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DOES WHERE YOU LIVE DETERMINE WHAT YOU GET? A CASE STUDY OF MISDEMEANANT SENTENCING*

THOMAS L. AUSTIN**

I. INTRODUCTION

This study examines the degree to which a defendant's place of residence influences the criminal sentencing process in cases involving misdemeanors. The hypothesis that defendants who are not residents of the community in which the court handling misdemeanors is located receive harsher sentences than defendants who are residents of the community is derived from the concept of insiders and outsiders, the presence of community norms and values, and the influence of judicial decision making. Results from the analysis support the hypothesis for white defendants. The results indicate, however, that black defendants, regardless of place of residence, receive harsher sentences than whites. The study then considers the implication of these findings for the equitable administration of criminal justice.

II. PRIOR RESEARCH

Research on sentencing disparity has focused primarily on the issue of whether variation in sentence outcomes can legitimately be attributed to extra-legal variables, particularly race, sex, age, and socioeconomic status/occupation.¹ The defendant's place of resi-

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¹ Often cited in this regard is Hagan, *Extra-Legal Attributes and Criminal Sentencing: An Assessment of a Sociological Viewpoint*, 8 LAW & SOC'Y REV. 357 (1974). The article examined 20 studies dealing with sentencing differentials for adult offenders between the years 1928 and 1973. All 20 studies included race. Of these, five examined both the race of the offender and victim. Nine studies examined age, six examined socioeconomic sta-

dence has been of less interest as a possible source of variation. The paucity of research is surprising, given the potential of residence factors to influence sentencing. Speculation suggests that defendants from outside the community might be more susceptible to harsher treatment in sentencing due to their outside/stranger status.²

Findings from two studies shed light on the issue but leave it unresolved. In an early study of a midwestern court, researchers reported that defendants residing outside the metropolitan area were found guilty 74 percent of the time, while those residing within it were found guilty only 56 percent of the time.³ Since the authors were unable to control for the effects of legal variables such as type of offense and prior criminal record, these considerations could not be eliminated as possible explanations for the difference.

A later study, based on jail statistics from a rural Indiana county, found that defendants residing outside the county were incarcerated 35 percent of the time while defendants who were county residents were incarcerated 24 percent of the time.⁴ However further analysis revealed that the difference occurred because nonresidents had committed more serious offenses. When the researcher controlled for type of offense (felony or misdemeanor), both groups were equally likely to be incarcerated.⁵ In addition to considering the type of sentence, the study considered the effect of place of residence on the length of sentences for those incarcerated. No significant difference between the two groups occurred.⁶ These findings led to the conclusion that residential status had little bearing on sen-

tus/occupation, five examined sex, one examined education, and one examined income. *Id.* at 359-60.

² One reason for the paucity of attention given place of residence may be the focus of prior research. Most studies have examined defendants accused of felony crimes. These offenses generally come under the jurisdiction of superior or circuit courts. Although the proportions are unknown, the legal place of residence for most of these defendants probably lies within the physical or geographical jurisdiction of the court. Since the variable (place of residence) approximates a constant, it would provide minimal variation. Some indirect support for this contention is found in J. CONKLIN, *THE IMPACT OF CRIME* 31 (1975). He cites the results of a survey undertaken in Westchester County, New York, which found that 78 percent of all arrests and more than nine out of 10 juvenile arrests were of local residents. *Id.* at 32.

³ Atkinson & Neuman, *Judicial Attitudes and Defendant Attributes: Some Consequences for Municipal Court Decision-Making*, 19 J. PUB. L. 68 (1970).

⁴ Decker, *The Judicial Process in a Rural Context*, in *DISCRETION AND SOCIAL CONTROL* 66 (M. Evans ed. 1978). Data from the table was reanalyzed using residents as the independent variable and incarceration/no incarceration as the dependent variable, so that comparisons could be based on column percentages as opposed to the sum of the individual cells.

⁵ *Id.* at 67.

⁶ *Id.* at 68.

tence outcomes.⁷

The conclusion might have been premature since it is not clear what type of dispositions the author examined. As noted by the author, "This information (the data) will allow us to test the outsider thesis though it is restricted to offenses serious enough for the offender to be *detained* at the jail."⁸ Whether detained meant pre-trial status or post-trial outcome is uncertain. Therefore, the sample could have been composed of defendants awaiting trial, those serving sentences, or a combination of both. In any event, a clear appraisal of the composition of the sample is difficult to determine based on the information provided.

Because of the potential methodological and conceptual limitations of prior research, enough uncertainty exists to warrant further investigation of the issue. The purpose of this study is to determine whether a defendant's legal place of residence has any influence on sentence outcomes when the offense involves a misdemeanor.

III. CONCEPTUAL FRAMEWORK AND HYPOTHESIS

The concept of insiders and outsiders, the presence of community norms and values, and the influence of judicial decision making based on those values contribute to the hypothesis that differences in sentence outcomes are associated with the defendants' place of residence.

The concept of outsiders refers to persons who are not residents of a given locality. Insiders, or persons who are permanent residents, generally view outsiders with greater distrust and suspicion than they do fellow residents. As noted by Conklin: "The stranger is an outsider. People attribute local crime to outsiders and suspect the motives of strangers in the community. Views of the criminal as an outsider and the outsider as a criminal reinforce each other."⁹ From this perspective, the presence of outsiders is regarded as potentially disruptive and threatening to the existing social order.

In communities with cohesive and homogeneous norms and values, it is likely that the criminal justice system would deal with outsiders consonant with those norms and values. Based on the earlier work of Banton¹⁰ and Cain¹¹ and the recent work of Decker¹², it

⁷ *Id.*

⁸ *Id.* at 60 (emphasis added).

⁹ CONKLIN, *supra* note 2, at 31.

¹⁰ M. BANTON, *THE POLICEMAN IN THE COMMUNITY* (1964).

