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**AMERICAN  
INDIANS  
AND THE  
CRIMINAL  
JUSTICE  
SYSTEM  
IN MINNESOTA**

ROGER BENJAMIN and CHOONG NAM KIM

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INDIANS  
AND THE  
CRIMINAL  
JUSTICE  
SYSTEM  
IN MINNESOTA

A Research Report by  
Roger Benjamin  
and  
Choong Nam Kim

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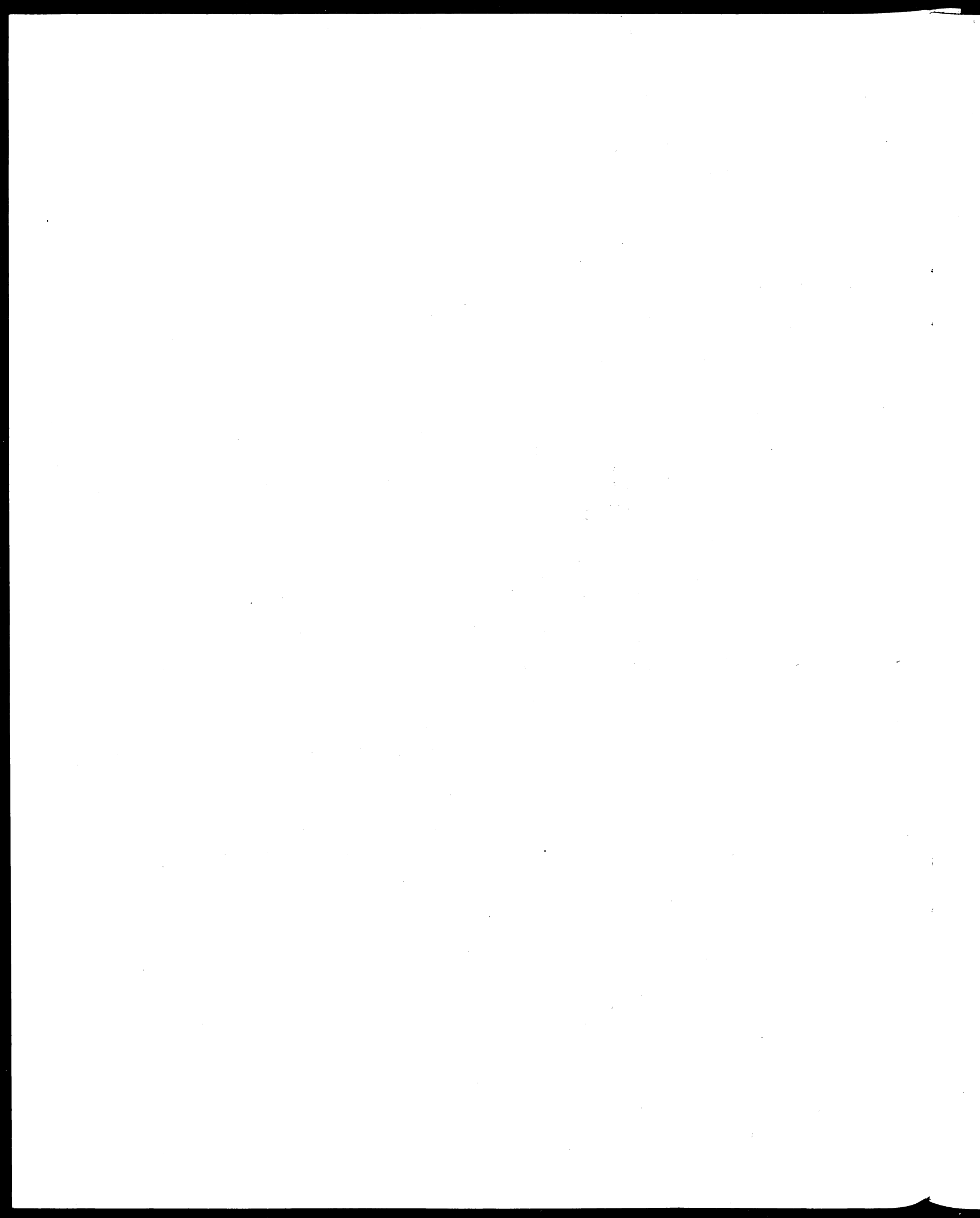
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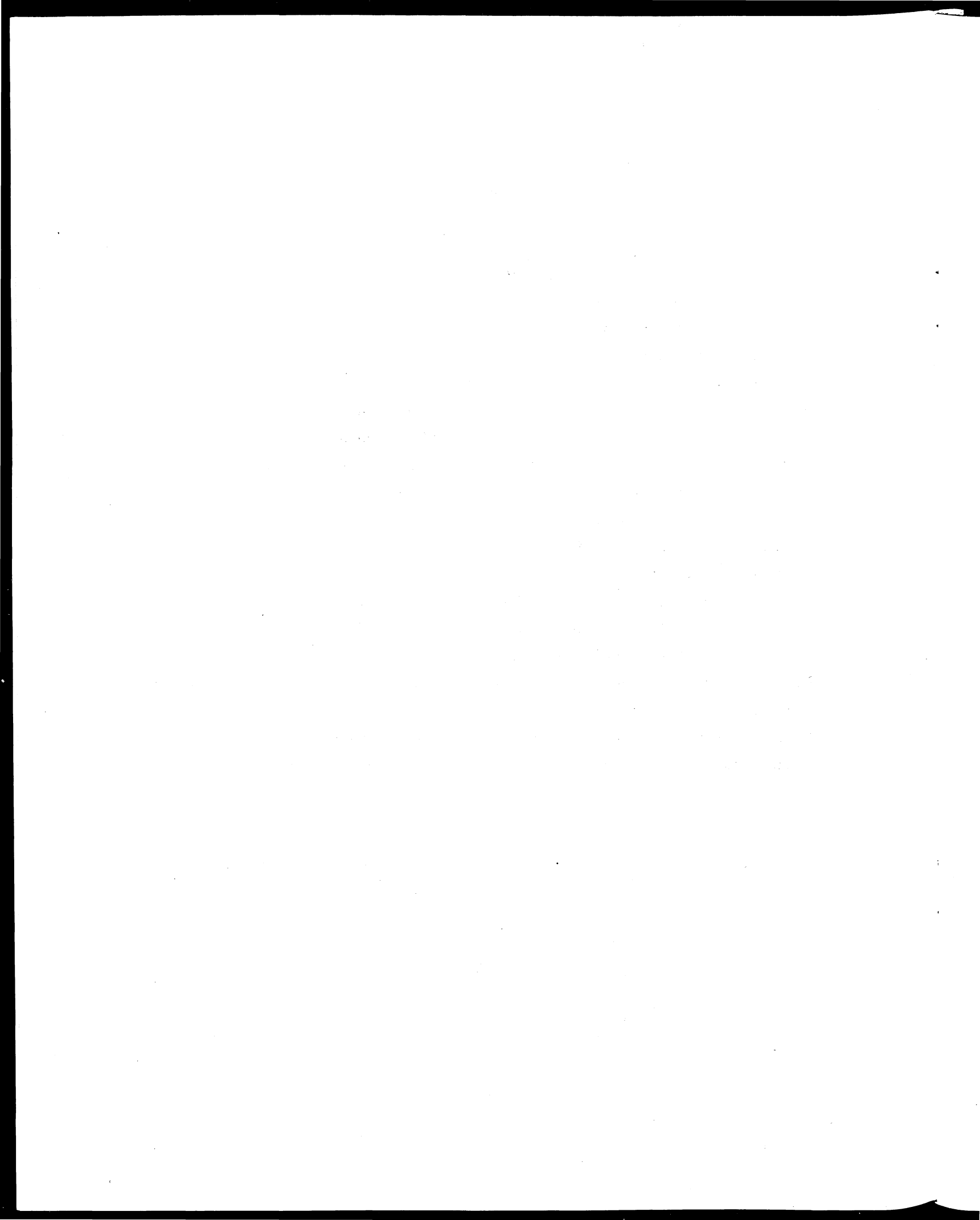
## PREFACE

One of the important consequences of the report of the President's Commission on Law Enforcement and Administration of Justice, published in 1967, was that it forced us to analyze the process in which individuals become involved with our police, our courts, and our corrections agencies as a total system -- a criminal justice system -- even though these separate parts rarely act in concert as a system.

An important by-product of the systems perspective was the realization that complete, comprehensive, and readily accessible data on persons in the criminal justice system is imperative if understanding is to be enhanced and improvements made. One step in this direction has been made with the development of OBTS (Offender Based Transactional System), a computerized records system in the state's Bureau of Criminal Apprehension. Among other things, OBTS allows statistical analyses of the impact of the criminal justice system on groups of individuals (such as minority groups) both state-wide and for various parts of the state.

The study reported here by University professor, Roger Benjamin and his graduate assistant Choong Nam Kim grows out of concern for the lack of knowledge about the effect of race on the treatment of individuals in the different parts of the criminal justice system and throughout the State of Minnesota. The project was conducted under the auspices of the Center for Urban and Regional Affairs (CURA) with financial support from federal LEAA funds available through the Governor's Commission on Crime Prevention and Control.

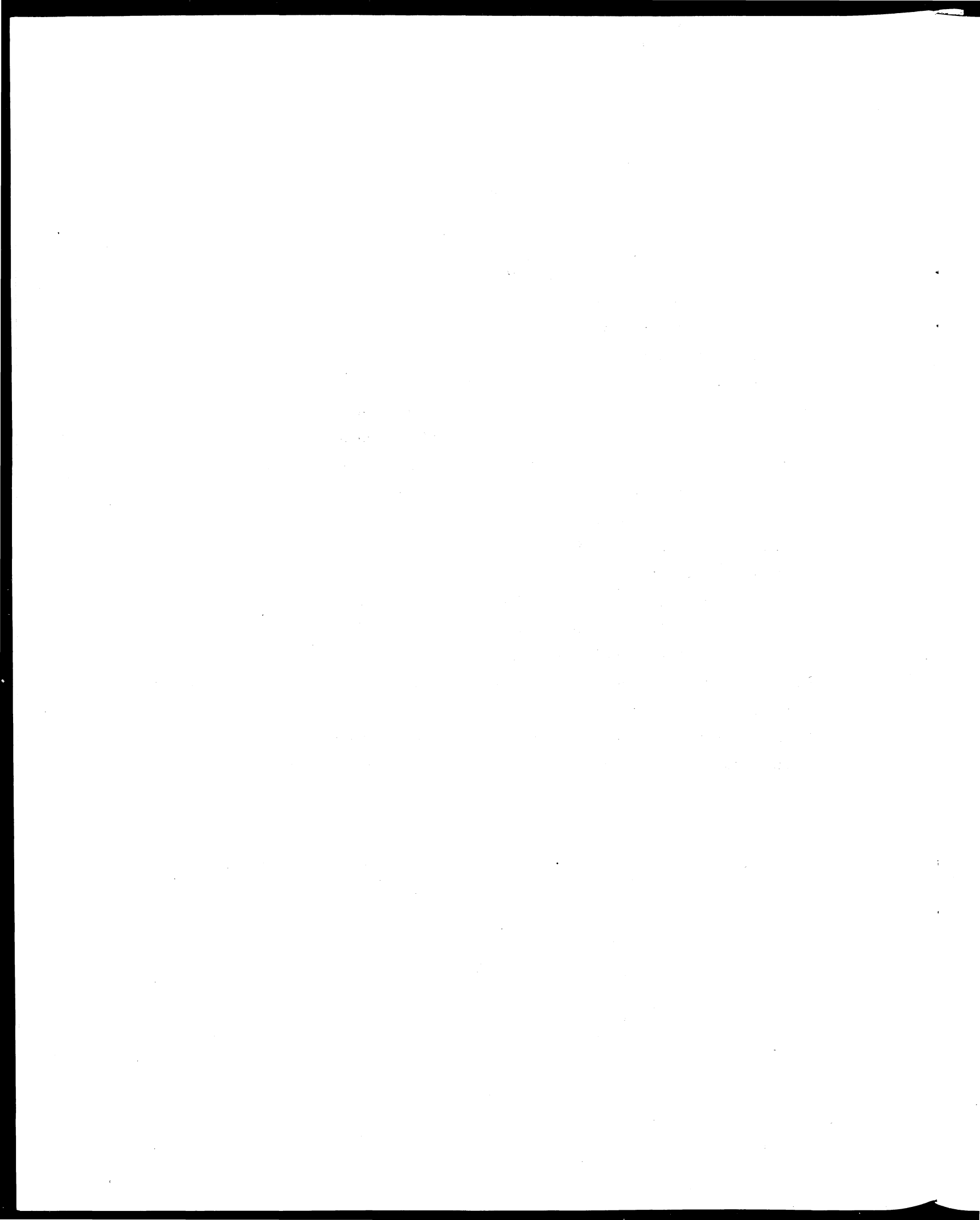
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Dulcie Hagedorn and John Pouphart provided the impetus for this study and gave constant encouragement and support throughout the project itself.



## A BRIEF OVERVIEW

This report is the first of two reports which attempt to develop a detailed description and analysis of the relationship of the American Indian to the Minnesota Criminal Justice System.

The purpose of this report is to develop a statistical comparison of the treatment of American Indians, blacks, and whites from arrest through incarceration. A second report will describe how different minorities in the Twin Cities perceive local police performance and the quality of life available to them there. By comparative analysis we seek to highlight the similarities and differences among the American Indian in Minnesota and their white and black counterparts.

The major questions addressed in this study are:

- 1) For what crimes are members of the three racial groups arrested?
- 2) Are there differences among races in the way cases are handled in Minnesota?
- 3) Are there differences among races in the type of sentences given?
- 4) Are there differences among regions in the way members of each race are treated?
- 5) How are members of each race treated once they are inside the Minnesota correctional system?

