



WASHINGTON STATE
MINORITY AND JUSTICE COMMISSION

*RACIAL AND ETHNIC DESPARITIES IN THE
PROSECUTION OF FELONY CASES IN
KING COUNTY*

FINAL REPORT

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EXECUTIVE SUMMARY

Previous studies have found that substantial racial disparities in imprisonment exist. The authors of those studies cautioned that studies should continue to examine the criminal justice system for other sources of disparities. In particular, decisions made by prosecutors are critical in determining the outcome of any case, and are often discretionary in nature. Unlike judges imposing sentences, prosecutors have considerable discretion in deciding which cases to file; what charges and how many counts to file; whether to negotiate reductions in charges or in sentencing recommendations in exchange for guilty pleas; and in making recommendations to the Court regarding detention, bail and sentencing. The current study examines whether racial and ethnic disparities exist in the prosecutor decision-making process in King County on adult felony cases.

PROJECT GOALS AND OBJECTIVES

The current study examines prosecutorial decision-making, the relationship of defendants' race to those decisions, and the impact of existing prosecutorial guidelines on racial disparities in the Office of the Prosecuting Attorney for King County, Washington. As specified by Minority and Justice Commission Request for Qualifications and Quotations 95002, the project goal and objectives are:

PROJECT GOAL

To determine whether and under what circumstances the race and ethnicity of adult persons accused of felony crimes in King County influences, either directly or indirectly, the prosecutor decision-making process and the processing of felony criminal cases by the prosecuting attorney.

PROJECT OBJECTIVES

To document written and unwritten prosecution policies and procedures for filing criminal charges, dismissal of criminal complaints, use of pre-trial diversion, negotiation of guilty pleas and sentencing recommendations.

To determine the frequency that deputy prosecuting attorneys handle cases in a manner consistent with written and unwritten office policies.

To determine whether racial and ethnic differences exist concerning each of the major aspects of prosecutor decision-making on criminal cases: filing of initial criminal charges, amendments to criminal complaint, recommendation of pre-trial diversion [not used], plea negotiations, dismissal of charge(s) or of criminal complaint and sentencing recommendations.

To determine whether racial and ethnic differences correlate, in the processing of criminal cases by the prosecuting attorney during each of the major aspects of prosecutor decision-making on criminal cases, to specific characteristics of cases, offenders or patterns of noncompliance with prosecutor policies and guidelines. Whether racial and ethnic differences exist in the outcome of prosecutor decisions in examining the type of crime committed, type of legal representation obtained or whether prosecutor compliance or noncompliance with office policies and guidelines contribute to differences, if any, in the outcome of prosecutor decisions.

KING COUNTY FILING AND DISPOSITION STANDARDS

In 1983, the Washington State Legislature enacted statewide prosecutorial filing and disposition standards intended to structure discretion in charging decisions and plea negotiations (RCW 9.94A.430.460). Prior to this legislation, the Office of the Prosecuting Attorney for King County had developed detailed policies and procedures—referred to as “the standards”—designed to set priorities for handling cases, increase

consistency in charging decisions and sentencing recommendations, and to guide decisions to reduce or dismiss charges in exchange for guilty pleas.

In King County, as in most jurisdictions, the Prosecuting Attorney must establish priorities for filing charges that will conserve limited resources while effectively and efficiently disposing of cases. In order that the King County Prosecutor's Office and the Superior Court may concentrate on more serious felony offenses, referrals for misdemeanors and gross misdemeanors are typically declined and referred to municipal or district courts for prosecution. In addition, King County has developed an "expedited crime" policy, whereby relatively minor non-violent felonies committed by first-time offenders are routinely declined and referred to district court for prosecution as misdemeanors.

For cases in which the King County Prosecuting Attorney retains jurisdiction, the decision whether to file charges, the nature of those charges, and the number of charges are guided by specific standards. The decision to file charges or decline prosecution rests largely on evidentiary sufficiency. Filing standards for King County, and for Washington State, reflect this by specifying two different evidentiary sufficiency tests—one for crimes against persons, and one for other offenses. To summarize, "crimes against persons will be prosecuted if available evidence is sufficient to take the case to the jury for decision. . . other crimes are to be prosecuted only when there is sufficient evidence to make convictions probable" (Maleng, 1987: 42). Thus personal crimes, being generally more serious and of greater public concern, are prosecuted more aggressively than other property and drug offenses.

DATA

Data for this study were obtained from three principal sources: (1) PROMIS, the automated database used by the Office of the King County Prosecuting Attorney; (2) case files for a sample of approximately 500 felony cases filed with the King County Superior Court during 1994; and (3) personal interviews with 15 King County deputy prosecuting attorneys.

RESULTS

The major results of the multivariate analyses (analyses of race effects on processing when other relevant factors have been statistically taken into account) are:

1. The filing of felony charges by the King County Prosecutor's Office varies by the type of offense and by the race of the offender. Charges were filed in 67% of drug-related referrals, 64% of crimes against persons, and 58% of all other/property-related referrals. White offenders were the least likely to be charged (60%), compared to 65% of all minority offenders. Multivariate analyses show that those differences by race in the probability of filing persist, even after adjusting for the possible effects of other offender characteristics and of legally relevant factors.

Among offenders who were charged, most plead guilty (65%). There were few differences in dispositions by the race of the offender. African American offenders were less likely to plead guilty, and more likely to go to trial. While this did not affect the overall conviction rate for African American offenders, it could potentially result in African American offenders receiving, on average, slightly more severe sentencing recommendations and more severe sentences, independent of their offenses.

2. In general, the results show few disparities by race of the offender in the various recommendations of deputy prosecuting attorneys, as represented in the PROMIS data and the 500 sampled cases. Clearly, the strongest correlates of the various recommendations and actions of deputy prosecutors are legal characteristics of the offense (type and severity) and the criminal history of the defendant. Although race and other extra-legal factors were often shown in the bivariate analyses to be related to prosecutorial decisions, those associations were usually mediated by legal characteristics—meaning that they were accounted for by the race differences in the offenses or priors of the defendants that were related to the recommendations.

A few exceptions to this pattern, however, should be noted. First, the effect of race, particularly African American, on bail was significant in most analyses. The effect was reduced once we controlled for detention recommendation by the police. While this measure may statistically capture legal factors not identified in standard analyses, the variable may also indicate the operation of discretion at earlier stages in the criminal justice system that unknowingly flow into and affect the operations of the Prosecutor's office. Second, there were significant differences in the amount of confinement

recommended for Black offenders and White offenders, and deputy prosecutors were less likely to recommend an alternative sentence conversion for Black offenders. Alternatively, Hispanics were less likely than others to receive community placement. Although there may be important variables omitted from these analyses, the findings are strong compared to those produced in other state-of-the-art studies that use traditional legal variables in their analyses.

3. The results of Judges' sentences are consistent with the recommendations of the Prosecuting Attorney's Office. This is not surprising given that the vast majority of offenders plead guilty after negotiations between deputy prosecuting attorneys and defense counsel, and both deputy prosecutors and judges rely on state sentencing guidelines in their recommendations and orders. The primary finding is that legal variables, particularly seriousness of the offense and the criminal history of the offender, are the most important factors associated with sentencing. However, controlling for legal factors, African Americans tend to receive higher sentences than Whites and are less likely to be provided an alternative sentence conversion.

CONCLUSIONS

In the final analysis, we conclude that the most important factors in the prosecution of felony cases in King County are legally relevant factors. There are, though, instances where racial and ethnic differences appear in the handling of cases. How most of these differences might be explained with legally relevant factors is not immediately apparent. The procedures and standards which the King County Prosecuting Attorney's Office have adopted, and which are reevaluated and changed regularly, appear to produce cases that are handled in a systematic way based on legally relevant factors. Nevertheless, even with the use of standards there are some observable differences by race of offenders in case processing outcomes. However, we cannot draw definitive conclusions as to the sources of those differences, but we believe they are grounds for concern.

Racial and ethnic differences in criminal justice processing are not necessarily the result of individuals making biased decisions. Differences may appear because of the adoption of laws and policies that differentially impact some segments of the population more than others. This study was not designed to uncover individuals making biased

decisions. In fact , when interviewing members of the Prosecuting Attorney’s staff, we were struck by the level of commitment to fairness and justice exhibited. We believe a fruitful direction to pursue in obtaining a more “just” criminal justice system is to try to confront and modify law, legal practices and policies that may disadvantage some groups.

RACIAL AND ETHNIC DISPARITIES IN THE PROSECUTION OF FELONY CASES IN KING COUNTY

I. INTRODUCTION AND LITERATURE REVIEW

Nearly a decade ago researchers found that African Americans and Hispanics did not fare as well as Whites in the criminal justice system of Washington State (Crutchfield and Bridges, 1986). In part, the Sentencing Reform Act (SRA) of 1981 was an attempt to remedy racial inequalities in the criminal justice system by mandating statewide sentencing guidelines and by developing recommended prosecution standards for charging and plea dispositions (Sentencing Guidelines Commission, 1982; Maleng, 1987). A study sponsored by the Washington State Minority and Justice Commission in 1993 found that in most cases judges in Washington State follow these guidelines and only infrequently sentenced outside the standard range (Crutchfield, Weis, Engen and Gainey, 1993). That study concluded that while the use of exceptional sentences did vary somewhat by offenders' race, exceptional sentences are not a major source of racial disparities in punishment in Washington State.

Given the substantial racial disparities in imprisonment, however, the authors of that study cautioned the Commission that studies should continue to examine the criminal justice system for other sources of disparities. In particular, decisions made by prosecutors are critical in determining the outcome of any case, and are often discretionary in nature. Unlike judges imposing sentences, prosecutors have considerable discretion in deciding which cases to file; what charges and how many counts to file; whether to negotiate reductions in charges or in sentencing recommendations in exchange for guilty pleas; and in making recommendations to the Court regarding detention, bail and sentencing. The current study examines whether racial and ethnic disparities exist in the prosecution of adult felony cases in King County. This research in King County is important for two reasons. First, King County is the largest and racially most diverse county in Washington and as a consequence contributes

substantially to the number of minority persons incarcerated in state prisons. Second, there is past research (Hagan, 1975) which found minimal effects of race on prosecutions in King County.¹

PROJECT GOALS AND OBJECTIVES

The current study examines prosecutorial decision-making, the impact of defendants' race on those decisions, and the impact of existing prosecutorial guidelines on racial disparities in the Office of the Prosecuting Attorney for King County, Washington. As specified by Minority and Justice Commission Request for Qualifications and Quotations 95002, the project goal and objectives are:

A. Project goal:

To determine whether and under what circumstances the race and ethnicity of adult persons accused of felony crimes in King County influences, either directly or indirectly, the prosecutor decision-making process and the processing of felony criminal cases by the prosecuting attorney.

B. Project objectives:

1. To document written and unwritten prosecution policies and procedures for filing criminal charges, dismissal of criminal complaints, use of pre-trial diversion, negotiation of guilty pleas and sentencing recommendations.
2. To determine the frequency that deputy prosecuting attorneys handle cases in a manner consistent with written and unwritten office policies.
3. To determine whether racial and ethnic differences exist concerning each of the major aspects of prosecutor decision-making on criminal cases: filing of initial criminal charges, amendments to criminal complaint, recommendation of pre-trial

¹ The current project will use more sophisticated statistical techniques than were available to professor Hagan over 15 years ago. Also, the Hagan study was conducted prior to the Sentencing Reform Act and some observers question whether or not the state's current determinant sentencing practices may have shifted discretion from judges to prosecutors and as a consequence the problems that come with that discretion.

diversion [not used], plea negotiations, dismissal of charge(s) or of criminal complaint and sentencing recommendations.

4. To determine whether racial and ethnic differences correlate, in the processing of criminal cases by the prosecuting attorney during each of the major aspects of prosecutor decision-making on criminal cases, to specific characteristics of cases, offenders or patterns of noncompliance with prosecutor policies and guidelines. Whether racial and ethnic differences exist in the outcome of prosecutor decisions in examining the type of crime committed, type of legal representation obtained or whether prosecutor compliance or noncompliance with office policies and guidelines contribute to differences, if any, in the outcome of prosecutor decisions.

SOURCES OF RACIAL DISPARITIES

In general, unwarranted and disparate treatment of alleged offenders (i.e., differential treatment that is not due simply to differences in offending) may occur at any point in the criminal justice process where there exists discretion in decision-making. The most blatant example of this would be overt racial discrimination by individual criminal justice actors (e.g., police, prosecuting attorneys or judges). However, racial disparities in criminal justice need not be the result of discriminatory decisions by individual criminal justice actors in individual cases. Disparities, though legally justifiable, may also arise due to the formal or informal policies and practices of the Office of the Prosecuting Attorney or of the Court. For instance, the Prosecuting Attorney may choose, for a variety of reasons, to devote more resources to prosecuting certain types of offenses than others. If it were the case that those offenses being more vigorously prosecuted were also the types of offenses committed more often by racial or ethnic minorities, then disparities between White offenders and minority offenders on the whole would result. This would be true even if White offenders and minority offenders were treated equally when they committed the same crimes.

Yet another source of disparate treatment may be the consideration of non-legal factors, other than race, in making decisions and recommendations to the Court.

To the extent that factors such as offenders' employment status or history, family characteristics, residential stability, ties to the community, demeanor, history of alcohol or drug addiction, or mental illness are related to offenders' race or ethnicity, and influence the recommendations made to the court, racial disparities may result. In sum, unwarranted racial disparities may exist in prosecutorial decisions, and may be the result of the discriminatory treatment of certain offenders, policies and practices that target those crimes committed more often by minority offenders, or the consideration of non-legal factors that are related to, but separate from, defendants' race or ethnicity.

