

JUDGES



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

TO: House Judiciary Committee Members
FROM: Rochelle Plotnick *RP*
DATE: August 2, 1979
RE: Alaska Judicial Conference

On June 11, 1979 approximately 50 of Alaska's judges gathered for a conference. The underlying theme of the conference was "Bias in the Judicial System". Statistics from a study done by the Alaska Judicial Council suggested there was discrimination in sentencing by some judges. The purpose of the conference was to provide ethnic sensitivity training for the judges. For two days the judges listened to various speakers. Questions were asked after each presentation. Though some judges were defensive, most attended the conference with hope of gaining by the experience. There was a willingness to listen and learn. The conference was sponsored by the Alaska Court System, the Alaska Human Rights Commission and the Community Relations Service of the United States Department of Justice.

The first participant was Judge Charles Z. Smith, Professor of Law, University of Washington. A black man, Judge Smith has served as a Juvenile Court judge, judge of the Municipal Court of Seattle, and judge of the Superior Court of Washington for King County. He began by recounting the history of racism in

the United States, stressing the fact that a great deal of discrimination still exists. For example, 56% of the schools in the South are integrated while 16% are integrated in the North. He said racism is a nationwide problem and not limited to one part of the country. Smith contends that we must admit to ourselves our prejudices.

Dr. Lindbergh Sata followed. Sata, of Japanese descent, is Chairman of the Department of Psychiatry at Saint Louis University School of Medicine. He has held several teaching positions as Professor of Psychiatry in Washington and Maryland. Prior to the conference Sata had traveled throughout Alaska conducting interviews with various people. Whites told him of a positive way of life in Alaska, but when he interviewed Alaska Natives their reports were not as favorable. They said the white man had made life terribly complicated for them. An Alaska Native was quoted as saying, "I don't understand the white man's law". A Native in Bethel said whites reside there, but do not live with the Natives there. Sata talked about white man's laws, for the white man, used on Alaska Natives. He mentioned two types of economic systems in Alaska: monetary and subsistence. He said the white man's system is monetary while many Alaska Natives prefer subsistence. White man's laws reflect his monetary system, while the Alaska Native's values are set aside. For example, if an Alaskan Native is "voluntarily unemployed" so that he can lead a subsistence way of life, it might be a strike against him in the courtroom. Sata said that those involved in the criminal justice system were described as either "good" or

"lousy". "Good" meant a willingness to understand and interact with Alaska Natives. His final point was regarding a theory on alcohol among Alaska Natives. Asians, which anthropologists believe Alaska Natives are distantly related to, lack an enzyme in the blood that aids in the breakdown of alcohol. While a white person has six drinks and the alcohol count in the blood is 150, six drinks for Sata, using himself as an example, would register 2000. Sata suggested this be studied more carefully and taken into account when alcohol related problems are addressed.

The final speaker on the first day of the conference was Dr. Paul Takagi, Professor of Education at the University of California, Berkely, with a specialty in criminology. A Japanese-American, Takagi began his presentation by showing a video tape about racism in American institutions. The basic message of the tape was that racism exists in all major institutions; schools, courts, prisons, churches, unions, employment, housing and lending institutions. Not any one institution can be pinpointed as racist. They all affect each other. For example, schools affect the kind of people who are successful in college, who are successful in law school, who are successful bar members, who are successful judges, etc. Takagi then turned to some national statistics regarding crime and unemployment. He felt that as unemployment rises, imprisonment rises too. If a person is employed he or she is less likely to go to jail than if not working. Because of the racial discrimination in the nation's institutions, the blacks, Alaska Natives, and other minorities are the first to be unemployed.

Therefore, according to Takagi, their imprisonment rate increases.

Day two of the conference began with Gilbert Pompa, Director of the Community Relations Service of the U.S. Department of Justice. He is an attorney with experience in the private sector and as a district attorney in Texas. Pompa placed blame on district attorneys as a whole for the imbalances in the criminal justice field. Pompa is a Mexican-American.

Robert Lamb, the Northwest Regional Director of the Community Relations Service followed Pompa with two additional points. He said that in white neighborhoods the police "protect", but in minority neighborhoods the police "patrol". His second point was an observation he had made during twenty years experience as a policeman. He has never heard of a black kleptomaniac. While white persons charged with theft or shoplifting are sometimes released with the excuse that they are kleptomaniacs, blacks are not. These two points backed up Lamb's statement that bias exists in the criminal justice system. Lamb is black.

The next item on the agenda was a panel discussion on "Alaska's Minorities - Perceptions of Grievances and Problems".

Rosita Worl, an Alaskan Tlingit, pointed out the cultural differences in Alaska. Worl is an Assistant Professor of Anthropology, University of Alaska. She said cultural differences must be recognized by the Alaskan Justice System.

