CRIMINAL COURTS: THE DEFENDANT'S PERSPECTIVE

National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

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by

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ABSTRACT

The growing concern in our society for evaluating public and private institutions not simply from the perspective of the expert but also from the perspective of the consumer argues for some attention to what defendants think about their handling in the criminal justice system. The premise of this research is that we should be concerned with client satisfaction—that we ought to be concerned not only with doing justice for criminal defendants but also with giving them the sense that justice has been done.

This research, therefore, examines the attitudes and perceptions of defendants. Interviews were conducted with a random sample of males charged with felonies in three cities—Phoenix, Baltimore, and Detroit. Initial interviews were held with 812 men, while follow up interviews after completion of the court process were obtained from 628 of the offenders. Data was gathered on the initial attitudes of offenders towards lawyers, prosecutors, and judges; the defendant's evaluations of the specific participants encountered in his case; and the attitudes of defendants after court processing.

The study showed, among other things, that defendants do not trust public defenders to the same extent as private defense attorneys, that they view judges favorably and prosecutors unfavorably, that time spent with the defendant and mode of disposition are important influences on the defendant's evaluation of his attorney's efforts. Practical applications of these findings to the operation of the court process are examined.

Nearly 30 percent of the defendants who had public defenders reported that their attorney spent less than 10 minutes with them; 32 percent stated 10 to 29 minutes; 27 percent stated one-half hour to 3 hours; and only 14 percent stated more than 3 hours. To the extent that we are willing to embrace the notion that providing an adequate defense includes providing the client with a sense that he has been adequately represented, time spent with client is an important aspect of an adequate defense. In view of these findings, it is not surprising that nearly half (49 percent) of all the public defender clients thought their attorney was "on the side of the state."

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In the three cities we received cooperation from a large number of men and women working in the criminal justice systems. To the court administrators and their staffs, to the public defender offices, to the prosecutors and judges, and to the personnel in the jails and prisons whose permission and cooperation made this research possible, I wish to extend my thanks.

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At Stanford, I was the recipient of help from a variety of people. Arlee Ellis provided her usual calm and good-humored expertise in handling the numerous details of grant administration. Tom Killibrew introduced me to the complexities of contract negotiation and management. Several of my friends here and elsewhere

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Because of the support and cooperation provided by a variety of government agencies, the usual disclaimer that the ideas and conclusions expressed here are solely my own is not only traditional but required.

I. INTRODUCTION

How do criminal defendants perceive and evaluate criminal courts? What kinds of beliefs do they bring to their encounters with court personnel? What affects their evaluations of the performance of their attorney? What kinds of criteria do they employ in evaluating the fairness of their treatment? Do their specific encounters with criminal courts affect the beliefs about the nature of court personnel that they take away from these experiences? These are the questions that are the central focus of this report.

There are a variety of reasons why those concerned with the operation of criminal courts, whether participants, observers, or policy-makers in other institutions, might be concerned about defendant attitudes toward criminal courts. The growing concern for examining the functioning of institutions not simply from the perspective of the practitioner or "expert" but also from the perspective of the consumer argues for some attention to what defendants think. Moreover, much current discussion of our criminal courts makes assumptions about the impacts of various changes (e.g., alternative systems to provide counsel of indigent defendants, what to do about plea-bargaining as a means of case resolution, etc.) upon defendant attitudes and behavior. Finally, many would accept the assumption that a defendant's evaluation of his treatment may have something to do with his future behavior—his adaptation to correctional institutions or his future likelihood of being a law-violating or law-abiding citizen. Thus, for a variety of reasons, an exploration of defendant perspective may provide information of use to those concerned with criminal courts, and this report is intended to begin such an exploration.

By the same token, there are a variety of strains of thought that suggest that we need not be particularly concerned with what defendants think. One such strain, and I believe it is quite common, begins with the premise that defendant perspectives are rather uniform and stereotypical. Such a view is captured in the comment often attributed to wardens in describing their prisoners' views of their cases—"we have no guilty men here." This view suggests that defendants (at least those who have been incarcerated) respond to their situation by attempting to evade responsibility for their acts and to put the onus upon others: respond by asserting that everyone else is out to get them, by scapegoating, by refusing to deal with "reality" and instead adopting self-serving fantasies.

Another common view that might argue against careful attention to defendant views suggests that there is a trade-off between actually "doing justice" for defendants and giving them the sense that justice has been done. The latter is often dismissed as either excessive attention (e.g., "mollycoddling criminals") or as something of decidedly secondary concern ("bedside manner" or "hand-holding"). This view suggests that, unlike the first described, things *can* be done to alter defendant evaluations, but that these are not particularly important when compared to the "real" tasks of criminal courts.

I believe that both of these views are incorrect. As to the first—that defendants have undifferentiated and critical views of criminal courts—the data upon which this report is based simply demonstrate it to be false. There is both a substantial amount of variation in the views expressed by defendants and a good deal of widely-held opinion quite favorable to various aspects of criminal courts. Criminal defendants are, to be sure, in a tight spot, and some of their views may be the product of a desire to avoid responsibility, of wishful-thinking, or of scapegoating. But these are things that all of us do, not processes that are idiosyncratic to some "criminal subculture." More importantly, the material suggests that defendant attitudes and evaluations are not only variegated, but also sensitive to past events and to those that occur in the context of particular experiences with criminal courts.

Some of the factors that affect defendant beliefs and evaluations may be of little interest to policy-makers (except insofar as they may be useful in dispelling the myth that defendants do not exercise judgement but simply engage in stereotyping or scapegoating). For example, the sentence that a

defendant receives is a powerful determinant of his satisfaction with the services of his attorney and his evaluation of the performance of the judge and prosecutor in his case: heavier sentences produce less favorable defendant responses. Such a proposition is not surprising and not of particular use to a policy-maker. We begin with the assumption that attorneys attempt to gain the most lenient possible sentences for their clients, and few would argue that judges ought to tailor sentences to make defendants happy.

We also discover, however, that defendant evaluations of their attorneys are sensitive to the amount of time spent with their lawyers and to whether the defendant's case was resolved by a trial or by a plea: more time spent with clients and adversary disposition processes produce substantially higher satisfaction. These relationships may or may not be surprising, depending upon the preconceptions that the reader brings, but they surely do have implications for understanding and improving lawyer-client relationships.

Not only is there variation in defendant beliefs, but I believe that we ought to be concerned with the effects of various policies upon defendant satisfaction. Many members of the legal community believe, for example, that the standards for an adequate legal defense are best determined by them, for they have the experience and expertise to know what kinds of things we have a right to expect from a defense lawyer. Although the legal standards developed by appellate courts to define "effective assistance of counsel" may not be particularly impressive, most members of the legal community do expect a good deal from a defense attorney. Their notions of what constitutes an adequate legal defense include interaction with the client, commitment and effort on the part of the lawyer, raising of legal defenses, and obtaining the most favorable possible outcome in the case. Yet these criteria do not explicitly encompass providing the defendant with *a sense that he has been adequately represented.*

Perhaps members of the legal community would assert that this sense flows naturally from a lawyer's living up to the legal community's standards for an adequate defense. Yet my experience is that most members of the legal community do not respond in this fashion to queries directed at their concern with the evaluations of their clients. Rather, when I have spoken with lawyers about this matter, most tend to respond that defendant evaluations proceed upon a different dimension. Lawyers tend to respond to concern about client satisfaction in the same way that many physicians respond to concerns about patient satisfaction. Doctors and lawyers have some tendency to believe that they have a "real" job (curing the patient's disease; giving a defendant the best possible *legal* defense) and that the satisfaction level of the consumers of their service is a different, secondary, and sometimes even irritating issue. Doctors call it "bedside manner" and lawyers often use the same term, or call it "hand-holding." Both are somewhat dismissive, and proceed from the premise that what is at stake is of secondary concern.

I think this posture is miguided in several respects. First, as noted above, there is a growing feeling in our society that evaluation of services—whether provided by government or private institutions—ought to embrace more than simply the criteria applied by practitioners or experts. Though it covers a wide spectrum of quite varied concerns, the so-called "consumer movement" embodies this broadening of concern. Edmund Cahn put it as follows:

> Only when we . . . adopt a consumer perspective are we able to perceive the practical significance of our institutions, laws and public transactions in terms of their impacts upon the lives and homely experiences of human beings. It is these personal impacts that constitute the criteria for any appraisal we may make. How, we ask, does the particular institution affect the personal rights and personal concerns, the interests and aspirations of the individual, group, and community? We judge it according to its concussions on human lives.[1]

A recent study of citizen evaluations of various government agencies expresses the same concern:

> Much discussion about improving the functioning of public agencies comes from policy makers concerned with broad strategies of governmental programs, from administrators who face practical problems in their own agencies, or from specialists who talk in terms of increasing the technology of delivery systems. There is a vast and profound neglect of the perceptions, experiences, and reactions of the people who themselves are supposedly being served.[2]

Thus, in evaluating various activities, we must look not simply to the criteria of experts or practitioners,

but to the evaluations of others as well. Criminal defendants are neither the only consumers of the products of criminal courts, nor are they typically the most attractive or sympathetic characters. Yet in a democratic society, any comprehensive evaluation of a governmental service—including and perhaps particularly one that has such a powerful impact as the application of the criminal sanction—ought to range beyond the legal community's concern with an adequate *legal* defense to include consumer perspectives as well.

Moreover, in the case of lawyer-client relationships, the notion that there is necessarily a trade-off between effective legal defense and client satisfaction may be often overstated. Client attitudes, for example, may affect the quality of the defense offered by the attorney. To the extent that the client is highly suspicious of the attorney's motives—a situation that is often characteristic of relationships between clients and public defenders—the client may not be open with the attorney about various aspects of the case that may affect the defense offered. To the extent that the lawyer-client relationship is characterized by mistrust and suspicion rather than trust and cooperation, the ability of the client and the lawyer to consult and make choices about the best strategy to pursue may be impaired. To the extent that relationships with clients tend to be unpleasant, job satisfaction of attorneys can be reduced and their enthusiasm and commitment to their jobs and their clients can be affected. Thus, relationships with clients—which depend in important measure upon the attitudes and beliefs that clients bring to their encounters with lawyers—may affect the quality of defense that can be offered. Moreover, it turns out that such attitudes are sensitive to past experience. That is to say, client satisfaction (or dissatisfaction) with a particular experience with an attorney affects the expectations that he or she will bring to the next encounter. Thus, concern with how clients react to the representation afforded by their lawyer is important not only for the quality of the defense to be raised in the particular case but also has implications for future encounters with attorneys.

Finally, the material presented here suggests that the factors that affect client evaluations are quite similar to the types of standards employed by the legal community itself in defining an adequate legal defense. Case outcome (whether the defendant is convicted or not and the harshness of sentence), time spent with the attorney, and the mode of disposition are all related to client evaluations. Thus, to some extent, the "consumer's perspective" on legal representation involves application of some of the same criteria that are employed by the legal community. Client evaluations are affected not simply by "bedside manner" or "hand-holding" (although these may, of course, be important), but also by the interest, commitment, and vigor of the defense attorney.

Thus, the study begins with the premise that we ought to be interested in defendant evaluations of criminal courts. In addition to the reasons cited above, one other possible reason for attention to client perspectives—the effects of such evaluations upon the future law-abiding or law-violating behavior of defendants—was of interest in this study. Unfortunately, we were not able to generate material relevant to this issue. Attempting to gauge the effects of any particular factor upon future criminal behavior is a terribly difficult matter. To assess the effect of one factor—whether it is evaluation of one's experience in a criminal court, or socio-economic background, or a personality attribute—requires that we in some way "control" for or take out the possible effects of other factors that are associated with such behavior. Given that we lack an adequate theory of why some people rather than others choose to engage in deviant acts, we do not have even a complete list of things to control for, much less the ability to operationalize them and actually test for the influence of the particular factor with which we might be concerned.

Thus, even if we had had the resources to first measure our respondents' evaluations of their court experiences and then to follow them for a substantial length of time and see whether satisfaction or dissatisfaction was associated with increased likelihood of recidivism, this would have probably been inadequate because of our inability to control for all the other factors that might have "caused" future law-violating or law-abiding behavior.

As it was, given limited resources, what we did was to begin with some attitude scales that have been said to be related to the likelihood of having engaged in past criminal behavior. We administered the scales at the outset of our respondents' cases and then again after their case was concluded and tried to see whether various court experiences were associated with changes in these attitudes. Unfortunately, this approach did not prove fruitful. The attitude scales, even though several had been developed on populations containing individuals who have engaged in deviant acts, did not work very well among our re-

spondents. That is to say, they did not seem to tap a coherent set of attitudes. This is in part the result of the fact that both for scales developed on general populations and even for those that have been used on deviant populations, our sample was sufficiently skewed—that is to say, many respondents fell as one extreme of the scale—that there is not a great deal of variance to explain. Furthermore, there is sufficient "error" or "noise" in the scales—responses that are relatively random and cannot be explained by the variables with which we were concerned—that attempts to measure change in scale scores were generally unsuccessful, for most of the "change" appears to have been random rather than "real" (i.e., representing true shifts in attitudes).

The items and scales dealing with attitudes toward court personnel, on the other hand, do appear to be substantially more coherent in our samples, and change that occurs in them does appear systematic rather than random. Thus, we shall concentrate upon attitudes toward court personnel, not generalized attitudes toward legal and social institutions. This does not mean that court experiences are irrelevant to future behavior; it does mean that the effort here to measure change in attitudes that are alleged to be related to future behavior did not succeed. Thus, we cannot make assertions about whether the experiences of our defendants and their effects upon their attitudes toward judges or prosecutors or defense attorneys will be reflected in future law-abiding or law-violating behavior, though such connections have an intuitive plausibility and may in fact exist.

The basic design of the research involved interviews with a random sample of men charged with felonies in Detroit, Baltimore, and Phoenix. Eight hundred and twelve such men were interviewed shortly after their arrest on felony charges. The initial group of respondents (to be called T_1 respondents) were then tracked through the court system, and most were reinterviewed after their cases were completed (a total of 628 T_2 interviews were conducted before the field work was terminated). The basic data for the study, then, comes from these two interviews. What came between them was, basically, the resolution of the charges upon which the defendant had originally been arrested.[3]

The report begins with a brief description of the three cities in which the interviews took place, focussing upon the differing styles of case resolution that characterize each. The cities were chosen because they differ from one another in terms of the incidence of trials and pleas and the ways in which counsel are provided to indigent defendants. We do not, however, generally analyze each city separately. Rather, we deal with all respondents together. The relationships that we report generally operate across the three cities, and only when the cities appear to differ do we break the analysis down by cities. After a description of the three cities, we turn to a brief description of the sampling methods and the general attributes of the men who served as respondents in the study.

We then turn to the first major question to be addressed: what are the predispositions toward criminal courts that our respondents bring with them. We generally characterize and compare their general images of judges, prosecutors, private attorneys, and public defenders. It is these initial images—derived from the T_1 interview—that serve as the starting point for our analysis of how a defendant evaluates his experience with criminal courts.[4] These predispositions could serve as self-fulfilling prophecies. For example, defendants may believe that public defenders are poor lawyers and private lawyers are good ones and evaluate their own lawyers accordingly, regardless of what happens in the case, and they may thus leave their encounters with their initial beliefs intact. Alternatively—and this is what actually appears to happen—their initial beliefs may have an influence upon their evaluations of the specific court personnel they encounter, but actual events may also influence their evaluations. Moreover, defendants may thus learn lessons from their encounters, coming with a set of beliefs, perceiving and evaluating the specific individuals they encounter, and then modifying their general beliefs on the basis of their experience. In any event, their initial beliefs are the starting point for our analysis.

After exploring the defendants' initial predispositions, we turn to their evaluations of the specific court personnel they encounter—the particular lawyer, judge, and prosecutor who handled their case. We explore the determinants of their evaluation of the performance of these participants, trying to see what appears to influence them. We also will explore briefly the question of general defendant evaluations of the fairness of their treatment, trying to see what types of dimensions or criteria defendants appear to be applying when they judge their overall treatment. The data for these sections, focusing upon the defendant's evaluation of his specific encounter, come from the second interview, administered after the case was completed.

Finally, we complete the circle and look at the generalized beliefs about court personnel that de-

fendants take away from their encounters with criminal courts. The second interview included re-administration of nearly all the items that had been administered during the first interview. We thus are able to examine what changes, if any, occur in defendants' beliefs about criminal courts and attempt to see what factors are associated with changes in defendant beliefs. I call it a "circle" because we began with the defendants' generalized beliefs and called them predispositions. We look at specific events in the dedendant's encounter with criminal courts, and see whether they affect generalized beliefs. These generalized beliefs at the "end" of the case then become the "predispositions" that defendants bring with them the next time they get involved with criminal courts. Regrettable though it is, the probabilities of such a future encounter are relatively great, for most of those who are arrested are not first-timers.

These, then, are some of the issues to be discussed here. They are not, I believe, the only ones of concern in understanding and changing the administration of justice. By the same token, they present a perspective on the process that has, by and large, been neglected. The premise of the study is that any comprehensive consideration of the operation of our criminal courts must include attention to defendant perspectives, and that any comprehensive discussion of change in these institutions ought to take account of the impact of such changes upon defendant notions of what is fair and just.

II. THE THREE CITIES

The defendants whose views are the subject of this report come from three cities: Phoenix, Detroit, and Baltimore. The criminal justice systems in each of the three cities vary substantially, and this section will describe briefly the dispositional process in each.[1] The cities were selected because of their differences. In order to test the effects of various aspects of case disposition upon defendant attitudes, it is necessary that there be sufficient variation among the respondents in terms of these characteristics. Thus, for example, if we wish to see whether those who have trials respond differently than those who plead guilty, we must have a sample in which substantial numbers of defendants have had trials, and in this country it is difficult to find such people. Baltimore was selected because it is one of the few major cities in this country that actually disposes of the bulk of convicted defendants by means of a trial rather than a plea of guilty. By the same token, we wished to see whether public defenders were perceived differently from assigned counsel. Baltimore and Phoenix have a public defender system, while Detroit does not. We wish to see whether the outcome of the case makes a difference, and hence we have selected cities in which the outcomes differ substantially.

Thus, the cities are "different." In reporting on the analysis of the data, we generally treat the defendants as a single group. Thus, we lump together those who had trials, or those who received probation, or those who were sent to prison, regardless of which city they came from. The "differences" among the cities are simply used to generate sufficient variation on the dimensions with which we are concerned. By the same token, we have tested (but do not generally report) to see whether the relationships that are reported here hold in all three cities. Although such tests sometimes involve rather small numbers of respondents, the relationships reported here do appear to hold across cities.

* * * * *

The three cities differ, first, in the case disposition techniques (here to be called "mode of disposition"). There are basically three modes of disposition: dismissals, pleas of guilty, and trials. Dismissals (we will here treat nolles and stets as equivalent to dismissal) are the simplest and may or may not involve an adversary proceeding. A dismissal may occur very early in the case by virtue of a prosecutor's refusal to file a formal charge after a case has been presented by the police. Such a decision may be based upon a judgment that the case is not "worth" a prosecution; questions about police procedures or the sufficiency of the evidence, the willingness of victims to proceed with charges, or a decision by the prosecutor that proceeding with the case would not be in the "best interests of justice." A case that survives initial prosecutorial scrutiny may still at a later date result in a dismissal. Such an outcome may reflect one of the reasons above, or may be the result of a motion by the defense.

Cases that do not result in dismissals are resolved either by a plea of guilty or a trial. Our three cities differ substantially in the modes of disposition used. Put crudely, one of the cities, Baltimore, relies quite heavily upon dismissals and criminal trials; Detroit has relatively few dismissals and few trials; Phoenix has few trials and a moderate number of dismissals.

Let us begin with a brief description of the process in Detroit. In Detroit, those charged with felonies are taken to the county jail within several hours of arrest and detained pending arraignment on the felony charge. Arraignments are held each day in Recorder's Court (the felony court for the city of Detroit). Between the time of arrest and arraignment, the defendant's case is screened by prosecutors in the warrants section of the Prosecuting Attorney's office. The scrutiny given is not cursory. In addition to the arrest report, the warrants prosecutor often speaks with the arresting officer and with the victim of the crime. A decision is then made as to whether to proceed with the case at all and, if so, whether to proceed with a misdemeanor or felony charge. Estimates vary as to how many "felony arrests" result in no charge at all, but the common one was that somewhere around a quarter to a third of such

arrests are dropped within a matter of less than a day.[2] If the charge lodged is, in fact, a felony, the defendant is then scheduled for a preliminary hearing (usually to be held within a matter of three weeks). If the hearing is held (a recent estimate was that about 30% are waived [3]), the judge decides whether to dismiss the charge or to bind the defendant over for trial on the charge. After a bind-over decision, a quite formalized plea-bargaining system comes into play.

Each case bound over for trial is first scheduled for a "pre-trial conference." At these conferences, the defendant's attorney meets with one of three prosecutors who specialize in plea-bargaining. The bargaining sessions are relatively easy-going affairs, and in many of them there is not a great deal of haggling, for the rules of the game are relatively well known. The bargaining centers almost exclusively around charge rather than sentence, for it is not common for the prosecutor's office to make a sentence recommendation to the judge. The most common bargain involves reduction of a charge from a substantive offense (e.g., burglary, grand theft, robbery) to a charge of "attempting" to commit the substantive offense. The Michigan penal code provides that the attempt of most offenses carries one-half the maximum penalty specified for the commission of the offense itself. Thus, breaking and entering an unoccupied dwelling carries a maximum penalty of ten years in Michigan, while attempting to break and enter an unoccupied dwelling carries a maximum of five years; possession of heroin calls for a maximum of four years, while attempted possession of heroin (a not uncommon conviction charge in Detroit, though a bit hard to figure out) carries a maximum of two years. Thus, the offer by the prosecution typically involves dropping the charge down to an attempt.

If the defense accepts the offer at the pre-trial conference, the defendant is typically brought in the same day and his plea is entered. If, on the other hand, the defense refuses the offer, the next major event is the trial date. There are strictly enforced rules forbidding the prosecutor who is assigned the case for trial from coming to any agreement as to a plea bargain. There is, in addition, a policy (made known to attorneys by means of a sign in the reception area of the pre-trial conference prosecutors: "No plea bargains on trial day") that if the defendant does not agree to the offer before the date on which the trial is to be held, the offer no longer stands and the defendant will either have to go to trial or plead guilty on the nose to the original charge.

This institutionalized plea-bargaining system provides a forum for bargaining through which all cases pass and places the bargaining in the hands of only a few prosecutors. The system produces a large number of guilty pleas and relatively few trials.

Phoenix also relies heavily upon guilty pleas, although the system is much less formalized. As in Detroit, a felony case is reviewed within a matter of a couple of days by a prosecutor, but the scrutiny is not so intense as in Detroit. If a felony charge is lodged, a preliminary hearing is scheduled in Justice Court (the court having jurisdiction over misdemeanors and serving as a screening mechanism for felony cases), again within a matter of three weeks. At the time of the preliminary hearing (usually on the day of it), the prosecutor assigned to the Justice Court in which the preliminary exam has been scheduled may engage in bargaining with the defense attorney. The bargaining is typically over charge and involves the possibility of reducing a felony charge to a misdemeanor in return for entry of a plea of guilty that day in Justice Court. Such bargaining, for example, is common in grand theft cases. On the day of the preliminary exam, the prosecution will frequently offer the defendant the opportunity to plead guilty to misdemeanor grand theft (grand theft, like some other crimes, is a so-called "open-end" charge, being either a felony or misdemeanor, depending upon the sentence actually imposed). The defendant typically accepts the bargain and pleads guilty in Justice Court. Marijuana possession, likewise an open-end charge, is often reduced at this level to a misdemeanor in return for a plea of guilty.

During the period of this study, the Prosecuting Attorney was implementing a policy of reducing plea-bargaining in order to increase the penalties and thus the putative deterrent effect of the criminal justice system. The policy was implemented by promulgation of a rule which set forth a group of offenses (e.g., robbery, burglary, assault) for which the prosecutors were forbidden to make any plea-bargains. The list covered most serious felonies, and in these cases, the prosecutors working in Justice Court were simply forbidden from making any kind of agreement. Thus, for these cases, the preliminary hearings were either held or waived for tactical reasons and the defendant either dismissed at this point or, much more frequently, bound over to the Superior Court for disposition.

In Superior Court, the prosecutor assigned to the judge who received a particular case was, likewise, forbidden to make any charge concession. The defendant was supposedly required to either plead guilty on the nose to the original charges or to stand trial. Charges could neither be reduced, nor could any on the proscribed list be dismissed. In practice, the policy did not work precisely as was intended. The incentives to bargain are sufficiently strong that ways around the policy were frequently found, so that bargains in fact if not name were often struck in Phoenix. One strategy involved securing the cooperation of the judge. If a defendant, for example, faced a charge of burglary, the prosecutor and defense attorney might approach the judge and discuss what the range of sentences might be. A contingent bargain could often be struck: the defendant would plead guilty to the original charge, with the understanding that if the judge, after receipt of the pre-sentence report, decided to impose a sentence greater than some agreed-upon figure (e.g., to impose a sentence of imprisonment rather than jail or probation, or a prison sentence longer than an agreed-upon three years), the defendant would be given the option of withdrawing his plea. In such a case, the defendant pled guilty on the nose to the original charge, thus obeying the prosecutorial rule about no bargain, and the judge took up the burden of being the crucial figure in the bargaining process. Many judges felt that the advantages of bargaining were great and that the prosecutor's policy did not make sense, and were quite willing to take up the slack.

A somewhat more ingenious method around the no-bargains policy involved what is called a "submission." If a defendant chooses to go to trial, he may actually have a full-blown trial, or he may "submit" the case to the judge, with an agreed set of facts sent along as the basis for the judge's finding of guilt or innocence. This agreed set of facts might be a statement agreed to by prosecution and defense, or a copy of the transcript of the preliminary exam, or both. In any event, in cases involving multiple charges, the prosecutor, defense attorney, and judges sometimes came to an agreement about a submission. If a defendant had, for example, two charges of burglary, neither of which the prosecutor could dismiss or reduce because of the no-bargains rule, it might be agreed that the case would be submitted and the judge would find the defendant guilty on one and not guilty on the other. Thus, what in other jurisdictions would be a straight-forward charge bargain by the prosecutor might, in Phoenix, appear on the records as a not guilty plea and a finding of guilt on one count. Such a procedure, similar to the "trial by transcript" that used to be common in Los Angeles, or the "not guilty with a stipulation as to the facts" that is still found in Baltimore, operates to promote the bargaining process in a situation in which, for one reason or another, the advantages of plea-bargains are desired but the appearances are not. Thus, in Phoenix, although there existed during the period of this study an apparently quite strict rule against plea-bargaining for most serious felonies, in fact there were large numbers of guilty pleas that were the result of some agreement between the state and the defendant.[4]

Baltimore is one of our few major cities that relies primarily upon trials to dispose of felony cases. There is some mystery as to why this is the case—why the Baltimore system has not adopted plea-bargaining to the extent that it exists in other cities—but the trial system still predominates.[5] Unlike the "reform" prosecutor in Phoenix who campaigned for and attempted to eliminate plea-bargaining, a "reform" prosecutor was elected in Baltimore during our field work period who was committed to *increasing* the amount of plea-bargaining. Plea-bargaining does exist in Baltimore, but it is not the typical mode of disposing of criminal cases.

In Baltimore, though again there has been some change in recent years, there is relatively little prosecutorial screening at the outset of felony cases. During our field work period, the police officer who made the arrests actually prepared the criminal complaint which constituted the formal charge. The defendant was taken to a precinct station by the officer, and the charges were formally filed by the officer himself. The preliminary hearing was scheduled for about two weeks in the future, and in many cases the state's attorney's office simply did not become aware of the charge, much less evaluate it, until the day of the preliminary exam. During the period under study here, it is fair to say that, compared to Detroit, relatively little screening occurred until the day of the preliminary exam. This produced in Baltimore a fairly large number of dismissals at or around the time of the preliminary exam, for it was at this stage that the prosecutor's office made a decision about charge.

If the case was not dismissed, the preliminary exam was either held or waived (or, in some cases, not held because the District Court judge refused

to hold it—in Baltimore there is no statutory right to such a hearing). If the defendant was bound over, a trial date was set when the case reached the clerk's office in the felony court (called the Supreme Bench). The trial date was typically a minimum of thirty days after the defendant had been bound over. Because the preliminary examination was often not held—often simply at the behest of the judge, who referred the case to the Supreme Bench without permitting the defense to have a preliminary exam—there were a substantial number of dismissals at the Supreme Bench as well.

Most defendants who are convicted, though, do not plead guilty. Although some plea-bargaining occurs, most defendants who do not receive dismissals have trials. These trials, sometimes with juries, more often bench trials, are relatively short affairs, accomplished in less than a day, but they are real trials—both prosecution and defense present witnesses, and the fact-finder makes a determination. Although the vast proportion result in a finding of guilt, they are by no means "phony" affairs in which the outcome is arranged in advance. If the defendant is convicted, he is either held for three weeks pending a pre-sentence report or, more often, sentenced on the spot, since resources available for pre-sentence reports are greatly overtaxed.

* * * * *

The cities differ not only in terms of mode of disposition, but also in the way in which they provide counsel to indigents. Phoenix and Baltimore have a public defender's office that handles indigent defendants. In Phoenix, the Public Defender's office staff handles all indigents unless there is a conflict among co-defendants. In Baltimore, all indigents are assigned the public defender, but a substantial proportion of indigents are not represented by staff attorneys, but by private attorneys who are assigned the case by the public defender (the process is called "panelling out" a case). The Phoenix public defender's office has a so-called "vertical" representation, with the same attorney assigned the case from the preliminary exam stage through conclusion. In Baltimore, those cases assigned by the public defender's staff are handled by one set of attorneys who serve the District Court (representation through bind over) and then other attorneys who handle felony dispositions at the Supreme Bench (a so-called "zone" or "horizontal" system). Detroit has no public defender. Indigents are assigned counsel at the arraignment stage. There is a private defender organization that represents approximately 25% of indigent defendants. The Legal Aid and Defender Association operates like a public defender, for its staff attorneys are not paid by the case, but are on salary. The fees paid by the state for representation of each indigent are paid directly to the non-profit private defender corporation. The bulk of defendants in Detroit, though, are represented by private practitioners who are assigned to the individual defendant.

* * * * *

Thus, the three cities differ substantially in the styles of case resolution and the method by which counsel are provided to indigents. The above characterizations of the cities come from observation and interviews. We can further examine these differences in terms of the data we have from the defendant samples in each city. First, let us briefly examine the charges on which the respondents were arrested. We will use rather general categories for charges, for when more refined categories are used, the numbers tend to be small. (See Table II-1.)

Several sharp differences appear. First, there is a much greater proportion of crimes against the person in Baltimore. These are basically "street crimes"—robbery and assault—and I do not know why they are so much more prevalent in the Baltimore sample than in the other cities. Some data from a recent study of Baltimore, Detroit, and Chicago is consistent with the finding that Baltimore has a substantially larger number of arrests for person crimes than Detroit.[6] This greater number of crimes against the person could reflect different patterns in crime (a rather implausible hypothesis) or different patterns in police enforcement or charging practices (recall that in Baltimore, the charging decision was during the period under study basically a decision made by the arresting officer

Table II-1: *Most Serious Arrest Charges in Each City*

Most serious charge	Phoenix	Detroit	Baltimore	
Crime against person	21%	27%	51%	(34%)
Crime against property	31%	55%	35%	(40%)
Drug charge	42%	12%	9%	(20%)
Other	6%	7%	4%	(6%)
	100% (201)	101% (203)	99% (224)	628

and his superiors). In any event, respondents in Baltimore are substantially more likely to have been charged with assaultive crimes.

The other major difference across the cities involves the extremely high proportion of drug charges in Phoenix. As indicated above, this is not the result of Phoenix having a more serious "drug problem" than do the other two cities. Rather, it is an artifact of a difference in the statute dealing with marijuana possession and of charging practices in Phoenix. The bulk of the drug charges in our sample were for possession of small quantities of marijuana; respondents arrested in the other cities for a similar offense would not have met the sampling criteria, for they would have been charged not with a felony, but a misdemeanor. In analyzing the data at various points, I have excluded the marijuana offenders in Phoenix on the ground that they may have been "different" because of the fact that they were charged with what most regard as a petty offense. However, they have been retained in the results discussed here because their exclusion does not affect any of the relationships reported.

As discussed above, the cities differ in their case disposition styles. Using the three-fold categorization of mode of disposition introduced above, the three cities are compared in Table II-2.

The experience of defendants across the three cities is quite different. Let us begin with Detroit.

Table II-2: *Mode of Disposition in the Three Cities*

Mode of Disposition	Phoenix	Detroit	Baltimore	All
(all respondents)				
Dismissal	30%	16%	40%	29%
Plea of guilty [1]	61%	72%	22%	50%
Trial	9%	12%	37%	20%
	100% (201)	100% (202)	99% (223)	99% (626) [2]
(convicted respondents)				
Plea	87%	86%	36%	71%
Trial	13%	14%	64%	29%
	100% (140)	100% (169)	100% (134)	100% (443)

[1] Included in plea of guilty are 19 cases in which the defendant received diversion status or accepted probation before verdict.

[2] The two cases not accounted for include one defendant who received a commitment to a mental institution prior to adjudication and one for whom we could not determine the mode of disposition.

Among those against whom felony charges were filed, about three out of four ended up pleading guilty. Very few had their charges dismissed, and only one in ten had a trial. The very low dismissal rate, especially when we compare Detroit with the other cities, is an artifact of the screening systems used for felony cases and our sampling method. We attempted to sample, in each of the three cities, men "charged" with felonies. In Detroit, this "charge" occurs only after the prosecutor's office has carefully screened the case—eliminating some brought by the police entirely, and reducing others to misdemeanors. Thus, the weakest cases—by "cases" I mean those that come to the attention of the police as possible felonies—are typically not charged as felonies. As a result, relatively few of those that are formally charged are eventually dismissed. The second feature of the Detroit system is that the adjudication process is not frequently characterized by criminal trials. Eighty-six per cent of those who were convicted did so by virtue of a plea rather than by virtue of a trial.[7]

Next, let us turn to Baltimore, for the system there is in sharp contrast to that in Detroit. First, we see a very high proportion of dismissals—four out of every ten respondents had their cases dismissed. The high dismissal rate reflects the lack of extensive prosecutorial screening of cases prior to the filing of felony charges. The other striking fact about the Baltimore process is the relatively large numbers of trials. Of those convicted, nearly two-thirds had trials rather than pleading guilty.[8]

Phoenix, finally, stands somewhere in between the two other cities. In Phoenix, with some but not extensive prosecutorial screening, about one in three cases results in a dismissal. Of those who are convicted, nearly nine in ten choose to plead guilty rather than to have a trial.[9]

Moving on from mode of disposition to overall outcomes, we see related differences across the three cities (Table II-3).

As was implicit in our discussion of mode of disposition, the cities differ significantly in terms of the probability that a defendant charged with a felony will be convicted. In Baltimore, four of ten respondents received no conviction; in Phoenix, one in three; and in Detroit only one in five emerged without being convicted. Moreover, among those who are convicted, the penalties imposed in the three cities differ significantly. At the harsh end, in Baltimore, nearly two-thirds of those convicted received a sentence involving incarceration (jail or

Table II-3: *Outcomes and Sentences in the Three Cities*

OVERALL CASE OUTCOMES—(all respondents)

Case outcome	Phoenix	Detroit	Baltimore	All
Dismissal/ Acquittal	31%	20%	42%	31%
Conviction	69%	80%	58%	69%
	100% (201)	100% (201)	100% (224)	100% (627)

SENTENCES IMPOSED[1] *(convicted respondents)*

Sentence imposed	Phoenix	Detroit	Baltimore	All
Time served	7%	1%	0%	2%
Summary probation	6%	0%	0%	2%
Suspended sentence	0%	1%	2%	1%
Fine	30%	1%	2%	11%
Probation	26%	48%	30%	35%
Jail	14%	20%	15%	16%
Prison	17%	30%	50%	32%
	100% (138)	101% (161)	99% (131)	99% (430)

[1] The sentences are ordered in terms of severity. If a respondent received more than one sentence, the most serious is recorded here.

prison); in Detroit, half received such a sentence, while in Phoenix, fewer than one in three. Phoenix has a large number of fines, the standard penalty for a marijuana charge. Moreover, Detroit relies substantially more heavily upon probation than does Baltimore.

If we examine both convicted and non-convicted respondents, the differences across the cities emerge sharply (Table II-4).

Baltimore, as indicated above, has a highly bifurcated system. Defendants in Baltimore were, in about equal numbers, released completely or received a sentence involving some form of incarceration. Incarceration was relatively rare in Phoenix, while in Detroit, conviction was highly likely and a sentence of incarceration about as likely as in Baltimore. The peculiar and somewhat draconian system in Baltimore is further evidenced by the length of terms imposed upon those sentenced to prison:

Table II-4: *Case Outcomes and Sentences in the Three Cities*

Case outcome	Phoenix	Detroit	Baltimore	All
Released without punishment[1]	31%	20%	42%	31%
Probation or less[2]	47%	40%	20%	31%
Incarceration[3]	21%	40%	38%	33%
	99% (201)	100% (202)	100% (224)	99% (627)

[1] Includes dismissal or acquittal.
[2] Includes time served, summary probation, suspended sentence, fine, probation.
[3] Includes jail or prison sentence.

Table II-5: *Length of Prison Terms in the Three Cities*[1]

	Phoenix	Detroit	Baltimore
Mean Terms in Months	69.2	36.6	82.9
Median Terms in Months	39.0	29.8	59.8
	(24)	(47)	(63)

[1] Excludes four respondents receiving life terms.

The terms are not adjusted for parole eligibility, but are the minimum term imposed when the sentence had a minimum and maximum. Baltimore not only has the highest mean minimum term (just under seven years), but its median (which adjusts for the potential effect of a few very long terms pulling up the city's mean) is substantially longer than the other two cities. Thus, although Baltimore and Detroit send a substantially greater number of respondents to prison, they do so for somewhat different terms. This further emphasizes the bifurcated nature of the Baltimore system—respondents there had a substantially better chance of being released entirely, but if they were convicted, they were likely to be sentenced to prison and for terms substantially longer than the other cities.

Thus, the three cities are characterized by quite different styles of case resolution and also by somewhat different sentencing patterns. One final issue may be briefly dealt with here: the relationship betwen mode of disposition and sentence imposed. It is often asserted in the literature dealing with criminal courts that those who plead guilty tend to receive somewhat more lenient outcomes than those who have trials, for the plea-bargaining process "rewards" those who agree to a plea. Among the respondents in

this study, there was such a relationship between mode of disposition and sentence imposed (See Table II-6). Notice that the relationship between mode of disposition and sentence imposed for all the cities combined is somewhat deceptive. Overall, we see a relatively strong relationship, for two-thirds of those who had trials received sentences of incarceration, while among those who plead guilty, nearly six of ten received a sentence of probation or less. This somewhat masks the fact that in Baltimore there is only a very weak relationship between the two variables—those who plead guilty were only slightly more likely to receive lighter sentences. Yet the direction is the same across all three cities, and the basic proposition that having a trial is associated with a somewhat harsher sentence appears to hold among these respondents.[10]

* * * * *

Thus, we have a sample of men charged with felonies that comes from three different cities. The cities themselves are characterized by somewhat different case resolution and sentencing patterns. The selection of the cities as research sites in fact depended upon these differences, for we wished to obtain a group of respondents who had had different types of experience in the courts. When we examine the central questions of this study—for example, the factors that affect a defendant's evaluation of his attorney or his judge—we shall treat the defendants as a group, not city by city. That is to say, if we want to examine the effects of the mode of disposition upon defendant evaluations of their attorneys, we shall proceed as though a "trial" in Phoenix is equivalent to a trial in Baltimore, or a plea in Detroit is equivalent to a plea in Baltimore. At various points in the analysis we have attempted to see whether the cities are somehow unique, whether the relationships we report are accurate in Baltimore but not in Detroit, for example. Basically, the data tend to support the proposition that, at least at the level of analysis used here, the relationships tend to hold across all three cities. In this sense, it does not matter that the cities are different in their case resolution styles or patterns of sentencing, for we are treating them as though the city from which a respondent comes does not make a difference. This appears to be a satisfactory course of action given the types of relationships we are testing, yet it is important to remember that if a much finer set of relationships were tested, more attention to breaking the relationships down city by city might be appropriate. For our purposes, though, the differences in the cities are basically important because they produce a mix of characteristics in the respondent population.

Table II-6: *Relationship of Mode of Disposition and Sentence Received (convicted respondents only)*

Mode of Disposition	Phoenix		Detroit		Baltimore		All	
	Plea	Trial	Plea	Trial	Plea	Trial	Plea	Trial
Sentence								
Probation or less	70%	38%	52%	27%	40%	31%	57%	34%
Incarceration	29%	62%	48%	73%	60%	69%	43%	66%
	99%	100%	100%	100%	100%	100%	100%	100%
	(122)	(18)	(145)	(15)	(48)	(83)	(315)	(116)
							(431)	

III. THE SAMPLE

The individuals who were interviewed comprise a sample of men charged with felonies in three cities, Phoenix, Detroit, and Baltimore. A detailed discussion of the sampling methods is contained in Appendix I. Here, we shall briefly describe the sampling procedures and some of the attributes of the individuals who were interviewed.

The interviewing took place in two waves. First, a random sample of men formally charged with felonies (i.e., against whom formal charges were filed, either by information or indictment) was obtained over a three-month period during the spring of 1975 in each of the cities. Attempts were then made to locate and interview these men by the organization carrying out the field research, the National Opinion Research Center. We ended up with 812 completed interviews, distributed relatively evenly across the three cities. The response rate among those sampled, although varying between the three cities, was 59.9%.[1]

Thus, the first body of data used here comprises these 812 interviews with men arrested on felony charges (to be called the "first wave" or "T_1" interviews). The interview included a large variety of items, dealing with demographic characteristics, general attitudes toward legal and social institutions, experience with criminal courts, and attitudes toward various court personnel. The interviewers were, with one exception, males and were, when possible, matched by race with the respondents. For Spanish-speaking respondents, a Spanish version of the questionnaire was used if the respondent wished. All respondents were assured that their answers would be held in strict confidence, that the study had no connection to the criminal court system in their community, and that participation would neither aid nor adversely affect their case. Respondents were told at the conclusion of the first interview that we would like to talk with them again after their case was concluded, and that they would be paid $10 if they completed the second interview.

The progress of the 812 respondents was tracked through the court system, and as their cases were completed they were contacted and asked to submit to another interview shortly after their cases were completed (i.e., case dismissed or defendant acquitted, or after sentencing following a trial conviction or guilty plea). The second period of field work lasted until April of 1976. In all, 628 of the original 812 respondents were interviewed a second time (to be called the "second wave" or "T_2" interview). Thus, 77.3% of those interviewed the first time were interviewed the second time as well. In fact, of the 812 original interviews, 89 respondents had cases still in progress and hence were not approached for the second interview by the time the field work was terminated. Thus, the completion rate for the second wave, based upon those whose cases had been completed, was 86.9% (628 of 723).[2]

The second interview involved readministration of the attitudinal items from the first interview, as well as a number of questions dealing with events that occurred in the defendant's case and questions about the particular court personnel that were encountered.

Thus, the data for the study are based upon two interviews, each lasting around an hour. The analysis that deals with what we shall call defendants' "predispositions" towards criminal courts—the attitudes that they bring with them to their encounters with the courts—is based upon the first wave interviews with the 812 men. The analysis of the defendants' evaluation of court experiences and of the effects of court personnel is based upon the 628 men with whom we conducted both interviews. In order to give a flavor of the attributes of the men in samples interviewed, I shall here briefly describe some demographic attributes of the men who were participants in this study.

Put in the most general terms, the defendants in this study are predominantly young, black, unmarried men, with less than a high school education, relatively limited job skills, and relatively extensive experience with the criminal justice system. (See Table III-1.)