Among the findings of the report are the following:

- 1) Arrest rates are higher for American Indians and blacks than for whites.
  - 2) Arrested whites are more likely than Indians to secure bail.
  - 3) Acquittal or dismissal rates are higher for Indians than for whites.
- The result of findings 1-3 is that a substantial number of Indians spend time in jail without bail only to have their cases dismissed.
- 4) Whites are more likely than Indians to receive probation.
  - 5) The northern counties in Minnesota seem to discriminate against Indians more than the metro area does.
  - 6) Once inside the correctional system, race drops out as a significant factor in how a person is treated.

## INTRODUCTION

This report presents a statistical comparison of American Indians, blacks, and whites as they are being treated in the Minnesota criminal justice system. We have collected data from all stages of that system: from arrest, through prosecution, through the courts, and finally into the corrections system as well (see figure 1). The data are taken from the newly developed Offender Based Transaction System (OBTS) of the Bureau of Criminal Apprehension and from the Minnesota Corrections Department. They allow a state wide description to be developed.

This study is divided into two parts. The first section comprises the statistical comparison of Indians, blacks, and whites from arrest through the disposition of cases. The second part focuses on a comparative analysis of the importance of race, as opposed to other factors in determining length of time served in prison.

We must note at the outset that both parts of this analysis assume the original data to be accurate. In fact, however, there are many errors in the data due to such things as the double counting of charges and to errors of omission and commission. We assume that these errors are random and thus do not affect the results of the study. The reader will note that frequencies and/or percentages in several tables do not sum to 100. Moreover, in order to create bases of comparison, we have had to make population estimates of blacks and American Indians that are inevitably error prone, but these errors are again not of sufficient magnitude to affect the conclusions of the study. Where the number of cases available for a particular comparison was smaller than the numbers of our total sample, those smaller numbers are indicated on the table presenting the data. In all cases where this number (N) was not indicated, the data presented represents the total sample.

The goals of this volume are modest but, we feel, important. No one, to our knowledge, has developed state level, statistically based comparisons of the American Indian with other racial groups in the context of the criminal justice system. Though we deal only with information from Minnesota, the size of our data base is large enough to lead us to suspect the findings could be generalized to other states with American Indian populations of significant size.

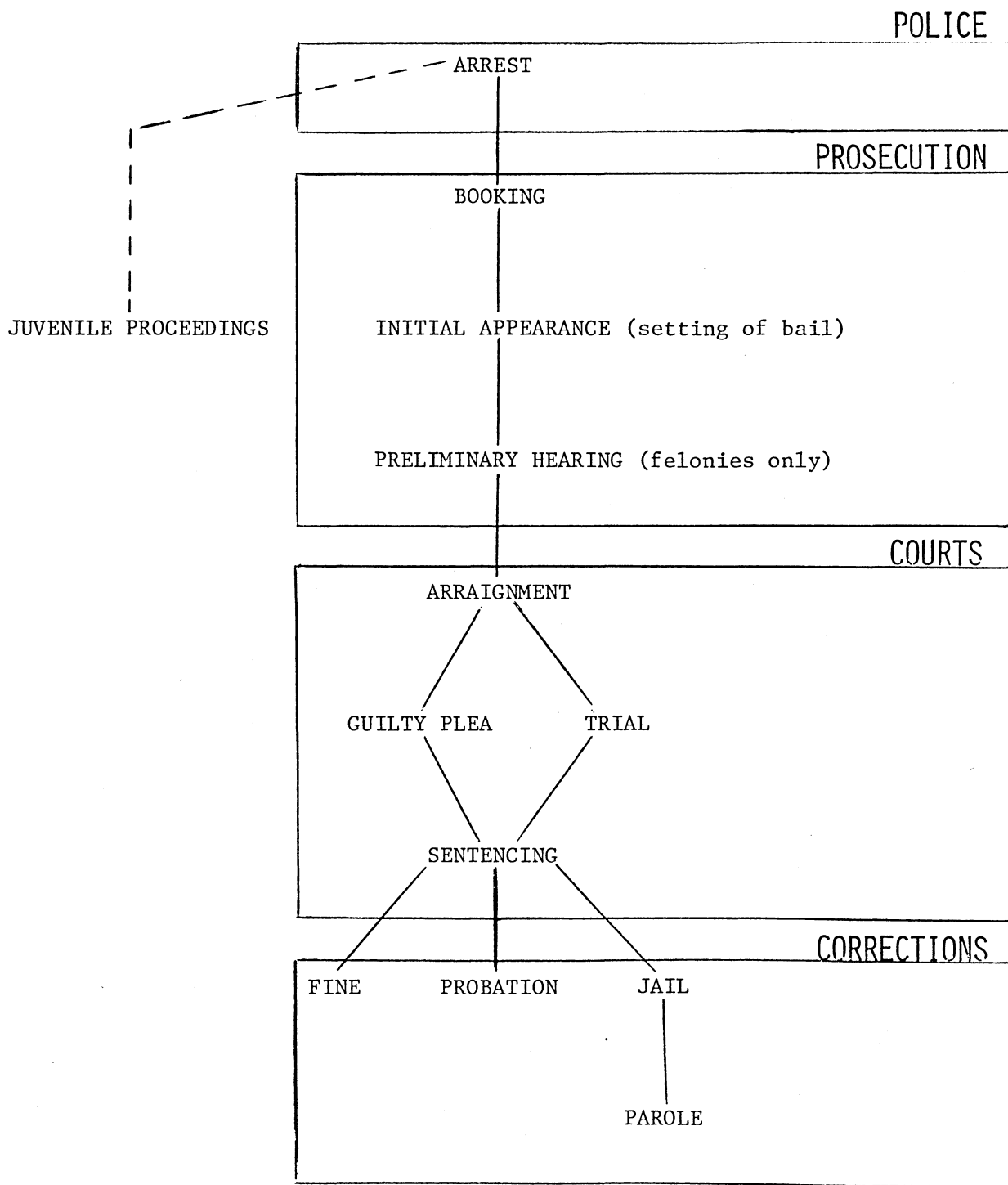


Figure 1: A SIMPLIFIED VIEW OF THE CRIMINAL JUSTICE PROCESS

(a person may leave the process at any point along the way)

PART I: ARREST, PROSECUTION, AND THE COURTS

We begin with a discussion of the sample and who was arrested with what charges. We will then move through each part of the criminal justice system ending with a description of regional, mainly rural-urban, differences. Finally, we will summarize our major findings and discuss their implications for the criminal justice system of Minnesota.

The Sample

We created a sample of 14,203 actual cases from the data files of the Minnesota Bureau of Criminal Apprehension's newly computerized reporting system, the OBTS (see Table 1). We included only arrests where a charge of misdemeanor or felony was made. The sample includes all blacks and Indians who were arrested during the three year period of 1973 through 1975 in Minnesota. Because of the size of the white population, we developed a randomly selected two and one half percent sample of whites arrested during the same period.

TABLE 1: THE NATURE OF THE SAMPLE DATA

Arrests by <u>sex (%)</u>	<u>White</u>	<u>Black</u>	<u>Indian</u>
male	84.5	70.0	82.7
female	15.5	30.0	17.3
TOTAL	100.0	100.0	100.0
Arrests by <u>age (%)</u>			
to 17 years	37.7	27.0	26.0
18-35 years	44.3	51.5	49.0
35 and over	18.0	21.5	25.0
TOTAL	100.0	100.0	100.0
Total number of cases:	6,209	3,485	4,509
Sample of arrests records 1973-75 (%)	2.5	100.0	100.0

### Who Was Arrested and on What Charges?

Overall, controlling for population size, 1.35 blacks and 2.53 Indians were arrested for every one white arrested. As Table 1 shows, black females were arrested more than females in the other two groups. On the other hand, about 38 percent of whites arrested were juveniles.

In order to compare racial differences in the arrest statistics, we estimated the population of the three racial groups. Table 2 shows recent population estimates in terms of race and age group. We created, then, an "Arrest Index" -- the number of arrests per 1,000 persons (Table 3). The reader may refer to the glossary at the end of this report for definitions of these crimes and other specialized terms used throughout the report.

Various groups have claimed, however, that in the 1970 census, the minorities were generally underestimated. Thus, Kaner (1976) attempted to correct the errors based on the rate of increase in each county of each minority group's public school enrollment. He suggests that the total state population of blacks and American Indians were approximately 46,300 and 45,100 respectively in 1975. If his estimates reflect more accurately the real population of each group, then our estimates of the number of arrests for the minority groups would become smaller than they are in Table 3.

TABLE 2: POPULATION ESTIMATES OF RACIAL AND AGE GROUPS (THOUSANDS)

	<u>White</u>			<u>Black</u>			<u>Indian</u>		
	<u>Total</u>	<u>Juv.</u>	<u>Adult</u>	<u>Total</u>	<u>Juv.</u>	<u>Adult</u>	<u>Total</u>	<u>Juv.</u>	<u>Adult</u>
1970 Census	3,736	1,345	2,391	34.9	14.8	20.1	22.4	11.4	11.0
1973*	3,812	1,372	2,440	38.5	16.3	22.2	26.0	13.2	12.8
1975*	3,843	1,383	2,460	39.9	16.9	23.0	27.5	14.0	13.5

\* Total population is estimated by David L. Word (Population Division, U.S. Bureau of the Census). See his "Population Estimates by Race Derived from Merging Administrative Records," mimeo (1970). The population of age groups are estimated on the assumption that within each race the proportion of age groups are the same.

TABLE 3: ARREST INDEX BY RACE\*

	<u>White</u>			<u>Black</u>			<u>Indian</u>		
	<u>Total</u>	<u>Juvenile</u>	<u>Adult</u>	<u>Total</u>	<u>Juvenile</u>	<u>Adult</u>	<u>Total</u>	<u>Juvenile</u>	<u>Adult</u>
Felonies**									
Homicide	.0	.0	.1	.4	.1	.7	.2	.0	.5
Rape	.0	.0	.1	.7	.4	.9	.5	.1	.9
Robbery	.1	.1	.1	5.5	6.6	4.7	3.5	3.2	3.7
Assault (aggravated)	1.0	.8	1.1	21.4	18.6	23.5	12.0	5.6	18.8
Burglary	1.2	2.2	.7	8.7	15.6	3.7	9.8	10.2	7.3
Larceny (over \$100)	4.0	6.8	2.5	33.6	49.7	21.7	16.0	19.0	12.9
Auto theft	.6	1.2	.2	4.7	7.5	2.7	8.0	12.6	3.2
Misdemeanors**									
Fraud	.4	.1	.6	1.8	.1	3.1	1.3	.1	2.7
Forgery	.2	.2	.2	2.5	.7	3.9	.6	.6	.7
Stolen property	.3	.4	.3	3.0	3.7	2.4	1.4	2.1	.8
Prostitution & other sex offenses	.2	.1	.3	8.8	3.0	13.1	.1	.1	1.9
Narcotics (if serious can be a felony)	1.6	1.7	1.5	3.7	1.2	5.6	3.0	2.7	3.3
Liquor laws	1.4	3.1	.4	1.0	.5	1.5	4.0	3.0	5.0
Driving under the influence	4.8	.4	7.2	9.8	.0	17.0	18.3	.5	36.7
Vandalism	1.1	2.2	.5	2.3	3.8	1.2	3.2	3.5	3.0
Disorderly conduct	1.4	1.0	1.6	6.8	3.4	9.4	11.4	2.6	20.6

\*  $\frac{\text{Arrests}}{1000 \text{ people (1975)}} = \text{Arrest Index}$

\*\* Data for other crimes, such as kidnapping and arson, were too small to be recorded here. Traffic violations, not included here, are generally categorized as petty offenses.

The table presents some interesting patterns. For a number of crimes, such as homicide, rape, fraud and vandalism, only minor differences appear across the racial groups. The crimes for which blacks and American Indians are arrested at much higher rates than whites are robbery, assault, burglary, larceny, auto theft, driving under the influence, and disorderly conduct. Indians, but not blacks, are much more likely than whites to be arrested for violating the liquor laws. It is perhaps not surprising to learn that these particular crimes, and hence the racial differences they seem to reflect, tend to be committed by juveniles. Some of the differences between adults and juveniles and among the different races are very significant. Larceny has the highest arrest index for minority youth, and especially for black youth. Adult blacks are most often arrested for assault, while adult Indians are arrested most often for driving under the influence of alcohol or drugs.

It is useful to look at the proportional distributions of the types of charges made at the time of arrest within each population group (Table 4). Juveniles of all races were arrested largely on charges of property-related crimes. Arrests for homicide and forgery constituted an insignificant proportion of arrests for all races. About 39 percent of adult whites arrested were charged with liquor related crimes while about 40 percent of the adult minorities arrested were charged with disorderly conduct, traffic violations, vandalism and the like.

TABLE 4: DISTRIBUTION OF MAJOR CLASSES OF ARRESTS BY RACE (PERCENTS)

N*= Homicide (murder and manslaughter)**	White		Black		Indian	
	Juvenile	Adult	Juvenile	Adult	Juvenile	Adult
	(31,191)	(48,939)	(2,230)	(3,842)	(1,075)	(2,346)
Homicide (murder and manslaughter)**	.0	.0	.0	.0	.0	.0
Crimes against persons (assault, robbery, kidnapping)	4.0	6.2	19.4	17.1	11.5	13.3
Theft (larceny, auto theft, stolen property)	32.2	14.8	46.9	16.3	45.0	10.0
Damages to property (burglary, arson)	10.3	3.6	12.2	2.3	16.3	4.5
Forgery (fraud and forgery)	1.5	4.2	.6	4.2	.7	2.0
Sex offenses (rape, prostitution, and others)	1.0	1.8	2.6	8.5	.0	1.7
Narcotics	7.7	7.7	.9	3.4	3.6	2.0
Liquor-related crimes (driving under the influence, liquor laws)	15.6	38.7	.4	11.3	4.7	24.7
All others (disorderly conduct, traffic, vandalism, and others)	27.7	22.9	17.0	37.9	18.2	41.8
TOTAL	100	100	100	101	100	100

\* N (the absolute numbers) are larger than the total sample size because of multiple charges made at time of arrest. Variation in the original data from the OBTS also causes column sums to vary from 100 percent total.