Worl used herself as an example. As she spoke, she stood with her hands on her hips. She described Tlingits as great orators with a tendency to lecture. Her hands on her hips were there to hold a Tlingit blanket. It could appear arrogant to a white person. In Tlingit culture it would be a sign of respect.

Thelma Buchholdt described Filipinos as people who talk very fast when excited. Born in the Phillipines, Buchholdt has become a U.S. citizen and is currently a member of the Alaska Legislature. Even now she sometimes has a hard time translating English into Filipino and suggested a person in the courtroom is probably intimidated and having a very difficult time understanding. When a person fails to respond it could be because of a lack of understanding rather than disrespect, and too embarrassed to admit he does not understand.

Ron Scollon, an Assistant Professor of Linguistics at the University of Alaska, discussed ethnic differences within the mechanics of conversation. He said that different ethnic groups have different speaking and pausing paces. Some use silence to show respect. Scollon explained that while an Alaska Native might think unfavorable of a white person who talks fast and leaves little time for pauses, that white person might be thinking the Alaska Native is dumb because he does not respond quickly or is silent. Scollon is white.

Robert Kemp, Assistant Director with the Alaska State Commission for Human Rights, said he was examining pre-sentencing reports

to determine whether or not they influence the racial disparities that showed up in the Judicial Council's sentencing study. Kemp is black.

Jane Yamashiro, a researcher at the University of Alaska and Japanese-American, suggested that the judges interact with different ethnic groups in their own environments. She said that at a P.T.A. meeting she discovered the parents of Japanese-American children wanted the same for their children as any other parents; a good education.

The second panel was focused on "Indicators of Bias in the Criminal Justice System".

Bill Nix, Commissioner of the State Department of Public Safety, said that he would make every effort to see that his department handled all matters in a fair and just manner. If there was any bias in his department he wanted to correct it. Nix is white.

Bill Green, Superintendent for Ridgeview Correctional Center for Women, told the judges that out of 16 felon convictions at Ridgeview, all were either of a minority group or closely associated with one (a white woman living with a black man, for example). He said the average correctional officer is not a member of a minority group and the correctional system is geared for the middleclass. Green said we all have some biases, but that the first step is to admit them to ourselves and learn to

overcome them. Green is black.

Kim Moeller, Director of the North Slope Borough Department of Public Safety, said he had been involved in a case where an Eskimo man was accused of a serious crime by an Alaska State Trooper. Because the Eskimo was intimidated by the trooper he said he had committed the crime. Moeller did some investigation and concluded there was no possible way the Eskimo could have been guilty. He contacted Fairbanks, where the Eskimo was in jail, and charges were dropped. Moeller is white.

Nora Guinn, the first Alaska Native to serve as a judge, backed up Kim Moeller by explaining that when Eskimos say "yes" they mean "no".

The final participant on the panel was Chuck Robinson, a former prosecutor and public defender, currently a private attorney from the Kenai Peninsula. He reported a case where a black man was given a harsher sentence for a smaller amount of drugs than a white man with a larger amount. He was sure similar cases exist. Robinson, a black, also felt some judges discriminate in their sentencing more than others.

ALASKA COURT SYSTEM
JUDICIAL RESPONSIBILITIES*

SUPREME COURT--5 justices

- Final Appellate Jurisdiction
- Civil Appeals & Cross Appeals
- Criminal Appeals & Juvenile Appeals
- Petitions for Review/Original Applications

TRIAL COURTS--63 court locations statewide

SUPERIOR COURT--20 judges

- Trial Court of General Jurisdiction
- Original Jurisdiction in all
Civil and Criminal Matters
- Appeals from Final Judgments of
the District Court
- Exclusive Jurisdiction: Domestic
Relations, Children's Proceedings,
Probate, Guardianship and Civil
Commitments

DISTRICT COURT--17 judges & 54 magistrates

- State Misdemeanor Violations
& Local Ordinance Violations
- Recovery of Money or Damages of
Property not exceeding \$10.0
- Motor Vehicle Tort Cases not
exceeding \$15.0

*The Supreme Court has administrative responsibilities which include the management of the entire state judicial system, the promulgation of rules governing practice and procedure in civil and criminal cases in all courts, the promulgation of administrative rules and the supervision of admissions and disciplinary matters of the Alaska Bar.



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MEMORANDUM

TO: HOUSE JUDICIARY COMMITTEE
FROM: ROCKY PLOTNICK
DATE: SEPTEMBER 13, 1979
SUBJECT: JUDGES

During the interim I have done three things regarding judges.

I have written a summary of the Judicial Conference in Sitka last June. A copy is enclosed.

I have copied a page from a report that Judith Pinero wrote for the House Finance Committee on the Court System. It gives a breakdown of judicial responsibilities.