RESEARCH EVIDENCE

Researchers have been concerned with discretion in criminal justice for many years (Gottfredson, 1975). Recent research on racial and ethnic disparities in criminal justice processing has reported mixed results. Nationally, some studies report substantial racial and ethnic disparity in imprisonment (Bridges and Crutchfield, 1988), others report limited disparity (Blumstein, 1981) and at least one researcher has called such disparities a myth (Wilbanks, 1987). Research that has focused on Washington state suggests that there is reason for concern. In a study of Washington state processing prior to the Sentencing Reform Act of 1981, Crutchfield and Bridges (1986) found that "unwarranted" racial and ethnic disparity appeared to exist in the state criminal justice system. Bridges, Conley, Berretta and Engen (1993) reported similar findings for Washington's juvenile justice system. Recently Crutchfield, Weis, Engen and Gainey (1993) found some small, but significant, patterns of racial and ethnic disparity in exceptional sentencing under current Washington State sentencing rules.

An important question that has not been fully addressed by extant literature is whether and under what circumstances the race and ethnicity of adults accused of felonies influences their prosecution, and as a result, the likelihood of their imprisonment. Recently, prosecutorial discretion has been the focus of much criminal justice literature, owing in part to increasing limitations on judicial discretion (Walker, 1993). Several studies have specifically investigated the impact of race on prosecutorial decisions.

These studies have examined discretion at various stages in the criminal justice process, including the decision to file charges and the seriousness of those charges, the use of plea bargaining and charge reductions, and sentencing recommendations—specifically, willingness to seek the death penalty in capital cases.

The most widely investigated area in this literature involves discretion in requesting the death penalty (Baldus et al., 1983; Bowers, 1983; Dike, 1982; Gross and Mauro, 1984; Paternoster, 1984). For the most part, these studies find that “discretion, arbitrariness, and discrimination are present” in the system and that such factors have serious consequences for minorities (Radelet and Pierce, 1985: 618). Specifically, it has been found that the race of the victim is significantly related to the decision to seek the death penalty even when legally relevant factors are taken into account. These studies reveal that cases involving Black killers of Whites are most likely, and Black killers of Blacks the least likely, to have the death penalty requested by prosecutors (Baldus et al., 1983; Paternoster, 1984; Radelet and Pierce, 1985).

A second area of research examines prosecutors’ charging decisions, specifically focusing on the seriousness of charges filed. Findings here are mixed. Radelet and Pierce (1985) compared homicide classifications by prosecutors to those of the arresting officers, examining whether alternative assessments of the seriousness of the cases are associated with extra-legal factors such as race. They found that significant changes in the characterization of homicides do occur, and that given the initial police description, prosecutors were most likely to upgrade to a more serious offense those homicide cases involving a Black offender and a White victim (Radelet and Pierce, 1985).

Similarly, studies have found that homicide cases involving Black offenders, and especially cases with White victims, are more likely to result in indictments for first-degree murder (Bowers, 1984; Radelet, 1981). On the other hand, studies of charging reductions in robbery and burglary cases have not found minority offenders to be treated more severely once other legally relevant variables are taken into account (Albonetti,

1992; Bernstein et al., 1977). One study in fact found that Black offenders were more likely to receive charge reductions than Whites (Holmes et al., 1987).

A third area of research involves race and the probability of pleading guilty. Researchers argue that the ramifications of pleading guilty are severe, but there is conflicting evidence on the question of whether racial discrimination exists in the plea bargaining process. Specifically, studies have found evidence of discrimination against Hispanics and African Americans specifically concerning the decision to accept or reject felony charges, where rejection could involve either reduction to a misdemeanor or dropping charges altogether (Albonetti, 1990; Spohn, Gruhl and Welch, 1987). These studies have found that entering a guilty plea is likely to reduce the severity of charging and/or sentencing, but that Blacks are less likely than Whites to plead guilty, thus resulting in more severe sentences. This research is particularly relevant to the current study because it indicates that racial disparities in outcomes are likely to be related to policies regarding charge reductions and plea bargaining, even though those policies are not racially biased in themselves.

Some of this same research, however, fails to find discrimination at subsequent stages such as the decision to dismiss or not to dismiss charges after they have been filed (Spohn, Gruhl and Welch, 1987). Furthermore, other studies have found that African Americans and Hispanics are more likely than Whites to have charges dismissed (Petersilia, 1983). However, the paucity of literature on the stage of the criminal justice process prohibits making clear generalizations.

In conclusion, it is clear that prosecutors have considerable discretion in processing criminal defendants and that racial discrimination may occur at this stage of processing. Research is quite limited, though, in a number of respects. In addition to the fact that relatively few studies have specifically examined the impact of race on prosecutorial decision-making, existing studies are limited in the types of cases they examine, and in the decisions that they examine. Furthermore, much of the existing evidence is inconsistent and thus inconclusive.

The current study of race and prosecutorial decision-making will draw upon this earlier research, but will go beyond those studies by examining decision-making at several stages, from the initial filing of charges to final sentencing recommendations to the court, by including property crimes, drug offenses and serious personal crimes in the analyses, and by examining current policies and guidelines that may impact racial disparities in the criminal court.

II. *KING COUNTY FILING AND DISPOSITION STANDARDS*

In 1983, the Washington State Legislature enacted statewide prosecutorial filing and disposition standards intended to structure discretion in charging decisions and plea negotiations (RCW 9.94A.430.460). Prior to this legislation, the Office of the Prosecuting Attorney for King County had developed detailed policies and procedures—referred to as “the standards”—designed to set priorities for handling cases, increase consistency in charging decisions and sentencing recommendations, and to guide decisions to reduce or dismiss charges in exchange for guilty pleas (Maleng, 1987).

In King County, as in most jurisdictions, the Prosecuting Attorney must establish priorities for filing charges that will conserve limited resources while effectively and efficiently disposing of cases. In order that the King County Prosecutor’s Office and the Superior Court may concentrate on more serious felony offenses, referrals for misdemeanors and gross misdemeanors are typically declined and referred to municipal or district courts for prosecution. In addition, King County has developed an “expedited crime” policy, whereby relatively minor non-violent felonies committed by first-time offenders are routinely declined and referred to district court for prosecution as misdemeanors.

For cases in which the King County Prosecuting Attorney retains jurisdiction, the decision whether to file charges, the nature of those charges and the number of charges are guided by specific standards. The decision to file charges or decline prosecution rests largely on evidentiary sufficiency. Filing standards for King County, and for Washington State, reflect this by specifying two different evidentiary sufficiency tests—one for crimes against persons, and one for other offenses. To summarize, “crimes against persons will be prosecuted if available evidence is sufficient to take the case to the jury for decision... other crimes are to be prosecuted only when there is sufficient evidence to make convictions probable” (Maleng, 1987: 42). Thus personal crimes, being generally more serious and of greater public concern, are prosecuted more aggressively than other property and drug offenses.

The filing of special allegations of use of a Deadly Weapon, or of Sexual Motivation, are to be based on the same evidentiary sufficiency test used for personal crimes—that evidence is sufficient to take the case to a jury. Moreover, the Washington SRA and King County standards explicitly state that, where there is sufficient admissible evidence, the prosecuting attorney will file a special allegation of sexual motivation in every case (other than sex offenses defined in RCW 9.94A.030(29)(a) or (c)). Thus, both State and King County standards require aggressive prosecution of crimes committed with a deadly weapon, and especially crimes committed with sexual motivation.

While offense seriousness and evidentiary sufficiency are the primary factors guiding filing decisions, state law and the standards of the King County Prosecutor recognize that not every violation that is technically chargeable as an offense should be filed. Thus several “non-evidentiary” reasons to decline prosecution are included in the filing standards. Prosecution may be declined, for example, for the following reasons: (1) application of the law is contrary to legislative intent; (2) the offense is based on an antiquated statute; (3) De Minimus violation; (4) the offender is already confined or is pending conviction on other more serious charges; (5) highly disproportionate cost of prosecution relative to the importance of the offense; (6) improper motives of the complainant; (7) granting immunity in exchange for testimony; and (8) victim request (1994 King County Filing and Disposition Policies, Section 3 [King County Policies]).

Next to the decision whether to file or decline prosecution, the most consequential decisions, for all parties concerned, are the nature and number of charges to be filed. Standards and principles here are explicit (King County Policies, Section 3).

The counts and degree of charges initially filed shall adequately reflect the nature of the defendant's criminal conduct. Counts and degrees of charges initially shall be filed conservatively, and the defendant normally will be expected to plead guilty to the initial charges or go to trial. The case shall not be overcharged to gain a guilty plea.

Thus the practice of overcharging (i.e. filing additional counts or a more serious charge) in order to elicit a guilty plea from the defendant to lesser or fewer charges is explicitly forbidden. As Maleng (1987: 42) describes, “this standard is intended to direct prosecutors to charge those crimes which demonstrate the nature and seriousness of the defendant’s conduct, but to decline to charge crimes which are not necessary to such an indication. Crimes which do not emerge as a matter of law, but which arise from the same course of conduct, do not all have to be charged.”

In addition, King County standards specify the number and degree of charges that should normally be filed for specific types of offenses. In general, up to three counts will be filed, but if the defendant elects to go to trial, charges may be amended, either in seriousness or with additional counts, by the trial deputy prosecuting attorney. Washington State law provides, however, that “other offenses may be charged only if they are necessary to ensure that the charges: (a) will significantly enhance the strength of the state’s case at trial; or (b) will result in restitution to all victims.”

Of course, charges may also be amended downward following the initial filing, by reducing or dismissing any or all of the initial charges. Charges may be dismissed outright after filing if evidentiary problems arise so that sufficiency standards for filing are no longer met, or for any of the non-evidentiary reasons listed above that would justify declining prosecution (King County Policies, Section 3. I. B. and C.). Charge reductions in exchange for a plea of guilty may be justified for the following reasons: (a) evidentiary problems that make conviction on the initial charge(s) doubtful; (b) defendant’s willingness to cooperate in the investigation and prosecution of others; (c) victim request; (d) discovery of mitigating facts; (e) correction of errors in the initial filing; (f) defendant’s history; (g) the nature and seriousness of the offense; and (h) probable effect on witnesses.

King County policy explicitly prohibits the dismissal or reduction of charges due to caseload pressure or cost of prosecution. Deadly weapon and sexual motivation allegations may only be withdrawn to correct an error in the initial filing decision, or if there are evidentiary problems making proof of those allegations doubtful. In the case of

sexual motivation, dismissal must be ordered by the court. Any dismissal of the deadly weapon allegation must follow King County policy regarding exceptions to filing and disposition standards.

SENTENCING RECOMMENDATIONS

The King County Prosecutor's Office has a policy of recommending a sentence in every felony case at the time that initial charges are filed. In general, a senior deputy will recommend a sentence within the standard range, determined by the offense seriousness and offender history score, as set forth in the SRA. King County policy specifies that the sentencing recommendation is to be made irrespective of the manner of conviction and that, in general, the recommendation shall be "near the top of the standard range for the crime in question unless there are mitigating factors. . . . Under these policies, an early plea (not later than the omnibus hearing) is considered a major mitigating factor. . . . The initial sentencing recommendation for a determinate sentence shall contemplate an early plea which is a major mitigating factor and therefore, the state's recommendation normally shall be for a determinate sentence near the bottom of the standard range for the crime in question" (King County Policies, Section 3. II. F. 2.). The initial recommendation is to be increased within the standard range if there are aggravating factors, including the circumstances of the crime, if the victim is especially vulnerable, or if the defendant is a repeat offender.

In cases where the bottom of the standard range is zero, the prosecutor shall recommend, at a minimum, a term of partial confinement and community service. Specific standards regarding recommendations for exceptional sentencing (outside the standard range), first-time offender waiver, electronic home detention, community placement, restitution or other monetary obligations, no-contact order, and blood testing are included in Section 3. II. F. 2. of the King County Policies.

In the event the defense elects to take a case to trial, the initial sentencing recommendation is canceled and a new recommendation is made. This amended recommendation will reflect any changes in the charges that are filed, and will normally

be at or near the top of the standard range, in accordance with the general policy and standards.

EXCEPTIONS TO FILING AND DISPOSITION STANDARDS

Exceptions to written standards for filing charges, reducing or dismissing charges and for sentencing recommendations may be made in any case, but must be approved by the appropriate senior deputy prosecutor, assistant chief criminal deputy, or the chief criminal deputy. Reasons for the exception to policy are to be explained in writing on King County Prosecuting Attorney Form 119, included in the case file, and filed with the chief criminal deputy.

III. DATA COLLECTION AND ANALYSIS PLAN

DATA COLLECTION

Data for this study were obtained from three principal sources: (1) PROMIS, the automated database used by the Office of the King County Prosecuting Attorney; (2) case files for a sample of approximately 500 felony cases filed with the King County Superior Court during 1994; and (3) personal interviews with 15 King County deputy prosecuting attorneys.

PROMIS DATA

Data were obtained from the Prosecutor's Management Information System (PROMIS) for all cases referred to the King County Prosecutor's Office during 1994.² These data include the charges indicated by the arresting police officer or agency, the deputy prosecuting attorney's initial filing decisions, charges filed, amendments to the initial charges, final disposition on each charge, sentences imposed, as well as offender's race, sex and date of birth. PROMIS data are used here primarily to: (a) determine general characteristics of cases and of alleged offenders at the earliest stages of processing; (b) assess whether there are racial or ethnic differences in the decisions to file charges; and (c) guide the sampling and collection of felony case files.