\*\* Numbers here were too small to register even one-tenth of one percent.

### Treatment After Arrest

Arrest is the initial stage in the criminal justice process. The period of prosecution and then entrance into the courts follows arrest. We looked at three aspects of this process. First, how the arrested were treated immediately after arrest, or what we called the arrest disposition. Second, how defense was arranged, what plea was made, and the results of the trials that occurred, or what we called case disposition. Third, the period of sentencing and the imposition of the sentence, or what we called sentencing disposition.

In looking at treatment after arrest we compared differences among races and analyzed the impact of differential arrest dispositions on the arrested of each race. As Table 5 shows, we find racial differences in all three important categories of arrest disposition. First, only 22 percent of arrested whites were held while 32 and 43 percent of arrested blacks and Indians were held, respectively. Second, about 55 percent of whites were released on bail or with no charge, while 47 and 36 percent of blacks and Indians were released. The disadvantage for minorities at this stage of the process is clear and could adversely affect the outcome at subsequent stages since there is some reason to believe that being out of jail or on one's own recognizance offers an accused person a better chance to prepare his or her case.

In addition, we selected eight major crimes in which considerable numbers of minorities were sent to court. As Table 6 shows, differential disposition of the arrested among the races emerges. For example, 38 percent of whites charged with homicide were held while more than 90 percent of minorities charged with the same crime were held. When we look at the averages for these eight major crimes, the disadvantages for minorities become obvious: more than 60 percent of the minorities were held while only about 20 percent were released on bail.

TABLE 5: ARREST DISPOSITIONS OF ALL CRIMES BY RACE (PERCENTS)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
Being Held	22.1	32.1	42.9
Released on Bail	36.4	34.1	28.9
Released With No Charges	18.8	13.0	7.3
Referred to Juvenile Court	18.1	15.3	14.0
Other*	4.7	5.6	7.0
TOTAL	100	100	100

\* This category includes administrative discharge, return to military, deceased, deported, and voluntary departure from the United States.

TABLE 6: ARREST DISPOSITIONS OF EIGHT MAJOR CRIMES BY RACE (PERCENTS)

	<u>Being Held</u>			<u>Released On Bail</u>			<u>Released W/ No Charge</u>			<u>Referred to Juv. Court</u>			<u>Other*</u>		
	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>
Homicide	38	100	93	50	0	0	13	0	0	0	0	0	0	0	7
Assault	35	52	59	49	38	30	8	6	7	3	1	0	5	3	5
Robbery	88	57	86	0	10	5	0	10	2	0	8	2	13	14	5
Burglary	49	73	61	32	13	23	5	3	5	10	3	3	5	8	8
Auto Theft	43	61	70	25	11	15	3	12	3	20	5	5	10	11	8
Forgery	61	61	69	32	16	23	0	6	4	7	0	0	0	18	4
Narcotics	41	58	60	44	28	28	8	8	5	3	2	3	4	5	3
Larceny	18	24	38	66	65	54	7	4	3	6	4	3	3	3	2
AVERAGE	47	61	67	37	23	22	6	6	4	6	3	2	5	8	5

\* This category includes administrative discharge, return to military deceased, deported, and voluntary departure from the United States.

Defense Arrangements, the Plea, and Trial Results

As one reaches the time of arraignment in the criminal justice process, about 90 percent of the arrested have been freed (see Table 5). There are at least three important variables which may influence the case dispositions:

race, guilty plea, and the hiring of a private attorney.\* As Table 7 shows only 15 percent of Indians hired a private attorney while about 32 and 42 percent of whites and blacks, respectively, did so. We will explore the differences between blacks and Indians later. In any event, as we see in Table 8, an absolute majority of those arraigned pleaded guilty. It is interesting to note that 27 percent of the blacks pleaded not guilty compared to 14.7 percent and 16.4 percent of the white and Indian groups.

TABLE 7: ACQUISITION OF ATTORNEY'S SERVICE:  
DISTRIBUTION BY RACE OF DEFENDANT (PERCENTS)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
N=	(318)	(358)	(492)
Hired Own	32.4	41.9	15.2
Public Defender	50.3	53.6	72.0
Court Appointed	11.3	2.5	4.1
Defending Self	5.0	1.1	2.8
Others	.9	.8	5.9
TOTAL	100	100	100

TABLE 8: DISTRIBUTION OF PLEAS BY RACE (PERCENTS)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
N=	(218)	(196)	(323)
Guilty	85.3	73.0	83.6
Not Guilty	14.7	27.0	16.4
TOTAL	100	100	100

\* Several of the following tables are based on smaller samples of our racial groups. Since a substantial percentage (see Table 5) of those arrested are not charged and released or are sent to juvenile court, the total number remaining is itself smaller. Moreover, because of missing data problems and the large numerical differences between whites and minorities in various categories, it was necessary to create a smaller sample group. Again, we do not feel the smaller size of our group alters the basic nature of the findings.

If we examine case dispositions in terms of race (Table 9), the only significant comparative difference is the rate of dismissal. Here, the minorities were treated favorably. On the other hand, the rate of conviction is similar among races. Focusing on the case disposition of the eight major crimes (Table 10), an additional difference is found in the percentages of those released on bail: 13 percent of whites were released on bail while 5 and 9 percent of blacks and Indians, respectively, were released.

When the method of acquiring an attorney is examined (Table 11), the hiring of a private attorney clearly favors not being held, pending, and being released on bail. However, the rates of conviction are similar regardless of whether the attorney was private or a public defender.

TABLE 9: CASE DISPOSITION FOR ALL CRIMES BY RACE (PERCENTS)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
Being held	4.5	2.2	7.0
Released on bail	11.7	5.4	10.6
Pending	15.0	13.8	14.9
Acquitted	1.5	2.4	.9
Dismissed	18.6	31.2	23.3
Convicted	44.0	41.5	41.8

TABLE 10: CASE DISPOSITIONS FOR EIGHT MAJOR CRIMES BY RACE (PERCENTS)

	<u>Being Held</u>			<u>Released on Bail</u>			<u>Pending</u>			<u>Acquitted or Dismissed</u>			<u>Convicted</u>		
	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>
Homicide	17	0	12	23	0	6	0	9	18	17	82	18	33	9	41
Assault	6	13	12	24	0	13	18	13	14	35	36	19	18	39	43
Robbery	0	0	9	0	9	11	20	0	11	30	14	34	50	73	32
Burglary	4	0	1	7	3	9	18	17	11	18	17	27	49	57	47
Auto theft	16	5	13	5	0	8	16	5	17	0	30	25	58	50	36
Forgery	6	2	0	11	9	7	28	9	0	0	34	20	50	46	73
Narcotics	1	2	0	19	14	8	9	6	23	25	55	23	40	22	46
Larceny	0	0	4	11	4	8	14	22	16	22	23	20	44	45	52
AVERAGE	6	3	6	13	5	9	15	10	14	18	36	23	43	43	46

TABLE 11: CASE DISPOSITIONS OF EIGHT MAJOR CRIMES BY METHOD OF ACQUIRING ATTORNEY AND BY RACE (PERCENTS)

	N=	<u>Hired Attorney</u>			<u>All Others</u>		
		<u>White</u>	<u>Black</u>	<u>Indian</u>	<u>White</u>	<u>Black</u>	<u>Indian</u>
		(24)	(45)	(21)	(70)	(75)	(131)
Being held		0	0	0	10.0	0	9.2
Released on bail		20.8	4.4	23.8	10.0	4.0	7.6
Pending		0	0	0	4.3	2.7	8.4
Acquitted or dismissed		0	4.4	4.8	2.9	4.0	2.3
Convicted		75.0	91.1	71.4	71.4	89.3	71.8
Others		4.2	0	0	1.4	0	.8
TOTAL		100	100	100	100	100	100

Sentencing

Differences among races in the length of sentence imposed are apparent (see Table 12). Although sentences of more than a year in prison are similar, other categories differ. About 51 percent of whites were given at least one year of probation, which is 13.6 and 19.4 percent higher than the percentages of probation given to blacks and American Indians respectively. Comparatively more minorities than whites were sentenced to confinements lasting months or days or to a fine.

TABLE 12: SENTENCING OF ALL CRIMES BY RACE (PERCENTS)

	N=	<u>White</u>	<u>Black</u>	<u>Indian</u>
		(201)	(157)	(283)
Fines		10.0	11.5	24.4
Probation of 1 or more years		51.2	37.6	31.8
Confinement of 1-30 days		6.0	15.3	6.4
Confinement of 1-11 months		3.0	8.9	11.3
Confinement of 1 or more years		16.4	19.7	18.4
Other		13.4	7.0	7.8
TOTAL		100	100	100

With respect to crimes such as homicide, assault, and burglary, (Table 13) from the eight major crime categories, more than 60 percent of the whites were given probation. Of those given confinement of more than a year, blacks averaged eight percent higher than the other groups.

TABLE 13: SENTENCING FOR EIGHT MAJOR CRIMES BY RACE\*

	Fines			Probation of 1 or more years			Confinement of 1-30 days			Confinement of 1-11 months			Confinement of 1 or more years		
	W	B	I	W	B	I	W	B	I	W	B	I	W	B	I
Homicide	0	0	13	60	0	13	0	0	0	0	0	0	40	100	63
Assault	17	17	33	67	58	15	0	0	14	17	0	19	0	25	12
Robbery	0	19	5	20	19	25	0	19	0	20	0	15	60	44	55
Burglary	6	16	8	63	11	44	9	21	4	0	11	17	14	26	19
Auto theft	7	0	26	40	22	38	7	22	4	0	11	11	40	33	17
Forgery	0	4	9	64	54	46	14	18	0	0	7	18	21	11	18
Narcotics	14	7	17	45	53	50	10	13	33	0	7	0	5	13	0
Larceny	11	7	19	42	42	44	0	13	0	5	19	0	16	13	13
Average	7	9	16	50	32	34	5	13	7	5	7	10	25	33	25

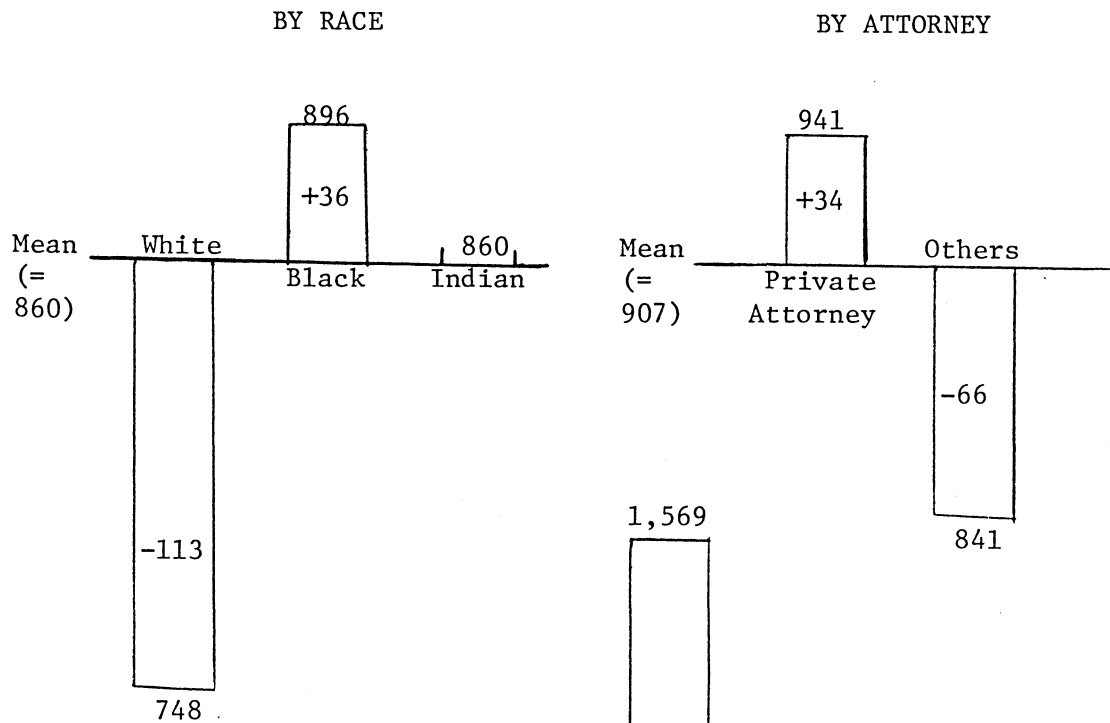
\* Since there are other types of sentences, the total percentage may be less than 100.

Whether the sentence was actually imposed or not is another indicator of differential treatment across race (see Table 14). The data indicate that minorities were given more stayed or suspended sentences. We shall examine why minorities are given so high a proportion of suspended sentences in the next section.

Next, we attempt to explain two dependent variables in the process (time to be served in prison and time on probation) in terms of race and method of acquiring an attorney. As Figure 2 shows, the hiring of a private attorney is not likely to produce a more favorable outcome for the accused. It appears that this is because those who hired private attorneys had committed more serious crimes. Recalling the fact that only 15 percent of the Indians hired private attorneys, it may be the case that Indians in general did not commit serious crimes. However, whites were given probation more often and were confined less often than minorities.

FIGURE 2: EFFECTS OF RACE AND METHOD OF ACQUIRING ATTORNEY ON...