I talked to Art Snowden, Administrative Director of the Alaska Court System. He says he will send a copy of the judges evaluation of the Judicial Conference. Also, there will be a follow-up of continuing education for judges in October. I plan to check it out.

I need to know what to pursue in terms of judges. What kind of information do you want?

THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

NOT FOR PUBLICATION

PRELIMINARY DRAFT OF ANALYSIS
OF MISDEMEANOR SENTENCES
(1974 - 1976)

ALASKA JUDICIAL COUNCIL
AUGUST 1979

Michael L. Rubinstein
Executive Director

Nick Maroules
Research Analyst

Teresa White
Research Supervisor

This project was supported by Grant No. 76-N1-10-001, awarded to the Alaska Judicial Council, 303 K Street, Anchorage, Alaska, by the Law Enforcement Assistance Administration, U.S. Department of Justice, through the Governor's Commission of the Administration of Justice (State of Alaska).

A. METHODOLOGY

This analysis is of 1795 cases initially filed in the District Court for the state of Alaska as misdemeanors, and which resulted in misdemeanor convictions between August 15, 1974 and August 14, 1976. The data comprised adjudicated violations of state and municipal laws in Anchorage and Fairbanks, Alaska.^{1/}

The population source was the Alaska Judicial Information System which contains the official records of the Alaska Court System. The Technical Operations office of the court system furnished the judicial council with a listing of some 14,000 misdemeanor convictions by case number for the two-year period of interest. On the basis of standard statistical procedures a sample size was determined would be representative of the population. The size of the total sample was then increased to enhance its representativeness, and, as we will explain below, to allow for the over-representation in the sample of convictions after trial.

1/

Alleged violations of municipal ordinances in Alaska are tried in state district courts. There are no separate municipal courts in Alaska.

The major hypothesis concerned changes, if any, in plea/trial sentencing differentials--differences in sentences received by defendants convicted after trial compared with sentences for those who pled guilty. We sought to determine whether these differentials were affected by the new plea bargaining policy. It was therefore important to sample a sufficient number of cases convicted after trial. Since proportionately very few cases went to trial--309 out of 14,000--it was decided that all of the 309 trial convictions during the two-year period should be included. The remainder of the sample--i.e., the 1486 convictions by plea of guilty were randomly selected from the Judicial Information Systems records by using a stratified sampling technique. With this technique cases are selected according to a random number chosen from a table of random numbers. The overweighted trial convictions constituted 17% of the total sample N of 1795 cases, while randomly-selected pleas constituted the remaining 83%.^{2/}

^{2/} The 309 trial cases included 38 Black cases (28.1% of all Black cases in the sample), 37 Native cases (10.8% of all Native cases), and 215 White cases (18.2% of all White cases).

For purposes of analysis we classified misdemeanor offenses into five broad categories which we believed reflected substantive similarities among discrete offenses.^{3/} Among the

^{3/}Class I. Property Offenses, includes petty larceny, malicious destruction, concealment of merchandise, joy riding, credit card theft, and misdemeanor embezzlement; Class II. Street Crimes, includes disorderly conduct, vagrancy, and prostitution-related offenses, and non-traffic offenses alcohol offenses; Class III. Assaults, includes simple assault and battery, misdemeanor assault with a dangerous weapon and misdemeanor weapons offenses; Class IV. Traffic Offenses, include reckless driving, negligent driving, and failure to render assistance; and Class V. limited to OMVI and DWI (operating a motor vehicle while under the influence of intoxicating liquor or drugs, and driving while intoxicated).

TABLE I
FREQUENCY OF MISDEMEANOR TYPES

	<u>frequency</u>	<u>% of N = 1795</u>
Class I: Property	324	18%
Class II: Street	392	22%
Class III: Assaults	138	8%
Class IV: Traffic	279	16%
Class V: OMVI	547	30%
Misc. unclassified	<u>115</u>	<u>6%</u>
	N = 1795	100%

randomly drawn convictions by plea, 47% (852) of these pleas of guilty were entered at the arraignment stages--mostly early on in the process--while 35% of the guilty-plea cases represented pleas entered at other stages of the proceedings.

We broke down sentences into a number of types. Table I provides an index of the variety of types of sentences imposed.

TABLE I
FREQUENCY OF TYPES
OF SENTENCES

	<u>frequency</u>	<u>% of N = 1795</u>
Fine/court costs only	456	25%
Restitution only	2	.5%
Fine and restitution	25	1%
Suspended sentence - no active time	715	40%
Active* imprisonment, concurrent with another sentence	84	5%
Active imprisonment, consecutive to another sentence	31	1%
Active, not concurrent or consecutive	468	26%
Specific rehabilitation program	10	1%
Time served**	6	.5%
	N = 1795	= 100%

*Active imprisonment means the amount of time which the defendant must actually serve in jail. It is computed by subtracting any suspended portion of the sentence from the total sentence imposed.