The respondents thus are quite close to the typical image of the individual most likely to get involved with criminal courts—a person from a minority

Table III-1: *Demographic Attributes of the T_1 Sample*

III-1A: *Age*

Less than 18 years old	5.3%	
18-21 years	37.2%	
22-25 years	22.6%	
26-30 years	16.0%	
Over 30	18.9%	
	100%	(812)
Mean Age	25.2	years
Median Age	22.5	years

Table III-1B: *Race/Ethnicity*

White	26.7%	
Black	64.0%	
Spanish surname	8.4%	
Other	.8%	
	99.9%	(812)

Table III-1C: *Marital Status*

Never married	63.4%	
Married or living as married	21.8%	
Divorced, separated, widowed	14.8%	
	100.0%	(812)

Table III-1D: *Education*

Less than 8th grade	15.0%	
Some high school	52.3%	
High school graduate	22.3%	
Post high school education	10.4%	
	100.0%	(812)

Table III-1E: *Employment Status at Time of Arrest*

Working full or part time	40.0%	
Unemployed but in job market	51.7%	
Other (student, retired, etc.)	8.3%	
	100.0%	(812)

group coming from relatively marginal social status. This image is further confirmed if we look at the past criminal records of the respondents:

Table III-2: *Past Criminal Record of T_1 Respondents*

Never been arrested	14.1%	
Arrested but not convicted	22.2%	
Convicted but never incarcerated	17.3%	
Served previous term in jail	19.8%	
Served previous term in prison	26.7%	
	100.1%	(810)

These statistics, based upon reports obtained from the respondents, not court or police records, indicate a fairly high degree of past experience. Only about one man in seven reported on previous contact with criminal justice institutions, and nearly one in two had served a term either in jail or prison. This suggests that the respondents are likely to have formed views about the nature of criminal justice institutions in some large measure based upon personal experience, not simply street culture or images obtained from school, movies, television, or other general socialization media. We shall also later see that the extent of past experience (and, in some sense, past unfavorable experience, since increased experience indicates increased severity of punishment) is in fact related to the types of images defendants bring with them to their encounter with the criminal courts.

In summary, the data upon which this report is based come from interviews with men charged with felonies in three cities. The respondents appear similar to the image of what most criminal defendants are like that is obtained from such sources as the Uniform Crime Reports. They are men of somewhat marginal social status who are, by and large, not first-timers but who have had varying degrees of previous exposure to the workings of criminal courts. With this general background, I wish to turn to the first question to be addressed here: what kinds of images or predispositions do defendants bring to their encounters with criminal justice institutions?

IV. INITIAL IMAGES OF CRIMINAL COURTS

When our respondents evaluate the activities of the attorneys, prosecutors, or judges that they encounter in their cases, their general beliefs or expectations about what such participants are like are important determinations of how they understand and evaluate the particular people they encounter. Moreover, when we focus later upon attitude change, the starting point is the beliefs that they brought with them before events led them to change or stay the same. Thus, in this section, we will characterize the sets of beliefs that our respondents had about what "most" private attorneys, public defenders, judges, and prosecutors are like. The items to be discussed here were all administered at the first interview—after arrest but before the respondent had any significant experiences in the particular case that led him into our sample. We will examine their beliefs on several dimensions—openness to hearing and being concerned with a defendant's interests and version of what happened in a criminal case, concern with speed in getting cases over with as opposed to reaching truth of justice, and posture towards whether most defendants should be convicted and punished.

In one sense we shall characterize the general set of beliefs defendants have towards various court personnel—what "most" of the defendants think "most" lawyers, judges, etc. are like. Lacking a control group composed of non-defendants, we cannot make very authoritative assertions about whether their beliefs are generally "favorable" or "unfavorable," for we don't know how other groups in the society might respond to the same set of items. Thus, if 74% of our respondents believe that judges try hard to listen to the defendant's side in a case, we really don't know whether this is a lot or a little, for other citizens might respond to the item in the same proportions, or more or less of them might agree. Thus, we can simply report what the patterns of responses are within our population. We can go somewhat further, though. We can compare our respondents' beliefs about judges with their beliefs about public defenders and prosecutors. Thus, we can assert with some more confidence propositions about whether our respondents tend to believe that judges are more or less likely to listen to the defendant's side in a case than are defense attorneys and prosecutors. In this way, then, we shall both attempt to characterize the general set of beliefs defendants have about what various participants are like, and to make somewhat firmer assertions about how they believe the participants differ on dimensions such as openness, interest in speed, concern with punishment of defendants, etc.

The beliefs that a defendant brings to his encounter with criminal courts are presumably the product of a variety of factors. To some extent, they are the product of the general socialization processes that all citizens go through—the experience of going to school, reading books, watching movies and television, etc., that teach all of us lessons about what the legal process is like. In addition to this general socialization, different "subcultures" may learn somewhat different lessons.[1] Interacting with others who have been defendants in criminal cases may teach quite different lessons than either no interaction with anyone involved with criminal courts (the experience that presumably most citizens have) or occasional interactions with individuals who experience criminal courts in the role of attorney or prosecutor or judge. To put it more directly, there is probably a "street" culture existing in most cities that teaches defendants different lessons about criminal courts than those learned by middle or upper class citizens.

Another important source of one's images of criminal courts is one's past experience. These direct experiences presumably teach important lessons about what such institutions are like.

Finally, defendant expectations may be in part the product of more generalized attitudes toward government institutions. For example, to the extent that a citizen is more distrustful of or alienated from political institutions generally, he or she may focus some of this distrust upon criminal courts as one arena of government activity.

Thus, in addition to characterizing the sets of predispositions that our respondents brought to their encounter with criminal courts, we shall also discuss how other attributes they possess—past experience, political alienation, race—are related to their predispositions.

Finally, we shall see how the three cities differ from one another in terms of the general images defendants have of the criminal process. Such differences, to the extent that they exist, may be a product of differences in the way the court systems actually operate, or of characteristics of the defendant sample within the cities (e.g., the extent to which race, alienation, or criminal history differs across the cities). We will attempt to characterize how the cities differ from one another, how they are the same, and how we may account for any differences that emerge.

In discussing defendant predispositions, we shall deal with individual items and with some summated scales. Items dealing with public defenders, judges, and prosecutors were subjected to a variety of scaling techniques, and those that met specified scaling criteria were summed to produce indices.[2] Thus, eight items dealing with public defenders, six items dealing with prosecutors, and six with judges are summed to produce the PDSCORE, PRSSCORE, and JDGSCORE. The scores range between 0 (least favorable) and the maximum value for each (most favorable).

A. Defendant Predispositions Toward Defense Attorneys

Defendants bring to their encounter with criminal courts a variety of views of what defense attorneys are like—whether they fight hard for clients, are concerned with obtaining favorable outcomes, their influence on the disposition process, etc. The image that is typically portrayed in books and movies is like that of Perry Mason—the wily, committed advocate for the client's interest whose sole concern lies in obtaining a favorable outcome for the attorney's client. Most of us think not only of the defense attorney as the advocate for the client's interest, but associate the activities of the attorney with the trial setting—arguing before a judge and jury, tangling with the prosecutor in a struggle to reach justice for the client. Although some recent and more "modern" books and television programs have depicted the activities of the defense attorney in the plea-bargaining arena, most of us are still inclined, I believe, to think of the defense attorney not as a middle-man or broker, but as the devoted advocate of the client's interest.

Our respondents were asked a variety of questions dealing both with their experience with defense lawyers and their images of what such attorneys are like. On the basis of previous work and the pre-test, we focussed our questions on two types of attorneys —private retained counsel and public defenders.[3] The basic set of items asked the respondent to focus either upon "private lawyers" or "public defenders" and asked him to select from opposite sentence pairs the one that came closest to his opinion of what "most [private lawyers] [public defenders] are like." Here and elsewhere in the test, in reporting responses to these types of items, I shall report the proportion of respondents who selected the item from each pair that is "favorable" to the subject of the item. This sometimes makes the items appear rather awkward. It is important to remember that there were always two opposite items, from which the respondent chose one. See the questionnaire for full text of all items. Table IV-1 indicates the responses for each type.

Table IV-1: *Defendant Views of What Most Lawyers Are Like*

"In general, most [private lawyers/public defenders] . . . ."

	Private Lawyers	Public Defenders
1. Fight hard for their clients	87%	42%
2. Want their clients to plead not guilty	84%	43%
3. Tell their clients the truth	85%	53%
4. Listen to what their clients want to do.	85%	53%
5. Do not care more about getting a case over with quickly than about getting justice for their clients	64%	30%
6. Do not want their clients to be convicted	94%	69%
7. Want to get the lightest possible sentence for their clients	92%	63%
8. Do not want their clients to be punished	92%	71%

(N = approximately 812)

"In general, would you say that [private lawyers/public defenders] are on their client's side, on the state's side or somewhere in the middle between their client and the state?"

	Private Lawyers	Public Defenders
Client	86%	36%
Middle	8%	15%
State	6%	49%

(N = approximately 812)

The differences are very sharp. Sizeable majorities—typically approaching 85-90% of the respondents—embraced descriptions of private lawyers very close to that of Perry Mason. Most of our respondents were not talking on the basis of actual experience with private lawyers, for only 39% reported that they had ever been represented by a private lawyer (as compared to 58% who reported previous representation by a public defender). Moreover, those who had first-hand experience were somewhat less likely to endorse such favorable images. In fact, many private lawyers are neither like Perry Mason nor do they behave as the defendants believe, for many are somewhat marginal practitioners depending upon turning over large numbers of cases paying rather small fees. Thus, it is not argued here that the defendant images of private lawyers, and the divergence between their images of private counsel and public defenders, is totally the product of "reality." In fact, there is probably a good deal of fantasy in the picture of private lawyers that emerges. By the same token, the favorable images exist, and we shall shortly attempt to suggest some reasons for them.

First, though, let us examine the images of public defenders. On all items, substantially fewer respondents select the alternative that one associates with a vigorous advocate. Closer examination of the items reveals a pattern in the perceptions of public defenders. Three of the items deal with what we may call the "outcome" dimension of the case—those evaluating the public defender's posture towards conviction, punishment, and sentence. Five of the items focus upon what may be called the "process" dimension of defense—how hard the lawyer fights, whether a guilty plea is urged, interest in speed versus justice, and interpersonal relations with the client. On the outcome items, clients are substantially more favorable towards public defenders. Although the number of those approving is less than that for private lawyers, nearly two-thirds of the respondents endorse the notion that the public defender is interested in favorable outcomes. To put it another way, defendant suspicion of public defenders does not take the form of a widely shared belief that most want to sell their clients out or attempt to achieve outcomes unfavorable to the client. Rather, it is on the process dimensions that defendants are most skeptical. They tend to see public defenders as less willing to listen to their clients and tell them the truth, less committed to fighting hard, and more concerned with getting cases over with. Both in terms of comparison with attitudes toward private lawyers and the absolute levels of defendants who express skepticism, it is on the process dimension that widespread suspicion of public defenders exists.

How can we account for the divergence in images of private counsel and public defenders? Again, it is important to keep in mind that we are not trying to account for differences in what they are "really" like—which type of attorney cares more about, fights harder for, or gets better results for his or her client. We are dealing here with the attitudes of potential clients. The first step in trying to explain the difference lies in noting that a large proportion of our defendants (61%) have never had retained counsel. Thus their images are the product of general socialization, of talking with those who have had such experience, or of their imaginations. Many of our respondents have had experience with public defenders, and often that experience has not turned out well. Thus, to some extent their images of private lawyers may be the product of a kind of rationalizing—those who have had public defenders and been convicted may really be saying, "If only I had been able to hire a lawyer, things would have gone better," and hence their images of what private lawyers are like are the product of wishful thinking. The fact that for many of the items dealing with private lawyers, those who have had experience with such attorneys are somewhat less favorable than those who have not supports this line of reasoning. But the level of approval for those who have had experience with private lawyers remains quite high, and I believe that there is more to it than simply wishful thinking.

A related line of analysis involves seeing whether the images of the two types of attorneys are related to general defendant attributes—race, past record, and alienation. One of the difficulties with this line of attack is simply the lack of variation in responses to items dealing with private lawyers. That is to say, the past record and the alienation measures are unrelated to all of the private lawyer items; race produces differences on four of the items. By the same token, the differences are slight, and the overwhelming numbers of respondents, regardless of race, are favorable to private attorneys (on those items on which blacks score lower than whites, typically 80%, of the black respondents choose the favorable alternative). Thus, we cannot do very much to explain the difference in images by use of

variables that deal with general attitudes toward government, race, or past record.

I believe that the factor that explains the difference lies to a large extent in the institution position of the public defenders and the nature of the relationship between client and public defender. At this point, I want to sketch out the argument on this point. Then we shall return to attitudes towards public defenders and attempt to see what variables seem to affect images of defenders.

Public defenders and private lawyers differ in several crucial respects: the client has control over which private lawyer will represent him, while most clients are simply assigned public defenders; the private lawyer and the client engage in a financial exchange, while typically no such exchange occurs between public defender and client; finally, private lawyers are entrepreneurs who depend upon their clients for their living, while the public defenders are employees of the state (either directly in the case of salaried public defenders, or indirectly in the case of assigned attorneys who are paid by "the state" for defending particular clients). All of these, I believe, contribute to distrust of public defenders and to the inclination to believe that private lawyers will provide a more effective defense.

As a starting point in examining the data, note the 40% of those respondents who have never had a public defender believe that most public defenders are on the state's side. This suggests that distrust of public defenders is by no means simply the product of previous and unpleasant experience. It suggests the existence of a socialization process, either a "street culture" or some more general process, that produces a distrust of public defenders. A more direct approach to the question comes from examining two items in the questionnaire dealing with defendant beliefs about the two types of attorneys.

Defendants were asked which of the two types of lawyers did a better job for clients. Eighty-seven percent chose the private lawyer. Next, they were asked an open-ended question:

> "What is it that [preferred type of lawyer] does for their clients that makes them better than [other type]?"

A large variety of responses were offered, and they were coded into more than a dozen categories. But a few categories garnered most of the responses:[4]

1. Listens to client/honest with client/more responsive to needs of client 15%
2. Fights/works harder—no mention of money as a reason .. 19%
3. Fights/works harder— mention of money as a reason .. 48%

(N = 704)

A few examples will serve to flesh out the types of responses that were coded into these categories.

Code 1. Listens to client/honest with client, etc.: Will answer letters sooner; is more interested; gets emotionally involved with client; sees defendants as personal clients; readier to believe client; listens to client's side of the story; visits clients in jail; wants client to go straight.

Code 2. Fights/works harder; no mention of money as a reason: Checks out every angle; digs out all the facts—gets witnesses; files motions to suppress evidence; tries not to let the client get railroaded; fights for a lighter sentence; cross-examines witnesses to break their story.

Code 3. Fights/works harder; money mentioned as a reason: You get what you pay for; private lawyer tries to get you off so he'll get paid; money talks; when you are paying a private lawyer he will spend more time on your case and check out every little angle; I feel I would get that extra effort and service if I was paying a private lawyer . . . if I was paying him I think he would give that little extra above the normal effort that could be the difference between being convicted and not.

The last category is, I believe most suggestive of the reasons why public defenders are viewed with substantially more suspicion than are private lawyers. The extent to which defendants chose the financial transaction as the reason for the better performance of private attorneys suggests that the distrust of public defenders is more than either wishful thinking about private lawyers or a kind of scapegoating of public defenders for past difficulties the defendant may have encountered. What attracts defendants to private lawyers is the notion that, because of the financial exchange between lawyer and client, the lawyer will be more committed to the defendant's interests. It is money that provides a sense of control, the leverage to insure that lawyers will listen to their clients, take instructions from their clients, and generally exert themselves on their clients' behalf. Moreover, not only does the client fail to pay and thus lack this leverage over public defenders, but someone else does. And that someone else is "the state"—the very institution that is proceeding against the defendant. Thus, public de-

fenders suffer not only from the fact that they are imposed upon the defendant rather than being selected, and from the absence of financial exchange, but they are employed by the enemy. Private lawyers suffer from none of these infirmities. None of this means that defendants are correct in their beliefs; but it does suggest the reasons why they hold them.

In a sense, I think that we can understand the defendants' distrust of public defenders as indications that they are in this respect simply "good" Americans; that is to say, they have internalized some general norms common to most people in American society. I think it fair to say that in our society most of us are taught that things that cost more are likely to be of higher quality than those that cost less or are free. Because private attorneys cost something, because they can command more in the marketplace, they are likely to be more desirable and valuable. Many people believe that "private" schools are better than public schools and that medical care provided on a fee-for-service basis is better than that provided in public or private clinics.[5] In part, these beliefs are based on perceived "real" differences—e.g., that the pupil/teacher ratio is better in many private schools or that fee-for-service medical care results in a higher quality of medical expertise. But part resides in the more general notion that cost is itself a measure of quality. In this sense, then, defendants see a marketplace—the hiring of private attorneys—in which they do not and cannot participate, and they are inclined to believe that the "goods" available are likely to be of higher quality than those that come without cost.

In the same sense, I think it fair to say that there is a general norm in our society that financial exchange tends to increase the bond between the payer and the payee. We tend to believe that one way to make it more likely that our interests will be served by another is to engage in a financial transaction—to "hire" the other person. Such a transaction surely does not insure a total commonality of interests, but most of us believe that it is a step towards producing loyalty. Defendants see the possibility of such an exchange with an attorney and tend to feel that it would produce a greater commitment to their interests.

Finally, there is a general norm that suggests that the seller in a market economy has strong inducements to satisfy the buyer—not simply because of the particular financial exchange that occurs, but because the seller wants the buyer to return again and to tell others to patronize his or her business. Defendants apply this notion to the lawyer/client relationship—the private lawyer wants satisfied customers who will come back next time they get in trouble and will tell their friends that so-and-so is a fine attorney. The public defender, on the other hand, always gets plenty of cases—he or she does not depend upon customer satisfaction to produce further business or income. In this sense, then, the private lawyer is to be preferred.

Thus, defendant distrust of public defenders and respect for private lawyers has its most basic roots, I believe, in a general set of norms that are embraced by most people in our society, not in some peculiar and idiosyncratic set of experiences or beliefs of the "subculture" of those who have contact with criminal courts. If most of us who have more extensive financial resources got in trouble with the law, we would hire a private attorney. Even if the services of the public defender were available to us, we would still probably choose to have our "own" lawyer. Partly we would do this because we would feel that private attorneys would offer a higher quality of legal representation—they would have more time to spend with us and to work on our case, would be more responsive to our wishes, would spend more time on legal research, etc. Defendants also believe this (see the first two coding categories). But also, I think, we would choose a private lawyer because such an attorney would, by virtue of being "our" employee for the case, be more likely to work in our interest. Intellectually most of us would "know" that because a public defender is an employee of the state, he or she could still act in "our" interest, not the state's, but most of us would still be more comfortable in a relationship in which we were actually doing the paying. This is, I believe, a product of general societal norms that all of us learn. The defendants' preferences for private lawyers come, in large measure, from the same norms applied in the same fashion. Other groups of people might be a bit less suspicious of the public defender, but the expressed preferences and reasons offered by the defendants are quite consistent with a set of beliefs that is widely held in our society, not simply the product of some peculiarity of criminal defendants or some self-serving or defensive reaction.

At the risk of getting ahead of the story, I can illustrate the extent of suspicion of public defenders by looking briefly at the experience and reaction of a defendant in Phoenix. The man was charged with a weapons offense. At his first preliminary hearing,

the state moved to dismiss the case "without prejudice" because their case was not ready. Then, a few days later, the prosecutor refiled the original charge and rearrested the defendant. At the second preliminary hearing, after the presentation of evidence, the judge dismissed the charge. Throughout the case, the defendant was represented by a public defender. The defendant, in the course of the second interview, went out of his way to offer favorable comments about his attorney. For example, he attributed his dismissal to the actions of his attorney: "The second time, I'd say [I got off] because my lawyer did a darn good job." Moreover, in answer to the specific items about his lawyer, the defendant gave him a perfect score, responding to all items in a direction favorable to the attorney.

Yet, when asked whether he'd like to have the same lawyer if he got in trouble again, the defendant replied:

> Well, yes, if I had to have a public defender. I would—he's good. But if I had the money I'd get a private lawyer, cause you pay him and he'll do the right things.

Moreover, when asked whether, if he had to do it over again, there was anything he'd do differently in the case, he responded:

> I'd try to get a private lawyer. He would fight harder to get you out of it. That's what you're paying him for.

Thus, the suspicion of public defenders and the longing for a private lawyer may be so strong—and tied to the financial exchange—that even when a client is apparently entirely satisfied with the services of a public defender and has his case dismissed, the inclination to want a private lawyer may remain.

* * * * *

Now we may turn to a somewhat different question. Given that most defendants are somewhat skeptical about public defenders, what seems to affect their level of skepticism? That is, some are more distrustful than others, and we wish to see whether defendant attributes or attitudes are associated with the level of trust or distrust of public defenders. Recall that there was little point in asking this question vis-a-vis beliefs about private lawyers, for there was virtually no variation to explain. We begin with the hypothesis that three variables may be related to levels of trust of public defenders—race, past record, and political alienation. Specifically, we make the prediction that blacks will be more distrustful than whites, that those with more extensive past records will be more distrustful, and that those who are, in general, more alienated from political instructions will be more distrustful of public defenders.

There are a variety of ways of conceptualizing and testing these propositions. We could, for example, look simply at the two-way relationships between race, past record, and alienation and the level of trust of public defenders. If we follow this strategy, we find that all the hypotheses seem to be supported by the data.[6] But because there are relationships among our independent variables—for example, race is related to alienation and to past record—simply examining the two-way relationships does not tell us whether each of the variables actually makes an independent contribution to the level of trust of public defenders. Thus, a more useful way of testing the hypothesis is to examine the relationship of all three variables at once.

Examining the data in this way produces a somewhat complicated type of table. Since I shall use this mode of presentation on several other occasions, at this point I want to go over the table in rather great detail. In order to test the hypotheses, we are measuring trust of public defenders by means of summing the eight items dealing with public defenders. This index is then cut in half at the median and each respondent then has a score of "high" or "low" on our measure of attitudes toward public defenders (high being favorable).[7] A five-item index tapping levels of general political alienation[8] has been divided into three approximately equal categories, so each respondent has a score on the alienation measure of "low," "medium," or "high," with the higher score indicating a higher level of alienation from government institutions. In examining the effects of race, we will deal only with black and white respondents.[9] Finally, we have divided our respondents into three categories of past criminal record: those who report never having been arrested before; those who report having been to prison; and, in the middle those who report intermediate criminal records (including: arrested, convicted, sentenced to jail, but not having been to prison).[10]

The table showing the relationship between race, past record, political alienation, and attitudes toward public defenders is on the next page.[11]

Each of the cell entries comprises the percentage of respondents in that category that scored "high" on the measure of attitudes toward public defenders.

Table IV-2: *Relationship of Predispositions Toward "Most" Public Defenders to Race, Past Record, and Political Alienation*[1]

Alienation:	Low		Medium		High	
Race	White (1)	Black (2)	White (3)	Black (4)	White (5)	Black (6)
Past Record						
None	94% (16)	75% (20)	57% (7)	58% (19)	75% (8)	29% (17)
Jail or less	68% (54)	70% (76)	59% (27)	51% (69)	56% (41)	44% (101)
Prison	42% (12)	48% (25)	20% (10)	42% (41)	21% (14)	32% (65)
	(82)	(121)	(44)	(129)	(63)	(183)
						(624)

[1] Each cell entry comprises the proportion of respondents scoring "high" on the evaluation of public defenders index.

Thus, looking at the upper-left-hand cell, we see that 94% of respondents who were white, had no past criminal record, and who scored low on the measure of political alienation scored "high" on our measure of attitudes toward public defenders. By the same token, if we look at the lower-right-hand cell, we see that only 32% of the respondents who were black, had previously served time in prison, and who scored high on the alienation measure scored high on the measure of attitudes toward public defenders. The table is complicated but contains a great deal of information, for it enables us to test the effects of each of our "independent" variables—race, past record, and alienation—upon attitudes toward public defenders. Moreover, we can, for each, see its effect while the effects of the other variables are taken out or "controlled for."

For example, to examine the effects of past criminal record upon attitudes toward public defenders, we look down the columns of the table. If our hypothesis is correct, as we go down each column, the proportion of respondents scoring "high" on the index of trust in public defenders should get smaller —for as we go down the column, the amount of past criminal experience increases. We see that, with some exceptions, this pattern in fact occurs. At the same time, notice that each column represents a particular mix of the other two variables—race and political alienation. Thus, column 1 is comprised of whites with a low level of political alienation, while column 4 represents blacks with a medium level of political alienation. Thus, we are looking at the effects of past record upon attitudes toward public defenders while controlling for or taking out the potential effects of race or level of alienation upon such attitudes.

We should note that the size of some of the cell entries makes the percentages sometimes unreliable. That is to say, if we look at the first entry in column 5—whites with a high level of alienation—we see that it is based upon only eight respondents. This means that, for example, if two respondents had scored differently, the entry of 75% might have changed to 50% (each respondent contributes 12.5% to the total of 100%). In this sense, we must in this and subsequent tables like this be quite cautious about noting small cell sizes.

Given the overall distribution in the table, how do we evaluate the table to see whether our original hypothesis—that past record is related to attitudes towards public defenders, even when we control for the effects of race and alienation—is in fact supported? There is no simple answer. We can look at the overall pattern and see whether there is a consistent relationship in the expected direction. In this case, dealing with the relationship between attitudes toward public defenders and past criminal record, we can look down the columns and see whether the level of approval decreases as past record increases. With some exceptions, it does. Looking at the "direction" of the relationship a bit more systematically, we can look at pair-wise comparisons (e.g., in the first column, at the difference between no past record and jail or less, and then at the difference between jail or less and prison) and see in how many cases the relationship is in the predicted direction. Here, we see that of twelve such combinations in the table, ten are in the expected direction.

In addition, we could look not at the direction but the magnitude of the differences. In dealing with past record, we would expect the sharpest differ-

ences between "none" and "prison," for the middle category combines a rather diverse set of past criminal records. In general, we will use the rule of thumb that differences ought to reach the level of 10% if we are to call them significant.[12] Here, looking at the differences between no past record and prison across the six columns, we find that all but column 6 produce differences greater than 10%.[13] Finally, we could look at the "average" size of the differences between appropriate cells. Here, again looking at differences between those with no past record and those who have been to prison, we find that the average difference is 32%.[14] Thus, by three different tests—direction of relationship, how many comparisons meet the 10% difference level, and whether the average difference is greater than 10%—we see that past record does appear to be related to predispositions toward public defenders.

This question of evaluating our hypothesis can be further illuminated if we examine the effects of race upon attitudes toward public defenders. Our hypothesis is that blacks will score lower than whites, and when we looked at the simple relationship between race and attitudes toward public defenders, we found a weak relationship in this direction. When we examine Table IV-2, however, we find a different result. Testing for the effects of race while controlling for the effects of past record and alienation is accomplished by looking across pairs of columns and seeing the differences between blacks and whites at various levels of past record and alienation. For example, if we look at columns 1 and 2, we can see the racial differences for those with a low level of alienation and varying levels of past record. Simple inspection of the table suggests that the original hypothesis is not supported by the data. Whites are not consistently higher than blacks on the public defender index—sometimes they are higher, sometimes lower. In only four of nine comparisons do whites score higher than blacks, and in only three does the difference reach the 10% level. If we take the "average difference," it amounts to slightly less than 4%. Thus, we conclude that the original hypothesis about the effects of race is not supported by the data.

Finally, the table enables us to test for the effects of levels of alienation upon attitudes toward public defenders. Here, we look across the rows, comparing whites with whites and blacks with blacks. Thus, we see, for example, that 94% of the whites with no past record and a low level of alienation scored high (upper-left-hand cell) compared with 57% of the whites with a medium level of alienation and no past record, compared with (here an exception) 75% of the whites with a high level of alienation and no past record. Inspecting the table as a whole, we see that the general tendency is in the expected direction—higher levels of alienation in relation to lower levels of trust in public defenders in 10 of 12 instances, 6 reaching 10% or more, and an average difference of 11.5%. Thus, we accept that the data generally support the hypothesis.

In sum, the table tells us a variety of things. First, that both past record and alienation make an "independent" contribution to attitudes towards public defenders. That is, they both contribute when the effects of the other are controlled for. The table also informs us that race does not appear to make a difference in attitudes toward public defenders. To the extent that there is a simple relationship between race and PDSCORE, race's contribution to attitudes toward public defenders is accounted for by the effects of past record and alienation, both of which are related to race.

Given these findings, we can reconstruct the table, leaving out race as a variable, and we find the following. (See Table IV). Once again, we can observe the effects of alienation and record on attitudes toward public defenders. As past record increases, the proportion favorable to public defenders decreases (average difference = 11%); as alienation increases, trust in public defenders goes down (average difference = 11%). If we look at the upper-left-hand cell and the lower-right-hand cell, we observe a difference of 53%, suggesting that a good deal of the variation in attitudes toward public defenders can be accounted for by the variables of past record and alienation.

Table IV-3: *Relationships of Predispositions Toward "Most" Public Defenders to Alleviation and Past Record.*

	Alienation			
	Low	Medium	High	
Past Record				
None	83% (36)	54% (26)	44% (25)	(87)
Jail or Less	69% (130)	53% (96)	47% (142)	(386)
Prison	46% (37)	37% (51)	30% (79)	(167)
	(203)	(173)	(246)	(622)

In sum, two factors appear to be related to attitudes toward public defenders. The defendant's past record—in particular if he has in the past been sentenced to prison—is related to his predispositions toward public defenders. Not only does past prison experience indicate an unfavorable encounter with criminal justice institutions (and, for our sample, typically in a past case in which the defendant was represented by a public defender), but it also taps the socialization experience of imprisonment itself. Time spent in unpleasant conditions with others likely to have been unsatisfied with their experience, and perhaps inclined to blame their lawyer for their plight, increases a defendant's sense of distrust of public defenders. In addition, the defendant's general level of trust of and feeling of closeness to government institutions has an effect upon his attitudes toward public defenders. We have seen above that large numbers of respondents are likely to think that most public defenders are on the state's side. This tendency to identify the public defender with "the state" or "the government" seems related to the association between one's general feelings about the government to evaluation of the public defender. Those who in general are more distrustful of government institutions are also most distrustful of the public defender.[15]

The final question we wish to deal with is whether there are differences across the three cities' in predispositions toward public defenders. We know that the three cities differ in their disposition patterns and the methods for providing counsel to indigents. Is there a difference across the cities in the expectations defendants bring to their encounters with public defenders?

Differences between the cities might be the product of a variety of factors. One city might be lower than another because defendants there differed on the dimensions that are related to attitudes toward public defenders. That is, Baltimore might be characterized by defendants with higher levels of alienation or with more extensive past records, and hence we would expect that our respondents there would tend to score lower on the public defender index. On the other hand, there might be some other factor—for example, some "cultural" difference between two cities that produced higher or lower scores on the index independent of alienation and past record. For example, if a particular public defender operation gains a very good or very poor reputation for representation in a city, this might lead to a more or less favorable set of expectations among defendants in that city, regardless of the levels of past record or alienation. Finally, perhaps the contrasting styles of providing counsel—reliance upon a public defender or assigned counsel system—may produce inter-city differences.

The answer seems to be that, among our respondents, there are not distinctive differences across the cities. In examining inter-city differences, we will use the mean score on the public defender index rather than the dichotomized version used above, for it permits more variation and hence seems more suitable for this purpose. The scale runs from 0 (least favorable toward public defenders) to a maximum of 8. In order to see whether there is a "city effect"—a difference across the cities that is not attributable to the variables we have already found associated with variations in public defender index scores—we may examine Table IV. The table suggests, first, that in an absolute sense the cities are very close, for the means overall are quite similar. Second, we see that there is no consistent variation across the cities. Sometimes Phoenix is higher, sometimes Detroit is, sometimes Baltimore is. If the cities were different as a result of some "city effect," we would expect variation that consistently cut across the dimensions of alienation and past record. Thus, we conclude that there is no particular difference across the cities in predispositions toward public defenders: in an absolute sense the differences are negligible; moreover, the pattern of relationships between predispositions, alienation, and past record seems to hold across all three cities.

Table IV-4: *Relationship of Public Defender Predisposition Scores to Alienation and Past Record Across the Three Cities*

	Phoenix	Detroit	Baltimore
Past Record Alienation	(x 4.6)	(x 4.5)	(x 4.2)
None			
Low	6.4 (18)	5.8 (79)	6.3 (6)
Medium	4.7 (12)	4.4 (13)	4.0 (4)
High	3.3 (11)	3.5 (11)	4.0 (6)
Jail or Less			
Low	5.3 (72)	6.2 (17)	5.2 (40)
Medium	4.6 (28)	4.5 (39)	4.7 (34)
High	4.8 (44)	3.7 (54)	4.1 (54)
Prison			
Low	3.8 (16)	5.6 (51)	4.0 (16)
Medium	3.4 (8)	3.1 (13)	3.9 (30)
High	2.2 (19)	2.8 (17)	3.5 (46)

Summary

Defendants bring to their encounters with criminal courts very different images of what private counsel and public defenders are like. Private counsel are believed to fit very closely with the adversary ideal—the caring, committed, effective advocate for the client's interests. Public defenders are viewed with much greater skepticism. On all dimensions—openness and responsiveness to the client, commitment to fighting hard, and concern with favorable outcomes—public defenders are viewed less favorably than are private lawyers. Distrust of the public defender is more pronounced, though, on the dimensions of openness, responsiveness, and commitment to fighting hard. Both in terms of differences from perceptions of private lawyers and of absolute levels, defendants do not believe that most public defenders desire unfavorable outcomes for clients.

The differences in perceptions of retained counsel and public defenders may be the product of a variety of factors—lack of choice in selection of a public defender, the institutional position of the public defender as an employee of the state, the lack of financial exchange between public defenders and their clients. The data presented suggest that the latter—the notion of financial exchange—is in fact quite important in explaining defendant skepticism about public defenders. We have argued that these factors operating to produce defendant skepticism are in large measure consistent with general societal norms. To the extent that they tend to explain suspicion of public defenders, then, such suspicion is not simply a form of scapegoating or a defensive reaction on the part of men in trouble. Rather, it is in large measure simply the function of their internalization of norms that are quite prevalent in the society at large.

The *degree* to which defendants are distrustful of public defenders appears to be related to two variables—past record and political alienation. There is a substantial amount of variation in levels of distrust, and it can in some measure be accounted for by these variables. The more experience a defendant has had with criminal courts, the more unfavorable his image of public defenders. Those who feel a generally lower level of trust in government institutions generally are more likely to be unfavorable. We do not find that defendants in the three cities are very different from one another on the dimension of predispositions toward public defenders. To the extent that we do find differences across the cities, they appear to be the products of differences in the attributes of the three defendant samples.

At a later point I will discuss the policy implications of the data presented here. At this point, a few issues may be raised. First, the data suggest that public defenders tend to operate at a substantial disadvantage. Their clients will often bring with them to the lawyer-client relationship quite deep-seated suspicion about whether "their" lawyer is going to be on "their" side. In large measure, this distrust simply exists and is beyond the control of the public defender, for it is the product of defendant norms and values, the institutional position of the public defender, and the past experiences of the defendant. However, to the extent that this analysis enables us to suggest the sources of such suspicion, it may also suggest areas in which it may be dealt with. For example, the institutional position of the public defender is fixed—he or she will be paid by the state and not by the client. But to the extent that this fact tends to produce defendant distrust, it may be ameliorated, although not eliminated, by a recognition that the distrust is not only real, but may have its roots in general societal norms, not simply in the anger or distrustfulness of a person who finds himself in trouble. Thus, a recognition of the distrust and a discussion of the role of the public defender in the criminal justice system may be of use in clearing the air and producing a more cooperative relationship between lawyer and client. Finally, the data suggest that the degree of suspicion and even hostility is related to certain defendant attributes. It suggests that certain kinds of defendants are likely to be substantially more suspicious than are others. It may, therefore, be useful in alerting the public defenders to which types of clients need to be dealt with in different ways. I shall return in later sections to the policy implications of the data. At this stage, I simply wish to point out that the analysis is aimed at and attempts to deal with more than simply abstract analysis of what produces defendant attitudes, but also at what implications this analysis may have for improving lawyer-client relations.

V. PREDISPOSITIONS TOWARDS PROSECUTORS AND JUDGES

I wish now to turn to the two other major participants in the criminal court system—judges and prosecutors. As with defense attorneys, I want to both describe the nature of the predispositions towards these two participants that defendants bring with them and also to explore the factors that are associated with these views.

We may begin simply by examining responses to a series of items asking what most prosecutors and judges are like, administered at the first interview. We will focus upon items of similar content that were asked in reference both to judges and prosecutors, so we may see the different images of the two participants that defendants bring:[1]

The differences are sharp and striking. On items dealing with the openness of judges and prosecutors to hearing the defendant's side of the case, their goals in the process, and their posture towards possible outcomes in the case, judges are viewed as much more favorable to the defendant than are prosecutors. In many ways, the views of judges seem close to the adversary ideal. Substantial majorities endorse the view of the judge as a relatively even-handed arbitor, not committed to railroading defendants, but to listening to them and attempting to reach some just outcome. To be sure, there are substantial numbers—sometimes a bit more than a third—who doubt these propositions, but given the nature of the population, the responses seem to be relatively favorable towards the activities of most judges.

Table V-1: *Defendant Predispositions Towards Prosecutors and Judges (% agree)*

Most	Prosecutors	Judges
Listen to all sides in a case	34%	74%
Are honest with defendants and their lawyers	43%	77%
Do not care more about getting cases over with than about doing justice	28%	68%
Are not out to get defendants	19%	62%
Do not want to see all defendants punished as heavily as possible	28%	59%

(N = approximately 812)

Attitudes toward prosecutors stand in sharp contrast. On all dimensions, not only is the prosecutor viewed as less open and even-handed than the judge, but on none does a majority of respondents give the prosecutor a favorable rating. Prosecutors are seen as agents bent upon convicting and punishing defendants. In some ways this is not surprising, for this is, in popular images, the prosecutor's job. These responses do not, I believe, reflect particular hostility towards prosecutors. Rather, they reflect a view that the prosecutor is a person whose job consists of attempting to obtain unfavorable outcomes for defendants.[2] On the dimension of honesty, the prosecutor fares best, though more than half of the respondents do not believe that prosecutors are honest with defendants. In any event, the prosecutor is surely viewed as in some sense the enemy of defendants' interest.

Although we lack a control group, most defendants would seem to be reporting, for the judge at least, views consistent with those that most citizens learn from general socialization processes and might report if the questionnaire were administered to them. It might be argued that our findings are implausible, that most criminal defendants must know "better" about judges and must be more cynical than these data suggest. We have no way of evaluating such a suggestion, except to note that, as indicated below, increasing criminal history and political alienation are related to views about judges; hence it does not appear to be the case that the responses are totally the product of either feigned naivete or of telling us what the respondents think we want to hear.

It may be that there is some of this in their responses, but it may equally be that the general

socialization processes are strong enough that even those in trouble cling to a positive image of judges. It is also possible that the respondents are engaging in some wishful thinking. Knowing that they will likely have shortly to appear before a judge, they may be inclined to express a rather rosy view of what judges are like, in hopes that the judge will be helpful to them either in the specific case or in some more general fashion.[3] Whatever is behind these views, the data indicate that respondents do bring to their encounters with criminal courts rather favorable images of what judges are like and rather negative views of the role played by the prosecutor (negative, at least, from the perspective of a criminal defendant).

The majority of respondents not only believe that judges are relatitvely even-handed, but also that they are highly influential in the dispositional process. (See Table V-2). The respondents clearly differentiate the decision about conviction from that about sentence. The judge is viewed as most influential at both stages, but the prosecutor is more often accorded the most influential role at the conviction stage than at the sentence stage. There is not a great deal of inter-city variation, but we do see that in the city with the most formalized plea-bargaining system—Detroit—the importance of the prosecutor at the conviction stage is more strongly emphasized. In my previous work, done in Connecticut, I reported quite different findings—a view that the judge was perceived as being substantially less influential than the prosecutor.[4] The data presented here suggest that this view does not characterize these three cities. In Connecticut, bargaining over sentences was common, and the prosecutor typically made a recommendation to the judge about sentence and the judge commonly accepted the recommendation. In the three cities under study here, the bargaining typically centers over charge, not sentence, and openly made sentence recommendations are not frequent. This may account for the fact that prosecutors are generally thought to have relatively little influence over the sentencing process.

In sum, the defendants seem to bring rather favorable views of the judge to their encounters, and a view of the prosecutor as an agent committed to obtaining unfavorable outcomes from the defendant's perspective. The judge is viewed as not only a relatively benign participant, but also an influential one.

Given these overall predispositions, we may now turn to exploring the sources of variation within them. Are defendants' beliefs about prosecutors and judges related to other beliefs or past experience? We shall first look at prosecutors and then at judges.

A. Predispositions Towards Prosecutors

We begin with hypotheses similar to those for defense attorneys. We predict that blacks, those with more extensive past criminal records, and those who were more alienated from governmental institutions in general will be less favorably disposed towards prosecutors. Using a summated index comprised of six items dealing with prosecutors[5] which we dichotomize at the median into high and low, we first discover that the simple two-way relationships appear to be correct.[6]

We then must test to see whether all three make an independent contribution to attitudes toward prosecutors. The format of the analysis is the same as was used for public defenders (see Table V-3).

Once more, we can observe the overall effect of all three variables by comparing the upper left cells (those we would expect to score highest, for they are low on alienation and past record) with the lower right cells (whom we would expect to score lowest), and we discover a difference on the order of 60%. If we look down the columns, we see the effect of past record and observe that as it in-

Table V-2: *Defendant Perception of Influence in Dispositional Process*

Who is most important in determining . . .

	Whether defendant is convicted or not				What sentence the defendant receives			
	All	Phoenix	Detroit	Baltimore	All	Phoenix	Detroit	Baltimore
Judge	43%	43%	38%	48%	72%	68%	75%	72%
Prosecutor	38%	36%	51%	28%	20%	25%	17%	19%
Defense Lawyer	18%	21%	10%	23%	8%	8%	7%	8%
	99%	100%	99%	99%	100%	101%	99%	99%
	(812)	(260)	(286)	(266)	(812)	(260)	(286)	(266)

Table V-3: *Relationship of Predispositions Towards Prosecutors to Alienation, Race, and Past Record*[1]

Alienation	Low		Medium		High	
Race	White	Black	White	Black	White	Black
Past Record						
None	86% (16)	81% (21)	77% (56)	65% (81)	60% (15)	62% (26)
Jail or less	57% (7)	62% (21)	62% (26)	58% (71)	60% (10)	37% (43)
Prison	64% (11)	47% (19)	41% (44)	28% (109)	12% (16)	26% (77)
						(669)

[1] Each cell entry comprises percentage of respondents scoring high on the prosecutor index.

creases, the proportion scoring high on the prosecutor index tends to fall.[7] Looking across the rows, comparing whites with whites and blacks with blacks, we see the effects of alienation and see that as alienation increases, favorable evaluations of the prosecutor become less favorable.[8] When we examine the effects of race, we do not observe consistent differences.[9] Sometimes whites score higher than blacks at given levels of alienation and past record (e.g., lower left hand cell, with respondents who have been to prison but have low levels of alienation), but often the cells are ties or close to ties, and in some instances blacks score higher than whites. Thus, we conclude that race does not make a difference in evaluations of prosecutors when the effects of alienation and past record are removed. We can thus reconstruct the table, leaving out the effects of race:

Table V-4: *Relationship of Predispositions Toward Prosecutors to Alienation and Past Record*

Alienation	Low	Medium	High
Past Record			
None	84% (37)	61% (28)	53% (30)
Jail or less	70% (137)	59% (97)	32% (153)
Prison	61% (41)	42% (53)	24% (93)
			(669)

We see that both exercise an independent effect. Alienation appears to be slightly more strongly related, for the average difference from low to high is around 18%, while the average difference for past record is about 12%. Thus, we conclude that a defendant's predispositions towards prosecutors are influenced by the amount of past and unfavorable experience with criminal justice institutions and the degree to which the individual feels a general sense of estrangement from government institutions.

Finally we may briefly check to see whether the cities are different on the dimension of predisposition toward prosecutors.

Once more, we do not observe any city effect. The overall means are quite close to one another; moreover, across our categories of alienation and past record, there is no consistent pattern that differentiates one city from another. We conclude that the cities are basically the same in terms of the predispositions towards prosecutors that defendants bring, and that the small differences are artifacts in differences of levels of alienation and past record across the three cities.

