

MINNESOTA

**CRIME  
CONTROL  
PLANNING  
BOARD**

RESEARCH REPORT

46953  
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A Preliminary Report  
of the  
Plea Negotiation Study

produced by the  
Minnesota Statistical Analysis Center

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March, 1978

Sentencing in Minnesota  
District Courts

## EXECUTIVE SUMMARY

This report presents the preliminary finds of the Plea Negotiation Study on the topic of sentencing. It is intended to provide the Minnesota Sentencing Guidelines Commission (which will soon be establishing sentencing guidelines and presumptive, fixed sentences) with descriptive information about sentencing practices and to provide information which has not yet been available on a statewide basis to interested persons and practitioners in the field. The data presented was collected from district court and county attorney records in eleven Minnesota counties and constitutes approximately eighteen percent of the felony and gross misdemeanor dispositions filed in 1975.

The primary questions addressed in this report are as follows:

- 1 - What are the conviction rates for the various types of offenses?
- 2 - What types of sentences are being accorded defendants convicted of felonies?
- 3 - What are lengths of the prison and jail sentences?
- 4 - What are the prior conviction records of the defendants?
- 5 - What is the relationship between a prior conviction record and the type of sentence a defendant receives?
- 6 - What happens to cases in which the use of a firearm is charged?

These firearm cases are of particular interest because (at the time of the study) persons convicted of the use of a firearm in the commission of a felony were subject to mandatory minimum terms of imprisonment. These cases, therefore, are a departure from the usual sentencing practices in Minnesota wherein the sentence imposed may not exceed a statutorily fixed maximum, and the parole board determines the actual amount of time to be served.

Because the background characteristics and treatment of male and female defendants vary significantly, they are analyzed separately in this report. Females account for ten percent of the sampled cases.

The major findings of this preliminary report are as follows:

- Approximately 90 percent of the defendants arraigned in district court on felonies or gross misdemeanors are convicted.
- Eight percent of the cases go to trial with the remainder of the convictions settled by guilty pleas.
- Guilty pleas account for 83 percent of the male offender cases and 82 percent of the female offender cases.
- More serious crimes against the person had the lowest rate of conviction (85 percent) for male defendants.
- Less serious crime types are more likely to involve guilty pleas than their more serious counterparts for male defendants.
- For convicted male defendants, 50 percent serve no time, 29 percent serve some jail time and 21 percent are sentenced to prison.
- For convicted female defendants, 81 percent serve no time, 10 percent serve some jail time and 9 percent are sentenced to prison.
- For both males and females, defendants are more likely to receive a more severe sentence (i.e., incarceration) for a more serious type of crime than for a less serious type of crime.
- For convicted males, defendants involved in crimes against the person are more often sentenced to prison than defendants involved in other crime types, and defendants involved in property offenses are more often sentenced to some jail time than defendants involved in other crime types.
- For convicted female defendants, 84 percent receive stayed sentences. For convicted male defendants, 65 percent receive stayed sentences.
- None of the sampled cases involve the application of Minnesota statute 609.155 which provides for extended terms of imprisonment for dangerous offenders.

- Thirty-nine percent of the male defendants have prior adult conviction records, 17 percent of the female defendants have prior adult conviction records.
- For all cases, persons with prior adult conviction records are more likely to receive sentences of incarceration than persons without previous convictions.
- A person charged with a gun is no more likely to be convicted than a person charged with a similar crime without the use of a firearm.
- Cases that charge a gun and retain the gun charge through conviction are more likely to get prison sentences than cases that charge a gun and later have the gun charge dropped prior to conviction.
- Cases involving the use of a firearm have a higher rate of plea bargaining when compared to similar cases not involving gun charges.

## TABLE OF CONTENTS

	<u>Page</u>
Table of Contents	v
List of Figures	vi
List of Tables	vii
I. Introduction - Plea Negotiation Study	1
II. Sampling Methodology	3
III. Results	
A. Introduction - Sentencing	7
B. Male Offenders	
1. Conviction Rates	10
2. Types of Sentences	17
3. Sentence Lengths	28
4. Prior Conviction Records	31
5. Cases Involving the Use of Firearms	35
C. Female Offenders	
1. Conviction Rates	48
2. Types of Sentences	52
3. Sentence Lengths	59
4. Prior Conviction Records	60
IV. Summary and Conclusions	63
V. Appendix	65

## LIST OF FIGURES

<u>Title</u>	<u>Page</u>
Figure 1 Flow Chart of Male Defendants	18
Figure 2 Type of Sentence by Crime Type	21
Figure 3 Prior Adult Conviction Record of Male Defendants	31
Figure 4 Type of Sentence by Prior Conviction Record-Males	33
Figure 5 Dispositions of Gun Cases	39
Figure 6 Flow Chart of Assault Cases	43
Figure 7 Flow Chart of Robbery Cases	44
Figure 8 Flow Chart of Female Defendants	53
Figure 9 Prior Adult Conviction Record of Female Defendants	60
Figure 10 Type of Sentence by Prior Conviction Record-Females	61





# LIST OF TABLES

<u>Title</u>	<u>Page</u>
Table 1      Sampling	5
<u>MALE DEFENDANTS</u>	
Table 2      Mode of Case Disposition by Crime Type	13
Table 3      Guilty Pleas by Seriousness of Crimes	15
Table 4      Guilty Pleas by Crime Type	15
Table 5      Type of Sentence by Type of Offense	20
Table 6      Type of Sentence by Seriousness of Crimes	23
Table 7      Types of Stayed Sentences	26
Table 8      Types and Lengths of Sentences for Selected Offenses	29
Table 9      Prior Conviction Record by Type of Sentence	34
Table 10     Use of a Firearm by Type of Offense Charged	36
Table 11     Mode of Case Disposition by Use of a Firearm - Crimes Against Persons	37
Table 12     Type of Sentence by the Use of Firearms - Crimes Against Persons	41
Table 13     Prior Record by Use of a Firearm - Crimes Against Persons	46
<u>FEMALE DEFENDANTS</u>	
Table 14     Mode of Case Disposition by Crime Type	49
Table 15     Guilty Pleas by Seriousness of Crimes	50
Table 16     Guilty Pleas by Crime Type	51

LIST OF TABLES (cont'd)

<u>Title</u>		<u>Page</u>
Table 17	Type of Sentence by Type of Offense	55
Table 18	Type of Sentence by Seriousness of Crimes	56
Table 19	Types of Stayed Sentences	58
Table 20	Sentence Types and Lengths for Selected Offenses	59

I. Introduction - Plea Negotiation Study

In 1976 the Governor's Commission on Crime Prevention and Control initiated a statewide research study of plea negotiations. The study was designed with several purposes in mind. First, it was designed to empirically describe the nature and extent of plea negotiations at the felony level in Minnesota's district courts since information regarding plea negotiations has not been compiled to date on a statewide basis. While the majority of cases are settled by guilty pleas, it is not known how many pleas are the result of a plea agreement reached by prosecution and defense counsel. Plea bargaining is an essential and pervasive component of criminal prosecutions today and, therefore, merits further explication and research effort. This study will examine the practice of plea negotiations utilizing data collected from district court and county attorney files concerning felony cases filed in 1975.

Further, the study was designed to describe the criminal processing of defendants from arrest to disposition. Information is not presently available concerning the characteristics of defendants being prosecuted for felonies in the state. There is also little or no empirical data available on a statewide basis concerning the types of offenses being prosecuted, the delay involved from arrest to disposition, the types of and length of sentences being imposed, and the probabilities of conviction for persons prosecuted on felonies. This information is essential to the understanding of the district courts in the state and is necessary in the analysis

of plea negotiations. The Minnesota Offender Based Transaction Statistics (OBTS) system, the State Judicial Information System (SJIS), and the Offender Based State Corrections Information System (OBSCIS) will soon be providing such information. However, these systems were not fully operational at the time the study began.

Because the study was designed to encompass a broad range of topics, a large quantity of data was gathered.<sup>1</sup> In September, 1977 a preliminary report on court delay was released.<sup>2</sup> This document is the second preliminary report and is concerned with empirically describing felony sentencing practices throughout the state. Like the first preliminary report, this report contains largely descriptive data, and the findings are suggestive rather than conclusive. The final report of the Plea Negotiation Study will utilize information contained in the preliminary reports and result in a more comprehensive and conclusive analysis. The final report should be completed by August of 1978. While the preliminary reports address two parts of the adjudication process (court delay and sentencing), the final report will examine the entire court process and the role of plea bargaining within it.

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<sup>1</sup>For additional information regarding the purpose and scope of the study, see "Research Design - Plea Negotiation Study," which is available upon request at the Crime Control Planning Board, 444 Lafayette Road, St. Paul, MN 55101.

<sup>2</sup>"Court Delay in Minnesota District Courts," Crime Control Planning Board, 444 Lafayette Road, St. Paul, MN, September 1977. A limited number of copies are available upon request at the Crime Control Planning Board.

## II. Sampling Methodology

### A. Stage One - Sample Size

There are ten judicial districts in Minnesota which range in size from one to seventeen counties. Each district has three or more judges who travel to the counties within the district to hold district court. The population of the districts ranges from 180,000 to 924,000.

District court is the court of original jurisdiction in all felony and gross misdemeanor cases and in civil matters where the amount in dispute exceeds \$1,000. District courts also hear appeals from the county courts throughout the state.

In 1975 there were 7,453 criminal dispositions in Minnesota's district courts.<sup>3</sup> A sample consisting of 1,309 cases was selected, representing approximately one sixth of all criminal dispositions in the state. Given the diversity of district courts in Minnesota, in terms of population and community type, it was decided that the sample should be large enough to reflect those differences.

In July, 1975 Minnesota enacted Rules of Criminal Procedure.<sup>4</sup> It is an additional intent of the study to examine the impact of the Rules on the processing of cases; therefore, the year 1975 was selected in order to facilitate such comparisons.

The sample was limited in scope to cases (both felony and misdemeanor) that had proceeded to an arraignment in district court. Accordingly, for cases including negotiated pleas, the

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<sup>3</sup>Twelfth Annual Report - 1975 Minnesota Courts, Office of State Court Administrator.

<sup>4</sup>Minnesota Rules of Court 1975, West Publishing (1975). For the Rules of Criminal Procedure, see pp. 281-643.

study is limited to plea bargaining that occurs after arraignment in district court. The sample does not include cases that are appeals from county court, nor does it include escape and fugitive cases. Prior to the Rules, cases that were dismissed as the result of a probable cause hearing are not included since the sample is limited to felony cases which proceed to district court arraignment.

B. Stage Two - District Selection

With the total sample size set at 1,309, the percentage of total dispositions that each district represents was then determined (see Table 1). The first column of the table presents the total number of criminal dispositions broken down by district, while the next column presents the percentage of the total these dispositions represent. The technique used was proportionate sampling whereby the number of dispositions to be drawn from each district was based on the percentage of the total each district represents. Accordingly, the last three columns of the table show the proportionate contribution of each district to the sample size.

The discrepancy between the ideal and actual sample size is due to the nuances of sampling and the deviations are not major, with the exception of the second and fourth districts. At the time of data collection in these districts, 1975 figures were not yet available. Therefore, the sample size for these two districts was based on 1974 information.<sup>5</sup>

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<sup>5</sup> The second and fourth districts are the most populated and metropolitan districts in the state. Combining the ideal and actual sample sizes for these two districts, the results are 510 and 500 cases respectively. Because these cases represent approximately the same proportion of total cases, the observed deviations within the two districts should not have a significant effect on the representativeness of the sample.

TABLE 1

## SAMPLING\*

Judicial Districts	1975 Criminal Dispositions	% of Total	Ideal Sample Size	Actual Sample Size	% of Total Sample
1	576	7.7	97	100	7.6
2	970	13.0	163	214	16.4
3	527	7.1	89	84	6.4
4	2,067	27.7	347	286	21.9
5	412	5.5	69	75	5.7
6	477	6.4	80	83	6.3
7	584	7.8	98	106	8.1
8	261	3.5	44	50	3.8
9	835	11.2	140	146	11.2
10	744	10.0	125	165	12.6
Total	7,453	99.9	1,252	1,309	100.0

\*The discrepancy in sample size noted in the first report and this report is due to cases that were eliminated from the sample, when upon closer analysis it was apparent that the amount of missing information they contained was too great to merit their inclusion.

C. Stage Three - Selection Within Districts

Once the quota for each district was determined there remained the selection of counties within each district. Districts range in size from one to seventeen counties. Due to the unfeasibility of traveling to all of Minnesota's eighty-seven counties, a proportionate sampling technique could not be utilized. Therefore, selection of counties was based upon those counties within each district which had an ample number of dispositions to accommodate the district quota. The implication of this is that only those counties with relatively large caseloads were sampled. However, this bias was weighed against the practical considerations involved in any alternative method. The exception to this is in the Ninth

District in which there was no one county with a caseload large enough to fulfill the district quota. Therefore, out of the counties that could meet at least one-half of the quota, two counties were randomly selected.

D. Stage Four - Selection of Cases Within Counties

A primary consideration in the selection of cases is the study's focus on the Minnesota Rules of Criminal Procedure. In order to measure the adjudication process before and after the Rules became effective, approximately one-half of the sample contains cases handled before the Rules and one-half after the Rules. The sample was stratified on the Rules with July 1, 1975, as the date they became effective.

Generally, the method of case selection was based upon the random selection of two months before July and two months including and after July. Cases were selected from these months commencing with the first case filed and continuing until one quarter of the quota was met. In counties where the number of dispositions was too small to accommodate this method, selection began with January and continued until one-half of the quota was met, and likewise post-Rules cases were collected beginning with July.



### III. Results

#### A. Introduction - Sentencing

There are many problems facing the criminal justice system today of which criminal sentencing is perhaps the most controversial. Many states, including Minnesota, presently have indeterminate sentencing. Under the indeterminate sentence, the determination of length of incarceration is the responsibility of a parole board or similar body. The rationale is that only a parole board can gauge the extent of rehabilitation and that an offender should be incarcerated only as long as is necessary for rehabilitation. Accordingly, it is not possible for a judge or legislature to know in advance how long this rehabilitation process will take for any given offender. Under the indeterminate sentence, then, a judge can sentence a person to incarceration for up to a certain number of years, with the actual release date being a decision of the parole board. In Minnesota, there are statutory maximum terms of imprisonment specified for every offense. The judge has discretion not only to impose probation or incarceration but to set the maximum term of imprisonment, which may not exceed the statutorily fixed maximum.