FELONY CASE FILES

Because PROMIS does not contain the detailed information required for many of the objectives of this project, the research team manually collected extensive data from a random sample of 500 felony cases filed in 1994 in King County Superior Court. In order to ensure that the sample is representative of all types of offenders and

² PROMIS data were provided by the King County Computer and Communication Services Division.

cases filed in King County, summary data obtained from PROMIS were used to guide the sampling of the case files.

In December 1994, 7 research assistants were trained in using the data collection instrument developed for coding information from felony case files. Teams of research assistants began reviewing files at the King County Courthouse during the second week of December 1994. The data coding and collection process required between 30 to 90 minutes per case. Two senior research assistants supervised data collection and maintained quality by monitoring data collection forms for completeness and accuracy. Data collected from case files include characteristics of offenders and victims (of personal crimes only), characteristics of the offense as described in the police report, filing actions taken by the prosecutor's office, deputy prosecuting attorneys' recommendations to the court, final case disposition and sentence. The review of case files was completed on March 17, 1995, with additional visits being made through early April for the collection of additional information on an as-needed basis.

PERSONAL INTERVIEWS

The principal investigators conducted in-depth personal interviews with 15 deputy prosecuting attorneys. The approximately one-hour interviews were audio tape-recorded and transcribed. To guarantee anonymity, transcriptions used confidential pseudonyms rather than actual names.

Interviews were conducted using an open-ended format, informed by preliminary quantitative analyses. Interviews focused on a number of topics: the structure and organization of the Prosecutor's Office, the current and past positions and roles of the deputy prosecuting attorney interviewee, the "typical" case flow process, the formal and informal policies and procedures used by deputy prosecutors in handling cases, the application of the King County Filing and Disposition Policies, prosecutors' perceptions of the factors that influence the outcomes of cases, including race and ethnicity, and prosecutors' views about their work. Interviews were conducted with 5

deputy prosecuting attorneys after we completed the final quantitative analyses, so that they could contribute their interpretations of some of those findings.

ANALYSIS PLAN

The analysis of data from PROMIS and from case files proceeds in three Phases. In Phase 1, analyses: (a) provide an overview of characteristics of the cases and offenders referred to the King County Prosecutor's Office; (b) assess the representativeness of the 500 sample cases; (c) examine the initial filing actions taken by deputy prosecuting attorneys; (d) assess whether those actions differ by race of the offender, and whether any differences can be explained by legal characteristics of cases; and (e) examine differences by race in dispositions of cases filed in superior court.

In Phase 2, analyses: (a) examine prosecutorial actions and recommendations subsequent to the initial filing decision; and (b) assess whether offender race, or other characteristics of the offender or the case, are related to deputy prosecutors' actions independent of legally-relevant characteristics of the offenses. Multivariate analyses including ordinary least squares and logistic regression techniques are used to assess the independent effects of offender characteristics and legally-relevant case characteristics on prosecutorial actions and case outcomes.

Specifically, analyses in Phases 1 and 2 focus on the following:

- A. Initial filing decisions - This includes the filing of charges in Superior Court versus filing in District Court, referral to Municipal Court, declining prosecution, or taking no formal action.
- B. Filing in Superior Court - Analyses here examine the severity of the primary charge filed, total counts filed in each case, and changes in the severity or counts between initial referral from the police and the final case filings.
- C. Deputy prosecutors' recommendations - Analyses examine the frequencies with which various recommendations are made to the court regarding (a) conditions of early release (e.g., personal recognizance versus bail), and (b) types and severity of sentences.

- D. Final case dispositions - This portion of the analyses examines the methods by which cases are disposed, including guilty plea, case dismissal, conviction at trial and acquittal at trial. In cases that result in conviction, analyses also examine differences that may exist between the final charges filed and the offenses on which convictions are obtained.
- E. Sentencing - Analyses of sentencing focus on the types and severity of sentences imposed, though the analyses here are limited, given our principal interest in prosecutorial decision-making.

In Phase 3, analyses focus on assessing deputy prosecuting attorneys' compliance with the filing and disposition standards of the King County Prosecutor's Office. This stage of the investigation borrows from all prior Phases, and includes both quantitative and qualitative analyses. Additional quantitative analyses assess whether the frequencies of deputy prosecuting attorneys' actions are consistent with what would be predicted given the general filing and disposition standards reviewed previously. Results of analyses performed in Phases 1 and 2 of the study, and information obtained during debriefing with data collectors, were used in developing the questions for the interviews with King County deputy prosecuting attorneys. Finally, the interviews with the 15 deputy prosecuting attorneys were conducted by the two senior principal investigators in order to address those questions, to supplement the quantitative analyses, and to obtain additional qualitative information in order to enhance understanding of the policies and practices of the King County Prosecutor's Office in the processing of felony cases.

IV. RESULTS

PHASE 1: EXAMINING CASE CHARACTERISTICS, FILING DECISIONS, AND DISPOSITIONS

The goals of the Phase 1 analyses are to provide a descriptive overview of the cases and the offenders brought to the King County Prosecutor's Office, to evaluate the representativeness of the sample cases, to examine the initial filing actions taken by deputy prosecuting attorneys, and to assess whether there are differences by offenders' race in the initial actions. This phase of the analyses is divided into four parts: (a) an overview of cases and offender characteristics in the PROMIS data; (b) a comparison of characteristics of the sample cases to PROMIS cases that were filed in King County Superior Court; (c) a detailed examination of the frequency of deputy prosecuting attorneys' initial filing decisions; (d) an examination of differences by race of the offender in the decision to file felony charges; and (e) a comparison of differences by race in dispositions of cases filed in Superior Court.

A. OFFENDER AND OFFENSE CHARACTERISTICS

Data obtained from PROMIS were used to examine the characteristics of offenders and offenses referred to the King County Prosecutor in 1994. These records indicate that there were a total of 12,324 referrals for the year. Table 1 presents the numbers and percentages of offenders referred, by race and sex. Fifty-eight percent of all 1994 referrals involved White offenders, 37% African American offenders, 4% Asian American offenders, and 1% Native American offenders.³ Eighty-three percent of all

³ Offender race was missing for 49 cases. All subsequent analyses are based on those cases where offender race is known. Because ethnicity is not recorded in PROMIS, the number of Hispanic offenders referred to the Prosecutor is unknown. Furthermore, because Hispanic offenders may be of any race, it is unclear what proportion of offenders in each racial category are of Hispanic heritage. The majority of Hispanic residents in King County, however, are likely to identify themselves as White (Office of Financial Management, 1991).

referrals were male offenders. Differences by race in the percentages of male and female offenders referred are negligible.

Approximately 29% of all referrals involved crimes against persons, 32% were primarily drug-related offenses, and 39% consisted of other, mostly property-related offenses.⁴ There are, however, significant differences in the types of offenses for which offenders of each racial group were referred to the prosecutor (See Table 2). While White offenders and African American offenders were equally likely to have been referred for crimes against persons (29% and 28%, respectively), 38% of Asian American offenders, and 44% of Native American offenders were referred for personal offenses. Larger differences between groups appear for drug-related offenses and property-related offenses. Forty-three percent of African American offenders were referred for drug offenses, compared to 27% of White offenders, 21% of Native American offenders, and only 8% of Asian American offenders. Asian American offenders were, on the other hand, most likely to be referred for other/property-related offenses (53%), compared to 44% of White offenders, 36% of Native American offenders, and 29% of African American offenders.

B. ASSESSING THE REPRESENTATIVENESS OF THE SAMPLE DATA

A total of 500 cases filed by the King County Prosecutor's Office during 1994 were sampled, reviewed, and coded by research assistants. A comparison of the sample cases to all cases filed during 1994 shows that the sample is representative of the racial composition of all offenders referred. There are no statistically significant differences in the percentages of White, African American, or other minority offenders in the sample cases compared with all cases filed in Superior Court in 1994. Among offenders in the sample cases, 55% are White (compared to 56% of all offenders

⁴ These percentages are based on the offenses alleged by the police on the initial referral to the Prosecutor. Referrals that included multiple offenses were coded as "personal" if any of the offenses was a personal crime. If no crimes against persons were alleged, but one or more drug offenses was indicated, the referral was coded as "drug-related." Referrals that included neither crimes against persons nor drug offenses comprise the "other/property" crime category.

charged), 39% are African American (compared to 38% of all offenders charged), and 5.6% are other racial or ethnic minorities (compared to 5.4% of all offenders charged).

There are slight differences in the composition of offenses in the sample cases, compared to all cases filed in 1994. Specifically, drug offenses are slightly underrepresented (28% compared to 35%), while other/property-related crimes are slightly overrepresented among the sample cases (42% compared to 36%).⁵ The difference between the percentage of crimes against persons in the sample (31%) compared to all cases filed (30%) is not statistically significant.⁶ These differences in offense types are not large, nor do the authors deem the differences problematic for drawing valid inferences from analyses of the sample data regarding the processing of cases. In sum, the sample cases reflect the diversity of offenders and offenses prosecuted during the year.

C. ANALYSES OF INITIAL FILING DECISIONS

Analyses here examine the frequencies with which various actions are taken by deputy prosecutors, across all stages of case processing. Because information on cases prior to filing in Superior Court is only available in PROMIS, these data are used to examine the initial filing decision. The sample of case files offers the most complete quantified information available on prosecutorial decision-making subsequent to the initial filing decision. Those data therefore are used to examine all subsequent actions and outcomes.

Table 3 presents the frequencies of deputy prosecuting attorneys' initial actions, by offense type, for all 1994 referrals. In 1994, the Prosecutor's Office filed felony charges in King County Superior Court in 62% (7,674) of all referrals. Of all felony cases filed, 23% involved crimes against persons, 35% involved drug-related offenses, and 42% other/property-related offenses. Of these cases, 56% of offenders charged were White, 38% African American, 4% Asian American, and 2% Native

⁵ Differences are statistically significant, based on one-sample t-tests, with $p < .05$.

⁶ Due to rounding error, percentages do not always total 100.

American. Charges were filed in District Court on an additional 9% of all referrals. Of the remaining referrals not filed, 20% were declined for prosecution, 3% were returned to detectives for further investigation, and 6% were handled in some other fashion (e.g., no action).

Of the 20% of referrals where prosecution is declined, the most common reason indicated in PROMIS is “insufficient evidence” (11%), followed by non-evidentiary reasons (5%) and referral to Municipal Court (4%). Neither the percentages of referrals declined, nor the reasons given for declines, vary significantly by race of offenders. Percentages of referrals “declined” do, however, vary by type of offense, with crimes against persons being declined more often (25%) than either property (21%) or drug crimes (14%). For each type of offense, evidentiary insufficiency is the most frequently cited reason for declining prosecution. Non-evidentiary reasons, cited in 25% of declines, are given most often for property-related referrals (32%) and least often for drug offenses (19%).

While it is useful to know the racial “mix” of offenders charged and the proportions of different types of offenses, it is more informative to examine the frequency of filing decisions within each offense category and for different groups of offenders. As one would expect, the percentage of all referrals in which charges were filed in Superior Court differs by the type of offense. Referrals involving drug offenses were the most likely of all types of referrals to be filed in Superior Court (67%), while 64% of crimes against persons, and 58% of all other/property-related referrals were filed (all differences statistically significant, $p < .01$; See Table 3).⁷ Table 4 presents the frequencies of Superior Court filings, by type of offense and by offender race. The percentage of cases in which charges were filed also differs by race of the offender. Among all referrals combined, charges were less likely to be filed in Superior Court when offenders were White (60% charged), than when offenders were of any other racial group (65% of all minority offenders charged; $p < .001$).

⁷ Non-felony charges were filed in District Court on an additional 10% of all drug-related referrals, and 12% of other/property-related referrals. As a result, drug offenses were the most likely to be prosecuted in any fashion, and crimes against persons were least likely to be prosecuted.

D. EXAMINING DIFFERENCES BY RACE IN FILING DECISIONS

Examining differences in the initial filing decisions by race of offenders is a crucial component of the present analyses for two reasons. First, the decision whether and where to file charges is one of the most consequential decisions made by deputy prosecuting attorneys. If there are differences in filing decisions that vary reliably with defendants' race, they require further examination to determine the reasons for the differences. Second, any differences in the likelihood of charging serve to filter out cases and offenders from subsequent actions and, therefore, from subsequent analyses. This "filtering" of cases may introduce a sample selection bias into analyses at subsequent stages. That is, unless adjusted appropriately, to take into account the selective filtering of cases, the multivariate analyses performed in Phase 2 may present a biased estimate of the impact of offenders' race on subsequent decisions.

To determine whether differences exist in the frequency with which filing decisions are made for offenders of different racial groups, cross-tabulations of filing decisions by offender race are performed using the PROMIS data. This specifies the proportions of cases, by race of the offender, that are: (a) filed in Superior Court; (b) filed in District Court; (c) referred to Municipal Court; (d) declined unconditionally; or (e) have no action taken. Chi-squared significance tests are used to determine whether any observed differences by race represent statistically significant differences (i.e., that the observed differences are not random or due simply to chance). Similar cross-tabulations are performed to examine whether there are significant differences, by race of offender, in the reasons that are given for declining prosecution.

To explore the possibility that racial differences in rates of filing are due simply to differences in the types of offenses committed by offenders in different racial groups, we look also at rates of charging by race within offense categories. We find that the pattern of differences by race that was observed for all referrals is true also for crimes against persons, and is most pronounced for drug-related offenses. Among drug-related referrals, which were prosecuted at the highest rate of all types of offenses, 63% of White offenders were charged in Superior Court compared to 67% of Asian American

offenders, 70% of African American offenders, and 79% of Native American offenders. Among other/property-related offenses, African American offenders and White offenders were equally likely to be charged in Superior Court (57%), while other minority property offenders were slightly more likely to be charged, but the differences are small and not statistically significant. Thus, the higher rates of charging observed for minority offenders are not due simply to the types of offenses for which the different groups were more likely to be referred.