B. Predispositions towards judges

When we examine the effect of the three independent variables upon predispositions toward judges, a similar pattern appears.[11] All are related in the expected directions when we look at the two-way relationships with JDGSCORE,[12] but when we look

Table V-5: *Relationship of Prosecutor Predisposition Scores to Alienation and Past Record*

Past Record	Phoenix (x 4.6)	Detroit (x 4.5)	Baltimore (x 4.2)
Alienation			
None			
Low	6.4 (18)	5.8 (79)	6.3 (6)
Medium	4.7 (12)	4.4 (13)	4.0 (4)
High	3.3 (11)	3.5 (11)	4.0 (6)
Jail or Less			
Low	5.3 (72)	6.2 (17)	5.2 (40)
Medium	4.6 (28)	4.5 (39)	4.7 (34)
High	4.8 (44)	3.7 (54)	4.1 (54)
Prison			
Low	3.8 (16)	5.6 (51)	4.0 (16)
Medium	3.4 (8)	3.1 (13)	3.9 (30)
High	2.2 (19)	2.8 (17)	3.5 (46)

Table V-6: *Relationship of Predispositions Toward Judges to Alienation, Race, and Past Record*[1]

Alienation	Low		Medium		High	
Race	White	Black	White	Black	White	Black
Past Record						
None	87% (15)	73% (22)	88% (8)	52% (21)	44% (9)	59% (17)
Jail or less	70% (56)	72% (80)	80% (25)	59% (75)	52% (42)	49% (109)
Prison	71% (14)	69% (26)	46% (11)	52% (44)	25% (16)	40% (68)
						(658)

[1] Each cell entry is the percentage of respondents scoring high on the judge index.

at the effects of all three at once, only alienation and past record appear to exercise an independent effect. The effect of alienation is clearly present;[13] past record has a less consistent effect;[14] and race does not appear to have a consistent effect on attitudes toward judges.[15] If we eliminate the effects of race from the table, we get the results shown in Table V-7. We see that the effects of alienation and past record are both present, though past record appears less consistent.[16] Thus, as with prosecutors, two variables seem associated with predispositions toward judges: the degree of past criminal record (in particular whether or not a respondent has no past record or has been sentenced to prison) and the general level of trust in governmental institutions.

Finally, we may examine to see whether there appears to be differences in predispositions towards judges across the three cities. (See Table V-8.) Here we do see some evidence that there are differences across the cities. First, Baltimore's mean overall score is somewhat lower than Phoenix and Detroit. In addition, if we observe the scores in Baltimore across categories of alienation and past record, we see that Baltimore is consistently the lowest of the three cities. This indicates that the lower overall score in Baltimore may not be a product of a different mix of levels of alienation and past record there. Although there is a fair amount of disorder in the tables, in all three cities the basic pattern of the effects of alienation and past record still emerges. If there is a "city effect," this imples that something is going on in Baltimore that leads defendants to have less favorable predispositions towards judges, that operates independently of the effects of alienation and past record.

Table V-7: *Relationship of Predispositions Toward Judges to Alienation and Past Record*[1]

Alienation	Low	Medium	High
Past Record			
None	79% (37)	62% (29)	56% (26)
Jail or less	71% (136)	64% (100)	50% (150)
Prison	70% (40)	51% (55)	36% (84)
			(657)

[1] Each cell entry is the percentage of respondents scoring high on the judge index.

Table V-8: *Relationship of Judge Predisposition Scores to Alienation and Past Record Across the Three Cities*

	Phoenix (x 4.5)	Detroit (x 4.7)	Baltimore (x 3.8)
Past Record Alienation			
None			
Low	5.3 (18)	.9 (18)	4.2 (6)
Medium	4.4 (13)	4.5 (15)	1.5 (4)
High	3.9 (12)	4.7 (11)	2.1 (7)
Jail or Less			
Low	4.8 (73)	1.5 (54)	4.6 (42)
Medium	5.0 (27)	5.0 (40)	2.1 (37)
High	4.3 (45)	4.2 (59)	1.8 (55)
Prison			
Low	4.9 (18)	5.3 (12)	4.3 (17)
Medium	3.2 (8)	4.8 (15)	1.8 (18)
High	2.8 (21)	3.6 (21)	2.2 (48)

At this point, we cannot say with great confidence what such a factor is. A rather speculative explanation may be tentatively offered, however. Baltimore is characterized by a somewhat harsher penalty structure than Phoenix or Detroit, at least for those defendants that are convicted. In addition, we shall see that sentence received is an important determinant of attitudes toward the specific judge encountered, and that such evaluations tend to be generalized to all judges. Moreover, Baltimore is the city in which the judge plays the most prominent role in the adjudicative process, for most cases are resolved by trials rather than pleas. Putting these together, it may be that the combination of harsh sentences in a system in which the judge is a salient figure contributes to a more negative image of judges in general. If this is correct, such a process must also be reflected in the street culture, for even those with no past experience in Baltimore tend to score somewhat low on the measure of predispositions toward judges (though the small number of cases in these cells makes the means rather unstable). This is, as I say, a somewhat speculative argument, but the data do suggest that the somewhat more negative attitudes towards judges that defendants bring with them to their court experiences are more than simply the product of the levels of alienation or past record found in Baltimore.

We have now completed our examination of predispositions toward judges and prosecutors. We have discovered that, in general, judges are viewed substantially more favorably than are prosecutors. We have argued that the variations in predispositions toward judges and prosecutors are related to two types of defendant characteristics—their past experience and levels of political alienation. This argument suggests that defendants do not bring a simple set of prejudices with them, but that their views of what these two participants in criminal courts are like reflect more deeply-rooted patterns of past behavior and attitude structures encompassing more than simply the criminal courts.

These predispositions are important for a variety of reasons. First, they give us some insight into the ways in which defendants tend to evaluate court personnel—both the levels of their trust or mistrust and the kinds of factors that are associated with such evaluations. In addition, these predispositions are presumably related to the defendant's evaluation of what happens to him in any particular case. There is, of course, a strong opportunity for self-fulfilling prophecies—the generalized beliefs can be a set of blinders which leads inexorably to a similar set of evaluations of the judge and prosecutor the defendant encounters in his next case. Shortly, we shall address this question and see the extent to which predispositions tend to affect specific evaluations. Finally, these predispositions are the base line from which we must measure any attitude change that occurs. If we wish to discover whether different kinds of events in the defendant's case are likely to lead him to change his attitudes toward what criminal court personnel are like, it is these predispositions that must be the starting point for any such analysis.

VI. DEFENDANT EVALUATIONS OF DEFENSE ATTORNEYS

What affects a defendant's evaluation of the performance of his attorney? The defendant's relationship with his attorney is, in many ways, the centerpiece of his interaction with the criminal courts. Not only can this relationship affect the nature and quality of the defense offered and hence the outcome of the case, but on an interpersonal level it is the most complex and intense. The lawyer—whether hired by the defendant or assigned by the court—is supposed to be the one member of the criminal court system who is unequivocally committed to the defendant's interests. The lawyer is, moreover, the one with whom the defendant spends the most time. Although interactions with attorneys may in many cases be relatively brief, they are substantially greater than those with the judge, prosecutor, or other court personnel. Whether client-lawyer relationships are fruitful and cooperative or hostile and unsatisfying can set the whole tone for the defendant's sense of his interaction with the courts.

We already have a number of clues that suggest how our respondents may respond to their attorneys. First, we know that they bring predispositions (which are, in many cases, in part the product of past direct experience) suggesting that private lawyers are superior to public defenders. We have seen that distrust of public defenders appears to center not on suspicion as to their ultimate goals vis-a-vis clients but upon what we have called "process" dimensions—how the lawyer responds to the client in interpersonal terms. To the extent that these predispositions serve as prisms through which the client views his lawyer, then, we would expect that public defenders would be viewed less favorably than retained counsel. We might also expect that various aspects of the process of interaction between lawyer and client might make a difference as well, for this is the area in which clients tend to be somewhat suspicious. Thus, how much time the lawyer spends with the client or whether the lawyer gives the client the sense that he or she is fighting hard may affect client evaluations.

Common sense (as well as some research) suggests that clients may respond more favorably to their specific attorneys than they do to the abstraction of "most" attorneys.[1] Because it is perhaps easier to be critical of abstractions than real people, because actual interaction sensitizes us to what people are like, because of some vague sense of the possibility of retribution that may operate when we judge actual people as opposed to abstractions, we might begin with the expectation that defendants will tend to be a good deal more favorable towards their actual public defenders than they are towards what "most" public defenders are like. An alternative, and less sanguine hypothesis, might suggest that the institutional position of the public defender actually carries the weight —that no matter what public defenders do, they will be viewed unfavorably (either in general or vis-a-vis private counsel) because they are employees of the state.

Thus, the client's interaction with his lawyer is an important aspect of his interaction with the criminal courts, and in this section we wish to explore what, if anything, appears to be related to such interactions. We may start by simply looking at the distribution of responses to a series of items dealing with client evaluations of their attorneys:

Table VI-1: *Client Evaluations of Their Lawyers (% saying yes)*

	Public Defender Clients	Private Lawyer Clients
Your lawyer . . .		
1. Told you the truth	70%	89%
2. Believed what you told him/her	56%	75%
3. Listened to what you wanted to do	69%	88%
4. Gave you good advice	66%	82%
5. Wanted you to plead not guilty	62%	78%
6. Fought hard for you	56%	75%
7. Did not care more about getting your case over with than about getting justice for you	45%	71%

	Public Defender Clients	Private Lawyer Clients
8. Did not want you to be convicted	73%	93%
9. Did not want you to be punished	76%	93%
10. Wanted to get the lightest possible sentence for you	82%	93%
	(N approx. 469)	(N approx. 130)
Would you say that your lawyer was . . .		
On your side	58%	81%
Somewhere in the middle between you and the state	17%	13%
On the state's side	25%	6%
	100% (467)	100% (132)

Defendant evaluations of specific retained lawyers continue to be higher than those of public defenders. Yet the margins of difference, compared with predispositions about the two types of attorneys, are substantially reduced. The levels of satisfaction with specific public defenders are substantially higher than the defendants' generalized views of what "most" public defenders are like. With the exception of the items dealing with the lawyer's interest in justice versus speed and fighting hard, substantial majorities of defendants gave responses favorable to their attorneys. Thus, although there is variation in the defendant's evaluation of their attorneys, the overall level of satisfaction with both types appears moderately high.

There is, I believe, a pattern in the levels of response to these items. It appears for both public defender and private lawyer clients, but the levels of satisfaction are, for all, higher for private lawyer clients. The last three items deal with the client's perception of the posture of the lawyer vis-a-vis outcome, and the proportion believing that the lawyer desired a favorable outcome is very high (on the average of ¾ for public defender clients and nine out of ten for private lawyer clients). The first four items deal with interactions between lawyer and client, and the proportions of respondents believing that the lawyer attempted to deal openly and honestly with the client are, again, quite high (about seven out of ten for public defender clients and eight or nine out of ten for private lawyer clients). The middle three items deal with the client's perception of the lawyer's posture toward the process of defense—fighting hard; wanting justice, not speed; wanting an adversary rather than a bargained outcome. Here, the proportions of respondents believing that their lawyer was concerned with fighting are somewhat lower. For private lawyer clients, nearly three quarters perceived their lawyer as wanting to fight; but for public defnder clients, large numbers—often close to half—did not believe their lawyer wanted to fight.

Before turning to the question of what factors appear to be related to a client's evaluation of his attorney's performance, two negative findings are worth reporting. First, there does not appear to be any difference between defendants' evaluations of assigned counsel versus public defenders. Although some data collection problems prevented us from determining the employment status of all lawyers defending indigent respondents, we were able to distinguish assigned counsel from defenders for about three quarters of our respondents. Of these, approximately 60% were represented by assigned counsel, and the remainder by employees of public defender organizations. In terms of their interactions with clients, the differences between the two types were not great—outcomes obtained, time spent with clients, and mode of disposition were virtually identical for the two types of attorneys. In terms of client evaluation of their lawyer, there was no difference.[2] Thus, the data do not support the view that indigent defendants tend to discriminate between the different types of attorneys—apparently the fact that both are paid by the state and not by the client leads to a general lumping of them into a single category as defendants see it. Thus, in subsequent analysis, we shall treat them as a single group.

The other preliminary finding—or non-finding—deals with the difference between so-called vertical and zone systems of public defender organizations. As noted at the outset, Baltimore has a zone system, with one set of public defenders representing clients up to the preliminary exam and another set taking over if the case is bound over to the felony court. Phoenix and Detroit are organized—in theory at least—on a vertical system, with the same attorney supposedly representing the defendant throughout the whole case. Several difficulties prevent us from saying anything with any confidence about the effects of these two systems.

The first is simply a problem with the data. Respondents were asked whether they had been repre-

sented by more than one attorney. The assumption to be made from the differing organizational systems is that public defender clients in Baltimore would be more likely to report multiple representation than those in the other cities. In fact, this did not turn out to be true. Rather, Baltimore respondents were somewhat less likely to report multiple representation.[3] It is difficult to make sense of this finding. The most plausible interpretation I can think of is that in Baltimore the preliminary exams are frequently not held—recall that the judge can refuse to hold the hearing and simply turn the case over to the felony court—and hence many respondents did not, in fact, have multiple representatition. In the other cities, despite their putative "vertical" systems, multiple representatition is not uncommon, for public defenders are often called upon to cover for one another as schedule conflicts arise. In any event, then, we cannot really test Baltimore respondents against those from the other two cities and see whether zone systems are different from vertical. Moreover, Baltimore has a large number of trials—which we shall shortly see favorably disposes clients toward their lawyers—and hence this contaminates any direct inter-city comparison. In fact, if we look across the three cities, controlling for the relevant variables, we do not find consistent differences in evaluations of public defenders.

In an attempt to get around the data problem, we tested to see whether respondents who had more than one attorney evaluated the lawyer who took part in the conclusion of their case differently from those who had single representation (regardless of city). When the relevant controls are introduced, no consistent differences appear. Thus, we cannot with these data make any particular assertions about the effects of zone versus vertical systems of organization for public defender offices. What inferential data there are suggest that it does not make much difference, though this conclusion must be guarded.

We now turn to the question of exploring what aspects of the defendant's experience appear to be related to the level of satisfaction with his attorney's performance. We begin with five hypotheses about factors that are likely to influence a defendant's evaluation of his lawyer's performance. First, we hypothesize that private lawyers are likely to be viewed more favorably than are public defenders, for the predispositions that defendants bring are likely to have an influence upon their evaluation of the specific attorney.

Second, we predict that predispositions will make a difference for public defender clients. Those with more favorable predispositions will, we hypothesize, evaluate their attorneys more favorably than those with a less favorable predisposition.

Third, we hypothesize that the severity of the outcome of the case will affect client evaluation. Although it is a crude measure of severity, I shall use the absolute level of outcome —dismissal/acquittal; conviction but not incarceration (to be called probation); and incarceration (a sentence to either a jail or prison term).[4]

Fourth, we suppose that those who have trials will be more favorable to their attorney than those who plead guilty. The basis for this prediction is the notion that the opportunity to see one's attorney fighting for the client in an adversary context is likely to produce higher levels of client satisfaction. The defendant who pleads guilty as a result of plea-bargaining typically never has such an opportunity. The bargain is struck between lawyer and prosecutor; the entering of the plea is a somewhat ritualistic occasion; even on sentencing day, when the lawyer does make an argument on behalf of the client, often the outcome is in little doubt, for a charge or sentence bargain has severely constrained the possible sentences that a defendant can receive.

Finally, we begin with the hypothesis that the amount of time spent with one's lawyer should affect client evaluation: specifically, the more time a client spends with his attorney, the more favorable should be his evaluation. Time with lawyer can mean a number of things: it can mean time spent preparing a defense that succeeds in producing a better outcome; it can mean providing the client with a sense that the lawyer is concerned about providing a good defense, regardless of whether such a defense succeeds or not; it can mean providing a client with a sense that the lawyer cares enough about the client to take the time to listen to his version of the case or to other aspects of his life that are of concern. Thus, time with attorney can tap both instrumental and affective dimensions of lawyer-client relationships.

These, then, are the factors that we predict will be associated with defendant evaluations of the performance of their attorney. It is important to keep in mind that they are not simple assertions. We are not simply saying that each is related to the defendant's evaluation of his attorney; rather, we are asserting that each exercises an effect upon defendant evaluations independent of the others. Thus, to the extent that, for example, mode of disposition is

related to sentence (those who went to trial received, in general, more severe sentences than those who pleaded guilty), to test the hypothesis about the effects of mode of disposition and sentence we must look at each while controlling for the other.

The measure of defendant evaluation of the lawyer's performance is based upon a summated scale of nine items dealing with the defendant's perception of his attorney.[5] We have dichotomized the scale to divide clients into two categories of approximately equal size, and call them low and high satisfaction.

One indication that the measure does tap a defendant's overall sense of satisfaction with the lawyer's service is that it is strongly related to a defendant's inclination to want to be represented by the same lawyer in future cases:

Table VI-2: *Relationship of Lawyer Satisfaction Measure With Desire to Be Represented By Lawyer in Future Cases*

	Lawyer Evaluation	
	Low	High
Want to be represented by same lawyer in future?		
No	80% (206)	13% (35)
Yes	20% (52)	87% (230)
	100% (258)	100% (265)

Those who scored high on the lawyer evaluation measure were very likely to say they would like to be represented by the lawyer again; those who scored low were likely to say they would not like to be represented. This relationship holds true both for public defender and private lawyer clients. Thus, not only do the items dealing with lawyer evaluation meet the criteria for a scale, but the dichotomized version is strongly related to another dimension that one would expect to measure client satisfaction—desire to be represented by the same attorney in future cases.

Now, we may turn to the factors that are related to a defendant's evaluation of the services provided by his lawyer. Time spent with lawyer is not related in our data either to mode of disposition or to sentence received. Thus, we shall begin by looking at the relationships of three of our variables to lawyer evaluation—sentence, mode of disposition, and type of attorney:

Table VI-3: *Relationship of Specific Lawyer Satisfaction to Type of Attorney, Sentence, and Mode of Disposition.*[1]

Type of Lawyer	Mode of Disposition	Sentence: None	Probation	Incarceration
Retained Lawyer	Dismissal	89% (37)		
	Trial	100% (b) (6)	75% (12)	70% (10)
	Plea	(a)	68% (31)	37% (19)
Public Defender	Dismissal	72% (101)		
	Trial	71% (b) (7)	59% (22)	38% (45)
	Plea	(a)	36% (134)	25% (96) (520)

[1] The cell entry comprises the percentage of respondents scoring high on the lawyer evaluation measure.

(a) In this and subsequent similar tables, these cells are by definition empty. The combination of a plea of guilty and a sentence of "none" is not logically possible.

(b) These cells comprise acquittals.

Several aspects of the table stand out. First, the differences between evaluations of private lawyers and public defenders are striking. With the exception of one cell (private lawyer clients who plead guilty and received a sentence of incarceration), a substantial majority of private lawyer clients tend to rate them high.[6] Public defender clients, on the other hand, tend to be less favorable; if the case resulted in a conviction, typically fewer than half and sometimes as few as a quarter rate their lawyer high on our measure of evaluation. Putting the matter more starkly, if we combine all of the private lawyer clients, we find that 72% of them rated their lawyer high (N = 115); among public defender clients, only 44% rated them high (N = 407).[7]

The second aspect of the table that stands out is that it confirms the prediction that client evaluations of their attorneys are sensitive both to the severity of the sentence received and to the mode of disposition. Looking across the rows of the table, we see that as sentence severity increases (from none to probation to incarceration), the proportion of clients rating their lawyers high diminishes. Although some of the cell sizes are rather small, this trend appears both across types of attorneys and across modes of dispo-

sition. The levels of approval are typically different from the two types of lawyers, but the trend is the same.[8]

Now we may examine the impact of mode disposition upon defendant evaluations. For the least "adversary" mode—dismissal—the levels of evaluation are quite high across both types of attorneys, for this mode of disposition is associated with a particular sentence (i.e., none). If we set aside the dismissals for a moment and examine the two right-hand columns, we see the differences between those who plead guilty and those who had trials. The consistent pattern is that those who had trials tend to score higher than those who plead guilty, regardless of the sentence received. Once more, the levels of approval vary between private lawyer and public defender clients, but the trend exists for both types of clients.[9]

Thus, so far, we have established three trends in client evaluations of the performance of their attorney: first, that private lawyers are evaluated more favorably; second, that regardless of type of attorney or mode of disposition, the less severe the sentence the more favorable the evaluation; third, an adversary mode of disposition for those convicted is associated with higher evaluations of the lawyer, regardless of type of attorney or sentence received. Before we turn to the next issue, we may note one further point. If a client receives no penalty, he is likely to evaluate his lawyer favorably, regardless of type of attorney. Thus, as our data are coded, if a defendant receives a dismissal or an acquittal (the column called "none"), he is likely to evaluate his lawyer favorably. There are some differences between the two types of lawyers—again private lawyers score somewhat higher—but the levels of approval for public defender clients in this category are high (71% who received no penalty rate their lawyers high).

We have now dealt with the effects of sentence received and mode of disposition on lawyer evaluation. Now we may turn to the question of why private lawyer clients appear more satisfied than those who had public defenders. As indicated above, seven out of ten private lawyer clients rated high, while only four out of ten public defender clients scored high. One hypothesis to explain this centers around the outcomes obtained by the two types of attorneys. That is to say, perhaps private lawyers are rated so much more favorably because they obtain better outcomes for their clients. As Table VI-4 indicates, this is not an adequate explanation.

On its face, the striking thing about this table is the indication that private lawyers do not obtain substantially more favorable outcomes for their clients. Although their clients do get off entirely a bit more and are somewhat less likely to receive incarceration, the differences are not great. The findings here are somewhat contrary to the common wisdom. It is often said that in absolute terms private lawyer clients are likely to get somewhat more favorable outcomes, but that when such factors as past record, charge, and race are controlled, the two types of attorneys do about the same, for public defenders have a disproportionate number of clients for whom one would expect less favorable results.[10]

One possibility is that in this sample, the usual pattern is reversed—that our private lawyer clients have characteristics (e.g., more serious charge, more extensive past records) that would lead to the expectation that they would receive harsher sentences, and hence the overall rather minor differences between outcomes for the two groups really masks substantially superior outcomes for private lawyers. But it appears safe to assert that even when we control for past record or charge, the very large difference in evaluation of the performance of public defenders and private lawyers by their clients is not likely a product of the magnitude of more favorable outcomes obtained for their clients.[11]

Table VI-4 thus suggests two facts. First, in our sample, public defender clients do about as well as do private lawyer clients. In fact, to the extent that they are poor, enjoy less status and credibility, and hence one would "expect" less favorable outcomes, those represented by public defenders do very well indeed. If one is poor and the expense associated with a private lawyer is relatively great, the payoffs in terms of outcome of the case associated with the expense are somewhat questionable. From the perspective of a public defender's office, the claim that

Table VI-4: *Outcomes Received by Private Lawyer and Public Defender Clients*

Type of Attorney	Sentence			
	None	Proba-tion	Incarcera-tion	
Public Defender	31%	33%	37%	100% (417)
Retained Lawyer	39%	35%	27%	100% (132)
				(549)

they provide as good legal services (in terms of outcome, at least) as that provided by private counsel is surely not contradicted by the data here.

The second fact that Table VI-4 suggests is that the large difference in evaluation of private lawyer and public defender performance made by the clients does not appear to be the product of more favorable outcomes achieved by private lawyers. The source of satisfaction or dissatisfaction with attorneys does not appear to lie in greatly different outcomes achieved by each.[12]

What, then, does account for the more favorable evaluations of private lawyers? The answer, to some extent at least, seems to lie in the amount of time spent with the client. First, let us look at the amount of time spent with clients by the two types of attorneys:

Table VI-5: *Time Spent With Clients by Public Defenders and Private Lawyers*

	Less than 10 minutes	10 to 29 minutes	½ to 3 hours	more than 3 hours	
Public Defender	27%	32%	27%	14%	100% (463)
Retained Counsel	5%	16%	32%	47%	100% (132)
					(595)

Table VI-5 indicates that private lawyers are substantially likely to have spent extensive periods of time with their clients.[13] It is also true that not all public defenders spend but a few minutes with their clients. Although about a quarter were reported to have spent less than ten minutes, they are arrayed across the time dimension fairly evenly. It is hard to evaluate how much time is "enough," for such a judgment presumably depends upon how complicated the case is, how much of defense preparation requires gathering information or talking strategy with the client, etc. Moreover, many public defender offices are specialized, with investigators or paralegal personnel taking over the function of initial client contact, gathering of background information, etc. Thus, client-lawyer contact is reduced as a result of a decision that the preparation of the defendant's case is more efficiently done with a relative minimum of lawyer-client interaction. Most private lawyers, on the other hand, do not employ such paralegal personnel, but rather meet with the client to gather basic information. Thus, the variable used here does not really tap the amount of time spent by the "firm" on case preparation, talking to clients, etc., but rather the amount of face-to-face contact that occurs.

Given these differences, does the amount of face-to-face interaction affect client evaluations of their attorneys? The answer appears to clearly be yes. Table VI-6 presents the relationship between amount of time spent with client and client rating of attorney performance:

Table VI-6: *Relationship of Specific Lawyer Evaluation to Type of Lawyer and Time Spent With Lawyer* [1]

	Less than 10 minutes	10 to 29 minutes	½ to 3 hours	More than 3 hours
Public Defender	34% (103)	36% (129)	56% (111)	67% (60)
Retained Lawyer	50% (6)	88% (16)	63% (38)	76% (55)
				(518)

[1] Each cell entry comprises the percentage of respondents scoring high on the lawyer evaluation index.

Although some of the cell sizes are very small, with one exception the relationship between increasing time spent with attorney and increasing client satisfaction appears to hold for both types of attorneys. Recall that time with lawyer is not related either to sentence received nor to mode of disposition. Thus, the increasing time does not appear to produce more favorable outcomes; rather, it contributes to a sense that the attorney is concerned with the client and his case. Such face-to-face contact contributes to a more favorable view, regardless of outcome or mode of disposition.

Now we may return to our initial question. Why do most defendants with private counsel appear to evaluate their lawyers substantially more favorably than do those with public defenders? This difference does not appear to be the product of more favorable outcomes or of mode of disposition. We have indicated that private lawyers tend to spend more time in face-to-face contact with their clients. Does this fact-to-face contact account for the higher evaluations clients make of private lawyers? The data suggest that they do. In examining this question, we shall consider only those clients who were convicted, for if a client receives a dismissal or acquittal, he is likely to be favorable towards his attorney, regardless of outcome and mode of disposition. Al-

though there remains a difference between private lawyers and public defenders, more than 70% of public defender clients evaluate their lawyers favorably if they were dismissed or acquitted.

Now let us examine the differences between evaluations of private lawyers and public defenders when the amount of time spent with the client is controlled for. Because we saw in Table VI–6 that there is little difference for public defender clients between those who spent less than ten minutes and those who spent eleven to thirty minutes, and because the cell sizes are so small, we shall collapse them into a single category of less than one-half hour:

Table VI-7: *Relationship of Specific Lawyer Evaluation to Time Spent With Lawyer for Convicted Public Defender and Private Lawyer Clients*[1]

	Less than ½ hour	½ to 3 hours	More than 3 hours	
Public Defender	24%	41%	59%	
	(168)	(75)	(39)	
Retained Counsel	60%	44%	69%	
	(10)	(23)	(35)	
				(350)

[1] Each cell entry is the proportion of respondents scoring high on the lawyer evaluation measure.

The table indicates that the basic relationship between time spent with lawyer and lawyer evaluation remains. The one exception is the lower left-hand cell (private lawyer clients who spent less than ½ hour with their attorneys), but we notice that the cell size is small—a change of one respondent would produce a change of 10% in the cell entry. The second thing that stands out in the table is that, with the exception of the cell with the fewest cases, the differences between private lawyer and public defender clients are greately reduced. We began this discussion with the discovery that there was a difference of 28% between the ratings of private lawyer and public defender clients. We have seen that this difference cannot be accounted for by the outcome of the case or by the mode of disposition. Yet if we control for the amount of time spent with clients, this difference is sharply diminished. This suggests that the difference in evaluations between public defender and private lawyer clients is, to a significant extent, a product of the fact that private lawyers spend more time in face-to-face contact with their clients. The higher ratings for private lawyers are not basically the product of better sentences or more trials; they are related to the fact that private lawyers devote more time to face-to-face client contact. To assert the proposition one final way, the data tend to argue that the degree to which public defenders suffer in terms of client evaluation relative to private lawyers is not simply the product of some generalized client mistrust of public defenders or of their institutional position as employees of the state. Rather, it is related to the amount of time public defenders choose or are able to spend in direct contact with their clients.

We have thus far discussed the relationships between lawyer evaluation, time with lawyer, sentence, mode of disposition, and type of lawyer. In dealing with public defenders, there remains one variable to be considered—the respondent's predisposition towards public defenders.[14] The respondents bring to their particular encounter with the courts a set of beliefs about what most public defenders are like. We wish therefore to consider how such a predisposition affects their evaluation of the particular public defender by whom they are represented. The simple relationship is as follows:

Table VI-8: *Relationship of Predisposition Towards Public Defenders and Evaluation of Specific Public Defender Encountered*

	Predisposition		
	Low	High	
Evaluation of specific Public Defender			
Low	64%	50%	
High	36%	50%	
	100%	100%	
	(168)	(199)	(367)

The relationship is not strong, but there is a tendency for those with negative predispositions to be more likely to rate public defenders lower than those who began with favorable predispositions.

Does predisposition make a difference when we control for other variables that are related to defendant evaluations of their attorney? When we examine the relationships among lawyer satisfaction, predisposition, mode of disposition, sentence, and time with lawyer, we discover, first, that predisposition and sentence are related. The explanation for this relationship is not clear,[15] but it has implications for our analysis of the relationship of predisposition and

lawyer evaluation. If we control for predisposition, there is no relationship between sentence received and defendant evaluations of their public defenders, at least for those who are convicted.[16] Thus, we can test the effects of predisposition and compare it to the other two factors that are related to lawyer evaluation—mode of disposition and time with lawyer—in the following table.[17]

Table VI-9: *Relationship of Specific Lawyer Evaluation to Predisposition Towards Public Defenders, Mode of Disposition, and Time With Lawyer (Public Defender Clients)*[1]

	Time with Lawyer					
	High			Low		
Mode of Disposition	Dismissal	Trial	Plea	Dismissal	Trial	Plea
Predisposition						
High	86% (21)	67% (12)	54% (55)	83% (23)	39% (23)	26% (62)
Low	67% (18)	50% (16)	28% (32)	57% (28)	43% (14)	17% (58)
						(362)

[1] Each cell entry comprises the percentage of respondents scoring high on the lawyer evaluation index.

If we look across the rows, we seek the effects of mode of disposition upon evaluations of public defenders. The differences we have seen before hold up (dismissal higher than trial or plea, trial higher than plea) both for high and low time spent with lawyer and for the two levels of predisposition. If we compare the two entries in each column, we see the effect of predisposition—those who are favorably disposed are consistently higher than those who are negatively predisposed.[18] Finally, if we look at the right and left halves of the table, we can see the effects of time —the levels of approval on the left are consistently higher than those on the right, indicating that respondents who spent more time with their public defenders tend to be more likely to rate their specific public defender favorably than those who spent little time. Thus, the three factors that independently contribute to the level of evaluation for public defender clients are time, mode of disposition, and predisposition.

To summarize the argument thus far, the data support the propositions that client evaluations of the performance of their attorneys are related to the sentence received, to the mode of disposition, and to the amount of time spent with the lawyer (and, for public defender clients, to the defendant's predisposition). Private lawyers are consistently rated more favorably than are public defenders, but this relationship appears to be in substantial measure a function of the amount of time the lawyer spends with his or her client.

* * * * *

The findings have important implications for lawyear-client relations. The impact of sentence upon lawyer evaluation merits little discussion. Assuming that attorneys, whether privately retained or assigned to defend indigents, do their best to obtain the most favorable outcomes for their clients—the only reasonable assumption to begin with—the fact that the client will be more satisfied if he gets a lenient sentence is of no particular importance, except to note that the expected relationship does appear in the data gathered. The fact that mode of disposition contributes to client evaluations is more significant. The data suggest that a non-adversary disposition is likely to produce a less favorable evaluation. Clearly this does not argue that adversary dispositions are in most or all cases to be preferred. The advantages of a plea are often great, both for the melioration of sentence and for the relative economy of a plea over a trial. But one of the costs associated with a plea is that of reducing substantially the opportunity for the client to see his lawyer "acting like a lawyer"—that is, advocating the client's interest in a public context. To the extent, then, that defense strategy dictates reducing such occasions—e.g., waiving a preliminary hearing, pleading guilty rather than having a trial—the impact of this upon client attitudes ought to be considered. For example, to the extent that such occasions are diminished or eliminated, they might well be the subject of discussion with the client, so that he is made aware both of the reasons for the choice and given a chance to reflect upon the fact that waiving a hearing or copping a plea is really in his interest. Moreover, to the extent that the defendant can participate in or be made aware of the degree to which the attorney actually argues on his behalf even in a bargaining context—for example, permitting the client to be present at plea-bargaining sessions or giving the client a clear account of what happened—the arguments presented here suggest that there may be consequences for increasing the confidence of the client that his attorney has actually done a satisfactory job.

Finally, we may briefly discuss the impact of time spent with the attorney upon client evaluations. The data suggest that such time does have a payoff in

terms of client satisfaction. The data also suggest that this payoff revolves largely around the affective dimension of client evaluation, not around obtaining more favorable outcomes. If we define an adequate legal defense strictly in terms of obtaining the most favorable outcome possible for the client, then it might be argued that time spent with client is not important. But if we enlarge the concept of what is an adequate legal defense to encompass providing the client not only "justice" in terms of outcome but also providing him a sense that he has had adequate legal representation, then time spent with the client does appear to make a difference.

Distrust of public defenders—both relative to private lawyers and also in terms of the extent to which a particular client favorably or unfavorably evaluates a particular public defender—is related to the amount of time the lawyer spends with the client. Thus, the decision to spend less time—because the public defender is busy, because the case seems uncomplicated, because a public defender office chooses to minimize such time by use of investigators or paralegal personnel—has costs in terms of diminishing the client's sense that he has been adequately represented. As with mode of disposition, perhaps these costs are outweighed by the benefits. Such a decision has to be made by public defender offices themselves. But the argument here suggests that such decisions ought not be made on the assumption that clients are distrustful and dissatisfied with public defenders, regardless of what they do. "What they do" makes a difference. If the ultimate choice is to minimize client-lawyer contact, then this decision ought to be explained to the client. If paralegals and investigators are going to take over functions that the lawyer might perform—thus reducing the amount of direct contact yet not reducing the amount of time the public defender's office as a whole spends on a client's case—this might well be discussed with the client so that he does not think that the lack of contact reflects directly upon the amount of interest or concern his public defender has. Moreover, decisions about the amount of contact—in general and in specific cases—ought to be made with an awareness that such decisions have a potentially important impact upon one aspect of the quality of defense that public defenders are able to offer their clients.

VII. DEFENDANT EVALUATIONS OF SPECIFIC PROSECUTORS AND JUDGES

In this section, we shall examine the defendant's evaluations of the specific prosecutors and judges encountered in the course of their case.[1] As in the section dealing with the defendant's attorney, we shall both describe defendant evaluations and attempt to explore the factors related to such judgments.

We may begin by presenting the defendants' responses to items asking their views of the prosecutor and judge in their case. In Table VII-1, the upper half indicates defendant responses to those items of identical content dealing with both their judge and prosecutor, while the lower half indicates responses to items that are not similar in content.

As we have noted before, judging the absolute levels is difficult. Without a control group of non-defendants, the decision as to whether the proportion who have favorable or unfavorable beliefs toward judges or prosecutors is large or small depends in large measure upon what notions the reader brings to the data. What is clear from the upper half of the table, though, is that defendants appear to differentiate the judge from the prosecutor, just as their general predispositions about the two participants are different.[2] The judge is clearly viewed as a substantially more neutral and benign figure; the prosecutor is seen by large numbers of respondents as having desired outcomes unfavorable to the defendant's interest. The prosecutor encountered was generally viewed not as dishonest or uncaring, but as an individual largely committed to convicting and punishing the defendant.

If we examine the items that go together to form an index of evaluation of the specific judge and prosecutor encountered, the mean scores for the two participants are substantially different.[3] Both indices have a minimum of zero and a maximum of seven, with the higher score indicating more favorable evaluation. The mean for prosecutors is 3.1, while the mean score for judges is 4.7. Although there are some difficulties in doing so, we dichotomize the respondents at the median of each scale.[4]

Table VII-1: *Defendant Evaluations of Specific Prosecutors and Judges*

	Your Prosecutor (% agree)	Your Judge (% agree)
Was honest with you and your lawyer	64%	85%
Listened to all sides	47%	72%
Cared more about doing justice than about getting the case over with quickly	29%	55%
Was not out to get you	41%	73%
Did not want to punish you as heavily as possible	47%	77%
Paid careful attention to your case	59%	
Did not want to get a conviction in every case	27%	
Was unbiased and fair to both sides		70%
Tried hard to find out if you were guilty or innocent		52%
Was concerned about following the legal rules		82%
Wanted to do what was best for you		70%
	(N approx. 628)	(N approx. 628)

A. Defendants' Evaluation of the Prosecutor in Their Case

We now turn to the question of what factors affect a defendant's evaluation of the activities of the prosecutor he encounters in his case. We wish to discover which, if any, aspects of a defendant's case tend to be associated with his evaluation of the prosecutor—evaluation in terms of honesty, openness to the defendant's side, and commitment to goals that may involve unpleasant outcomes for the defendant. We are using the summated index made

up of seven items that has been dichotomized into groups called "high" and "low." We begin with the hypothesis that four factors will be associated with the defendant's evaluation of the prosecutor in his case: the predisposition the defendant brings about what most prosecutors are like; the sentence the defendant receives; the defendant's evaluation of the performance of his lawyer; and the mode of disposition of the case.

Specifically, we begin with the hypothesis that those who bring relatively negative views will evaluate the specific prosecutor encountered more negatively than those who come with a relatively positive predisposition, regardless of sentence, mode of disposition, or evaluation of lawyer. The prediction about the effect of sentence is equally straightforward—the harsher the sentence, the more likely it will be that defendants would evaluate their prosecutor unfavorably.

The hypothesis relating to the effect of lawyer evaluation upon prosecutor evaluation is based upon the notion that a defendant's evaluation of his lawyer may be crucial to his evaluation of most other aspects of the case. Because the lawyer is supposed to be the one individual who is on the defendant's side, those who felt that they had had adequate representation are hypothesized to score higher on their evaluation of other participants as well, including the prosecutor.

The prediction about the direction of the effect of mode of disposition is somewhat less clear. On the one hand, to the extent that defendants believe that trials are fairer ways of deciding cases, we might expect those that had trials to evaluate all participants more favorably than those who had pleas (we have already seen that trial is related to a more favorable evaluation of the defendant's lawyer). On the other hand, one might begin with the contrary hypothesis: to the extent that plea-bargaining meliorates the possible sentence, reduces uncertainty, or gives the defendant a sense that he has participated in the outcome, one might hypothesize that, in general, those who plead guilty will be more favorable to the participants than those who have trials.[5] Moreover, because the plea-bargaining process typically involves a "bargain" between the defense and the prosecutor, the satisfaction generated by a plea-bargain might be expected to be most strongly associated with the prosecutor.[6]

These, then, are the relationships we wish to explore. It should be noted that although they are straightforward, they are by no means self-evident. That is to say, we hypothesize that each of these factors will exercise an effect upon prosecutor evaluation, independent of the others. Thus, we must not simply look at the two-way relationship between each of our independent variables and prosecutor evaluation, but must look at each while controlling for the effect of the others.

We will begin by taking three of our variables and seeing their effect upon evaluation of the prosecutor —sentence, predispositions toward prosecutor, and mode of disposition. After examining this relationship, we will enter the effects of lawyer evaluation.[7] Table VII-2 presents the relationship among these three variables and evaluation of the performance of the prosecutor.

Looking at the upper and lower halves of the table, we observe the effects of predisposition. They are quite consistent—regardless of sentence or mode of disposition, those who began with a more favorable image of prosecutors tend to be more favorable to the particular prosecutor they encountered. We can also see that the effect of predisposition is mediated by sentence—as the sentence increases, the difference between those who are low and high tends to decrease. But the difference remains across all sentence categories, indicating that predisposition does have an effect, and that one's notion of what most

Table VII-2: *Relationship of Specific Prosecutor Evaluation to Predisposition Toward Most Prosecutors, Sentence, and Mode of Disposition* [1]

Predisposition Toward "Most" Prosecutors	Mode of Disposition	Sentence: None	Probation	Incarceration
High	Dismissal	76% (49)		
	Trial	67% (6)	75% (16)	50% (24)
	Plea	(a)	82% (79)	42% (48)
Low	Dismissal	34% (62)		
	Trial	25% (4)	50% (10)	29% (24)
	Plea	(a)	60% (47)	33% (48)
				(417)

[1] Each cell entry comprises the proportion of respondents scoring high on the specific prosecutor evaluation index.
(a) Empty by definition.

prosecutors are like has a substantial impact upon how a defendant evaluates the performance of the particular prosecutor he encountered.[8]

Next, we can examine the effects of sentence upon evaluation of the prosecutor. Those who received harsher sentences score lower, regardless of predisposition or mode of disposition. Those who received a sentence of "none" (either a dismissal or acquittal) rate the prosecutor in a somewhat peculiar fashion. For those with relatively negative predispositions, nearly two-thirds rate the prosecutor low, even though their cases were dropped; about three-fourths of those who had an initially favorable predisposition rate the prosecutor high. For those with an initially unfavorable view, what may be at work is that they tend to believe that the cases never should have been brought in the first place (and the dismissal or acquittal contributes to their view on this matter) and hence tend to blame the prosecutor for the fact that there was a case at all. Those who began with a favorable predisposition tend to rate the prosecutor at about the same level as those who received probation. Again, to speculate, perhaps what goes on here is that they are not inclined to be as suspicious of prosecutors at the outset, and hence rather than blame them for the case, they are more likely to credit them for the fact that the "unwarranted" charge was dropped. In any event, although the dismissals behave somewhat differently from the others, when we examine those who received probation or incarceration, we do see a rather substantial and consistent impact of sentence upon evaluation of the prosecutor.[9]

The effects of mode of disposition are more problematical. The differences in evaluations of prosecutors between those who had trials versus those who plead guilty are not consistent—sometimes those who plead out score higher, and sometimes those who had trials score higher.[10] We conclude that there is no relationship between mode of disposition and evaluations of the prosecutor. We began with two contradictory hypotheses about what the relationship might be and must conclude that the data support neither. Those who had trials and those who pled guilty do not appear to differ systematically in their evaluations of the prosecutor.

Now, let us turn to the last variable that we believe may be associated with evaluation of the prosecutor—the defendant's evaluation of the performance of his attorney. Here, and when we later discuss the relationship between lawyer and judge evaluation, the casual sequence is not clear. It might be that evaluation of lawyer and prosecutor are simply aspects of a single underlying evaluative dimension, that they are thus both in some sense the same thing rather than one being prior to or causing the other. Alternately, it might be that one "comes first"—e.g., that a defendant arrives at a judgment about his lawyer's performance and that this evaluation is then generalized to other participants as well. The data available only permit us to see whether the evaluations of different participants vary together—whether one goes the same direction as another—not which "comes first." My feeling is that since the lawyer is the person with whom the defendant has the greatest interaction and who is "supposed" to be on the defendant's side, it is plausible to suggest this is the key relationship and that in some sense it may be generalized to other relationships the defendant has. But, it must be noted, this is only a suggestion, not something demonstrated by the relationships reported below.