¹¹ M. CAIN, *SOCIETY AND THE POLICEMAN'S ROLE* (1973).

¹² Decker, *supra* note 4, at 65.

appears that where norms and values are homogeneous, a common definition of behavioral boundaries exists which is accompanied by a high degree of interdependence between local citizens and agents of the criminal justice system. This mutually reinforcing relationship is derived in part from the locally shaped normative consensus.¹³ From Cain's perspective, for example, members of the community contribute to the definition of what is and what is not "real police work."¹⁴ According to Decker: "These definitions insure that the community's values and standards will be reinforced by formal social control agents."¹⁵ He provides tentative support for this hypothesis by noting that many police mobilizations witnessed during the observational phase of his study represented efforts by local citizens to have the police investigate out-of-state or out-of-county license plates.¹⁶

Based on the preceding framework, the community's judiciary would probably be similarly suspicious of outsiders. Community distrust of outsiders, as well as the high degree of value consensus between agents of the criminal justice system and local residents, enhances the probability that outsiders convicted of crimes will receive harsher sanctions.¹⁷ By contrast, a community will regard crimes committed by residents as less threatening, perceiving internal threats as less debilitating than external ones. In addition, insiders can probably rely on or locate support within the community and use those linkages to ameliorate judicial perceptions, thereby presenting themselves in a more favorable and less threatening light than outsiders.

This discussion underlies the rationale for the study's hypothesis that in communities with cohesive and homogeneous norms and values, the criminal sentences imposed on outsiders are likely to be harsher than those imposed on insiders. Furthermore, it is hypothesized that outsiders who reside in adjoining communities receive less severe sentences than outsiders residing farther away. The ra-

¹³ *Id.*

¹⁴ M. CAIN, *supra* note 8, at 32.

¹⁵ Decker, *supra* note 4, at 65.

¹⁶ *Id.*

¹⁷ No study to my knowledge, has focused specifically on the association between local norms and values and judicial decision making. However, tentative support for such a relationship can be found in J. HOGARTH, *SENTENCING AS A HUMAN PROCESS* (1971). Based on an extensive analysis of both offender data and judicial attitudes and perceptions in the Canadian province of Ontario, Hogarth concluded that the latter set of factors was of significantly greater importance in accounting for sentencing decisions. He also concluded that "some magistrates may be responding, both in their sentencing behaviour and in their attitudes, to public opinion in the community in which they are situated." *Id.* at 163.

tionale underlying this corollary hypothesis is based on the assumption that outsiders who share a common geographic boundary with a community, i.e., those in adjoining communities, also share some common norms and values with the residents of that community. This status provides them with an advantage over outsiders who reside further away.

IV. SETTING

The setting for the study is a district court located in a suburban community within greater metropolitan Detroit. The territory within the court's jurisdiction corresponds to the physical boundaries of the community. While the court deals with both civil and criminal matters, one of its primary tasks is adjudicating misdemeanor cases.¹⁸

Several social indicators suggest that the community served by the district court is relatively homogeneous. The community is composed primarily of blue collar middle-class families. Except for a small percentage of residents who work in commerce, light industry, or retail, the major sources of employment are auto manufacturing or steel plants located outside the community but within the greater metropolitan Detroit area. The community can be characterized as a "bedroom community," since most of the residents commute to work. Although the number of multiple-dwelling units increased slightly between 1970 and 1980, the majority of residents live in unattached single-family dwellings. In addition, population growth remained relatively stable during this period, increasing by less than five percent. The racial composition of the population is overwhelmingly white, with blacks and other racial minorities accounting for under five percent. Most of the residents are native-born Americans; three-quarters were born in Michigan. Further evidence of the homogeneity of the community is evident from voting patterns in both state and federal elections. Voters regularly support the Democratic candidate with few notable exceptions—such as in the gubernatorial elections and recently in the presidential election. At the local level, the community re-elected the incumbent

¹⁸ The rationale for selecting an inferior or misdemeanor court follows from the discussion in *supra* note 2. Misdemeanant courts (as opposed to felony courts) generally serve a more homogeneous population because their territorial jurisdiction is confined to a smaller geographical area. Thus, local norms and values would be more relevant to distinguishing between outsiders and residents. Furthermore, misdemeanor crimes are more prevalent than felonies. This fact coupled with the likelihood that the geographical jurisdiction of misdemeanor courts is generally smaller than felony courts, increases the probability that a larger proportion of its cases involve defendants who reside outside the court district.

mayor for a third term, as well as several of the city council members.¹⁹

No systematic data is available which would allow a reliable assessment of the association between citizens' attitudes and those of local criminal justice officials regarding crimes committed by outsiders vis-a-vis those committed by insiders. Informal discussion with a purposive sample of community residents, several local police officers, and an attorney who practices in the community revealed that outsiders would be at a disadvantage.²⁰ Residents thought outsiders took advantage of the community by committing crimes there rather than in their own community and felt that they needed to be "taught a lesson." Although the police officers and the attorney expressed more guarded sentiments, they believed that outsiders would probably be at a disadvantage, especially if the crime was of a serious nature. Although these impressionistic data are limited, they do suggest that a degree of consensus between citizens and local agents probably exists.

V. METHOD

A. SAMPLE

Data for the study were gathered in the Spring of 1981 from the inactive or disposed cases file in the district court of the suburban community. The 549 misdemeanor cases represent all guilty pleas where the terms of the sentence were fulfilled during a one year period beginning December 1, 1979 and ending November 30, 1980. Consequently, the data are limited to cases where defendants pleaded guilty sometime prior to November 30, 1980, but fulfilled the sentence imposed by the court (i.e., completion of, suspended sentence, probation term, jail term, or full payment of fine) at some point during the above one year period.