**Time served means that the total sentence imposed on the defendant did not exceed the time he had already spent in pre-adjudication detention.

In an effort to assess the impact of the plea bargaining policy effective August 15, 1975, cases were selected from the year immediately preceding the implementation of the policy (Year One) and the year immediately following the policy (Year Two).

TABLE II

NUMBER OF MISDEMEANOR CASES
SELECTED BEFORE AND AFTER THE
PLEA BARGAINING BAN

	<u>frequency</u>	<u>% of N = 1795</u>
Year One	811	45%
Year Two*	<u>984</u>	<u>55%</u>
	N = 1795	100%

*An increase in the number of trials during Year Two, as well as an overall increase in the number of misdemeanor filings accounts for the higher number of cases in Year Two.

Extensive and detailed information was collected concerning the prior criminal record of each defendant convicted of a misdemeanor within the sample. [See attached data-collection instrument.] For this preliminary analysis, however, prior record was summarized according to the simple scheme outlined in Table III.

TABLE III

SUMMARY OF PRIOR
CRIMINAL RECORDS OF
MISDEMEANOR DEFENDANTS

	<u>frequency</u>	<u>% of N = 1795</u>
No prior record	861	48%
Misdemeanors only	569	32%
1 felony*	188	10%
2 or more felonies*	<u>177</u>	<u>10%</u>
	N = 1795	100%

*These defendants may have had prior misdemeanors as well.

Nearly half (48%) of the total number of defendants in the sample had no prior record of convictions, while 20% had at least one prior felony conviction.

B. SENTENCES: JAIL TIME AND FINES

The tables that follow show primarily mean sentences. Jail times are in days and fines in dollar amounts. These mean sentences were computed only for defendants who received active sentences--that is, at least one day in jail. Thus, cases that received straight probation (0 days in jail) are omitted from these computations.

The first hypothesis we tested suggests that sentence differentials should diminish where sentence bargaining is

not permitted. Our first step in testing this hypothesis was to survey misdemeanor sentences for both years combined.

Table IV, below, indicates the proportion of cases that resulted in an active sentence as well as the overall jail and fine mean sentence.

<u>TABLE IV</u>		
<u>PROPORTION OF ACTIVE SENTENCES AND</u>		
<u>MEAN SENTENCES IN BOTH YEARS</u>		
	<u>frequency</u>	<u>% of N = 1795</u>
<u>JAIL</u>		
No active jail	1229	68%
Active sentence	<u>566</u>	<u>32%</u>
	N = 1795	= 100%
<u>MEAN 10.09 DAYS</u>		
<u>FINES</u>		
No net fine	500	28%
Fine	<u>1295</u>	<u>72%</u>
	N = 1795	= 100%
<u>MEAN \$171.91</u>		

While over two-thirds of the cases (68%) resulted in no active jail time at all, most (72%) did result in some fine. Breakdown analysis-of-variance procedures are used to compare mean sentences according to Year One-Year Two, plea-trial, and prior record.

TABLE V
MEAN SENTENCES BY YEAR

	<u>Year One</u>	<u>Year Two</u>	<u>Difference</u>
<u>JAIL</u>	7.85 (206)	11.36 (360)	+45%
<u>FINE</u>	\$153.96 (601)	\$187.46 (694)	+22%

Sentences were markedly longer in Year Two, the year the no-plea bargaining policy was implemented. Active jail time was 45% higher, and fines were up 22% in Year Two. Table VI shows mean sentences broken-down by the plea-trial dichotomy discussed earlier.

TABLE VI
MEAN SENTENCES BY YEAR
AND MODE OF CONVICTION

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
Active Jail	7.30 (173)	10.76 (33)	11.32 (276)	12.17 (84)
Fine	\$150.65 (519)	\$174.92 (83)	\$183.09 (537)	\$202.42 (17)

Table VI suggests that the greater sentence differential occurred in Year One. In Year One active jail times were 47% higher and fines 16% higher for defendants convicted at trial compared with those who pled guilty. In Year Two, however, the "cost of a trial" was only 9% higher in jail

time and 11% greater in cash.^{4/} These figures support the hypothesis that sentence differentials should decrease when sentence (plea) bargaining is prohibited. Note, however, that Year Two sentences are much more severe than those of Year One generally.

C. IMPACT OF PRIOR RECORD ON SENTENCES

Table VII, below, reflects levels of prior record severity, by the plea-trial dichotomy, and by year, providing a starting point for an analysis of the relationship between past convictions and present sentences. Table VII indicates, generally that defendants who went to trial had somewhat worse prior records than those who pled guilty. Moreover, Year-Two defendants had slightly worse prior records than defendants in Year One. Subsequent tables examine the possible effects of prior record on sentences.