Table VII-3 presents the relationships between prosecutor evaluation, sentence received, predisposi-

Table VII-3: *Relationship of Specific Prosecutor Evaluation to Predisposition Toward Most Prosecutors, Sentence, and Evaluation of Lawyer* [1]

	Predisposition Toward "Most" Prosecutors					
		High			Low	
Sentence	None	Probation	Incar.	None	Probation	Incar.
Evaluation of Lawyer						
High	76% (37)	84% (45)	61% (23)	32% (37)	70% (20)	53% (15)
Low	60% (10)	79% (47)	37% (41)	47% (15)	54% (33)	27% (45) (406)

[1] Each cell entry comprises the proportion of respondents scoring high on the specific prosecutor evaluation index.

tion toward prosecutors, and evaluation of the defendant's lawyer. Looking at the effects of sentences, we see once more that those who received dismissals or acquittals (a sentence of "none") behave somewhat strangely vis-a-vis those who were convicted. They tend to score somewhat lower than those who received convictions but were not incarcerated. The discrepancy goes only to the effect of sentence on prosecutor evaluation—not to the effects of predispositions toward prosecutors or the effects of lawyer evaluation. If we examine the effect of sentence upon prosecutor evaluation using all three sentence categories, we have a very mixed relationship.[11] If we look at the effects of sentence upon those who were convicted, there is a strong and consistent relationship in the expected direction. Thus, for convicted defendants, the more harsh the sentence, the less favorable the evaluation of the prosecutor.

If we examine the effects of predisposition, we see that those with more positive predispositions tend to evaluate their prosecutor more favorably, regardless of sentence received or evaluation of their attorney.[12] Finally, we can also observe the relationship between evaluation of the prosecutor and of the defendant's attorney. With one exception, those who evaluate their lawyer more favorably also tend to evaluate the prosecutor more favorably.[13]

Thus, we can conclude that all three variables are related to evaluations of the prosecutor. If we focus upon defendants who received convictions, it appears that sentence is most strongly related (average difference 30%), evaluation of lawyer next (average difference 18%) and predisposition next (average difference 14%).

To sum up, we have suggested that three factors are related to the defendant's evaluation of the performance of the prosecutor. Two of them are relatively straightforward. Predispositions make a difference—the notions a defendant brings about what most prosecutors are like affect his evaluation of the particular prosecutor he encounters, independent of what actually happens in the case. In addition, one factor that falls under the rubric of "what actually happens in the case" is very important to prosecutor evaluation—the sentence received. In addition, the defendant's evaluation of the behavior of his attorney is related to his evaluation of the prosecutor. If the causal direction runs from lawyer evaluation to prosecutor evaluation, this further stresses the importance of the relationship between lawyer and defendant. It may not only be related to client satisfaction with his legal representation, but may also affect his notions of whether other participants have treated him fairly.

B. Factors Associated with Evaluations of Judges

We may now turn to the last major participant in the criminal court system, the judge. We have seen above that, in contrast to the prosecutor, judges seem to enjoy a good deal more confidence—in terms of the predispositions defendants bring and in terms of the specific evaluations they receive. Let us now examine in more detail the determinants of a defendant's evaluation of the particular judge he encountered.

We begin with hypotheses quite similar to those we began with in examining evaluations of the prosecutor: first, that predispositions will influence evaluations of the particular judge the defendant encounters; second, the more severe the sanction imposed, the less likely a defendant will be to evaluate the judge favorably; third, that a defendant's evaluation of the performance of his attorney will be related to his evaluation of the performance of the judge.

As in the case of prosecutors, the prediction about the effect of mode of disposition is somewhat unclear. On the one hand, the "participation" hypothesis has been advanced to suggest that those who plead guilty will, on a variety of dimensions, be more favorably disposed toward the criminal court process and its participants. One might hypothesize, for example, that those who plead guilty will appreciate the fact that the judge has permitted them to participate in the decisional process and hence be more inclined to rate the judge favorably. A contrary hypothesis would be that in plea-bargaining the judge is viewed as having abdicated his or her responsibility and hence is evaluated less favorably. Thus, we begin with the prediction that mode of disposition will be related to evaluation of the judge, but with some contrary ideas as to what the relationships will be.

As with prosecutors, our hypotheses indicate that each of the factors mentioned will be related to judge evaluation independent of the effects of the other factors. We shall proceed as before, beginning with an examination of the effects of sentence, predisposition, and mode of disposition upon evaluation of the judge. (See Table VII-4.)

If we examine the effects of sentences, we see that for convicted respondents, the relationship emerges clearly—regardless of mode of disposition or pre-

Table VII-4: *Relationship of Specific Judge Evaluation to Predisposition Toward Most Judges, Sentence, and Mode of Disposition* [1]

Predisposition Toward Most Judges		Sentence		
		None	Probation	Incarceration
	Mode of Disposition			
High	Dismissal	66% (90)		
	Trial	75% (4)	68% (19)	32% (25)
	Plea	(a)	65% (105)	43% (74)
Low	Dismissal	60% (55)		
	Trial	62% (8)	60% (19)	20% (39)
	Plea	(a)	48% (56)	18% (51) (545)

[1] Each cell entry comprises the percentage of respondents scoring high on the specific judge evaluation index.
(a) Empty by definition.

disposition, those who receive harsher sentences tend to evaluate the judge less favorably.[14] At the same time, with one exception, there is no difference between those who received probation and those who were released without conviction. This suggests that what basically matters for defendants—at least in terms of the effects of sentences and their evaluations of judges—is whether they leave the courthouse free (whether convicted or not) or whether they have to serve a period of incarceration.[15]

If we examine the upper and lower halves of Table VII-4, we see the effects of the defendant's predisposition upon evaluation of the judge. Those with a more favorable predisposition tend to rate their judge more favorably than those with less favorable predispositions.[16]

As in the case of defendant evaluations of prosecutors, the relationship between mode of disposition and evaluation of the judge is a very mixed bag. Thus, as with prosecutor evaluation, we conclude that mode of disposition is not related in any consistent fashion to defendant evaluations of judges encountered.[17]

Now let us examine the effects of our last variable, evaluation of the defendant's lawyer, upon evaluation of the judge. We shall drop mode of disposition from the model.[18] (See Table VII-5.)

Again, some anomalies appear for those who received dismissals or acquittals. Examining the effects of sentence upon evaluation of the judge, we find a consistent pattern for convicted defendants.[19] Looking at all, including those who were released without conviction, we find a somewhat less consistent pattern.[20] The effects of predisposition are much more pronounced for convicted defendants than if we include those who were released entirely.[21] Evaluation of one's lawyer is consistently related to evaluation of the judge.[22] If we focus for the moment upon convicted defendants, we see that with all three variables, a good deal of variation seems accounted for. In the upper left cell—high predisposition, probation, favorable evaluation of lawyer—92% of the respondents rated the judge favorably. In the lower right cell—low predisposition, incarceration, unfavorable evaluation of lawyer—only 9% evaluated their judge favorably.

Summary

We will conclude with some general observations about the evaluations that participants make of their

Table VII-5: *Relationship of Specific Judge Evaluation to Sentence, Predisposition Toward Most Judges, and Lawyer Evaluation* [1]

Sentence	Predisposition					
	High			Low		
	None	Probation	Incarceration	None	Probation	Incarceration
Lawyer Evaluation						
High	70% (60)	92% (49)	66% (32)	74% (35)	66% (29)	35% (20)
Low	30% (10)	47% (64)	23% (53)	47% (19)	42% (36)	9% (54) (461)

[1] Each cell comprises the percentage of respondents who scored high on the specific judge index.

prosecutors and judges. On the whole, our respondents tend to be more favorable to judges they encounter than to prosecutors. This may be, to some extent, simply the product of the role that predispositions play. For both participants, the defendant's predispositions are related to their evaluation of particular judges or prosecutors they encounter, and our respondents begin with much more favorable views of judges than prosecutors.

Second, as noted above, predispositions are important. Like most people, defendants bring with them to the specific experiences in life they encounter —in this instance a criminal proceeding—sets of beliefs about what the world is like. Although predispositions matter, the defendants do not seem to simply live out their fantasies when trying to understand what their specific judge or prosecutor was like. Events that occur in the context of the particular case are as, if not more, important than the predispositions they bring.

This brings us to the second factor that is related to evaluation of the judge and prosecutor—the outcome of the case. Not surprisingly, the sentence received is related to evaluation of the prosecutor and judge. This is not surprising because in the most basic sense, whether one's freedom is to be restricted and to what degree and for how long is the most important thing that happens in a defendant's case. The degree to which sentence is favorable or unfavorable is strongly related to the defendant's evaluation of the judge or prosecutor who is involved in his case.

Examination of the effect of sentence imposed upon defendant evaluations of various participants encountered, however, reveals somewhat different patterns for each. These differences may suggest something about the different expectations that defendants have toward different participants in the criminal court system. For judges, the effects of sentence have a distinct break between no-incarceration and incarceration; those who were dismissed or acquitted were not very different from those who received a conviction but no incarceration. Recall from the previous section that sentence has a somewhat different relationship with defendant evaluations of their attorneys. For lawyers, the pattern was much more linear—those who received dismissal/acquittal were more satisfied than those who received a conviction but no incarceration, and the latter were more satisfied than those who received a sentence involving incarceration. For prosecutors, we have a somewhat curvilinear relationship—those who were convicted but not incarcerated are most favorable, those dismissed or acquitted next, and those who are incarcerated least favorable.[23] This suggests that the "test" for a lawyer is the relative harshness of the outcome, across all three possibilities; for a judge it is whether the defendant has to suffer incarceration; for the prosecutor, the process appears more complex. As suggested above, to the extent that the prosecutor is viewed as "responsible" for the case, those who are dismissed may blame the prosecutor for pursuing a case that does not result in a conviction; those who are incarcerated may tend to "blame" the prosecutor; while those who get probation may tend to reward the prosecutor.

Thus, defendants may have somewhat different expectations for what is "good" or "satisfactory" performance by a lawyer, prosecutor, or judge. In terms of how they tend to evaluate the performance of each relative to the outcome of the case, they apply somewhat different standards.

The last variable considered is both more problematical and also somewhat more interesting. The defendant's evaluation of the performance of his attorney is consistently related to his evaluation of the judge and prosecutor, regardless of predispositions or sentence received. In Table VII-5, for example, we see in the right-hand column those defendants who we would expect to be most unfavorable to the judge encountered—those who came with negative predispositions and who received a sentence involving incarceration. Of those displeased with their attorney's performance, only one in ten evaluated the judge favorably; but of those who were relatively satisfied with their lawyer's performance (despite the fact that they had received a sentence involving incarceration), more than one in three evaluated the judge favorably. A similar pattern prevails for evaluations of the prosecutor. While the data cannot tell us whether the favorable evaluation of the lawyer "comes first," they do suggest that there is a consistent relationship between what a defendant thinks of his lawyer and what he thinks of the prosecutor and judge he encounters.

VIII. DEFENDANT EVALUATIONS OF THE FAIRNESS OF THEIR TREATMENT

In previous sections, we have discussed the factors that are related to defendant evaluations of and satisfaction with the performance of the attorney, prosecutor, and judge encountered in their case. In this section, I want to deal with a more generalized evaluation, the defendant's notion of whether he was treated "fairly." The concept of "fairness" is a somewhat amorphous one, for it has a variety of connotations, and the main task here will not be to "explain" what determines such defendant evaluations, but rather to explore what kinds of meaning the defendants tend to attach to this concept as they apply it to the experiences they have encountered.

Fairness has a variety of possible meanings. It can denote a notion of equity—treating those who have the same characteristics in a like manner. Thus, a defendant might feel that he had been treated fairly if the sentence he received was equivalent to those given to others who had committed the same crime and who had similar characteristics. Fairness also connotes something about the process by which the case is resolved. Fairness in a procedural sense might mean that the defendant's constitutional rights had been protected. In an interpersonal sense, it might mean that the process was one in which all sides were permitted to give their version of what happened, and in which the decision-maker (judge or jury) decided the case on the basis of relevant facts, not bias or prejudice against either side. Finally, fairness might mean something simply about the outcome of the case. I have suggested in previous work on defendant attitudes that some defendants do not appear so much concerned about fairness in relatively abstract terms (e.g., equity or procedural aspects) but rather tend to respond to questions about fairness on the basis simply of whether the outcome of the case was favorable or unfavorable in a more absolute sense—i.e., whether they were punished by imprisonment or released without confinement. What I wish to do here is to explore which, if any, of these notions of fairness seem to be applied by these defendants in evaluating the experience they have had in their particular case.

A number of items in the questionnaire dealt with the issues of concern here. The first, and simplest and crudest, was a straightforward item asking each respondent after his case was concluded: "All in all, do you feel that you were treated fairly or unfairly in your case?" Respondents who said that they had been treated unfairly were then asked an open-ended question: "In what ways were you treated unfairly?" Their responses were recorded verbatim and later coded into a number of categories. Another item, directed at all of those who had been convicted, involved what we will call here their "comparison level": "Compared with most people convicted of the same crime as you were, would you say that your sentence was . . . about the same as most people get, lighter than most people get, or heavier than most people get?" In addition, we asked all convicted respondents whether they felt that the sentence they received was "too light, too heavy, or about right," assessing not their comparison level but some more absolute notion of the defendant's evaluation of the appropriateness of his sentence.

First, let us examine the general distribution of responses to some of these items. (See Table VIII-1).

Since we do not have any baseline against which to compare these responses, interpretation of their general tendency depends in part upon the preconceptions one brings to analyzing the table. Moreover, as we shall see shortly, the responses are sensitive to events in the case, especially its outcome, so an overall evaluation without further information is difficult. I think it fair to say, though, that their responses do not appear to indicate a pervasive feeling of bitterness or sense of outrage at the treatment received. The majority are neither inclined to assert

Table VIII-1: *Defendant Evaluations of Their Treatment*

	Was defendant treated fairly?	Sentence received . . .	
Yes	60%	Too light	2%
		About right	53%
Nc	40%	Too heavy	45%
	100% (627)		100% (424)
Sentence received . . .			
Lighter than others	35%		
Same as others	36%		
Heavier than others	29%		
	100% (414)		

that they were treated outrageously in terms of the absolute outcome of the case nor in comparison with others who become involved with criminal courts. This does not mean, of course, that the responses necessarily suggest a great deal of satisfaction with the treatment received. But it surely does not comport with the image of the hardened criminal who attempts to justify his acts or plight by steadfastly maintaining either his innocence or the malevolence of law enforcement agencies intent upon mistreating unfortunate men. Rather, the overall response pattern suggests both a somewhat more measured judgment of the defendant's encounter with the courts. Moreover, there is clearly some complexity in the defendants' evaluation processes, for they are by no means unanimous.

Before beginning to explore in more detail the responses to these items, it is worth noting that they are related to the evaluations offered by defendants of the specific participants encountered. The inclination to say that one was, for example, fairly treated, is associated with a defendant's satisfaction with the performance of his attorney, the judge, and the prosecutor. This relationship lends added credence to the notion that our measures of evaluation of the performance of specific participants are tapping some generalized notion of satisfaction with the treatment accorded the defendant. We cannot assert that one's evaluation of the performance of the attorney or judge "produces" or "causes" a more general sense of satisfaction with treatment overall, for we are not in a position to establish which "came first." What we are dealing with are several dimensions of an overall process of evaluation of the satisfactoriness of the encounter with the courts.[1]

We can begin exploring what these general evaluation items mean by looking at the interrelationships of three of them:

Table VIII-2: *Interrelationships Among Three Measures of Defendant Evaluation of Their Treatment*

Overall Evaluation of Sentence	Treated Fairly (% saying (yes)	Comparison of Sentence	(% saying (yes)
Too light	3%	Lighter than others	45%
About Right	77%	Same as others	42%
Too Heavy	20%	Heavier than others	12%
	100% (414)		99% (414)

Overall Evaluation of Sentence	Comparison of Sentence: Lighter than others	Same as others	Heavier than others
Too Light	4%	1%	0%
Right	72%	63%	15%
Too Heavy	23%	36%	85%
	99% (145)	100% (147)	100% (120)

The relationship between fairness and overall evaluation of sentence suggests that they seem to measure very similar things. A convicted defendant's evaluation of the fairness of his treatment is strongly related to his evaluation of the particular sentence he has received. This is not to say that the defendant's notion of fairness is limited entirely to their evaluation of the sentence imposed, but to suggest that the two components of evaluation are tapping a very similar dimension.

The second two parts of the table suggest that the comparison level is importantly related to the defendant's evaluation of what has happened to him. Defendants who believe they have been treated more harshly than others are much more likely to believe they have been treated unfairly and that their sentence is excessive. Note that I am tacitly asserting a causal dimension to these evaluations, and that it is possible that I have the order wrong. That is, the assumption is that the defendant arrives at some evaluation of the relative severity of his sentence and that this then affects his notion of whether he has been treated fairly.[2] This assump-

tion may not be correct. Defendants may first arrive at some judgment about whether they have been treated fairly in an absolute sense and then may adjust their notions of their relative treatment to comport with this judgment (those, for example, who feel in general that they have been treated unfairly or sentenced too harshly may tend to interpret reality in such a way that they are also convinced that they have been singled out for particularly harsh treatment). There is no way from the data to sort out these two hypotheses, though my inclination is to take the comparison level as in some sense "prior" to the generalized evaluation of fairness or appropriateness of the penalty. A more cautious way to avoid trying to sort these out is to simply state that the two types of evaluation are related, and that understanding what defendants "mean" when they make a judgment about the fairness of their treatment or the appropriateness of their penalty includes a notion of comparison with the treatment others have received.

Finally, it is worth noting, though not all that surprising, that defendants are quite willing to accept treatment they feel is lighter than that given others and brand such treatment as appropriate. It could be that they feel that they are somehow more deserving of such treatment—that they are not "like" others in relevant respects, and hence to discriminate in their favor is not really to discriminate invidiously. Or, it could be that their notion of fairness embraces more than equity or equal treatment and includes a more gut reaction of simply doing well; hence to do better than others is as "fair" as doing only as well as others.

To explore the effects of the absolute level of outcome upon defendant notions of fair treatment, we can first look simply at the relationship of defendant evaluations to outcome:

Table VIII-3: *Relationship of Sentence Received to Defendant Evaluations of Fairness*

	Sentence Received		
Was defendant treated fairly?	None	Probation	Incarceration
Yes	70	73%	39%
No	30%	27%	61%
	100%	100%	100%
	(196)	(221)	(209)

There is a very sharp break in such evaluations when the defendant receives a sentence involving incarceration, and six out of ten who received such a sentence report they were not treated fairly.[3] This suggests that when defendants apply the notion of fairness, they are quite sensitive to the degree of punishment they are forced to suffer. Note, also, that there is effectively no difference between those who receive a dismissal or acquittal and those who are convicted and receive a sentence of probation or less. There are two contradictory predictions one might make about these two groups. One hypothesis would suggest that those who received a conviction and probation would be less likely to say they were treated fairly, for they have gotten a less favorable outcome: although they do not have to serve a term in jail or prison, they now have a conviction on their record and must lose some degree of liberty by virtue of whatever conditions are attached to their sentence (e.g., pay a fine, report to probation officer, etc.). Thus, one might expect them to be less favorable to the outcome than those who receive neither a conviction nor any further loss of liberty. A contrary hypothesis would suggest that in terms of a dimension of "fairness," those who received dismissals or acquittals would be *less* likely to evaluate their case experience favorably. Although they do not receive a conviction, they are in a position to assert that they never should have been arrested in the first place, for the state has not been able to meet its obligation to prove the charge. Thus, to the extent that these people have had to suffer the inconvenience and mental distress of an arrest and some period of pre-trial detention, they might be predicted to be more embittered at their treatment than those who were in fact convicted but who are likewise released without further confinement (the probated defendants).[4]

In fact, neither of the two predictions appears to be correct, for the levels of favorable evaluation are equivalent for the two groups. This suggests that the notion of fairness applied by defendants has as one of its crucial components simply the absolute amount of the punishment imposed, and that the real breakpoint for such evaluations is confinement.[5]

If the defendants' notion of fairness is closely tied to the absolute outcome of the case, is that all there is to it? The answer appears to be no, for it is also tied to other aspects of the case as well. The notion of fairness is also tied to the defendant's comparison level—his evaluation of how this sentence compares to that of others convicted of the same crime. In Table VIII-4 we can see the effects of both the actual sentence imposed and the compari-

Table VIII-4: *Relationship of Evaluation of Fairness to Sentence Received and Defendant's Evaluation of Comparative Harshness of Sentence*[1]

Defendant evaluation of relative harshness of sentence received	Sentence Received: Probation	Sentence Received: Incarceration	
Lighter than most	82% (72)	60% (74)	
Same as most	77% (96)	44% (52)	
Heavier than most	42% (41)	13% (77)	
			(412)

[1] Each cell entry comprises the proportion of respondents who indicated that they had been fairly treated.

son level upon defendant evaluations of the fairness of their treatment.

In the table, we can see the effects of actual sentence imposed by comparing the two columns. We see that for each comparison level (i.e., those who felt their sentence was lighter, the same, or heavier), those who received a sentence of incarceration are less likely to say they have been treated fairly. By the same token, if we look down the columns, we see the effects of the defendant's comparison level. Regardless of whether the defendant has received a sentence of probation or incarceration, if the defendant thinks his treatment is less favorable than others received, he is less likely to say he has been treated fairly. We can see the effects of comparison level sharply if we compare the lower left-hand cell with the two upper right-hand cells. We see that only 42% of those who received probation but who believed this was more severe than others convicted of the same crime assert that they were treated fairly. By the same token, 60% of those who were incarcerated but believe they have received a relatively lenient sentence say they have been treated fairly, and 44% of those who have been incarcerated but who believe this is about the same as others would receive also say they have been treated fairly. This suggests that comparison level can have an effect indeed. If a defendant believes that he has not been the subject of particular discrimination but has been treated as well as or better than others, some of those who have been incarcerated are *more likely* to assert they have been fairly treated than are some who have received only a sentence of probation or less.

Thus, the burden of Table VIII-4 is that both of these factors are aspects of a defendant's evaluation of the fairness of his case. Not only do defendants exercise a kind of brute notion of fairness which involves simply the absolute level of the outcome of the case, but their notions of equity also are an aspect of their sense of fairness.

There is another aspect of the defendant's notion of fairness that we have not talked about—a notion of fairness in terms of procedural rights or an interpersonal situation in which the defendant is provided the sense that others have listened to his side of the case. This is also an element in their notions of fairness, and it emerges in our data in terms, in part, of the relationship between mode of disposition and defendant evaluations of the fairness of their treatment. Defendants who plead guilty are substantially more likely to report that they have been fairly treated than are those who have trials.

The simple relationship is shown in Table VIII-5. The differences are sharp. Those who pleaded guilty, when we look at the simple relationship at least, are about as likely to say they have been treated fairly as those whose cases resulted in dismissal or acquittal.

Because "fairness" is also related to comparison level and to sentence received, before accepting the notion that pleas produce a stronger sense of fairness than trials, we must examine the relationship while controlling for sentence received and comparison level. (See Table VIII-6, page 49.)

The table indicates, first, the effects of sentence and comparison level. Those who received sentences involving incarceration are consistently less likely to say they were treated fairly.[6] When we examine the effects of comparison level, controlling for both sentence and mode of disposition, we see that those who feel they were advantaged tend to be more likely to assert the fairness of their treatment vis-a-vis those who feel they fared worse than most.[7] As suggested before, in general the largest breaks come between those who feel they were singled out for especially

Table VIII-5: *Relationship of Mode of Disposition and Defendant Evaluation of The Fairness of Their Treatment*

	Mode of Disposition: Dismissal	Trial	Plea	
% saying they were fairly treated	69% (182)	41% (128)	64% (315)	(625)

Table VIII-6: *Relationship of Evaluations of Fairness to Sentence Received, Comparison Level, and Mode of Disposition*[1]

Comparison Level	Sentence Received	
	Probation	Incarceration
Mode of Disposition		
Lighter Than Others		
Plea	85%	69%
	(60)	(48)
Trial	67%	42%
	(12)	(26)
Same as Others		
Plea	82%	47%
	(79)	(34)
Trial	56%	39%
	(16)	(18)
Heavier Than Others		
Plea	39%	21%
	(31)	(47)
Trial	50%	0%
	(10)	(30)
		(411)

[1] Each cell comprises the percentage of respondents who report they were treated fairly.

harsh treatment versus the rest. Finally, the table suggests that those who plead guilty are more likely to say they were treated fairly than those who had trials, even when we control for sentence and comparison level.[8]

This relationship between mode of disposition and defendants' evaluations is a potentially important one but must be evaluated with care. It may be a spurious relationship, the product, for example, of some pre-existing attitudes on the part of defendants that are related to their choice to have a trial or plead guilty, not an artifact of the actual occurrence in their case of a trial or a plea. For example, it is sometimes asserted that particularly embittered defendants are more likely to have trials—persons who, for example, have little to gain from a plea-bargaining or wish to obtain their pound of flesh from the state by demanding a trial. To the extent that this is true, it might suggest that defendants who have trials are distrustful or angry at the criminal justice system to begin with and hence would be more likely to feel unfairly treated, regardles of what happened in their case. We do not have a very good means of testing such an hypothesis. There is some evidence that those who have trials are a bit more likely to have more extensive past records and to score higher on our measure of alienation and lower on a scale measuring generalized respect for the law. This is not inconsistent with the above hypothesis, but the relationships do not appear to be strong enough to provide a complete explanation.

Further, there is some difficulty in assessing the relationship between mode of disposition and the defendant's evaluation of fairness, because we must, to the maximum extent possible in such a comparison, remove the degree to which the defendant may have felt advantaged by the mode of disposition. Although those who plead guilty are more likely to say they have been treated fairly, can we conclude that the *process* of pleading guilty leads to an increased sense of fair treatment? The answer is unclear. To the extent that those who plead guilty believe that they received a substantially lighter sentence than they might have received (even if, in absolute terms, they received a harsh sentence), and to the extent that they believe this outcome was the product of their agreeing to plead guilty, their saying they were treated fairly may not be the product of something inherent in the *process* of plea-bargaining, but rather of the relationship between plea-bargaining and relatively lighter sentences.

Thus, the fact that defendants who have pled guilty are more likely to say they have been treated fairly than those who have had trials must be evaluated with care, for we are not entirely sure what to make of this fact. It could be the product of some other attitudinal structure that predisposes certain individuals to choose one mode of disposition over the other. In addition, we are not sure what it is about pleading guilty that contributes to the relationship we have found—whether it is something about the process of pleading guilty or the sense that the plea has provided an advantage to the defendant.

Given these caveats, we can still explore this difference and see if it further illuminates what defendants take into account in evaluating the fairness of their treatment. A number of other hypotheses might be offered to explain the relationship between mode of disposition and evaluation of fairness, in adidtion to the two suggested above. One is what we may call the "participation" hypothesis. This argument suggests that a defendant, by participating in the decision about what sentence he is to receive, will find the sentence and the whole proceeding more palatable:

> Whether the factors entering into the bargain are or are not meaningful as sentencing goals, they are at least visible to the defendant and his attorney. The defendant is able to influence

the sentence, he may set forth bargaining factors and determine their relevance to the decision, and he may use his bargaining power to eliminate the grossest aspects of sentencing harshness and arbitrariness, be they legislative or judicial. The defendant, if he does not like the bargain, may reject it and stand trial. If he accepts the bargain, he cannot help but feel that his sentence is something that he consented to and participated in bringing about, even if at the same time he resents the process that has induced his consent. And while he may find his "correctional treatment" brutal and meaningless on one level, his sentence is meaningful on another level in that at least he participated in it and influenced the final result. . . .

[In] that moment of dread before a nonnegotiated sentence is imposed, counsel at least, and probably the defendant, have the feeling that they await the pronouncement of an arbitrary fiat which they are helpless to shape. The pronouncement of sentence, particularly if it be an unpleasant one, rarely mitigates this sense, for rarely does a judge articulate any reasons for imposing the sentence he has chosen other than to engage in an occasionally harsh speech excoriating the defendant and his like.[9]

We have seen before that mode of disposition is unrelated to evaluations of prosecutors and judges, and is related to evaluation of attorneys in the opposite direction (trial clients being more favorable than are plea clients). The above hypothesis suggests, though, that the sense of efficacy and participation provided by the plea makes the defendant feel more a participant in the process and hence more likely to evaluate the overall process more favorably.

Another hypothesis, also suggesting that those who plead guilty will be more favorable to the process than those who have trials, runs something like this: The defendant who chooses to have a trial is refusing to acknowledge his guilt, or, at the very least, attempting to avoid accepting the punishment that will be the result of a conviction. He is therefore taking something of a risk. In plea-bargaining systems in which those who plead guilty are "rewarded" by lesser sentences (and in our data those who plead guilty do tend to receive somewhat less harsh sentences), the individual who goes to trial may be foregoing some real advantage in hopes of avoiding punishment at all. Such a choice may be the product of a belief in one's innocence, an unwillingness to cooperate with the state, a taste for risk or whatever. By the same token, the defendant who has a trial has not only taken this risk, but is exposed to a variety of stimuli that stress his innocence. The experience of the trial itself, assuming some sort of defense is raised, exposes the defendant to such things as the testimony of alibi witnesses, to attempts at impeaching the witnesses of the state or impugning of the veracity or motives of the victim, etc.[10] Thus, because of the choice to have a trial and the experience of a trial itself, those defendants who go through this experience may have their expectations raised. When the trial results in a conviction, as it typically does (and here 89% of those who had trials were convicted), the defendant may feel particular disappointment—he has taken a risk, he has heard a good deal that stresses his innocence, and then he finds that he has not succeeded. Especially if the sentence imposed is severe, such defendants may be particularly diillusioned or embittered.

Notice that the issues discussed above mix a variety of things about the choice of a trial that might contribute to an increase in dissatisfaction—sentence advantages foregone; the experience of hearing one's defense presented; the failure of the defense to convince judge or jury; the sense of a risk taken that does not pay off. If we put these together with the suggestion that plea-bargaining provides perceived sentence advantage and some notion of participation in the sentencing process, and, finally, the original suggestion that perhaps those who go to trial are somehow predisposed to be more distrustful, it is apparent that one might offer a large variety of explanations for why those who have trials are more likel yto say they have been unfairly treated. Unfortunately, the data available do not permit us to really sort out which of these may be at work, though some suggestions can be made.

One way to examine the issue further is to examine those respondents who said they were not treated fairly. They were aasked an open-ended question directed at the ways in which they felt they were treated unfairly. The respondents provided a large number of different kinds of complaints, but six coding categories accounted for the bulk of their responses. Respondents could offer as many complaints as they wished; Table VIII-7 reports the one mentioned first by the respondent.

The numbers of cases are small and the differences not enormous, so we must be careful about making inferences from this material. Yet certain trends do seem to appear. First, notice that the complaint that the case was a bum rap is concentrated among those

Table VIII-7: *Relationship of Mode of Disposition to Defendant Reports of Types of Unfair Treatment*

	Mode of Disposition		
	Dismissal Acquittal	Trial	Plea
Type of unfairness			
Defendant should never have been arrested or charged at all	50%	18%	7%
Defendant not given opportunity to talk, present his side of case	5%	14%	4%
Judge and/or prosecutor biased against defendant	7%	19%	11%
Defendant's lawyer acted in uncaring, dishonest, or incompetent manner	11%	12%	19%
Sentence imposed too harsh	—	11%	14%
Defendant coerced into making unfavorable choices (e.g., to plead guilty, waive rights, etc.)	2%	5%	10%
Other	25%	21%	35%
	100% (56)	100% (74)	100% (112) (242)

who in fact were dismissed or acquitted—those for whom such a complaint is most plausible. It is less frequent among those who were convicted, and the common notion that all or most convicted criminals are likely to assert their innocence is not supported by the data here.

The second aspect of the table that appears of relevance is the difference between those who plead guilty and those who have trials. If we examine the first three categories of complaints, we can see that, taken together, they form a view of the case which portrays the defendant as the subject of a kind of conspiracy of others—the defendant either asserts that he was innocent and hence the subject of a mistake, that others in the case did not give him an opportunity to give his side of the case, or that the crucial others were biased against him (e.g., had made up their minds beforehand, had it in for the defendant, etc.). The second two categories are in fact two sides of the same coin—either the defendant wasn't given the opportunity to speak, or, if he was, those to whom he wanted to speak were predisposed not to hear or consider his side of the case. Those who had trials are substantially more likely to voice one of these three types of complaints: 51% of those who had trials and feel they were treated unfairly mentioned one of these three complaints; only 22% of those who had pleas who felt they were unfairly treated chose one of these.[11] This suggests that those who have had trials are more likely to assert that in a variety of ways the cards were stacked against them.

Unfortunately, the data do not really permit us to say with assurance *why* the defendants who have had trials feel this way. It could, as noted above, be the product of some pre-existing set of attitudes that leads defendants to choose to have trials in the first place and then to feel that they have been the subject of unfair treatment. It could be because of the process of risk-taking, raised expectations, exposure to the defense arguments, and then dashing of hopes by a conviction. It could be a reduced sense of participation in trials vis-a-vis pleas.

Examination of the distribution of complaints voiced by those who plead guilty does not illuminate the point very much. They are somewhat more likely to complain about the performance of their attorney[12] and a bit more likely to complain that they were the subject of some coercion. One of the peculiar differences between trial and plea defendants is the greater propensity of those who have had trials to complain that they have not had the chance to present their side of the case. In the abstract, one might have thought it would be the other way about: the trial setting, with the defendant either observing the presentation of the defense or, often, taking the stand to actually participate in the defense, would appear to afford greater opportunities for a sense of giving one's side than would the typical plea procedure. Yet the relationship goes the other way, providing some marginal support for the notion that pleas may foster a greater sense of participation (although the coercion complaint goes in the other direction, which cuts against the participation notion).

It is relevant to note that there is a somewhat different relationship between mode of disposition and the item dealing with fairness than there is between mode of disposition and the item asking the defendant to evaluate the appropriateness of his sentence. As indicated, those who plead guilty tend to more often say they have been treated fairly, even when sentence and comparison level are controlled for (see Table VIII-6). This relationship does not emerge when we examine the item dealing with the defendant's judgment as to whether his sentence was too light, about right, or too heavy.[13] Although in gross terms, those who have pled are more likely to judge their sentence as being "about right," when

we control for the effects of sentence imposed and comparison level, the relationship disappears. There is no consistent relationship between mode of disposition and the defendant's sense that the sentence imposed is appropriate.

It is very difficult to sort these out, but the data do appear to be consistent with the notion that the process of pleading guilty may contribute something to a defendant's notion that he has been treated fairly. By the same token, this notion of fairness seems to be restricted to an evaluation of the process itself and does not appear to be generalizable to a defendant's notion that his sentence is appropriate. To the extent that advocates of plea-bargaining argue that it may add something to the defendant's notion of fair treatment (perhaps via a sense of participation, although we cannot really establish this as the aspect of plea-bargaining that is crucial), the data do not contradict this view. By the same token, though, to the extent that this fact is taken as support of the proposition that plea-bargaining tends to make the defendant more resigned to or accepting of the sentence imposed (and, as some might say, thus more predisposed to be "rehabilitated"), the data do not appear to lend support to this view.

Thus, most defendants apply a variety of notions of fairness to the evaluation of their treatment. Their notion goes beyond the simple short-run consideration of how well they did in absolute terms and encompasses a notion of equity and aspects of the procedure by which the case was adjudicated. Though we cannot completely sort out such notions nor explain exactly what produces them, the data do suggest a complexity of judgment. In some sense this may not be surprising. Yet there is a good deal of common wisdom that suggests that criminal defendants are inclined to either judge their treatment simply in terms of sentence or simply on the basis of prejudices or an inclination to find scapegoats to blame for their acts or the consequences of their acts. The finding that they engage in more measured and complex kinds of judgments not only suggests that this kind of common wisdom fails to encompass the actual reality of defendant evaluations, but confirms that defendants are like the rest of us. Their judgments about the fairness of their treatment in the context of criminal courts are an amalgam of self-interest, notions of equity, and their sense of whether the process has been one in which they feel their interests have been adequately represented.

IX. CHANGE IN ATTITUDES TOWARD CRIMINAL COURTS

We have thus far looked at defendant predispositions toward criminal court personnel and at evaluations of specific lawyers, prosecutors, and judges encountered by our respondents. We now turn to the question of whether defendant attitudes toward court personnel change as a result of their specific experiences. To put it another way, given that defendants bring with them to their encounter with the courts a set of images about what court personnel are like, do they learn new lessons about such personnel from their specific experiences? Or do they simply leave their encounter with the same set of beliefs with which they came?

The measurement of change in attitudes is difficult and complex. The technique used in this study involves the administration of sets of items at two different times. We then look at "differences" in the responses at the two times and attempt to see whether events that occurred between the two administrations of the questionnaire can account for the differences we observe. This is not the place for an extensive disquisition on the methodological issues involved, but a brief sketching out of some of them will be a useful caution in the interpretation of the results presented.

First, we must guard against the affects of "error" in our measuring instruments. That is to say, if we have a set of items that is supposed to measure "attitudes toward public defenders," we must remember that the "instrument" is not as precise as a ruler or scale. If a defendant scores a "six" on the scale (or scores "high") we cannot have the same confidence in this "measurement" as we might if we reported that at the first interview, a respondent weighed 167 pounds. The scale has "error" in it—caused by such things as imprecision in the questions; the fact that responses may be tapping not only attitudes toward public defenders but perhaps attitudes toward other things as well; the conditions of the interview itself (e.g., Is the respondent attentive or bored? Is he preoccupied by something else or concentrating upon answering the questions? Are there distractions occurring during the interview?). Although our techniques for creating the scale have attempted to reduce the amount of error or "noise," some still remains. To put the matter most bluntly and clearly, if we administered our items to a respondent at 10 a.m. and again at 11 a.m., the score received *might* well not be identical; if we weighed the respondent at the two times, we would expect the two measurements to be virtually identical.

The difficulties associated with measurement error, of course, apply to any questionnaire. We believe that the scales used, though not free of error, do tap the attitudinal dimensions that they are asserted to tap. But "noise" or "error" is particularly troublesome when we are trying to measure change in attitudes. If a defendant in Detroit receives a different score on the public defender scale during the second interview, is this the product of "real" change or simply a random difference produced by "error" in our measurement of his attitudes? There is no simple answer. Two observations may be useful, though, in evaluating the change we shall observe. The first is simply that not all the observed change is, in fact, "real." We should expect some change in the responses at the two interviews, simply based upon random factors and measurement errors; hence, we must not be too eager to accept changes in scores as reflecting "real" changes in attitudes. The second point is a bit more optimistic: to the extent that we observe change and such change appears related to events that have occurred between the first and second interview, then we may have more confidence that the observed change really means something. That is to say, changes in scores that are the product of error in the measuring instrument ought not be related to anything, for they are, by and large, random variations. On the other hand, if we observe changes that are consistently related to factors that we would *expect* to cause a change in attitudes, then we can have more confidence that we are really measuring "real" change.

One other introductory issue may be briefly mentioned. That is the question of the stability of change. Assuming that we have, in fact, observed some "real"

change in, for example, attitudes toward public defenders, how long will such change last? If it is to be of significance in the world, it ought to last for some period of time. If we interview a defendant twice and during the second inteview observe an apparent change in his attitudes toward public defenders, will such a change be reflected if we went back and interviewed him next week or next year? Ideally, we ought to be able to do so and find out. In the real world, given how much it costs to locate and interview him only twice, we cannot. Strictly speaking, we don't know whether the change we observed is stable or not. All we can do is to assert that it is related to certain events that occurred in the respondent's life and does not appear to be the product of imperfections in our measuring instrument. If attitudes are enduring states of mind, and if we have adequately measured them, then our prediction is that those measured at the second interview will endure until future events produce further change.

There are a variety of techniques for measuring change in attitudes. The simplest that might occur—looking at the "difference" between the score obtained in the first and second interviews—has a variety of technical shortcomings.[1] We shall use this technique as a presentational device in the body of the text, though our actual analysis is based upon a somewhat more complicated measurement technique. I shall briefly discuss the technique here so that the reader will be aware of the analysis upon which the assertions about attitude change are based, and will present one complete table indicating how this measurement technique was applied to the data. Subsequently, in the text we shall simply look at "difference" scores—looking at the directions of change between the first and second interviews—and present the more complete analysis in tables in Appendix IX-I.

The technique used for assessing attitude change is fairly straightforward, though some of the tables are rather complicated. What we are going to do is to examine the relationship between the respondent's score during the second interview (e.g., his attitude toward prosecutors or public defenders) and some other variables that we believe may be associated with change (e.g., the defendant's evaluation of the specific prosecutor or lawyer he encountered). In presenting such an analysis, we are going to "control" for the respondent's score on the scale obtained during the first interview. To make this clearer, let us take an example. Suppose we begin with the hypothesis that respondents who are represented by a public defender will tend to "change" in their evaluation of what most public defenders are like, depending upon their evaluation of the service provided by the particular public defender they encounter. Those who are satisfied with the service of their public defender will tend to generalize about all public defenders and become more favorable; those who have what they believe to be an unsatisfactory experience will generalize and tend to become more negative towards public defenders.

Such an hypothesis seems straightforward; testing it is a bit more complicated, for we must establish a method of determining whether our respondents actually changed in their evaluation of most public defenders. Thus, we have three measurements: (1) the respondents' initial beliefs about what most public defenders are like (what we have before called their predispositions and will sometimes refer to as the T_1 score); (2) their evaluation of the specific public defender they encountered; (3) their beliefs about what most public defenders are like as measured in the second interview (to be called the T_2 score).

Simply looking at the relationship between the specific evaluation and the T_2 score will not tell us anything about change, for we do not know what their predisposition was. Consider, for example, the following possible relationships:

	Predisposition (T_1 score)	Specific Lawyer Evaluation	T_2 Score
Respondent 1	High	High	High
Respondent 2	Low	Low	Low
Respondent 3	High	Low	Low
Respondent 4	Low	High	High

First, consider all four hypothetical respondents, and look at the relationship between their specific evaluation scores and their T_2 scores. There is a very strong relationship—they evaluate their specific lawyer and "most public defenders" identically. But now consider the differences between what is going on with the first two respondents versus respondents 3 and 4. For respondents 1 and 2, we really cannot evaluate our hypothesis about the relationship of specific evaluations to change, for there was no change—their T_2 scores are the same as their T_1 scores, and hence there is no change to measure. On the other hand, for respondents 3 and 4, we see that there is a relationship between their specific scores and their

second score *and* there is change in their attitudes, for the T_1 and T_2 scores are different.

In our population, we shall see examples of both types of respondents—those who change and those who do not. What we shall do, then, is to divide the population into two groups—those who stay stable and those who change. For those who change, we shall see whether observed change is related to things that happened in their case (e.g., their evaluation of their specific attorney). In order to sort out those who changed from those who did not, we shall look at such relationships first "controlling" for their predisposition, and thus discriminating between those who evidence some shift in attitudes from those who do not. Unfortunately, presentation of the data in this form is complicated and somewhat hard to follow. In order to make the argument clearer, and at the risk of some oversimplification, we shall, in general, reserve these tables to Appendix IX-I. After presenting one full-blown table which shows how change was measured, we shall simply report the proportions who stayed stable, became more favorable (called "positive" change), and those who became less favorable (called "negative" change). These tables sometimes underestimate the amount of change that has occurred, and the reader who wishes more details on both our measurement of change and the analysis of it is invited to look at the tables in Appendix IX-I.[2]

In proceeding, we shall examine change in attitudes toward three participants—public defenders, prosecutors, and judges.

A. Change in Attitudes Toward Public Defenders

We began our analysis of attitudes toward public defenders by describing the degree of suspicion and distrust that many defendants brought to their encounters with criminal courts. Then, we argued that a defendant's evaluation of the services of the particular public defender who represented him depends upon several factors—sentence received, mode of disposition, time spent with the attorney, and predisposition. We have argued that, to a substantial degree, the infirmities that public defenders labor under vis-a-vis private attorneys are, in the context of evaluation of specific lawyers, largely a product of the limited amount of time that many public defenders were able to spend with their clients. Finally, we have suggested that many of our respondents were, in fact, relatively satisfied with the service they received from public defenders, despite their initial suspicion. Now we wish to discover whether such satisfaction or dissatisfaction is translated into a different image of what most public defenders are like. Are the views of respondents at the second interview about what most public defenders are like the same as they began with, or are they sensitive to the respondents' experience with a particular public defender?