It may be the case that other characteristics of offenses or offenders might explain the differences in rates of charging by race. For instance, one would expect charging decisions to be influenced by the seriousness and the number of offenses committed. The likelihood of charging might also be influenced by characteristics of offenders, such as their age, sex or offense history. To the extent, therefore, that there are differences by offender race in these potentially important factors, these differences might result in higher rates of charging for minority offenders compared to White offenders.⁸

To examine whether those types of offender or offense characteristics influence the likelihood of charging, and whether they might explain the observed differences by race of the offenders, we performed a series of multivariate logistic regression analyses. This technique, which is used widely in research on crime and criminal justice, allows us to examine the relative influence of discrete multiple factors on the likelihood of charging— independent of the influence of all of the other factors examined in the analysis. In other words, we can determine whether the filing of felony charges is related independently to specific characteristics of the offense or offender. We examine the independent influence of seven factors that may predict the filing decision: (1) the type of offense (personal versus drug versus other/property crimes); (2) number of offenses at referral; (3) the SRA offense seriousness level (coded 0 for misdemeanors

⁸ Evidentiary requirements are likely, of course, to be the single most important determinant of any decision to file charges. Assuming, however, that the quality of evidence available to prosecutors does not differ systematically by the offender's race, we would not expect differences in rates of charging between White offenders and Minority offenders to be explained by the quality of evidence.

and unranked felonies; 1-14 for ranked felonies); (4) offender's race; (5) offender's sex; (6) offender's age; and (7) offender's recidivism.⁹

The results of these analyses appear in Table 5, and are consistent with the patterns described above. The analysis of all referrals combined indicates that charging decisions are related to characteristics of the offense (the type of offense and the number of offenses at referral) as well as to characteristics of the offender (race, sex and prior referrals).¹⁰ Specifically, these results indicate that, adjusting for each of the other factors included in the analysis, the odds of charges being filed in Superior Court are: (a) higher for drug offenses and for personal offenses than for other/property-related offenses; (b) higher for referrals with multiple offenses than for referrals with a single offense; (c) higher for offenders with prior referrals; (d) higher for males than for females; and (d) higher for African American offenders and Native American offenders, compared to White offenders. Age of the offender is not independently related to the filing of charges.¹¹

The magnitude of the influence of each factor is represented in logistic regression by the value of $\text{Exp}(B)$ for each predictor, in this case, separate offense or offender characteristics. This number reflects the relative change in the "odds" of charges being filed that is associated with each predictor (or factor) in the analysis.¹² For example, for drug offenses, $\text{Exp}(B)$ equals 1.48. This indicates that, adjusting for the other characteristics included in the analysis, the odds of charges being filed in drug-related cases are 1.48 times the odds of charges being filed in other/property-related cases (a 48% increase in the odds of filing). Similarly, the odds of charges being filed for crimes against persons are 1.21 times greater than for other/property-related crimes (a

⁹ Complete criminal histories are not available through PROMIS. Therefore, as a proxy measure of chronic offending for each offender, we have computed the total number of prior referrals during 1994.

¹⁰ Unless otherwise indicated, all differences reported are statistically significant, $p < .05$.

¹¹ Because SRA seriousness level is not available for most drug offenses prior to charging, seriousness is not included at this stage of the analyses.

¹² The coefficients (B) in logistic regression represent the change in the natural log of the odds of filing associated with each predictor in the equation. The change in the odds of filing is therefore represented by $\text{Exp}(B)$. The percentage change in odds of filing associated with each predictor, which is more easily interpretable, is computed as: $\% \text{ change} = (\text{Exp}(B) - 1) * 100$.

21% increase). Regarding the influence of race on filing, even after adjusting for the other offense and offender characteristics in the analysis, the odds of charges being filed against African American offenders is 1.15 times greater than for White offenders (a 15% increase in the odds of filing), and the odds of charging Native American offenders is 1.70 times that for White offenders (a 70% increase).

The descriptive analyses presented earlier indicated that the differences in rates of filing by offender race also differ by the type of offense (Table 4). Therefore, we tested the possibility that the increased odds of filing for minority offenders is due to racial differences among personal and drug offenses, by including race-by-offense interaction terms into the logistic regression model above, and performing separate analyses for personal, drug, and other/property-related referrals. The introduction of race-by-offense interaction terms significantly improved the overall predictive strength of the analysis, indicating that the effect of offender race on the odds of filing depends upon the type of offense and, therefore, that separate analyses by offense category are warranted and necessary to describe accurately the relationship of race to filing decisions.

Table 5 also presents the results of logistic regression analyses predicting filing separately for personal crimes, drug crimes, and other/property crimes, respectively. In addition to adjusting for characteristics of the offender, the number of offenses, and the offender's prior referrals, the analyses of personal and property crimes also include the SRA seriousness level of the primary offense at referral. SRA seriousness level was unknown, prior to filing, for 98% of drug-related referrals, so they could not be included in that analysis.¹³

For both personal and drug-related crimes, the odds of charges being filed are significantly greater for African American offenders and Native American offenders than

¹³ Unfortunately, arrest reports submitted to the Prosecutor's office often indicate generic offense categories (e.g., most drug-related arrests simply state "VUCSA"), so the SRA seriousness level of the alleged offense is unknown. When police officers do indicate specific offenses (e.g., Burglary 1^o), seriousness can be determined from the SRA. While police officers' determination of the specific charge may be erroneous, this should provide a reasonable approximation of the true offense seriousness.

for White offenders ($p < .05$). Race of offender, however, has no independent effect on the odds of filing among the other/property-related offenses. These analyses indicate that for drug crimes and crimes against persons, after adjusting for the age and sex of the offender, the offender's number of prior referrals, the number of offenses at referral, and SRA seriousness level (for personal crimes only), African American offenders and Native American offenders remain more likely than White offenders to be charged in Superior Court. Of course, it is possible that some variable(s) not included in the analysis might account for the observed disparities. One of the senior deputy prosecutors suggested a couple of possible interpretations: first, that "evidentiary" reasons are always the first priority in deciding whether or not to file ("whether or not we can prove the crime"), and that the strength of the evidence may be related to things like the response time of the police—that is, police response time is shorter in "densely populated Seattle" than in outlying areas, hence there is better evidence upon which to base a charge; and second, that non-domestic person crimes (particularly robbery) are more likely to be economically motivated and, therefore, committed disproportionately by "poorer people." The implication is that the quality of evidence may vary by the race of the offender (another disparity?) and/or that there is a race/economic status interaction (i.e., African Americans and Native Americans are poor), both explaining the observed race disparities in filing. Based on the empirical evidence, which is lacking on the first but supports the second interpretation, particularly among a population of felons, what is being suggested is that another extra-legal factor—socioeconomic status—is, perhaps, responsible for the observed disparities by race. Of course, the combined effect of race and economic status is not any more desirable than a straight race effect or, for that matter, a straight socioeconomic status effect.

E. EXAMINING CASE DISPOSITIONS AND DIFFERENCES BY RACE

Cross-tabulations were used to examine differences by race in the disposition of cases filed in Superior Court. Table 6 presents the frequencies, by race, of different case dispositions, including dismissal, guilty plea, acquittal at trial, and conviction at trial.

At the time data were obtained from PROMIS, “no disposition” was indicated in 24% of all filings. Information on both case disposition and offender race was available for 7,540 cases filed in Superior Court in 1994. Of those, only 6% of filings were dismissed, while 70% led to convictions on one or more counts. Guilty pleas are the most likely case disposition (65% of all dispositions) and they account for most of the convictions (95% of all convictions). Only a small fraction of cases were disposed of at trial (5.6% of all cases filed), with 87% of them resulting in conviction.

As Table 6 indicates, there are few differences in case dispositions by the race of the offender. The most notable difference is that African American offenders are more likely than White offenders to be convicted at trial (7% compared to 3%), and less likely to be convicted through a guilty plea (63% compared to 66%). This difference in the manner of conviction appears to be due to the fact that African American offenders were more likely to go to trial than White offenders (8% compared to 3%). At trial, however, there is no difference between White offenders and African American offenders in the likelihood of conviction (86% for both groups). Likewise, among cases that do not go to trial, 69% of both African American offenders and White offenders plead guilty. Overall, 70% of each group of offenders were convicted.

SUMMARY OF PHASE 1 ANALYSES

The filing of felony charges by the King County Prosecutor’s Office varies by the type of offense and by the race of the offender. Charges were filed in 67% of drug-related referrals, 64% of crimes against persons, and 58% of all other/property-related referrals. White offenders were the least likely to be charged (60%), compared to 65% of all minority offenders. Multivariate analyses show that those differences by race in the probability of filing persist, even after adjusting for the possible effects of other offender characteristics and of legally relevant factors.

Among offenders who were charged, most plead guilty (65%). There were few differences in dispositions by the race of the offender. African American offenders were less likely to plead guilty, and more likely to go to trial. While this did not affect

the overall conviction rate for African American offenders, it could potentially result in African American offenders receiving, on average, slightly more severe sentencing recommendations and more severe sentences, independent of their offenses. The impact of going to trial on these outcomes, and on differences by race, is explored in Phase 2 of the analyses.

PHASE 2: ANALYSIS OF DEPUTY PROSECUTING ATTORNEYS' RECOMMENDATIONS

The objective of the Phase 2 analyses is to determine whether certain prosecutorial actions and recommendations are related to race differences in case processing, once other legal characteristics of cases are taken into account. For each of the major decision points identified above, we perform multivariate analyses to statistically control for the influence of other legal and extra-legal characteristics of the case, other than race of the offender, on deputy prosecutors' decision-making. These analyses will follow a progression, working from earlier stages (e.g., deputy prosecuting attorneys' recommendations for bail) to later stages (e.g., sentencing) in the prosecutorial and judicial process. In the analyses of the 500 sampled cases, we use logistic and ordinary least squares regression techniques, which allow us to assess the primary determinants of deputy prosecutors' recommendations.

We examined a number of "legal" factors previously demonstrated to be important in prosecutorial decision-making: type of offense (coded personal, drug-related, and other/property), seriousness of the offense, and number of counts filed. We also collected data on other legal characteristics that may impact decision-making, including detention recommendations by the police, the presence of a deadly weapon, the occurrence of a drug offense in a drug zone, and the type of attorney retained by the defendant.¹⁴ Because these data were not available for all subjects, their inclusion in the

¹⁴ At the bivariate level race of the defendant was associated with detention recommendations by the police (Cramer's $V=.20$, $P<.01$), and violating zone ordinances (Cramer's $V = .29$, $p<.01$). Blacks and persons of other races were more likely than Whites to be recommended for detention and to be subject to a drug zone violation. Although Whites were nearly twice as likely as either Blacks or persons of

multivariate analyses reduced the sample size significantly, so we first analyzed the data excluding these variables. We then examined the impact of these factors to see if they affect deputy prosecuting attorneys' recommendations, and the results are only discussed where they are substantively important.

The "extra-legal" factors examined are the age, sex, and race of the offender. Race is coded White, Black and other because of the small number of Asian American offenders and Native American offenders in the sample data. We also include an ethnicity variable indicating Hispanic origin.

In the multivariate analyses we control for possible sample selection biases by including a hazard rate based on the initial probability of being included in the sample. The hazard rate was computed from the PROMIS data. The coefficient for the hazard rate is not presented in tables in order to facilitate the interpretation of results.

RECOMMENDATIONS REGARDING EARLY RELEASE

Following a decision to file a case, the Prosecuting Attorney's Office is in a position to recommend conditions of pretrial release for the offender, including a request for bail and a suggested amount. Regarding early release, the prosecutor can suggest: no early release, bail, conditional release (e.g., no contact with the victim), release on personal recognizance, or unconditional release. In the vast majority of cases, prosecutors recommended bail for the offenders' release (84%). In 14% of cases, prosecutors recommended that the offender be released on their own recognizance, and in only a few cases did the prosecutor recommend conditional release without bail or no release. We recoded the variable to indicate bail required (coded 1) or release without bail (coded 0), in order to assess the impact of legal and extra-legal factors on the conditions of release.¹⁵

other races to retain a private attorney the differences were not statistically significant (Cramer's $V = .12, p < .06$). There were no differences by race in the presence of a deadly weapon.

¹⁵ The two cases where the prosecutors requested that the defendant not be released were excluded from the analyses presented. We also constructed a variable indicating bail/no release and reanalyzed the data. The results did not change.

At the bivariate level, looking at the relationship between two variables at a time, there is a moderately strong correlation between the race of the offender and Prosecuting Attorneys' requests for bail (Cramer's $V = .20$, $p < .01$). The state requested bail from almost all Black offenders (93%), but from only 78% of White offenders and other-race offenders. The second column of Table 7 provides the results of multivariate analyses of bail recommendation: that deputy prosecuting attorneys are more likely to request bail from African American offenders, even when the effects of the legal factors are taken into account, or controlled, in the analyses. However, the relationship between the race of the offender and bail recommendation was diminished considerably, and is not statistically significant, once police recommendations for detention are included in the analyses (not presented in Table 7). In fact, the police recommendation to jail the offender is, as one would expect, a major correlate of prosecutors' recommendations for bail. Bail is more likely if the police, the prosecutor, and the court believe that it is necessary to move a defendant quickly into and through the system. Many of those cases are "rush filings," which have to be accomplished within the 72-hour limit on initial detention. We were told by deputy prosecuting attorneys in the "drug unit" that virtually all of the drug cases were being rush filed, as well as many of the more serious personal and, to a lesser extent, property crimes.