^{4/} Plea bargaining was banned for state cases only; municipal prosecutors were still able to negotiate pleas. Thus, some of the differential still remaining in Year Two might be accounted for by the presence of municipal cases. This hypothesis can be tested at a later date utilizing the present data set.

TABLE VII

PRIOR RECORD CORRELATED WITH
PLEA BARGAINING BAN AND PLEA OR TRIAL

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	364 52%	45 41%	357 47%	95 43%
Misdemeanors	212 30%	38 35%	246 32%	73 33%
1 felony	63 9%	16 15%	86 11%	23 11%
2 or more felonies	63 9%	10 1%	76 10%	28 13%
	<u>702</u> (100%)	<u>109</u> (100%)	<u>765</u> (100%)	<u>219</u> (100%)

Tables VIII and IX suggest an apparent association between severity of prior record and severity of sentence. These tables break down mean sentences by year, by the plea-trial dichotomy, and by severity of prior record.

TABLE VIII

MEAN JAIL SENTENCE FOR YEAR I/YEAR II,
PLEA/TRIAL, AND SEVERITY OF PRIOR RECORD

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	6.80 (59)	8.25 (8)	8.88 (92)	6.72 (29)
Misdemeanor only	6.24 (68)	8.82 (17)	10.20 (110)	12.56 (32)
1 felony	7.94 (16)	9.80 (5)	12.60 (37)	9.73 (11)
2 or more felonies	10.37 (30)	30.00 (3)	17.92 (37)	26.50 (12)

TABLE IX

MEAN FINES FOR YEAR I/YEAR II,
PLEA/TRIAL, AND SEVERITY OF PRIOR RECORD

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	\$135.46 (284)	\$129.08 (38)	\$168.19 (275)	\$194.93 (74)
Misdemeanor only	161.65 (158)	216.59 (27)	196.19 (172)	219.90 (49)
1 felony	182.13 (40)	215.83 (12)	194.91 (54)	194.74 (19)
2 or more felonies	186.22 (37)	200.00 (5)	216.53 (36)	192.00 (15)

As prior record increases in severity, so does sentence. But the effect of prior record on sentence is not as clear for those defendants who were convicted at trial.

The following tables also may suggest that severity of prior record was more strictly counted as an aggravating factor by judges in Year Two after plea bargaining was officially prohibited. Perhaps in Year One prior record was somewhat "discounted" in the negotiations.

In the above tables zero sentences (in which no active jail time was imposed) were eliminated from the computation. Only those defendants who received some active time were included. In the analysis of jail sentences, this means that only 566 of the total sample of 1795, (32%) were included. This could potentially mask situations in which some subpopulations consistently receive suspended or zero sentences. Accordingly, Tables X and XI, which follow, duplicate the above breakdowns with all cases included.

TABLE X

MEAN JAIL SENTENCE FOR YEAR I/YEAR II,
PLEA/TRIAL AND PRIOR RECORD (ALL DEFENDANTS)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	1.07 (364)	1.47 (45)	2.29 (357)	1.79 (95)
Misdemeanors	1.86 (212)	3.95 (38)	4.18 (246)	5.30 (73)
1 felony	2.02 (63)	1.25 (16)	5.07 (86)	4.65 (23)
2 or more felonies	4.87 (63)	9.00 (10)	8.30 (76)	7.07 (28)

TABLE XI
MEAN FINES FOR YEAR I/YEAR II,
PLEA/TRIAL AND PRIOR RECORD (ALL DEFENDANTS)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	\$105.69 (364)	\$109.00 (45)	\$129.56 (357)	\$151.84 (95)
Misdemeanors	120.47 (212)	153.90 (38)	137.18 (246)	147.60 (73)
1 felony	115.64 (63)	161.88 (16)	122.38 (86)	160.87 (23)
2 or more felonies	109.37 (63)	100.00 (10)	102.57 (76)	102.86 (28)

The recomputed jail breakdowns indicated a stronger, more uniform influence of prior record on sentence among all defendants, including those who were convicted after trial, than that shown in Table IX. Note that Year-Two defendants who pled guilty continued to account for most of the longer Year-Two sentences. Defendants convicted after trial in Year Two actually had shorter sentences, on the average, than those who pled.

Recomputed mean fines, by comparison, do not show a consistent relationship between severity of prior record and sentence. However, those defendants who pled guilty in Year Two received substantially greater fines than their Year-One counterparts, while those who were convicted at trial had substantially the same sentences over the two years.

In an effort further to understand the role of suspended (or zero) sentences Tables XII and XIII indicate the proportion of cases in each prior-record subpopulation in which defendants were required to spend no time in jail and pay no money.