In recent years, however, the indeterminate sentence has come under attack. Criminologists, practitioners, and scholars have argued that the indeterminate sentence can create feelings of frustration and hostility for persons imprisoned. The prisoner never knows when he will be released and knows only the first date upon which he may apply for parole. In addition, the rehabilitative model

of corrections, upon which indeterminate sentencing is based, has come under scrutiny in the recent past.

Accordingly, a growing number of states have begun to consider new methods of criminal sentencing. In some instances, this has resulted in new legislation which departs from the indeterminate sentencing model.

The Minnesota legislature has recently passed legislation which calls for the establishment of a sentencing guidelines commission.<sup>6</sup> It is the role of the commission to promulgate sentencing guidelines which will become effective in 1980. In cases where imprisonment is proper, the commission shall establish presumptive, fixed sentences based on each appropriate combination of offense and offender characteristics. The guidelines may provide for an increase or decrease of up to fifteen percent in the presumptive, fixed sentence. In cases where imprisonment is not appropriate, the commission shall also establish sanctions not limited to but including noninstitutional sanctions such as restitution, work release programs in local facilities, community based residential programs, incarceration in a local correctional facility and probation and the conditions thereof. Additionally, between now and the effective date, the sentencing commission shall serve as a research clearinghouse for information on sentencing, plea bargaining, the use of imprisonment, alternatives to imprisonment and other matters relating to the improvement of the criminal justice system.

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<sup>6</sup>Senate File 65. At the time of this report, the bill has not yet been signed by the Governor.

This report is directed toward the sentencing guidelines commission to assist it by providing information on sentencing practices under the law as it now stands. It is also intended to provide information, which has not yet been available on a statewide basis, to interested persons and practitioners in the field.

Because the background characteristics and treatment of female and male defendants vary significantly, they will receive separate treatment in this report. The first section will present data on male defendants, and the second section will concern itself with female offenders.

This preliminary report is intended to provide descriptive information about the types of sentences levied. It does not explain why defendants receive certain types of sentences, but rather it will describe empirically the types and lengths of sentences imposed. Likewise, it will not attempt to state conclusively the reasons behind sentencing decisions but simply present information about sentencing on the basis of the sample data. While sentencing disparity (i.e., the idea that types of sentences may vary according to where the case is heard) is a topic of concern, it will not be addressed in this report. The numbers of similar cases from each district are too small to allow for district comparisons of types of sentences.

Because only persons that are convicted are eligible for sentencing, this report will begin with a discussion of conviction rates. Then the types of sentences will be presented along with a discussion of stayed sentences and sentence conditions. This

will be followed by a discussion of the average lengths of jail and prison sentences. Because there is a wide variety of offenses, sentence lengths will be given only in instances where the number of people convicted of the same offense is large enough to allow for meaningful analysis. A discussion of cases involving the use of firearms will be conducted only in regard to the male defendants, since there are only two women in the sample charged with a violation of that statute. Information about the prior conviction records of defendants will be presented for both male and female defendants.

The primary questions addressed in this report are:

- 1 - What are the conviction rates for the various types of offenses?
- 2 - What types of sentences are being accorded defendants convicted of felonies?
- 3 - What are the lengths of the prison and jail sentences?
- 4 - What are the prior conviction records of the defendants?
- 5 - What is the relationship between a prior conviction record and the type of sentence a defendant receives?
- 6 - What happens to cases in which the use of a firearm is charged? In Minnesota there is a statute which requires a mandatory minimum term of imprisonment for persons convicted of using a firearm in the commission of a felony.<sup>7</sup> Out of all the persons charged with this, how many are convicted; and out of all persons convicted, how many are sentenced to prison?

## B. Male Offenders

### 1. Conviction Rates

For the purpose of general discussion, cases have been grouped into categories of offense types on the basis of the

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<sup>7</sup>Minnesota Statutes-Chapter 609.11.

most serious offense charged in a case (i.e., person, property, drug, other). The offense categories are then further broken down into categories that reflect whether the maximum statutory penalty is less than ten years, or ten or more years. For example, a case which has one charge of kidnapping and one charge of simple assault would be placed in the person crime over ten year category. Kidnapping is the most serious offense charged and its maximum statutory penalty is twenty years. This categorization format will be referred to as crime type because it reflects both the type and severity of the offense as indicated by the maximum penalties prescribed by law. Cases where the maximum statutory penalty is less than ten years will be referred to as less serious, while cases where the maximum penalty is ten or more years will be hereafter referred to as more serious or serious. (The specific offenses included in each category are presented in the Appendix Tables A-G.)

Dispositional categories refer to the outcome of a case (whether there was a conviction or not) and to the manner in which the determination of guilt or innocence was reached (trial, guilty plea, dismissal). For the purposes of the study, mode of disposition includes the following categories as defined below.

There are two categories of guilty pleas: straight guilty pleas and negotiated guilty pleas. A straight plea is one in which no indication of a plea agreement was contained in the county attorney and district court files. Typically, the defendant would appear in court to plead guilty as charged,

but the plea was not the result of a pre-arranged plea agreement between the prosecutor and defense counsel. A negotiated guilty plea, on the other hand, refers to a case in which the plea was the direct result of a plea negotiation as indicated in the county attorney and district court files. Typically, the judge, prior to acceptance of the plea, would inquire as to whether a plea agreement had been reached, upon which the defense counsel or prosecutor would state the terms of the agreement.<sup>8</sup>

The trial categories include both trials by jury and court trials. The "other" category includes a small number of unusual cases in which there was no disposition in the formal sense because the defendant was found incompetent to stand trial.

Table 2 presents the mode of case disposition according to the type of crime charged, as defined above.

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<sup>8</sup>Upon occasion, the transcript of the court proceeding would not contain evidence of a plea agreement, but the county attorney files would. In these instances county attorney files were seen as the most reliable source of information.

TABLE 2

## MODE OF DISPOSITION BY CRIME TYPE

Mode of Disposition	Crimes Against Persons		Property Crimes		Drug Crimes		Other	Total
	<10	≥10	<10	≥10	<10	≥10	<10	
	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)	
Straight guilty plea	22.2 (16)	8.6 (18)	23.6 (111)	13.9 (23)	23.3 (50)	11.8 (2)	27.3 (6)	19.3 (226)
Negotiated guilty plea	63.9 (46)	62.9 (132)	63.4 (298)	71.5 (118)	62.8 (135)	70.6 (12)	36.4 (8)	64.0 (749)
Convicted at trial	4.2 (3)	13.3 (28)	3.4 (16)	4.8 (8)	5.1 (11)	11.8 (2)	18.2 (4)	6.1 (72)
Acquittal at trial	4.2 (3)	6.2 (13)	.9 (4)	3.0 (5)	.5 (1)	-	-	2.2 (26)
Dismissed	5.6 (4)	8.1 (17)	8.3 (39)	6.7 (11)	8.4 (18)	5.9 (1)	18.1 (4)	8.1 (94)
Other	-	1.0 (2)	.4 (2)	-	-	-	-	.3 (4)
Total	6.1 (72)	17.9 (210)	40.1 (470)	14.1 (165)	18.4 (215)	1.5 (17)	1.9 (22)	100.0 (1171)

Missing cases = 3.

Table 2 indicates that the majority of male defendants arraigned in district court on felony charges are charged with property crimes (54.2%). The next largest group of offenders is charged with crimes against persons (24%). Drug offenders account for 19.9% of the sampled male defendants.

Combining the percent of straight and negotiated pleas, it can be seen that guilty pleas account for 83.3% of all dispositions (975 out of 1,171). Negotiated pleas account for 76.8% of all guilty pleas (749 out of 975). Approximately 8% of the cases were settled by either a court or jury trial. Seventy-three percent of the cases that went to trial received a conviction.

The overall conviction rate (percent of guilty pleas plus percent of convictions at trial) is approximately 89%. Of the 17 persons charged with serious drug crimes, 16 were convicted which makes the conviction rate for that category slightly higher (94%). Cases involving serious crimes against persons have the lowest conviction rate with only 84.8% of them reaching conviction.

Cases involving serious crimes against persons are the most likely to go to trial and the least likely to be settled by a plea of guilty. Approximately 19% go to trial and 71.5% are settled by a guilty plea. (Actually, cases in the "other" category were the least likely to be settled by a plea of guilty, but these account for slightly less than 2% of the cases in the table.) Across all crime types, a pattern emerges where the less serious offenses are more likely to be settled by a plea of guilty than their more serious counterparts. Likewise, the more serious crime cases are more prone to go to trial than similar types of cases with less serious penalties. The more serious the crime the more likely a trial, and the less serious the crime the more likely a plea of guilty. Tables 3 and 4 are specifically concerned with only those cases which were settled by a plea of guilty.



TABLE 3

## GUILTY PLEAS BY SERIOUSNESS OF CRIMES

<u>Pleas</u>	<u>&lt;10 yr. Statutory</u>	<u>≥10 yr. Statutory</u>
	<u>Maximum Sentence</u>	<u>Maximum Sentence</u>
	%	%
	(f)	(f)
Straight guilty	27.3 (183)	14.1 (43)
Negotiated guilty	72.7 (487)	85.9 (262)
Total	100.0 (670)	100.0 (305)

Table 3 illustrates that negotiated pleas are the pre-dominant type of guilty plea for cases involving both less and more serious crimes. The percent of pleas that are negotiated, however, is considerably higher for the more serious crime cases.<sup>9</sup> Table 4 presents a breakdown of guilty pleas according to crime type.

TABLE 4

## GUILTY PLEAS BY CRIME TYPE

<u>Pleas</u>	<u>Crimes</u>		<u>Property</u>		<u>Drug</u>	
	<u>Against</u>		<u>Crimes</u>		<u>Crimes</u>	
	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>	<u>10</u>
	%	%	%	%	%	%
	(f)	(f)	(f)	(f)	(f)	(f)
Straight guilty	25.8 (16)	12.0 (18)	27.1 (111)	16.3 (23)	27.0 (50)	14.3 (2)
Negotiated guilty	74.2 (46)	88.0 (132)	72.9 (298)	83.7 (118)	73.0 (135)	85.7 (12)
Total	100.0 (62)	100.0 (150)	100.0 (409)	100.0 (141)	100.0 (185)	100.0 (14)

<sup>9</sup>The relationship between guilty pleas and crime type is slight (r equals .143) but significant at the .001 level.

Again the pattern appears in which the percent of pleas that are negotiated pleas is higher for cases involving more serious crimes. This is most apparent for cases involving crimes against persons. Of the more serious crimes against persons, 88% of the guilty pleas are the result of a plea negotiation, compared to 74% for cases involving less serious crimes against persons.

In short, the more serious cases are more likely to go to trial than less serious cases. However, if they do not go to trial and are settled by a guilty plea, the plea is more likely to be negotiated than in cases where the crimes are less serious.<sup>10</sup>

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<sup>10</sup>The relationship between guilty pleas and crime type is significant at the .001 level (i.e., Chi-square test).

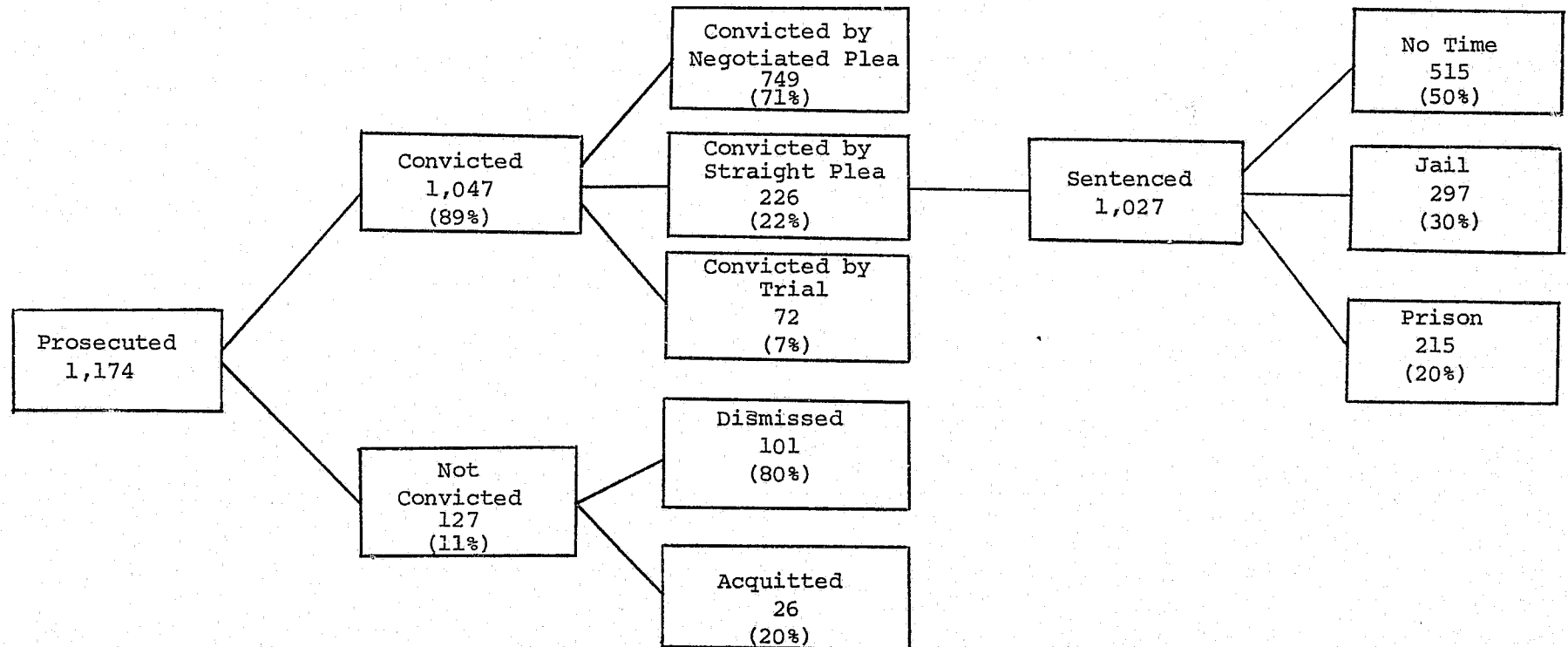
## 2. Types of Sentences

For the purpose of this preliminary report, sentences have been grouped into three categories that define sentences in terms of the incarceration time imposed by the judge at sentencing: no time, jail time, and prison time. Included in the no time category are cases in which the sentence was: a fine, a fine or the workhouse should the fine not be paid, probation (stay of imposition or execution of the sentence), or a suspended jail sentence. Defendants in this category had sentences which did not require incarceration.