B. VARIABLES

This study employs three types of variables: sociodemographic, criminal, and dispositional. Sociodemographic variables are limited

¹⁹ Descriptive information on the community was obtained from a variety of sources, including: U.S. Bureau of the Census, COUNTY AND CITY DATA BOOK 730-39 (1983); personal interview with the City Treasurer, May 1981; personal conversations with local residents including an attorney, a member of the Chamber of Commerce, and a retired city official; and numerous informal conversations with a former graduate student who was a life-long resident of the community.

²⁰ Interviews with judges could not be arranged. As a result, it remains unknown to what degree, if any, local norms and values influence judicial decision making in this particular court.

to the defendants' legal place of residence and race. Place of residence is broken down into three categories and has the properties of an ordinal variable. Defendants who reside within the community (the physical boundary of the district court) are labeled "Court District." Defendants who reside in communities bordering directly on the community of the district court are labeled "Adjoining Suburbs." Defendants who reside beyond the adjoining suburban communities are in a third category labeled "Outlying Areas." This category includes a few out-of-state and foreign residents who reside in the neighboring city of Windsor, located in the Canadian province of Ontario. The vast majority, however, are Michigan residents who reside in communities close to the communities of the second category.

The race variable consists of a category for white defendants and one for black defendants. It is included for two reasons. First, blacks constitute less than five percent of the population in the community where the district court is located. Prejudicial attitudes may exist due to their minority status. Second, several theoretical works and empirical studies suggest or have concluded that race is associated with sentence outcomes.²¹

Two criminal history variables, type of offense and prior record, are included as control variables. Both are regarded as being the most legally relevant in influencing sentencing decisions.²² Type of offense is treated as a nominal variable and consists of three categories or values: traffic, property, and person. Traffic offenses include operating a motor vehicle while under the influence of alcohol (the majority of cases in this category), reckless operation of a motor vehicle, driving without a valid license or with a suspended license, and leaving the scene of an accident. Property offenses include theft, passing bad cheques (the majority of cases in this category), carrying a concealed weapon, trespassing, and possession of drugs. Offenses against the person are limited to assaults.

Prior criminal record is a composite measure based on the

²¹ See, e.g., W. CHAMBLISS & R. SEIDMAN, *LAW, ORDER, AND POWER* (1971); E. SCHUR, *LABELING DEVIANT BEHAVIOR* (1971); Kleck, *Racial Discrimination in Criminal Sentencing: A Critical Evaluation of the Evidence with Additional Evidence on the Death Penalty*, 46 *AM. SOC. REV.* 783 (1981); Uhlman, *The Impact of Defendant Race in Trial-Court Sanctioning Decisions*, in *PUB. L. & PUB. POL'Y*, 19-51 (J. Gardner ed. 1977); Unnever, Frazier & Henretta, *Race Differences in Criminal Sentencing*, 21 *SOC. Q.* 197 (1980); see also Hagan, *supra* note 1.

²² See, e.g., H. JACOB & J. EISENSTEIN, *FELONY JUSTICE: AN ORGANIZATIONAL ANALYSIS OF CRIMINAL COURTS* (1977); Farrell & Swigert, *Prior Offense Record as a Self-Fulfilling Prophecy*, 12 *LAW & SOC'Y REV.* 437 (1978); Gottfredson and Hindelang, *A Study of the Behavior of Law*, 44 *AM. SOC. REV.* 3 (1979); Wellford, *Labelling Theory and Criminology: An Assessment*, 22 *SOC. PROBS.* 332 (1975).

weighted combination of the number of prior felony and misdemeanor convictions. In computing prior criminal record, a felony offense is assigned a weight twice that of a misdemeanor offense.²³ Both are combined, creating a ratio level variable denoting a defendant's prior criminal record. A value of five, for example, indicates that a defendant has either five prior misdemeanor convictions, or three prior misdemeanor and one prior felony conviction, or one prior misdemeanor and two prior felony convictions.

The study also examines two types of sentence outcomes: the type of sentence imposed and the specific terms of the sentence. Type of sentence can be regarded as an ordinal variable, since its five values connote increasing levels of severity. The five types of sentences examined are suspended sentence, fine, probation, weekends in jail, and jail.²⁴ The second type of sentence outcome reflects the terms associated with the sentence. The four variables examined include the dollar value of the fine imposed, the number of days of probation, number of weekend days in jail, and number of days in jail.

VI. RESULTS

The data are analyzed in three stages. First, bivariate analysis is used to examine the association between place of residence and each of the other variables.²⁵ This is followed by separate multivariate analyses between place of residence and sentence outcomes, and between race and sentence outcomes, taking into account the effects of the two legal variables in both analyses.²⁶ The analysis concludes with an examination of the interrelationship between residence and race, and sentence outcomes.²⁷

²³ While this factor is arbitrary, it nonetheless increases the importance of felony offenses. The issue may be academic, however, given the distribution of felony offenses: 92 percent, or 505 of the 549 defendants had no prior felony convictions, 40 had one prior conviction, three had two prior convictions, and one defendant had three. With respect to prior misdemeanor convictions, 53 percent had none, 27 percent one, 11 percent two, six percent three, and the remaining six percent four or more.

²⁴ The ranking of the five types of sentence outcomes, while also arbitrary, is based on the presumption that a jail term is a harsher form of punishment than a suspended sentence or fine and that probation reflects a middle ground. See also Curran, *Judicial Discretion and Defendant's Sex*, 21 CRIMINOLOGY 41, 46-48 (1983) (utilizing an identical categorization for ranking sentence outcomes).

²⁵ See text accompanying *supra* note 28.

²⁶ See text accompanying *supra* notes 29-37.

²⁷ See text accompanying *supra* notes 38-39.

A. BIVARIATE ANALYSIS

Table 1 contains an analysis of all variables by defendants' place of residence.

There are a number of interesting patterns and associations based on place of residence. Blacks are more likely to reside further away from the court district than are whites. While the ratio of black to white is 1:25 within the court district, it decreases to 1:8 in adjoining suburbs and to 1:3 in outlying areas.