TABLE XII

PROPORTION OF CASES RECEIVING
NO ACTIVE JAIL SENTENCE (IN PERCENTAGES)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	83.8 (305)	82.2 (37)	74.2 (265)	69.5 (66)
Misdemeanors	67.9 (144)	55.3 (21)	55.3 (136)	56.2 (41)
1 felony	74.6 (47)	68.8 (11)	57.0 (49)	52.2 (12)
2 or more felonies	52.4 (33)	70.0 (7)	51.3 (39)	57.1 (16)

TABLE XIII

PROPORTION OF CASES RECEIVING
NO FINES (IN PERCENTAGES)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	22.0 (80)	15.6 (7)	23.0 (92)	22.1 (21)
Misdemeanors	25.5 (54)	28.9 (11)	30.1 (74)	32.9 (24)
1 felony	36.5 (23)	25.0 (4)	37.2 (32)	17.4 (4)
2 or more felonies	41.3 (26)	50.0 (5)	52.6 (40)	46.4 (13)

Table XII (no active jail sentence) indicates an overall consistent relationship between prior record severity and sentence length for both years. Furthermore, Year-Two cases generally received fewer zero or suspended sentences than sentences in Year One.

Thus, among the "cleanest" group of offenders--those with no prior records--the proportion avoiding incarceration was substantially lower in Year Two as compared with Year One.

Table XIII representing the proportion of cases receiving no fines, indicates an overall inverse relationship between prior record and sentence. That is, as prior record increases in severity, the probability of paying no fine increases. (We may speculate for now that those defendants with the more severe prior records received active jail sentences rather than fines, as suggested by Table XII.)

Finally, Tables XIV and XV represent the proportion of cases that received a substantial sentence. (We will define "substantial" for this study as a jail sentence of 10 days or longer, or a fine of at least \$200.00).

TABLE XIV

PROPORTION OF CASES RECEIVING
A SUBSTANTIAL JAIL SENTENCE (IN PERCENTAGES)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	3.3 (12)	8.9 (5)	7.6 (27)	8.4 (8)
Misdemeanors	7.5 (16)	13.2 (5)	16.7 (41)	19.2 (14)
1 felony	7.9 (5)	6.3 (1)	17.4 (15)	13.0 (3)
2 or more felonies	22.2 (14)	30.0 (3)	21.1 (16)	25.0 (7)

TABLE XV

PROPORTION OF CASES RECEIVING A
SUBSTANTIAL FINE (IN PERCENTAGES)

	<u>Year One</u>		<u>Year Two</u>	
	<u>Plea</u>	<u>Trial</u>	<u>Plea</u>	<u>Trial</u>
No priors	15.7 (57)	11.1 (5)	28.0 (100)	28.4 (27)
Misdemeanors	20.8 (44)	28.9 (11)	32.1 (79)	26.0 (19)
1 felony	17.5 (11)	37.5 (6)	37.5 (6)	39.1 (9)
2 or more felonies	20.6 (13)	30.0 (3)	25.0 (19)	25.0 (7)

Table XIV, showing the proportion of cases receiving substantial jail sentences, indicates an overall positive relationship between prior record and sentence. There were more long sentences handed down in Year Two than in Year One, although in some categories (notably those with the worse prior records), the relationship of the number of "substantial" sentences to the rest of the sentences remained stable from year to year.^{5/}

Table XV shows a trend in fines similar to that indicated by Table XIV in jail time.

However, it appears that those who pled guilty in Year Two received more substantial fines than their Year-One counterparts, while the fines for those convicted after trial did not vary much over the two years.

D. CONCLUSIONS

The hypotheses we tested were (a), that the ban on plea bargaining would reduce sentence differentials, and (b), that higher sentences imposed after trials would be significantly and positively correlated with the severity of the defendant's prior record.

^{5/} These findings suggest an effect of the plea-bargaining ban similar to the one we found for felony sentences: the "cleanest" defendants apparently were the most strongly affected. They experienced a marked increase in the severity of their punishment.

Hypothesis (a), when tested with the present sample, is supported by the preliminary analysis--there was a significant reduction in sentence differential in Year Two. Officially prohibiting plea bargaining may have reduced sentence differentials. Hypothesis (b) did not fare as well. Year Two defendants who pled guilty often received longer active sentences than those who went going to trial, no matter what the prior record (see Table X). While there is an overall positive correlation in both years years) between severity of prior record and length of active jail sentence, the correlation applies to defendants who pled guilty as well as those convicted after trial. Furthermore, as Table XII shows, defendants with no prior records had a reduced likelihood of avoiding jail in Year Two, with about the same chance of a fine. (Table XIII). The same effect of the plea bargaining ban we found in felonies--a more severe impact on less serious offenders--seems to appear in misdemeanors as well.

Coder Initials

MISDEMEANOR CODING FORM

PR: _____

CF: _____

FF: _____

KP: _____ KP Check: _____

Defendant's
Offenses: _____

Defendant Information Sheet

Offenses

1 Defendant Number. Defendant's Name: _____
Last First Middle

Defendant's Aliases: _____
(Include other spellings of his name).