...TIME TO BE SERVED (days)



...PROBATION TIME (days)

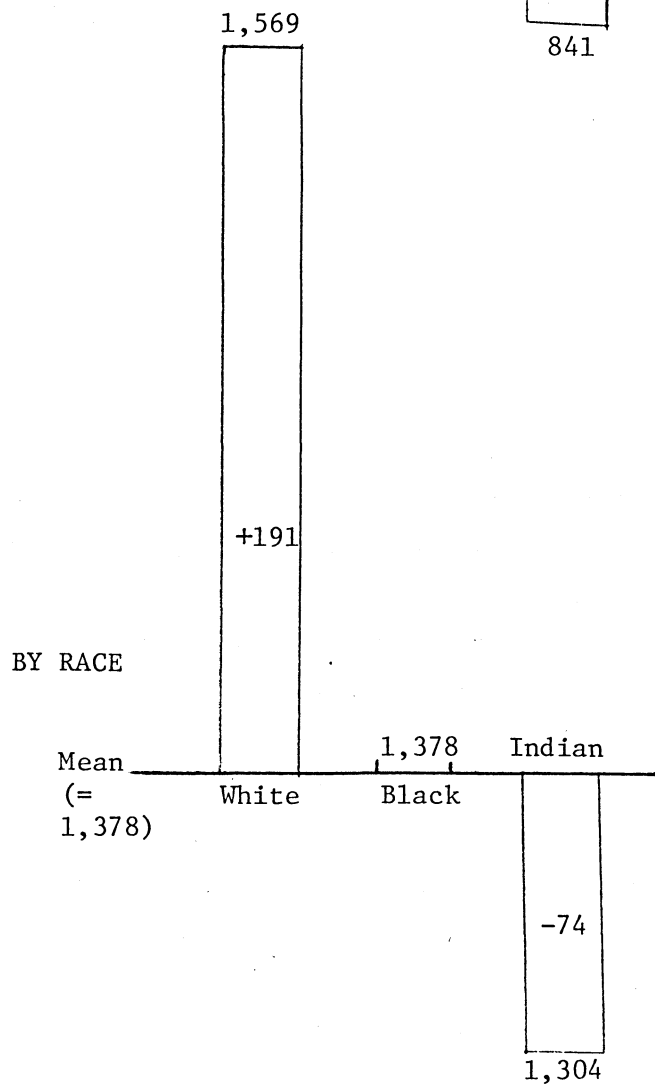


TABLE 14: IMPOSITION OF SENTENCE BY RACE (PERCENTS)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
N=	(98)	(123)	(167)
Imposed.	72.4	69.1	64.1
Stayed or suspended	27.6	30.9	35.9
TOTAL	100	100	100

From Arrest to Case Disposition: When Were Charges Dropped?

So far we have examined the outcomes of major stages of the criminal justice process separately. Another way of looking at the process is to see what proportion of the arrested had charges against them dropped (dropping rate). Those whose charges were dropped in the process may be regarded as innocent or may be seen as individuals who did not commit serious crimes. Therefore, it is useful to see at what stage charges were dropped.\*

Table 15 shows about 98 percent of all charges were dropped, across all our groups. For example, 99 percent of Indians arrested had the charges against them dropped at some point during the criminal procedures. Interestingly, in the three most violent crimes (homicide, kidnapping, and rape) whites had lower dropping rates than minorities. Charges against only 38 and 50 percent of whites were dropped for homicide and kidnapping, respectively. On the other hand, 100 percent of kidnapping charges and 92 percent of homicide charges against blacks were dropped. For most misdemeanors, the overall dropping rates are similar across races.

What do the lower dropping rates for whites in the three most violent crimes mean? It may indicate that police are more careful in their pre-arrest procedures with respect to whites. Or it may mean that police are more likely to act on suspicion against minorities.

If overall dropping rates are generally high, when were the charges actually dropped? Table 15 shows that whites had charges dropped earlier in the process than did minorities, while minorities had higher dropping

\* We note here that the OBTS data does not follow those whose charges are reduced to misdemeanors. Thus, we were not able to examine those cases which were actually not dropped but handled at lower level courts. However, the fact that cases are treated as misdemeanors puts them in a much less serious category.

TABLE 15: DROPPING RATES AT VARIOUS STAGES  
OF THE CRIMINAL JUSTICE PROCESS (PERCENTS)

	During Arrest			During Case			During			Total		
	Disposition			Disposition			Sentencing*					
	W	B	I	W	B	I	W	B	I	W	B	I
Felonies												
Homicide	25	0	42	13	92	32	0	0	7	38	92	81
Kidnapping	0	60	38	50	40	33	-	-	-	50	100	71
Rape	52	88	65	29	13	35	-	-	-	81	101	100
Robbery	71	68	39	9	12	30	4	7	6	84	87	75
Assault (aggrava- ted)	91	85	77	7	9	12	0	1	7	98	94	96
Burglary	83	81	82	7	7	10	2	6	1	92	94	93
Larceny (over \$100)	96	92	94	1	4	2	2	3	3	99	99	99
Auto theft	87	86	79	2	8	11	2	2	3	91	96	92
Misdemeanors												
Fraud	93	95	85	2	2	4	-	-	-	95	97	89
Forgery	83	56	60	0	25	11	0	3	11	83	84	82
Stolen property	79	91	80	13	7	11	-	-	-	92	98	91
Prostitu- tion and other sex offenses	84	45	56	0	38	16	-	-	-	84	83	72
Narcotics (if serious can be a felony)	83	80	85	8	14	7	5	2	5	96	96	97
Vandalism	98	93	84	2	5	3	-	-	-	99	98	87
ALL CRIMES	95	89	88	2	5	5	2	2	5	99	97	99

\* Data here refers not to charges dropped, but to charges reduced so as to give a sentence of a fine or of confinement for less than one year.

rates than whites in later stages. Particularly at the time of sentencing whites had consistently lower rates of dropping than minorities; narcotics charges were the one exception. Overall, American Indians had the highest dropping rates at this final stage in the process with a dropping rate of 5 percent for all crimes at the time of sentencing, compared with 2 percent for whites and 2 percent for blacks.

Regional Differences

In Minnesota, a majority of American Indians live outside the Twin Cities area. Since crimes are generally associated with cities, a comparison between metropolitan and non-metropolitan groups would be useful. For this purpose, we divide the state into three groups of counties (see figure 3):

1. Metro: the five metropolitan counties each with an Indian population greater than 200 in the 1970 census -- Hennepin, Ramsey, Anoka, Dakota, and Washington counties.
2. Northern: the ten northern counties each with more than 200 Indians as estimated in the 1970 census -- Becker, Beltrami, Carlton, Clearwater, Itasca, Koochiching, Mahnomen, Mille Lacs, Pine, and St. Louis counties.
3. Other: the remaining counties in Minnesota.

Since the main racial differences in the criminal justice process have already been discussed, we will only report major regional differences here.

Arrest Index - Table 16 reports various rates of arrest, in the metro area, the arrest indices for blacks and Indians are similar. However, Indians in the northern area were arrested 2.7 times more than Indians in the metro area while whites in the northern area were arrested less than their counterparts in the metro area.

TABLE 16: ARREST INDEX BY RACE AND REGION \*

<u>Region</u>	<u>White</u>	<u>Black</u>	<u>Indian</u>
Metro	$\frac{3,199}{62.5} = 51.2$	$\frac{3,070}{32.1} = 95.6$	$\frac{906}{9.85} = 92.0$
Northern	$\frac{437}{10.1} = 43.3$	$\frac{49}{1.2} = 40.8$	$\frac{2,670}{10.7} = 249.5$
Other	$\frac{2,573}{20.8} = 123.7$	$\frac{366}{1.2} = 305.0$	$\frac{933}{1.8} = 518.3$

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\*  $\frac{\text{Arrests}}{1000 \text{ people (1975)}} = \text{Arrest Index}$



Number of Charges - Table 17 shows the number of charges brought against those arrested. Although more minorities were arrested with two or more charges, regional differences are not significant.

TABLE 17: NUMBER OF CHARGES BY RACE AND REGION (PERCENTS)

	Metro			Northern			Other		
	W	B	I	W	B	I	W	B	I
Single charge	90.9	85.3	86.9	92.2	83.3	90.0	91.9	90.8	91.6
Two or more	9.1	14.7	13.1	7.8	16.7	10.0	8.1	9.2	8.4
TOTAL	100	100	100	100	100	100	100	100	100

Arrest Disposition - In terms of treatment after arrest (see Table 18) those who were arrested outside the metro area were more likely to be held than those arrested in the metro area. Since about 60 percent of all Indians arrested were from the northern area, the Indians as a group appear to be more disadvantaged than the other races.

TABLE 18: ARREST DISPOSITIONS BY RACE AND REGION (PERCENTS)

	Metro			Northern			Other		
	W	B	I	W	B	I	W	B	I
Being Held	19.4	30.7	36.6	38.9	53.1	43.9	22.7	41.0	46.1
Released on Bail	31.9	33.3	26.3	30.4	20.4	30.9	42.9	42.6	25.6
Released With No Charge	25.7	14.1	11.6	5.9	18.4	5.3	12.4	3.0	8.9
Refer to Juvenile Court	18.5	16.4	20.9	18.5	2.0	12.5	17.4	7.7	11.6
Other	4.5	5.5	4.6	6.2	6.1	7.4	4.6	5.7	7.8
TOTAL	100	100	100	100	100	100	100	100	100

Guilty Plea - Differences in the number of guilty pleas in different parts of the state may reflect "selective" arrests by police (see Table 19), as well as other factors. In the metropolitan area, Indians have the lowest rate of not-guilty plea. But, in the northern counties, the not-guilty rate of whites is only 3 percent while that of Indians is 17 percent.

TABLE 19: DISTRIBUTION OF PLEAS (PERCENTS)

	Metro			Northern			Other		
	W	B	I	W	B	I	W	B	I
N=	(70)	(158)	(28)	(33)	(5)	(229)	(115)	(33)	(66)
Guilty	84.3	73.4	92.9	97.0	60.0	83.0	82.6	72.7	81.8
Not guilty	15.7	26.6	7.1	3.0	40.0	17.0	17.4	26.3	18.2
TOTAL	100	100	100	100	100	100	100	99	100

Attorney - A clear difference between regions was found in the hiring of private attorneys (Table 20). In the metro area, the rate of hiring an attorney is high. However, in northern counties the rate for Indians is about one-third of that for Indians arrested in the metro area.

TABLE 20: METHOD OF ACQUIRING AN ATTORNEY  
BY RACE AND BY REGION (PERCENTS)

	Metro			Northern			Other		
	W	B	I	W	B	I	W	B	I
N=	(108)	(269)	(41)	(49)	(10)	(351)	(161)	(79)	(100)
Hired own Attorney	42.6	44.6	39.0	20.4	20.0	13.7	29.2	35.4	11.0
Others	57.4	55.4	61.0	79.4	80.0	86.3	70.8	64.6	89.0
TOTAL	100	100	100	100	100	100	100	100	100

Case Disposition - The conviction rate of whites is higher in the northern counties than in the metro area while the conviction rate of Indians is lower in the northern counties as compared with the metro area (Table 21).

TABLE 21: CASE DISPOSITIONS BY RACE AND REGION (PERCENTS)

	Metro			Northern			Other		
	W	B	I	W	B	I	W	B	I
N=	(117)	(278)	(48)	(50)	(12)	(373)	(167)	(79)	(108)
Being Held	2.6	2.1	4.2	8.0	0	5.4	4.8	2.5	13.9
Released on Bail	9.4	4.0	4.2	10.0	0	11.3	13.8	11.4	11.1
Pending	14.5	11.9	25.0	10.0	0	14.5	16.8	22.8	12.0
Acquitted	2.6	2.1	0	0	8.3	1.3	1.1	2.5	0
Dismissed	23.0	30.9	14.6	20.0	50.0	24.7	15.0	29.1	22.2
Convicted	39.3	45.0	50.0	48.0	33.3	41.3	46.1	30.4	39.8
Other	8.6	4.0	2.0	4.0	8.3	1.6	2.4	1.3	1.0
TOTAL	100	100	100	100	100	100	100	100	100

Sentencing Disposition - Regional differences are also distinctive in this area of the criminal justice process (Table 22). The rate of being sentenced to a fine in the northern counties is about three times higher than in the metro area for all groups. On the other hand, for Indians, the rate of being sentenced for at least a one-year confinement is more than twice as high in the metro area as it is in the counties in the north. The difference may mean that in northern counties, persons charged with less serious crimes were sent through the court system whereas in the metro area similar cases were handled without court trials. Furthermore, in the northern area almost 24 percent of the Indians were sentenced to less than a year while none of the whites were given the same sentence.

Table 23 reinforces the finding of regional differences. About 42 percent of Indians in the northern counties were given stayed or suspended sentences in comparison with 24 percent in the metro area.

TABLE 22: SENTENCING DISPOSITION BY RACE AND REGION (PERCENTS)

	N=	Metro			Northern			Other		
		W	B	I	W	B	I	W	B	I
Fines		10.5	12.3	13.6	31.3	50.0	30.9	9.0	23.8	24.0
Probation of 1 or more years		47.4	30.9	22.7	50.0	0	16.4	34.6	19.0	30.0
Confinement of 1-30 days		0	6.2	4.5	0	0	5.5	7.7	4.8	6.0
Confinement of 1-11 months		5.3	12.3	0	0	0	18.2	2.6	14.3	8.0
Confinement of 1 or more years		15.8	29.6	54.5	12.5	50.0	22.7	32.1	23.8	22.0
Other		21.1	8.6	4.5	6.3	0	6.4	14.1	14.3	10.0
TOTAL		100	100	100	100	100	100	100	100	100

TABLE 23: IMPOSITION OF SENTENCE BY RACE AND REGION (PERCENTS)

	N=	Metro			Northern			Other		
		W	B	I	W	B	I	W	B	I
Imposed		63.3	64.8	75.9	45.7	66.7	57.6	73.6	80.8	79.4
Stayed or Suspended		36.7	35.2	24.1	54.3	33.3	42.4	26.4	19.2	20.6
TOTAL		100	100	100	100	100	100	100	100	100

Overall Process - Finally, as Table 24 shows, the number of cases dropped at some point during the criminal justice process (dropping rate) is generally higher for minorities than whites. Overall, the dropping rate was more than 15 percentage points higher for those arrested in the metro area than those arrested in the north. But in the north, the overall rate for Indians (87 percent) is more than 10 percentage points higher than that for whites (75 percent). Moreover, in the same area, the overall dropping rate for Indians during case disposition is five times higher than that for whites in the area.