Examination of the two criminal history variables reveals no discernable pattern except in one instance.²⁸ Defendants who reside in the court district, as well as those who reside in adjoining suburbs, are less likely to have prior convictions than defendants who reside in outlying areas.

Comparing punishments received, defendants who reside outside the court district are more likely to receive harsher types of sentences. Defendants who reside in outlying areas are over 20 times more likely to receive a jail term as a sentence than their court district counterparts. Of the 130 defendants receiving a jail term only five, or less than four percent, are residents of the court district. Conversely, defendants residing within the court district are almost twice as likely to receive a fine or suspended sentence than are defendants residing outside the district. Except for a probation sentence (which is almost equally likely for court-district and adjoining-suburbs defendants), the various dispositions exhibit a relatively strong monotonic trend.

Of the sentence outcome variables that reflect the terms of the sentence, the trend for three (dollar amount of fine, days of probation, and days of jail) is similar to that above. That is, defendants who reside farther away from the court district receive harsher terms. The exception to the trend is number of weekend days in jail, where defendants who reside in adjoining suburbs receive slightly longer terms than defendants residing in outlying areas. Because so few court district defendants received either a sentence of weekends in jail or jail, analysis of these terms is omitted for court district defendants.

At this point, the data appear to support a disparity hypothesis based on place of residence. In the study, defendants who reside

²⁸ The distribution for type of offense is almost identical to that found in a recent study of misdemeanor sentencing in Columbus, Ohio. In that study, traffic offenses accounted for 48 percent of the cases, assaults 17 percent, and thefts, bad checks, and other offenses (which in this study are combined and labeled "Property Offenses"), the remainder. Ryan, *Adjudication and Sentencing in a Misdemeanor Court: The Outcome is the Punishment*, 15 LAW & SOC'Y REV. 79 (1981).

TABLE 1
SAMPLE CHARACTERISTICS BY PLACE OF RESIDENCE

VARIABLE	VALUES	LOCATION OF RESIDENCE						TOTAL	
		Court District		Adjoining Suburbs		Outlying Areas		%	Rows
		%	N	%	N	%	N	%	N
RACE	1=White	96.2	102	88.7	204	75.6	161	84.9	466
	2=Black	3.8	4	11.3	26	24.4	52	15.1	82
TYPE OF OFFENSE	1=Traffic	47.2	50	49.6	114	49.8	106	49.0	270
	2=Property	33.0	35	32.2	74	36.6	78	34.1	187
	3=Person	19.8	21	18.3	42	13.6	29	16.8	92
NUMBER OF PRIOR CONVICTIONS	0=None	61.3	65	54.3	125	42.3	90	51.0	280
	1=1M	21.7	23	25.2	58	29.1	62	26.0	143
	2=2M or 1F	9.4	10	11.3	26	16.4	35	12.9	71
	3=3M or 1F & 1M	2.8	3	3.9	9	6.1	13	4.6	25
	4=4M or 2F etc.	3.8	4	3.5	8	4.2	9	3.8	21
TYPE OF SENTENCE	5=etc.	0.9	1	1.8	4	1.8	4	1.6	9
	1=Suspended	10.4	11	5.7	13	5.6	12	6.6	36
	2=Fine	34.0	36	26.1	60	18.8	40	24.8	136
	3=Probation	50.9	54	49.6	114	37.1	79	45.0	247
	4=Jail Weekends	2.8	3	12.2	28	29.1	62	16.9	93
	5=Jail	1.9	2	6.5	15	9.4	20	6.7	37
		\bar{X}	SD	\bar{X}	SD	\bar{X}	SD	\bar{X}	SD
AMOUNT OF FINE IN \$	Number = Value	138.3	65.1	189.1	71.0	194.0	72.1	177.7	73.2
DAYS OF PROBATION	Number = Value	304.5	157.4	313.6	126.3	363.8	84.7	327.7	124.6
DAYS JAIL WEEKENDS	Number = Value			49.8	20.8	45.5	22.9	47.1	23.1
DAYS JAIL	Number = Value			110.3	92.9	116.6	111.1	111.5	100.1

farther away from the court district receive harsher types of sentences. Additionally, the terms of the sentence, with one exception, are more severe. Yet, these findings are suggestive at best. First, outsiders may receive more severe sentences because their offenses are more serious. Second, outsiders may have more extensive prior criminal records. Finally, the severity of sentences may be solely a function of race. Black defendants are more likely to reside farther away from the court. The community may impose harsher sentences on people who live far away based on their race rather than their residence. In order to assess these alternatives, a multivariate analysis is needed.

B. MULTIVARIATE ANALYSIS

Rather than multiple regression analysis, the study employs a correlational analysis within categories of the nominal variable "TYPE OF OFFENSE."²⁹ Pearson's r is used to measure the degree of association between place of residence and sentence outcomes, while partial r is used to take account of the effect of prior criminal record.³⁰ The study similarly assesses the influence of race on sentence outcomes.

Table 2 contains the results. The left-hand column of Table 2 entitled "SENTENCE OUTCOME EXAMINED" denotes each of the five outcomes, while the column entitled "TYPE OF OFFENSE" reflects each of the three offense categories. The two middle columns of the table entitled "RESIDENCE WITH SENTENCE" and "CONTROLLING

²⁹ There are two reasons for this decision. First, because analysis is undertaken within categories of the variable type of offense, there are several instances where sample size precludes the use of multiple regression due to the attendant problems of coefficient reliability. For a discussion of these effects, see J. COHEN & P. COHEN, *APPLIED MULTIPLE REGRESSION CORRELATION ANALYSIS FOR THE BEHAVIORAL SCIENCES* 55-56 (1975). Second, examination of a correlational matrix based on the independent variables revealed that they were associated in varying degrees. This was most acute for race and residence as can be inferred from Table 1. Interpretation of the coefficients is problematic when multiple regression is used under these conditions. *Id.* at 116.