5 Date of Birth. (Check PR, CF, FF).

11 Location of Court File. (1=Anchorage; 2=Fairbanks; 3=Juneau)

12 Race. (1=Black; 2=Native; 3=Caucasian or other; 9=Unknown).

13 Sex. (1=Male; 2=Female; 9=Unknown).

14 Was defendant on probation or parole on date of first arrest?
(1=Probation; 2=Parole; 9=Neither or unknown).
Do not code this from any source other than the DOC computer list

15 Defendant's age at time of arrest or summons.
(Maximum age=98. Unknown=99).

End of Defendant Information Form.

MISDEMEANOR CODING FORM

Name of charge on this sheet: _____

Victim's name(s): _____
(If more than one victim, list all names) _____

Statute Number for this charge: _____

State Case, AS _____
Muni. Case, _____

Other identifying remarks about this charge: _____

COURT CASE FILE INFORMATION

1 Defendant number. Defendant's name: _____
Last First Middle

5 Court case file number for this charge.

11 Date complaint signed.

17 Offense code for charge on complaint.

22 Is charge on complaint state or municipal?
(1=state; 2=municipal, city or borough)

23 Final date set for trial.
Look at ALL papers in the file. If none, code 00-00-00.

29 Date of last plea or of last trial verdict.
From log notes. If there are no log notes, look at the other papers in the file. If no other date is found, use date on judgement sheet.

35 Charge at final disposition.

40 Stage of proceedings at which final disposition took place, _____
(1=first arraignment; 2=any later arraignment; 3=trial; 4=any other proceeding)

41 Type of trial.
(1=no trial; 2=jury trial; 3=judge trial)

42 Type of sentence given.
1=fine/court costs only
2=restitution only
3=fine/court costs and restitution together
4=suspended sentence with no active time
5=active imprisonment concurrent with another sentence
(Case # _____)
6=active imprisonment consecutive with another sentence
(Case # _____)
7=active imprisonment not concurrent or consecutive with another sentence
8=Defendant sentenced to a specific rehab program (not including Alcohol Screening)
9=defendant sentenced to time served (=time in pre-trial detentio

43

Was this sentence S.I.S.?

(1=yes; 2=no)

"SIS" means suspended imposition of sentence. Code "yes" if the judgement sheet says either S.I.S or "deferred imposition of sentence". If you have any questions, ask the coding supervisor.

44

days

Amount of time spent in pre-trial detention.

Look in court file to see whether defendant was released on bail. If he was released, look to see (a) Did he spend any days in jail prior to release? (b) In any case, was he ever remanded to custody? If he was never released, OR spent time in jail before release, OR was remanded to jail, count the total number of days/months he spent in jail before conviction and enter the total. If none, enter zero in each space.

months

48

days

Amount of time imposed for sentence.

If defendant is sentenced to "time served" enter the same amount of time as that spent in pre-trial detention. If he is sentenced to any other amount of time, enter the amount shown for this charge only (do not summarize consecutive sentences). If none, enter zero in each space.

months

52

days

Amount of time suspended.

Enter the amount of time suspended. If none, or if judgement only says "time served", enter zeros

months

56 \$

Amount of fine imposed, in dollars.

For fines and restitution:
0000=none

60 \$

Amount of fine suspended.

\$9998=maximum value

64 \$

Amount of restitution required.

\$9999=unknown value - no way to estimate (for restitution only)

68

Judge at sentencing.

Use judge coding list. If judge is unknown and no name can be found anywhere in the court file, ask the coding supervisor. If the supervisor agrees that judge is unknown, code 99.

70

Prosecutor at sentencing.

Use prosecutor coding list. If unknown, enter 99.

72

Type of defense attorney at sentencing.

(1=none; 2=Public defender; 3=private; 9=unknown, but there was an attorney)

73

Name of defense attorney.

Use defense attorney coding list. If unknown, enter 999. If none enter 000.

79

End of court file information. Card number for first charge is "10"; for second charge is "12"; third charge is "14", etc.

MISDEMEANOR CODING FORM

Name of Charge on
this Sheet: _____

Victim's Name(s): SOULS
(If more than
one victim, list
all names). _____

Other identifying
remarks about this
charge: _____

1 Defendant Number. Defendant's Name: _____
Last First Middle

POLICE REPORT

- 5 Offense Code for police version of charge,
- 10 Is the charge a municipal or state offense?
(1=state; 2=municipal, city, borough)
- 11 Date of alleged offense. (If a series of events are alleged, pick
a mid-point date).
- 17 Date of first arrest for this charge. (Use date of summons if no
arrest).
- 23 Police report number for this charge. (Start the number - including
any alphabetical letters - in the furthest left space. Leave
any extra spaces blank. If there is no police report, fill in
all spaces with zeroes).