TABLE 24: OVERALL DROPPING RATES AT VARIOUS STAGES OF THE  
CRIMINAL JUSTICE PROCESS BY RACE AND BY SELECTED REGIONS (PERCENTS)

	Metro			Northern		
	W	B	I	W	B	I
During arrest disposition	74.3	78.1	88.2	70.7	44.7	61.4
During case disposition	17.8	15.6	6.2	4.7	21.0	25.3
TOTAL	92.1	93.7	94.4	75.4	65.7	86.7

Findings

We have looked at racial variation in the treatment of the accused in the Minnesota criminal justice system. Our goal has been to study the American Indian's relationship to the criminal justice system; in order to do this we have compared samples of Indian, black, and white populations. We may not and do not assign cause and effect patterns between the criminal justice system and the racial groups. Whether the differences found here are a result of specific racial groups being treated differently by the criminal justice system or whether the racial groups actually behave differently is a more fundamental question; one that we have not attempted to answer. What follows, however, are findings that do suggest where and to what extent racial variation occurs. These differences emerge:

- 1) Arrest rates for minorities were much higher than for whites. The charges for which minorities have significantly higher representation are robbery, assault, burglary, larceny, auto theft, driving under the influence, and disorderly conduct.
- 2) In the disposition of arrests, white offenders were treated differently than minorities: for example, 22 percent of whites arrested were held compared with 43 percent of our Indian group.
- 3) In the case disposition, conviction rates were similar across races. Although more white offenders were released on bail, acquittal and dismissal rates for minorities were higher than those for whites.
- 4) In sentencing disposition, white offenders were again treated differently than minorities. Although the percentage of those confined for more than a year is similar across races, 51 percent of whites received probation compared with 32 percent of Indians;

while 19 percent of convicted whites received fines or sentences less than a year, 42 percent of convicted Indians received fines or sentences of less than one year. (See Table 13 for variations across specific crimes that makes this finding more dramatic.)

- 5) In terms of defense, 15 percent of Indians hired private attorneys as compared with 42 percent of blacks and 32 percent of whites. Although those who hired private attorneys received favorable treatments in case disposition (higher rates of bail or dismissal and lower rates of being held pending, for example), they received less favorable treatment in sentencing disposition (longer sentences, for example) than those who did not hire private attorneys.
- 6) Dropping rates showed that more white offenders were released at the stage of arrest disposition than minorities. But more minorities were released at the stage of case disposition than whites and a high percentage of minorities had charges reduced significantly at the stage of sentencing.
- 7) There are significant regional differences in the performance of the criminal justice system. Indians of the northern counties were arrested 2.7 times more than metropolitan Indians and almost 6 times more than whites in the northern counties. The northern system held a higher percentage of alleged offenders, and gave lower rates of release on bail or with no charge. The dismissal rate of arrested northern Indians is 25 percent while that of metropolitan Indians is 15 percent. Over 40 percent of all races hired private attorneys in the Twin Cities area while only 20 percent of whites and 14 percent of Indians did so in the north. Since about two-thirds of alleged Indian offenders were arrested and processed in the northern region, the overall discrepancy in treatment between northern and metro areas tended to enlarge unfavorable treatment for Indians. A substantial number of northern Indians wait in jail only to have their case dismissed.

We reiterate our analysis strategy in this report. By calculating drop out rates, we were able to estimate bias and differences at key points in the criminal justice system. We found "systematic" differences along racial lines and between geographical regions.



## PART II: CORRECTIONS

What does it mean to be a Native American as compared to a black or white once inside Minnesota's jails? Specifically, how does race, as one factor, compare with socio-economic background and with previous criminal history, as other factors, in how a person is treated within the Minnesota correctional system?

We explored these issues through statistical analysis of data provided by the Minnesota Department of Corrections. The correction data are based on reports of individuals within the state correctional institutions in 1976. In order to focus on the importance of race, we developed a randomly selected subsample of the total data: 438 whites (2.5 percent of all whites), 863 blacks (35 percent of all blacks), and 798 Indians (35 percent of all Indians). Since the sample for whites is proportionally smaller than for other races, all tables presented for comparison use percentage distributions. The computations marked "All" in these tables represent a simple combining of all the members of our subsample. The reader is cautioned to remember that data in this category are not, therefore, completely representative of the total prison population since our subsample was weighted against whites.

### Individual and Background Characteristics

Table 25 suggests a number of points. First, incarceration is primarily a male phenomena, over 80 percent of the sample are male. The proportion of females is 24 percent among the Indians, 17 percent among whites, and 12 percent among blacks. The table also reaffirms that crime is strongly associated with adolescence and youth. The number of persons age 10-17 in the total population of Minnesota in 1970 was 17 percent. More than half of our prison sample are 17 or younger and the proportion of adolescents in the Indian sample (62 percent) is significantly higher than that of blacks (40 percent). The proportion of blacks who are 26 years old or more is substantially higher than the same proportion in the white and Indian groups.

TABLE 25: SEX AND AGE DISTRIBUTION BY RACE (PERCENTS)

	Sex		Age			
	Male	Female	-17	18-25	26-35	35+
White	83.1	16.9	56.8	30.4	8.4	4.3
Black	88.3	11.7	40.3	33.0	17.0	9.6
Indian	76.3	23.7	62.3	25.2	9.6	3.0
ALL			52.1	29.5	12.4	6.0

Crime is also an urban phenomenon (Table 26). About 74 percent of the sample are from metropolitan areas. The Indian sample exhibited the highest proportion of inmates from the rural areas, 24 percent.

TABLE 26: RESIDENCE BY RACE (PERCENTS)

	Residence		
	Metro (over 50,000)	Urban (over 2,500)	Rural
White	54.1	28.2	17.7
Black	96.7	2.7	0.4
Indian	60.6	15.0	24.4
ALL	74.1	12.7	13.1

Inmates tend to be single (82 percent) and not have dependents (see Table 27). The family life of the inmates tends to be different from that of other citizens (Table 28); about one quarter of the sampled groups had "normal" families, that is they were living with both parents and/or with a spouse before incarceration. The proportion of blacks and Indians that fall in the "normal" family category is significantly lower than that of whites. Three out of ten Indians and blacks have only a single parent, step parents, or adoptive parents. More than four out of ten had no family guardians or spouse (the "other" category in Table 28) but were living alone or relatively independently before incarceration. Family background may be especially important since the majority of inmates are young.

TABLE 27: MARITAL STATUS AND  
NUMBER OF DEPENDENTS BY RACE (PERCENTS)

	Marital Status			# of Dependents		
	Single	Married	Div., Sep. or Widowed	None	1-2	3+
White	81.5	11.9	6.6	87.4	8.7	3.9
Black	74.8	11.0	14.2	71.3	19.0	9.7
Indian	90.0	4.3	6.8	90.1	7.3	2.6
ALL	82.0	8.6	9.4	81.8	12.4	5.8

TABLE 28: PATTERNS OF FAMILY LIFE BY RACE (PERCENTS)

	Both Parents and/or Spouse	Single Parent	Step or Adoptive Parents	Other*
White	35.6	18.3	7.8	38.4
Black	22.9	27.2	5.0	44.4
Indian	23.3	25.1	5.6	46.0
ALL	25.7	24.5	5.8	44.0

\* "Other" indicates that the inmate was living independently, in a boarding house, or with relatives or friends before incarceration.

Tables 29 through 31 document the educational background, skill level, and employment status of our three groups. Here again, the Indian group is significantly different from the white group. Among inmates 18 years or older ("adult"), about 34 percent of whites and blacks are high school graduates while only 20 percent of the Indians are high school graduates. The skill and employment records for all three groups are substantially the same; the data simply document the fact that most inmates tend to be unskilled and unemployed. Overall, more than 60 percent of the adult inmates were unemployed before entering the corrections system.

TABLE 29: LEVEL OF EDUCATION BY RACE (PERCENTS)

	Highest Grade Completed		
	-7	8-11	12+
<u>White:</u>			
Total	8.5	74.6	17.0
Juvenile	10.6	87.4	1.9
Adult	6.0	59.9	34.1
<u>Black:</u>			
Total	8.9	69.6	21.5
Juvenile	8.7	89.7	1.6
Adult	9.1	56.7	34.2
<u>Indian:</u>			
Total	15.0	76.4	8.6
Juvenile	17.4	82.3	0.2
Adult	11.6	67.8	20.5
ALL	11.1	73.2	15.7

TABLE 30: LEVEL OF WORK RELATED SKILL BY RACE (PERCENTS)

	<u>Unskilled</u>	<u>Semiskilled</u>	<u>Skilled</u>
<u>White:</u>			
Total	91.2	8.0	0.7
Juvenile	99.5	0.5	0
Adult	81.6	16.8	1.6
<u>Black:</u>			
Total	89.4	9.0	1.6
Juvenile	99.7	0.3	0
Adult	82.7	14.7	2.6
<u>Indian:</u>			
Total	96.3	3.4	0.3
Juvenile	99.6	0.4	0
Adult	91.2	8.2	0.7
ALL	92.4	6.7	0.9

TABLE 31: STATUS OF EMPLOYMENT BY RACE (PERCENTS)

	<u>Unemployed</u>	<u>Part-time or temporary</u>	<u>Full-time, including Student or Housewife</u>
<u>White:</u>			
Total	38.2	54.0	7.8
Juvenile	11.2	0.5	88.4
Adult	59.3	13.7	26.9
<u>Black:</u>			
Total	47.3	40.2	12.4
Juvenile	11.5	0.3	88.2
Adult	61.8	17.2	20.9
<u>Indian:</u>			
Total	34.3	57.1	8.6
Juvenile	9.8	0.4	89.8
Adult	67.0	19.0	13.9
ALL	40.4	49.6	10.0

Mental and Physical Problems

What about the mental and physical problems of the sample group? Again we looked at racial differences as well as age differences.

Table 32 shows the distribution of previous psychiatric treatment. About 11 percent of all adult inmates indicated having previous psychiatric treatment. The data on juveniles is too limited to make any statement. The proportion of white adult inmates who had psychiatric treatment (17 percent) is relatively higher than either blacks or Indians.

Table 33 reports on the distribution of those who had physical problems. As was the case with psychiatric treatment, about 10 percent of all adults had physical problems; physical problems among the juvenile group were negligible. There appear to be no substantial differences across race.

TABLE 32: PREVIOUS PSYCHIATRIC TREATMENT BY RACE (PERCENTS)

	<u>Unknown (no data)</u>	<u>None</u>	<u>Outpatient</u>	<u>Hospital- ization</u>
<u>White:</u>				
Total	56.2	28.3	2.7	12.8
Juvenile	96.8	2.8	0	0.4
Adult	21.2	61.9	3.2	13.8
<u>Black:</u>				
Total	53.5	37.2	2.8	6.5
Juvenile	95.4	3.7	0	0.9
Adult	30.5	59.8	3.7	8.0
<u>Indian:</u>				
Total	63.5	26.8	0.6	9.0
Juvenile	96.8	3.0	0	0.2
Adult	21.6	66.1	1.3	11.1
ALL	57.9	31.4	2.0	8.8

TABLE 33: PHYSICAL PROBLEMS BY RACE (PERCENTS)

	<u>None</u>	<u>Remedial</u>	<u>Chronic</u>
<u>White:</u>			
Total	88.8	8.2	3.0
Juvenile	99.6	0	0.4
Adult	82.6	11.1	6.3
<u>Black:</u>			
Total	90.0	4.4	5.6
Juvenile	99.7	0.3	0
Adult	83.8	6.9	9.3
<u>Indian:</u>			
Total	91.2	6.5	2.3
Juvenile	99.4	0.2	0.4
Adult	84.0	10.7	5.3
ALL	90.2	6.0	3.8

However, as Table 34 shows, a substantial number of the sample had drug and/or alcohol problems (26 percent). When we divided the sample into juvenile and adult groups, more than half of the adult sample had drug and/or alcohol problems while such problems were minimal in the juvenile group. And here our Indian group is significantly different from the whites and the blacks; while approximately 55 percent of adult Indian inmates fall in the combined categories "alcohol" and "drug and alcohol," blacks and whites tend to have drug problems -- more than 30 percent of whites or blacks having chemical dependency problems are listed in the "Drug" and "Drug and Alcohol" categories.

Finally, Table 35 reports on the proportion of inmates who have undergone pre-sentence psychiatric evaluation. About 10 percent of the inmates have had such evaluation and it appears that there are no significant differences across race.