Included in the jail category are defendants who were sentenced to serve time for a year or less. This could occur under two conditions: when the imposition or execution of the sentence was stayed and the defendant placed on probation with jail time as a condition of probation, and when the defendant was sentenced to jail time only in the absence of probation.

The prison category consists of cases in which the defendant was sentenced to prison. All commitments to prison must exceed one year. As previously noted, the parole board determines the actual amount of time that the defendant will serve. However, judges in Minnesota have discretion to impose a maximum amount of time to be served which may not exceed the maximum penalties prescribed by statute. For example, if the crime for which a defendant is being sentenced carries a maximum penalty of twenty years, a judge may choose to reduce the time and sentence him to a maximum of ten years. Figure 1 is a flow chart of the male defendants contained in the study.

FIGURE 1: FLOW CHART OF MALE DEFENDANTS\*



\*For purposes of this chart, the seven cases in which there was no formal disposition (as previously defined) were placed in the dismissal category. The number of defendants sentenced is less than the number convicted because of cases in which the defendant did not appear for sentencing and where sentence was not yet imposed at the time of data collection.



The overall conviction rate for men arraigned in district court on felonies or gross misdemeanors is 89%. Of the males convicted 93% are convicted by plea and 7% by trial. Within this group, negotiated pleas account for 71% compared to straight pleas which account for 22%. For cases in which sentence was imposed, 50% are sentenced to serve no time at all, 30% of the sentences require jail time and 20% are sentenced to prison. Of the total number of persons sentenced to incarceration, approximately 58% are sentenced to jail time, while roughly 42% are sent to prison. Therefore, the majority of persons incarcerated serve jail time rather than prison time.

Table 5 presents the type of sentences according to the nature of the most serious offense charged in the case. While the offense upon which the defendant is convicted is not always the most serious offense charged in the case, it generally falls within the same broad category.

TABLE 5

## TYPE OF SENTENCE BY TYPE OF OFFENSE

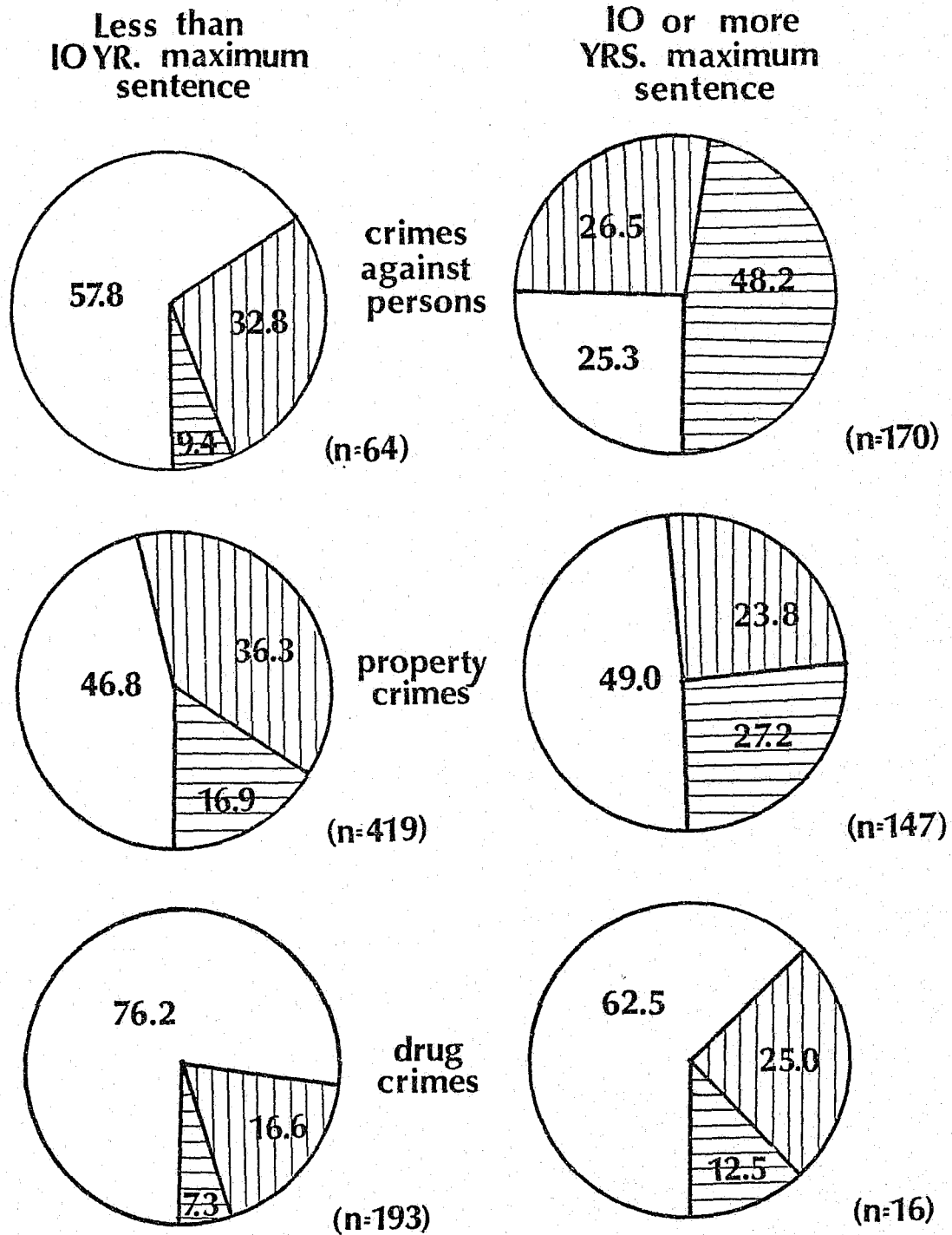
	Crimes Against Persons	Property Crimes	Drug Crimes	Other	Total
Type of Sentence	% (f)	% (f)	% (f)	% (f)	
No time	34.2 (80)	47.4 (268)	75.1 (157)	55.5 (10)	50.1 (515)
Jail	28.2 (66)	33.0 (187)	17.2 (36)	44.4 (8)	28.9 (297)
Prison	37.6 (88)	19.6 (111)	7.6 (16)	-	20.9 (215)
Total	100.0 (234)	100.0 (566)	99.9 (209)	99.9 (18)	99.9 (1027)

Missing cases = 20. These include cases in which the defendant did not appear for sentencing, and cases in which the sentence was not yet imposed at the time of data collection.

Defendants convicted of crimes against persons are sentenced to prison more often than persons convicted of any other type of offense (38% of them receive prison sentences). Roughly sixty-six percent of the people convicted of crimes against persons serve some incarceration time with approximately 57% of these being prison sentences.

Convictions to property offenses result in prison sentences in 19.6% of the cases. Roughly 53% of property offenders are sentenced to some incarceration time, but the majority of these are jail sentences. Persons convicted of property offenses receive jail sentences more often than persons convicted of any other type of offense. (Although, 33% of property offenders receive jail sentences and 44.4% of "other" offenders receive jail,

FIGURE 2: TYPE OF SENTENCE BY CRIME TYPE



type of sentence  
 no time  
 jail  
 prison



the "other" category accounts for only 1.7% of the total number of cases and, therefore, this finding is incidental.)

Drug offenders are sentenced to incarceration in only 25% of the cases. Seventy-five percent serve no time at all, while 17.2% receive jail sentences, and 7.6% are sentenced to prison.

Figure 2 presents the types of sentences according to the type and severity of the crime with which the defendant was originally charged. While it is generally understood that due to plea negotiations the offense originally charged will not necessarily be the same offense for which the defendant is convicted, this information is presented to describe general patterns of sentencing for general types of cases in which a conviction was attained. (The following section of this report which looks at sentence lengths will present them according to the specific offenses that the defendant was convicted of, rather than the original charge.) For the table used in the construction of Figure 2, see Appendix Table H.

With the exception of drug crimes (in which the number of serious cases is too small to allow generalization), a pattern emerges where persons convicted of the less serious crimes are sentenced to jail more often than persons convicted of serious crimes. Persons convicted of serious crimes get prison sentences more often than persons convicted of less serious crimes.

It is curious to note that a person originally charged and convicted of a less serious (ten year maximum statutory penalty) person crime is less likely to serve time than a person

convicted of a property offense. Fifty-eight percent of the people charged and convicted of less serious person crimes receive no incarceration time compared to 46.8% of the less serious property offenders and 49% of the more serious property offenders.

Table 6 examines the type of sentence according to the seriousness of the crime as measured by whether the maximum statutory penalty is less than or exceeds ten years.

TABLE 6

TYPE OF SENTENCE  
BY SERIOUSNESS OF CRIMES

<u>Type of Sentence</u>	<u>TYPE OF SENTENCE</u> <u>BY SERIOUSNESS OF CRIMES</u>	
	<u>&lt;10 yr. Statutory Maximum Sentence</u>	<u>≥10 yr. Statutory Maximum Sentence</u>
	<u>% (f)</u>	<u>% (f)</u>
No time	56.2 (390)	37.6 (125)
Jail	30.7 (213)	25.2 (84)
Prison	13.1 (91)	37.2 (124)
Total	100.0 (694)	100.0 (333)

Missing cases = 20. These included cases in which the defendant did not appear for sentencing and cases in which the sentence was not yet imposed at the time of data collection.

In general, persons who are originally charged with crimes carrying less than ten year penalties are sentenced to incarceration less often than their more serious counterparts.<sup>11</sup>

<sup>11</sup>The association between type of sentence and seriousness of crimes is modest (Kendall's tau equals .22) but significant at the .001 level.

While the preceding discussion looks at types of sentences in terms of incarceration time, mention should also be made of the use of stayed sentences. Minnesota law provides for a stay of imposition or stay of execution of sentence.<sup>12</sup> Under a stay of execution, sentence is imposed; but the execution of it is stayed, and the defendant may be placed on probation. Should the person then violate conditions of probation, the stay of execution may be revoked and the defendant brought before the court, whereupon the court may continue the stay or order the execution of the sentence previously imposed.

With a stay of imposition, on the other hand, the court does not impose sentence and may place the defendant on probation. If grounds exist for revocation of the stay, then the court may again stay sentence or impose sentence and stay the execution thereof. In either case, the court may place the defendant on probation (or continue previous probation), or impose sentence and order the execution thereof.

A major distinction between a stay of execution and a stay of imposition is in terms of the defendant's conviction record.<sup>13</sup> Notwithstanding that the conviction is for a gross misdemeanor or felony, the conviction is deemed to be for a misdemeanor if the imposition of sentence is stayed, the defendant placed on probation, and is thereafter discharged. In other words, upon successful completion of probation for defendants given a stay of imposition of sentence, their record of conviction is that of a misdemeanor.

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<sup>12</sup> Minnesota Statutes Chapter 609.135 and Chapter 609.14 (Revocation of Stay).

<sup>13</sup> Minnesota Statutes Chapter 609.13.

For defendants with a stay of execution of sentence, such is not the case. In those instances, the defendant's record of conviction is determined by the sentence imposed, the execution of which is stayed.<sup>14</sup> Accordingly, if the sentence imposed exceeds one year, and the execution of it is stayed, the defendant's record of conviction will be that of a felony upon successful completion of probation. Similarly, if the sentence imposed is within the limits of a misdemeanor and the execution thereof is stayed, the defendant's record shall be deemed that of a misdemeanor upon successful completion of probation. Hence, under a stay of execution, the record of conviction is determined by the sentence imposed, whereas under a stay of imposition sentence is not imposed and the record is deemed that of a misdemeanor. Therefore, all persons who successfully complete probation and receive a stay of imposition will have misdemeanor records; and persons who successfully complete probation under a stay of execution will have a conviction record that corresponds with the sentence imposed (the execution of which was stayed).

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<sup>14</sup>In Minnesota a felony is a crime for which a sentence of imprisonment for more than one year may be imposed. A misdemeanor is a crime for which a sentence of not more than 90 days (or a fine of \$300 or both) may be imposed. A gross misdemeanor is a crime which is not a felony or misdemeanor. Further, Minnesota laws provide that notwithstanding that a conviction is for a felony, that the conviction is deemed to be for a misdemeanor or gross misdemeanor if the sentence imposed is within the limits provided by law for misdemeanor or gross misdemeanor. Also, notwithstanding that the conviction is for a gross misdemeanor that the conviction is deemed to be for a misdemeanor if the sentence imposed is within the limits provided by law for a misdemeanor. See Minnesota Statutes 609.02 subd. 2, 609.02 subd. 3, 609.02 subd. 4 and 609.13.

Table 7 presents a frequency distribution of the types of stayed sentences accorded to the sampled male defendants. Six hundred seventy-six males received stayed sentences, and these represent 65% of all sentenced male offenders. While it has been previously noted that 50% of the males receive sentences that require no time, 65% receive stayed sentences. This 15% difference is explained by cases in which the defendant received some jail time as a condition of probation. In other words, some of the people in the jail category also have stayed sentences with a term in jail as a condition of probation. On Table 7, 152.18 is used in reference to chapter 152 of the Minnesota Statutes which provides a specific type of stay for persons convicted of drug crimes. It is presented separately to provide information to interested persons about the frequency with which it is used. The "unspecified stay" category in Table 7 refers to cases in which the court record and transcripts of proceedings did not contain information about whether it was stay of imposition or execution of sentence.