³⁰ Although both Pearson's r and its derivative, partial r , assume that variables are measured at the interval/ratio level, place of residence and type of sentence are ordinal measures. Furthermore, race is nominal. However, following arguments supporting the use of interval/ratio level measures on ordinal data, see, e.g., Labovitz, *Some Observations on Measurement and Statistics*, 46 *SOC. FORCES* 151 (1967), as well as arguments regarding the treatment of dichotomous variables as interval/ratio measures, see, e.g., J. COHEN & P. COHEN, *supra* note 21, and the use of these techniques elsewhere, see, e.g., Hagan, *Criminal Justice in Rural and Urban Communities: A Study of the Bureaucratization of Justice*, 55 *SOC. FORCES* 597 (1977), all three are treated as interval/ratio measures. In order to assure that the use of Pearson's r and partial r did not distort findings, analysis using Spearman's r was undertaken between place of residence and type of sentence within offense categories. These findings (not shown) closely resemble those generated by Pearson's r .

PRIOR RECORD," respectively, represent the zero order correlation between place of residence and sentence outcome, as well as the first order partial when the effect of prior criminal record is taken into account. The two right-hand columns reflect similar relationships except that they involve race and sentence outcome. The table examines each of the five sentence outcomes, beginning with the type of sentence.

1. *Type of Sentence*

The types of sentences analyzed include suspended, fine, probation, weekends in jail, and jail. Each of the five types of sentences occurred within each of the three offense categories. The result of this analysis support earlier findings: defendants who reside outside the court district receive harsher sentences than those who reside within the court district.³¹ Interestingly, as the seriousness of the type of offense increases there is a concomitant increase in the likelihood that outsiders will receive harsher sentences. For example, defendants who reside outside the court district are much more likely to receive a jail term for offenses against a person than they are for a traffic offense.

The direction of the correlation coefficients also indicates that black defendants are more likely to receive harsher types of sentences. As with outsiders, black defendants are more likely to receive a jail term for an offense against a person than they are for a traffic offense. However, the likelihood of a harsher sentence being imposed as the offense becomes more serious is not as acute for black defendants as it is for outside defendants.

The effect of prior criminal record on the type of sentence received is minimal in both analyses. The most acute effect occurs in the analysis of residence with sentence, where the size of the coefficient for traffic offenses is reduced by about half.

2. *Dollar Amount of Fine*

The court imposed fines on 136 defendants. Of these, 116 (86 percent) involved traffic offenses and 17 (13 percent) involved property offenses.³² The three cases involving offenses against the

³¹ An alpha level of .05 is regarded as an acceptable criterion given the speculative nature of the research.

³² The dollar value of the fines imposed on the 116 traffic offenders ranged from \$10 to \$205, with the exception of one defendant who received a \$300 fine. Since 35 percent of the defendants received a fine of \$205, the \$300 fine was classified as an "Outlier" and recoded to the value of \$205. For the 17 property offenders, fines ranged from \$105 to \$500. The distribution is as follows: five received fines of between \$105 and

TABLE 2
PLACE OF RESIDENCE BY SENTENCE OUTCOMES AND RACE BY SENTENCE OUTCOMES, BOTH WITHIN
OFFENSE CATEGORIES AND CONTROLLING FOR PRIOR CRIMINAL RECORD

SENTENCE OUTCOME EXAMINED	TYPE OF OFFENSE	SAMPLE SIZE (n)	RESIDENCE WITH SENTENCE		CONTROLLING PRIOR RECORD		RACE WITH SENTENCE		CONTROLLING PRIOR RECORD	
			r	p	r	p	r	p	r	p
TYPE OF SENTENCE	Traffic	270	.19	.00	.10	.00	.10	.06	.09	.08
	Property	187	.29	.00	.24	.00	.22	.00	.17	.01
	Person	92	.60	.00	.62	.00	.27	.01	.26	.01
AMOUNT OF FINE IN \$	Traffic	116	.52	.00	.52	.00	.30	.00	.28	.00
	Property	17	.68	.00	.68	.00	-	-	-	-
DAYS OF PROBATION	Traffic	94	.40	.00	.39	.00	.25	.01	.27	.00
	Property	117	.23	.01	.23	.01	.16	.04	.12	.10
	Person	36	.20	.12	.19	.14	-	-	-	-
*DAYS JAIL WEEKENDS	Traffic	20	-.29	.10	-.07	.39	.41	.04	.43	.04
	Property	36	-.17	.15	-.09	.29	.36	.02	.45	.00
	Person	34	.25	.09	.28	.06	.24	.09	.39	.01
*DAYS JAIL	All Offenses	35	.03	.43	.12	.25	.27	.06	.26	.07
					** .17	.17			** .41	.01
					*** .24	.09			*** .40	.01

*Reflects only adjoining suburbs and outlying area defendants.

**Controlling only for type of offense.

***Controlling simultaneously for prior criminal record and type of offense.

person are excluded from analysis. Similarly, because so few black defendants received a fine for property offenses, the analysis between race and dollar amount of fine is limited to traffic offenses. Results from the analyses in both instances mirror those for type of sentence. That is, outsiders and blacks are more likely to receive stiffer fines than insiders and whites respectively.

3. *Days of Probation*

The court imposed probation sentences on 247 defendants. Of this number, 94 involved traffic offenses, 117 involved property offenses, and 36 involved person offenses.³³ Results for the association between place of residence and days of probation generally reveal a pattern similar to that observed thus far, with one notable exception. As the seriousness of the offense increases, the magnitude of the coefficients decrease. Thus, defendants who reside outside the court district receive longer probation terms than defendants who reside inside the court district, but the likelihood decreases as the seriousness of the offense increases.