TABLE 34: DRUG AND ALCOHOL PROBLEMS BY RACE (PERCENTS)

	<u>None</u>	<u>Drug</u>	<u>Alcohol</u>	<u>Drug &amp; Alcohol</u>
<u>White:</u>				
Total	76.7	8.2	8.7	6.4
Juvenile	99.2	0.4	0.4	0
Adult	47.1	18.5	19.6	14.8
<u>Black:</u>				
Total	73.8	13.9	6.7	5.4
Juvenile	97.4	1.1	1.1	0.3
Adult	57.9	22.5	10.7	8.9
<u>Indian:</u>				
Total	73.3	4.8	15.8	6.0
Juvenile	97.6	0.4	1.0	1.0
Adult	33.2	12.0	40.2	14.6
ALL	74.2	9.2	10.6	5.9

TABLE 35: PRE-SENTENCE PSYCHIATRIC EVALUATION BY RACE (PERCENTS)

	<u>Unknown (no data)</u>	<u>No</u>	<u>Yes</u>
<u>White:</u>			
Total	57.1	29.9	13.0
Juvenile	97.6	2.4	0
Adult	21.2	66.1	12.7
<u>Black:</u>			
Total	53.6	36.9	9.5
Juvenile	95.7	3.4	0.5
Adult	29.0	59.5	11.5
<u>Indian:</u>			
Total	63.9	27.3	8.8
Juvenile	97.6	2.4	0
Adult	20.6	68.4	11.0
ALL	58.2	31.8	10.0

A Search for the Determinants of Crime

We explored possible determinants of crime in the sense of seeing which factors discussed above, in addition to previous criminal history, are the most significant predictors that a person may become an inmate in the correctional system. In doing so, we paid particular attention to the effect of race itself.

To begin our search, we examined the distribution of our dependent variables across the racial groups. As our dependent variables we selected the number of previous felony convictions and the total years to be served in a correctional institution.

Table 36 shows, about 14 percent of the sample has at least one previous felony conviction. In terms of racial differences, the proportion of blacks with previous felony convictions (17.9 percent) is two times higher than that of their Indian counterparts (8.8 percent). The white group is inbetween with 11.8 percent having previous convictions. Similarly, black inmates received longer sentences than non-blacks (See Table 37): about 48 percent of the black inmates received a sentence of four years or more while about 32 and 27 percent of whites and Indians, respectively, received similar sentences.

TABLE 36: NUMBER OF PREVIOUS FELONY CONVICTIONS BY RACE (PERCENTS)

	<u>Unknown (no data)</u>	<u>0</u>	<u>1</u>	<u>2+</u>	<u>All with 1 or more</u>
White	66.0	25.3	5.5	6.3	11.8
Black	51.1	30.9	7.5	10.4	17.9
Indian	66.9	21.3	3.4	5.4	8.8
ALL	60.2	26.1	5.9	7.8	13.7

TABLE 37: TOTAL YEARS TO BE SERVED BY RACE (PERCENTS)

	<u>0</u>	<u>1-3</u>	<u>4-10</u>	<u>11+</u>
White	57.3	10.5	26.5	5.7
Black	39.9	12.3	33.0	14.8
Indian	62.0	11.0	22.2	4.8
ALL	51.9	11.4	27.5	9.1

These aggregate distributions of criminal phenomena by race, however, do not give many clues as to the causes of crime. To explore the question further, we constructed an index of dependent variables based on the number of previous felony convictions and the total number of previous correctional records. The total number of correctional records is the sum of an individual's juvenile, youth, and adult records in the correctional system either in Minnesota or another state and at the city, county, and state level. The index ranges from zero to nine; if an individual had no records at city, county, or state level as a juvenile, youth, or adult, the individual was given an index of zero. A record at any level either as a juvenile, a youth, or an adult would give that person an index of one; a record at two levels of government in the same age classification or a record at the same level of government as, say, a juvenile and a youth, would give an index of two; and so on. The independent variables, listed in Table 38 are the same as those surveyed in Tables 28 through 34: family stability, level of work related skills, mental and physical problems, unemployment, and education. These independent variables are measured in the following way:

TABLE 38 : CAUSES OF CRIME: REGRESSION ANALYSES

Dependent Variable		INDEPENDENT VARIABLES								
		No. of Cor- rectional Records	Family Stability	Level of Skill	Mental- Physical Problems	Unemploy- ment	Educa- tion	Race		
								White	Black	Indian
Number of Correctional Records	All (N=2055) R <sup>2</sup> = 21.6%	--	-.057 *	.317 ****	.392 ****	.290 ****	-.037	-.06	.10	.11
			(.03)	(.16)	(.34)	(.37)	(-.05)	(-.07)	(.06)	(.004)
	Juv (N=1043) R <sup>2</sup> = 40.8%	--	.005	.300 ****	.160 **	.060 ****	-.033 *	-.11	-.10	-.11
			(.017)	(.62)	(.12)	(.15)	(-.38)	(-.09)	(.03)	(.004)
	Adult (N=1012) R <sup>2</sup> = 3.4%	--	-.095	.181 *	.126	.080 *	-.082	.02	.19	.57 *
			(-.05)	(.09)	(.08)	(.08)	(-.08)	(-.07)	(-.07)	(.14)
Number of Previous Felony Convictions	Adult (N=786) R <sup>2</sup> = 13.9%	.266 ****	.174 ****	-.136	.167 **	-.043	-.298 ****	-.35	.04	-.45
		(.29)	(.15)	(-.004)	(.13)	(.01)	(-.13)	(-.07)	(.05)	(-.01)

- 1) Data are beta normalized coefficients and the data in parentheses are simple Pearson correlation coefficients of independent variables with dependent variable.
- 2) Asterisks indicate significance: \*, at .1; \*\*, at .01; \*\*\*, at .001; and \*\*\*\*, at .0001.

- A) Family stability (or patterns of family life)
  - 1) previously lived with both parents and/or spouse
  - 2) previously lived with mother only or father only
  - 3) previously lived with adoptive parents or step-parents
  - 4) previously lived independently in a boarding house or with relatives or friends ("other")
- B) Level of work-related skills
  - 1) skilled
  - 2) semi-skilled
  - 3) unskilled
- C) Mental and physical problems
 

A combined measure of psychological, physical, and alcohol-drug problems with scores ranging from 0 (for some of these problems) to 3 (for all of them).
- D) Unemployment
  - 1) full-time employment, including student or housewife
  - 2) part-time employment
  - 3) irregular job
  - 4) unemployed
- E) Education
  - 1) highest grade completed was 7th grade or lower
  - 2) highest grade completed was 8th-12th grade
  - 3) highest grade completed was 12th grade or higher

We also included race among our independent variables.

Except for education, these independent variables were expected to have positive relationships with selected dependent variables; education itself was expected to exhibit a negative correlation with the dependent variables. We present the results of a regression analysis in Table 38.\*

Race was not found to be significant as a predictor, the other independent variables are found to be important. Specifically, the level of skill (.317), mental-physical problems (.392), and unemployment (.290) are all strongly associated with correctional records of inmates. Race shows no independent effect on correctional records. When we tested our juvenile and adult groups separately, the predictive powers of the three independent

\* The regression analysis allowed us to assess the relative contribution of each independent variable toward "explaining" the dependent variable in question. Each "r" is thus to be read as the specific contribution of the independent variable as a proportion of the overall amount of variance explained by the total set of independent variables.

variables listed above remained significant for juveniles but not for adults. As we saw earlier, the majority of adult inmates were unskilled, unemployed, and had alcohol-drug related problems so that there was limited variance possible among the population.

We also examined how the same independent variables and the number of correctional records were related with the number of previous felony convictions. Correctional records (.266), family stability (.174), and education (-.298) had strong effects on the dependent variable, the number of previous felony convictions. The mental-physical variable also had a moderate effect on the dependent variable. Here again, race had no independent influence on the dependent variable. It is interesting to note that family stability and education, both of which had no effect on correctional records, had relatively strong effects on the number of previous felony convictions. On the other hand, the level of skill and unemployment, which had a strong impact on correctional record scores, had no independent influence on felony convictions. This may imply that family stability as well as mental-physical problems are more important determinants for more severe crimes.

#### Race as a Possible Source of Discriminatory Treatment in the Correctional System.

Our final section examines whether race has any effect on the treatment of those convicted in the criminal justice system. First, we explored possible determinants of the maximum sentence a convicted person received in each crime. We employed previous correctional records, previous felony convictions, the number of previous convictions with the same charge, and race as independent variables. We selected six types of crime that had a moderate number of cases. The results of the regression analysis are presented in Table 39. Overall, the selected independent variables are not good predictors of the maximum sentence received by the inmates. In particular, race had no significant impact on the dependent variable. The number of previous convictions with the same charge did have strong effects on the sentences received for the charges of aggravated robbery and simple robbery.

Next, it is useful to look at how many paroles an inmate received during his period in the correctional system (Table 40). Overall, about

39 percent of the inmates received at least one parole during their period in the correctional system. The proportion of minority inmates who received at least one parole is slightly higher than that of the white sample.

Finally, it will be noted that an inmate who is sentenced to a certain period of confinement usually serves a shorter time period than ordered by the court. Table 41 shows the distribution of "early" and "late" releases. The proportion of blacks who are released at least 37 months earlier than their sentence is high (70.3 percent); this is relatively higher than the proportion of whites released under the same conditions (61.9 percent) and than the Indians as well (57.1 percent). As we noted in Table 37, more black inmates received longer sentences than non-blacks so it may be reasonable for black inmates to be released earlier.

From these data we conclude there is no evidence of discriminatory treatment in the Minnesota correctional system.

TABLE 39: DETERMINANTS OF MAXIMUM SENTENCE (PERCENTS)

Type of Crime	Correctional Records	No. of Previous Felony Convictions	No. of Previous Conv. from the same charge	Race		
				White	Black	Indian
Aggravated Robbery (N = 147)	26.4 (.08)	.25** (.12)	.19**** (.63)	13.5 (.31)	8.2* (-.05)	6.6 (-.08)
Aggravated Assault (N = 82)	-.33 (-.08)	.29 (.03)	-- (--)	.87 (-.002)	.46 (-.06)	1.35 (.09)
Simple Robbery (N = 95)	.65* (.09)	-.20 (.02)	15.1**** (.58)	2.5 (.06)	.89 (.05)	.81 (-.07)
Burglary (N = 202)	-.07 (-.06)	-.20 (-.04)	1.2 (.07)	-.8 (-.03)	-.01 (.14)	-1.1 (-.12)
Theft (N = 90)	-.12 (-.13)	-.11 (-.12)	1.5 (.06)	-.30 (.06)	-.72 (-.17)	.21 (.14)

- 1) Data are beta normalized coefficients and the data in parentheses are simple Pearson correlation coefficients of independent variables with dependent variable.
- 2) Asterisks indicate significance: \*, at .1; \*\*, at .01; \*\*\*, at .001; and \*\*\*\*, at .0001.

TABLE 40: NUMBER OF PAROLES BY RACE (PERCENTS)

	<u>0</u>	<u>1</u>	<u>2+</u>	<u>1 or more</u>
White	66.1	30.6	3.4	34.0
Black	60.2	31.7	8.1	39.8
Indian	59.6	32.6	7.9	40.5
ALL	61.2	31.8	7.1	38.9

TABLE 41: PROPORTION OF EARLY AND LATE RELEASE BY RACE (PERCENTS)

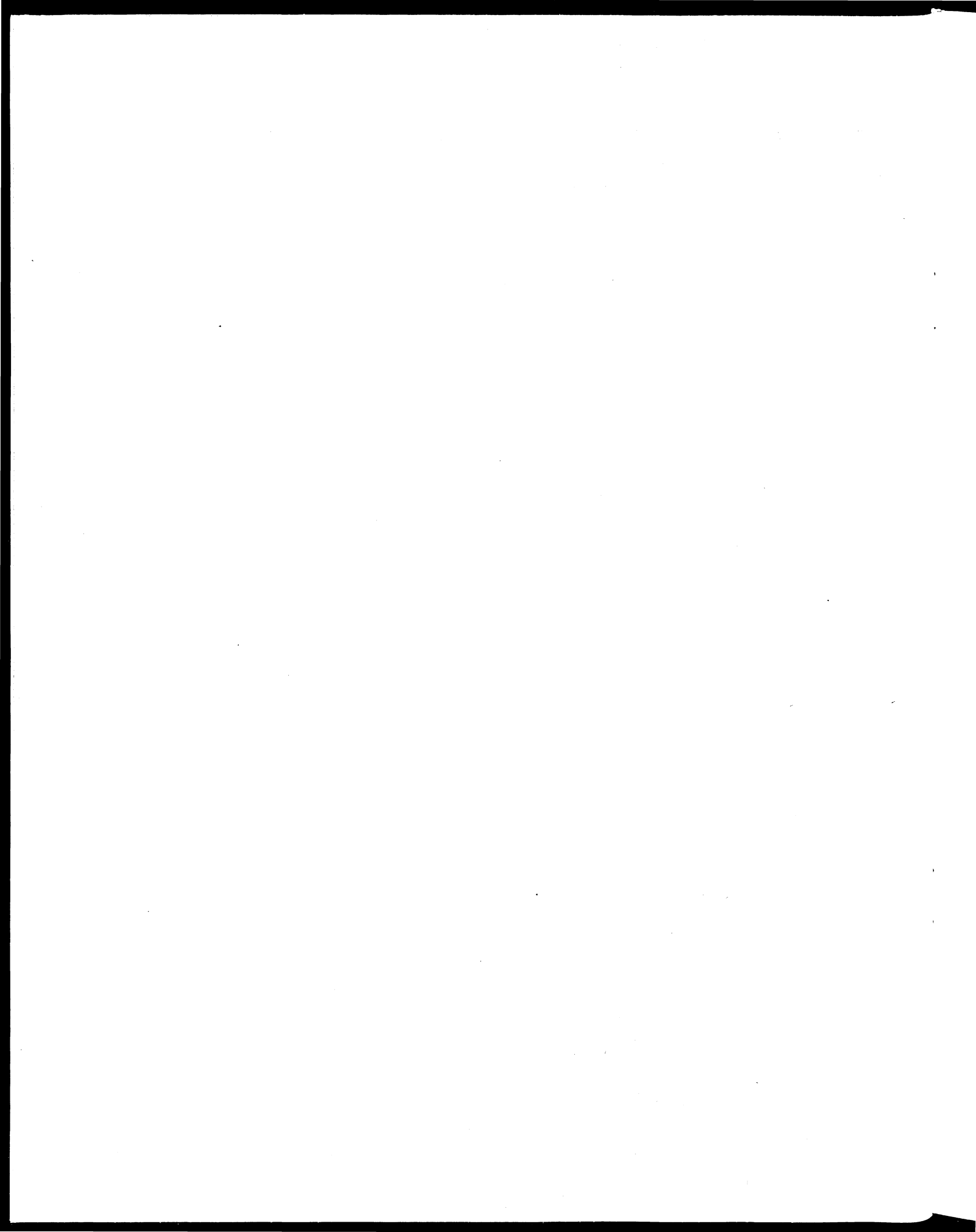
	<u>Time To Be Served Minus Time Actually Served (months)</u>				
	<u>Late Release</u>			<u>Early Release</u>	
	<u>-1 or Lower</u>	<u>0</u>	<u>1-36</u>	<u>37-72</u>	<u>73+</u>
White	3.2	0	34.9	32.8	29.1
Black	1.0	1.0	27.8	27.2	43.1
Indian	2.7	1.0	39.2	29.2	27.9
ALL	1.9	.8	32.5	28.9	35.9

### Conclusions

We concluded in Part I of this report that the arrest index for American Indians was higher than for other groups, especially in the northern counties of the state. However, the data in this report suggest that the number of felony convictions and total convictions is much lower for Indians as compared to whites. Moreover, race does not appear to be a significant causal factor for crime as measured in this report. Rather, the variables associated with poverty -- family instability, unemployment, low education, alcoholism, drug abuse, and mental and physical problems -- are more important. We did not find racial discrimination against those in the prison population as measured by statistical data; once in prison, each group appears to be treated in a similar manner.

