, 1964, 55, 348-358.
- Greenburg, David F. and Humphries, Drew. The Cooptation of Fixed Sentencing Reform. Crime and Delinquency, April 1980, 206-225.
- Horwitz, Allan and Wasserman, Michael. Some Misleading Conceptions in Sentencing Research. Criminology, November, 1980, 18:3, 411-423.

- Howard, Joseph. Racial Discrimination in Sentencing. Judicature, October, 1975, 59:30, 122-125.
- LaBeff, Emily Elizabeth. Sentence Length and Sentence Disparity: An Analysis and Classification of a Problem in the Sociology of Law. Ann Arbor, Michigan, University Microfilms International, 1979, Dissertation, Oklahoma State University, 144 pages.
- Lizotte, A. J. Extra-legal Factors in Chicago's Criminal Courts: Testing the Conflict Model of Criminal Justice. Social Problems, 1978, 25, 564-580.
- Martin, Roscoe. The Defendant and Criminal Justice. University of Texas Bulletin Number 3437: Bureau of Research in the Social Sciences, 1934, as found in LaBeff, 1979.
- Morris, Norval. Towards Principled Sentencing. Maryland Law Review, Baltimore, Maryland, 1977, 37:2, 267-285.
- Nagel, Stuart; Neff, Marian; and Weiman, Thomas. A Rational Method for Determining Prison Sentences. Judicature, March, 1978, 6:8, 371-375.
- Quinney, Richard. The Social Reality of Crime. Boston: Little, Brown, and Company, 1970.
- Rubin, Sol. New Sentencing Proposals and Laws in the 1970's. Federal Probation, June 1979, 43:2, 20-28.
- Thomas, Charles W. and Cage Robin J. The Effect of Social Characteristics on Juvenile Court Dispositions. Sociological Quarterly, 1977, 18, 237-252.
- West Virginia Blue Book, Population of Counties, 1980 Census, 1981, 984.
- Willick, Daniel H.; Gehlker, Gretchen; and Watts, Anita McFarland. Social Class as a Factor Affecting Judicial Dispositions: Defendants Charged with Criminal Homosexual Acts. Criminology, May, 1975, 13:1, 57-77.
- Wolfgang, Marvin E. Age, Adjustment and the Treatment Process of Criminal Behavior. Psychiatry Digest, July, 1964, 21-35 and August, 1964, 23-36.

MASTER CARD

Name _____ Serial No. _____ County

Crime Sentence

Expiration Full-time _____ S. S. No. _____

Marital Status Sex Birth Date Race

Eligible for Parole _____

Considered _____

FAMILY AND EMERGENCY DATA

NAME	RELATIONSHIP	ADDRESS

PAROLE RECORD

Paroled _____ Parole expires Max. _____ Min. _____

Supervision Officer _____

Residence _____

Employer _____

Discharges from Parole _____ Discharged by exp. _____