We may begin with a simple turnover table. Each respondent was asked a series of questions about what most public defenders were like both at the first and second interview. The turnover table will tell us whether there was change in the views expressed by respondents. We have, here, divided the public defender scale into four approximately equal categories:[3]

Table IX-1: *Turnover in Attitudes Toward Public Defenders*

Score on PD Scale at Second Interview	Score on PD Scale at First Interview: Very Low	Low	High	Very High	
Very Low	13%	6%	4%	4%	27% (105)
Low	4%	7%	5%	5%	21% (83)
High	4%	4%	5%	7%	20% (79)
Very High	4%	6%	8%	14%	32% (126)
	25% (96)	23% (87)	22% (89)	30% (121)	100% (393)

Each entry represents the percentage of the total population that fell into each cell. The main diagonal from upper left to lower right represents those respondents who remained stable over the two interviews—who had the same score at both times. Here 39% of the population remained stable. Individuals falling to the lower left of the diagonal changed positively—their score at the T_2 interview was higher than at the T_1 interview; those falling above the diagonal changed negatively. Notice, also, that there is little net change: the proportion scoring at each level during the first interview is about the same as the proportion scoring at that level during the second interview (e.g., 25% scored "very low" during the first interview, and 27% scored "very low" during the second interview, and so on.) Thus, there was a good deal of offsetting change. That is to say, about 60% of the respondents received a different score at

the two interviews, yet the proportions scoring in each category remained the same. This means that about as many changed negatively as changed positively, producing similar distributions for each interview:

Stable (same score at both interviews	39%	
Changed positively (higher score at second interview)	30%	
Changed negatively (lower score at second interview)	31%	
	100%	(393)

Given that there is a fair amount of change, although offsetting, the question is whether there are any patterns in the change—is going up or going down related to events in the case? The answer is clearly yes. We begin by predicting that four factors may be associated with change. The most important is the defendant's evaluation of the performance of his public defender. We hypothesize that defendants who are satisfied with the performance of their public defender will become more favorable to "most public defenders" and that those who are unsatisfied will become more negative. Thus, we suppose that defendants will generalize from their specific experience to the general class of public defenders.

We also begin with the hypothesis that other aspects of the defendant's case will be associated with change in evaluation of most public defenders—specifically, that the more favorable the outcome obtained, the more positive change; the more time spent with the specific public defender, the more positive change; and that those who had trials will change positively more often than those who had pleas. Notice that what we are predicting is that those things that tend to make a defendant satisfied with the performance of the specific public defender encountered will also make a defendant change positively towards public defenders in general.

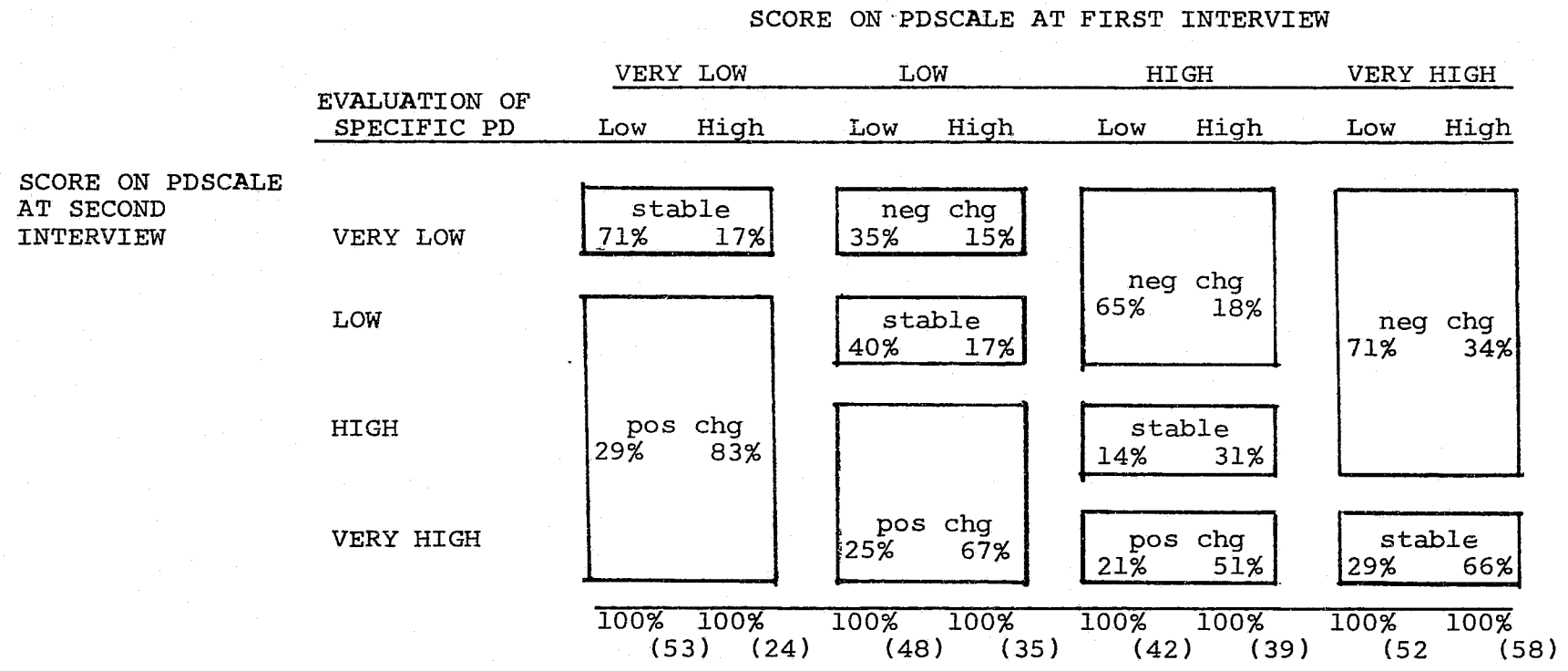
Finally, we have a more powerful prediction: that *only* evaluation of specific attorney will "really" be related to change. That is to say, when we control for the defendant's evaluation of his specific attorney, none of the other factors will continue to be related to change. If a defendant, for example, receives an unfavorable outcome but evaluates his lawyer favorably, we predict that he will be as likely to change positively as a defendant who receives a favorable outcome and was satisfied with the services of his lawyer. Essentially, this hypothesis is that all that matters for change is the defendant's evaluation of the performance of his attorney.

To evaluate these hypotheses, we must first look at the simple relationships of change to the four independent variables (evaluation of specific lawyer, sentence, mode of disposition, and time with lawyer) and, if all are related to change, then examine the latter three, controlling for the effects of evaluation of the defendant's specific lawyer upon change toward public defenders in general. As indicated above, we shall, in this one instance, present the full-blown and rather complex table. Subsequently, we shall reserve the tables for Appendix IX-I and use more simple presentational devices. (See Table IX-2.)

The table looks and is regrettably complicated, but it contains a great deal of information about change in attitudes toward public defenders. Each of the boxes labeled "stable" contains respondents whose scores at the two interviews were the same. Each box labelled "pos chg" contains those whose score at the second interview was more favorable than at the first; each called "neg chg" contains those whose scores at the first were more favorable than at the second interview. In looking at change, it is important to know what the respondent's score at the first interview was, for this can constrain the possibilities for change. For example, those who scored "very low" during the first interview *cannot* change negatively; those who scored "very high" *cannot* change positively. Only those with middle positions can change in either direction. Each column comprises the total number of respondents who had the specified T_1 score and who rated their particular public defender in the specified fashion. The actual entries in each cell thus comprise the proportion of those who rated their specific lawyers either unfavorably or favorably, who stayed stable or moved positively or negatively.

For example, look at the upper left-hand box. We notice that of those who rated their specific lawyer unfavorably, 71% remained stable and continued to score very low on the public defender scale; on the other hand, only 17% of those who rated their specific lawyer remained very low on the public defender scale during the second interview—83% of them scored higher during the second interview, indicating a positive shift in attitudes towards public defenders. If we examine the lower right-hand box, we see the reverse pattern—of those who began with the most favorable views of public defenders, 66% of the individuals who rated their specific lawyers

TABLE IX-2: THE EFFECTS OF EVALUATION OF SPECIFIC PUBLIC DEFENDERS UPON CHANGE IN ATTITUDES TOWARD MOST PUBLIC DEFENDERS



favorably maintained favorable views of most public defenders, while 71% of those who rated their specific lawyer unfavorably moved in the negative direction. If we examine the two center columns —in which respondents have the "opportunity" to move either positively or negatively—we see the same pattern. Those who rated their specific attorneys favorably consistently move in a positive direction more often than those who rated their attorneys unfavorably. Thus, the hypothesis that a defendant's evaluation of his specific lawyer will be related to the direction of change in attitudes toward most public defenders is supported by the data.

A much simpler and perhaps less confusing way of making the same point can be seen in the following summary table. Though simpler, it also tends to contain less information, for it does not provide information as to the position of respondents at the first interview. (See Table IX-3.) Here we see that of those who rated their specific lawyer unfavorably, 41% moved in a negative direction on the scales measuring attitudes toward public defenders; of those who rated their lawyer favorably, only 20% moved this way. On the other hand, 41% who rated their lawyer favorably moved positively, while 24% moved negatively. Once more, we see the effects of lawyer evaluation on attitudes toward most public defenders. What we lack is the actual "controlling" for the respondent's score at the first interview, and hence knowing his first score may have constrained the possibilities for change.

The evidence, then, supports the proposition that defendants represented by public defenders tend to generalize from their specific experience to their views of what most public defenders are like. Those who are satisfied with the performance of their attorney tend to become more favorable to public defenders in general, and those who are dissatisfied tend to become less favorable.

What of the effects of sentence, mode of disposition, and time with lawyer upon change in attitudes toward public defenders? Neither mode of disposition nor time with lawyer appears to make a difference.[4] Sentence does appear to have a somewhat weak effect.[5]

The differences do not appear particularly strong, though they are in the expected direction: harsher sentences are associated with more negative attitudes toward most public defenders. Moreover, the summary table presented here tends to underestimate the strength of the relationship. Table PD-1 in Appendix IX-I, showing the more complete array of data dealing with the effects of sentence upon change in attitudes, shows a stronger and more consistent relationship between harshness of sentence and attitude change.

Thus, two variables are associated with change in attitudes toward public defenders: the defendant's evaluation of his particular attorney, and the sentence received. When we attempt to examine our more complex hypothesis—that only evaluation of the specific attorney matters—the numbers in the cells become rather small (see Table PD-4). Here, we are looking at the relationship between sentence and change in attitudes towards public defenders while controlling for the effects of evaluation of the specific attorney who represented the defendant. Although the cell sizes here (and in subsequent tables when we have a control variable) are so small that the conclusion can only be suggestive, it appears that both variables tend to make an independent contribution to change in attitudes toward public defenders.

The data have important consequences for the relationships between public defender and client.

Table IX-3: *Relationship of Evaluation of Specific Lawyer to Direction of Change in Score on Public Defender Scale*

Direction of Change in Evaluations of Most Public Defenders	Evaluation of Specific Public Defender	
	Low	High
Negative	41%	20%
Stable	35%	38%
Positive	24%	41%
	100% (196)	100% (156)

Table IX-4: *Relationship of Sentence Received to Direction of Change in Attitude Toward Public Defenders*

Direction of Change in Evaluation of Most Public Defenders	Sentence Received		
	None	Probation	Incarceration
Negative	23%	32%	37%
Stable	41%	36%	41%
Positive	36%	32%	22%
	100% (112)	100% (142)	100% (138)

We have seen that clients come to their interactions with public defenders with rather skeptical views. These views, we have argued, are the product both of the institutional position of the public defender and of previous defendant experience. The defendant then interacts with his attorney, and several factors —time spent, outcome, mode of disposition, and his predisposition—produce an evaluation of the specific public defender he has encountered. This evaluation, in turn, has an effect upon the defendant's generalized attitudes toward public defenders, and hence the expectations he brings to his next encounter. To the extent that the specific interactions with public defenders tend to produce negative evaluations—and we have argued that little time spent wih client, non-adversary dispositional styles, and harsh sentences are related to negative evaluations—the client's negative predispositions will be confirmed, and a vicious cycle of negative predispositions/unfavorable evaluations/more negative predispositions will occur. But it is not a vicious cycle in the sense that it is unbreakable. To the extent that the interactions with the public defender produce favorable evaluations—and such evaluations are by no means beyond the bounds of reality, for they do occur and do not depend simply upon a favorable outcome—then the cycle tends to be meliorated, for such favorable evaluations are associated with a tendency to generalize toward more favorable views of most public defenders. In this sense, a favorable encounter with a public defender may have consequences not only for the defendant's sense that he has been adequately represented in the specific case, but also for his future interactions with public defenders. Thus, what happens in the relationship between lawyer and client in a particular case is doubly important.

B. Change in Attitudes Toward Judges

When we examine the overall distribution of attitudes toward judges at the first and second interviews, we again find a good deal of offsetting change. Nearly six out of ten respondents score differently the second time, but there is little net change:

Stable (same score at both interviews)	41%	
Negative change (higher score at T_1 interview)	30%	
Positive change (higher score at T_2 interview)	29%	
	100%	(574)

We will look at the relationship, if any, between four case-related variables and change in attitudes toward judges: the defendant's evaluation of his specific judge; the sentence received; the mode of disposition; and the defendant's evaluation of the performance of his attorney. As with lawyers, we hypothesize simple two-way relationships for all these variables, and also wish to test the stronger hypothesis that when evaluation of the specific judge is controlled for, the other three will be weakened or disappear.

Tables JDG-1 to JDG-4 in the Appendix present the basic relationships between the independent and dependent variables. All appear related to change in attitudes toward judges. We find that the sentence variable works more consistently for convicted defendants than for those who received dismissals or acquittals. Although the latter tend to evidence more positive than negative change, they are not, in general, more likely to change positively than are those who were convicted but not incarcerated. There is a consistent relationship between evaluation of one's attorney and change in attitudes toward judges, with those who are more favorable toward their lawyers being consistently more likely to change positively in their attitudes towards what most judges are like. In terms of mode of disposition, there is some tendency for those who had trials to change in a negative direction more often than those who pled guilty.

The simple relationship between evaluation of the specific judge and change in attitudes toward judges looks like this:

Table IX-5: *Relationship of Evaluation of Specific Judge to Direction of Change in Attitudes Toward Most Judges*

Direction of Change in Attitudes Toward Most Judges	Specific Judge Evaluation: Low	Specific Judge Evaluation: High
Negative	44%	17%
Stable	35%	47%
Positive	20%	35%
	100% (264)	99% (272)

Respondents who evaluate their judge favorably are somewhat more likely to remain stable; of those who change, twice as many become more favorable towards judges than become more negative. Among

those dissatisfied with the judge encountered, more than twice as many (and in fact, close to half) change in a negative direction in their general attitudes toward judges. This suggests the notion of learning—that defendants tend to generalize from their specific experiences with judges to their beliefs about what most judges are like.

If we test our more specific hypothesis—that all that matters is the defendant's evaluation of his particular judge—it is not completely supported by the data. That is, when we look at the relationship between sentence received and change in attitudes toward judges while controlling for the respondent's evaluation of his specific judge, the relationship is weakened but still present. Mode of disposition and evaluation of lawyer do disappear.[6]

Thus, there does appear to be patterning in the change in attitudes expressed toward judges. What happens in the case affects the beliefs that a defendant takes from his encounter with the courts. Defendants learn from their particular experiences lessons about judges that affect their belief systems. Rather than simply having a general set of beliefs that appears immune to experience, they tend to generalize from what happens to them. They come with predispositions, but their specific encounters appear to affect the beliefs with which they leave their particular court experiences. Evaluation of the specific judge encountered and, to a lesser extent, sentence received appear to affect the defendant's general beliefs about what most judges are like.

C. Change in Attitudes Toward Prosecutors

As with judges and lawyers, change in attitudes toward prosecutors between the two interviews is largely offsetting:

Stable	40%
Positive	28%
Negative	32%
	(N 581)

About 60% of the respondents receive a different score at the two interviews, but equal numbers change in either direction.

Examining the correlates of change, we find, first, that evaluation of the specific prosecutor is related to change:

Table IX-6: *Relationship of Evaluation of Specific Prosecutor to Direction of Change in Attitudes Toward Most Prosecutors*

Direction of Change in Evaluation of Most Prosecutors	Evaluation of Specific Prosecutor: Low	Evaluation of Specific Prosecutor: High
Negative	42%	24%
Stable	40%	45%
Positive	18%	31%
	100%	100%
	(189)	(225)

Those who evaluated their prosecutor unfavorably were substantially more likely to change in a negative direction than positively; those who evaluated their prosecutor favorably were somewhat more likely to change positively, though the trend is less pronounced.[7]

When we look at the relationships between sentence, lawyer evaluation, and mode of disposition, we find that sentence is related to change (again, as with lawyers and judges, the relationship is more consistent for convicted defendants than if we include dismissals/acquittals), that mode of disposition is weakly related (trials tending to change more often in a negative direction), and that lawyer evaluation does not appear to be related to change in attitudes toward prosecutors.[8] This latter finding is somewhat perplexing. Before, we argued that, although the causal direction was unclear, there was a relationship between evaluations of the specific lawyer, judge, and prosecutor encountered. When we examined change in attitudes toward judges, we found that lawyer evaluation was related to change in attitudes toward judges, though not when we controlled for evaluation of the specific judge. In the case of prosecutors, no such relationship appears. To the extent, then, that a defendant's interaction with his attorney has some kind of "halo" effect, it appears to operate in the context of evaluation of specific prosecutors, but not to be generalized to his views about most prosecutors.[9]

When we examine the relationship of sentence to change, controlling for the effects of specific prosecutor evaluation, we find that sentence is more weakly related and mode of disposition is unrelated.

Thus, the data support the proposition that defendants do tend to generalize about prosecutors from their evaluation of the particular prosecutor encountered, and that their particular experience

thus tends to affect the predispositions they bring to their next encounter with criminal courts.

D. Summary

The data presented in this section suggests that defendants do learn lessons from their encounters with criminal justice institutions. Not only do they make judgments about the activities of the particular participants they encounter that are related to the events that occur in the case, but these judgments, in turn, have an effect upon their generalized images of the criminal justice system. This suggests, first, that defendants are, in their evaluations of specific participants and generalized images, behaving like other people. They do not make judgments that are simply the product of hate, blind prejudice, an inclination to make scapegoats out of others rather than face up to their own responsibilities. These, of course, do contribute to their judgments, just as they do for the rest of us. But their judgments—of specific participants encountered and of participants in a more general sense—are also the product of their own experiences. To say that defendants are like the rest of us in the way they make their judgments is perhaps not to say very much. But since there is so much stereotyping of defendants—the glassy-eyed junkie, the hardened mugger, etc.—it is of some significance to note that their judgments do reflect not simply some idiosyncratic processes that "criminals" use to rationalize events, but a complex mix of personal experience, prejudice, and the like.

The data also suggest that particular experiences do matter. They not only matter in terms of whether the defendant feels he has been given a fair shake in the particular case, but also in terms of the images of the criminal process that the defendant takes with him and will bring along for his next encounter. Moreover, we do not observe a process which inevitably spirals downward, for experiences that are evaluated favorably do appear to be reflected in more favorable generalized attitudes.

Appendix IX-I

Note: The tables presented here are similar to IX-2, discussed in the text. The general rule of thumb used in evaluating whether the relationship is supported by the data is whether there is a 100% difference between the independent and dependent variables (in one direction when there is only one direction that is possible, in both directions when movement both ways is possible). When there are three variables—e.g., the relationship of change in attitudes toward public defenders and sentence received, controlling for evaluation of the specific public defender—the relationship between the independent and control is obtained by comparing corresponding cells in the upper and lower halves of the tables.

In each table, we have labelled the respondents who remain stable at the two observations, those who change in a positive direction, and those who change in a negative direction. For respondents who change, we have summed those who change in the specified direction (e.g., in Table PD-1 on the following page, those who were "very low" at the first interview and scored either "low", "high", or "very high" at the second interview are all summed under the category "pos chg").

TABLE PD-1: PD CHANGE AND SENTENCE RECEIVED

SCORE AT SECOND INTERVIEW	Sentence	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
	VERY LOW	stable			neg chg			neg chg			neg chg		
		33%	46%	69%	22%	14%	41%	25%	53%	42%			
	LOW	pos chg			stable								
					37%	29%	28%				43%	82%	88%
	HIGH				pos chg			stable					
		67%	54%	31%				30%	25%	14%			
	VERY HIGH				30%	57%	31%	pos chg			stable		
								45%	22%	44%	57%	18%	12%
		100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
		(30)	(24)	(42)	(27)	(28)	(32)	(20)	(40)	(24)	(35)	(50)	(35)

TABLE PD-2: PD CHANGE AND MODE OF DISPOSITION

SCORE AT SECOND INTERVIEW	Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW Dism	VERY LOW Tr	VERY LOW Plea	LOW Dism	LOW Tr	LOW Plea	HIGH Dism	HIGH Tr	HIGH Plea	VERY HIGH Dism	VERY HIGH Tr	VERY HIGH Plea
	VERY LOW	stable 31%	70%	57%	neg chg 23%	18%	32%	neg chg 26%	50%	43%	neg chg 41%	61%	55%
	LOW	pos chg 69%	30%	43%	stable 38%	18%	36%	stable 32%	14%	21%			
	HIGH				pos chg 39%	64%	36%	pos chg 42%	36%	36%	stable 59%	39%	45%
	VERY HIGH												
		100% (29)	100% (21)	100% (47)	100% (26)	100% (17)	100% (44)	100% (19)	100% (14)	100% (56)	100% (32)	100% (23)	100% (65)
													(392)

TABLE PD-3: PD CHANGE AND TIME WITH LAWYER

SCORE AT SECOND INTERVIEW	Time with Lawyer	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
		Low	High	Low	High	Low	High	Low	High
	VERY LOW	stable 26%	58%	neg chg 28%	26%	neg chg 45%	34%	neg chg 52%	54%
	LOW	pos chg 74%	42%	stable 32%	29%	stable 18%	29%		
	HIGH			pos chg 40%	45%	pos chg 37%	37%	stable 48%	46%
	VERY HIGH								
		100% (69)	100% (36)	100% (47)	100% (38)	100% (49)	100% (38)	100% (69)	100% (52)

TABLE PD-4: RELATIONSHIP OF PD CHANGE TO LAWYER EVALUATION AND SENTENCE RECEIVED

Specific Lawyer Evaluation: LOW

SCORE AT SECOND INTERVIEW	Sentence Received	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW		stable 67%	47%	89%	neg chg 22%	22%	52%	neg chg 75%	52%	76%	neg chg 60%	70%	74%
LOW		pos chg 33%	53%	11%	stable 56%	44%	29%	stable 25%	14%	11%			
HIGH					pos chg 22%	33%	15%	pos chg 0	33%	12%	stable 40%	30%	26%
VERY HIGH													
		100% (9)	100% (19)	100% (27)	100% (9)	100% (18)	100% (21)	100% (4)	100% (21)	100% (17)	100% (5)	100% (27)	100% (19)

Specific Lawyer Evaluation: HIGH

SCORE AT SECOND INTERVIEW	Sentence Received	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW		stable 20%	0	17%	neg chg 19%	0	20%	neg chg 15%	11%	38%	neg chg 33%	33%	39%
LOW		pos chg 80%	100%	83%	stable 20%	0	20%	stable 31%	33%	25%			
HIGH					pos chg 56%	100%	60%	pos chg 54%	36%	38%	stable 67%	67%	61%
VERY HIGH													
		100% (15)	100% (3)	100% (6)	100% (16)	100% (9)	100% (10)	100% (13)	100% (18)	100% (8)	100% (24)	100% (21)	100% (13)

TABLE JDG-1: JDG CHANGE AND SPECIFIC JUDGE

SCORE AT SECOND INTERVIEW	Specific Judge Evaluation	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
		Low	High	Low	High	Low	High	Low	High
VERY LOW		stable 66%	27%	neg chg 45%	47%	neg chg 62%	17%	neg chg	
LOW		pos chg 34%	75%	stable 26%	27%			66%	28%
HIGH				pos chg 29%	69%	stable 18%	25%		
VERY HIGH						pos chg 20%	58%	stable 34%	72%
		100% (59)	100% (41)	100% (74)	100% (47)	100% (61)	100% (59)	100% (70)	100% (125)

TABLE JDG-2: JDG CHANGE AND SENTENCE RECEIVED

SCORE AT SECOND INTERVIEW	Sentence	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW		stable 48%	22%	69%	neg chg 24%	13%	48%	neg chg 37%	27%	54%	neg chg 29%	39%	51%
LOW		pos chg 52%	78%	31%	stable 32%	36%	18%						
HIGH					pos chg 44%	51%	34%	stable 13%	27%	19%			
VERY HIGH								pos chg 50%	46%	27%	stable 71%	61%	43%
		100% (40)	100% (27)	100% (42)	100% (38)	100% (45)	100% (50)	100% (38)	100% (44)	100% (48%	100% (65)	100% (85)	100% (51)

TABLE JDG-3: JDG CHANGE AND SPECIFIC LAWYER EVALUATION

		SCORE AT FIRST INTERVIEW							
		VERY LOW		LOW		HIGH		VERY HIGH	
	Specific Lawyer Evaluation	Low	High	Low	High	Low	High	Low	High
SCORE AT SECOND INTERVIEW	VERY LOW	stable 61%	36%	neg chg 38%	17%	neg chg 53%	25%	neg chg 49%	40%
	LOW	pos chg 39%	64%	stable 29%	27%				
	HIGH			pos chg 33%	56%	stable 16%	26%		
	VERY HIGH					pos chg 31%	49%	stable 51%	60%
		100% (44)	100% (42)	100% (65)	100% (42)	100% (55)	100% (51)	100% (75)	100% (96)

TABLE JDG-4: JDG CHANGE AND MODE OF DISPOSITION

SCORE AT SECOND INTERVIEW	Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
VERY LOW		stable 44%	64%	42%	neg chg 28%	32%	28%	neg chg 63%	54%	36%	neg chg 29%	58%	43%
LOW		pos chg 56%	36%	58%	stable 28%	24%	30%	stable 13%	29%	21%			
HIGH					pos chg 44%	56%	42%	pos chg 50%	17%	43%	stable 71%	42%	57%
VERY HIGH													
		100% (36)	100% (31)	100% (41)	100% (32)	100% (34)	100% (67)	100% (38)	100% (24)	100% (68)	100% (62)	100% (24)	100% (115)

TABLE JDG-5: RELATIONSHIP OF JDG CHANGE TO SPECIFIC JUDGE EVALUATION AND SENTENCE RECEIVED

Specific Judge Evaluation: LOW

SCORE AT SECOND INTERVIEW	SCORE AT FIRST INTERVIEW: VERY LOW	LOW	HIGH	VERY HIGH
Sentence received	None Prob Incar	None Prob Incar	None Prob Incar	None Prob Incar
VERY LOW	stable 71% 31% 78%	neg chg 42% 24% 56%	neg chg 67% 43% 71%	neg chg 56% 63% 73%
LOW	pos chg 29% 69% 22%	stable 53% 38% 17%	stable 6% 43% 13%	
HIGH		pos chg 24% 38% 27%	pos chg 31% 14% 16%	stable 44% 37% 27%
VERY HIGH				
	100% 100% 100%	100% 100% 100%	100% 100% 100%	100% 100% 100%
	(14) (13) (32)	(12) (21) (41)	(16) (14) (31)	(16) (27) (26)

Specific Judge Evaluation: HIGH

SCORE AT SECOND INTERVIEW	SCORE AT FIRST INTERVIEW: VERY LOW	LOW	HIGH	VERY HIGH
Sentence Received	None Prob Incar	None Prob Incar	None Prob Incar	None Prob Incar
VERY LOW	stable 35% 14% 28%	neg chg 0 5% 11%	neg chg 11% 20% 19%	neg chg 23% 28% 38%
LOW	pos chg 65% 86% 72%	stable 22% 35% 22%	stable 22% 24% 31%	
HIGH		pos chg 78% 60% 67%	pos chg 67% 56% 50¢	stable 77% 72% 62%
VERY HIGH				
	100% 100% 100%	100% 100% 100%	100% 100% 100%	100% 100% 100%
	(20) (14) (17)	(18) (20) (9)	(18) (25) (16)	(44) (57) (24)

TABLE JDG-6: RELATIONSHIP OF JDG CHANGE TO SPECIFIC JUDGE EVALUATION AND SPECIFIC LAWYER EVALUATION

Specific Judge Evaluation: LOW

SCORE AT SECOND INTERVIEW \ SCORE AT FIRST INTERVIEW	VERY LOW		LOW		HIGH		VERY HIGH	
Lawyer Evaluation	Low	High	Low	High	Low	High	Low	High
VERY LOW	stable 74%	stable 50%	neg chg 48%	neg chg 38%	neg chg 69%	neg chg 43%	neg chg 62%	neg chg 84%
LOW	pos chg 26%	pos chg 50%	stable 23%	stable 38%				
HIGH			pos chg 29%	pos chg 25%	stable 17%	stable 21%		
VERY HIGH					pos chg 14%	pos chg 36%	stable 38%	stable 26%
	100% (31)	100% (16)	100% (48)	100% (16)	100% (36)	100% (14)	100% (45)	100% (19)

Specific Judge Evaluation: HIGH

SCORE AT SECOND INTERVIEW \ SCORE AT FIRST INTERVIEW	VERY LOW		LOW		HIGH		VERY HIGH	
Lawyer Evaluation	Low	High	Low	High	Low	High	Low	High
VERY LOW	stable 33%	stable 26%	neg chg 7%	neg chg 4%	neg chg 13%	neg chg 18%	neg chg 28%	neg chg 32%
LOW	pos chg 67%	pos chg 74%	stable 47%	stable 18%				
HIGH			pos chg 47%	pos chg 78%	stable 20%	stable 30%		
VERY HIGH					pos chg 67%	pos chg 52%	stable 72%	stable 68%
	100% (12)	100% (23)	100% (15)	100% (28)	100% (15)	100% (33)	100% (29)	100% (75)

TABLE JDG-7: RELATIONSHIP OF JDG CHANGE TO SPECIFIC JUDGE EVALUATION AND MODE OF DISPOSITION

Specific Judge Evaluation: LOW

SCORE AT SECOND INTERVIEW / Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
VERY LOW	stable 64%	68%	64%	neg chg 46%	56%	40%	neg chg 63%	66%	60%	neg chg 56%	100%	62%
LOW	pos chg 27%	27%	31%	stable 27%	17%	29%	stable 6%	27%	20%			
HIGH				pos chg 27%	27%	31%	pos chg 31%	7%	20%	stable 44%	0	38%
VERY HIGH												
	100% (11)	100% (22)	100% (25)	100% (11)	100% (18)	100% (45)	100% (16)	100% (15)	100% (30)	100% (16)	100% (8)	100% (45)

Specific Judge Evaluation: HIGH

SCORE AT SECOND INTERVIEW / Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
VERY LOW	stable 37%	50%	6%	neg chg 0	7%	5%	neg chg [illegible]%	24%	18%	neg chg 22%	38%	29%
LOW	pos chg 63%	50%	94%	stable 21%	29%	32%	stable 22%	38%	24%			
HIGH				pos chg 79%	64%	63%	pos chg 67%	38%	58%	stable 78%	62%	71%
VERY HIGH												
	100% (19)	100% (6)	100% (16)	100% (14)	100% (14)	100% (19)	100% (18)	100% (8)	100% (33)	100% (41)	100% (16)	100% (68)

TABLE PRS-1: PRS CHANGE AND SPECIFIC PROSECUTOR EVALUATION

SCORE AT SECOND INTERVIEW	Specific Prosecutor Evaluation	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
		Low	High	Low	High	Low	High	Low	High
	VERY LOW	stable 66%	29%	neg chg 54%	29%	neg chg 71%	23%	neg chg 85%	39%
	LOW	pos chg 34%	71%	stable 30%	26%				
	HIGH			pos chg 16%	45%	stable 21%	46%		
	VERY HIGH					pos chg 8%	31%	stable 15%	61%
		100% (71)	100% (48)	100% (46)	100% (31)	100% (52)	100% (71)	100% (20)	100% (75)

TABLE PRS-2: PRS CHANGE AND SENTENCE RECEIVED

SCORE AT SECOND INTERVIEW	Sentence	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW		stable 44%	34%	61%	neg chg 30%	36%	49%	neg chg 55%	25%	66%	neg chg 45%	41%	61%
LOW		pos chg 56%	66%	39%	stable 27%	28%	23%	stable 29%	42%	24%			
HIGH					pos chg 43%	28%	23%	pos chg 19%	33%	10%	stable 55%	54%	34%
VERY HIGH													
		100% (61)	100% (41)	100% (57)	100% (37)	100% (39)	100% (47)	100% (52)	100% (66)	100% (50)	100% (31)	100% (61)	100% (34)

TABLE PRS-3: PRS CHANGE AND SPECIFIC LAWYER EVALUATION

SCORE AT SECOND INTERVIEW	Lawyer Evaluation	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
		Low	High	Low	High	Low	High	Low	High
	VERY LOW	stable 53%	46%	neg chg 47%	32%	neg chg 41%	36%	neg chg 67%	37%
	LOW	pos chg 47%	54%	stable 25%	32%				
	HIGH			pos chg 28%	36%	stable 38%	40%		
	VERY HIGH					pos chg 21%	24%	stable 33%	63%
		100% (74)	100% (57)	100% (57)	100% (47)	100% (76)	100% (74)	100% (45)	100% (65)

TABLE PRS-4: PRS CHANGE AND MODE OF DISPOSITION

SCORE AT SECOND INTERVIEW	Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
		Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
	VERY LOW	stable 43%	62%	47%	neg chg 24%	57%	37%	neg chg 53%	36%	42%	neg chg 39%	62%	47%
	LOW	pos chg 57%	38%	53%	stable 30%	17%	29%						
	HIGH				pos chg 46%	27%	34%	stable 27%	34%	35%			
	VERY HIGH							pos chg 20%	20%	23%	stable 61%	38%	53%
		100% (58)	100% (26)	100% (75)	100% (33)	100% (30)	100% (59)	100% (48)	100% (35)	100% (85)	100% (28)	100% (24)	100% (79)

TABLE PRS-5: RELATIONSHIP OF PRS CHANGE TO EVALUATION OF SPECIFIC PROSECUTOR AND SENTENCE RECEIVED

Specific Prosecutor Evaluation: LOW

SCORE AT SECOND INTERVIEW / Sentence Received	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW	stable 70%	61%	64%	neg chg 33%	54%	76%	neg chg 66%	55%	79%	neg chg 100%	71%	91%
LOW	pos chg 30%	39%	36%	stable 33%	36%	24%	stable 17%	27%	21%	stable 0	29%	9%
HIGH				pos chg 34%	10%	0	pos chg 17%	18%	0			
VERY HIGH												
	100% (27)	100% (13)	100% (31)	100% (18)	100% (11)	100% (17)	100% (12)	100% (11)	100% (29)	100% (2)	100% (7)	100% (11)

Specific Prosecutor Evaluation: HIGH

SCORE AT SECOND INTERVIEW / Sentence Received	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar	None	Prob	Incar
VERY LOW	stable 18%	26%	50%	neg chg 0	40%	27%	neg chg 29%	9%	47%	neg chg 25%	42%	44%
LOW	pos chg 72%	74%	50%	stable 20%	27%	27%	stable 56%	50%	38%	stable 75%	58%	56%
HIGH				pos chg 80%	33%	46%	pos chg 25%	41%	15%			
VERY HIGH												
	100% (17)	100% (19)	100% (12)	100% (5)	100% (15)	100% (11)	100% (24)	100% (34)	100% (13)	100% (16)	100% (41)	100% (18)

TABLE PRS-6: RELATIONSHIP OF PRS CHANGE TO SPECIFIC PROSECUTOR EVALUATION AND MODE OF DISPOSITION

Specific Prosecutor Evaluation: LOW

SCORE AT SECOND INTERVIEW — Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
VERY LOW	stable 69%	67%	64%	neg chg 20%	69%	71%	neg chg 64%	73%	73%	neg chg 100%	86%	84%
LOW	pos chg 31%	33%	36%	stable 40%	23%	29%						
HIGH				pos chg 40%	8%	0	stable 18%	27%	20%			
VERY HIGH							pos chg 18%	0	7%	stable 0	14%	16%
	100% (26)	100% (12)	100% (33)	100% (15)	100% (13)	100% (17)	100% (11)	100% (11)	100% (30)	100% (1)	100% (7)	100% (12)

Specific Prosecutor Evaluation: HIGH

SCORE AT SECOND INTERVIEW — Mode of Disposition	SCORE AT FIRST INTERVIEW: VERY LOW			LOW			HIGH			VERY HIGH		
	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea	Dism	Tr	Plea
VERY LOW	stable 18%	40%	35%	neg chg 20%	38%	28%	neg chg 32%	20%	18%	neg chg 14%	58%	41%
LOW	pos chg 82%	60%	65%	stable 20%	25%	28%						
HIGH				pos chg 60%	37%	44%	stable 41%	33%	47%			
VERY HIGH							pos chg 27%	27%	35%	stable 86%	42%	54%
	100% (17)	100% (5)	100% (26)	100% (5)	100% (8)	100% (18)	100% (22)	100% (15)	100% (34)	100% (14)	100% (12)	100% (49)

TABLE PRS-7: RELATIONSHIP OF PRS CHANGE TO EVALUATION OF SPECIFIC PROSECUTOR AND EVALUATION OF SPECIFIC LAWYER

Specific Prosecutor Evaluation

LOW

SCORE AT SECOND INTERVIEW / Lawyer Evaluation	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
	Low	High	Low	High	Low	Hide	Low	High
VERY LOW	stable 70%	71%	neg chg 68%	41%	neg chg 72%	69%	neg chg 100%	67%
LOW	pos chg 30%	29%	stable 32%	41%				
HIGH			pos chg 0	10%	stable 21%	26%		
VERY HIGH					pos chg 7%	5%	stable 0	33%
	100% (37)	100% (21)	100% (19)	100% (17)	100% (28)	100% (19)	100% (12)	100% (6)

Specific Prosecutor Evaluation

HIGH

SCORE AT SECOND INTERVIEW 1 / Lawyer Evaluation	SCORE AT FIRST INTERVIEW: VERY LOW		LOW		HIGH		VERY HIGH	
	Low	High	Low	High	Low	High	Low	High
VERY LOW	stable 29%	29%	neg chg 44%	15%	neg chg 12%	36%	neg chg	
LOW	pos chg 71%	71%	stable 31%	23%				
HIGH			pos chg 25%	62%	stable 54%	35%		
VERY HIGH					pos chg 34%	29%	stable 43%	65%
	100% (21)	100% (21)	100% (16)	100% (13)	100% (35)	100% (24)	100% (23)	100% (43)

X. CONCLUSION

A variety of themes have emerged in our discussion of defendant perceptions and evaluations of criminal courts. The first and perhaps most prosaic but powerful is simply that defendants exercise a substantial degree of discernment and judgment in their approach to criminal courts. This is not to say that defendant evaluations of judges, prosecutors, or public defenders are "correct," whatever such a concept might mean. It is to say that defendants evaluate criminal courts in ways that exhibit neither unanimity nor a consistent tendency to be dissatisfied or blame others for their own troubles. They come to the courts with a variety of images; they judge participants in a variety of ways; and they leave their encounters with a variety of views, both of their particular case and of the courts as a whole. Moreover, the factors that appear to affect these judgments are ones that are common to all of us: a strong dose of self-interest, a concern for face-to-face contact and a sense that one has been listened to and heard, a sense of equity, and the existence of preconceptions all shape a defendant's evaluation of what happens to him. Not only, then, is there variety in the judgments that are rendered, but the criteria for judgment are by no means idiosyncratic to some "criminal subculture." Rather, they are, in many respects, much like the rest of us.

As I say, this point may be prosaic, but it is also important. It flies in the face of a good deal of popular sentiment that tends to set criminals off from the rest of us. Those who have engaged in destructive or anti-social acts are most comfortably viewed as "different." Perhaps their conduct *is* different from that in which many of us would choose to engage, but the factors that appear to influence their judgments about what happens to them when they are called into court to answer for their acts do not seem to be all that different.

The fact that defendants exercise judgment that, if not necessarily shared by others, does display a degree of sophistication and discernment suggests another point. It suggests that it may be worthwhile talking with defendants about issues that make a difference to them, for they do not appear to be closed-minded ideologues or scapegoaters who simply have their opinions and are impervious to discussion of them. Whether we are talking about lawyer-client relations, the choice of an appropriate mode of disposition, or the more general issue of whether a defendant got a fair shake, the material presented here suggests that discussions with defendants by relevant participants will not inevitably be fruitless. Discussion will not necessarily assuage bitterness or dissatisfaction in this context any more than it is a guarantee of such an outcome in any other. But the material presented here does, I believe, suggest that it may be worthwhile. Defendants, while by no means ideal "objective" observers, are responsive to what happens to them and to an indication that what they have to say or what they feel matters. Thus, one of the major recommendations that emerges here is a simple one: those concerned with increasing defendants' sense that they have been fairly treated in any of a variety of respects might begin by talking to defendants about such issues, not with the assumption that such interchanges will be fruitless.

Another theme that has emerged is that what occurs in the lawyer-client relationship makes a difference. It makes a difference in the context of whether a defendant thinks he has been adequately represented in the particular case. It can affect the general beliefs that defendants take with them from their particular experience and bring to their next encounter. Finally, such events are related to defendant evaluations of the other participants encountered in a case.

This brings us to another important thread in our argument, the relationships between public defenders and their clients. Given that relationships with attorneys are important and that the great majority of these—and most—criminal defendants are represented by counsel appointed by the state, these relationships strike me as crucial to understanding and dealing with defendant perspectives toward criminal courts.

Public defenders—whether assigned counsel or employed by organizations devoted to defense of indigents—begin at a disadvantage. Clients come to such relationships with a chip on their shoulder, with a willingness to believe that things are not going to go particularly well. To the extent that a rapport with clients is an important element in establishing an adequate defense or in providing a working environment in which the public defender can spend his time with those who are friendly and amicable rather than distrustful and cynical, this client distrust presents a challenge both to the attorneys and to the criminal justice system as a whole.

The material suggests, however, that although public defenders may suffer from handicaps in relationships with their clients, these infirmities are not intractable. Rather, something can be done about them. One of the major sources of client suspicion, I have argued, is the institutional position of the public defender. Public defenders (whether assigned or working for public defender organizations) do not engage in financial exchanges with clients, and hence clients do not feel they have the leverage that such an exchange can provide. Moreover, the client typically cannot choose his public defender, but one is simply "given" to him. Finally, not only is the client not in a position to pay the public defender, but someone else is; and that "someone" is also paying the prosecutor and judge, leading many defendants to have real doubts as to whether "their" lawyer really belongs to them.

The material suggests several things that may be done to help deal with this situation. The first is simply that those involved with criminal courts—whether attorneys, prosecutors, judges, probation officers, etc.—might begin with the recognition that this defendant distrust is not, in its fundamental sense, anything to be surprised about, nor does it indicate either a psychological quirk or a desire to blame others for the defendant's own misdeeds. Rather, I have argued, the source of this distrust lies in part in a set of general values or beliefs about the operation of the marketplace that are deeply rooted in our culture. The defendant applies these lessons to his own circumstances and comes out feeling distrustful. Whether or not they are "right" in their distrust, or whether or not "we" are able to be more discerning in our ability to apply general cultural norms to particular settings, the fact remains that defendant distrust is real and it stems from a set of values that all of us, to one degree or another, share. Thus, the first step in dealing with this distrust is to acknowledge—to ourselves and to defendants as well—that we recognize their distrust and do not believe it to be an indication that something is "wrong" with them.

Recognition of this distrust and its roots also suggests some very small, but potentially important, areas in which attention might fruitfully be paid. Many defendants believe—rightly or wrongly—that privately retained attorneys are "real" lawyers, and that appointed counsel are somehow inferior substitutes. This belief, I have suggested, stems from the fact that there is a marketplace in which one *can* "buy" the services of attorneys. Defendants realize that they cannot participate in it but believe that what is available there is somehow superior to what is "given" them free of charge. Thus, those who serve as public defenders might well pay attention to making sure that they do not contribute to the notion that they are not "real" lawyers. Some public defenders have suggested to me, for example, that such matters as dress and office decoration may, trivial though they seem, make a difference. Dressing "like a lawyer" or displaying diplomas and the other accoutrements of the legal profession may be useful. This is not to say that all public defenders must wear suits and talk pompously. But it suggests that if part of the initial distrust of public defenders does lie in the doubt that they are "real" lawyers, doubt may be fed or assuaged by relatively minor details of style.