ALCOHOL

- 30 If breathalyzer taken, indicate reading.
(0.00=no breathalyzer or question not applicable;
9.99=reading unknown)
- 33 If blood alcohol test done, indicate reading.
(0.00=no blood test or question not applicable;
9.99=reading unknown)
- 36 Was a videotape made of the defendant?
(1=yes; 2=no; 8=not an alcohol or traffic offense)
- 37 If this is an OWVI charge, was an accident involved?
(1=yes; 2=no; 8=not OWVI)

38

If this is an OMVI charge was another traffic-related misdemeanor charged?

(1=yes; 2=no; 8=charge is not OMVI)

Code only if the misdemeanor is "Leaving the Scene of an Accident", "Failure to Render Assistance", etc. Do not include traffic tickets or violations. Do not include Joyriding and other auto property offenses. If you question whether you should code "yes", ask the coding supervisor.

PROPERTY

If this is NOT a property crime, code zero in all of the spaces.

If this IS a property crime, code zero only if no amount of property was stolen, damaged, forged, defrauded, concealed, etc.

Estimate values if the police report does not give a dollar value. If you have questions, ask the coding supervisor. If the coding supervisor agrees with you that the value cannot be estimated for one or all of the three questions, then code "9999" in the appropriate spaces. The maximum value which can be coded is \$9998. If the value is higher, code \$9998 anyway.

39 \$ Approximate value of property stolen, forged, defrauded, etc.

43 \$ Approximate value of property damaged.

47 \$ Approximate value of property recovered.

Write in type of property: _____

VICTIM

51 Age of victim (actual years).
(98=maximum age; 99=unknown; 00=victim is organization or there is no victim).

53 Are victim and defendant related?
(01=husband/wife; 02=ex-spouses; 03=boyfriend/girl-friend; 04=other family relationship; 05=in-laws (past or present); 06=friends, acquaintances; 07=neighbors; 08=no victim; 09=employer/employee; 10=other business relationship; 11=criminal relationship; 12=victim is police officer; 13=strangers; 14=victim is organization and none of the above apply; 15=relationship unknown).

VICTIM (continued)

For the next five questions, if there is NO victim, code 8 in each space.

- 55 Was victim a person or an organization?
(1=person; 2=organization)
- 56 Sex of victim.
(1=male; 2=female; 7=victim is organization; 9=unknown)
- 57 Race of victim.
(1=Black; 2=Native; 3=caucasian or other; 7=victim is organization; 9=unknown)
- 58 Condition of victim.
(1=dead; 2=hospital; 3=bleeding wound or had to be carried from scene of crime or accident; 4=other visible injury; 5=no visible injury but victim was momentarily unconscious or complained of pain; 6=no injury; 7=victim is organization; 9=victim is person, unknown whether injury done)
- 59 Did victim contribute to crime?
(1=defendant alleges victim provocation; 2=reporting officer alleges victim provocation; 3=victim was negligent; 4=victim under the influence of liquor; 5=victim under the influence of drugs; 7=victim is organization; 9=unknown)

WEAPON

- 60 Weapon used to inflict or threaten to inflict personal injury OR alleged in "victimless" weapons charge (e.g., CCW, careless use, etc.)
(1=Firearm; 2=knife; 3=club; 4=poison; 5=other; 6=hands, feet, etc. 8=question not applicable; 9=unknown)

DRUGS

- 61 If drug offense charged, indicate type of drug.
(1=LSD, Hallucinogens; 2=amphetamines; 3=barbituates; 4=hashish or synthetic cannabis; 5=marijuana; 6=other, specify: _____; 8=not a drug offense; 9=unknown)
- 62 Amount of marijuana seized and charged in this count or not charged in a separate count.
(1=one lid, ounce, baggie or less (including "residue")
2=over one lid but less than one pound (Note: 1 average
3=one pound to ten pounds plant should
4=over ten pounds be counted as
8=no marijuana seized or not a drug charge 1/2 pound)
9=marijuana seized but amount unknown)

DRUGS (continued)

63 Amount of other drugs seized and charged in this count or not charged in a separate count. Give dosage units. Use grams whenever possible; otherwise use "vials", "pills" or whatever the PR states.

(If just marijuana, or not a drug charge, code 0000)

67 Type of dosage units.
(1=grams; 2=pills,etc.; 3=vials; 4=marijuana; 5=other, specify: _____; 8=not a drug charge)

DEFENDANT

68 What was condition of defendant?
(1=Defendant alleged by reporting officer to be under the influence of liquor; 2=Defendant alleged by reporting officer to be under the influence of drugs; 3=neither or no indication)

69 Does reporting officer indicate that this incident is likely to re-occur?
(1=yes. 2=no)

79 End of Police Report information. Card number for first charge is "11"; for second charge is "13"; for third charge is "15", etc.

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.