Because few black defendants received a probation term for person offenses, findings for the association between race and days of probation are limited to traffic and property offenses. The results are mixed. Blacks receive longer probation terms than whites for both traffic and property offenses. In the latter case however, the longer terms appear justified on the basis of the more extensive prior criminal records of black defendants.

4. *Days of Weekends in Jail*

Ninety-three defendants received a sentence of weekends in jail. Of this number, the three court district residents are excluded from the analysis.³⁴ This analysis is limited to defendants from adjoining suburbs and outlying areas. The rationale for continuing the analysis, even though no court district defendants are included,

\$199, four between \$200 and \$299, four between \$301 and \$400, and four between \$401 and \$500.

³³ Sentence lengths ranged from a minimum of 90 days up to two years. However, for the overwhelming majority of defendants (93 percent), sentences were for either 180 or 365 days. Slightly under two percent received terms of less than 180 days and all those involved traffic offenses. The remaining five percent received sentences exceeding 365 days, of which most were two year sentences. Of these, most were equally divided between property and person offenses. Because of the small number of "aberrant" cases (seven percent or 17 cases) and their potential for distorting results, sentences of 180 days or less are assigned a value of one (1), and sentences of 365 days a value of two (2).

³⁴ The three defendants were white and had been convicted on traffic offenses. Two received a sentence of 15 days, the other 30 days.

is to determine whether support for the corollary hypothesis (outsiders who reside in adjoining communities receive less severe sentences than outsiders residing farther away) still exists.

Of the 90 defendants, 20 were sentenced for traffic offenses, 36 for property offenses, and 34 for offenses against the person.³⁵ Findings for traffic and property offenses reveal a pattern unlike any observed thus far. The direction of the simple or zero order correlation is negative. The coefficients are of sufficient magnitude to suggest that defendants who reside closer to the court district (in adjoining suburbs) receive longer terms than defendants who reside in outlying areas. When the effect of prior criminal record is taken into account, however, the magnitude of the coefficients decreases considerably and the association is minimal. For offenses against the person, the direction of the association and the magnitude of the coefficient is comparable to that observed above for days of probation. Defendants who reside farthest away from the court district in outlying areas receive longer terms than defendants who reside closer to the court district in adjoining suburbs.

The effect of race on sentence lengths is quite pronounced. Blacks receive longer sentences in all three offense categories, even though they have less extensive prior criminal records than white defendants.

5. *Days in Jail*

Thirty-nine defendants received a jail sentence. Of this number, the two court district residents are excluded from the analysis.³⁶ Analysis is again limited to comparing defendants from adjoining suburbs to those from outlying areas. Of the 37 defendants, six received jail terms for traffic offenses, 13 for property offenses, and 18 for person offenses.³⁷ Due to the small number of cases associated with each offense, the study did not attempt analysis within

³⁵ Of the 20 defendants convicted of traffic offenses, six received a sentence of 15 days, six 30 days, four 60 days, and four 90 days. Of the 36 property offenders, four received a sentence of 15 days, thirteen 30 days, one 45 days, sixteen 60 days, and two 90 days. Of the 34 person offenders, one received 15 days, ten 30 days, eighteen 60 days, and five 90 days.

³⁶ Of the two court district defendants given a jail term, one received a sentence of three days for a traffic offense while the other received a sentence of 30 days for a property offense. The first defendant was white, the second black.

³⁷ Of the traffic offenders, two received terms of three days, two received terms of 30 days, and two received terms of 100 and 200 days. Of the 13 property offenders, the majority (eight) received terms of 30 days, two received terms of three days, and the remaining three received terms of 90, 180, and 200 days respectively. Of the 18 person offenders, two received terms of 30 and 60 days, five received terms of 90 days, eight received terms of 180 days, and three received terms of 365 days.

each category. Instead, the study introduced type of offense into the analysis as a control variable with the assigned metric values of 1 = traffic, 2 = property, and 3 = person.

Results from the analysis show no significant association between place of residence and length of jail term. Interestingly, introduction of the two legal variables results in an increase in the magnitude of the partial coefficients. This indicates that although defendants who reside in outlying areas have less extensive prior criminal records and have committed less serious offenses than defendants who reside in adjoining suburbs, both receive similar jail terms. Similarly, black defendants receive longer jail terms than white defendants, even though their prior criminal records are no more severe and their offenses are less serious.

C. RESIDENCE, RACE, AND SENTENCE OUTCOMES

The effect of place of residence on sentence outcomes is evident. Defendants who reside outside the court district receive more severe types of sentences, larger fines, and longer probation terms than court district residents. For the two other sentence outcomes—weekend days in jail and days of jail—the comparison involved only defendants from adjoining suburbs and those from outlying areas. Although not as consistently, defendants from outlying areas received harsher terms, particularly in light of their less extensive prior criminal records.

The effect of race on sentence outcomes is quite pronounced. Black defendants, 95 percent of whom reside outside the court district, receive harsher types of sentences with more severe terms. The harshness is most acute with jail time, which raises an interesting question. Are black defendants more likely to receive harsher sentence outcomes regardless of their place of residence? The comparison for both types of jail terms only involved defendants from adjoining suburbs and those from outlying areas. In comparing the coefficients for both types of jail terms, the magnitude of those for the association between race and sentence are noticeably larger than those for the association between residence and sentence. This tentatively suggests a conditional relationship among residence, race, and sentence outcomes. Place of residence affects sentence outcomes for white defendants and has no effect for black defendants who, regardless of place of residence, receive more severe sentences than whites.³⁸

³⁸ There is, however, an alternative explanation for this occurrence that involves the potential interaction of residence and race with sentence outcomes. Four scenarios in-

The above conclusion is derived from looking only at jail terms. Whether similar findings exist based on type of sentence, amount of fine, and days of probation needs to be determined. Otherwise, the conclusion may be based on the idiosyncratic results relative to jail sentences.