TABLE 7

TYPES OF STAYED SENTENCES

	<u>frequency</u>	<u>percent</u>
stay of execution	328	48.5
stay of imposition	295	43.6
unspecified stay	25	3.7
152.18	28	4.1
Total	676	100.0

As can be seen in Table 7, the largest category of stayed sentences for males involves a stay of execution (48.5%). In addition, roughly 44% of the stayed sentences involve a stay of imposition, which means that the offenders will have a misdemeanor record (upon successful completion of probation). The use of stay of imposition and execution and the implications that stem therefrom in terms of record of conviction will be discussed further in the final report. This information is presented here in order to provide a complete description of the types of sentences found in this study.

This section concerning types of sentences imposed will conclude with a discussion of conditions imposed by the court as part of the sentence. Restitution was a sentence condition imposed in sixteen percent of the cases. Drug and/or alcohol treatment was imposed in eight percent of the cases. Of the 512 males sentenced to serve some incarceration time, approximately 21% received credit for jail time already served. Of the 297 males sentenced to jail time, Huber privileges were granted to thirty percent.<sup>15</sup>

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<sup>15</sup> Huber privileges, when designated, generally refer to the practice of allowing defendants sentenced to jail to continue their employment with as little interruption as possible or if not employed "...the court shall make every effort to secure some suitable employment for him." Minnesota Statutes, Chapter 631.425

### 3. Sentence Lengths

Contained within the sample are three types of cases;

1) those with one charge and one conviction (69.4%), 2) those with multiple offenses charged and a conviction on one offense (24.5%), and 3) those with multiple charges and multiple convictions (6.1%). This section will present the length of prison and jail sentences imposed for defendants convicted of specific offenses. For the sake of simplicity, it is limited to cases in the first category (one charge and one conviction).

Of the 1,047 males convicted, there are 726 cases in which there was one offense charged and a conviction obtained (69.3% of the total number of convicted males). There are 75 distinct offenses for which these defendants were convicted and sentenced. Because of this broad range of offenses, the following presentation is limited to the offenses for which there are adequate numbers of cases to allow for meaningful analysis.

Table 8 presents the types and lengths of sentences according to the offenses for which the defendants were convicted. As previously mentioned, it is limited to one charge and one conviction cases.

TABLE 8  
TYPES AND LENGTHS OF SENTENCES  
FOR SELECTED OFFENSES\*

<u>Offense-Statutory Maximum Sentence</u>	<u>No Time</u>	<u>Jail</u>	<u>Prison</u>	<u>Mean Jail Sentence</u> (months)	<u>Mean Prison Sentence</u> (months)
	% (f)	% (f)	% (f)		
<u>CRIMES AGAINST PERSONS</u>					
Aggravated Assault-5 yrs. n=15	46.7 ( 7)	40.0 ( 6)	13.3 ( 2)	9.5	48.0
Simple Robbery-10 yrs. n=18	22.2 ( 4)	50.0 ( 9)	27.8 ( 5)	9.3	120.0
Aggravated Robbery-20 yrs. n=26	15.4 ( 4)	23.1 ( 6)	61.5 (16)	11.0	171.7
Criminal Negligence Resulting in Death-5 yrs. n=10	50.0 ( 5)	50.0 ( 5)	- -	10.8	-
<u>PROPERTY CRIMES</u>					
Burglary-5 yrs. n=127	49.6 (63)	34.6 (44)	15.7 (20)	7.8	55.2
Theft-5 yrs. n=71	54.9 (39)	31.0 (22)	14.1 (10)	5.9	49.8
Theft by Check-5 yrs. n=18	38.9 ( 7)	33.3 ( 6)	27.8 ( 5)	4.5	50.4
Aggravated Forgery-10 yrs. n=38	44.7 (17)	18.4 ( 7)	36.8 (14)	3.8	82.3
Unauthorized Use of Motor Vehicle (UUMV)-3 yrs. n=56	41.1 (23)	46.4 (26)	12.5 ( 7)	6.7	34.3
Attempted Burglary-2.5 yrs. n=11	36.4 ( 4)	18.2 ( 2)	45.5 ( 5)	3.5	26.4
Receiving Stolen Property-10 yrs. n=27	48.1 (13)	48.1 (13)	3.7 ( 1)	2.8	-
Aggravated Criminal Damage to Property-5 yrs. n=14	28.6 ( 4)	64.3 ( 9)	7.1 ( 1)	5.8	-
<u>DRUG CRIMES</u>					
Possession of Non-Narcotic- 3 yrs. n=99	83.8 (83)	13.1 (13)	3.0 ( 3)	3.3	32.0
Sale of Non-Narcotic-5 yrs. n=17	52.9 ( 9)	35.3 ( 6)	11.8 ( 2)	5.5	60.0

\*The mean is not presented in instances where the number of people going to jail or prison is one.



As can be seen in Table 8, there are several categories with relatively small numbers of cases. These are presented primarily to provide descriptive information about the sampled cases and not to establish a basis for statewide inferences. Caution should be exercised in attempts to generalize from these cases.

Generally, the pattern holds in which crimes against persons have the highest percent of defendants sentenced to prison, followed by property crimes and drug crimes. Of the people convicted of aggravated robbery, 61.5% go to prison. For persons convicted of UUMV and burglary, 12.5% and 15.7% respectively are sentenced to prison. Of the 99 persons convicted of possession of a non-narcotic, only three are sentenced to prison time.

It is interesting to note that the average length of prison sentences is less than the statutory maximum sentence for the majority of the cases. This is not unexpected, however, when one considers that it is within the realm of judicial discretion to impose prison sentences that range in length from one year and a day to the maximum statutory penalty.

The reader is reminded that the mean length of sentence is not the most commonly imposed length, but the arithmetic average of all sentence lengths within a given category. A substantial amount of variation exists within the categories, yet given that a judge must consider the individual circumstances of the offense and the offender, such variation is not unanticipated. Appendix Table I presents the range and standard deviations for the selected offenses contained in Table 8.

#### 4. Prior Conviction Records

The prior adult conviction records of defendants are categorized and defined in the following manner:

NONE - no convictions, or convictions for petty misdemeanors (including traffic violations), or one misdemeanor conviction;

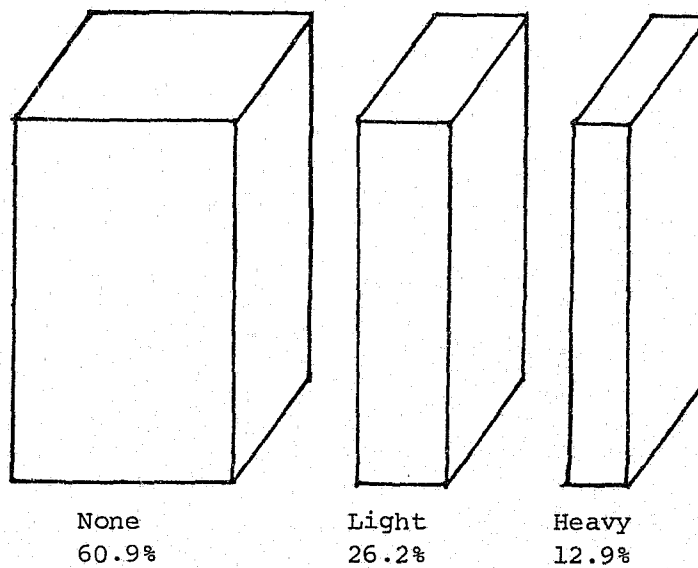
LIGHT - more than one misdemeanor conviction, or one felony conviction;

HEAVY - more than one felony conviction

The following figure presents the prior conviction records of the male defendants contained in the sample.

FIGURE 3

#### PRIOR ADULT CONVICTION RECORD OF MALE DEFENDANTS



(N=1097)

Missing cases=77

As can be seen from Figure 3, the majority of defendants do not have a prior felony conviction record (60.9%). Twenty-six and two-tenths percent have one prior felony conviction or more than one misdemeanor conviction. Persons with more than one felony conviction account for only 12.9% of the sampled male defendants. This is contrary to the common notion that persons going through the courts are people who have been there before. The data indicate the contrary, with 39.1% of the defendants having a prior conviction record of any consequence.

It should be noted that Minnesota has a statute which provides for extended terms of imprisonment for dangerous offenders.<sup>16</sup> While the sample consists of approximately 18% of the felony cases in 1975, application of this statute did not occur in any of the cases sampled.

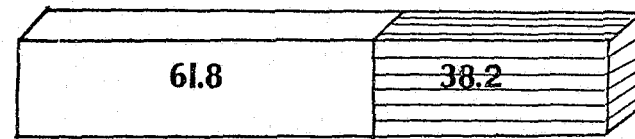
Figure 4 presents the type of sentences imposed according to the prior conviction record of the defendants. Jail and prison sentences have been grouped into one category resulting in the total number of persons whose sentences require incarceration. Persons with light and heavy records have been similarly grouped into one category indicating the presence of a previous conviction record. (For the table used in the construction of Figure 4, see Appendix Table J.)

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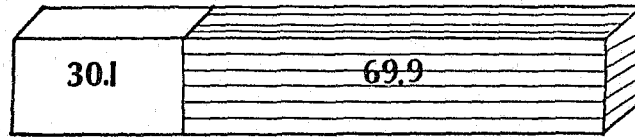
<sup>16</sup> Minnesota Statutes - Chapter 609.155. This statute provides for "a term of imprisonment the maximum of which may be for the maximum term authorized by law...multiplied by the number of his (the offender's) prior felony convictions but not to exceed 40 years." For application of this statute, the felony convictions must have occurred within the past ten years.

FIGURE 4

TYPE OF SENTENCE  
BY PRIOR CONVICTION RECORD



No Prior Convictions (n=597)



Prior Convictions (n=376)

No Incarceration ☐  
Incarceration ☒

Missing cases = 74

As indicated in Figure 4, there is a strong relationship between prior conviction record and type of sentence.<sup>17</sup> Persons with heavy prior conviction records receive sentences of incarceration in 70% of the cases. Similarly, persons with no prior convictions are sentenced to incarceration in only 38% of the cases. In short, persons with prior conviction records are more likely to receive sentences of incarceration than persons without previous convictions.

Table 9 examines this relationship in another fashion.

<sup>17</sup> The correlation between type of sentence and prior record equals .31, significant at the .001 level.

TABLE 9  
PRIOR CONVICTION RECORD  
BY TYPE OF SENTENCE

<u>Prior Record</u>	No <u>Incarceration</u>	<u>Incarceration</u>
	% (f)	% (f)
no prior convictions	76.5 (369)	46.4 (228)
prior convictions	23.4 (113)	53.6 (263)
Total	99.9 (482)	100.0 (491)

Missing cases = 74.

Figures presented in Table 9 indicate that of the 491 persons incarcerated 53.6% have prior convictions, and 46.4% have no prior convictions. Of the 482 persons whose sentences do not include incarceration, 23.4% have prior convictions, and 76.5% have no prior convictions. In short, persons who receive sentences of incarceration are slightly more likely to have previous convictions than not.

Because this is a preliminary report, this finding of a relationship between prior conviction record and type of sentence is tentative in nature. That is, this relationship may be diminished when the possible effects of additional variables, such as type of crime and number of convictions per case, are examined. This will be done in the final report.

In summary, persons with a prior conviction record receive sentences of incarceration more often than people without prior records. Moreover, nearly two-thirds (60.9%) of the sampled defendants have no prior adult conviction record.

5. Cases Involving the Use of Firearms

Minnesota Statute 609.11 provides for a mandatory minimum term of imprisonment for persons convicted of the use of a firearm in the commission of a felony and sentenced to imprisonment.<sup>18</sup> When a defendant is convicted of a charge which cites this statute, the defendant may receive either probation or incarceration. Should the sentence be for imprisonment, this statute requires the imposition of a mandatory minimum term. The parole board may not release a person prior to his serving the minimum term.

As in the initiation of all criminal complaints, the prosecution has discretion to charge 609.11 or not. Accordingly, not all persons who actually used a gun in the commission of a felony are necessarily charged with 609.11. This section is limited to those cases where 609.11 was contained in the information upon which the defendant was arraigned in district court, and these cases will generally be referred to either as "gun" cases or "cases involving the use of a firearm."

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<sup>18</sup>The 1974 Statute provided for a mandatory three year minimum term of imprisonment. It was amended (effective August 1, 1975) to provide for a mandatory minimum term of not less than one year and one day for commitments following the defendant's first conviction of an offense wherein he used a firearm; and a mandatory minimum term of not less than three years for commitments following the defendant's second or subsequent conviction of an offense wherein he used a firearm. See 1974 Minnesota Statutes (chapter 609.11) and Minnesota Statutes 1975 Supplement. Since 1975 the law has again changed and now requires incarceration upon conviction of a crime specified under 609.11. See Minnesota Statutes 1977 Supplement (chapter 609.135).

The first question to be addressed concerns the types of cases in which gun crimes are charged. Table 10 presents types of crimes charged according to whether 609.11 was also charged. It presents the total number of male defendants who were charged with robbery, assault, kidnapping, murder and sex crimes. These cases are grouped according to the most serious offense charged in the case. The murder and robbery categories also include cases where attempted murder and attempted robbery were the most serious offense charged.

TABLE 10  
USE OF A FIREARM BY TYPE  
OF OFFENSE CHARGED

	<u>Robberies</u>	<u>Assaults</u>	<u>Kidnaps</u>	<u>Murders</u>	<u>Sex Crimes</u>
	% (f)	% (f)	% (f)	% (f)	% (f)
<u>gun</u> <u>(609.11)</u>	56.2 (50)	37.1 (26)	50.0 (14)	61.9 (13)	8.6 (5)
<u>no gun</u>	43.8 (39)	62.9 (44)	50.0 (14)	38.1 (8)	91.4 (53)
Total	100.0 (89)	100.0 (70)	100.0 (28)	100.0 (21)	100.0 (58)

Figures presented in Table 10 indicate that murder cases are more likely to involve firearms than any other type of case.<sup>19</sup> Approximately 62% of all murder cases charge 609.11. Over half of the robbery cases allege use of a firearm, and exactly half of all kidnapping cases cite the gun statute. The majority of sex crime and assault cases do not involve the use of a gun.

<sup>19</sup> Use of a firearm is measured by the citation of 609.11.