Thus, deputy prosecutors' recommendations regarding bail are largely determined by legally relevant factors, including police recommendations, the type of offense (personal crimes prompted a bail request more often than drug or other/property offenses), threats by the offender to the victim or witnesses, and the offender's criminal history. It is also likely that other legal factors that we were not able to include in the analyses affect the bail recommendations, regardless of the severity of the offense, including the number of prior failures to appear (FTAs) and outstanding bench warrants, as well as other extra-legal factors, including ties to the community, family support, employment, history of substance abuse, verified address, telephone, and other indicators of stability, predictability, and trustworthiness (Goldkamp et al., 1995). Overall, the results suggest that race is largely unimportant in decisions regarding bail

recommendations once those types of legal characteristics are considered and included in the analyses.

We also examine the impact of legal and extra-legal factors on the amount of bail recommended by the prosecutor.¹⁶ The results presented on the right hand side of Table 7 show that extra-legal factors were largely unrelated to the amount of bail requested by prosecutors. Again, several legal factors do appear to influence deputy prosecutors' recommendations regarding the amount of bail, including the type and severity of the offense and the criminal history of the offender.

RECOMMENDATIONS REGARDING SENTENCING

Analyses here examine factors that predict whether the Prosecuting Attorney's Office recommends: (a) confinement and the recommended length of confinement; (b) an alternative sentence conversion; (c) community supervision or community placement; (d) monetary payments; and (e) exceptional sentences. OLS regressions are used to examine the length of confinement recommended. Logistic regression is used to identify characteristics that are related to recommendations for other types of sentences.

RECOMMENDATIONS REGARDING TOTAL CONFINEMENT

Since virtually all of the sentencing recommendations made by the prosecution included some confinement (Whites 98%, Blacks 99% and other races 97%), we focus the analyses on the amount of recommended time in confinement, measured in day units.¹⁷

¹⁶ We analyzed bail amount in two ways. First, we computed a hazard rate indicating the probability of being included in the analyses predicting bail amount, we then excluded cases where bail was not required and used a hazard to control for sample selection biases. We then coded cases where bail was not required to zero. The results do not change substantively, so only the former analyses are presented.

¹⁷ Because the measure is highly skewed, we transformed the variable by taking its natural log before the multivariate analyses.

Table 8 shows, clearly, that the strongest influences on deputy prosecutors' recommendations are the seriousness of the crime and the criminal history of the offender, while going to trial also has a positive and significant influence on recommended length of confinement. The independent effect of race, however, is apparent. The Prosecuting Attorney's Office tends to request longer periods of confinement for Black offenders than for White offenders. This race difference is significant even after taking into account differences between offenders in the type of the offense, the severity of the offense, their prior criminal history, and whether the case went to trial. A King County Superior Court judge has suggested that such disparities in sentencing recommendations, particularly for cases which have been plea bargained, might be attributable, in part, to the role of the defense bar in the negotiating process. That is, the sentence recommendation is, ostensibly, a joint recommendation in a plea bargain; so, depending on a defense counsel's competence, experience, tactics, personality, and prior dealings with a particular prosecutor, the recommendation may be more or less severe.

RECOMMENDATIONS REGARDING ALTERNATIVE SENTENCE CONVERSION

For nonviolent offenders with recommended sentences of less than one year, prosecutors can recommend that all or part of the sentence be converted to partial confinement or community service. These sentences allow the offender to serve the sentence in work release, home detention, work crew, or some combination of these alternatives (Sentencing Reform Act, 1981). A substantial portion (37%) of the 500 sampled cases meet those criteria. At the bivariate level, race is a moderately strong correlate of deputy prosecutors' recommendations for an alternative sentence conversion (Cramer's $V = .29$, $p < .01$). Alternative sentences were rarely suggested for Black offenders (10%), while, in contrast, they were recommended in 39% of the cases involving White offenders and 21% of the cases involving other races. Since, once again, these race differences might reflect differences in offenses committed, criminal records, or other legal factors, multivariate analyses were performed.

Table 9 shows that there are few significant predictors of receiving an alternative sentence conversion. As expected, the seriousness of the offense is the strongest correlate, and it is, as one would expect, negatively associated with recommendations for an alternative sentence conversion. However, the second strongest correlate is the race of the offender. Controlling for the legal and other extra-legal factors in the analysis, the results show that the Prosecuting Attorney's Office is much less likely to request an alternative sentence conversion for Black offenders (75% less likely than for White offenders). A senior deputy prosecutor suggested that this "is probably related to differences in pretrial custody status"—judges are less likely to convert to community service if there is evidence of noncompliance with court orders or if most of the sentence, particularly for low-level felons, has been served in pretrial detention, leaving little or no room for conversion. Additionally, a Superior Court judge suggested that an alternative sentence conversion is not necessarily a lighter sentence or a clear benefit to the offender. For example, some would rather do straight jail time than electronic home detention.

However, as with bail decisions, there seems to be a constellation of socioeconomic factors, which interact with race, that affect alternative sentence conversions: offenders without a job may not be considered for work release by some judges; without a stable residence, phone, and perhaps even money to pay for it, an offender may not be eligible for home detention; and if an offender is a substance abuser, career criminal, or gang member, he or she will be less likely to be sentenced to a community service conversion. To the extent that there is a race/economic status interaction, African American offenders and Native American offenders would be impacted disproportionately.

COMMUNITY SUPERVISION

For sentences equal to one year or less, the court may impose up to one year of community supervision. As stated in the King County Policies, "An offender shall be on community supervision as of the date of sentencing. This period of supervision is

tolled while the offender is in total or partial confinement [and] . . . is the functional equivalent of probation.” At the bivariate level, race is associated with being sentenced to community supervision (Cramer’s $V = .17$, $p < .05$). This sanction is less likely for Blacks (61%) and offenders of other minority races (64%) than for Whites (77%).

The results of the multivariate analyses are presented in Table 9. The strongest predictor of community supervision is the seriousness of the offense, meaning the more serious the crime, the less likely community supervision. The moderately strong bivariate relationship observed between the race of the offender and community supervision is reduced in the multivariate analyses to statistical nonsignificance.

COMMUNITY PLACEMENT AFTER CONFINEMENT

After 1990, community placement after confinement became mandatory for persons found guilty of sex offenses and of serious violent offenses (King County Policies), effectively taking it out of plea negotiations and the discretionary realm of deputy prosecuting attorneys. We examined the relationship of legal and extra-legal factors to community placement following incarceration for the violent and sex offenses ($n=72$) represented in the sample. Community placement does not vary significantly by race (Cramer’s $V = .13$, $p > .10$). It was recommended for Whites in 24% of cases, Blacks 13% , and other races 20%.¹⁸

Because of the small number of violent and sex offenses and the relatively few community placements, it was not possible to examine a large number of factors simultaneously as in previous multivariate analyses.¹⁹ Instead, we examined the bivariate relationship of each of the variables, and tested the predictive power of a smaller subset of the strongest variables. The results of those multivariate analyses, presented in Table 9, suggest that the strongest factors affecting community placement following confinement are the seriousness of the offense and the criminal history of the offender.

¹⁸ Because of the restricted sample size we limited the number of variables included in the multivariate analysis.

¹⁹ In fact, it was impossible to examine the effects of certain variables, for instance, the impact of being non-White and non-Black, because there was so little variation within the sub-sample.

Although race was unrelated to community placement, offenders identified as Hispanic were significantly more likely to have community placement, after confinement, as part of their sentence.

RECOMMENDATIONS REGARDING MONETARY PAYMENTS AND EXCEPTIONAL SENTENCES

Monetary payments were recommended by the prosecution in almost all cases (over 98% across all racial groups). Alternatively, exceptional sentences outside the state guidelines are rarely recommended (less than 2% across all racial groups). The lack of variation in both of these variables precludes both bivariate and multivariate analyses.

SUMMARY OF ANALYSES OF DEPUTY PROSECUTORS' RECOMMENDATIONS

In general, the results show few disparities by race of the offender in the various recommendations of deputy prosecuting attorneys, as represented in the PROMIS data and the 500 sampled cases. Clearly, the strongest correlates of the various recommendations and actions of deputy prosecutors are legal characteristics of the offense (type and severity) and the criminal history of the offender. Although race and other extra-legal factors were often shown in the bivariate analyses to be related to prosecutorial decisions, those associations were usually mediated by legal characteristics—meaning that they were accounted for by the race differences in the offenses or priors of the offenders that were related to the recommendations.

A few exceptions to this pattern, however, should be noted. First, the effect of race, particularly African American, on bail was significant in most analyses. The effect was reduced once we controlled for detention recommendation by the police. While this measure may statistically capture legal factors not identified in standard analyses, the variable may also indicate the operation of discretion at earlier stages in the criminal justice system that unknowingly flow into and affect the operations of the Prosecutor's office. Second, there were significant differences in the amount of confinement recommended for Black offenders and White offenders, and deputy

prosecuting attorneys were less likely to recommend an alternative sentence conversion for Black offenders. Alternatively, Hispanics were less likely than others to receive community placement. Although there may be important variables omitted from these analyses, the findings are strong compared to those produced in other state-of-the-art studies that use traditional legal variables in their analyses.

CASE DISPOSITIONS

This part of the study examines the methods by which cases are disposed, including dismissal, guilty plea, conviction at trial, and acquittal at trial. While deputy prosecuting attorneys are not responsible for determining the manner by which cases are disposed, they do play an integral role in this determination. In addition, because the type of disposition may be related to other outcomes, such as the severity of charges and recommended sentences, it is important to determine whether race impacts case disposition, net of all other case characteristics. As above, we first conduct bivariate analyses of the relationship between race and types of case disposition, followed by a series of multivariate logistic regressions which examine the impact of both legal and extra-legal case characteristics on the likelihood that each type of disposition will occur.

King County Prosecuting Attorney's Office standards indicate that deputy prosecuting attorneys should reasonably charge cases so that a guilty plea is elicited. The sample data reflect that practice. The vast majority of offenders pled guilty to their charges (86%). A small proportion were found guilty at trial (8%), a smaller percentage were dismissed (5%), and only a few offenders were found not guilty. Because of the lack of variation in type of disposition, we created a measure indicating whether the offender was found guilty (by plea or trial) or not guilty (combining dismissals and acquittals). At the bivariate level, this measure was not associated with race (Cramer's $V = .08, p < .10$). Black offenders were found guilty in 87% of cases, White offenders in 89%, and other races in 96%.

Because the vast majority of offenders were "guilty," rigorous multivariate analyses were not possible. We explored potential bivariate correlations with all

variables in the analysis, but none of the legal or extra-legal factors was significantly related to a finding of guilt. This probably reflects solid filing practices, where charges are filed against those offenders with a high likelihood of being found guilty, one way or another.

JUDGES' SENTENCING

Analyses of judges' actual sentences are limited, given our principal interest in prosecutorial decision-making. Furthermore, because the Prosecuting Attorney's Office's recommendations are highly correlated with judges' actual sentences, the results are similar to those presented in the previous section. The results are presented briefly and discrepancies noted. As with sentencing recommendations, logistic regressions are used to examine factors determining whether offenders are sentenced to confinement, alternative sentence conversions, community supervision or placement. OLS regressions examine predictors of total confinement.

SENTENCES INVOLVING TOTAL CONFINEMENT

As with the prosecutors' recommendations, in only a handful of cases did the judge not sentence an offender to some time in confinement (less than 4% of cases), and there were no statistical differences by race (Whites 4%, African Americans 3%, and other races 2%). Given the lack of variation in this measure, the analyses here focus on the total sentence length. The multivariate results are presented in Table 10. As expected, legal characteristics are primary factors affecting confinement time ordered. In particular, the seriousness of the offense and the offenders' criminal history play a large part in predicting length of confinement ordered. However, even controlling for those legal factors, Black offenders tend to receive higher rates of confinement than do White offenders. Alternatively, persons of Hispanic origin, on average, are ordered to shorter sentences than others, controlling for legal factors.

ALTERNATIVE SENTENCES

At the bivariate level, race of the offender is significantly correlated with judges' imposition of alternative sentence conversions (Cramer's $V = .19$, $p < .01$). Approximately 24% of White offenders receive alternative sentence conversions, in comparison to 12% for Black offenders and 18% for offenders of other races.

Multivariate analyses are presented in Table 11. Of the legally relevant characteristics included in the model, the criminal history of the offender was the only factor statistically associated with receiving an alternative sentence conversion. The relationship is negative, indicating that offenders with more extensive criminal records are less likely to have their sentences converted. Controlling for legal characteristics of the case, race is still an important issue. Blacks are significantly less likely, approximately 75% less likely, to have their sentence converted.

COMMUNITY SUPERVISION

At the bivariate level, race was also significantly related to receiving community supervision after confinement (Cramer's $V = .13$, $p < .01$). Blacks are least likely to receive community supervision (52%), Whites are more likely (69%), and offenders of other races are the most likely (76%—this is largely Hispanic offenders). The multivariate results are presented in Table 10. The number of counts and the criminal history score are significant legal factors associated with ordering the offender to post-confinement community supervision. The number of counts is positively related, and the history score is negatively related to receiving an order of community supervision. The correlation with offenders' race is reduced when legal variables, especially criminal history and number of counts, are included in the analysis.