Not only do defendants wonder whether public defenders are the "real thing;" they are also made suspicious by the fact that their "enemy"—the state—is not only paying the prosecutor and judge, but also paying "their" lawyer. Thus, the notion that the public defender is somewhere in the middle, or even on the state's side, arises. Such a suspicion is often fostered by the fact that public defender offices are frequently located in the same building—often the courthouse—as are the offices of the prosecutor. Such office location may increase the sense that somehow everyone is working together, including the defendant's own lawyer. In addition, public defender interviews with clients who do not gain pre-trial release are frequently held in a jail or courthouse lock-up, once again in "their" territory, contributing to the suspicion that somehow the defendant's own lawyer is implicated with the interests of "the state." In addition to office and interview location, in some jurisdictions it is not an uncommon career pattern for an attorney to move from the staff of a public defender to a prosecutor's office,

or vice versa. Such career changes quickly become known in the relatively closed communities of jail or prison and can contribute, once more, to the notion that the defense attorney and the prosecutor are somehow interchangeable.

These matters are all, perhaps, cosmetic and seemingly trivial. How one dresses and arranges one's office, where the office is located, what job one has had before or goes on to may strike many as being either unimportant in themselves or at least trivial in comparison to doing the "real" job of a defense attorney—representing the interests of the client. Moreover, to do something about these things—dressing differently, moving office locations, or restricting career mobility—can cost substantial amounts in personal discomfort or money. I do not argue that the fact that certain activities may be detrimental to attorney-client relationships means that as a result policy should be changed. But I would argue that these are issues that one might pay attention to in making decisions about seemingly "trivial" things. Paying such attention can, at sometimes relatively "trivial" cost, contribute to improving relationships with clients and by so doing perhaps improve the ability of public defender offices to provide a higher quality of legal defense.

Finally, the distrust of public defenders has its roots, as well, in the lack of choice of which lawyer is to represent the client. Unlike the marketplace, where the defendant does make this choice, such freedom is usually not accorded to indigents. Doing something about this in the most fundamental sense would be expensive, perhaps prohibitively so. A voucher system, in which the defendant is given a chit worth a certain amount of money and then permitted to shop around and retain an attorney, would give the defendant not only a sense of choice but also of financial leverage. Such a system could still have a "public defender," but the office would compete with the private bar for representation of indigent clients. Such a system might be terribly expensive, for the economies of scale introduced by the public defender system are large. If we gave to each client the amount of money spent by most public defender offices on the average case, it would not buy much on the open market (and would, no doubt, increase the cost for public defenders as it introduced uncertainty into the caseload such offices would be guaranteed to service).

If such extensive choice is not feasible, an office policy of giving the client the maximum choice possible—if not to choose initially, at least to select another public defender after unsatisfactory experience with one—can contribute to effective lawyer-client relationships. Some public defenders have suggested that even less is required: if public defenders make it clear at the outset that they realize that the defendant is being forced to accept their services and that this may make the defendant uncomfortable, this may be an important first step. Moreover, if the public defender tells the client that if he becomes dissatisfied the lawyer will be willing to withdraw, this may even further increase the defendant's sense of control. Such an acknowledgement of the problem and indication of willingness to deal with it may, in and of itself, be enough. Experience of some public defenders who use this strategy indicates that clients may be typically quite struck by the offer and not inclined to actually take the lawyer up on it.

The burden of this argument is that institutional position affects defendant attitudes toward public defenders and presents a challenge to be overcome. There are a variety of ways that it may be dealt with, some of which may turn out to be relatively inexpensive. What decisions ought to be made in a particular office, if any, I am not in a position to say, for there are considerations other than client distrust that must be weighed. But the suspicion is real, and if an office desires to attempt to deal with it, some of the material presented here may be useful in making rational and efficient choices.

Although clients may come to their interactions with public defenders somewhat distrustful, these preconceptions do not always become self-fulfilling prophecies. Rather, the overall satisfaction rates are substantially higher for specific attorneys than they are for public defenders in general, and the level of satisfaction is related to specific aspects of the case and the interaction of client and lawyer that occurs. To put it another way, the infirmities of the institutional position occupied by the public defender do not always carry the day but can be overcome. Not all clients are in fact satisfied with their public defender, for they are not. But what happens in the case does matter.

The first thing that the material suggests might be done to improve lawyer-client relationships for public defenders is simply to acknowledge to the client that the distrust exists and that the attorney is aware of its existence and acknowledges that it is real and not an indication of some defect on the part of the client. Discussion with the client of the role of the public defender, of one's ability to both be an

employee of the state and still not committed to common interests with the prosecution, can perhaps be useful. Such discussion is not likely to make distrust disappear, but it may be a useful starting point. Ignoring client distrust—pretending it doesn't exist or placing the onus strictly on the client to deal with the problem—seems less likely to deal with the problem than open acknowledgement and discussion.

In addition to discussing the issue of lawyer-client relationships, the material presented here suggests that time spent with the client is a crucial determinant of how the client reacts to the representation that he has been given. As I have indicated above, time spent discussing the case and other issues with the client appears to matter in an affective rather than an instrumental sense, for increased time with clients is not associated in my data with markedly improved outcomes (either dismissals, acquittals, or reduced sentences for those convicted).

The reduced amounts of time that public defenders spend with clients vis-a-vis the amount of time spent by private lawyers may be the product of a variety of factors. It may, for example, result from heavier case loads, or it may be the result of office organization patterns designed to utilize investigators and para-professionals to handle certain aspects of the case (e.g., initial interviewing). Whatever the reason, the material suggests that there is a cost associated with reducing time with clients and a benefit associated with increasing time with clients. Again, this fact does not by any means resolve the issue, for increasing the amount of time spent with clients may have its own costs. It may, in a public defender office, reduce the amount of time spent on other aspects of the defense or it may require more attorneys, both of which may be too costly. For an assigned counsel, it may reduce the amount of time available to spend on other, paying clients.

Thus, to say that clients will be increasingly satisfied with the quality of their representation if their lawyers spend more time with them does not resolve a difficult issue of how best to allocate one's resources most efficiently or how to organize lawyer-client interactions in a public defender office. But it does say that when making such decisions, an awareness of the consequences of choosing one policy rather than another ought to inform judgments. Rather than believing that "hand-holding" makes no difference, an individual attorney or a public defender office ought to be aware that it does—whether called hand-holding or increased interaction with the client, it does increase the client's sense that he has had adequte representation. To the extent that we are willing to embrace the notion that providing an adequate defense includes *providing the client with a sense that he has been adequately represented,* time spent with client is an important aspect of an adequate defense.

In addition to making choices on the basis of as much information as possible, the material also suggests that these matters might well be discussed with the client. If an office decides to rely, for example, on investigators, paralegals, or interns for a substantial portion of interaction with clients because the lawyer's time is judged to be better spent on other aspects, the client ought to be informed of this fact. It would probably be best if an attorney made the initial contact and informed the client. Moreover, rather than simply saying that it is "office policy," some explanation of what, in fact, the attorneys are likely to be doing during the period in which the client will not have access to them would be useful. When client and attorney do actually get together to discuss the case, again, some explanation of the things that have been done on the case that the client has not been able to observe would be useful, to provide the client with a sense for how much work may have been done outside his presence.

Thus, the data argue that more time with clients produces an increased sense of adequate representation, and this ought to be considered in deciding what to do in individual cases or how large caseloads should be or how to arrange work in an office. Relatively small increments in time, the data suggest, can have substantial impact upon client evaluations. Finally, discussion with the client of the issue may be useful—to acknowledge that the attorney is aware of the client's concern and to explain that the lack of face-to-face contact does not indicate lack of attention to the case.

Another aspect of lawyer-client relationships that deserves attention is the effect of the mode of disposition upon client evaluations of their attorney. There is a relationship between mode of disposition and lawyer evaluation, with those who had trials being substantially more likely to evaluate their lawyer favorably. A trial can mean a variety of things, but what I believe it means in this context is the opportunity to see one's lawyer act like a lawyer —arguing for the client, opposing the arguments of the prosecution, cross-examining witnesses, etc. There is something about the trial setting that in particular focuses favorable attention on the defendant's lawyer.

Once more, this does not suggest that attorneys ought to always prefer adversary resolutions to pleas, for there are other factors—strategic, economic, interpersonal—that may dictate a non-adversary resolution in a particular case or in most cases in a jurisdiction. But it does suggest that a non-adversary resolution may have costs in terms of the defendant's sense that his lawyer has performed well. And it suggests that increasing the opportunity for the defendant to observe or gain knowledge of the lawyer's efforts on his behalf are useful. For example, there have recently been proposals to permit the defendant to observe or participate in the plea-discussions between the prosecution and defense. These proposals may have disadvantages, but they have the advantage of permitting the defendant to see his attorney argue on his behalf, even when the ultimate resolution will be a plea rather than a trial. If such mechanisms are not adopted, a somewhat less radical proposal is simply for the attorney to give the client a complete account of the negotiation session, indicating the nature of the discussions and the extent of negotiation that has taken place. This may not be the same as seeing the lawyer argue in court or actually witnessing the negotiations, but it may be useful in giving the client the sense that the lawyer has argued on his behalf. In general, to the extent that the client is permitted to observe the lawyer in action, the client is more likely to believe that the lawyer has, in fact, acted on his behalf.

One final theme emerges in our discussion of lawyer-client relationships. Clients tend to learn lessons about what public defenders are like from their experience with particular public defenders. Initial beliefs, though somewhat skeptical, do not in our sample determine evaluations of specific lawyers, though they do have an effect. Moreover, evaluations of specific lawyers—the product, I have argued, of time, predispositions, sentence, and mode of disposition—have an effect upon the general beliefs which the defendant takes from his encounter with the criminal courts. This can be a vicious cycle—initially skeptical predispositions because of the institutional position of the public defender; relatively little time spent with the lawyer and a non-adversary resolution, resulting in an unfavorable view of the particular attorney by which the client is represented; increasingly negative general views of public defenders after the case is completed. Yet this is not the only pattern. We also have seen that a favorable experience with a public defender is reflected in more favorable views of what most public defenders are like. Thus, the relationships between public defenders and clients do not have to deteriorate over time as the client has repeated experiences with the courts. They may be improved by favorable interactions with public defenders, and the characteristics of a favorable interaction are not beyond the control of the public defender. Thus, experience in a particular case has implications not only for the client's sense that he has been adequately represented in that case, but also for the set of beliefs he brings to his next encounter with the courts.

In sum, the material presented has a variety of implications for understanding lawyer-client relationships. If one is willing to agree that the concept of an adequate legal defense encompasses a notion of providing the defendant with a sense that his interests have been adequately represented, the material suggests some of the factors that appear to affect this aspect of a defendant's encounter with criminal courts. It is clear that there are other values at stake in criminal defense work, and that there may be costs associated with increasing the defendant's satisfaction; thus, to say that certain types of change might increase defendant satisfaction by no means settles the issue. But if we wish to deal with a broader concept of legal defense, the material contains a good deal of information about the consequences of various policies, and this information ought to be considered in making choices of systems for legal defense. What the choices will be depends upon a broad variety of concerns, and the burden of my argument is simply that such choices ought to be made with the broadest possible base of information about the consequences of one choice or another.

The materials also tell us something about defendant attitudes toward judges and prosecutors, though the policy implications and importance of the findings are somewhat less straightforward. We are able to explain something about the variation in defendant attitudes toward judges and prosecutors, but the variables that are associated with such attitudes are substantially less surprising and interesting than those associated with evaluations of lawyers. We find that defendant predispositions, sentence received, and evaluations of their lawyer are related to evaluations of the specific judge and prosecutor encountered. The importance of evaluations of their lawyers, though clearly present in terms of joint variation in the two measures, is somewhat ambiguous, for, as we have noted on several occasions, we cannot really tell whether the lawyer evaluation is the "cause" or simply another aspect of a single, under-

lying evaluative dimension, or even the "result" of evaluations of judges or prosecutors. I would assert the hypothesis that the nature of the lawyer-client relationship—the closeness of contact, the notion that the lawyer is "supposed" to be the one person on the client's side—makes plausible the hypothesis that it is causally prior to evaluations of judges and prosecutors, but cannot present evidence to demonstrate this proposition. If it is correct, it emphasizes once more the importance of lawyer-client relationships.

One of the reasons why we are able to explain less about attitudes toward judges and prosecutors is the relative lack of variation in such attitudes—defendants are highly positive about judges and feel prosecutors are committed to adverse outcomes. Such beliefs tend to characterize defendants when they come into court, their evaluation of the specific judges and prosecutors they encounter, and their general beliefs at the end. We also discover that there is, still, evidence of attitude change. Evaluations of specific actors tend to be reflected in change in attitudes toward the general class. Yet, even here, we find that our measures tend to reflect a good deal more consensus than is the case with defense attorneys. The gradations in judgment simply are not so great.

One way to interpret our findings is that the socialization processes that are generally at work in the society teaching lessons about what judges and prosecutors are like tend to hold sway even among those with direct experience. They tend to continue to embrace a view of the judge as a relatively neutral and benign figure and the prosecutor as the advocate for the state committed to convicting and punishing defendants. Though we can detect variation in these views and relate it to past experience and events within the case, the overall pattern is still fairly clear. With defense attorneys, though, we find more variation, from the traditional images of what they are "supposed" to be like and in defendant perceptions and evaluations. These beliefs appear to be more sensitive to "reality" as defendants perceive it. This may suggest that defendant interactions with lawyers are in some sense more important to them, for they are more likely to respond to what occurs rather than to adhere to the general images or myths that all of us are taught (at least insofar as their views of public defenders are concerned, and these are, in fact, the attorneys with whom they are most likely to interact). It might be suggested that this reflects simple scapegoating—they blame their lawyer for the unpleasant consequences of their own acts. Yet it is not clear why they ought not also to blame the judge. Although there is some negative shift for those who receive harsh sentences, their general images remain relatively favorable. This suggests that either defendants have some "need" to believe that judges are benign figures, or that their attitudes toward their lawyers are somehow more important, or at least amenable to change.

Finally, the material suggests some of the dimensions of the concept of fairness applied by defendants. Self-interest plays a role in the concept, just as it does for all of us: increasingly unpleasant outcomes produce a greater sense that things were not fair. In addition, defendants apply a sense of equity to their evaluations—the notion that one has been singled out for harsher treatment than that afforded to others similarly situated produces a sense of unfairness. A sense of equal treatment, even if the absolute outcome is unpleasant, is more likely to produce a sense of fairness. The third aspect of their evaluation deals with the process of conviction: people who plead guilty are substantially more likely to say that they have been treated fairly than those who have trials. We cannot precisely say, though, what it is about pleading guilty that produces this inclination. It may be a pre-existing set of attitudes that differentiates those who plead from those who have trials; it may be the risk-taking and raised expectations of the trial; it may be a sense of participation or of certainty associated with the plea. Those who have argued that plea-bargaining makes a defendant more satisfied with the proceedings are not contradicted by the evidence here, though the associated assertion that plea-bargaining makes sentences more palatable to defendants does not find support in our material.

Thus, defendants apply a variety of dimensions when they are asked about the fairness of their proceedings, and the prosaic but in some ways powerful conclusion to be drawn is that they tend to view what happens to them in criminal courts in terms of many of the same concepts that citizens apply in the evaluation of other aspects of their life.

This latter point is one of the main themes of this report. Defendants are, in many respects, like the rest of us. Although those who have committed a particular type of antisocial or destructive act may have thus distinguished themselves from the broad range of citizens, when it comes to their perceptions and evaluations of the criminal court system, they do

not appear to form an idiosyncratic or peculiar class. This means that when we as a society confront certain questions about what to do about our criminal courts, we ought not start with the comfortable assumption that the clients of these institutions are somehow "different," less than complete human beings, or whatever. Rather, we should start with the assumption that they are like the rest of us. They have preconceptions and stereotypes about what courts are like, and these can serve as partial sets of blinders; their judgments may at times be quite self-serving or be based on wishful thinking, just as those of others are, but they are responsive to what happens to them; they learn lessons from their specific experiences and thus sometimes change their views. In short, what happens in their interactions with criminal courts does matter, does make a difference in their views about what courts are like. To the extent that we are concerned not only with doing justice but with also giving people the sense that justice has been done—and in a democratic society, we ought to be concerned—the burden of this report is that what happens to defendants in their encounters with courts does make a difference.

APPENDIX I:
SAMPLING METHODS

The population to be investigated comprised adult men charged with felonies. The three cities chosen as research sites—Phoenix, Detroit, and Baltimore—were selected because they differ in terms of at least two dimensions on which we wished to obtain variation among the respondents. Phoenix and Detroit, like most American cities, utilize plea-bargaining as the means for dispositing of most felony cases that result in a conviction. Baltimore, on the other hand, is one of the few major cities that diposes of most felonies that result in a conviction by means of criminal trials. Baltimore and Phoenix, like many large cities, rely upon a public defender system for providing counsel to indigent defendants. Detroit does not have a public defender. Representation for most indigents in Detroit is provided by private council assigned to individual defendants; about a quarter of the felony cases are assigned to a "private" defender" office, a non-profit corporation that operates much like a public defender office but which is not formally affiliated with city or county government.

In addition to their variation on the above dimensions, the three cities have different histories and represent different geographic regions. Baltimore is an old commercial city, dating back to colonial times, and has a distinctly southern tradition. Detroit is a manufacturing city which grew rapidly with the development of the automobile industry during this century. Phoenix is a typical western metropolitan area, whose growth took place only well into this century and was particularly rapid in the period since the end of World War II. Thus, the three cities reflect a good deal of the diversity found in American metropolitan areas, both within their criminal justice systems and their histories, geographic areas, and population characteristics.

In each of the cities we aimed to obtain a sample of adult[1] males charged with felonies. Because of the different institutional arrangements within each, problems of confidentiality of information that surround the criminal justice process, and the availability of required information, the frame from which our respondents were drawn differs between the cities. That is to say, the list of "individuals charged with felonies" obtainable in the different cities differed somewhat in each.

In *Baltimore*, during the period under study here, an individual charged with a felony by the police was taken to a precinct station, where the formal document charging the individual with a criminal offense—basically the filing of the criminal information—was prepared by a police officer. Although in some cases there was a review within 48 hours by the office of the district attorney, in most cases there was no such review of the charges until shortly before the preliminary hearing in the case, typically a matter of two weeks later. Thus, for the sampling frame for men charged with felonies was the list, for the city as a whole, of *individuals against whom charges had been filed by an arresting officer.*

In *Phoenix,* the sampling frame was similar to that in Baltimore. This list from which respondents were drawn contained individuals charged with felonies by the police. Although the prosecutorial screening took place sooner in Phoenix than in Baltimore (usually within a matter of a day or two), it did not precede the generation of the list from which we sampled.

In *Detroit,* an individual charged by the police with a felony is booked on such charges, and the case then routinely goes to the Warrants section of the District Attorney's office for consideration the next morning. A rather rigorous screening takes place and a decision is made both as to whether to file any charge at all and whether it ought to be filed as a felony or misdemeanor. After this decision, defendants are arraigned upon the appropriate charge or released from custody with no charge having been filed. Our sample from Detroit was drawn from this list of *individuals arraigned on felony charges.*

In all three cities, the sampling frame included only men "charged" (as described above) with felonies. Within each city, the geographic area covered by our sampling frame was contiguous with the limits of the city itself. However, if an individual's place of residence was more than approximately 25 miles from the city proper, even if he had been arrested within the city limits, he was not eligible for sampling.

In each city, we aimed at obtaining approximately 250 completed first wave interviews over a period of approximately ten weeks. We computed the average number to be sampled each week on the assumption that we could obtain interviews from approximately 70% of those sampled. The actual sampling procedure involved obtaining the relevant list several times per week and taking every Nth case from the list. In Phoenix and Detroit, our assumption of a 70% completion rate was met. Each week approximately 36 cases were sampled, and approximately 25 cases were completed during the ten-week period of first-wave sampling. In Baltimore, however, the completion rate was much lower than assumed. As a result, we increased the sampling rate to approximately 60 per week.

The interviews were conducted by personnel from the National Opinion Research Center. With one exception, the interviewers were adult males and were matched by race with the respondent where possible. A Spanish translation of the questionnaire was available and used if the respondent so requested. Copies of the interview schedules are included in Appendix II. The interviews lasted on the average of one hour and included primarily forced-choice items. All items—with the exception of four sets of items in the second wave dealing with "most" private lawyers, public defenders, judges, and prosecutors—were administered by the interviewer. These latter four were self-administered, unless the respondent requested interviewer administration.

The overall results of the sampling and interviewing are as follows:

	Phoenix	Detroit	Baltimore
Number of cases sampled	373	365	617
Number of completed first wave interviews	260	268	284
Completion rate	69.7%	73.4%	46.7%

The reasons for not obtaining a completed interview with a sampled defendant were primarily connected with difficulties in actually getting in contact with the respondent. Incomplete and refused interviews account for less than one-fifth of the drop-out rate in all three cities. In Baltimore and Detroit, where a release-on-recognizance agency was in operation, the cooperation of this office was obtained in seeking addresses and phone numbers of respondents sampled. Typically, the information provided by ROR offices is superior to that provided by the police—it is more complete, is subjected to a verification procedure, and since it is gathered in the context of affecting chances for pre-trial release, respondents are more likely to give accurate information. The substantially lower completion rate in Baltimore was due not only to inaccuracies in location information provided by defendants to the police and courts, but also to the fact that large numbers of respondents were not locatable in the ROR files either; as a result, for a substantially greater number of respondents, we were unable to contact them to inquire about the interview. The drop-out rate in Baltimore, as well as the other two cities, can therefore be considered less serious than had the refusal rate been the main reason for the only moderately high completion rate. The details on non-completions are presented below:

	Phoenix (N 113)	Detroit (N 97)	Baltimore (N 333)
Reasons For Non-Completion:			
Case disposed of before interview completed	4.4%	2.1%	—
Unable to obtain address in order to attempt to contact respondent	—	—	31.6%
Respondent located and refused to be interviewed	16.6%	16.5%	5.1%
Interview broken off in middle	5.2%	1.0%	.7%
Interview not correctly completed	—	1.0%	5.7%
Respondent to ill	3.5%	—	.3%
Unable to contact respondent	48.2%	27.8%	40.5%
Other	21.9%	51.5%	15.9%
Total	99.8%	99.9%	99.0%

In discussing the samples in the three cities, one other difference is of some significance. Among those interviewed, some were in pre-trial custody, and some were free (here I am concentrating upon the first-wave interviews, though the same is true for the second wave as well, depending upon the sentence imposed if the respondent was convicted). In Baltimore, 82% of the interviews were conducted in jail; in Detroit; 52%, and in Phoenix, 42%. The differences are attributable to two factors. First, there was a substantial difference in the three cities as to the likelihood that an individual charged with a felony would be released at all and as to the timing of such release. For example, among respondents who were interviewed twice (the only ones on whom we have information about pretrial release), we find that in Baltimore, 60% were never released prior to case disposition, while the corresponding figures for Detroit and Phoenix are 29% and 19%. Moreover, we find that in Baltimore, only 23% of the second wave respondents were released within seven days, while the corresponding figures for Detroit and Phoenix are 50% and 67%. Given the time it took to sample and locate respondents, then, many more respondents in Baltimore were likely to be in pre-trial detention than were respondents in the other two cities.

The second factor causing the disjunction between the location interviews in the cities is less a product of the actual location of the potential respondents

and more an artifact of the ability of our interviewers to locate respondents. Given the difficulties in Baltimore in obtaining the information necessary to search for respondents, we were simply more likely to be able to find a respondent if he was incarcerated than if he had been released. Thus, this skewing of the location of respondents towards those in jail in Baltimore is partly a product of the fact that more were in jail and partly of the fact that those in jail were more easily locatable.

Considering the high mobility of the respondent population, as well as the rather anxiety-laden and suspicion-producing circumstances in which they found themselves, the completion rate seems reasonably high. In two of the cities it seems quite satisfactory (on the order of 70%) for a population as mobile and a subject area as difficult as that involved here. In the third city, Baltimore, the completion is substantially lower but on a par with many other efforts at reaching populations of this character. We do not have any data available on those sampled but not interviewed.

However, in Baltimore, given the fact that so many were interviewed in jail, there may be some over-representation of those who did not receive release on recognizance or could not make their money bail .This suggests that there may be some over-representation of those who are relatively poor or who have more serious charges of past criminal records.

Finally, in evaluating the sampling scheme and the success in completing interviews, it is important to note the differences in the populations sampled in the three cities. Baltimore and Phoenix both involve a population of those charged by the police with felonies; Detroit comprises a population of individuals not only charged by the police but whose cases have survived scrutiny by the prosecutor's office. As a result, one would expect that those in Detroit might have somewhat stronger cases against them than those in the other cities, which the relatively low dismissal rate found in the second wave interviews among Detroit respondents tends to confirm.

The next question to be addressed in dealing with the sample of defendants studied here is that of how representative they are of some broader population. We have described the sampling frame and techniques as well as the interviewing completion rates. We have discussed, in addition, some of the differences in the three cities in terms of history, demographic composition, and institutional arrangements that might tend to make the three city samples somewhat different from one another. But, taking the sample as a whole, what can we say about how it compares to relevant national populations? The question is very difficult to answer, both because it is hard to conceive of the relevant national population (Felons in the United States? Felons in cities in the United States? Felons in large cities in the United States?) and because of the paucity of useful national criminal statistics against which to compare our sample. For want of anything better, we shall use the Uniform Crime Reports compiled by the FBI.[2]

In terms of age, we can compare our sample to the FBI figures for arrests in "cities" (4,237 cities having a 1974 estimated population of 104 million).[3] We shall compare only arrestees who are over 18 years of age, given that in both our sample and the FBI statistics, the handling of juveniles is somewhat problematical. The relevant comparison is as follows:

Age of arrestees	3-City Sample (N 812)	All Cities (N approx. 688,000)
18-21 years	39.6%	39.5%
22-24 years	19.2%	17.4%
25-29 years	18.5%	16.6%
30 and over	22.6%	26.5%
Total	99.9%	100.0%

Our sample is slightly younger than the FBI city population, though the differences are not great.

We may also examine the racial composition of the FBI's reported arrestees and our sample. Here we find a very striking difference, as might be expected since we are reporting on three central cities, while the FBI statistics are based upon four thousand cities of various size.

Race	3-City Sample (N 812)	All Cities (N approx. 688,000)
White	33.9%	60.4%
Black	64.0%	37.1%
Other	2.1%	2.5%
Total	100.0%	100.0%

Finally, we may examine the array of charges placed against our sample and those reported in the UCR statistics. We only have information on charges for the 628 respondents who participated in our second interviews, and report only those who were

charged with a so-called "Index crimex," which is the population upon which the FBI statistics are gathered. The comparison group from the FBI statistics in this case is a bit better for our purposes, for it involves 43 cities over 250,000 in population:

Charges	3-City Sample (N 414)	43 Cities over 250,000 (N approx. 509,000)
Murder	3.6%	1.5%
Rape	7.0%	1.6%
Robbery and assault	38.9%	24.2%
Burglary	28.5%	21.7%
Larceny-Theft	15.0%	42.7%
Motor Vehicle Theft	7.0%	8.2%
Total	100.0%	99.0%

Some significant differences emerge. Our sample has substantially more crimes against persons, particularly robbery and assault, and few strictly property crimes, particularly larceny-thefts. However, the populations are not strictly comparable, although they are much closer than the broader category of "cities" used above. But we do not know how much variation in the distribution of charges there is among these 43 cities, and how this may vary as city size becomes larger and thus more comparable to our three cities. Moreover, comparable samples of the felony disposition process in Detroit and Baltimore by Jacob and Eisenstein[4] also suggests a substantially higher rate of crimes against persons than in the UCR statistics. This may suggest that Baltimore and Detroit have higher rates of personal crimes than do some other relatively large cities. In any event, all we can do is to note that, compared to this sample of arrestees in other relatively large cities, our sample has substantially more individuals charged with assaultive crimes and fewer with relatively simple property offenses.

The characteristics of our sample—as a whole and across the three cities—should be kept in mind in evaluating the relationships discussed in the main body of the report. When comparing the respondents here to some notion, for example, of criminal defendants in the United States as a whole, one should keep in mind that our sample has a greater number of blacks and those charged with assaultive crimes than many American cities. It may be that this sample of defendants more accurately reflects those arrested in large center cities than some more generalized notion of defendants in the United States as a whole.

The final issue to be discussed involves the relationship of the T_1 and T_2 samples. Recall that there were 184 respondents in the first wave who were not subjected to the second interview. Of these "drop-outs," 95 were individuals whose cases were completed before the field work period was terminated, but who were not reinterviewed (the bulk because we could not locate them); the remaining 89 were defendants whose cases were not completed, and hence no attempt to locate them was made. Do the drop-outs share certain characteristics that differentiate them from those respondents who were interviewed twice? Put another way, is the T_2 sample a random sample of the T_1 sample, or is it a biased sample? The best we can do to deal with this is to compare the two samples on a variety of demographic characteristics for which we have data on both. In terms of a variety of characteristics, the drop-outs and those who participated in both appear highly similar:

	T_2 Sample	Drop-Outs
Race/Ethnicity		
White	25.9%	30.6%
Black	65.6%	61.1%
Spanish Surname	8.5%	8.3%
	100.0%	100.0%
	(625)	(180)
Age		
Less than 18 years	6.1%	6.5%
18-21 years	40.3%	26.7%
22-25 years	19.8%	32.0%
26-30 years	17.1%	12.9%
Over 30 years	16.7%	21.9%
	100.0%	100.0%
	(628)	(184)
Mean age	25.1 years	25.5 years
Median age	22.2 years	23.2 years
Education		
Less than 8 years	15.9%	12.0%
Some high school	53.4%	48.4%
High school graduation	21.1%	26.6%
Some college or above	9.6%	13.0%
	100.0%	100.0%
	(627)	(184)
Employment Status		
Working	40.1%	39.7%
Unemployed	51.8%	51.6%
Other	8.1%	8.7%
	100.0%	100.0%
	(628)	(184)
Marital Status		
Married	21.2%	23.9%
Never married	61.4%	64.0%
Other	17.4%	12.1%
	100.0%	100.0%
	(628)	(184)

Criminal Record		
Never arrested	14.4%	13.0%
Arrested	22.4%	21.7%
Convicted	16.8%	19.0%
Served Jail Sentence	20.1%	18.5%
Served Prison Sentence	26.4%	27.7%
	100.1%	99.9%
	(628)	(184)

We do not have evidence that if we had included all 812 in the second interview, our second sample would have included respondents different—in demographic terms at least—than those who did not participate in both interviews.

APPENDIX II:
THE QUESTIONNAIRES

NORC
4212 T_1
5/75

Institute of Political Studies

STANFORD UNIVERSITY

and

National Opinion Research Center

UNIVERSITY OF CHICAGO

DEFENDANTS' ATTITUDES STUDY

BEGIN
DECK 01
5/R
6-7/01

CASE NO.: _____
1-4/

TIME BEGAN	A.M. P.M.

First, some questions about yourself.

1. How old were you on your last birthday?

_____ AGE 8-9/

---

2. And how many years of school did you finish?

Never attended school	01	10-11/
Fours years or less	02	
Five, six or seven years	03	
Finished 8th grade	04	
One year of high school	05	
Two or three years of high school	06	
Graduated high school	07	
Technical training or business school	08	
Some college, 1-3 years	09	
Finished College	10	
Graduate or professional school	11	
Other (SPECIFY)_____	12	

---

3. Are you now . . .

married or living as married,	1	12/
widowed,	2	
divorced,	3	
separated,	4	
or, have you never been married?	5	

4. Last week were you working full time, part time, going to school, unemployed or what? Working includes working in a family business or on a family farm without pay.

IF MORE THAN ONE RESPONSE, GIVE PREFERENCE TO CODES IN NUMERICAL ORDER--FROM LOWEST TO HIGHEST NUMBERS. CIRCLE ONE CODE ONLY.

Working full time (35 hours or more)	01	13-14/
Working part time (15 to 34 hours) . .	02	
With a job, but not at work because of temporary illness, vacation, strike	03	
Unemployed, laid off, looking for work	04	
Retired (ASK A).	05	
In school (ASK A).	06	
Other (SPECIFY AND ASK A)_____	07	

IF UNEMPLOYED, RETIRED, IN SCHOOL, OR OTHER:

A. Did you ever work for as long as 6 months?

Yes.	1	15/
No (SKIP TO Q.6)	2	

---

5. A. What kind of work (do/did) you normally do? (PROBE: What (is/was) your job called?)

_____ 16-17/
OCCUPATION

B. IF NOT ALREADY ANSWERED, ASK: What (do/did) you actually do in that job? (PROBE: What (are/were) some of your main duties?)

C. What kind of place (do/did) you work for? (PROBE: What do they make or do?)

_____
INDUSTRY

6. Now, I would like to ask you about some of your views on general social and political issues.

Here are some pairs of statements. For each pair, please tell me which one most nearly expresses your opinion.

A.	There is almost no way people like me can have an influence on the government. 1	18/
	People like me have a fair say in getting the government to do the things we care about 2	
B.	When I make plans, I am almost certain I can make them work. 1	19/
	When I make plans, I am not certain if they will work. 2	
C.	The way our government works, almost every group has a say in running things. 1	20/
	This country is really run by a small number of men at the top who speak only for a few special groups. 2	
D.	I have found that things that happen to me are usually beyond my control. 1	21/
	I have found that things that happen to me are usually my own doing. . 2	
E.	Our government leaders usually tell the truth. 1	22/
	Most of the things that government leaders say can't be believed . . . 2	
F.	Getting what I want has nothing to do with luck. 1	23/
	Getting what I want is mostly a matter of luck 2	
G.	The way this country is going, I often feel that I don't really belong here 1	24/
	Although our country may be facing difficult times, I still feel that it's a worthwhile place and that I really belong here. . . 2	
H.	I am proud of many things about our government 1	25/
	I can't find much in our government to be proud of 2	
I.	For me, definite decisions never work as well as trusting fate 1	26/
	For me, definite decisions work better than trusting fate. 2	

7. Please tell me whether you agree or disagree with each of the following statements.

	AGREE	DISAGREE	
A. With everything so uncertain these days, it almost seems as though anything could happen. Do you agree or disagree?	1	2	27/
B. What is lacking in the world today is the old kind of friendship that lasted for a lifetime.	1	2	28/
C. With everything in such a state of disorder, it's hard for a person to know where he stands from one day to the next.	1	2	29/
D. Everything changes so quickly these days that I often have trouble deciding which are the right rules to follow.	1	2	30/
E. I often feel that many things our parents stood for are just going to ruin before our very eyes -- Do you agree or disagree?	1	2	31/
F. The trouble with the world today is that most people really don't believe in anything.	1	2	32/
G. I often feel awkward and out of place.	1	2	33/
H. People were better off in the old days when everyone knew just how he was expected to act.	1	2	34/
I. It seems to me that other people find it easier to decide what is right than I do.	1	2	35/
J. Most public officials are not really interested in the problems of the average man.	1	2	36/
K. These days a person has to live pretty much for today, and let tomorrow take care of itself.	1	2	37/
L. In spite of what some people say the lot of the average man is getting worse not better.	1	2	38/
M. It's hardly fair to bring children into the world with the way things look for the future.	1	2	39/
N. These days a person doesn't really know whom he can count on.	1	2	40/

8. For each of the statements I'm going to read now, tell me the box on this card that comes closest to your own opinions.

For example, if you agree strongly with the statement, you would say box #1. If you disagree strongly with the statement you would say box #5. If your views are somewhere between strongly agreeing and strongly disagreeing, you would say the box that comes closest to your own views.

HAND RESP CARD A

	AGREE STRONGLY				DISAGREE STRONGLY	
A. People should only keep promises when it is to their benefit.	1	2	3	4	5	41/
B. Most people are better off than I am.	1	2	3	4	5	42/
C. Good manners are for sissies.	1	2	3	4	5	43/
D. Most police are crooked.	1	2	3	4	5	44/
E. I always try to obey a law, even if I think it is silly.	1	2	3	4	5	45/
F. I probably won't be able to do the kind of work that I want to do because I won't have enough education.	1	2	3	4	5	46/
G. Laws usually make the world a better place to live.	1	2	3	4	5	47/
H. I'll never have as much opportunity to succeed as guys from other neighborhoods.	1	2	3	4	5	48/
I. The law is always against the ordinary guy.	1	2	3	4	5	49/
J. It doesn't make much difference what a person tries to do; some folks are just lucky, others are not.	1	2	3	4	5	50/
K. I am as well off as most people.	1	2	3	4	5	51/
L. I should work hard only if I am paid enough for it.	1	2	3	4	5	52/
M. Laws hurt me more than they help me.	1	2	3	4	5	53/

	AGREE STRONGLY				DISAGREE STRONGLY	
N. The world is usually good to guys like me.	1	2	3	4	5	54/
O. Sometimes there are good reasons for breaking a law.	1	2	3	4	5	55/
P. All laws are good laws.	1	2	3	4	5	56/
Q. There isn't much chance that a person from my neighborhood will ever get ahead.	1	2	3	4	5	57/
R. Money is meant to be spent.	1	2	3	4	5	58/
S. Most problems could be solved if we just had more laws to deal with them.	1	2	3	4	5	59/
T. If a person like me works hard he can get ahead.	1	2	3	4	5	60/
U. Laws should almost never be changed.	1	2	3	4	5	61/
V. Most successful men probably used illegal means to become successful.	1	2	3	4	5	62/
W. People who break the law should always be punished.	1	2	3	4	5	63/
X. It makes no difference whether you work or go on welfare just so you get along.	1	2	3	4	5	64/
Y. People who make laws usually want to make the world a better place to live in.	1	2	3	4	5	65/

Q.8 (continued)

	AGREE STRONGLY				DISAGREE STRONGLY	
Z. The only thing I ought to be responsible for is myself.	1	2	3	4	5	66/
AA. There is a good chance that some of my friends will have a lot of money.	1	2	3	4	5	67/
BB. Don't let anybody your size get by with anything.	1	2	3	4	5	68/
CC. It's mostly luck if one succeeds or fails.	1	2	3	4	5	69/

BEGIN DECK 02

T_1

Now I would like to get your views on different parts of the criminal justice system. First, about police officers in general.

9. In general, do police officers . . .

usually treat people with respect, ... 1 8/

sometimes treat people with respect, ... 2

or, are they usually rude and disrespectful? 3

---

10. In general, do you think police officers are out to get people, or are they just doing their job?

Out to get people. 1 9/

Just doing their job 2

---

11. And what about the police officer who arrested you, did he . . .

	Yes	No	
Treat you in a business like manner?	1	2	10/
Use disrespectful language?	1	2	11/
Do his best to be as helpful as he could?	1	2	12/
Push you around when he didn't have to?	1	2	13/
Embarrass you in front of others when he didn't have to?	1	2	14/

---

12. Do you feel that the police officer who arrested you . . .

Was just out to get people . . . 1 15/

Or, just doing his job?. 2

Now, some questions about two different kinds of defense lawyers in criminal cases.

First, private lawyers. By private lawyers I mean lawyers who are paid by their clients in a case to defend them.

13. Have you ever been represented by a private lawyer in a criminal case before this current arrest?

Yes (ASK A) 1 16/
No. 2

A. How many times before this current arrest were you represented by a private lawyer?

_____ 17-18/
NUMBER OF TIMES

---

14. I'm going to read some pairs of statements about private lawyers. In each pair, please choose the one that comes closest to your opinion of what most private lawyers are like.

In general, most private lawyers . . .

A. Do not fight hard for their clients 1 19/
Fight hard for their clients. 2

B. Want their clients to plead not guilty. 1 20/
Want their clients to plead guilty. 2

C. Do not tell their clients the truth 1 21/
Tell their clients the truth. 2

In general, most private lawyers . . .

D. Listen to what their clients want to do 1 22/
Do not listen to what their clients want to do. 2

E. Want their clients to be convicted. 1 23/
Do not want their clients to be convicted 2

Q.14 (continued)

In general, most private lawyers . . .

F. Want to get the lightest possible sentence for their clients. . . 1 24/

Do not care what sentence their clients receive 2

G. Care more about getting a case over with quickly than about getting justice for their clients 1 25/

Do not care more about getting a case over with quickly than about getting justice for their clients. 2

H. Are not most concerned with how much money they will make in a case. 1 26/

Are most concerned with how much money they will make in a case. 2

I. Do not want their clients to be punished. 1 27/

Want their clients to be punished 2

---

15. In general, would you say that private lawyers are . . .

On their client's side 1 28/

Or, on the state's side? 2

SOMEWHERE IN THE MIDDLE BETWEEN THEIR CLIENT AND THE STATE 3

Next, some questions about Public Defenders or assigned lawyers. That is, lawyers who are paid by the city or state to defend people who are charged with crimes.

16. Have you ever been represented by a Public Defender in a criminal case before this current arrest?

Yes (ASK A). 1 29/

No 2

A. How many times before this current arrest were you represented by a Public Defender?

_____ 30-31/

NUMBER OF TIMES

17. The statements I'm going to read now are about Public Defenders. In each pair, choose the one that comes closest to your opinion of what most Public Defenders or assigned lawyers are like.

In general, most Public Defenders or assigned lawyers . . .

A. Do not fight hard for their clients 1 32/
Fight hard for their clients. 2

B. Want their clients to plead not guilty. 1 33/
Want their clients to plead guilty. 2

C. Do not tell their clients the truth 1 34/
Tell their clients the truth. 2

D. Listen to what their clients want to do 1 35/
Do not listen to what their clients want to do. 2

E. Want their clients to be convicted. 1 36/
Do not want their clients to be convicted 2

F. Want to get the lightest possible sentence for their clients. . 1 37/
Do not care what sentence their clients receive 2

G. Care more about getting a case over with quickly than about getting justice for their clients 1 38/
Do not care more about getting a case over with quickly than about getting justice for their clients. 2

H. Are not most concerned with how much money they will make in a case 1 39/
Are most concerned with how much money they will make in a case 2

I. Do not want their clients to be punished 1 40/
Want their clients to be punished 2

18. In general, would you say that Public Defenders are . . .

On their client's side 1 41/

Or, on the state's side? 2

SOMEWHERE IN THE MIDDLE BETWEEN THEIR CLIENT AND THE STATE . . . 3

---

19. Which of these two kinds of lawyers do you think does a better job for his clients -- would you say . . .

a Public Defender or assigned lawyer. . . 1 42/

or a private lawyer? . 2

---

20. What is it that (LAWYER CODED IN Q.19)'s do for their clients that makes them better than a (OTHER LAWYER IN Q.19) or any other kind of lawyer? (PROBE: What else makes a (CHOICE OF LAWYER) better)?

43-44/

45-46/

47-48/

Now, some questions about prosecutors in criminal cases. The recommendation of a prosecutor often seems important in determining what sentence a convicted defendant is given by the judge.

21. Here is a list of things that are considered by the prosecutor when deciding what sentence to recommend to the judge.

Which one of these do you think is most important to the prosecutor in deciding which sentence to recommend to the judge?

HAND RESP CARD B

(CIRCLE ONE CODE ONLY)	Most important	
What sentence will best make the punishment fit the crime.	1	49/
What sentence has been agreed upon as part of a deal with the defendant	2	
What sentence will be most likely to rehabilitate the defendant. . .	3	
Whether bribes or payoffs were made to the prosecutor.	4	
What the defendant's crime and past record are	5	
What sentence the prosecutor thinks the judge will want to give. . .	6	

---

22. Which of these statements about prosecutors comes closest to your opinion of what most prosecutors are like? (CIRCLE ONE CODE FOR EACH PAIR)

In general, most prosecutors . . .