The next question involves the likelihood of conviction for persons charged with the gun statute. Table 11 presents the mode of case disposition for cases involving crimes against persons according to whether a firearm was used or not.<sup>20</sup>

TABLE 11

MODE OF CASE DISPOSITION BY USE OF A  
FIREARM - CRIMES AGAINST PERSONS

	Gun <u>Charged</u>	No Gun <u>Charged</u>
<u>Mode of Disposition</u>	% (f)	% (f)
straight guilty	4.6 (5)	16.1 (28)
negotiated guilty	72.2 (78)	58.0 (101)
convicted at trial	9.3 (10)	12.1 (21)
acquitted at trial	4.6 (5)	6.3 (11)
dismissed	9.3 (10)	6.3 (11)
other	-	1.2 (2)
Total	100.0 (108)	100.0 (174)

Table 11 illustrates two major findings. The first pertains to whether persons charged with a gun are more likely to be convicted than persons who are charged with similar crimes but without a gun. The data indicate that a person charged with a gun is no more likely to be convicted than a person charged with

<sup>20</sup>Since all of the gun charges in the sample involve crimes against persons, it is appropriate to compare them only to other cases involving crimes against persons without use of a firearm.



a similar crime without the use of a firearm.<sup>21</sup>

Secondly, one can see in Table 11 that 72.2% of the gun cases are settled by a negotiated guilty plea compared to 58% of the no gun cases. In other words, the percentage of cases that are plea bargained is higher for cases that involve the use of a firearm. This indicates that a defendant charged with a crime against a person and convicted is more likely to have his case resolved via plea negotiations if the cases involved the use of a firearm.<sup>22</sup>

Cases charging the use of a firearm under MS609.11 carry with them the provision for a mandatory minimum sentence if the sentence imposed is a prison sentence. This fact distinguishes these cases from other cases, and it is not surprising that they are plea bargained more often. A case containing the possible imposition of a mandatory minimum sentence creates a situation wherein the prosecution has more to bargain with than in cases without a minimum sentence. Accordingly, one might anticipate that these cases would be resolved via plea negotiations more often than other cases.

Given the finding that gun cases are plea bargained more often than similar cases without guns, a question arises concerning

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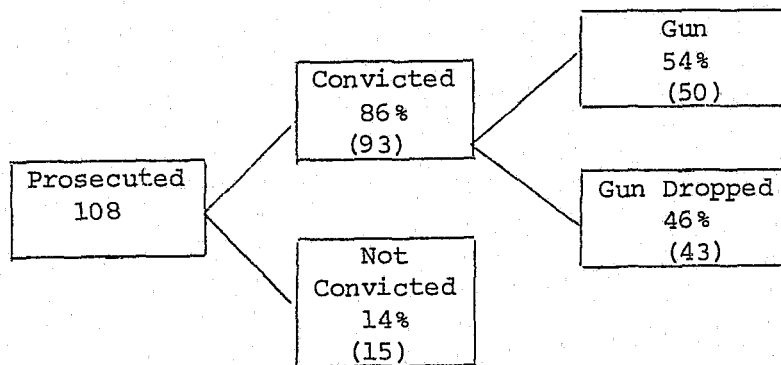
<sup>21</sup>If one adds the percentage of straight pleas, negotiated pleas, and convicted at trial, the overall conviction rate for both the gun and no gun cases is 86.2%.

<sup>22</sup>The relationship between the plea bargaining and gun charges for cases involving crimes against persons with convictions is significant at the .01 level. (Chi-square test)

whether all persons charged with 609.11 get convicted of a charge which carries with it 609.11. In other words, do all persons charged with a gun get convicted of a gun?<sup>23</sup>

Figure 5 presents a flow chart of all sampled cases which involve the use of a firearm. The "gun dropped" category refers to instances in which 609.11 was removed from the criminal information prior to conviction. It refers to cases in which a person originally charged with 609.11 is not convicted of 609.11.

FIGURE 5: DISPOSITIONS OF GUN CASES



<sup>23</sup>The following is an example of a case in which a person is originally charged with a gun but not convicted of it. An information is brought against a defendant which charges one count of aggravated robbery and cites 609.11 (use of a firearm and mandatory minimum sentence). The prosecution and defense counsel enter into plea negotiations during which the prosecution concedes to delete 609.11 from the information in exchange for a plea of guilty. In accordance with the plea agreement, 609.11 is deleted from the criminal information and the defendant enters a plea of guilty to aggravated robbery. In this case the mandatory minimum sentence is removed (609.11) and the defendant who was originally charged with 609.11 is not convicted of it.

The data presented in Figure 5 indicate that of the defendants convicted 54% retain the gun statute and 46% are convicted for charges that do not cite 609.11. In other words, the gun statute is carried through to conviction in 54% of the cases where convictions are attained.

Analysis also revealed that of the cases that were plea bargained the gun charge was dropped in approximately one-half of the cases.<sup>24</sup> On the other hand, all of the cases that went to trial retained the gun statute.<sup>25</sup>

The next area of interest concerning gun cases involves the question as to whether or not persons charged with a gun and convicted are more likely to be sentenced to prison than persons who are convicted on the same types of crimes, but without a firearm. In short, does use of a firearm increase one's probability of going to prison? Table 12 displays the relationship between the use of firearms and prison sentences for defendants convicted of crimes against the person.

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<sup>24</sup>It was also found that of the plea bargained cases where the gun was dropped the plea was to a lesser included offense in the majority of the cases. For plea bargained cases where the gun was retained, the majority of pleas were to the original offense.

<sup>25</sup>See Appendix Table K.

TABLE 12

TYPE OF SENTENCE BY THE USE OF FIREARMS -  
CRIMES AGAINST PERSONS

	Gun Charged	No Gun Charged
<u>Type of Sentence</u>	% (f)	% (f)
Prison sentence	54.4 (49)	27.8 (40)
No prison sentence	45.5 (41)	72.2 (104)
Total	99.9 (90)	100.0 (144)

Missing cases = 33.

From Table 12 we see that over half of those defendants originally charged with cases involving the use of a firearm receive prison sentences (54.4%).<sup>26</sup> Approximately one-fourth (27.8%) of the defendants whose cases did not involve the use of firearm receive prison sentences. Obviously, the likelihood of receiving a prison sentence is greater for those convicted defendants whose cases originated with a gun charge than for those convicted defendants whose cases did not involve a gun charge.<sup>27</sup>

It has been established, then, that persons charged with guns and convicted are more likely to go to prison than persons who are charged and convicted of similar crimes without guns.

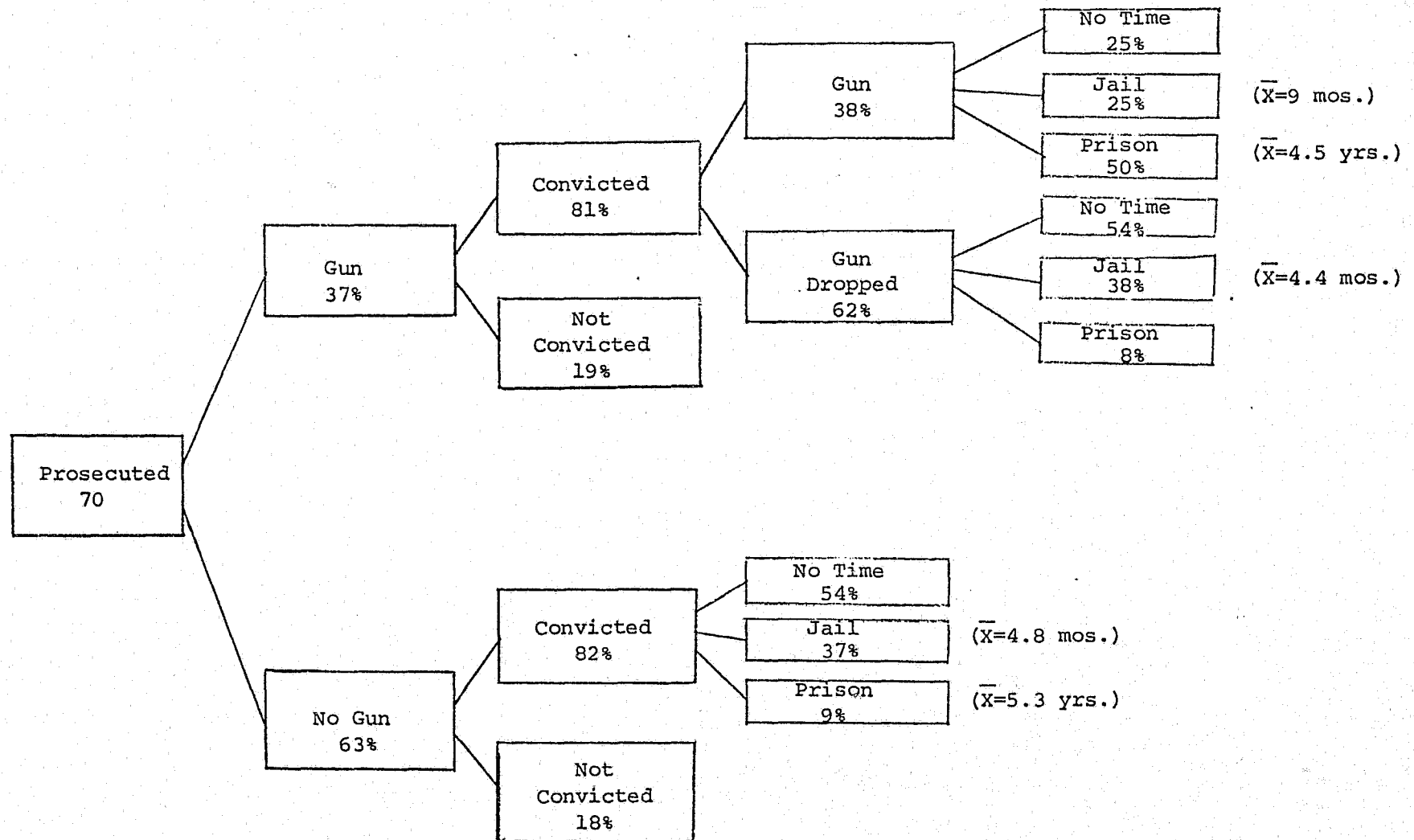
<sup>26</sup>It is also interesting to note that persons originally charged with 609.11 and convicted account for 23% of all persons sentenced to prison. Total number going to prison=215 (see Figure 1). Total number of gun cases sentenced to prison=49 (see Table 12).

<sup>27</sup>The relationship between type of sentence and the use of firearms was found to be significant at the .01 level of significance (i.e., Chi-square test).

The next question could then be concerned with whether or not prison sentences are longer for gun versus no gun cases. If gun cases are more likely to result in prison sentences, are the prison sentences longer when compared with no gun cases? In response to this question, attention is directed toward Figures 6 and 7. These figures present a flow chart of all assault and robbery cases charged.

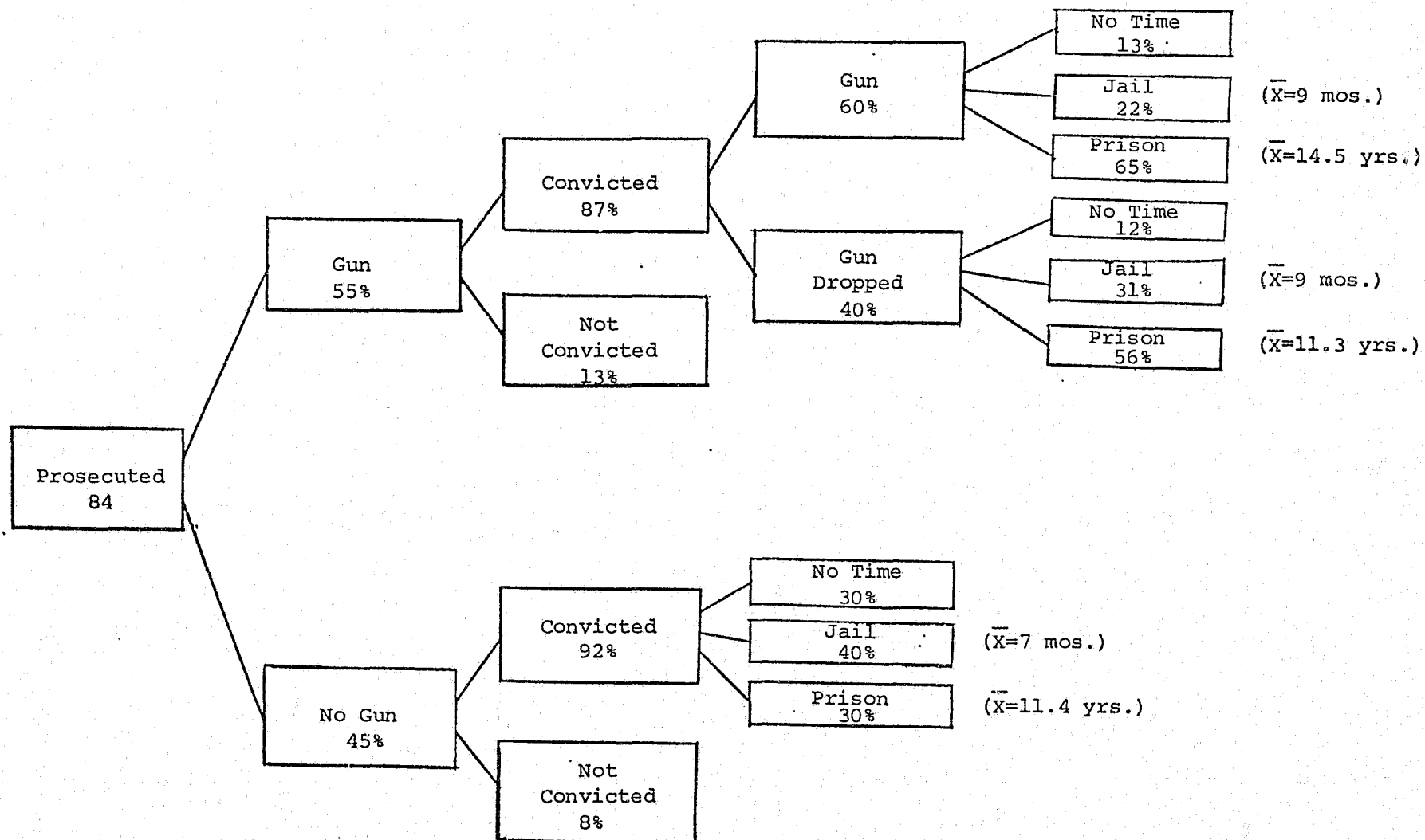


FIGURE 6: FLOW CHART OF ASSAULT CASES\*



\*Percentages are approximate. The mean ( $\bar{X}$ ) is not presented in jail or prison categories when the number of people is equal to one.