COMMUNITY PLACEMENT, MONETARY PAYMENTS AND EXCEPTIONAL SENTENCES

Consistent with deputy prosecutors' recommendations, judges rarely impose exceptional sentences and required virtually all guilty offenders to make some monetary payment. Offenders sentenced to community placement were relatively rare at this stage. Again, the lack of variation in these measures precludes bivariate or multivariate analyses.

SUMMARY OF JUDGES' SENTENCES

The results of judges' sentences are consistent with the recommendations of the Prosecuting Attorney's Office. This is not surprising given that the vast majority of offenders plead guilty after negotiations between deputy prosecuting attorneys and defense counsel and both deputy prosecuting attorneys and judges rely on state sentencing guidelines in their recommendations and orders. The primary finding is that legal variables, particularly seriousness of the offense and the criminal history of the offender, are the most important factors associated with sentencing. However, controlling for legal factors, African Americans tend to receive higher sentences than Whites and are less likely to be provided an alternative sentence.

PHASE 3: EXAMINING COMPLIANCE WITH FILING AND DISPOSITION POLICIES

An important focus of this study is deputy prosecuting attorneys' compliance with the filing and disposition standards of the King County Prosecuting Attorney's Office. While a comprehensive examination of charging practices is beyond the scope of the present study, we examine evidence of compliance with the policies, including those pertaining to: (a) the initial filing decision; (b) the determination of charges filed; (c) the amendment of charges; and (d) the sentencing recommendations to the court.

Whenever “exceptions” to the standards are recommended or made, an exception justification form is supposed to be completed by the deputy prosecuting attorney, approved by two senior deputies, and included in the case file. It was our intention to examine compliance with policies and characteristics of cases in which exceptions were made, by examining the reasons given for the exceptions on these justification forms. However, the exception justification forms rarely appeared in the case files that were sampled and reviewed, thus precluding rigorous analyses. The deputy prosecuting attorneys who were told that these forms were missing for a number of cases were genuinely surprised. One suggested that some deputy prosecuting attorneys may be entering the justifications in their computers and forgetting to print the multiple hard copies that need to be placed in the case file and reviewed and signed by their unit supervisor and the chief criminal deputy.

As an alternative approach, we examine whether the frequencies with which various actions taken are consistent with what would be expected, given the application of the general filing and disposition policies of the King County Prosecuting Attorney’s Office. This approach builds upon analyses performed in Phases 1 and 2 of the study. While these analyses do not provide definitive measures of compliance with standards on a case-by-case basis, they identify areas where discrepancies between practice and policy appear to exist. As in previous analyses, we examine the extent to which practices, and their consistency with policy, vary by race of the offender. Analyses here use data from PROMIS, for all cases referred to the King County Prosecuting Attorney’s Office during 1994. Specifically, we examine the following:

THE DECISION TO FILE CHARGES

Filing and disposition standards, as summarized previously, emphasize more aggressive prosecution of personal crimes than of other types of offenses. Therefore, we would expect a high proportion of personal crimes to be filed in Superior Court. Conversely, minor crimes falling into the “expedited crime” category will generally be sent to a lower court for prosecution as misdemeanors. Furthermore, we expect the

reasons given for declining prosecution to vary by crime type, with personal crimes being declined primarily for evidentiary reasons.

We find, however, that while crimes against persons are prosecuted at a higher rate than property crimes (64% compared to 58%), the crimes most likely to be filed in Superior Court are drug offenses (67%). This is true even when other offender and offense characteristics are taken into account. This seems to be somewhat inconsistent with the written standards.

Consistent with standards, on the other hand, we find that seriousness of offense is a significant predictor of filing among property-related crimes (meaning, the more serious the property crime, the more likely a charge), but not among personal crimes. This suggests that crimes against persons are more aggressively prosecuted. In interviews, deputy prosecuting attorneys indicated that personal crimes were filed if sufficient evidence (often meaning witnesses) was available to effectively pursue prosecution. Filing decisions in property crimes are influenced more by the seriousness of the offense. That is, the more serious property crimes were filed in Superior Court, while the less serious were referred to District Court.

THE NATURE AND NUMBER OF CHARGES FILED

Filing policies indicate that initial charges are to be filed “conservatively,” contemplating an early plea agreement, and that overcharging for the purpose of obtaining a guilty plea is expressly forbidden. Similarly, special allegations of sexual motivation and deadly weapon use are to be prosecuted aggressively. Therefore, we examine the number and severity of charges initially filed, and whether they vary by crime type.

Our findings indicate that the number of counts filed is generally conservative, with 99% of cases having four or fewer counts filed. In interviews, we were told by deputy prosecuting attorneys that the rule of thumb (i.e., the norm) was to file three or fewer counts initially, and if an offender chose to go to trial, more counts could and would be added if available. Likewise, charges filed are, in most cases, of

equal severity to the offense alleged by the police. When there are differences, the charges filed are likely to be less serious than those alleged. The severity at referral is unknown in 97% of drug offenses due to the generic offense categories (e.g., VUCSA) indicated by police. Deputy prosecuting attorneys noted that when a case is brought to their office by police, the specific quantity of drugs (as well as confirming lab reports about the chemical qualities of the substance thought to be drugs) is usually not known to the police. The seriousness of the drug charge that is filed is supposed to reflect those important pieces of information, which are available only after initial referral.

AMENDMENTS TO CHARGES

King County Prosecuting Attorney's Office standards are also specific regarding amendments to charges. If an early plea is not entered, the initial charges may be amended, either in severity or number of counts, but charges are to be increased only if necessary to adequately reflect the nature of the crime or to ensure adequate restitution to victims. Charges are not to be increased in order to procure a guilty plea. It is informative, therefore, to examine characteristics of cases in which charges are amended, the relationship of these amendments to characteristics of the offender, and the manner in which cases are disposed.

Deputy prosecuting attorneys who were interviewed reported that charges could increase between the initial filing and trial, but this was done when new information became available which warranted the filing of additional counts or more serious charges. Neither additional nor more serious charges were filed, they reported, when an early plea was not successfully negotiated, unless new information warranted such an amendment.

SENTENCING RECOMMENDATIONS

As with charging decisions, King County Prosecuting Attorney's Office policy directs that initial sentencing recommendations be designed to encourage an early plea, and should therefore normally be near the bottom of the standard range for the

offense. In the event an early plea is not entered and a case goes to trial, the initial recommendation is amended according to the standards, which stipulate a sentence at or near the top of the standard range. Therefore, we examine initial sentencing recommendations to see if they fall close to the bottom or the top of the sentencing grid.

Statements made in interviews indicate that sentencing recommendations by the Prosecuting Attorney's Office are made at or near the top of the standard range when cases are not successfully negotiated. The results of the multivariate analyses indicate that when cases go to trial they are handled in a manner that is consistent with the standards. The sentencing recommendation increases the severity of recommended confinement. This in part accounts for African American offenders receiving recommendations of more time in confinement, because they are more likely to go to trial. But this pattern of compliance does not entirely explain the longer-time-in-confinement recommendation for African American offenders which we have observed. To the extent that it does, this policy might also be viewed as inadvertently exacerbating disparities between African American offenders and other offenders.

Our analyses also find that some type of confinement is recommended in nearly all cases and that they do not vary significantly by race. Finally, exceptional sentences are rarely recommended. When they are, they are reviewed by a senior deputy and the chief criminal deputy or the Prosecuting Attorney. The very small number of exceptional sentence recommendations appearing in the PROMIS data suggest that the standard ranges are realistic and reflect community standards and that the procedural checks produce recommended sentences within those standard ranges.

V. DISCUSSION

The research reported here finds that legal factors are the most important factors determining how felony cases in King County are processed. The offense and offender history, factors specified in the SRA, are the most important determinants of how cases are processed, of the recommendations of the Prosecuting Attorney's Office, and of the sentence upon conviction. Also, deputy prosecuting attorneys stated in interviews that the most important factor in decisions to file a felony case in Superior Court is the quality of the evidence presented to the Prosecuting Attorney's Office by police departments. Our analyses appear to be consistent with those observations.

Even though legal factors are the most important determinants of case handling, our analyses indicate that at some points in the prosecution of felony cases, the race of offenders is significantly related to decisions and outcomes. This is apparent at three points in the process: (1) case filing, (2) recommendations for bail, and (3) sentencing recommendations. Also, there appear to be differences in sentencing of felony offenders of different races by judges. We will discuss each of these in turn. We find no observable differences by race of the offender at the other points in the processing of felony cases in the King County Prosecuting Attorney's Office.

FILING DECISIONS

As in general, charging decisions are largely explained by legal factors—the type of offense, seriousness of offense, the number of offenses, and the quality of evidence provided to the Prosecuting Attorney's Office. Cases where an offender is charged with a drug violation or a personal crime are more likely to be filed in Superior Court. After taking those factors into account, analyses of PROMIS data indicate that extra-legal characteristics of offenders (sex and race) are related to filing cases. The odds of a case being filed in Superior Court are higher for males than for females and higher for African American offenders and Native American offenders than for White

offenders. This race difference is a product of significantly greater odds of filing for African Americans and Native Americans charged with drug-related and personal crimes.

These differences do not appear to be a consequence of involvement in different types of crimes because the higher probabilities of being charged for African Americans and Native Americans persist for drug violations and personal crimes. There is no substantial racial difference in filing for property offenses. The important question is how can these patterns be explained?

In interviews, senior deputies and deputy prosecuting attorneys frequently said that the office can only “file” the cases police bring to them. Several staff members with experience in the Filing Unit substantially stated, “I don’t know the race of the defendant because it is not readily apparent from the paper work in front of me and I don’t have time to or reason to look it up.” Deputy prosecuting attorneys asserted with a great deal of confidence that the procedures and standards serve as a mechanism to provide fairness in case decisions. The professional staff of the King County Prosecuting Attorney’s Office who were interviewed for this research project stated with confidence that their colleagues were not making filing decisions based on race and that if someone were inclined to do so, the “standards” and internal checks and balances would prevent it from happening.

The results of this research suggest that one place to look for an explanation for some of the observed patterns is in policies toward drug law violations. What effect does the “war on drugs” have on these outcomes? Drug offenses are most likely to lead to a charge being filed, which appears to be inconsistent with the policy that personal crimes will be pursued most aggressively in prosecution. Some deputy prosecuting attorneys report that some areas of the county are more likely to be targeted for proactive drug stings—downtown (around the court house and Denny Regrade were mentioned) and the Central Area (with a predominantly African American population). Some interview subjects believe that Hispanic offenders are more likely to be arrested for selling drugs around the courthouse. Since these offenders are likely to be coded as White in the PROMIS data, we are left to wonder if the Anglo-White/Black difference

may be even greater than our analyses suggest. Because a disproportionate number of offenders arrested for drug crimes are African Americans, the effect of their higher probability (than Whites) of being charged for these crimes is magnified.

A focus on “crack” cocaine by much of the criminal justice system may contribute to the disproportionately high filing rates for drug offenses. This could exacerbate racial differences because this drug, according to a number of studies, seems to be used and sold most frequently in African American urban communities (see Staley, 1992; McCall, 1994; and Klein et al., 1991, for descriptions of these drug use and distribution patterns).

RECOMMENDATIONS FOR BAIL

As noted above, there appear to be racial differences in the recommendations for bail by the Prosecuting Attorney’s Office. We should say at the outset, though, that these differences appear to be accounted for by legal factors associated with cases. Our results require some elaboration.

In the majority of cases, the Prosecuting Attorney’s Office recommends monetary bail to the court (84%). This is of critical importance since past research has found that offenders who are released on bail are more likely to be found not guilty, more likely to receive alternative sentences, and more likely to receive lenient sentences when they are found guilty (Petersilia, 1983; Crutchfield and Bridges, 1986).

We found that African Americans are more likely to have recommendations for bail, as opposed to recommendations for release on their own recognizance (93% bail recommendations for African Americans, and 78% for Whites and offenders of other races). But this difference essentially disappears when legal factors and the “police recommendation” for detention are included in the multivariate analyses.

We interpret police recommendations as a measure of the officer’s assessment of severity of the offense and of offender “dangerousness.” We used this measure because it is the only one available to us, and also because it is available to those making the filing decisions. We included police recommendations for detention because

we learned that deputy prosecuting attorneys take notice of police recommendations. We are not persuaded that the police perceptions, and consequently their recommendation for detention, is an objective measure of the severity of the offense (above and beyond the crime charged). As mentioned above, deputy prosecuting attorneys mentioned repeatedly that they can only take the cases the police present to them. We are left with two possibilities. First, it may be that the police assessment is accurate and fair and that attenuation of the initially observed racial differences in bail recommendation appropriately reflects the severity of crimes for which people are being arrested. Second, it may be that these assessments are biased and that bias in police behavior may unfortunately affect case processing even after arrest.

SENTENCING RECOMMENDATIONS

Here again, legal factors—the current offense and the criminal history of the offender (measured as the SRA offense history score)—are the most important determinants of the Prosecuting Attorney’s Office sentencing recommendation. Virtually all convictions result in recommendations for some period of confinement. This does not differ by race. The sentences of nearly all offenders convicted of felonies in King County have as a part of their recommended sentence a period of confinement. This is consistent with the written standards and policies of the King County Prosecuting Attorney’s Office.

However, we did find that race was statistically related to the recommended amount of time in confinement. Longer periods of confinement were recommended for Black offenders than for White offenders, even after we took into account legally relevant factors (type of crime—personal, drug, property; severity of crime—SRA seriousness score; offender’s criminal history). Also, the Prosecuting Attorney’s Office was much less likely to request that African American offenders receive an alternative sentence conversion. While there was no significant racial difference in recommendations regarding community supervision, there was an ethnic difference—Hispanic offenders are more likely to have been recommended for community supervision after confinement.