In a larger perspective, however, we must remember that although race does not exert a significant independent effect on the data studied here, citizens with the social-economic disadvantages found to be significant are, in fact, overrepresented in minority groups in the Minnesota population at large. In other words, we must end by noting the circular relationship commented on by many others. Discrimination is experienced not so much

because one is black or American Indian but, rather, because being a black or an Indian tends to mean one will experience social and economic inequalities, and these inequalities will in turn tend to cause discrimination. Crime, race, and social-economic status are difficult to isolate. It is one's total environment that determines positively or negatively, one's life chances.



## APPENDIX A: SYSTEMIC BIAS IN THE CRIMINAL JUSTICE SYSTEM

It is possible that there is systemic error in the criminal justice system. First, arrest statistics may be seen as a joint function of real crimes in the community and the efficiency of police performance. Minority communities, more than others, tend to have social problems of alienation, family disintegration, poverty, lack of education, drugs, and disease. For the police force, the discrepancy between a large responsibility and a limited number of police officers may result in "selective enforcement" of laws. If this is the case, police will more likely concentrate their attention on minority communities where there are more social problems than in the rest of the population. Police contact rates are probably inversely related to socio-economic indices and the proportion of police "contacts" who are booked is also inversely related to these socio-economic indices (Gold 1963). There are studies which report that blacks, as compared with whites, are more likely to be questioned by the police on the street and are more likely to be arrested after questioning (Bayley and Mendelson 1969). Police are more likely to arrest a black youth in a discretionary situation than to arrest a white youth in a similar situation. Second, minorities have disadvantages in terms of defending themselves. They are often without counsel or the information that would allow them to better prepare their cases.

According to Minnesota Rules of Criminal Procedure, "if the person has been arrested for a misdemeanor offense, he must be issued a citation and released from jail unless 1) it appears reasonable to the officer that detention is necessary to prevent bodily harm to the accused or another or 2) there is a substantial likelihood that he will fail to respond to a citation." Citizens accused of felonies may be released according to the same criteria. Within the context of the rules, several options are open to the officer in charge of the detention facility. After "booking," the person who has been arrested may be interviewed by a member of a precourt screening unit to ascertain background and financial status. This information will then be used to determine whether or not to release the accused.

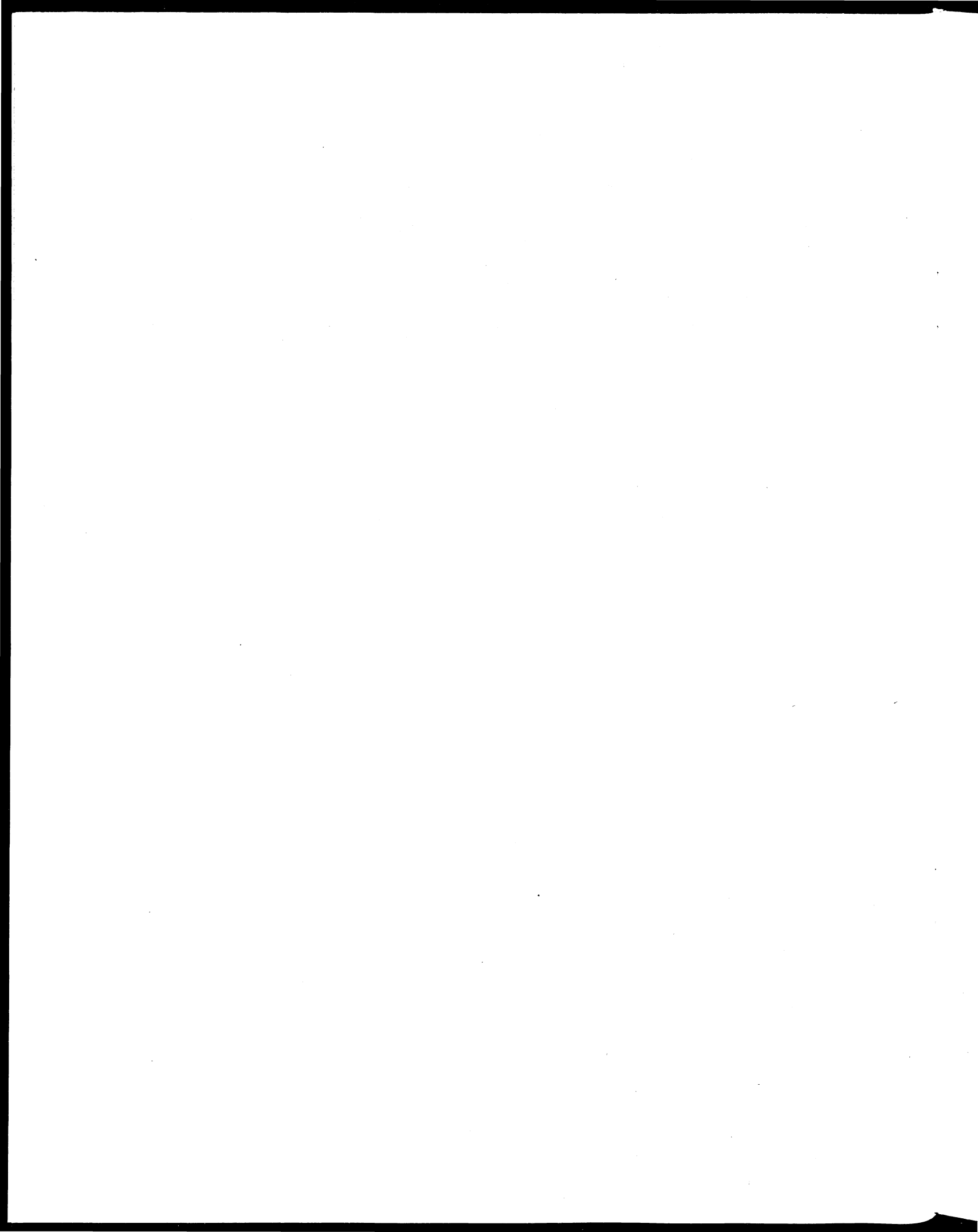
If the person arrested lives with family (3 points), has lived at the present residence for at least one year (3 points), and has held a local job for at least one year (3 points), that person will be releaseable. For example, according to the Hennepin County Pretrial Procedure Manual, a citizen with a total of 5 points for a felony or a total of 3 points for a misdemeanor will be released. On the other hand, if the person arrested lives alone (0 point), has lived at present residence no more than three months (0 point), is presently unemployed (0 point), that person will not be judged releaseable since he or she is poor and is less likely to pay bail. In short, arrested minorities are disadvantaged.

As it is possible for police or screening units to use discretion, so it is possible also for prosecutors, juries, and judges. The use of discretion in the administration of justice may result in discrimination (Banks 1977). The use of discretion is available to criminal justice officials whenever the limits on power involve a choice among possible courses of action or inaction. Few realize the amount of discretion exercised by a prosecutor in deciding to prosecute or not prosecute, or to reduce or drop criminal charges against an alleged offender. Judges also have several options. Some offenses are punishable by a fine, imprisonment, or both. The judge has three options: placing the offender on probation, giving a "split sentence," or sentencing the offender to the full term.

Finally, different levels of development in the criminal justice system may result in differential performances such as we have found between the metropolitan and northern regions in Minnesota. The larger system with more specialization and better trained staffs may do better pretrial screening. Officials of different regional systems have different social backgrounds. The socialization of these officials may bias their performances. In this connection, there is an interesting study by Rose and Prell (1955). Subjects used in the study were college students who were to act as judges in deciding punishment for offenders. They were given information describing the crime and the offenders, and were then asked to select an appropriate punishment for each offender. Those from rural

areas and small towns assigned both longer prison sentences and higher fines for most crimes than those from large and medium-sized cities. Although social backgrounds of criminal justice officials are unavailable, the proportion of officials with rural backgrounds is no doubt highest in non-metropolitan areas in Minnesota. It is also likely that images and conceptions of minorities and crimes among the general population are different from region to region.

Although the conclusions of this study must be carefully interpreted, they suggest the possibility of systemic bias in the criminal justice system of Minnesota. Additional research focusing on how officials' images and conceptions of minorities and crimes affect the operation of the criminal justice system will be needed before more conclusions can be reached.



APPENDIX B: ON THE PROBLEM OF RELIABILITY OF HENNEPIN COUNTY DATA

Coleman and Genadak (1978, p. 6) point out that the criminal justice system of Hennepin County reported only about half of its court cases. Since the arrest statistics of Hennepin County are about 30 percent of our sample, it may limit our findings.

The first problem is bias due to under-reporting. For example, Table 1 presents Hennepin and four other metropolitan counties in terms of the arrest index.

TABLE 1: ARREST INDICES OF HENNEPIN AND FOUR OTHER METROPOLITAN COUNTIES COMPARED (arrests per 1,000 persons)

	<u>White</u>	<u>Black</u>	<u>Indian</u>
Hennepin	71.5	104.0	77.0
Anoka, Dakota, Ramsey, Washington	63.0	56.3	77.3

We feel reasonably confident in arguing that our sample does not under-report Hennepin County.

The second problem was the speculation that those who were released may not have been reported. Comparing arrest dispositions of three areas, we find the release rates are similar (Table 2). The third suspicion of under-reporting concerns those cases which may not have been reported because the alleged offenders pleaded not-guilty and consequently were released. As Table 3 shows, except for American Indians, the rate of not-guilty pleas is higher in Hennepin County than in other counties. Because of the small number of Indian cases, that comparison is of limited use.

Finally, we compared proceeding dispositions for the two areas (Table 4). Here we also find that the rates of acquittal and dismissal are similar in both areas.

From these additional statistical analyses we concluded that our sample data does not have serious under-reporting problems for Hennepin County. This may be because our sample includes the total minority crime population and only 2.5 percent of whites for the three year period of 1973-75.

TABLE 2: ARREST DISPOSITIONS OF SEVEN\* MAJOR CRIMES (PERCENTS)

	<u>Hennepin County</u>			<u>Other Metro Counties</u>		
	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>
N =	(235)	(809)	(116)	(230)	(332)	(75)
Held	22.6	35.1	37.9	30.0	34.3	38.7
Bail	53.6	49.3	46.6	52.6	56.0	52.0
Released	8.1	5.4	4.3	7.4	4.8	4.0
Other	15.8	10.2	11.3	10.0	4.8	5.4

\*Homicide, assault, robbery, burglary, auto theft, forgery, and narcotics.

TABLE 3: RATE OF GUILTY AND NOT-GUILTY (PERCENTS)

	<u>Hennepin County</u>			<u>Other Metro Counties</u>		
	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>
N =	(19)	(105)	(12)	(51)	(53)	(16)
Guilty	73.7	71.4	100	88.2	77.4	87.5
Not-Guilty	26.3	28.6	0	11.8	22.6	12.5

TABLE 4: CASE DISPOSITIONS OF HENNEPIN AND OTHER METRO COUNTIES COMPARED (PERCENTS)

	<u>Hennepin County</u>			<u>Other Metro Counties</u>		
	<u>W</u>	<u>B</u>	<u>I</u>	<u>W</u>	<u>B</u>	<u>I</u>
N =	(27)	(135)	(11)	(31)	(66)	(16)
Held	0	3.0	9.1	3.2	1.5	0
Released or Acquitted	11.1	5.9	0	12.9	7.5	6.3
Pending	22.2	13.3	0	22.6	10.6	18.8
Dismissed	14.8	24.4	27.3	16.1	28.8	18.8
Convicted	37.0	47.4	54.5	45.2	51.5	56.3
Others	14.8	5.9	9.1	0	0	0

## GLOSSARY

For the reader inexperienced with the criminal justice system, the large number of new words and concepts can be confusing if not overwhelming. In an effort to ease some of the confusion, we present here a brief glossary of words used in our report. Our definitions are intended as a rough guide; actual legal definitions often run as long as three or four pages of typeset copy. The categories of crimes defined here are general categories used throughout the United States. In Minnesota, and some other states, the actual categories listed in the criminal statutes have been changed. For example, larceny and certain types of fraud are now listed in Minnesota under a general theft statute. Nevertheless these older terms are still in common use.