FIGURE 7: FLOW CHART OF ROBBERY CASES\*



\*Percentages are approximate. Table does not include attempts.  $\bar{X}$ =the mean.





When viewing Figure 6, it is apparent that the highest percentage of persons going to prison is found in cases where a gun was charged and carried through to conviction (50%). This compares to eight percent in cases where the gun charge was dropped. Assault cases that did not involve a gun also have a low percentage of prison sentences (9%). Similarly, when looking at Figure 7, one can see that 65% of the persons charged and convicted of use of a firearm get prison sentences. Of those robbery cases where the gun is charged but dropped, 56% go to prison, and 30% of the robberies not involving a gun receive prison sentences. These results support the finding that persons charged with guns are more likely to go to prison. Generally, cases that charge a gun and retain it are most likely to get prison sentences, and comparable cases without a gun are least likely to receive prison sentences.

In terms of whether the prison sentences are longer for gun cases, the findings are inconclusive. For robberies the average prison sentence length is longer for gun cases, but in the case of assaults the opposite pattern occurs. (Even in regard to these findings, caution must be exercised due to the small frequencies from which the arithmetic means were derived.) The final report will address this issue further by means of regression analysis. Again, the preliminary findings leave this question unresolved.

Thus far, we have established that convicted defendants whose cases involve gun charges are more likely to receive a prison sentence than defendants whose cases are similar (i.e., involve crimes against persons) but do not involve a gun. It has also been established that a significant relationship exists between

type of sentence and prior record wherein defendants with prior records are more likely to be incarcerated than defendants with no prior record. Given these two findings, we are obliged to ask the question: Is there a relationship between prior records and cases involving a gun that may explain the incarceration rate for cases involving a gun? In other words, could the fact that gun cases get sentenced to prison more often be attributed to a preponderance of heavy prior records among defendants who are charged with guns and convicted?

Table 13 presents prior adult conviction record by gun charges.

TABLE 13

PRIOR RECORD BY USE OF A FIREARM -  
CRIMES AGAINST PERSONS\*

<u>Prior</u>	<u>Gun</u> <u>Charged</u>	<u>No Gun</u> <u>Charged</u>
	% (f)	% (f)
none	51.1 (46)	62.4 (83)
light	26.7 (24)	28.6 (38)
heavy	22.2 (20)	9.0 (12)
Total	100.0 (90)	100.0 (133)

Missing cases = 16.

\*This table contains only those cases in which a conviction was obtained.

At first, there appears to be a difference in the distribution of prior record for gun and no gun cases. For example, there are more defendants without a prior record (62.4%) for cases without guns than for cases with guns (51.1%). However, upon closer analysis it was discovered that the relationship between prior record and gun charges lacks statistical significance, i.e., it could have occurred by chance alone (Chi-square test where  $p=.01$ ). In response to the relationship of prior record and gun charges, it appears that no significant difference exists between the prior records of defendants charged with guns and prior records of defendants charged with crimes against persons without guns.

In conclusion, preliminary analysis has revealed several important findings about cases which allege the use of a firearm. First, a defendant charged with 609.11 is no more likely to get convicted than a person charged with a similar crime but without the use of a firearm. Secondly, gun cases have a higher rate of plea bargaining when compared to cases not involving guns. Since 609.11 is one of the few instances in which a mandatory minimum sentence may be imposed, this may suggest a possible increase in plea bargaining if the criminal code is revised to provide for mandatory sentences for all crimes. Thirdly, persons charged with 609.11 and convicted are more likely to go to prison than persons who commit comparable crimes without guns.



C. Female Offenders

This section of the report will deal exclusively with female offenders. Of the 1,309 defendants sampled, 135 are women accounting for 10.3% of the total sample. Preliminary analysis has revealed that female offenders differ from male offenders in terms of prior conviction records, dispositions, the types of crimes committed and the sentences they receive. Accordingly, female and male offenders require separate attention.

When appropriate situations arise, comparisons between male and female offenders will be made. For the sake of brevity, explanations and definitions of variables will not be discussed in this section, and the reader is referred to the section dealing with male offenders for that information.

1. Conviction Rates

Table 14 presents the mode of case disposition according to the crime type. For breakdown of the specific crimes included within each category, see Appendix Tables L-R.

When looking at the dispositional categories, it is apparent that the majority of female defendants arraigned in district court on felony and gross misdemeanor charges have their cases resolved via a negotiated plea (56%). Moreover, the next single largest category is the straight guilty plea (26.1%). According to a rank ordering, dismissals follow accounting for 13.4%, followed by convicted at trial and acquitted at trial, accounting for 3.7% and .7% respectively. Hence, over three-fourths of the female defendants have their

TABLE 14

MODE OF CASE DISPOSITION  
BY CRIME TYPE

<u>Mode of Disposition</u>	<u>Crimes Against Persons</u>		<u>Property Crimes</u>		<u>Drug Crimes</u>		<u>Other</u>	<u>Total</u>
	<10	≥10	<10	≥10	<10	≥10	<10	
	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)	
Straight guilty	-	60.0 (3)	23.4 (11)	26.0 (13)	21.4 (6)	-	100.0 (2)	26.1 (35)
Negotiated guilty	100.0 (1)	20.0 (1)	59.6 (28)	60.0 (30)	53.6 (15)	-	-	56.0 (75)
Convicted at trial	-	20.0 (1)	4.3 (2)	-	7.1 (2)	-	-	3.7 (5)
Acquitted at trial	-	-	-	2.0 (1)	-	-	-	.7 (1)
Dismissed	-	-	12.8 (6)	12.0 (6)	17.8 (5)	100.0 (1)	-	13.4 (18)
Total	.7 (1)	3.7 (5)	35.1 (47)	37.3 (50)	20.9 (28)	.7 (1)	1.5 (2)	100.0 (134)

Missing = 1.

cases resolved through a guilty plea (82.1%) regardless of whether there was a bargain or not. This compares to an overall plea rate of 83.3% for the men. Therefore, the percent of cases which are settled by guilty plea does not vary significantly for men and women.

In terms of crime type (i.e., combining the less serious and more serious crimes) one sees that property crimes account for over two-thirds of the cases (72.4%) while drug crimes account for 21.6%, followed by crimes against persons and other, with 4.4% and 1.5%, respectively. This is a significant change

in the rank ordering of crime type from the male counterparts where the property crimes accounted for 54.2%, crimes against persons 24%, drug offenders 19.9%, and others 1.9%. One is then left with the conclusion that female offenders are involved in cases which vary significantly in terms of the types of crimes charged from the male offenders. Women are charged with property crimes in the vast majority of cases.

If one considers only less serious crime type cases versus more serious crime type cases, it can be seen that female offenders are more often than not involved in cases of the less serious crime type (58.2%).

Since guilty pleas account for the large majority (82.1%) of female offender's case dispositions, a closer look at guilty pleas is warranted. Table 15 presents the type of guilty pleas according to the seriousness of the crimes charged.

TABLE 15

GUILTY PLEAS BY  
SERIOUSNESS OF CRIMES

<u>Pleas</u>	<u>&lt;10 yr. Statutory Maximum Sentence</u>	<u>≥10 yr. Statutory Maximum Sentence</u>
	% (f)	% (f)
Straight guilty	30.2 (19)	34.0 (16)
Negotiated guilty	69.8 (44)	66.0 (31)
Total	100.0 (63)	100.0 (47)



Table 15 demonstrates that negotiated guilty pleas account for approximately two-thirds of the total guilty pleas regardless of whether the case involves more or less serious crimes. Note that this pattern is similar to the male offenders but not as dramatic (see page 14). For male offenders 76.8% of all guilty pleas are the result of a plea negotiation.

The following table presents the type of pleas according to crime type for female offenders.

TABLE 16  
GUILTY PLEAS BY CRIME TYPE\*

Pleas	Crimes Against Persons		Property Crimes		Drug Crimes
	<10	≥10	<10	≥10	<10
	% (f)	% (f)	% (f)	% (f)	% (f)
Straight guilty	-	75.0 (3)	28.2 (11)	30.2 (13)	28.6 (6)
Negotiated guilty	100.0 (1)	25.0 (1)	71.8 (28)	69.8 (30)	71.4 (15)
Total	100.0 (1)	100.0 (4)	100.0 (39)	100.0 (43)	100.0 (21)

\*There were no convictions of female offenders in cases involving more serious drug crimes.

When considering only those categories with a sufficient number of cases (i.e., property and drug crime types), one sees that little or no differences exist between the crime type categories in terms of the percent of guilty pleas that are negotiated. Negotiated guilty pleas are predominant over straight guilty pleas in both of these crime type categories.

Tables 15 and 16 reveal patterns quite dissimilar to those found for the male offenders (see Tables 3 and 4). Recall that more serious crimes for male defendants are more likely to result in a negotiated plea than a straight plea. For female offenders, neither seriousness of crime or crime type had meaningful effects on the rate of negotiated guilty pleas versus straight guilty pleas.<sup>28</sup> Apparently different factors affect the rate of negotiated guilty pleas versus straight guilty pleas for female and male offenders.

## 2. Types of Sentences

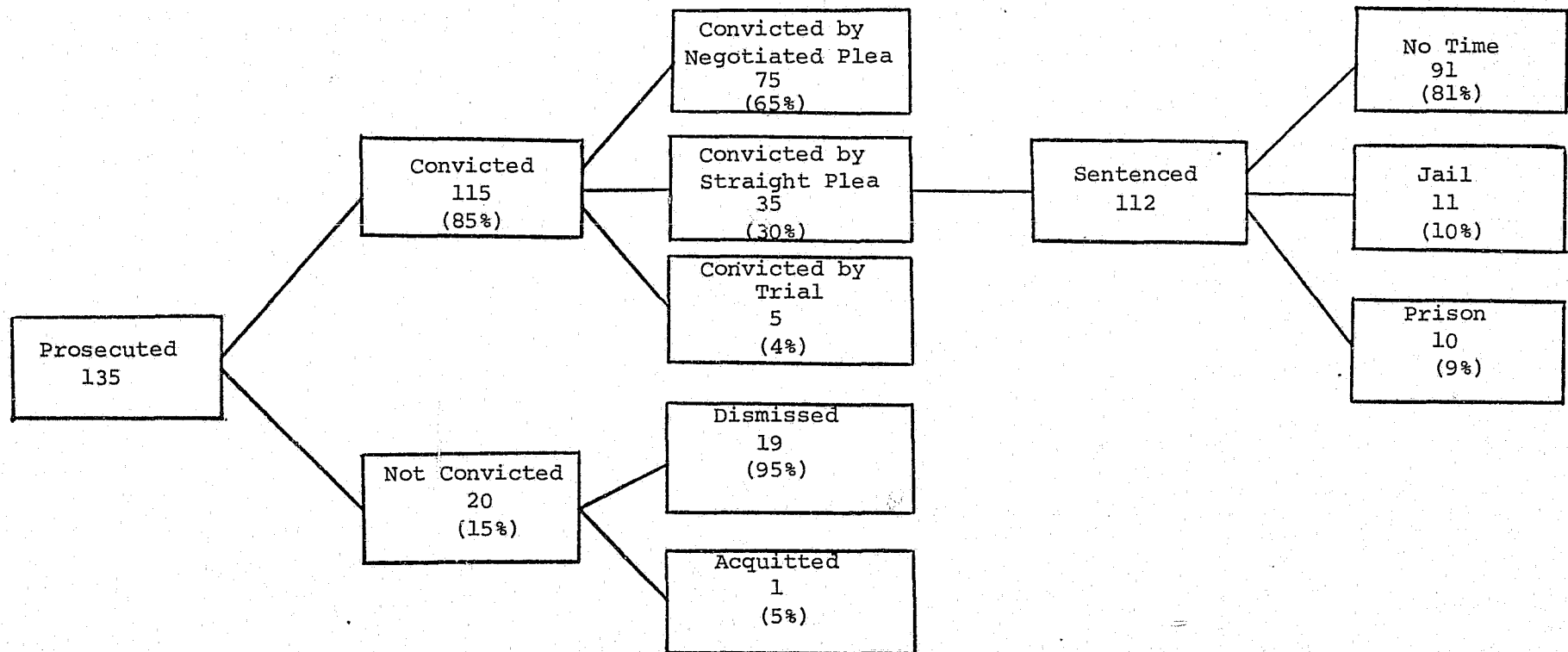
For explanations and definitions of sentence types, see the discussion at the beginning of Types of Sentences - Male Offenders (p.17 ). The same conventions have been utilized in this section. However, it is important to reiterate that the offense upon which a defendant is sentenced is not necessarily the most serious offense charged, although normally the convicted offense does fall within the same general category.

Figure 8 is a flow chart for the female defendants contained in the study.

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<sup>28</sup>In terms of statistical significance, the correlation between guilty pleas and seriousness of crimes (Table 15) was found to be minimal and moreover not significant. Likewise, the association between guilty pleas and crime type (Table 16) was minimal and found to be lacking in statistical significance.

FIGURE 8: FLOW CHART OF FEMALE DEFENDANTS\*



\*For purposes of this chart, the cases in which there was no formal disposition (as previously defined) are included in the dismissal category. The number of persons sentenced is less than the number convicted because of cases in which the defendant did not appear for sentencing or where sentence was not yet imposed at the time of data collection.



The overall conviction rate for women arraigned in district court on felonies and gross misdemeanors is 85%. This is slightly lower than the conviction rate for male defendants. Of the 15% who are not convicted, 95% are dismissals. Within the convicted group, 96% of the convictions are by pleas and 4% are by trial. Of the guilty pleas, 71% of the convictions are reached via a negotiated plea while straight pleas account for 22% of the convictions.