Table 3 presents these possibilities. Although initially forboding, the table is relatively simple. The two left-hand columns are identical to those in Table 2. The third column labelled, "LEVEL OF ANALYSIS," examines the simple or "Zero Order Correlation" for each sentence outcome within offense categories, while "Controlling Prior Record" represents the first order partial. The fourth column labeled "WITHIN ADJOINING SUBURBS BY DEFENDANTS' RACE" assesses sentence outcomes by race for defendants who reside in adjoining suburbs. Similarly, the two right hand columns labeled "WITHIN OUTLYING AREAS BY DEFENDANTS' RACE" and "BLACKS ADJOINING SUBURBS VS. BLACKS OUTLYING AREAS" assess these sentence outcomes.

Results for the fourth column labeled "WITHIN ADJOINING SUBURBS BY DEFENDANTS' RACE" indicate that the only instance where black defendants justifiably receive harsher sentence outcomes involves type of sentence for offenses against persons. When the effect of prior criminal record is taken into account, black and white defendants in adjoining suburbs are likely to receive similar types of sentences for person offenses.

Results in the column labeled "WITHIN OUTLYING AREAS BY DEFENDANTS' RACE" are generally similar to the above results for adjoining suburbs. The direction of all coefficients is identical but their magnitude is smaller. Interestingly, even though black defendants in several instances have less extensive prior criminal records than white defendants, they receive more severe sentence outcomes.

Results from the farthest right column labeled "BLACKS ADJOIN-

ing the two categories of residence (adjoining suburbs and outlying areas) and the two categories of race (white and black) are possible. For example, black defendants from adjoining suburbs may receive longer jail terms than white defendants from those suburbs, while black defendants from outlying areas receive shorter jail terms than white defendants from those areas. The second scenario is the opposite of the first while the third and fourth involve similar combinations of residence and race. In order to assess these possibilities, three, two-way analysis of variance (ANOVA) involving days of weekends in jail (one ANOVA for each of the three offense categories) and one ANOVA involving days of jail with offense categories combined was undertaken. Prior criminal record was included as a covariate, with residence and race as factors. The ANOVA method employed was the "classical" model. No significant interaction effects emerged in any of the four tests. See N. NIE, C. HULL, J. JENKINS, K. STEINBRENNER, & D. BENT, *STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES* 398-430 (2d ed. 1975).

TABLE 3
RACE BY SENTENCE OUTCOMES WITHIN BOTH OFFENSE CATEGORIES AND CATEGORIES
OF PLACE OF RESIDENCE AND CONTROLLING FOR PRIOR CRIMINAL RECORD

SENTENCE OUTCOME EXAMINED	TYPE OF OFFENSE	LEVEL OF ANALYSIS	*WITHIN ADJOINING SUBURBS BY DEFENDANTS' RACE			**WITHIN OUTLYING AREAS BY DEFENDANTS' RACE			***BLACKS ADJOINING SUBURBS VS. BLACKS OUTLYING AREAS		
			n	r	p	n	r	p	n	r	p
TYPE OF	Traffic	Zero Order Correlation Controlling Prior Record	114	.11	.11	106	.05	.29	43	.06	.35
				.10	.15		.06	.28		.07	.34
	Property	74	.30	.01	78	.11	.18	25	-.07	.37	
SENTENCE	Person	Zero Order Correlation Controlling Prior Record	42	.22	.09	29	.22	.13	10	.00	.50
				.02	.44		.31	.05		.45	.11
AMOUNT OF FINE IN \$	Traffic	Zero Order Correlation Controlling Prior Record	52	.21	.07	40	.19	.12	18	.14	.29
				.17	.12		.17	.15		.17	.26
DAYS OF	Traffic	Zero Order Correlation Controlling Prior Record	46	.33	.01	37	.08	.32	18	.44	.03
				.37	.01		.16	.18		.42	.05
PROBATION	Property	Zero Order Correlation Controlling Prior Record	51	.26	.03	40	.00	.50	12	-.30	.17
				.22	.07		.05	.37		-.25	.21

*Compares within offense categories sentence outcomes between white and black defendants residing in adjoining suburbs.

**Compares within offense categories sentence outcomes between white and black defendants residing in outlying areas.

***Compares within offense categories sentence outcomes between black defendants residing in adjoining suburbs and black defendants residing in outlying areas.

ING SUBURBS VS. BLACKS OUTLYING AREAS" indicates, that except for days of probation (where blacks from outlying areas receive longer terms for traffic offenses and those from adjoining suburbs longer terms for property offenses), sentence outcomes are generally similar. In addition, black defendants from outlying areas in several of the comparisons have less extensive prior criminal records than black defendants from adjoining suburbs.

Three major points summarize these findings. First, in the 12 comparisons involving black and white defendants, not once did white defendants receive harsher sentence outcomes. In more than a majority of the 12 sentence outcomes, blacks received substantially harsher penalties. Second, black defendants (with minor exceptions) received similar sentence outcomes even though blacks from outlying areas had, in a majority of the six comparisons, less extensive prior criminal records. Third, these findings indicate that the findings based on jail term data are not idiosyncratic.³⁹

VII. SUMMARY AND CONCLUSION

The purpose of this study is to determine whether a defendant's place of residence influences sentence outcomes. The term sentence outcome includes the type of sentence received as well as the term or conditions accompanying the sentence. Notwithstanding the absence of correlated legal variables, i.e., legally relevant con-

³⁹ Because so few of the tests for statistical significance meet the .05 criterion or less, one can legitimately claim that the results are due to chance and thus do not justify the contention of disparate findings. Yet, adherence to a strict statistical criterion overlooks the fact that the results exhibit a very stable trend or pattern which supports the contention. I have chosen to emphasize this trend over the significance tests, but not on the basis of the trend alone. Not included are results from three additional analyses between black and white defendants which support the belief that black defendants, regardless of place of residence, receive harsher sentence outcomes. Black defendants, as a group, were separately compared to white defendants residing in outlying areas, adjoining suburbs, and the court district. The analysis compared defendants on three sentence outcomes (type of sentence, dollar amount of fine, days of probation) within offense categories while controlling for prior criminal record. In all three comparisons, the direction of all coefficients was positive. As would be expected based on the data presented in the tables of this paper, the magnitude of the coefficients generally increased as the analysis progressed from comparison of the group of black defendants with white defendants from outlying areas to comparison of the group of black defendants with white defendants from the court district.