A. Try hard to find out whether a defendant is guilty or innocent	1	50/
Do not try hard to find out whether a defendant is guilty or innocent.	2	
B. Listen only to what the police tell them.	1	51/
Listen to all sides in the case	2	
C. Do not want defendants to get punished as heavily as possible	1	52/
Want defendants to get punished as heavily as possible.	2	
D. Care more about getting cases over with quickly, than about doing justice	1	53/
Do not care more about getting cases over with quickly, than about doing justice.	2	
E. Want to get a conviction in every case.	1	54/
Do not want to get a conviction in every case	2	

Q.22 (continued)

F. Are honest with defendants and their lawyers. 1 55/

Are not honest with defendants and their lawyers. 2

G. Are out to get defendants 1 56/

Are not out to get defendants 2

And now I'd like to ask you about judges in criminal cases.

23. In making his decision about what to do in a case, do you think the judge usually . . .

Makes up his own mind about what to do 1 57/

Or, does what the prosecutor tells him to do? (ASK A). 2

A. What do you think is the <u>main reason</u> the judge acts this way?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD C

Prosecutors usually know more about what is best to do in a case than judges do. 1 58/

Judges are lazy 2

Prosecutors make the deals and judges feel they must back them up 3

Judges are too busy to pay attention to any one case 4

---

24. If an agreement is reached between a defendant and the prosecutor about what sentence the defendant will receive if he agrees to plead guilty, do you think that most judges . . .

will go along, or. 1 59/

will they give the defendant a different sentence? (ASK A). . . 2

A. If the judge does give a different sentence, do you think it is <u>usually</u> because . . .

the judge didn't know about the agreement between the defendant and the prosecutor, ... 1 60/

the judge wants to make up his own mind and has decided that the defendant deserves a different sentence, or. 2

the judge has it in for the defendant?. 3

25. Now, I'm going to read you some pairs of statements about judges. Please choose the one in each pair that comes closest to your opinion about what most judges are like.

In general, most judges . . .

A. Are unbiased and fair to both sides 1 61/

Are biased in favor of the prosecution. 2

B. Are out to get defendants 1 62/

Are not out to get defendants 2

C. Are concerned about following the legal rules 1 63/

Are not concerned about following the legal rules 2

D. Listen only to what prosecutors and police officers tell them . . 1 64/

Listen to all sides in the case 2

In general, most judges . . .

E. Are honest with defendants and their lawyers. 1 65/

Are not honest with defendants and their lawyers. 2

F. Want to see all defendants get punished as heavily as possible 1 66/

Do not want to see all defendants get punished as heavily as possible 2

G. Do not care more about getting cases over with quickly than about doing justice. 1 67/

Care more about getting cases over with quickly than about doing justice 2

T_1

26. Have you ever had a jury trial?

Yes (ASK A & B) 1 8/
No (ASK C & D). 2

IF YES, ASK A & B:

A. How many times have you had a jury trial?

_____ 9-10/
NUMBER OF TIMES

B. What was the outcome (in each case) -- were you convicted or acquitted? (Let's start with your 1st jury trial/2nd/3rd, etc.)

(RECORD IN BOX BELOW)

Jury Trial	Convicted	Acquitted	
1st (or only)	1	2	11/
2nd	1	2	12/
3rd	1	2	13/

IF NO, ASK C & D:

C. Have you ever seen a jury trial in a criminal case, in person?

Yes (ASK D) 1 14/
No. 2

D. How many times have you seen a jury trial in person

_____ 15-16/
NUMBER OF TIMES

27. Which of these statements about juries comes closest to your opinion of what <u>most juries</u> are like? (CIRCLE ONE CODE FOR EACH PAIR)

Most juries . . .

A. Are unbiased and fair to both sides 1 17/

Are biased in favor of the prosecutor 2

B. Make little effort to find out whether defendants are innocent or guilty. 1 18/

Try hard to find out whether defendants are innocent or guilty 2

C. Listen to all sides in the case 1 19/

Listen only to what prosecutors and police officers tell them 2

D. Are less likely than judges to believe defendants 1 20/

Are more likely than judges to believe defendants 2

Next some questions about plea-bargaining in criminal cases.

By plea-bargaining I mean an agreement between the defendant's lawyer and the prosecutor in which the defendant agrees to plead guilty rather than have a trial, and the prosecutor agrees to drop some of the charges, or recommends a lesser sentence to the judge.

28. Here is a list of things the prosecutor considers when he is deciding what to offer a defendant in the course of plea-bargaining.

Which one of these do you think is most important to the prosecutor in deciding what to offer a defendant in plea-bargaining?

HAND RESP CARD D

(CIRCLE ONE CODE ONLY)	Most important	
What the nature of the crime is	1	21/
What the defendant's past record is	2	
What he thinks is necessary to get the defendant to agree to plead guilty.	3	
How strong his case against the defendant is.	4	
How crowded the court calendar is	5	
What sentence he thinks will best serve to rehabilitate the defendant.	6	

---

29. Which of these statements about plea-bargaining comes closest to your opinion of plea-bargaining?

Plea-bargaining . . .

A. Is a good way to decide most criminal cases	1	22/
Is a bad way to decide most criminal cases.	2	

B. Mostly benefits the state	1	23/
Mostly benefits defendants.	2	

Plea-bargaining . . .

C. Often lets guilty people off with light sentences 1 24/

Has little or no effect on the sentences guilty people get. . . . 2

D. Often leads innocent people to plead guilty 1 25/

Has little or no effect on the way innocent people plead. 2

E. Prevents defendants from exercising their right to a trial. . . . 1 26/

Does not prevent defendants from exercising their right to a trial. 2

---

30. What is it that you <u>like most</u> about plea-bargaining?
(PROBE: What other things do you like about plea-bargaining?)

27-28/

29-30/

31-32/

---

31. And what is it about plea-bargaining that you <u>like the least</u>?
(PROBE: What other things do you <u>dis</u>like about plea-bargaining?)

33-34/

35-36/

37-38/

32. In the average criminal case, who do you think is most important in determining whether the defendant is convicted or not -- is it . . .

the prosecutor 1 39/

the defense lawyer 2

or, the judge? 3

---

33. In the average criminal case, who do you think is most important in determining what sentence the defendant finally receives -- is it. . .

the defense lawyer 1 40/

the judge. 2

or, the prosecutor?. 3

---

34. If a defendant is convicted, which of these do you think is the most important thing determining what sentence he receives . . .

HAND RESP CARD E

(CIRCLE ONE CODE ONLY)	Most important	
The judge's idea of what would best make the punishment fit the crime	.01	41-42/
The deal made between the defendant and the prosecutor	.02	
What the law says the sentence should be	.03	
The recommendation of the prosecutor to the judge. . . .	.04	
The defendant's past record.	.05	
The judge's idea of what would best serve to rehabilitate the defendant or, ...	.06	
The argument the defense lawyer makes on the defendant's behalf?.	.07	

35. If a white man and a black man are both charged with the same crime, who do you think has a better chance to get off without being convicted . . .

The black man. 1 43/

The white man (ASK A). 2

Or, are their chances about the same?. 3

A. Suppose the black man has a lot of money and the white man is poor. Who do you think has a better chance to get off without being convicted . . .

The white man. 1 44/

The black man or,. 2

Are their chances about the same?. 3

---

36. What is your religious preference -- is it Protestant, Catholic, Jewish, some other religion, or no religion?

Protestant (ASK A) 1 45/

Catholic 2

Jewish 3

Black Muslim 4

Other (SPECIFY)_____5

None 6

A. What group or denomination is that?

46-47/

_____

PROTESTANT GROUP OR DENOMINATION

37. Which of the groups on this card shows your own total income from all sources before taxes for this last year, 1974 -- that is, just tell me the letter for the amount that fits.

REMIND RESPONDENT TO INCLUDE INCOME FROM ALL SOURCES LISTED ON THE CARD.

HAND RESP CARD F

NOTE: CARD ONLY SHOWS ANNUAL INCOME. IF RESPONDENT ANSWERS IN TERMS OF MONTHLY OR WEEKLY INCOME, ASK: HOW MANY MONTHS OR HOW MANY WEEKS?

	Weekly	Monthly	Yearly		
A.	Under $ 29	Under $ 125	Under $ 1,500 . . .	01	48-49/
B.	$ 29 - $ 37	$ 125 - $ 166	$1,500 - $ 1,999 . . .	02	
C.	$ 38 - $ 47	$ 167 - $ 207	$2,000 - $ 2,499 . . .	03	
D.	$ 48 - $ 61	$ 208 - $ 265	$2,500 - $ 3,199 . . .	04	
E.	$ 62 - $ 72	$ 266 - $ 316	$3,200 - $ 3,799 . . .	05	
F.	$ 73 - $ 80	$ 317 - $ 349	$3,800 - $ 4,199 . . .	06	
G.	$ 81 - $ 84	$ 350 - $ 365	$4,200 - $ 4,399 . . .	07	
H.	$ 85 - $ 89	$ 366 - $ 391	$4,400 - $ 4,699 . . .	08	
I.	$ 90 - $ 95	$ 392 - $ 416	$4,700 - $ 4,999 . . .	09	
J.	$ 96 - $ 99	$ 417 - $ 432	$5,000 - $ 5,199 . . .	10	
K.	$100 - $109	$ 433 - $ 474	$5,200 - $ 5,699 . . .	11	
L.	$110 - $118	$ 475 - $ 516	$5,700 - $ 6,199 . . .	12	
M.	$119 - $130	$ 517 - $ 566	$6,200 - $ 6,799 . . .	13	
N.	$131 - $137	$ 567 - $ 599	$6,800 - $ 7,199 . . .	14	
O.	$138 - $141	$ 600 - $ 616	$7,200 - $ 7,399 . . .	15	
P.	$142 - $147	$ 617 - $ 641	$7,400 - $ 7,699 . . .	16	
Q.	$148 - $153	$ 642 - $ 666	$7,700 - $ 7,999 . . .	17	
R.	$154 - $157	$ 667 - $ 682	$8,000 - $ 8,199 . . .	18	
S.	$158 - $166	$ 683 - $724	$8,200 - $ 8,699 . . .	19	
T.	$167 - $176	$ 725 - $ 766	$8,700 - $ 9,199 . . .	20	
U.	$177 - $187	$ 767 - $ 816	$9,200 - $ 9,799 . . .	21	
V.	$188 - $191	$ 817 - $ 832	$9,800 - $ 9,999 . . .	22	
W.	$192 - $231	$ 833 -$1,000	$10,000- $11,999 . . .	23	
X.	$232 - $288	$1,001-$1,250	$12,000- $14,999 . . .	24	
Y.	$289 and over	$1,251 and over	$15,000 and over . . .	25	

38. Were you ever arrested before this current arrest?

Yes 1 50/
No (SKIP TO END STATEMENT, Pg. 25) 2

---

39. How many times were you arrested?

_____ 51-52/
NUMBER OF TIMES ARRESTED

---

40. How old were you when you were arrested (the first time)?

_____ 53-54/
AGE AT FIRST ARREST

---

41. Were you ever convicted of a criminal charge?

Yes (ASK A & B) 1 55/
No (SKIP TO END STATEMENT). . . 2

A. How many times were you convicted of a misdemeanor?

_____ 56-57/
NUMBER OF CONVICTIONS FOR MISDEMEANOR

B. And how many times were you convicted of a felony?

_____ 58-59/
NUMBER OF CONVICTIONS FOR FELONY

42. Have you ever been sentenced to serve time in jail after being convicted of a crime?

Yes (ASK A & B) 1 60/
No. 2

A. How many times were you sent to jail?

_____ 61-62/
NUMBER OF TIMES SENT TO JAIL

B. How many months altogether have you served in jail?

_____ 63-65/
TOTAL NUMBER OF MONTHS SERVED IN JAIL

---

43. And have you ever served time in <u>prison</u>?

Yes (ASK A & B) 1 66/
No. 2

A. How many times were you sent to prison?

_____ 67-68/
NUMBER OF TIMES SENT TO PRISON

B. How many months altogether have you served in prison?

_____ 69-71/
TOTAL NUMBER OF MONTHS SERVED IN PRISON

That is all the questions I have. Thank you very much and good luck.

TIME ENDED	_____ A.M. P.M.

COMPLETE FOLLOW UP SHEET INFORMATION ON NEXT PAGE.

FOLLOW UP SHEET

CASE #: _____

We would like to speak with you again after the disposition of your case. After we complete the second interview we will pay you $10 in appreciation for giving us your time.

First, as a reminder, I'll send you a letter which will simply mention a general survey being doing by the National Opinion Research Center. Then, I'll telephone you soon after that for an appointment.

If it's not convenient to talk when I call, we can arrange to get together over the phone some other time.

Please give me your address and the correct spelling of your name so that I will know where to send the letter and whom to ask for on the telephone.

Your name is: _____

and your address is: _____ Private home ☐
street Apt. number ☐

_____
city state zip

May I have your telephone number?

Telephone no.: Area code: _____/_____ (ASK A) . . 1

No phone 2

Refused. 3

A. Is this telephone in your own household, or in a neighbor's home, or where?

In household 1

In home of neighbor. . . . 2

Other (SPECIFY)_____3

Do you use any nick names or other names that people know you by?

_____

At what other addresses or telephone numbers could you be reached in case it is difficult getting through to you -- perhaps the address or telephone number of a close friend or relative, or <u>your place of work</u> can put us in touch again?

Remember there will be no mention of the reason for my contacting you except that this is a general survey.

Name of Contact: _____ / _____
relationship to R.

IF EMPLOYER: Name of company: _____

Address: _____ Private home ☐
street Apt. number ☐

_____ PHONE: _____ / _____
city state zip AREA CODE

Is there anyone else?

Name of Contact: _____ / _____
relationship to R.

IF EMPLOYER: Name of company: _____

Address: _____ Private home ☐
street Apt. number ☐

_____ PHONE: _____ / _____
city state zip AREA CODE

Thank you again for all your help.

BEGIN DECK 04

INTERVIEWER REMARKS

TO BE COMPLETED AS SOON AFTER INTERVIEWING RESPONDENT AS POSSIBLE

1. In general, was the respondent . . .

   A. Confiding -- treating you as if a close friend, offering information spontaneously 1 8/

   Frank, open -- willing to give what was asked for, but with no compulsion to impart more information 2

   Equivocal -- uncertain, changeable. 3

   Guarded -- suspicious, wary of intent, minimal answers. 4

   Hostile -- unfriendly, quarrelsome. 5

---

2. Respondent is:

   American Indian 1 9/
   Negro/Black 2
   Oriental. 3
   Caucasian/white 4
   Other (SPECIFY)_____ 5

---

3. If Respondent has a Spanish surname, code one:

   Mexican-American. 1 10/
   Latino. 2
   Other 3

---

4. Interview was conducted . . .

   in jail 1 11/
   elsewhere 2

---

5. Total length of interview in minutes: [ ][ ] 12-13/

---

6. Date of interview: [ ][ ][ ][ ][5] 14-18/
   MONTH / DAY /

---

7. Interviewer's signature: _____

---

8. Interviewer's number: [ ][ ][ ][ ][ ] 19-23/

NORC
4212 T_2
5/75

Institute of Political Studies

STANFORD UNIVERSITY

and

National Opinion Research Center

UNIVERSITY OF CHICAGO

DEFENDANTS' ATTITUDES STUDY

BEGIN
DECK 05
5/R
6-7/05

CASE NO.: _____
1-4/

TIME _____ A.M.
BEGAN P.M.

Before we talk about your own case, I'd like to ask about some of your views on general social and political issues.

1. Here are some pairs of statements. For each pair, please tell me which one <u>most nearly</u> expresses your opinion.

A. There is almost no way people like me can have an influence on the government 1 8/

People like me have a fair say in getting the government to do the things we care about. 2

B. When I make plans, I am almost certain I can make them work 1 9/

When I make plans, I am not certain if they will work 2

C. The way our government works, almost every group has a say in running things 1 10/

This country is really run by a small number of men at the top who speak only for a few special groups 2

D. I have found that things that happen to me are usually beyond my control 1 11/

I have found that things that happen to me are usually my own doing. 2

E. Our government leaders usually tell the truth 1 12/

Most of the things that government leaders say can't be believed. . 2

F. Getting what I want has nothing to do with luck 1 13/

Getting what I want is mostly a matter of luck. 2

G. The way this country is going, I often feel that I don't really belong here. 1 14/

Although our country may be facing difficult times, I feel that it's a worthwhile place and that I really belong here. . . . 2

H. I am proud of many things about our government. 1 15/

I can't find much in our government to be proud of. 2

I. For me, definite decisions never work as well as trusting fate. . . 1 16/

For me, definite decisions work better than trusting fate 2

2. Please tell me whether you agree or disagree with each of the following statements.

	AGREE	DISAGREE	
A. With everything so uncertain these days, it almost seems as though anything could happen. Do you agree or disagree?	1	2	17/
B. What is lacking in the world today is the old kind of friendship that lasted for a lifetime.	1	2	18/
C. With everything in such a state of disorder, it's hard for a person to know where he stands from one day to the next.	1	2	19/
D. Everything changes so quickly these days that I often have trouble deciding which are the right rules to follow.	1	2	20/
E. I often feel that many things our parents stood for are just going to ruin before our very eyes -- Do you agree or disagree?	1	2	21/
F. The trouble with the world today is that most people really don't believe in anything.	1	2	22/
G. I often feel awkward and out of place.	1	2	23/
H. People were better off in the old days when everyone knew just how he was expected to act.	1	2	24/
I. It seems to me that other people find it easier to decide what is right than I do.	1	2	25/
J. Most public officials are not really interested in the problems of the average man.	1	2	26/
K. These days a person has to live pretty much for today, and let tomorrow take care of itself.	1	2	27/
L. In spite of what some people say the lot of the average man is getting worse not better.	1	2	28/
M. It's hardly fair to bring children into the world with the way things look for the future.	1	2	29/
N. These days a person doesn't really know whom he can count on.	1	2	30/

3. For each of the statements I'm going to read now, tell me the box on this card that comes closest to your own opinions.

For example, if you agree strongly with the statement, you would say box #1. If you disagree strongly with the statement you would say box #5. If your views are somewhere between strongly agreeing and strongly disagreeing, you would say the box that comes closest to your own views.

HAND RESP CARD A

	AGREE STRONGLY				DISAGREE STRONGLY	
A. People should only keep promises when it is to their benefit.	1	2	3	4	5	31/
B. Most people are better off than I am.	1	2	3	4	5	32/
C. Good manners are for sissies.	1	2	3	4	5	33/
D. Most police are crooked.	1	2	3	4	5	34/
E. I always try to obey a law, even if I think it is silly.	1	2	3	4	5	35/
F. I probably won't be able to do the kind of work that I want to do because I won't have enough education.	1	2	3	4	5	36/
G. Laws usually make the world a better place to live.	1	2	3	4	5	37/
H. I'll never have as much opportunity to succeed as guys from other neighborhoods.	1	2	3	4	5	38/
I. The law is always against the ordinary guy.	1	2	3	4	5	39/
J. It doesn't make much difference what a person tries to do; some folks are just lucky, others are not.	1	2	3	4	5	40/

Q.3 (continued)

	AGREE STRONGLY				DISAGREE STRONGLY	
K. I am as well off as most people.	1	2	3	4	5	41/
L. I should work hard only if I am paid enough for it.	1	2	3	4	5	42/
M. Laws hurt me more than they help me.	1	2	3	4	5	43/
N. The world is usually good to guys like me.	1	2	3	4	5	44/
O. Sometimes there are good reasons for breaking a law.	1	2	3	4	5	45/
P. All laws are good laws.	1	2	3	4	5	46/
Q. There isn't much chance that a person from my neighborhood will ever get ahead.	1	2	3	4	5	47/
R. Money is meant to be spent.	1	2	3	4	5	48/
S. Most problems could be solved if we just had more laws to deal with them.	1	2	3	4	5	49/

Q.3 (continued)

	AGREE STRONGLY				DISAGREE STRONGLY	
T. If a person like me works hard he can get ahead.	1	2	3	4	5	50/
U. Laws should almost never be changed.	1	2	3	4	5	51/
V. Most successful men probably used illegal means to become successful.	1	2	3	4	5	52/
W. People who break the law should always be punished.	1	2	3	4	5	53/
X. It makes no difference whether you work or go on welfare just so you get along.	1	2	3	4	5	54/
Y. People who make laws usually want to make the world a better place to live in.	1	2	3	4	5	55/
Z. The only thing I ought to be responsible for is myself.	1	2	3	4	5	56/
AA. There is a good chance that some of my friends will have a lot of money.	1	2	3	4	5	57/
BB. Don't let anybody your size get by with anything.	1	2	3	4	5	58/
CC. It's mostly luck if one succeeds or fails.	1	2	3	4	5	59/

BEGIN DECK 06

Now I would like to ask some questions about what happened in the case that began when we first spoke to you.

You were (arrested/arraigned) on _____ for
(ENTER DATE OF ARREST/ARRAIGNMENT)

_____
(ENTER ALL ORIGINAL CHARGES)

That case ended on _____ with _____
(ENTER DATE CASE CONCLUDED) (ENTER FINAL OUTCOME)

for _____ .
(IF SENTENCED, ENTER FINAL CHARGES)

4. Were you held in jail at all after your arrest on _____?
(ENTER DATE OF ARREST/ARRAIGNMENT)

Yes (ASK A & B) 1 8/
No (SKIP TO Q.6). . . . 2

A. Altogether how many days or hours were you held in jail?

_____ / _____
NUMBER OF DAYS 9-11/ or NUMBER OF HOURS 12-13/

B. During the time you were in jail did you have any visits from . . . (READ EACH PERSON)

	Yes	No		(1) How many visits did you have from . . . (READ EACH PERSON)	
Lawyers	1 (ASK [1])	2	14/	_____ NUMBER OF VISITS	15-16/
Friends	1 (ASK [1])	2	17/	_____ NUMBER OF VISITS	18-19/
Relatives	1 (ASK [1])	2	20/	_____ NUMBER OF VISITS	21-22/
Someone else (SPECIFY)	1 (ASK [1])	2	23/	_____ NUMBER OF VISITS	24-25/

5. Were you released from jail for any time between _____
(ENTER DATE OF ARREST/ARRAIGNMENT)

and _____ when _____?
(ENTER DATE CASE CONCLUDED) (ENTER FINAL OUTCOME)

Yes 1
No (SKIP TO Q.7). . . . 2

6. Were you released on bail or on your own recognizance during this period?

Bail (ASK A & B) 1 27/
Own recognizance (GO TO Q.7) 2

A. How much was the bond?

$_____ 28-33/

B. Did you use a bail bondsman, or were you able to post bond yourself?

Used bondsman (ASK [1]) 1 34/
Able to post bond 2

[1] How much did the bondsman charge?

$_____ 35-38/

%_____ 39-41/

Don't know 997

IF RESPONDENT IS CURRENTLY FREE, ASK Q's. 7-10.

7. Did you have a job at the time of your arrest on _____ (DATE)?

Yes 1 42/
No (SKIP TO Q.11) 2

---

8. Do you now have either a part-time or full-time job?

Yes 1 43/
No (SKIP TO Q.10) 2

IF "YES" TO BOTH Q.7 AND Q.8, ASK Q.9.

9. Do you now have the same job as you had when you were arrested?

Yes, same job 1 44/
No, different job 2

IF RESPONDENT EITHER LOST JOB OR CHANGED JOB SINCE ARREST, ASK Q.10.

10. Did your arrest have anything to do with (changing/losing) your job?

Yes 1 45/
No 2

ASK EVERYONE

Now I'm going to ask you some questions about defense lawyers in criminal cases. First, about the lawyer in the case we have been talking about.

11. Were you represented by a lawyer at any time during this case?

Yes 1 46/

No (SKIP TO Q.24, P.13) 2

IF PLEADED GUILTY, HAD TRIAL, OR RECEIVED DIVERSION STATUS, ASK Q.12.

12. Were you represented by a lawyer on _____ (ENTER DATE PLEADED GUILTY/DATE TRIAL BEGAN/ _____ DATE RECEIVED DIVERSION STATUS) when you (pleaded guilty/had a trial/received diversion status)?

Yes (ASK A) 1 47/

No. 2

A. What was the name of this lawyer?

_____
LAWYER'S FIRST AND LAST NAME

IF CHARGES DISMISSED, ASK Q.13.

13. What was the name of the lawyer you last talked with before the charges were dismissed?

_____
LAWYER'S FIRST AND LAST NAME

The following questions are about _____.
(ENTER NAME OF LAWYER FROM Q. 12 OR 13)

14. Was _____ (NAME OF LAWYER) _____ . . .

a Public Defender or assigned lawyer 1 48/

Or, a private lawyer? 2

15. Did or will you or your family have to pay (NAME OF LAWYER) anything for representing you in this case?
(IF RESPONDENT OR FAMILY RESPONSIBLE FOR PAYMENT, BUT BILL NOT YET PAID, CODE "YES")

Yes (ASK A & B) 1 49/
No. 2

A. Altogether how much is the lawyer costing you?

$_____ 50-53/

Don't know (GO TO Q.16) . . .9997

B. Do you think the amount is . . .

About right 1 54/
Too much. 2
Or, too little? 3

---

16. Altogether, how many different times did you talk with your lawyer about this case?

_____ 55-56/
NUMBER OF TIMES

---

17. And altogether how much time did you spend talking with (NAME OF LAWYER) about this case . . .

_____/_____
HOURS 57-59/ MINUTES 60-61/

---

18. Where did you <u>usually</u> talk with him about this case -- was it . . .

in jail 1 62/
in the lawyer's office. 2
in the courtroom or court-house hallway 3
in a lock-up at the court-house 4
at your home. 5
Or, somewhere else? (SPECIFY)_____ 6

19. Generally speaking, would you say your lawyer was . . .

on your side	1	63/
or, on the state's side? . . .	2	
SOMEWHERE IN THE MIDDLE BETWEEN THE RESPONDENT AND THE STATE.	3	

20. Now I'm going to read you some pairs of statements about lawyers. Please choose the one that comes closest to your opinion of what (NAME OF LAWYER) was like.

YOUR LAWYER . . .

A. Believed what you told (him/her).	1	64/
Or, did not believe what you told (him/her)	2	
B. Did not fight hard for you.	1	65/
Or, did fight hard for you.	2	
C. Wanted you to plead not guilty.	1	66/
Or, wanted you to plead guilty.	2	
D. Did not tell you the truth.	1	67/
Or, did tell you the truth.	2	
E. Listened to what you wanted to do	1	68/
Or, did not listen to what you wanted to do	2	
F. Did not give you good advice.	1	69/
Or, did give you good advice.	2	
G. Wanted to get the lightest possible sentence for you.	1	70/
Or, did not want to get the lightest possible sentence for you	2	
H. Wanted you to be convicted.	1	71/
Or, did not want you to be convicted.	2	

YOUR LAWYER . . .

I. Did not want you to be punished. 1 72/

Or, wanted you to be punished. 2

J. Cared more about getting your case over with quickly than about getting justice for you 1 73/

Or, did not care more about getting your case over with quickly than about getting justice for you. 2

K. Was not most concerned with how much money (he/she) would make in your case. 1 74/

Or, was most concerned with how much money (he/she) would make in your case. 2

---

21. If you ever got in trouble again and could choose your lawyer, would you choose this same lawyer? BEGIN DECK 07

Yes 1 8/

No (ASK A). 2

A. If you could choose any kind of lawyer you wanted regardless of cost, would you choose a . . .

Public Defender or assigned lawyer 1 9/

Or, a private lawyer? 2

IF ALL CHARGES DISMISSED, OR ACQUITTED, ASK Q.22.

22. Do you feel you got off because of the way your lawyer represented you, or for some other reason?

Lawyer's representation . . . 1 10/

Other reason. 2

---

23. Altogether, how many lawyers represented you during this case?

One 1 11/

Two (ASK A) 2

Three (ASK A) 3

4 or more (ASK A) 4

A. What kinds of lawyers were they . . .
INDICATE NUMBER OF EACH.

	one	two	three	four	
Public Defender/assigned lawyer	1	2	3	4	12/
Or, Private lawyers.	1	2	3	4	13/

24. Now, I'd like you to think about the prosecutor in this case. I'm going to read you some pairs of statements about prosecutors. Please choose the one that comes closest to your opinion of what the prosecutor in your case was like.

(IF RESPONDENT SAYS "I never saw or talked to the prosecutor," PROBE WITH--"Well try to answer these in terms of what you think he was like.")

THE PROSECUTOR . . .

A. Paid careful attention to your case 1 14/

Or, did not pay careful attention to your case. 2

DON'T KNOW. 7

B. Listened only to what the police told him 1 15/

Or, listened to all sides in the case 2

DON'T KNOW. 7

C. Did not want to punish you as heavily as possible 1 16/

Or, wanted to punish you as heavily as possible 2

DON'T KNOW. 7

D. Cared more about getting your case over with quickly than about doing justice. 1 17/

Or, did not care more about getting your case over with quickly than about doing justice. 2 17/

DON'T KNOW. 7

E. Was honest with you and your lawyer 1 18/

Or, was not honest with you and your lawyer 2

DON'T KNOW. 7

F. Wanted to get a conviction in every case. 1 19/

Or, did not want to get a conviction in every case. 2

DON'T KNOW. 7

G. Was out to get you. 1 20/

Or, was not to get you. 2

DON'T KNOW. 7

IF PLEADED GUILTY OR HAD TRIAL, ASK Q.25.

25. Now I'm going to read some pairs of statements about judges. I want you to think about the judge (before whom you pleaded guilty/who presided at your trial). In each pair of statements I'd like you to choose the one that comes closest to your opinion of that judge.

THE JUDGE . . .

A. Was honest with you and your lawyer 1 21/

Or, was not honest with you and your lawyer 2

B. Was out to get you. 1 22/

Or, was not out to get you. 2

C. Was concerned about following the legal rules 1 23/

Or, was not concerned about following the legal rules 2

D. Did not try hard to find out if you were guilty or innocent . . 1 24/

Or, tried hard to find out if you were guilty or innocent . . . 2

E. Wanted to do what is best for you 1 25/

Or, did not want to do what is best for you 2

F. Listened only to what the prosecutors and police officers told him 1 26/

Or, listened to all sides in the case 2

G. Was unbiased and fair to both sides 1 27/

Or, was biased in favor of the prosecution. 2

H. Wanted to see you get punished as heavily as possible 1 28/

Or, did not want to see you get punished as heavily as possible 2

I. Did not care more about getting your case over with quickly than about doing justice. 1 29/

Or, cared more about getting your case over with quickly than about doing justice. 2

ASK EVERYONE

26. In this case, how many times altogether did you appear before a judge in court?

_____ 30-31/
NUMBER OF TIMES

Never (SKIP TO Q.29) .96

IF CHARGES DISMISSED OR RECEIVED DIVERSION STATUS AND RESPONDENT APPEARED BEFORE A JUDGE, ASK Q's. 27 & 28.

27. Did you see the judge at . . .

	Yes	No	
a trial	1	2	32/
the time you received diversion status.	1	2	33/
a preliminary hearing	1	2	34/
the arraignment	1	2	35/
or, the time bail was set?.	1	2	36/

28. Now I'm going to read you some pairs of statements about judges. I want you to think of the judge . . . (READ FIRST STATEMENT CODED "YES" IN Q.27)

(At your trial/
At the time you received diversion status/
At the preliminary hearing/
At the arraignment/
At the time bail was set).

In each pair of statements I'd like you to choose the one that comes closest to your opinion of that judge.

THE JUDGE . . .

A. Was honest with you and your lawyer 1 37/
Or, was not honest with you and your lawyer 2

B. Was out to get you. 1 38/
Or, was not out to get you. 2

C. Was concerned about following the legal rules 1 39/
Or, was not concerned about following the legal rules 2

D. Did not try hard to find out if you were guilty or innocent 1 40/
Or, tried hard to find out if you were guilty or innocent . . . 2

E. Wanted to do what is best for you 1 41/
Or, did not want to do what is best for you 2

F. Listened only to what the prosecutors and police officers told him 1 42/
Or, listened to all sides in the case 2

G. Was unbiased and fair to both sides 1 43/
Or, was biased in favor of the prosecution. 2

H. Wanted to see you get punished as heavily as possible 1 44/
Or, did not want to see you get punished as heavily as possible 2

I. Did not care more about getting your case over with quickly, than about doing justice 1 45/
Or, cared more about getting your case over with quickly, than about doing justice 2

IF RESPONDENT WAS SENTENCED, ASK Q's. 29-33.

29. On the day you were sentenced, did the prosecutor make a recommendation to the judge in the courtroom about what sentence you ought to get?

Yes	1	46/
No (SKIP TO Q.32)	2	
Don't know (SKIP TO Q.32).	7	

The recommendation of a prosecutor often seems important in determining what sentence a convicted defendant is given by a judge.

30. Here is a list of things that are considered by the prosecutor when deciding what sentence to recommend to the judge.

Which one of these do you think was the most important to the prosecutor in deciding what sentence to recommend in your case? (CIRCLE ONE CODE ONLY)

HAND RESP CARD B

	Most important	
What sentence would best make the punishment fit the crime.	1	47/
What sentence had been agreed upon as part of a deal with you.	2	
What sentence would be most likely to rehabilitate you	3	
Your crime and past record.	4	
What sentence he thought the judge would want to give.	5	

31. Did the judge follow the recommendation that the prosecutor made?

Yes (ASK A) 1 48/
No (ASK B & C). 2
Don't know (SKIP TO Q.32) 3

IF YES, ASK A:

A. Which of these do you think is the most important reason the judge followed the prosecutor's recommendation? (CIRCLE ONE CODE ONLY)

HAND RESP CARD C

Most important

The prosecutor knew more about the case than the judge did. 1 49/

The judge was too lazy to make up his own mind. 2

The prosecutor had made a deal and the judge backed him up 3

The judge had too many cases to be able to pay attention to your case. 4

The judge thought the recommendation was right. 5

IF NO, ASK B & C:

B. Why do you think the judge did not follow the prosecutor's recommendation -- was it because . . .

the judge didn't know about the agreement between you and the prosecutor 1 50/

the judge wanted to make up his own mind and decided that you deserved a different sentence . 2

or, the judge had it in for you? 3

C. Was the sentence the judge gave you lighter or heavier than the sentence the prosecutor recommended?

Lighter 1 51/
Heavier 2

32. Did the same judge who was in court (at your trial/when you pleaded guilty) also sentence you?

Yes (SKIP TO Q.34)	1	52/
No	2	

---

33. Which of these do you think was <u>most important</u> to the judge <u>who sentenced you</u>? (CIRCLE ONE CODE ONLY)

HAND RESP CARD D

	Most important	
To treat you fairly and do justice	1	53/
To help you.	2	
To see you get punished.	3	
To get the case over with as quickly as possible.	4	
To follow the legal rules.	5	

And now some questions about the outcome of your case.

34. Did your lawyer ever talk with you about a plea-bargain -- that is, about your pleading guilty in return for a reduction in charges or a lighter sentence?

Yes (ASK A & B).	1	54/
No	2	
Don't know	7	

A. Did your final (guilty/not guilty) plea come about as a result of the plea-bargain you discussed with your lawyer?

Yes.	1	55/
No	2	

B. Did your lawyer ever tell you that he had talked with the prosecutor about such a plea-bargain?

Yes (ASK [1]).	1	56/
No	2	

[1] Which one of these was the most important reason the prosecutor was willing to talk about a plea-bargain in this case?

HAND RESP CARD E

He thought you deserved a lesser charge or sentence	1	57/
He wanted to get the case over with.	2	
He knew he couldn't prove the original charge. . .	3	

IF PLEADED GUILTY, ASK Q.35.

35. Which one of these was the most important reason you decided to plead guilty?

HAND RESP CARD F

(CIRCLE ONE CODE ONLY)	Most important	
You knew you couldn't beat the case	1	58/
You wanted to get it over with.	2	
Your lawyer advised you to plead guilty	3	
You got a good deal from the prosecutor	4	
Your friends or relatives advised you to plead guilty	5	

(NOW SKIP TO Q.39)

IF HAD A TRIAL, ASK Q.36.

36. Which one of these was the most important reason you decided to have a trial?

HAND RESP CARD G

(CIRCLE ONE CODE ONLY)	Most important	
You thought you would get off	1	59/
Your lawyer advised you to have a trial	2	
The prosecutor didn't offer a good enough deal in return for your pleading guilty	3	
You felt you had nothing to lose by going to trial.	4	
Having a trial was your right, and you wanted to exercise it	5	
No one talked to you about pleading guilty. . . .	6	

IF CHARGES DISMISSED, SKIP TO Q.42

37. Did you have a trial before a . . .

judge only (ASK A) 1 60/

or, before a judge and jury? (ASK A). 2

A. Which one of these was the most important reason you decided to have a (judge only/judge and jury) trial?

(CIRCLE ONE CODE ONLY) Most important

HAND RESP H1 or H2 CARD

You thought a (judge/jury) would be fairer 1 61/

Your lawyer advised you to have a (judge/jury) trial 2

The odds of getting off seemed better with a (judge/jury) trial. 3

A judge trial takes less time. 4

---

38. About how long did your trial take?

_____ DAYS 62-64/

OR

_____ HOURS 65-66/

OR

_____ MINUTES 67-68/

IF ACQUITTED AFTER TRIAL, SKIP TO Q.43

IF SENTENCED, ASK Q's. 39-41.

39. What sentence did you receive?
(RECORD VERBATIM. IF TIME IN JAIL OR PRISON, SPECIFY WHICH)

_____ (ASK A) 69-72/

A. Do you think this sentence is . . .

too light (ASK [1]) 1 73/
too heavy (ASK [1]) 2
or, about right?. 3

[1] What do you think you should have received?
(RECORD VERBATIM)

_____ 74-77/

---

40. Compared with most people convicted of the same crime as you were, would you say your sentence was . . .

about the same as most people get 1 78/
lighter than most people get (ASK A). 2
or, heavier than most people get?(ASK B). . . . 3

IF LIGHTER, ASK A:

A. Which one of these do you think was the most important reason you got a lighter sentence?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD I

	Most important	
The judge felt it was all you deserved.	1	79/
You didn't have a long past record.	2	
Your lawyer fought hard	3	
The prosecutor recommended a light sentence . .	4	
The court calendar was overcrowded, and everyone wanted to get the case over with as quickly as possible	5	

IF HEAVIER, ASK B:

B. Which one of these do you think was the most important reason you got a heavy sentence?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD J

	Most important	
The judge felt you deserved it.	1	80/
Your lawyer didn't fight hard	2	
You have a long past record	3	
The prosecutor was out to get you	4	
You had a trial instead of pleading guilty. . .	5	
The court calendar wasn't crowded, and they were in no hurry to get things over with. . .	6	

41. What do you think was the most important thing determining the sentence you received in this case?

HAND RESP CARD K

(CIRCLE ONE CODE ONLY)

	Most important	
The judge's idea of what would best make the punishment fit the crime	.01	8-9/
The deal that was made with the prosecutor	.02	
What the law said the punishment should be	.03	
Your past record	.04	
The recommendation of the prosecutor to the judge	.05	
The judge's idea of what would best serve to rehabilitate you	.06	
The argument your lawyer made on your behalf	.07	

IF ALL CHARGES DISMISSED, ASK Q.42.

42. Which one of these do you think was the most important reason that the charges were dismissed?

HAND RESP CARD L

(CIRCLE ONE CODE ONLY)

	Most important	
Your lawyer fought hard and convinced the prosecutor and judge to drop all charges	1	10/
The prosecutor thought it wasn't worth his time to prosecute you	2	
The state didn't have a good enough case	3	
The prosecutor and judge realized the police had made a bad arrest	4	

IF ACQUITTED AFTER TRIAL, ASK Q.43.

43. Which one of these do you think was the most important reason you got acquitted -- was it because . . .

	Most important	
the jury was fair	1	11/
the judge was fair	2	
your lawyer fought hard for you	3	
or, the state didn't have a good case against you?	4	

Now we have finished asking about your particular case and I would like you to think about the criminal justice system -- in general -- how things happen in most cases.

First I have some questions about two different kinds of lawyers -- private lawyers and public defenders or assigned lawyers.

Please start by answering the questions about private lawyers and public defenders on these sheets (HAND RESPONDENT PINK SHEETS, Q's. 44 & 45)

. . . In each pair of statements please check the box next to the one which most nearly expresses your opinion.

. . . Please check only one box for each pair of statements.

. . . There are no right or wrong answers--only answers that come close to your own views.

INTERVIEWER INSTRUCTIONS:

START READING STATEMENTS TO RESPONDENT AND SEE THAT HE CHECKS ONE BOX FOR EACH PAIR. YOU MAY STOP READING IF RESPONDENT SEEMS TO FIND IT EASIER TO COMPLETE THE SELF ADMINISTERED SHEETS WITHOUT YOUR HELP.

WHEN HE HAS COMPLETED BOTH SHEETS, TAKE THEM BACK AND CONTINUE WITH Q.46.

BEGIN DECK 09

NORC 4212 T_2 5/75

44. In each pair of statements which follows, please check the box next to the one which most nearly expresses your own opinion of what most private lawyers are like.

In general, most private lawyers . . .

A.	☐	Do not fight hard for their clients.	8/
	☐	Fight hard for their clients.	
B.	☐	Want their clients to plead not guilty.	9/
	☐	Want their clients to plead guilty.	
C.	☐	Do not tell their clients the truth.	10/
	☐	Tell their clients the truth.	
D.	☐	Listen to what their clients want to do.	11/
	☐	Do not listen to what their clients want to do.	

E. ☐ Want their clients to be convicted. 12/

☐ Do not want their clients to be convicted.

F. ☐ Want to get the lightest possible sentence for their clients. 13/

☐ Do not care what sentence their clients receive.

G. ☐ Care more about getting a case over with quickly than about getting justice for their clients. 14/

☐ Do not care more about getting a case over with quickly than about getting justice for their clients.

15/

H. ☐ Are not most concerned with how much money they will make in a case.

☐ Are most concerned with how much money they will make in a case.

I. ☐ Do not want their clients to be punished. 16/

☐ Want their clients to be punished.

NORC NUMBER: _____ DATE OF INTERVIEW: _____

DECK 09 NORC 4212 T_2 5/75

45. In each pair of statements which follows, please check the box next to the one which most nearly expresses your own opinion of what most Public Defenders or assigned lawyers are like.

In general, most Public Defenders or assigned lawyers . . .

A. ☐ Do not fight hard for their clients. 17/

☐ Fight hard for their clients.

B. ☐ Want their clients to plead not guilty. 18/

☐ Want their clients to plead guilty.

C. ☐ Do not tell their clients the truth. 19/

☐ Tell their clients the truth.

D. ☐ Listen to what their clients want to do. 20/

☐ Do not listen to what their clients want to do.

E. ☐ Want their clients to be convicted. 21/

☐ Do not want their clients to be convicted.

F. ☐ Want to get the lightest possible sentence for their clients. 22/

☐ Do not care what sentence their clients receive.

G. ☐ Care more about getting a case over with quickly than about getting justice for their clients. 23/

☐ Do not care more about getting a case over with quickly than about getting justice for their clients.

H. ☐ Are not most concerned with how much money they will make in a case. 24/

☐ Are most concerned with how much money they will make in a case.

I. ☐ Do not want their clients to be punished. 25/

☐ Want their clients to be punished.

NORC NUMBER: _____ DATE OF INTERVIEW: _____

46. In general, would you say that private lawyers are . . .

on their client's side 1 12/

or, on the state's side? 2

SOMEWHERE IN THE MIDDLE BETWEEN THEIR CLIENT AND THE STATE . . . 3

---

47. In general, would you say that Public Defenders are . . .

on their client's side 1 13/

or, on the state's side? 2

SOMEWHERE IN THE MIDDLE BETWEEN THEIR CLIENT AND THE STATE . . . 3

---

48. Which of these two kinds of lawyers do you think does a better job for his clients -- would you say a . . .

Public Defender or assigned lawyer. 1 14/

or, a private lawyer?. 2

Now some questions about prosecutors -- in general. The recommendation of a prosecutor often seems important in determining what sentence a convicted defendant is given by the judge.

49. Here is a list of things that are considered by the prosecutor when deciding what sentence to recommend to the judge.