**AGGRAVATED ASSAULT** - Intentionally inflicting great bodily harm (high probability of death or serious, permanent disfigurement) on another or assaulting another with a dangerous weapon but without inflicting great bodily harm.

**AGGRAVATED ROBBERY** - Taking personal property while armed with a dangerous weapon or while inflicting bodily harm upon the victim.

**ARRAIGNMENT** - The procedure (or hearing) whereby the accused is brought before the court to plead (guilty, not guilty, or nolo contendere) to the criminal charge.

**ARREST DISPOSITION** - Used in this paper to mean how the arrested person is treated immediately after arrest.

**ARSON** - Intentional destruction or damage to real or personal property by fire or explosives.

**ASSAULT** - Doing an act with intent to cause fear in another of immediate bodily harm or intentionally inflicting or attempting to inflict bodily harm upon another.

**AUTO THEFT** - ("Unauthorized use of motor vehicle") Intentionally taking or driving a motor vehicle without the consent of the owner or the owner's authorized agent.

**BURGLARY** - Entering a building without the consent of the person in lawful possession, with intent to commit a crime therein.

**CASE DISPOSITION** - Used in this paper to mean how defense is arranged; what plea is made (guilty, not guilty, or nolo contendere); and the result of the trial if it occurs (acquitted or found guilty). In criminal procedure, the term is used to mean the sentencing or other final settlement of a criminal case.

DISMISSED - An order or judgment finally disposing of an action, suit, or motion without trial of the issues involved.

DISORDERLY CONDUCT - Engaging in brawling or fighting, or disturbing an assembly or meeting not unlawful in its character, or engaging in offensive, obscene, or abusive language.

DRIVING UNDER THE INFLUENCE - Driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol.

FELONY - Any crime for which a sentence of imprisonment for more than one year may be imposed.

FORGERY - Both the act of forging handwriting of another and the act of putting into circulation as true and genuine any forged writing knowing same to be forged with intent to damage or defraud any person.

FRAUD - An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or her or to surrender a legal right.

HELD - As used in this paper, the term indicates those held in jail.

HOMICIDE - The act of a human being in taking away the life of another human being. Criminal homicide is murder, manslaughter, and negligent homicide. Then there is justifiable or excusable homicide. The term "homicide" is neutral; while it describes the act it pronounces no judgment on its moral or legal quality.

KIDNAPPING - Confining or removing from one place to another, any person without that person's consent.

LARCENY - Stealing, taking and carrying away another's personal property, with intent to convert it to one's own use or to deprive the owner thereof.

LIQUOR LAWS - Used in this paper to apply to all violations of laws relating to licensing and the sale of liquor - such as selling liquor to minors.

MANSLAUGHTER - The unlawful killing of a human being without malice and without premeditation and deliberation. It is of two kinds: voluntary, upon a sudden quarrel or in the heat of passion; and involuntary, in the commission of a lawful act without due caution and circumspection.

MISDEMEANOR - A crime for which a sentence of not more than ninety days or a fine of not more than \$100 may be imposed.

MURDER - The unlawful killing of a human being by another with malice aforethought.

NARCOTICS - Selling, prescribing, administering, dispensing or furnishing drugs or narcotics to others, except as authorized by law.

OTHER SEX OFFENSES - Includes all violations of laws pertaining to sexual conduct other than rape and prostitution, such as bigamy, for example.

NEGLIGENT MANSLAUGHTER - Operating a vehicle, aircraft, or watercraft in a grossly negligent manner which causes the death of a human being.

PENDING - Begun, but not yet completed; unsettled; undetermined; in process of settlement or adjustment. Thus, an action or suit is "pending" from its inception until the rendition of final judgment.

PETTY OFFENSES - A crime for which the maximum punishment is generally a fine or short term in jail. In some states, it is a classification in addition to misdemeanor and felony.

PROSTITUTION - Performing an act of sexual intercourse for hire.

RAPE - Unlawful sexual intercourse with another person without that person's consent.

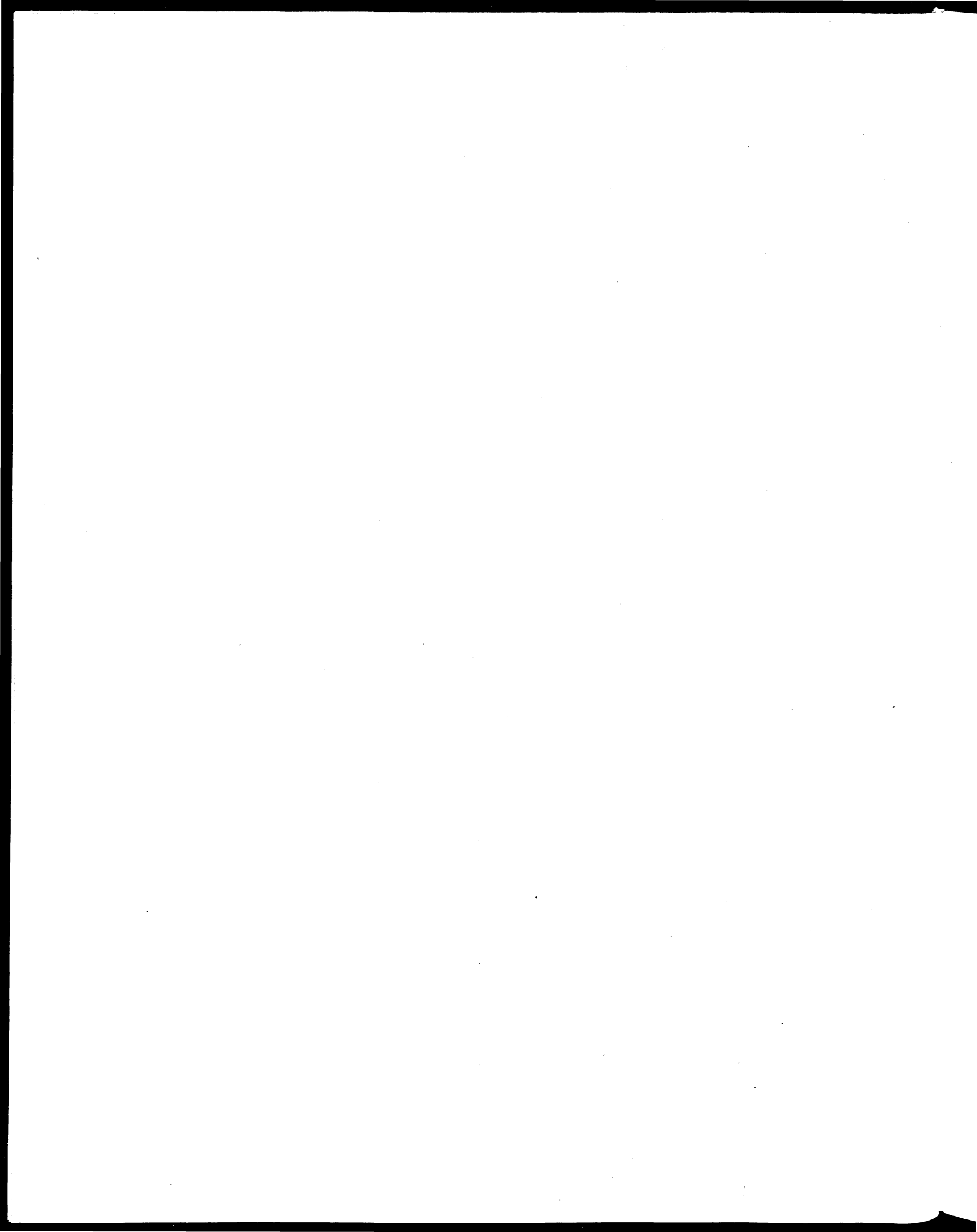
ROBBERY - Taking personal property from a person and using or threatening the imminent use of force.

SENTENCING DISPOSITION - Used in this paper to mean what sentence is given to those found guilty and whether it is imposed, stayed, or suspended.

STOLEN PROPERTY - Being in possession of stolen property and knowing the property to have been stolen.

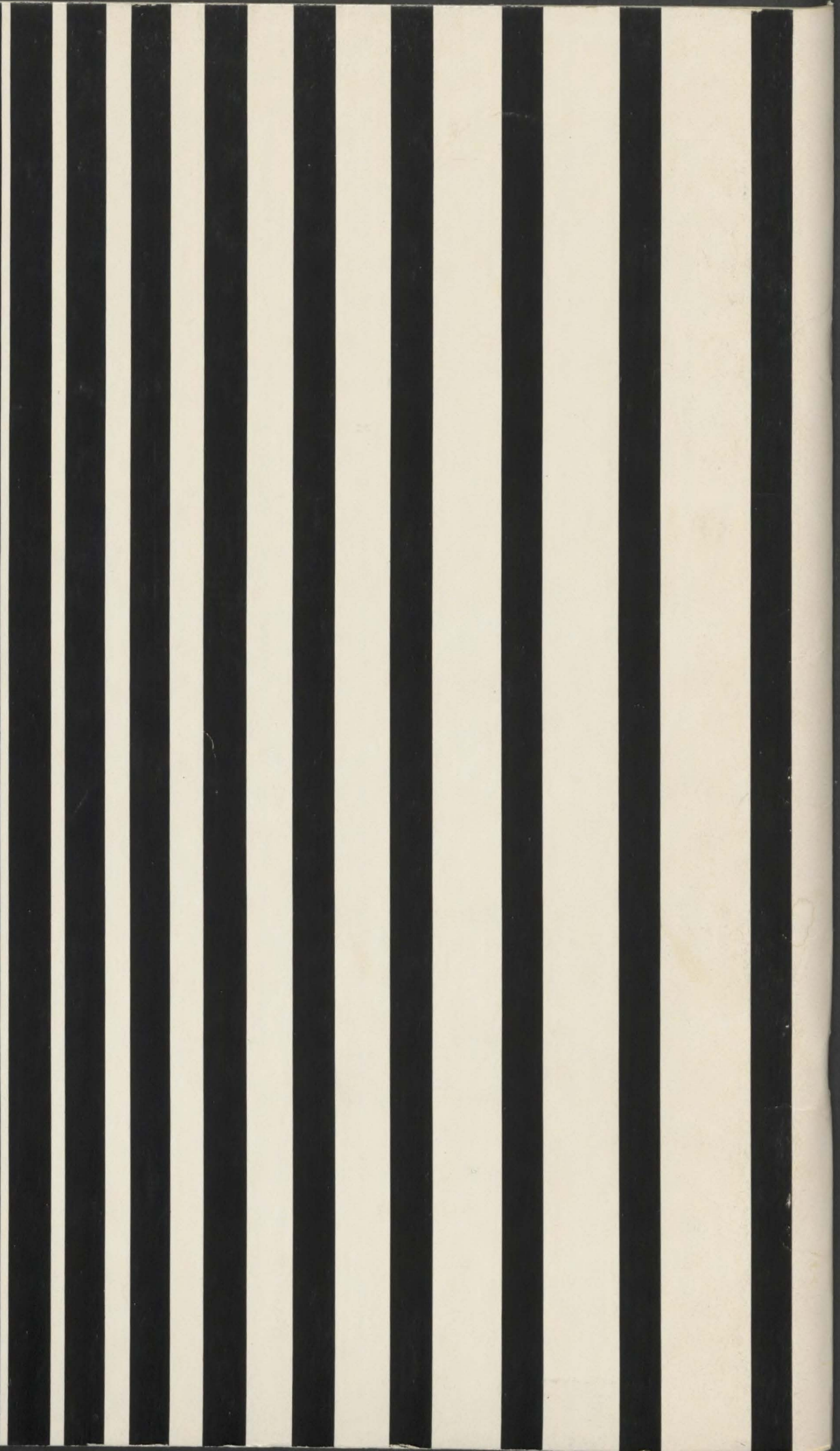
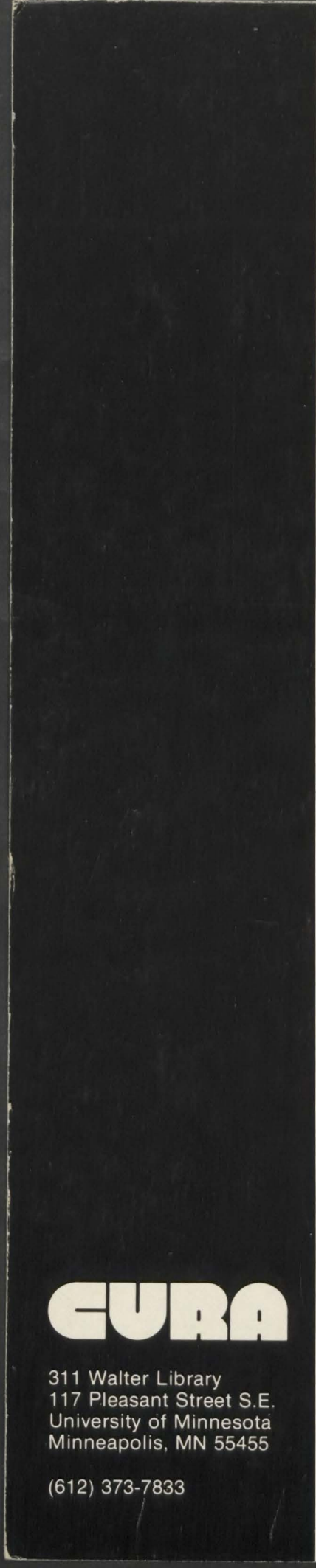
TRAFFIC - Used in this paper to mean all violations of traffic laws.

VANDALISM - Willful or ignorant destruction of property.



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