Also undertaken, but not included, was one additional analysis involving white defendants only. The method was identical to that in Table 2 and results generally mirrored those findings. In that analysis, white defendants residing outside the court district received harsher sentence outcomes for type of sentence, dollar amount of fine, and days of probation than did court district defendants. These findings, coupled with those from above, strongly indicate that the findings in this paper regarding place of residence and sentence outcomes are idiosyncratic to white defendants only.

siderations that would justify disparate sentences, results indicate that defendants who reside farther away from the community in which the district court is located receive harsher types of sentences, especially for offenses against persons. Defendants from outside the community also received larger fines and served more days on probation than defendants from inside the community.

For black defendants, however, these findings must be qualified. The effect of race on sentence outcomes is evident. Results indicate that the court deals with black defendants more severely regardless of residence (again, notwithstanding the absence of correlated legal variables). Of the two groups of black defendants examined, those from adjoining suburbs and those from outlying areas, the latter group tends to receive harsher sentence outcomes, given that they have less extensive prior criminal records.

One can visualize the relationship among place of residence, race, and sentence outcomes by imagining a fairness continuum. Blacks from outlying areas cluster at the harshest end of the continuum while blacks from adjoining suburbs (because of their generally more extensive prior criminal record but similar sentence outcomes to blacks from outlying areas) occupy an adjacent but less extreme position. Next, in order are white defendants from outlying areas, white defendants from adjoining suburbs, and at the lenient end of the continuum, whites from the court district. Where the four black defendants who are residents of the court district fit is open to speculation, but one might guess that they occupy positions similar to blacks on the harsher side of the continuum.

Several conclusions can be drawn from the findings of this study. In communities where consensus characterizes the norms and values of citizens and officials of the criminal justice system towards outsiders, the community will regard crimes perpetrated by outsiders as more threatening to local stability than crimes committed by insiders. Consequently, they impose harsher sanctions on outsiders. White defendants who reside outside the court district are outsiders in the literal sense of the word, while black defendants might be considered outsiders in the figurative sense of the word.

Second, the corollary hypothesis that outsiders who reside in adjoining suburbs receive less severe sentence outcomes than outsiders residing farther away in outlying areas is partially supported. White defendants from adjoining suburbs, unlike white defendants from outlying areas, benefit from the fact that they share a common geographical boundary with insiders. This physical proximity carries with it some degree of commonality with respect to norms and val-

ues as well and mitigates against the more severe sentence outcomes received by white defendants from outlying areas.

Third, as the offense becomes more serious, the influence of residence and race on the type of sentence received becomes more acute. Although more severe sentences for traffic and property offenses are positively but moderately associated with place of residence and race, the association is substantially stronger for offenses against the person. This suggests that the local community and its judiciary draw a sharper distinction between outsiders and local residents when the offense involves the potential for personal injury. In this regard, the community perceives the actions of outsiders that threaten personal harm as more threatening to social stability than similar behavior by local residents.⁴⁰

Fourth, the findings from the study present several policy considerations. Aside from the racial issue, there remains the question of whether local norms and values *should* influence the imposition of criminal sanctions by distinguishing between crimes committed by outsiders vis-a-vis insiders. Should an individual who resides outside the community but enters it to intentionally commit a crime be given an added measure of punishment? Neither the Constitution of Michigan nor the United States Constitution resolve the question of what role, if any, local norms and values should have in setting judicial policy. As a result, the local judiciary in its discretion controls the issue.

An argument on behalf of this result is that each community has its own standards, needs, and demands for sentencing and that the local judiciary has a duty to be cognizant of these at the time of sentencing. A loss of confidence in the judicial system and a concomitant decrease in local stability could result from failure to take such cognizance. On the other hand, the role of local norms and values should be minimal to prevent subjectivism and bias to influence what should be an objective process. The Constitution of Michigan, as do other constitutions, establishes one court of justice. A commitment to equal justice for all citizens, be they outsiders or insiders, underlies its establishment. Allowing local norms and val-

⁴⁰ Whether offenses against persons committed by outsiders involve local residents is unknown. It is unlikely, however, that a typical case involves outsiders assaulting one another. If the majority of cases do involve local victims, it is clear that reaction to criminal behavior is, in part, a function of the relationship between offender and victim. When the offender is an outsider and the victim an insider, the offense assumes an additional dimension. Beyond satisfying the individual victim's need for justice, the harsher sentences imposed on outsiders reflect a community interest against an external threat. Conversely, where the offender and victim are both insiders, there would be less need to satisfy community interests since the offense is an internal matter.

ues to influence sentence outcomes appears to violate this commitment by establishing a dual standard of justice. Whether a judicial system can incorporate local standards and equal justice simultaneously is uncertain, but that issue lies beyond the scope of this paper. Nonetheless, as this study depicts, local courts in resolving misdemeanor cases, may achieve one at the expense of the other.

If the relationship among residence, race, and criminal sentencing is to be pursued, several recommendations which reflect the limitations of this study need to be considered. First, a sample community should contain a sufficient number of black defendants or other minorities who are court district residents. Second, the legitimacy of the findings of this study would be enhanced if other court districts, in this area and elsewhere, reveal a similar pattern. Third, one should look at court districts where black residents constitute a majority of the population to see if a similar pattern occurs.