Which one of these do you think is most important to the prosecutor in deciding which sentence to recommend to the judge?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD M

	Most important
What sentence will best make the punishment fit the crime	1
What sentence has been agreed upon as part of a deal with the defendant	2
What sentence will be most likely to rehabilitate the defendant	3
Whether bribes or payoffs were made to the prosecutor	4
What the defendant's crime and past record are	5
What sentence the prosecutor thinks the judge will want to give	6

15/

HAND RESPONDENT YELLOW SHEET (Q.50)
WHEN COMPLETED, TAKE SHEET BACK AND CONTINUE WITH Q.51.

NORC
4212 T_2
5/75

50. Following are some statements about prosecutors. In each pair, I'd like you to choose the one that comes closest to your opinion of what most prosecutors are like. Check one box for each pair.

In general, most prosecutors . . .

A. ☐ Try hard to find out whether defendants are guilty or innocent. 26/

☐ Do not try hard to find out whether defendants are guilty or innocent.

B. ☐ Listen only to what the police tell them. 27/

☐ Listen to all sides in the case.

C. ☐ Do not want defendants to get punished as heavily as possible. 28/

☐ Want defendants to get punished as heavily as possible.

D. ☐ Care more about getting cases over with quickly, than about doing justice. 29/

☐ Do not care more about getting cases over with quickly, than about doing justice.

E. ☐ Want to get a conviction in every case. 30/

☐ Do not want to get a conviction in every case.

F. ☐ Are honest with defendants and their lawyers. 31/

☐ Are not honest with defendants and their lawyers.

G. ☐ Are out to get defendants. 32/

☐ Are not out to get defendants.

NORC NUMBER: _____ DATE OF INTERVIEW: _____

And now I'd like to ask you some questions about judges in criminal cases.

51. In making his decisions about what to do in a case, do you think the judge usually . . .

makes up his own mind about what to do 1 16/

or, does what the prosecutor tells him to do? (ASK A). . . . 2

A. What do you think is the <u>main reason</u> the judge acts this way?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD N

Prosecutors usually know more about what is best to do in a case than judges do 1 17/

Judges are lazy 2

Prosecutors make the deals and judges feel they must back them up. 3

Judges are too busy to pay attention to any one case. . . 4

52. If an agreement is reached between a defendant and the prosecutor about what sentence the defendant will receive if he agrees to plead guilty, do you think that most judges . . .

will go along, or. 1 18/

will they give the defendant a different sentence? (ASK A). . 2

A. If the judge does give a different sentence, do you think it is usually because . . .

the judge didn't know about the agreement between the defendant and the prosecutor. 1 19/

the judge wants to make up his own mind and has decided that the defendant deserves a different sentence, or. 2

the judge has it in for the defendant?. 3

HAND RESPONDENT GREEN SHEET, (Q.53)
WHEN COMPLETED, TAKE SHEET BACK AND CONTINUE WITH Q.54

DECK 09 NORC 4212 T_2 5/75

53. Now, some pairs of statements about judges. In each pair, I'd like you to choose the one that comes closest to your opinion about what most judges are like.

In general, most judges . . .

A. ☐ Are unbiased and fair to both sides. 33/

☐ Are biased in favor of the prosecution.

B. ☐ Are out to get defendants. 34/

☐ Are not out to get defendants.

C. ☐ Are concerned about following the legal rules. 35/

☐ Are not concerned about following the legal rules.

D. ☐ Listen only to what prosecutors and police officers tell them. 36/

☐ Listen to all sides in the case.

E. ☐ Are honest with defendants and their lawyers. 37/

☐ Are not honest with defendants and their lawyers.

F. ☐ Want to see all defendants get punished as heavily as possible. 38/

☐ Do not want to see all defendants get punished as heavily as possible.

G. ☐ Do not care about getting cases over with as quickly as possible. 39/

☐ Care about getting cases over with as quickly as possible.

NORC NUMBER: _____ DATE OF INTERVIEW: _____

Now some questions about plea-bargaining.

54. Here is a list of things the prosecutor considers when he is deciding what to offer a defendant in the course of plea-bargaining.

Which one of these do you think is <u>most important</u> to the prosecutor in deciding what to offer a defendant in plea-bargaining? (CIRCLE ONE CODE ONLY)

HAND RESP CARD O

	Most important	
What the nature of the crime is	1	20/
What the defendant's past record is	2	
What he thinks is necessary to get the defendant to agree to plead guilty.	3	
How strong his case against the defendant is. . . .	4	
How crowded the court calendar is	5	
What sentence he thinks will best serve to rehabilitate the defendant	6	

55. Which of these statements about plea-bargaining comes closest to your opinion of plea-bargaining? (CIRCLE ONE CODE FOR EACH PAIR)

PLEA BARGAINING . . .

A.	Is a good way to decide most criminal cases 1	21/
	Is a bad way to decide most criminal cases. 2	
B.	Mostly benefits the state 1	22/
	Mostly benefits defendants. 2	
C.	Often lets guilty people off with light sentences 1	23/
	Has little or no effect on the sentence guilty people get 2	
D.	Often leads innocent people to plead guilty 1	24/
	Has little or no effect on the way innocent people plead. 2	
E.	Prevents defendants from exercising their right to a trial. . . . 1	25/
	Does not prevent defendants from exercising their right to a trial. 2	

56. What is it that you <u>like</u> most about plea-bargaining?
(PROBE: What other things do you like about plea-bargaining?)

26-27/

28-29/

30-31/

57. And what is it about plea-bargaining that you like the least? (PROBE: What other things do you dislike about plea-bargaining?)

32-33/

34-35/

36-37/

---

58. Which of these statements about juries comes closest to your opinion of what most juries are like. (CIRCLE ONE CODE FOR EACH PAIR)

MOST JURIES . . .

A. Are unbiased and fair to both sides 1 38/

Are biased in favor of the prosecutor 2

B. Make little effort to find out whether defendants are innocent or guilty 1 39/

Try hard to find out whether defendants are innocent or guilty 2

C. Listen to all sides in the case 1 40/

Listen only to what prosecutors and police officers tell them . . 2

D. Are less likely than judges to believe defendants 1 41/

Are more likely than judges to believe defendants 2

59. In the average criminal case, who do you think is most important in determining whether the defendant is convicted or not? Is it . . .

the prosecutor 1 42/

the defense lawyer 2

or, the judge? 3

---

60. In the average criminal case, who do you think is most important in determining what sentence the defendant finally receives? Is it . . .

the defense lawyer 1 43/

the judge. 2

or, the prosecutor?. 3

---

61. If a defendant is convicted, which of these do you think is the most important thing determining what sentence he receives?

(CIRCLE ONE CODE ONLY)

HAND RESP CARD P

	Most important	
The judge's idea of what would best make the punishment fit the crime.	.01	44-45/
The deal made between the defendant and the prosecutor. . . .	.02	
What the law says the sentence should be.	.03	
The recommendation of the prosecutor to the judge	.04	
The defendant's past record	.05	
The judge's idea of what would best serve to rehabilitate the defendant.	.06	
Or, the argument the defense lawyer makes on the defendant's behalf.	.07	

62. If a white man and a black man are both charged with the same crime, who do you think has a better chance to get off without being convicted . . .

the black man.	1	46/
the white man (ASK A).	2	
or, are their chances about the same?.	3	

A. Suppose the black man has a lot of money and the white man is poor. Who do you think has a better chance to get off without being convicted . . .

the white man.	1	47/
the black man, or.	2	
are their chances about the same?.	3	

---

63. All in all, do you feel you were treated <u>fairly</u> or <u>unfairly</u> in your case?

Fairly	1	48/
Unfairly (ASK A)	2	

A. In what ways were you treated unfairly?

49-50/

51-52/

53-54/

---

64. Do you think <u>your</u> race had anything to do with what happened to you in your case?

Yes (ASK A).	1	55/
No	2	

A. Did it affect . . .

	Yes	No	DK	
the fact that you got arrested in the first place. . .	1	2	7	56/
the amount at which bail was set	1	2	7	57/
the amount of time you had to spend in jail before the case was over with.	1	2	7	58/
whether or not you were convicted.	1	2	7	59/
IF CONVICTED, ASK:				
the length of your sentence?	1	2	7	

65. All in all, who do you think was most important in determining the outcome of your case -- was it . . .

the judge.	1	61/
the prosecutor	2	
your lawyer.	3	
you, yourself.	4	
(IF WENT TO A JURY TRIAL) or, the jury?.	5	

---

66. Suppose you had to do it all over again -- from the time you were arrested to the time your case was ended -- what would you do differently? (PROBE: What other things would you do differently?)

62-63/

64-65/

66-67/

That is all the questions I have. Is there anything else you would like to say to me?

TIME _____	A.M.
ENDED	P.M.

Thank you again for all of your time.

GIVE THE RESPONDENT $10 AND HAVE HIM SIGN THE PAYMENT RECEIPT.

TO BE COMPLETED BY THE INTERVIEWER

1. Total length of interview in minutes: [ ][ ]

2. Interview was conducted . . . in jail or prison 1 68/
elsewhere 2

3. Date of interview: [ ][ ] / [ ][ ] / [7][ ] 69-73/
Month / Day / Year

4. Interviewer's signature: _____

5. Interviewer's number: [ ][ ][ ][ ][ ] 74-78/

INSERT THE FOUR SELF-ADMINISTERED SHEETS. BE CERTAIN THE CASE NUMBER, AND DATE OF INTERVIEW ARE ON EACH ONE.

FOR OFFICE USE ONLY

The lawyer in this case is on the public defenders list of lawyers . . .

Yes 1 79/
No. 2

NOTES

I. Introduction

1. Edmund Cahn, *The Predicament of Democratic Man* (New York: Delta Books, 1962), p. 30.
2. Daniel Katz, *et al., Bureaucratic Encounters* (Ann Arbor, Michigan: Institute for Social Research, 1975), p. 1.
3. It is possible that the administration of the first interview itself might have influenced the respondents' perceptions of the specific attorneys, judges, and prosecutors encountered as well as the beliefs about "most" participants expressed during the second interview. That is, the first interview might have focused attention upon certain issues or made them more salient to the respondents. In order to check for such an effect, we had a small control group of 44 respondents in Detroit who were subjected only to the second interview. The sample was drawn from defendants arrested during the T_1 field period but who had not been selected for the T_1 sample. Analysis of their responses to the T_2 interview—their evaluations of the specific court personnel encountered and their general beliefs about court personnel—reveals that they are quite similar (when controls are introduced for demographic characteristics and case-related variables) to those obtained from Detroit respondents who participated in both waves. This suggests that the T_2 responses from the primary group respondents were not greatly influenced by their participation in the first wave interview.
4. In referring to "initial" images or "predispositions," I do not mean to imply that the beliefs about criminal courts taped during the first interview are somehow pure or uncontaminated by prior experience. In fact, as argued in Chapter III, they are related to past experience with criminal courts. They are, however, "initial" and are "predispositions" in the sense that they are the beliefs that respondents bring with them to the particular encounter with criminal courts that occurred during the course of this research. They are thus appropriately the starting point for analysis of how defendants evaluated the specific encounter that occurred during our research, and for looking for change in general attitudes towards courts as a result of such encounters.

II. The Three Cities

1. For a detailed analysis of the criminal court process in two of the cities, Baltimore and Detroit, see Herbert Jacob and James Eisenstein, *Felony Justice* (Boston: Little, Brown, and Company, 1977).
2. Jacob and Eisenstein suggest a figure of 35%. See Jacob and Eisenstein, *op. cit.*, p.
3. Mary Lee Luskin, "Determinants of Change in Judges' Decisions to Bind Over Defendants for Trial," paper presented at 1976 meeting of American Political Science Association.
4. For purposes of analysis here, a submission is treated as a guilty plea, for

it is not typically an adversary proceeding. There were only a handful in our Phoenix sample.

5. Jacob and Eisenstein note that trials have apparently always been predominant in the Baltimore system. Participants I spoke with responded to questions about why they had not moved to plea-bargaining with a sense of bewilderment, as though they had not seriously considered the idea. However, as noted below, the "reform" prosecutor who came into office during our field work advocated increased reliance upon plea-bargaining as a dispositional tool.
6. The distribution of arrest charges, broken by inference into similar categories, reported by Jacob and Eisenstein for Baltimore and Detroit looks like this:

	Baltimore	Detroit
Person	58%	37%
Property	18%	23%
Drugs	17%	7%
Weapons	—	7%
Other	7%	26%
	100%	100%
	(N 379)	(N 361)

Their sample contained fewer property and more drug crimes in Baltimore than mine did. In Detroit, they have a substantially smaller number of property offenses and a very large "other" category.

7. Although there were few trials in Detroit, the acquittal rate was relatively high in this sample; 38% of those who had trials were acquitted (9 of 24).
8. Baltimore, with many trials, had a very high conviction rate. Ninety-eight percent of the individuals who had trials were convicted of some crime (84 of 86).
9. Eighty-nine percent (16 of 18) defendants who had trials were convicted.
10. Although the numbers are small, this relationship holds across all three cities, even when we control for type of charge.

III. The Sample

1. See Appendix I for details upon non-completions.
2. Data presented in Appendix I indicates that those respondents who were interviewed twice were quite similar in terms of demographic attributes, to those who were interviewed in the initial phase but were not included in the second wave-sample. To put it another way, the "dropouts" between the first and second waves do not appear to comprise a consistently different type of respondent, and hence we have some confidence that the second wave respondents are a random sample of the first wave group.

IV. Initial Images of Criminal Courts

1. See, for example, Herbert Jacob, "Black and White Perceptions of Justice," *Law and Society Review,* Vol. 6 (1971), 68-69, for a discussion of interracial differences in perceptions of police.
2. In scaling the items, we took each set of items—for example, those dealing with public defenders, judges, prosecutors, etc.—and first eliminated any that produced a response of greater than 90% in one direction. We then subjected

the remaining items to factor and criterion-groups scaling techniques. Items were retained if they fulfilled both the conditions of obtaining a loading of .40 or greater on the first factor and were able to produce a greater than 10% difference between the upper and lower quartiles.

3. In the pre-tests of the instruments, carried out in San Jose and Detroit, we attempted to differentiate between public defenders (salaried employees of a jurisdiction) and assigned counsel. It became apparent that respondents do not make such a differentiation; rather, they tend to lump the two together under a more general rubric, often called "state lawyers." Thus, when we asked about public defenders, we introduced the items as follows: "Now, some questions about Public Defenders or assigned lawyers. That is, lawyers who are paid by the city or state to defend people who are charged with crimes." When analyzing the defendant's evaluation of the particular lawyer who represented him, we were, for most respondents, able to differentiate whether the particular lawyer was a public defender or assigned counsel. In the discussion of attorneys, we shall genrally use the term "public defender" to refer to either type.
4. Respondents were permitted to volunteer several reasons for their preference. Here, we report the respondents' first-mentioned reason.
5. In a study of patients' attitudes toward physicians, Friedson notes that patients believed that doctors providing medical care on a fee-for-service basis were more likely to "take a personal interest in them" than would doctors who operated under a pre-paid health maintenance organization. "In spite of the fact that the adults of less than a third of the families had both extensive and satisfying experience with solo medical practice, the adults in all of these families expressed the belief that they were more likely to obtain personal interest from a fee-for-service physician in his neighborhood than from a 'pre-paid' physician." See Eliot Freidson, *Patients' Views of Medical Practice* (New York: Russell Sage Foundation, 1961), pp. 57, 59-60.
6. The simple relationships between predispositions toward public defender, race, past record, and alienation are presented below. As indicated in the text on the following page, we have dichotomized the public defender scale at the median into high and low and trichotomized the alienation measure into three approximately equal categories: high, medium, and low.

PDSCORE

	Black	White	Spanish Surname	
Low	50%	41%	42%	
High	50%	59%	58%	
	100%	100%	100%	
	(448)	(196)	(64)	708

The relationship between race is a weak one, with whites and Spanish-surnamed individuals scoring marginally higher than blacks.

PDSCORE

	Past Record					
	None		Jail or Less		Prison	
Low	37%		42%		65%	
High	63%		58%		35%	
	100%	(101)	100%	(420)	100%	(183)
				704		

The sharp break comes between those who have previously served a term in prison and those who have not.

	Alienation		
	Low	Medium	High
PDSCORE			
Low	32%	50%	59%
High	68%	50%	41%
	100%	100%	100%
	(250)	(186)	(268)

Here, the sharpest break comes between those who score low on the measure of alienation (i.e., are least alienated).

7. The eight items reported in the upper half of Table IV-1 form an acceptable index of attitudes toward public defenders. A couple of notes on the strategy of analysis may be in order here. In dealing with the attitudinal variables—indices formed by adding together sets of items that meet our scaling criteria—the approach I have usually followed has been to dichotomize such indices at the median and thus to divide respondents into two groups. This technique involves "throwing away" a good deal of information and using relatively simple techniques for analysis. An alternative would have been to retain as a variable the respondents' scores on the index and to use more sophisticated techniques for analysis (that is, to treat the variables, for example, as interval and to use techniques like regression). Although the scaling techniques used do indicate that the sets of items that form our indices do appear to measure a single dimension, I am somewhat uncomfortable about treating the score as though it is the product of an interval scale. I am more confident that it does produce an ordering of respondents and that the concept of "high" and "low" has substantive meaning. Thus, I have opted for this technique and for a basically cross-tabular mode of analysis. The particular cross-tabular form of analysis comes from Paul Lazarsfeld and Morris Rosenberg, *The Language of Social Research* (Glencoe, Ill.: The Free Press, 1955) and Morris Rosenberg, *The Logic of Survey Analysis* (New York: Basic Books, Inc., 1968). See, especially, Chapter 7 in the latter for a discussion of the uses of the types of cross-tabs that I have adopted here.

8. The five items, derived from a larger pool of items developed by the Survey Research Center at Berkeley, are as follows:

   1. There is almost no way people like me can have an influence on the government . . .

      or

      People like me have a fair say in getting the government to do things we care about.
   2. The way our government works, almost every group has a say in running things . . .

      or

      This country is really run by a small number of men at the top who speak only for a few special groups.
   3. Our government leaders usually tell the truth . . .

      or

      Most of the things that government leaders say can't be believed.

4. The way this country is going, I often feel that I don't really belong here . . .

   or

   Although our country may be facing difficult times, I feel that it's a worthwhile place and that I really belong here.

5. I am proud of many things about our government . . .

   or

   I can't find much in our government to be proud of.

9. The Spanish-surnamed respondents are not analyzed because there are so few of them that when controls are introduced the numbers become too small. Moreover, their scores on the alienation index are extremely low—indicating a very high level of attachment to government institutions—and this somewhat anomalous result (anomalous in terms of their other attributes) makes analysis of their attitudes difficult.
10. I have chosen to group those who have served jail sentences with those with lesser criminal records on the grounds that prison forms a peculiar and particularly strong socialization experience and hence those who have served terms in prison should be treated as a separate category. We do not treat those who have served jail terms as a separate category because the numbers are relatively small and because they share with those who have lesser criminal histories the experience of pretrial detention in jail.
11. Some readers may wonder why the total number of respondents reported for different tables varies. If the data for a respondent is "missing" on any vairable (e.g., court records did not contain the information or respondent declined to answer), the respondent is excluded from analysis when the relevant variable is analyzed. Moreover, when we are dealing with an index—e.g., attitudes toward public defenders—comprised of several items, and a respondent has not answered all of the items, he is excluded from the analysis. When—as in this table, for example—we are dealing with four variables, if a respondent is "missing" on any one, he is excluded. Thus, we have "lost" 190 of the possible 812 respondents.
12. This is not "statistical significance," but rather simply a convention I have adopted here.
13. If we include all 3 categories of past record for purposes of comparison, we find that 7 of 12 are greater than 10%.
14. If we include all three categories of past record for purposes of comparison, we find that the average difference is 14%.
15. We find no such relationship attitudes toward private attorneys and levels of alienation, for there is so little variation in the former.

V. Predispositions Toward Prosecutor and Judges

1. As with items dealing with attorneys, the actual questionnaire offered the respondent a pair of opposite responses for each item, and he was asked to choose the one from each pair that came closest to his view. Only one item from each pair is reproduced in the table; the residual of respondents chose the other and opposite alternative.
2. I would guess that generally-held perceptions about prosecutors do not tap many of the complexities of the prosecutorial role. The duty, for example, to reveal to the defense exculpatory evidence is born by prosecutors, while defense counsel have, to put it mildly, no corresponding "obligation" to reveal incriminating evidence to the prosecution. Moreover, the role of the

prosecutor as an officer of the court empowered to refuse to prosecute cases "in the interests of justice" further reduces the symmetry between defense counsel as advocate for the client and prosecutor as advocate for the state.

3. Although we shall later see that substantial numbers of defendants evaluate the judge encountered in their case favorably, even when the outcome is not particularly desirable.
4. See Casper, *American Criminal Justice: The Defendant's Perspective* (Englewood Cliffs, N.J.: Prentice-Hall, 1972).
5. The six items that form the prosecutor index include: Most prosecutors . . . (1) try hard to find out whether a defendant is guilty or innocent; (2) listen to all sides in the case; (3) are honest with defendants and their lawyers; (4) do not care more about getting cases over with than about doing justice; (5) do not want to get a conviction in every case; (6) do not want defendants to get punished as heavily as possible.
6. The relationship between race and attitudes toward most prosecutors is as follows:

	Race			
	Black	White	Spanish Surname	
PRSSCORE				
Low	54%	40%	27%	
High	45%	60%	74%	
	99%	100%	101%	
	(484)	(210)	(66)	760

Whites more often score high than blacks, while those with Spanish surnames are by far the most likely to score high. As with attitudes toward public defenders, because of the small number of Spanish-surnamed respondents and their peculiar scores on the alienation measure, we shall not analyze them further.

	Past Record		
	None	Jail or less	Prison
PRSSCORE			
Low	33%	44%	63%
High	67%	56%	37%
	100%	100%	100%
	(109)	(440)	(204)
			753

As past record increases, the proportion scoring high on the prosecutor index falls, with a sharper break between prison and jail than between none and jail.

	Alienation			
	Low	Medium	High	
PRSSCORE				
Low	27%	47%	66%	
High	73%	53%	34%	
	100%	100%	100%	
	(263)	(189)	(298)	750

As distrust of government increases, those scoring high on the prosecutor index falls.

7. Using the criteria introduced before, 10 of 12 comparisons are in the expected direction; 9 of 12 are greater than 10%; the average difference is 18%.
8. Using the criteria applied before, 11 of 12 are in the expected direction; 7 of 12 reach 10%; the average difference is 12%.
9. In 6 of 9 cases whites score higher; in 4 of 9 the difference is 10%; the average difference is 6%.
10. Here we are using mean scores on the prosecutor index. The scores thus can vary from a low (most unfavorable to prosecutors) of 0 and a high of 6 (most favorable).
11. The six items forming the judge index include: Most judges . . . (1) are unbiased and fair to both sides; (2) are concerned about following the legal rules; (3) listen to all sides in the case; (4) are honest with defendants and their lawyers; (5) are not out to get defendants; (6) do not want to see all defendants get punished as heavily as possible.
12. Race is related as follows:

	Race			
	Black	White	Spanish Surname	
JDGSCORE				
Low	44%	36%	47%	
High	56%	64%	53%	
	100%	100%	100%	
	(477)	(206)	(66)	749

Whites score slightly higher than blacks. Spanish-surnamed respondents score lowest. For reasons suggested above, we shall not further analyze the Spanish-surnamed respondents.

	Past Record		
	None	Jail or less	Prison
JDGSCORE			
Low	37%	39%	53%
High	63%	61%	48%
	100%	100%	100%
	(107)	(440)	(198)

Here we see virtually no difference between those who have no past record and those who have not been sentenced to prison. Those who have been to prison are more likely to score low on the judge index than either of the other groups.

	Alienation			
	Low	Medium	High	
JDGSCORE				
Low	30%	42%	54%	
High	70%	58%	46%	
	100%	100%	100%	
	(261)	(195)	(285)	741

Here we see a fairly consistent pattern; as alienation rises, the proportion scoring high on the judge index falls.

13. Nine of 12 in expected direction; 9 of 12 greater than 10%; average difference of 13%.
14. The effects of past record are more marginal and appear really only for the differences between those who have no past record and those who have been to prison. If we include those who have been to jail or less, the directions are usually as expected but the differences rather slight. If we focus upon those who have no past record and those who have been to prison, 6 out of 6 comparisons are in the expected direction, 4 of 6 reach 10%, and the average difference is 17%.
15. Five of 9 in the expected direction; only 3 reach 10%; average difference is only 3%.
16. For alienation, 6 of 6 are in the expected direction; 4 of 6 reach 10%; average differnce is 13%. For past record, again focusing upon none versus prison, 3 of 3 are in the expected direction; 2 of 3 reach 10%; average difference is 13%.

VI. Defendants' Evaluations of Their Attorney

1. Cf., for example, *Bureaucratic Encounters, op. cit.* In this study of public attitudes toward various governmental agencies, the authors note: "When we compare the overall distribution of agency experiences with attitudes toward the functioning of agencies in general, there is a consistent trend toward a more positive picture at the level of personal experience with a particular service office."
2. In Detroit, we tested the difference between attorneys employed by the Legal and Defender Association and assigned counsel. In testing the difference between public defender and assigned counsel using respondents from all three cities together, we placed the Legal Aid and Defender Association lawyers together with public defenders in the other two cities.
3. In Baltimore, of respondents represented by public defenders, 13% reported having been represented by more than one public defender; in Detroit, the corresponding figure was 30%; while in Phoenix, it was 40%.
4. Two comments about our measure of case outcome are important. First, it is a very crude measure. A preferable measure of outcome would have involved asking the defendant at the first interview to predict what he thought would be a desirable or likely outcome. We could have then measured the discrepancy between such expectations and the actual outcome and thus get a more accurate measure of the desirability of the outcome from the defendant's perspective. In the process of getting permission from various court personnel for the conduct of the research, it became clear that it would create great difficulties if we asked any questions during the first interview which might lead the respondent to indicate his guilt. Thus, we were unable to use this method of measuring outcome, and we must fall back upon a measure of the "absolute" severity of the outcome, acknowledging that it probably lumps together people with somewhat different experiences.

   Second, and relatedly, we lump together those who received jail and prison terms, looking at the group who received any form of incarceration. Clearly there are some distortions in this, for prison involves not only longer terms, but also, often, somewhat more restricted and unpleasant conditions. The justification for this approach is two-fold. The first is simply pragmatic—splitting jail and prison respondents makes the number for each rather

small, and when several variables are related to outcome, the cell sizes get tiny. Secondly, I would argue that in theoretical terms—and there is some substantiation for this from the data—what matters most is whether the defendant walks out of the courtroom a free person or whether he is subjected to some form of post-conviction incarceration. In the analysis, the relationships reported here—in which jail and prison outcomes are combined—have been tested with these two groups separated. The general tendency—though often the numbers are too small to trust—is that various measures of satisfaction are somewhat lower for those who received prison rather than jail, but that the differences between these two groups are substantially smaller than between either and those who did not receive any incarceration.

5. The nine items forming the lawyer evaluation index are: Your lawyer . . . (1) Fought hard for you; (2) Wanted you to plead not guilty; (3) Believed what you told him/her; (4) Told you the truth; (5) Listened to what you wanted to do; (6) Did not care more about getting your case over with quickly than about getting justice for you; (7) Gave you good advice; (8) Did not want you to be convicted; (9) Did not want you to be punished.
As with all such indices, the respondent chose one of two opposite items.
6. Using the criteria applied before, we find that in 6 of 6 possible comparisons, private lawyers score higher than public defenders; 6 of 6 reach 10%, and the average difference is 23%.
7. The overall difference in evaluation of public defenders and private lawyers also emerges in the item asking repsondents whose side they felt their lawyer was on:

	Public Defender Clients	Private Lawyer Clients
Your lawyer was . . .		
On your side	58%	81%
Somewhere in the middle between your side and the state's side	17%	13%
On the state's side	25%	6%
	100%	100%
	(467)	(132)

8. In 6 of 6 possible comparisons, harsher sentences produce lower rates of satisfaction; 5 of 6 reach 10%, with the average difference amounting to 17%.
9. Comparing trials and pleas, we find that in 4 of 4 cases, trials produce higher rates of satisfaction; 3 of 4 reach 10%, and the average difference is 19%.
10. See, for example, R. Beattie, *The Public Defender and Private Defense Attorneys* (Berkeley: Bureau of Public Administration, 1935); G. Smith, *A Statistical Analysis of Public Defender Activities* (Columbus, Ohio: Ohio State University Research Foundation, 1970); Jean G. Taylor, *et al.*, "An Analysis of Defense Counsel in the Processing of Felony Defendants in San Diego, California," *Denver Law Journal,* Vol. 49 (1972), 233-275.
11. If we look at the kinds of charges lodged against the clients of the two types of lawyers, we find that private lawyer clients are substantially more likely to have been charged with crimes against the person:

	Public Defender Clients	Private Lawyer Clients
Most serious arrest charge-crime against . . .		
Person	29%	47%
Property	46%	20%
Other	25%	33%
	100%	100%
	(467)	(132)
		(599)

If we examine the overall outcomes obtained by all lawyers for various types of arrest charges, we find that person crimes are likely to result in either dismissal or incarceration; property crimes are about evenly divided among the thee outcomes.

	Outcomes obtained for defendants charged with . . .		
	Person	Property	Other
Outcome			
Dism/Acq	42%	32%	29%
Probation	19%	30%	52%
Incarceration	40%	38%	18%
	100%	100%	100%
	(210)	(253)	(164)
			(627)

Putting these two together, we find that nearly one-half of the private lawyer clients were charged with a type of offense (person crime) that is likely either to produce a dismissal or a sentence of incarceration. This could contribute to the finding that private lawyer clients are more likely to get off entirely, and might argue that their lower rates of sentences involving incarceration are the product of superior performance.

If we examine the past records of the clients of the two types of lawyers, we find that, first, the overall past records are not greatly different, and, second, that for those charged with person crimes, private lawyers have somewhat less serious past records.

If we look at the overall relationship between outcomes and charges for the two groups of attorneys, the cell sizes become rather small, but the overall trend does not seem to suggest a consistent or powerful difference between the outcomes obtained by the two types of attorneys:

	Most Serious Arrest Charge					
	Person Crime		Property Crime		Other Crime	
	PD Clients	PL Clients	PD Clients	PL Clients	PD Clients	PL Clients
Outcome						
Dism/Acq	38%	40%	29%	38%	26%	36%
Probation	17%	26%	30%	38%	56%	45%
Incarceration	45%	34%	41%	23%	19%	18%
	100%	100%	100%	99%	101%	99%
	(137)	(62)	(213)	(26)	(117)	(44)

In many cases, private lawyer clients do obtain somewhat more favorable outcomes. Yet the differences are not terribly great.

12. Nor does it appear to lie in different mode of disposition for the two types of attorneys:

	Public Defender Clients	Private Lawyer Clients
Mode of disposition		
Dismissal	26%	31%
Plea	54%	45%
Trial	20%	24%
	100%	100%
	(467)	(132)

There is a slight edge for private lawyers, but again, the differences are not particularly large.

13. The measure of time spent with lawyer—the client's report of how much time he spent talking with his lawyer about the case—may be subject to some bias. However, the average times reported by the respondents in the three cities do not seem greatly at variance with the impressions I gathered by observing lawyer-client interactions in the three cities.
14. Recall that we can construct no useful measure of predispositions toward private lawyers because of the lack of variation in defendant beliefs. Defendants have, to a degree reaching near consensus, favorable predispositions toward private lawyers.
15. Those with negative predispositions are more likely to receive incarceration and less likely to receive probation (the rates of dismissal are the same both for those who were favorably and negatively disposed). The relationship cannot be accounted for by past record (i.e., those with negative predispositions do tend to have more extensive past records; but even when this is controlled for, the relationship between predisposition and sentence remains). One possible explanation is that those with negative predispositions may tend to be more hostile towards and less cooperative with their public defenders, and hence the presentation of an effective defense is impeded. Such an hypothesis has a ring of plausibility but cannot really be tested with the data available here.
16. The relationship between lawyer evaluation and sentence received, controlling for the defendant's predispositions, is as follows:*

	Sentence Received			
	None	Probation	Incarceration	
Predisposition				
Low	62%	23%	25%	
	(53)	(48)	(67)	
High	78%	42%	37%	
	(55)	(60)	(60)	(366)

* Each cell entry comprises the percentage of respondents scoring high on the lawyer evaluation index.

Looking at the upper and lower halves of the table, we can see the effects of predisposition. If we look across the rows, we see that for those who were convicted, it makes little difference for lawyer evaluation whether the sentence received involves probation or incarceration.

17. In order to increase cell size, and because it does not distort the data, here we will dichotomize time spent with lawyer into "low" (less than ½ hour) and "high" (greater than ½ hour).
18. In 5 of 6 comparisons, those with high predispositions score higher on the lawyer evaluation index than those with less favorable predispositions; 4 of 6 reach 10%; the average difference is 15%.

VII. Defendant's Evaluations of Prosecutors and Judges

1. The context provided by introductory remarks in the interview schedule focused the respondent's attention upon the judge and prosecutor who were encountered either at trial or entry of plea or, for those dismissed, upon the last judge or prosecutor encountered.
2. Below we will consider the effects of predispositions upon the levels of defendant evaluation of specific prosecutors and judges encountered.
3. The items that form the prosecutor index include: Your prosecutor . . . (1) paid careful attention to your case; (2) listened to all sides in the case; (3) was honest with you and your lawyer; (4) did not care more about getting your case over with than about doing justice; (5) was not out to get you; (6) did not want to get a conviction in every case; (7) did not want to punish you as heavily as possible.
4. A difficulty involved in attempting to account for levels of satisfaction with judges and prosecutors—whether we use the actual mean score on the index or a dichotomized version—is the somewhat skewed nature of the distributions. Respondents are skewed toward the positive end of the judge index and towards the negative end of the prosecutor index. Thus, when we use the dichotomized version, relatively small increments in the respondents' scores differentiate those who are scored low and high.
5. See, for example, the arguments advanced by Arnold Enker, "Perspectives on Plea-bargaining" in *Task Force Report: Courts,* President's Commission on Law Enforcement and the Administration of Justice (Washington: GPO, 1967).
6. Putting it the other way about, going to trial may indicate an inability or unwillingness to come to terms with the prosecutor.
7. If we examine the relationship of all the variables together, including lawyer evaluation, we find that the directions are the same, though the cell entries become very small.
8. In 6 of 6 comparisons, those with less favorable predispositions score lower on the prosecutor evaluation index; 5 of 6 reach 10%, and the average difference is 27%.
9. In 4 of 6 comparisons, those with harsher sentences score lower; 4 of 6 reach 10%, with an average difference of 1.3%. Both exceptions occur for the comparison between those who were acquitted versus those who received probation, and the cell sizes for acquittals are tiny.
10. In 3 of 4 comparisons, trial respondents score lower than those who plead guilty, but in only one does the difference reach the 10% level. If we check the same relationship controlling for past record, the same inconsistent pattern remains.

11. If we include all respondents, the sentence comparison involves 4 of 8 in the expected direction; 4 of 8 reach 10%, with an average difference of only 6%. If we focus upon convicted defendants only, 4 of 4 are in the expected direction; 4 of 4 reach 10%, and the average difference is 30%.

12. In 6 of 6 comparisons, those with more favorable predisitions score higher; 5 of 6 reach 10%; the average difference is 19%.

13. In 5 of 6 comparisons, those who rated their lawyer more favorably also rated the prosecutor favorably; 4 of 6 reach 10%, with an average difference of 12%.

14. Six of 6 are in the expected direction; 6 of 6 reach 10%, with an average difference of 15%.

15. If we separate those who got jail sentences from those who received prison sentences, the numbers are very small, but there is some tendency for those who were sentenced to prison to score lower than those who received jail sentences.

16. Six of 6 are in the expected direction; 4 of 6 reach 10%, with an average difference of 14%.

17. A more speculative interpretation of the relationship between mode of disposition and evaluation of the judge can be gleaned from Table VII-7. When the defendant encounters a judge and obtains an outcome that is generally consistent with his preconceptions about judges (i.e., in the table, a defendant who has a negative predisposition and receives a sentence of incarceration or an individual with a positive predisposition who receives a sentence of probation), the mode of disposition does not have an effect on evaluation of the judge. If, on the other hand, a defendant receives an outcome that is not consistent with his predisposition—those who are negative but receive probation and those who were positive but received incarceration—then the mode of disposition does matter. In particular, in the trial setting—where one might assume that a judge's role is more salient than in the plea setting—if a defendant with a negative predisposition receives a favorable outcome, he is likely to give the judge the credit; alternatively, if one with a positive predisposition receives an unfavorable outcome in the trial setting, the judge is likely to receive the blame. As I say, though, this interpretation requires a good deal of reaching, and the data are equally consistent with the assertion that mode of disposition makes no difference.

18. If we include both lawyer evaluation and mode of disposition in the analysis, the numbers become very small, but the directions indicate that mode of disposition continues to have an inconsistent effect.

19. Four of 4 are in the expected direction; 4 of 4 reach 10%, with an average difference of 28%.

20. Six of 8 are in the expected direction; 4 of 8 reach 10%, with an average difference of 11%.

21. Four of 6 are in the expected direction; 3 of 6 reach 10%; average difference is 9%. Among convicted only, 4 of 4 are in the expected direction; 4 of 4 reach 10%; average difference is 19%.

22. Six of 6 are in the expected direction; 6 of 6 reach 10%, with an average difference of 34%.

23. The simple relationships between sentence received and evaluations of lawyer, prosecutor, and judge are as follows:*

	Sentence Received			
	None	Probation	Incarceration	
Evaluation of Lawyer				
Lawyer	77%	44%	33%	
	(168)	(183)	(171)	(522)
Judge	64%	58%	29%	
	(188)	(193)	(201)	(582)
Prosecutor	56%	70%	38%	
	(146)	(146)	(151)	(443)

* Each cell entry comprises the percentage of respondents who scored high in their evaluation of the particular participant.

VIII. Defendants' Evaluation of the Fairness of Their Treatment

1. The relationship between responses to the item dealing with overall fairness and defendants' evaluations of the specific participants encountered is as follows:*

	Evaluation of Specific Participant		
	Low	High	
Lawyer	49%	72%	
	(258)	(264)	(522)
Judge	50%	69%	
	(245)	(339)	(584)
Prosecutor	54%	67%	
	(284)	(305)	(589)

* Each cell entry comprises the percentage of respondents who said they were treated fairly.

2. The order of items as administered to respondents involved, first, the question dealing with overall evaluation of sentence, followed immediately by the item dealing with comparison level. About ten minutes later in the interview, the item dealing with fairness was asked.
3. The same difference between those receiving sentences of probation versus incarceration appears for the item dealing with overall sentence evaluation:

	Sentence Received	
	Probation	Incarceration
Overall evaluation of sentence:		
Too light	1%	3%
About right	62%	43%
Too heavy	36%	54%
	99%	100%
	(216)	(207)

4. If we examine the responses to the open-ended probe administered to those who said they had not been treated fairly, we find that 51% of those who received dismissals asserted that the unfairness lay in the fact that they never should have been arrested in the first place (11% of those who were convicted mentioned this complaint).
5. If we compare those who received jail versus prison sentences, although the numbers are small, those who received prison sentences are somewhat less likely to say they were treated fairly.
6. Six of 6 are in expected direction; 6 of 6 reach 10%; average difference is 27%.
7. Eight of 8 are in expected direction; 5 of 8 reach 10%; average difference is 19%.
8. Five of 6 are in expected direction; 4 of 6 reach 10%; average difference is 15%.
9. Enker, *op. cit.*, 115, 116.
10. An experienced public defender suggested to me that, for him, one of the saddest aspects of a criminal trial was that often the only participant or observer convinced by the defense offered was the defendant himself.
11. Although the numbers get very small, when we control for sentence received, the same pattern emerges, so it is not simply the result of the relationship between sentence and mode of disposition.
12. Recall that when we examined the relationship of mode of disposition to defendant evaluations of their attorney, those who had trials tended to evaluate their lawyer *more* favorably.
13. The relationship of overall sentence evaluation (here focusing upon those who said their sentence was "right") with sentence, mode of disposition, and comparison level is as follows:*

	Sentence				
	Probation		Incarceration		
	Trial	Plea	Trial	Plea	
Mode of Disposition Comparison Level					
Lighter than others	67% (12)	70% (60)	58% (26)	70% (47)	
Same as others	73% (15)	67% (79)	61% (18)	50% (34)	
Heavier than others	30% (10)	16% (30)	7% (30)	15% (47)	(409)

* Each cell entry comprises the percentage saying that the sentence received was "about right."

IX. Change in Attitudes Toward Criminal Courts

1. Two of the most commonly-discussed difficulties with change scores are the so-called "regression" and "ceiling" effects. In a population, over a period of time, there is a tendency for the "scores" of its members (whether attitudes or attributes like physical characteristics) to "regress" toward the "true mean" for the population as a whole. Thus, if we take measurements of scores of individuals at two periods in time, *ceteris paribus,* those with scores further from the mean are likely to change more than those with scores closer

to the mean. If we just look at difference scores at the two observations without controlling for each respondent's initial score, we are likely to observe more change in those with extreme scores than those close to the mean, without noting that this "change" is not likely the product of the variables of interest that have intervened between the two observations.

The "ceiling" effect tends to cut the other direction. If our measuring instrument is finite—in our case, for example, if our scale of attitudes towards public defenders has a minimum and maximum value—respondents who score close or at one extreme at the first interview are constrained in the amount and direction that they *can* change. The individual, for example, who has a "perfectly" negative score on the scale at the first interview literally *cannot* change in a negative direction. A "ceiling" imposed by the measuring instrument thus constrains the possible change for those with extreme scores during the first observation.

For a discussion of these and other issues, see Charles Harris, *Problems in Measuring Change* (Madison: University of Wisconsin Press, 1963).

2. As noted above, this presentational device does not take account of ceiling or regression effects. The tables presented at the end of the chapter in Appendix IX-I are better measures of change and are not inconsistent with the presentational devices used in the text.
3. The cut-points were chosen on the basis of responses to the T_1 interview, dividing respondents into four approximately equal categories. The same cut-points were then applied to scores on the T_2 interview.
4. See Tables PD-2, PD-3 in Appendix IX-I.
5. See Table PD-1 in Appendix IX-I.
6. See Tables JDG-5 to JDG-7 in Appendix IX-I. Again, the small cell sizes make the conclusion tentative.
7. See Table PRS-1 in Appendix IX-I for complete table.
8. See Tables PRS-2 to PRS-4 in Appendix IX-I.
9. As Table PRS-7 indicates, when we look at the relationship between change in attitudes and toward prosecutors and evaluation of lawyer, controlling for evaluation of the specific prosecutor, the relationship does not become strong. Thus, evaluation of prosecutor is not a "suppressor" of a true relationship between change in attitudes toward prosecutors and evaluation of the specific lawyer.

Appendix I: The Sample

1. The position of juvenile defendants in our sample frame is somewhat hard to determine. Basically, in all three cities, unless there was a decision by the police or prosecutor to proceed against a defendant under 18 years of age as an adult, he should not have appeared on our sampling lists and hence should not be eligible for an interview. However, in the sample, 50 of the respondents reported their age as less than 18 years (this comprises 6% of those interviewed). Most of these (36 of 50) appeared in Detroit and are presumably the result of a decision by the prosecutor to proceed against the defendant as an adult. The 14 cases in Baltimore and Phoenix—where there had been no screening by the prosecutor's office before we drew the sample—were presumably those in which the police officers chose to submit the file as though the defendant were an adult, instead of turning the case over to juvenile court authorities.
2. The FBI statistics have been the subject of a great deal of criticism, much of it surrounding the extent to which arrest statistics actually reflect the

amount of crime occurring in the nation. The difficulty in using them for our purposes centers not around this issue—for we, too, are dealing with a sample of arrestees—but in translating their reported figures into units for analysis that are analogous to our cities. This, in fact, reflects a more basic issue—that of specifying what is the national population against which our sample is properly compared.

3. The statistics reported in this and subsequent tables are drawn from *Crime in the United States—Uniform Crime Reports 1974* (Washington, D.C.: Government Printing Office, 1975). Because the UCR statistics include large numbers of arrests for a variety of misdemeanors, we have used only data involving persons arrested for the so-called "Index offenses"—the more serious crimes of murder, rape, assault, robbery, burglary, larceny-theft, and motor vehicle theft—in our comparisons.
4. See note 6 in Chapter II.

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