In interviews, deputy prosecuting attorneys repeatedly asserted that sentencing recommendations are largely regulated by the standards. After recommendations are made by a deputy, they are reviewed by senior deputies. Members of the Prosecuting Attorney's staff believe this procedure is a check on the reasonableness and fairness of the recommendations. The standards mandate that the recommendation be a function of the stage of case processing. At filing, recommendations for sentencing are at the bottom of the standard range. Later in the process, if a case goes to trial, the standards mandate a recommendation at the top of the standard range. The cases involving African American offenders are significantly more likely to go to trial than are the cases of offenders from other racial groups. When this higher probability is taken into account statistically, there are still significant racial differences in the recommended time of confinement. A small portion of the initially observed racial differences in sentencing can be explained by the policy mandating longer confinement when cases go to trial, but not all of the difference.

SENTENCING

Although the focus of this study is prosecutorial discretion, we were able to analyze racial differences in sentencing for the 500 sampled cases. Our analyses indicate that judges in King County order sentences in accord with the Prosecuting Attorney's Office recommendations and with the SRA. The most important determinants of sentences are legal factors, but there are some observable racial differences even after taking legal factors into account. African Americans are more likely to be confined than Whites. Hispanics receive shorter sentences and are more likely to have community placement as a part of their sentences than other offenders. African Americans are also less likely than Whites to have their sentences converted.

The logic of longer sentence recommendations for cases that go to trial is to encourage offenders to plead guilty early in the process. According to our interviews with deputy prosecuting attorneys, when an offender elects to plead guilty, the defense attorney has already had the opportunity to "negotiate" with the Prosecuting Attorney's

Office and the plea agreement is the outcome. We are left to wonder if the routine acceptance of Prosecuting Attorney's Office recommendations after trial by judges substantially disadvantages all offenders who choose their day in court. Since African American offenders are more likely to make such a choice, they are systematically disadvantaged if judges are not using their authority to sentence as a reasonable check on the recommendations of the Prosecuting Attorney's Office.

VI. CONCLUSIONS

In the final analysis, we conclude that the most important factors in the prosecution of felony cases in King County are legally relevant factors. There are, though, instances where differences in case processing outcomes by race and ethnicity of the offender are apparent. How most of those differences might be explained with legally relevant factors is not immediately apparent, nor the extent to which other extra-legal factors (e.g., socioeconomic status) that are related to race contribute to the observed disparities. Many “race-neutral” legal factors help to explain some of the differences by race, but certainly not all of them.

The procedures and standards which the King County Prosecuting Attorney’s Office have adopted, and which are reevaluated and changed regularly, appear to produce systematic case processing based on legally relevant factors. A possible exception to this statement may be the routine practice which directs that cases taken to trial receive recommended sentences at the top of the standard range. As a Superior Court judge put it, “. . . the simple exercise of the right to go to trial should have no bearing on a sentence.” Nevertheless, even with the use of standards there are some observable differences in case processing by race. However, we cannot draw definitive conclusions as to the sources of those differences, but we believe the disparities should be of concern to criminal justice practitioners and the community.

We believe the criminal justice system works most fairly when its agencies (police, prosecutors, courts) serve as checks and balances on each other. The evidence suggests that they are functioning this way in King County, but we are also concerned that because of the observed race differences at some phases of processing that more could be done to eliminate them completely.

Ultimately, the people of the state of Washington must decide what we want our laws to focus on. Drug-related crimes appear to be more vigorously enforced and prosecuted than even personal crimes. Interviews with deputy prosecuting attorneys

raised the possibility that the community's focus on "crack" cocaine may mean that African Americans are more likely to be caught in the legal net by these policies.

Racial and ethnic differences in criminal justice processing are not necessarily the result of individuals making biased decisions. In fact, we do not believe that the few observed disparities reflect what one senior deputy prosecutor called "racially-based decisions by prosecutors." And we agree, primarily because the analyses come to this conclusion, that "It seems much more likely that the disparities are related to legal, economic, and social factors." The problem, however, is that economic and social factors, with few exceptions, are not recognized as legitimate criteria for decision-making—much less as "legal" factors—and the relationship between economic and social factors cannot be disentangled. The kinds of economic and social factors that police, prosecutors, and judges legitimately and routinely take into account in their decisions, recommendations, and actions regarding felons (who are disproportionately lower in socioeconomic status and African American, Hispanic American, and Native Americans) will also carry with them unintended race effects. It is clear from the quantitative data analyses and the interviews that race *per se* is not used intentionally by prosecutors in making decisions and taking actions in the case flow process. Differences may appear because of the adoption of laws and policies that differentially impact some segments of the population more than others. This study was not designed to uncover individuals making biased decisions. In fact, when interviewing members of the Prosecuting Attorney's staff, we were struck by the level of commitment to fairness and justice exhibited. We believe a fruitful direction to pursue in obtaining a more "just" criminal justice system is to try to confront and modify law, legal practices, and policies that may disadvantage some groups.

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TABLES

TABLE 1

RACE AND SEX OF OFFENDERS REFERRED TO THE
KING COUNTY PROSECUTOR DURING 1994

	Asian American	African American	Native American	White	Total
Male	375 (81%)	3,775 (84%)	129 (78%)	5,867 (82%)	10,146 (83%)
Female	88 (19%)	733 (16%)	36 (22%)	1,272 (18%)	2,129 (17%)
Total Referrals	463 (100%)	4,508 (100%)	165 (100%)	7,139 (100%)	12,275 (100%)

TABLE 2

RACE OF OFFENDERS AND TYPE OF OFFENSES REFERRED
TO THE KING COUNTY PROSECUTOR DURING 1994

	Asian American	African American	Native American	White	Total
Personal Offenses	177 (38%)	1,271 (28%)	72 (44%)	2,053 (29%)	3,573 (29%)
Drug Offenses	39 (08%)	1,945 (43%)	34 (21%)	1,949 (27%)	3,967 (32%)
Property/ Others	247 (53%)	1,292 (29%)	59 (36%)	3,137 (44%)	4,735 (39%)
Total Referrals	463 (100%)	4,508 (100%)	165 (100%)	7,139 (100%)	12,275 (100%)

TABLE 3

INITIAL ACTIONS TAKEN, BY TYPE OF OFFENSE, FOR ALL REFERRALS
TO THE KING COUNTY PROSECUTOR DURING 1994

	Personal Offenses	Drug Offenses	Property/Other Offenses	Total Actions
No Action Taken	316 (09%)	195 (05%)	204 (04%)	715 (06%)
Returned to Detective	49 (01%)	137 (04%)	140 (03%)	326 (03%)
Prosecution Declined	921 (26%)	582 (15%)	1,030 (22%)	2,533 (21%)
Filed in District Court	15 (00%)	407 (10%)	638 (14%)	1,060 (09%)
Filed in Superior Court	2,272 (64%)	2,646 (67%)	2,723 (58%)	7,641 (62%)
Total Referrals	3,573 (100%)	3,967 (100%)	4,735 (100%)	12,275 (100%)

TABLE 4

SUPERIOR COURT FILINGS BY RACE OF OFFENDERS AND TYPE OF OFFENSES REFERRED TO THE KING COUNTY PROSECUTOR DURING 1994

<i>Personal Offenses</i>					
	Asian American	African American	Native American	White	Total
Filed	117 (66%)	832 (66%)	54 (75%)	1,269 (62%)	2,272 (64%)
Not Filed	60 (34%)	439 (34%)	18 (25%)	784 (38%)	1,301 (36%)
Total Referrals	177 (100%)	1,271 (100%)	72 (100%)	2,053 (100%)	3,573 (100%)
<i>Drug Offenses</i>					
	Asian American	African American	Native American	White	Total
Filed	26 (67%)	1,365 (70%)	27 (79%)	1,228 (63%)	2,646 (67%)
Not Filed	13 (33%)	580 (30%)	7 (21%)	721 (37%)	1,321 (42%)
Total Referrals	39 (100%)	1,945 (100%)	34 (100%)	1,949 (100%)	3,967 (100%)
<i>Property and Other Offenses</i>					
	Asian American	African American	Native American	White	Total
Filed	150 (61%)	734 (57%)	37 (63%)	1,802 (57%)	2,732 (58%)
Not Filed	97 (39%)	558 (43%)	22 (37%)	1,335 (43%)	2,012 (42%)
Total Referrals	247 (100%)	1,292 (100%)	59 (100%)	3,137 (100%)	4,735 (100%)

TABLE 5

LOGISTIC REGRESSIONS PREDICTING
FILING OF FELONY CHARGES, BY OFFENSE TYPE

	All Offenses	Property Offenses	Personal Offenses	Drug Offenses
<i>SOCIAL FACTORS</i>				
Age	.001 ^a (.002) ^b	.013** (.004)	-.002 (.004)	-.006 (.004)
Male	.281** (.049)	.172* (.074)	.264 (.143)	.413** (.083)
African American	.141** (.041)	-.066 (.071)	.192* (.084)	.301** (.069)
Asian American	.186 (.101)	.125 (.141)	.276 (.188)	.142 (.345)
Native American	.532** (.175)	.145 (.283)	.722* (.312)	.873* (.429)
<i>LEGAL FACTORS</i>				
Drug Offense	.392** (.046)	---	---	---
Personal Offense	.193** (.047)	---	---	---
Referral Counts	.906** (.115)	.608** (.154)	1.186** (.211)	.191 (.340)
Prior Referrals	.091** (.032)	.034 (.047)	-.035 (.078)	.186** (.056)
SRA Level	N.A.	.078** (.026)	.013 (.011)	N.A.
Constant	-.949** (.146)	-.836** (.214)	-1.034** (.301)	.162 (.376)

^a Logistic regression coefficient representing the effect of Age on the likelihood of filing.
^b Standard error of the regression coefficient.

* Significant, $p < .05$
** Significant, $p < .01$

TABLE 6

FINAL DISPOSITIONS, BY RACE OF OFFENDER, FOR ALL SUPERIOR COURT CASES FILED BY THE KING COUNTY PROSECUTOR IN 1994²⁰

	Asian American	African American	Native American	White	Total
No Disposition	72 (25%)	651 (22%)	22 (19%)	1,062 (25%)	1,807 (24%)
Dismissed	13 (05%)	188 (06%)	5 (04%)	214 (05%)	420 (06%)
Aquitted at Trial	0 (00%)	32 (01%)	0 (00%)	23 (01%)	55 (01%)
Pled Guilty	187 (66%)	1,828 (63%)	88 (75%)	2,792 (66%)	4,895 (65%)
Convicted at Trial	13 (05%)	209 (07%)	3 (02%)	138 (03%)	363 (05%)
Total Dispositions	285 (100%)	2,908 (100%)	118 (100%)	4,229 (100%)	7,540 (100%)

²⁰ Excludes 102 cases filed, but for which either offender's race or final disposition were missing from PROMIS.

TABLE 7

LOGISTIC REGRESSIONS PREDICTING DEPUTY PROSECUTORS'
DECISIONS REGARDING EARLY RELEASE

	Bail Recommended	Bail Amount
<i>SOCIAL FACTORS</i>		
Age	-.010 ^a (.019) ^b	.001 (.004)
Female	-.727 (.467)	-.184 (.134)
African American	1.092* (.498)	.070 (.100)
Other Race	-.809 (.590)	.055 (.161)
Hispanic Origin	.774 (.717)	-.001 (.171)
<i>LEGAL FACTORS</i>		
Personal Offense	2.066** (.587)	.563** (.137)
Drug Offense	.121* (.603)	-.575** (.146)
Offense Severity	.135 (.097)	.184** (.017)
Criminal History	.742** (.179)	.056** (.019)
Number of Counts	.415 (.386)	.289** (.075)
Deadly Weapon Present		.317** (.121)
Constant	-1.689 (2.513)	3.328 (.652)

^a Logistic regression coefficient.

^b Standard error of the regression estimate.

* Significant, $p < .05$

** Significant, $p < .01$

TABLE 8

OLS REGRESSION PREDICTING TOTAL LENGTH OF CONFINEMENT
RECOMMENDED BY DEPUTY PROSECUTING ATTORNEYS

<i>SOCIAL FACTORS</i>	
Age	.014 ^a (.008) ^b
Female	-.252 (.220)
African American	.482** (.169)
Other Race	-.058 (.258)
Hispanic Origin	.117 (.294)
<i>LEGAL FACTORS</i>	
Personal Offense	.273 (.206)
Drug Offense	.295 (.226)
Offense Severity	.272** (.032)
Criminal History	.319** (.029)
Number of Counts	.168 (.136)
Trial	.854 (.265)
Constant	3.486 (.967)

^a Logistic regression coefficient.

^b Standard error of the regression estimate.

* Significant, $p < .05$

** Significant, $p < .01$

TABLE 9

LOGISTIC REGRESSIONS PREDICTING DEPUTY PROSECUTING ATTORNEYS
RECOMMENDATIONS FOR ALTERNATIVE SENTENCES, COMMUNITY SUPERVISION AND
COMMUNITY PLACEMENT

	Alternative Sentence	Community Supervision	Community Placement
<i>SOCIAL FACTORS</i>			
Age	.008 ^a (.023) ^b	.011 (.017)	-.101 (.072)
Female	.060 (.602)	.349 (.462)	
African American	-1.387* (.621)	-.304 (.353)	-.620 (.958)
Other Race	-.617 (.862)	-.469 (.585)	
Hispanic Origin	-1.712 (1.165)	-.502 (.629)	3.079* (1.480)
<i>LEGAL FACTORS</i>			
Personal Offense ^c		1.304 ** (.479)	-.284 (.206)
Drug Offense	-.189 (.644)	-.320 (.457)	
Offense Severity	-.261 (.162)	-.550** (.095)	.441* (.146)
Criminal History	-1.593** (.359)	-.712** (.103)	.329* (.242)
Number of Counts	.526 (.424)	.761* (.333)	-.685 (.996)
Constant	-.465 (2.413)	2.495 (2.052)	-.555 (6.581)

a Logistic regression coefficient.

b Standard error of the regression estimate.

c This variable indicates violent vs other sex offenses for the analyses predicting community placement.