For cases in which the defendant was sentenced, 81% are sentenced to serve no time at all. The comparable figure for men is 50%, indicating that convicted women are much more likely than men to serve no incarceration time. Ten percent of the sentences require jail time and 9% require prison terms. Again, the comparable figures for men are 30% (jail) and 20% (prison) indicating that women are much less likely to be incarcerated than men.

Table 17 examines the type of sentence according to the type of offense charged in the case.

Directing attention toward the types of offenses, it is interesting to note that, like males, the highest percent of prison sentences is for persons convicted of crimes against persons. However, for females the frequency of these types of cases is minimal and little emphasis should be placed on this finding.

For women convicted of property crimes, 80% serve no time while slightly less than 20% are required to serve some incarceration. The same percent receive jail and prison time (9.8%).

Looking at drug crimes, all but one of the convicted women serve no time at all (95.5%).

TABLE 17

TYPE OF SENTENCE BY TYPE OF OFFENSE

<u>Type of Sentence</u>	Crimes Against Persons	Property Crimes	Drug Crimes	Other	Total
	% (f)	% (f)	% (f)	% (f)	% (f)
no time	33.3 (2)	80.5 (66)	95.5 (21)	100.0 (2)	81.3 (91)
jail	33.3 (2)	9.8 (8)	4.5 (1)	-	9.8 (11)
prison	33.3 (2)	9.8 (8)	-	-	8.9 (10)
Total	99.9 (6)	100.1 (82)	100.0 (22)	100.0 (2)	100.0 (112)

Missing = 3. These include case(s) in which the defendant did not appear for sentencing and case(s) in which the sentence was not yet imposed at the time of data collection.

An equally significant feature of Table 17 is the fact that 73.2% (82 out of 112) of all the convicted women have cases involving property crimes, whereas crimes against persons make up only 5.4% of the group.

Table 18 presents the types of sentences according to the seriousness of the crimes charged. As in the case of male defendants, seriousness is defined according to the statutory maximum sentence for the most serious offense charged in a case.

When viewing Table 18 one sees that 87.9% of the convicted female offenders with less serious crime type cases receive sentences that do not require incarceration. The remainder of

TABLE 18

TYPE OF SENTENCE BY  
SERIOUSNESS OF CRIMES

<u>Type of Sentence</u>	<u>&lt;10 yr. Statutory Maximum Sentence</u>	<u>≥10 yr. Statutory Maximum Sentence</u>
	% (f)	% (f)
no time	87.9 (58)	71.8 (33)
jail	12.1 (8)	6.5 (3)
prison	-	21.7 (10)
Total	100.0 (66)	100.0 (46)

Missing cases = 3. These include case(s) in which the defendant did not appear for sentencing and case(s) in which the sentence had not yet been imposed at the time of data collection.

this group (12.1%) receive sentences involving some jail time.

None of the female offenders with less serious crime type cases receive prison sentences.

One gets a slightly different picture when analyzing the female offenders with the more serious crime type cases.<sup>29</sup>

Of this group 71.8% receive sentences involving no incarceration, 6.5% receive sentences involving some jail time, and 21.7% receive prison sentences.

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<sup>29</sup>In other words, there is a modest relationship between types of sentence imposed and seriousness of crimes (i.e., Spearman's rho equals .235 significant at the .01 level).

Therefore, women who are charged with the more serious crimes and convicted have a lower percentage of jail and no time sentences than the less serious offenders. Prison sentences are imposed only in the more serious crime type cases.

The preceding discussion examines types of sentences in terms of incarceration time. An equally interesting aspect of sentencing is the use of stayed sentences. An explanation of the types of stayed sentences available in Minnesota is presented on page 24 of this report. Approximately 84% (94 out of 112) of the females received stayed sentences. This compares to 65% for the male offenders.

Table 19 presents a frequency distribution of the types of stayed sentences accorded female offenders. As previously mentioned 81% of the female defendants are sentenced to serve no incarceration time, and 84% receive a stayed sentence. This slight difference is explained by cases in which sentence was stayed and the defendant received jail time as a condition of probation. The "unspecified stay" refers to cases in which the court records and transcripts of proceedings did not specify whether it was a stay of imposition or execution of sentence. On Table 19, 152.18 refers to that chapter of the Minnesota Statutes which provides for a special type of stay for drug offenders.



TABLE 19

## TYPES OF STAYED SENTENCES

	<u>frequency</u>	<u>percent</u>
stay of execution	34	36.2
stay of imposition	55	58.5
unspecified stay	3	3.2
152.18	2	2.1
Total	94	100.0

As indicated in Table 19, the majority of women who receive stayed sentences receive a stay of imposition (58.5%). This is in marked contrast to the male defendants where 43.6% receive a stay of imposition. A stay of execution of sentence occurs in 36% of the cases involving women compared to 48% for cases involving men. Hence, women are much more likely to receive a stay of imposition than men. The implications of this finding will be addressed further in the final report.

Turning attention toward conditions attached to the sentences, restitution is required in 32% of the cases. This is twice the comparable figure for male defendants, yet this is not surprising given the preponderance of property offenses among women. Drug and/or alcohol treatment is a condition of the sentence in eight percent of the cases, and this is the same percent as for male defendants.

To summarize, female offenders have a high proportion of property crimes (73.2%), and if convicted have a high proportion of sentences involving no incarceration time (81.3%). Like their

male counterparts, they are more likely to receive a more severe sentence for a more serious type of crime. Eighty-four percent of the women receive stayed sentences, and out of this group the majority of cases receive a stay of imposition of sentence.

### 3. Sentence Lengths

The following discussion deals with the types and lengths of sentences for women convicted of specific offenses. Table 20 is limited to cases in which there was one offense originally charged and a conviction in the case. Only those offenses with an adequate number of cases are presented.

TABLE 20

SENTENCE TYPES AND LENGTHS  
FOR SELECTED OFFENSES

<u>Offense/Statutory</u> <u>Maximum Sentence</u>	<u>No time</u> %	<u>Jail</u> %	<u>Prison</u> %	<u>Mean</u> <u>Jail</u> <u>Sentence</u> (months)	<u>Mean</u> <u>Prison</u> <u>Sentence</u> (months)
	(f)	(f)	(f)		
Aggravated Forgery - 10 yrs. n=21	76.2 (16)	-	23.8 (5)		49.6
Theft - 5 yrs. n=9	88.9 (8)	11.1 (1)	-		
Wrongfully Obtain- ing Public Assist- ance - 5 yrs. n=14	85.7 (12)	14.3 (2)	-	1.53	
Possession of Non- Narcotics - 3 yrs. n=8	100.0 (8)	-	-		

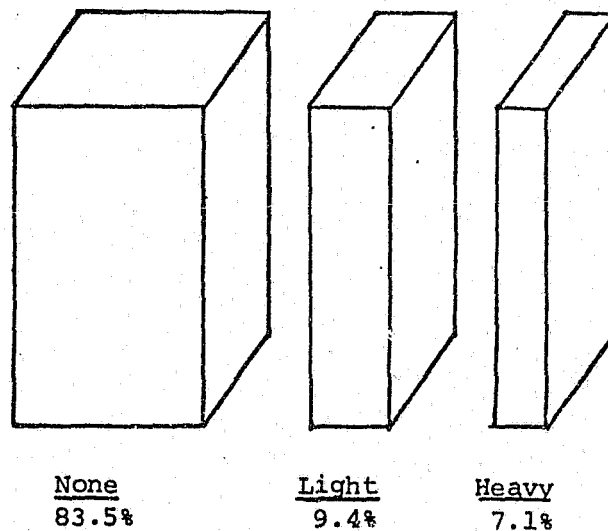
As Table 20 indicates, the only offense for which women were sentenced to prison is aggravated forgery. Approximately twenty-

four percent of the women convicted of it were sentenced to prison. The most significant feature of this table is that it illustrates a point made earlier: very few women convicted of felonies and gross misdemeanors serve time.

#### 4. Prior Conviction Records

This section discusses the findings about the prior adult conviction records of the sampled female offenders. The following figure presents the distribution of the prior conviction records.

FIGURE 9: PRIOR ADULT CONVICTION RECORD  
OF FEMALE DEFENDANTS



(N=127)

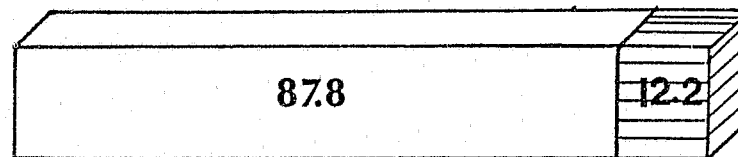
Missing cases=8

When viewing Figure 9, it is obvious that the large majority of female offenders being arraigned in district court on felonies and gross misdemeanors have no prior adult conviction record (83.5%). Female defendants with a light prior record constitute 9.4% of the sample, while 7.1% of the female offenders have a heavy adult prior record.

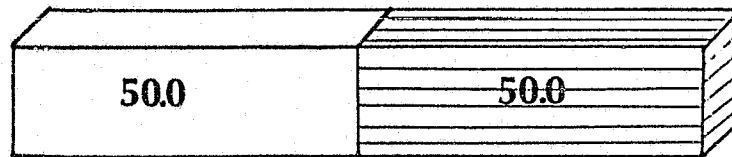
Of the males sampled, 60.9% had no prior conviction record. Men with light and heavy records accounted for 26.2% and 12.9% of the sampled male defendants respectively. Therefore, while 39.1% of the men have some prior convictions, only 16.5% of the women do. The obvious conclusion is that substantially more men than women have prior adult conviction records.

FIGURE 10: SENTENCE TYPE AND  
PRIOR CONVICTION RECORD

FEMALES



No Prior Convictions (n=90)



Prior Convictions (n=16)

No Incarceration ☐  
Incarceration ☐

Missing cases = 10

Figure 10 presents the type of sentence by prior conviction record. Note that both variables have been dichotomized. (For the table used in the construction of Figure 10, see Appendix Table S.)

In Figure 10 one can clearly see that convicted female offenders with no prior adult record serve time less often than convicted female offenders with a prior adult record.<sup>30</sup> Specifically, 87.8% of the offenders with no prior record receive sentences involving no incarceration time, whereas 50% of the offenders with a prior record receive similar sentences. On the other hand, 50% of the women with prior records receive sentences involving some incarceration time while only 12.2% of the no prior record offenders receive sentences involving incarceration. The reader should be cautious when interpreting such results since there are such few cases involving female defendants with prior adult records.

In addition when looking at the female offenders who are incarcerated, it is interesting to note that 57.9% (11 out of 19) of this group have no prior adult conviction record. This, of course, is not all that surprising when one considers the high proportion of female offenders who have no prior adult conviction record.

In summarizing this section, it is apparent that the majority (83.5%) of all female offenders entering the district court system have no prior adult conviction record. Moreover, over half of the female defendants that are incarcerated, whether it be in jail or prison, have no prior adult conviction record.

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<sup>30</sup>A moderate correlation exists between type of sentence and prior conviction record ( $r$  equals .353) at the .01 level of significance.

#### IV. Summary and Conclusions

In summary, this preliminary analysis of the sample data has revealed that approximately ninety percent of the defendants arraigned in district court on felony and gross misdemeanor charges are convicted. Eight percent of the cases go to trial with the remainder settled by pleas of guilty. Women account for ten percent of the sampled cases, and property crimes are the most commonly charged offenses for both male and female defendants.

Cases involving less serious crimes (as indicated by maximum statutory penalties) are more likely to be settled by a plea of guilty than cases that charge more serious crimes. The more serious the crime, the more likely the case is to go to trial. If, however, cases alleging more serious crimes are settled by a guilty plea, the plea is more likely to be the result of a plea negotiation than cases involving less serious crimes.

In terms of sentences, convicted male defendants get sentences requiring incarceration in roughly fifty percent of the cases. Of these sentences, the majority require jail time only and twenty percent of all men convicted get sentenced to prison. The percentage of women sentenced to incarceration is substantially lower (19%) and roughly half of these sentences are for prison time and half for jail time only. Eighty-one percent of the convicted female defendants serve no time at all.

Defendants convicted of more serious crimes against persons receive prison sentences more often than defendants convicted of other types

of crimes (drug and property crimes). For both male and female defendants, a relationship exists between prior conviction record and the type of sentence imposed. People with prior adult conviction records are more likely to be sentenced to incarceration than people without prior records. Approximately sixty percent of the men and eighty-four percent of the men have no prior adult conviction record. With regard to the length of prison sentences imposed for both men and women sentenced to prison, the average length of sentence is less than the maximum statutory sentence.

Generally those defendants being arraigned in district court are convicted in nine out of ten cases. This information, coupled with the findings of the first preliminary report on court delay, tends to indicate that the district courts are not only relatively expedient in the dispositions of cases but that a high probability of conviction exists. Further, of the male defendants convicted roughly half of them serve some incarceration time.

Persons charged with and convicted of the use of a firearm in the commission of a felony in Minnesota are subject to mandatory minimum sentences. Although people charged with the use of a firearm are no more likely to get convicted (than people charged with similar crimes without guns), the gun cases have a higher rate of plea bargaining. This finding should be of interest to legislators who are now considering the establishment of mandatory, "fixed" sentences for all crimes. Further, persons convicted of the use of a firearm are more likely to be sentenced to prison than people convicted of comparable crimes but without guns.