* Significant, $p < .05$

** Significant, $p < .01$

TABLE 10

LOGISTIC REGRESSIONS PREDICTING JUDGES' SENTENCES: ALTERNATIVE SENTENCE,
COMMUNITY SUPERVISION AND COMMUNITY PLACEMENT

	Alternative Sentence	Community Supervision
<i>SOCIAL FACTORS</i>		
Age	.012 ^a (.021) ^b	-.022 (.015)
Female	-.169 (.505)	.309 (.429)
African American	-1.410* (.560)	-.542 (.337)
Other Race	-.323 (.666)	.024 (.535)
Hispanic Origin	-.846 (.769)	-.046 (.561)
<i>LEGAL FACTORS</i>		
Personal Offense	-7.306 (16.076)	.319 (.400)
Drug Offense	.691 (.517)	-.139 (.445)
Offense Severity	-.345 (.191)	-.033 (.103)
Criminal History	-.715** (.202)	-.248** (.089)
Number of Counts	.480 (.413)	2.193** (.558)
Constant	-.465 (2.413)	-1.925 (2.308)

a Logistic regression coefficient.

b Standard error of the regression estimate.

* Significant, $p < .05$

** Significant, $p < .01$

TABLE 11

LOGISTIC REGRESSIONS PREDICTING TOTAL LENGTH OF CONFINEMENT
IMPOSED BY JUDGES

SOCIAL FACTORS

Age	.007 ^a (.006) ^b
Female	-.235 (.171)
African American	.325* (.135)
Other Race	.395 (.209)
Hispanic Origin	-.473* (.224)

LEGAL FACTORS

Personal Offense	.271 (.161)
Drug Offense	.011 (.178)
Offense Severity	.316** (.025)
Criminal History	.308** (.023)
Number of Counts	.180 (.134)
Constant	2.274 (.755)

^a Logistic regression coefficient.

^b Standard error of the regression estimate.

* Significant, $p < .05$

** Significant, $p < .01$

APPENDIX

RACIAL AND ETHNIC DISPARITIES IN THE PROSECUTION OF FELONY CASES IN KING COUNTY

Data Collection Instrument

This instrument describes the information to collect, and its location in the case files obtained from the Office of the King County Prosecutor. The italicized titles below indicate the appropriate forms on which to find the specified information.

Code missing data by filing the empty spaces with 9's. "Not applicable" items should be coded with 8's.

I. JACKET COVER

Cause Number: 9 4 - 1 - _____ - _____

CCN Number: _____

Number Of Defendants Named On Case File: _____

The following information is usually found on the left hand side of the file. Begin at the bottom (the police report) and work your way up to the top.

II. POLICE INCIDENT/ARREST REPORT AND YELLOW SUMMARY SHEET

(Also see: *Superform/Suspect Information Sheet; Detention Report; Pre-sentence Report*)

A. Offender Information: Demographic

Date of Birth _____ / _____ / _____

Sex (Male = 0 / Female = 1) _____

Race _____

White = 0

Black = 1

Native American = 2

Asian = 3 Specify _____

Hispanic = 4 Specify _____

Other = 5 Specify _____

Hispanic Origin (surname or place of birth/residence)
 (No = 0, Yes = 1) _____
 Currently Employed (No = 0, Yes = 1) _____
 Marital Status (Single = 0, Married = 1) _____
 Unstable living arrangements _____

B. Additional Offender Information Mentioned in Police Report?
 (see also: Certification for Determination of Probable Cause)

(Code 1 = Yes, 0 = No)

Mental Health Problems/Treatment? _____
 Defendant Hostile or Threatening? _____
 Defendant Uncooperative? _____
 Defendant Considered Dangerous? _____
 Drug/Alcohol Problems? _____
 Other adhominem/pejorative comments regarding offender?
 List _____

C. Offense Information:

Type of Offense _____
 Violent _____ Domestic _____
 Sexual _____ Property _____
 Drug _____ Other _____

Arresting Offense (most serious) _____
 (e.g., Assault II)

NCIC Crime Code _____
 (located on *Superform/Yellow Sheet*)

Date of Arrest (booking, on police form) ____ / ____ / ____

Detention recommended?
 (No = 0, Yes = 1) _____

Deadly weapon used/present?
 (No = 0, Yes = 1) _____

Drug Zone violation?
 (No = 0, Yes = 1, NA = 8) _____

Cooperative witnesses present?
 (No = 0, Yes = 1) _____

Co-offenders? (No = 0, Yes = 1) _____

How many? _____

III. CERTIFICATION FOR DETERMINATION OF PROBABLE CAUSE

(White typed sheet usually above yellow sheet on left.)

A. If this is a drug crime, code (Yes = 1, No = 0): (If No, skip to III. B.)
(Code all that apply)

Type of Drugs: _____

Quantity of Drugs: _____

Value of Drugs: \$ _____ , _____ , _____ .00

B. If this is a property crime, code (Yes = 1, No = 0): (If No, skip to III. C.)

Type of Property: _____

Value of Property: \$ _____ , _____ , _____ .00

C. If this is a personal crime, code (Yes = 1, No = 0): (If No, skip to IV.)

Number of Victims _____

Victim Characteristics: (Code first 3)	Victim 1	Victim 2	Victim 3
Age at Offense	_____	_____	_____
Sex (Male = 0, Female = 1)	_____	_____	_____
Race	_____	_____	_____
White	= 0		
Black	= 1		
North American	= 2		
Asian	= 3		
Hispanic	= 4		
Other	= 5		

Relation to Accused _____
 Stranger* = 0
 Friend/Acquaintance = 1
 Spouse/Family = 2
 Other = 3
 Unknown = 4

*Note that stranger is defined by the victim not knowing the offender, though the offender may know (e.g., may be stalking) the victim.

IV. INFORMATION

(White pages above certification for determination of probable cause.)

A. Initial Filing Decisions

Name of Primary Charge (Most Serious) _____

RCW Number: _____

Number of Counts (# All Offenses) _____

B. Amended Information (check pre-sentence report; judgment and sentence):

Were charges ever amended (No = 0, Yes = 1) (If No, skip to V.)

Were the charges reduced or increased _____
 (1 = Increased, 2 = Reduced, 7 = DK)

Amended Counts (Total Offenses) _____

Amended Charge Name (Most Serious) _____

RCW Number: _____

V. MOTION AND ORDER DETERMINING EXISTENCE PROBABLE OF CAUSE

(White typed pages, usually above "information" on the left side.)

Conditions of early release:

A. Prosecutor's Recommendation _____

Unconditional Release 0
 Conditional Release 1
 Personal Recognizance 2
 Bail 3
 No Early Release 4

Recommended Bail Amt. \$ _____, _____, _____ .00

- B. State (Judge) Order _____
- | | |
|-----------------------|---|
| Unconditional Release | 0 |
| Conditional Release | 1 |
| Personal Recognizance | 2 |
| Bail | 3 |
| No Early Release | 4 |
- Bail amount ordered \$ _____ , _____ , _____ .00

VI. STATE'S SENTENCING RECOMMENDATION (SSR)

The following information is usually found on the right side of the file, in or on manila envelope.

SSR may not appear if a non-felony plea was entered. There are multiple versions of this form (circle the letter indicating the form used): (a) for Confinement of greater than one year; (b) for Confinement of one year or less; (c) SOSSA; or (d) other (specify below):

- A. Sentencing Recommendation Initial Charge _____
(1 = Present, 0 = Not, if No, skip to B.)

(Code each of the following: 1 if ordered, 0 if not ordered.)

1. Alternative Sentence conversion
 If "yes" ___ Alternative sentence total confinement
 to be converted _____
 If "no" ___ Reasons for not recommending conversion
 _____ Criminal History
 _____ Failure to Appear History
 _____ Other Specify
2. Total Confinement
 amount of time _____ days / weeks / months / years (circle one)
3. Sentence Modification _____
4. Community Service
 amount of time _____ days / weeks / months / years (circle one)
5. Community Supervision
 amount of time _____ days / weeks / months / years (circle one)

6. Community Placement
amount of time _____ days / weeks / months / years (circle one)

7. Monetary payments ordered

8. Exceptional sentence ordered

B. Sentencing Recommendation Amended Charge _____
(Present = 1; No = 0; if No, skip to VII.)

1. Alternative Sentence conversion

If "yes" ___ Alternative sentence total confinement
to be converted _____

If "no" ___ Reasons for not recommending conversion

_____ Criminal History

_____ Failure to Appear History

_____ Other Specify

2. Total Confinement
amount of time _____ days / weeks / months / years (circle one)

3. Sentence Modification _____

4. Community Service
amount of time _____ days / weeks / months / years (circle one)

5. Community Supervision
amount of time _____ days / weeks / months / years (circle one)

6. Community Placement
amount of time _____ days / weeks / months / years (circle one)

7. Monetary payments (any) ordered

8. Exceptional sentence ordered.

VII. NON-FELONY PLEA

(Usually on right side with Presentencing Recommendation, also look for yellow carbon.)

(Code Yes = 1, No = 0): (If No, skip to VIII.)

A. State Recommends

Imposition of sentence on counts _____,

Deferred _____ months

Sentence of _____ months

on counts _____ (concurrent/consecutive) date of _____

Probation termination date ____ / ____ / ____

B. Conditions

Serve _____ days / weeks / months (circle one)

Supervised Probation _____

Restitution _____

Other _____; specify _____

Maximum _____ months and / or \$ _____ counts _____

VIII. GENERAL SCORING FORM(S)

(May not be present if Non-felony plea entered.)

A. On Initial charge

Offense Seriousness Level _____

Offender Score _____

Standard Range _____ to _____ days / weeks / months / years.

(Circle One)

B. On final (amended) charge (Code 1 if present, 0 if not) _____

Offense Seriousness score _____

History Score _____

Standard Range _____ to _____ days / weeks / months / years.

(Circle One)

IX. PLEA/TRIAL FORM

(May not be present if Non-felony plea entered; skip to X.)

Plea Agreement Trial

(If trial, be sure to check for amended information and amended sentencing recommendations.)

On plea to: AS CHARGED (No = 0, Yes = 1, 8 = Trial) _____

Other Charge: _____

(Code 1 if Apply; 0 if Does not Apply)

Special Finding; Deadly Weapon; School Zone, on counts _____

- ___ Dismiss
- ___ Real Facts
- ___ Restitution
- ___ State Recommendation
- ___ Defendant Agrees
- ___ Defendant Disputes

Maximum on count _____ not more _____ years and/or fine _____

X. JUDGMENT AND SENTENCE

A. Outcomes/Disposition (Findings)

DISPOSITION _____
not guilty = 0
plead guilty = 1
dismiss = 2
guilty at trial = 3

TYPE OF TRIAL _____
No Trial = 0
Bench Trial = 1
Jury Trial = 2

PRIMARY OFFENSE AT CONVICTION _____
(Code most serious)

CRIME CODE _____

TOTAL COUNTS AT CONVICTION _____

SPECIAL FINDINGS (code 0 = No, 1 = Yes) _____ (if 0 go to X.B.)

deadly weapon _____
sexually motivated _____
drug zone _____
vehicular homicide _____
uncharged offenses _____

B. Sentence Ordered

Date of Sentence ___ ___ / ___ ___ / ___ ___

Type of Sentence Ordered _____

- Standard Range = 0
- FTOW (first time offender waiver) = 1
- SSOSA (spcl sex offender sent.) = 2
- Exceptional Sentence = 3
- Suspended/deferred = 4
- Non-SRA = 5
- Non-felony = 6

(Code each of the following: 1 if ordered, 0 if not)

- Total Confinement
amount of time _____ days / weeks / months / years (**Circle One**)
- Alternative Sentence conversion
If "yes" ___ Alternative sentence total confinement
to be converted _____
If "no" ___ Reasons for not recommending conversion
____ Criminal History
____ Failure to Appear History
____ Other (Specify)
- Partial Confinement _____
- Community Service
amount of time _____ days / weeks / months / years (**Circle One**)
- Community Supervision
amount of time _____ days / weeks / months / years (**Circle One**)
- Community Placement Ordered
- Monetary Payments (any) Ordered
- Exceptional Sentence Ordered.

Sct/filing _____

Arr _____

Trial _____

Additional Comments: _____

Data Collector initials: _____ Quality Control initials: _____

TECHNICAL SUPPORT MEMBERS

Judge William W. Baker
Court of Appeals, Division I

Kim M. Eaton
Yakima County Clerk

Judge Philip J. Thompson
Court of Appeals, Division III

Larry M. Fehr
Executive Director
Washington Council on Crime and Delinquency

Commissioner Kenneth H. Kato
Court of Appeals, Division III

Irene Gutierrez
Director
City of Yakima Rebound Program

Judge Karen B. Conoley
Kitsap County Superior Court

Debora G. Juarez
Attorney at Law

Judge Deborah Fleck
King County Superior Court

Ada ko
Attorney at Law
Office of the Seattle City Attorney

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Pierce County Superior Court

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United State Department of Justice

Judge Robert E. McBeth
King County District Court, Renton Division

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