APPENDIX

# LIST OF APPENDIX TABLES

<u>Title</u>	<u>Page</u>
Table A Frequency Distribution - <10 Year Crimes Against Persons - Males	67
Table B Frequency Distribution - ≥10 Year Crimes Against Persons - Males	68
Table C Frequency Distribution - <10 Year Property Crimes - Males	69
Table D Frequency Distribution - ≥10 Year Property Crimes - Males	70
Table E Frequency Distribution - <10 Year Drug Crimes - Males	71
Table F Frequency Distribution - ≥10 Year Drug Crimes - Males	72
Table G Frequency Distribution - "Other" Crimes - Males	73
Table H Type of Sentence by Crime Type - Males	74
Table I Range and Standard Deviations for Selected Offenses - Males	75
Table J Type of Sentence by Prior Conviction Record - Males	76
Table K Retention of Gun Statute by Mode of Disposition	76
Table L Frequency Distribution - <10 Year Crimes Against Persons - Females	77
Table M Frequency Distribution - ≥10 Year Crimes Against Persons - Females	77
Table N Frequency Distribution - <10 Year Property Crimes - Females	78
Table O Frequency Distribution - ≥10 Year Property Crimes - Females	78
Table P Frequency Distribution - <10 Year Drug Crimes - Females	79
Table Q Frequency Distribution - ≥10 Year Drug Crimes - Females	80
Table R Frequency Distribution - <10 Year "Other" Crimes - Females	80
Table S Type of Sentence by Prior Conviction Record - Females	80

TABLE A  
FREQUENCY DISTRIBUTION  
410 YEAR CRIMES AGAINST PERSONS - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Aggravated Assault (no bodily harm)	5 yrs.	38	52.8
Sexual Intercourse w/child 14-16 yrs. old	5 yrs.	1	1.4
Sexual Intercourse w/child 14-16 - offender less than 21 years old	3 yrs.	1	1.4
Indecent Exposure	1 yr.	2	2.8
Indecent Liberties	4 yrs.	7	9.7
Indecent Liberties	7 yrs.	6	8.3
Criminal Negligence Resulting in Death	5 yrs.	15	20.8
False Imprisonment	3 yrs.	1	1.4
Attempted Simple Robbery	5 yrs.	1	1.4
Total		72	100.0

TABLE B  
FREQUENCY DISTRIBUTION  
≥ 10 YEAR CRIMES AGAINST PERSONS - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Aggravated Assault (bodily harm)	10 yrs.	32	15.2
Aggravated Rape	30 yrs.	15	7.1
Aggravated Sodomy	30 yrs.	4	2.0
Sodomy w/child under 10	30 yrs.	1	.5
Sodomy w/child 10-14	20 yrs.	1	.5
Sodomy w/child over 14	10 yrs.	3	1.4
Criminal Sexual Conduct - First Degree	20 yrs.	9	4.2
Criminal Sexual Conduct - Second Degree	15 yrs.	3	1.4
Criminal Sexual Conduct - Third Degree	10 yrs.	4	2.0
Incest	10 yrs.	1	.5
First Degree Murder	Life	6	3.0
Second Degree Murder	40 yrs.	2	1.0
Third Degree Murder	25 yrs.	3	1.4
First Degree Manslaughter	15 yrs.	1	.5
Kidnapping	20 yrs.	22	10.4
Kidnapping	40 yrs.	6	3.0
Simple Robbery	10 yrs.	20	9.5
Aggravated Robbery	20 yrs.	64	30.3
Attempted First Degree Murder	20 yrs.	5	2.0
Attempted Second Degree Murder	20 yrs.	5	2.0
Attempted Aggravated Robbery	10 yrs.	4	2.0
Total		211	99.9

TABLE C  
FREQUENCY DISTRIBUTION  
<10 YEAR PROPERTY CRIMES - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Simple Arson	5 yrs.	7	1.0
Burglary	5 yrs.	187	40.0
Burglary	1 yr.	4	1.0
Possession of Burglary Tools	3 yrs.	4	1.0
Aggravated Criminal Damage to Property	5 yrs.	39	8.0
Defeating Security on Personalty	2 yrs.	1	.2
Forgery	3 yrs.	1	.2
Receiving Stolen Property	5 yrs.	4	1.0
Theft (over \$100, less than \$2,500)	5 yrs.	114	24.0
UUMV	3 yrs.	69	15.0
Theft by Check	5 yrs.	20	4.0
Tampering w/Odometers	1 yr.	1	.2
Attempted Burglary	5 yrs.	1	.2
Wrongfully Obtaining Public Assistance	5 yrs.	1	.2
Attempted Burglary	2-1/2 yrs.	14	3.0
Attempted Theft	2-1/2 yrs.	4	1.0
Total		471	100.0

TABLE D  
FREQUENCY DISTRIBUTION  
≥10 YEAR PROPERTY CRIMES - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Aggravated Arson	25 yrs.	1	.6
Burglary	20 yrs.	25	15.1
Burglary	10 yrs.	10	6.0
Aggravated Forgery	10 yrs.	60	36.2
Receiving Stolen Property	10 yrs.	52	31.3
Theft (over \$2,500)	10 yrs.	13	7.8
Attempted Burglary	10 yrs.	4	2.4
Wrongfully Obtaining Public Assistance	5 yrs.	1	.6
Total		166	100.0

TABLE E  
FREQUENCY DISTRIBUTION  
<10 YEAR DRUG CRIMES - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Sale of Schedule I and II Non-narcotics and Schedule III Drugs	5 yrs.	36	16.7
Possession with intent to Sell Schedule I and II Non-narcotics and Schedule III Drugs	5 yrs.	37	17.2
Possession with Intent to Sell Schedule IV Drugs	3 yrs.	1	.5
Possession of Schedule I or II Narcotics	5 yrs.	13	6.0
Possession of Schedule I or II Non-narcotics or Schedule III Drugs	3 yrs.	117	54.4
Possession of Schedule IV Drugs	3 yrs.	1	.5
Attempt to Procure Schedule I Controlled Substance by Fraud	4 yrs.	3	1.4
Attempt to Procure Schedule II Controlled Substance by Fraud	4 yrs.	2	.9
Attempt to Procure Schedule III Controlled Substance by Fraud	4 yrs.	3	1.4
Attempt to Procure Schedule IV Controlled Substance by Fraud	4 yrs.	1	.5
Bringing Drugs into State Prison	3-5 yrs.	1	.5
Total		215	100.0

TABLE F  
FREQUENCY DISTRIBUTION  
≥ 10 YEAR DRUG CRIMES - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Sale of Schedule I or II Narcotics	15 yrs.	11	64.7
Possession with Intent to Sell Schedule I or II Narcotics	15 yrs.	5	29.4
Second Conviction - Possession with Intent to Sell Schedule I or II Non-narcotics and Schedule III Drugs	10 yrs.	1	5.9
Total		17	100.0

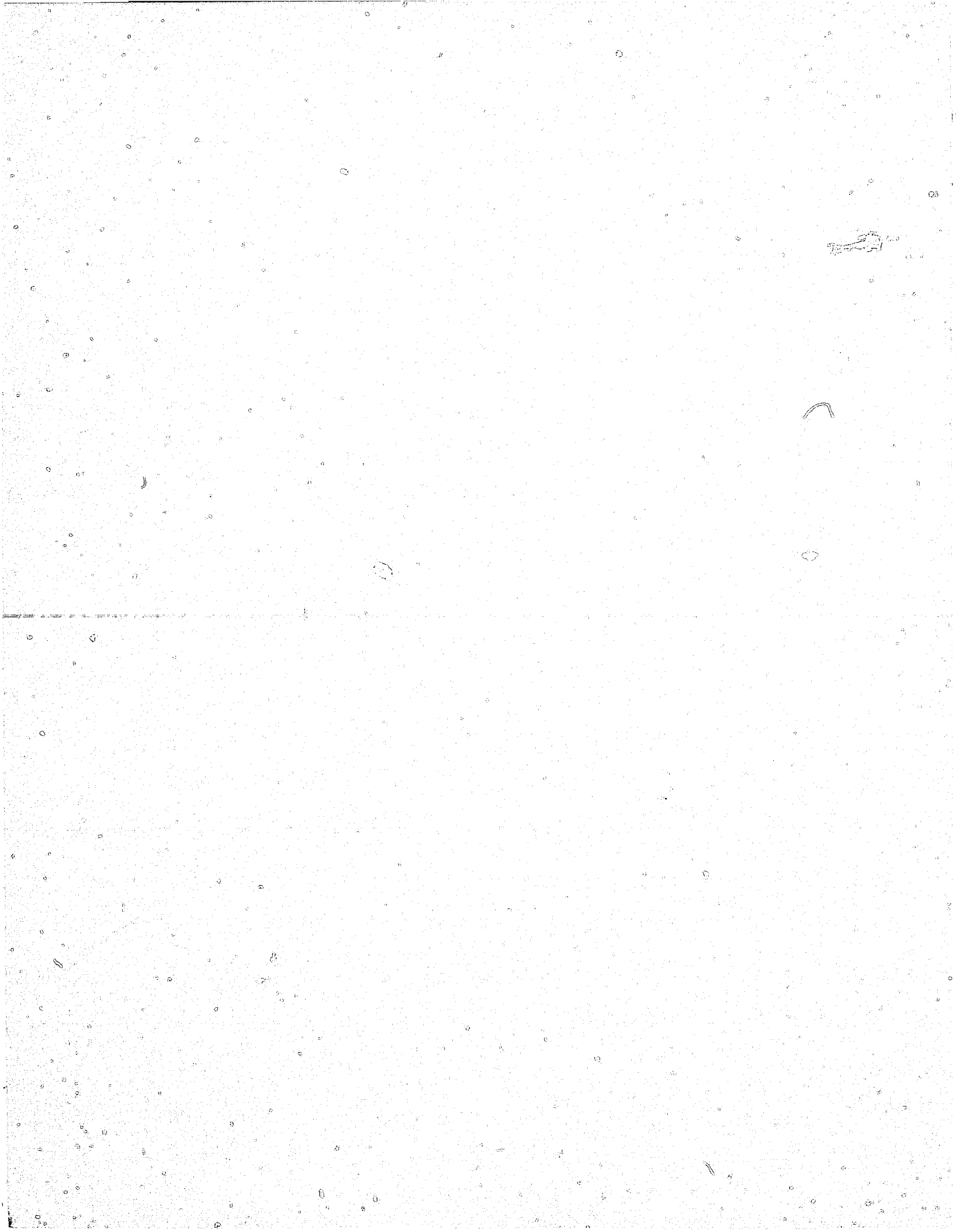


TABLE G  
FREQUENCY DISTRIBUTION "OTHER" CRIMES - MALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Buying Liquor for a Minor	1 yr.	6	27.3
Misconduct of a Public Employee	1 yr.	1	4.5
Aiding an Offender to Avoid Arrest	3 yrs.	1	4.5
Obstructing Legal Process	1 yr.	2	9.1
Keeping House of Prostitution	5 yrs.	1	4.5
Engaging in Prostitution	1 yr.	1	4.5
Possession and Sale of Unstamped Cigarettes	1 yr.	1	4.5
Maintaining and/or Oper- ating a Gambling Establishment	1 yr.	1	4.5
Possession of a Pistol without a Permit	1 yr.	3	13.6
Escape from Custody*	5 yrs.	2	9.1
Escape from Custody*	2 yrs.	3	13.6
Total		22	99.7

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\*Escape from custody cases were included in the sample only in cases of multiple charges where escape was one of many offenses charged.



**CONTINUED**

**1 OF 2**

TABLE H

## TYPE OF SENTENCE BY CRIME TYPE - MALES

<u>Type of Sentence</u>	<u>Crimes Against Persons</u>		<u>Property Crimes</u>		<u>Drug Crimes</u>		<u>Other</u>
	<10	≥10	<10	≥10	<10	≥10	<10
	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)	% (f)
No time	57.8 (37)	25.3 (43)	46.8 (196)	49.0 (72)	76.2 (147)	62.5 (10)	55.6 (10)
Jail	32.8 (21)	26.5 (45)	36.3 (152)	23.8 (35)	16.6 (32)	25.0 (4)	44.4 (8)
Prison	9.4 (6)	48.2 (82)	16.9 (71)	27.2 (40)	7.3 (14)	12.5 (2)	-
Total	100.0 (64)	100.0 (170)	100.0 (419)	100.0 (147)	100.1 (193)	100.0 (16)	100.0 (18)

Missing cases = 20. These cases include cases in which the defendant did not appear for sentencing, and cases in which sentence was not yet imposed at the time of data collection.

TABLE I

## RANGE AND STANDARD DEVIATIONS FOR SELECTED OFFENSES - MALES

JAIL SENTENCES

<u>Offense-Statutory Maximum Sentence</u>	<u>Range</u>		<u>Standard Deviation</u> (months)	<u>Mean Sentence</u> (months)
	<u>Minimum</u> (months)	<u>Maximum</u> (months)		
Burglary - 5 yrs. n=44	.20 (6 days)	12.0	4.44	7.8
Receiving Stolen Property - 10 yrs. n=13	.26 (8 days)	12.0	3.17	2.8
Theft - 5 yrs. n=22	.06 (2 days)	12.0	4.79	5.9
Unauthorized Use of Motor Vehicle (UUMV) - 3 yrs. n=26	.16 (5 days)	12.0	4.93	6.7
Possession of Non-Narcotic - 3 yrs. n=13	.26 (8 days)	9.0	2.90	3.3

PRISON SENTENCES

Burglary - 5 yrs. n=20	36.00	60.0	9.85	55.2
Theft - 5 yrs. n=10	12.03	60.0	17.44	49.8
Aggravated Forgery - 10 yrs. n=14	24.00	120.0	40.45	82.3
Aggravated Robbery - 20 yrs. n=16	60.00	240.0	73.68	171.7

TABLE J

TYPE OF SENTENCE BY PRIOR  
CONVICTION RECORD - MALES

	<u>none</u>	<u>light</u>	<u>heavy</u>
<u>Type of Sentence</u>	% (f)	% (f)	% (f)
no time	61.8 (369)	36.4 (92)	17.1 (21)
jail	27.3 (163)	37.5 (95)	21.9 (27)
prison	10.9 (65)	26.1 (66)	61.0 (75)
Total	100.0 (597)	100.0 (253)	100.0 (123)

TABLE K

RETENTION OF GUN STATUTE BY  
MODE OF DISPOSITION

	<u>straight guilty</u>	<u>negotiated guilty</u>	<u>convicted at trial</u>
<u>gun statute</u>	% (f)	% (f)	% (f)
609.11 kept	40.0 (2)	48.7 (38)	100.0 (10)
609.11 dropped	60.0 (3)	51.3 (40)	-
Total	100.0 (5)	100.0 (78)	100.0 (10)

TABLE L  
FREQUENCY DISTRIBUTION  
 $< 10$  YEAR CRIMES AGAINST PERSONS - FEMALES

<u>Offense</u>	Statutory Maximum <u>Sentence</u>	No. of <u>Cases</u>	<u>%</u>
Aggravated Assault	5 yrs.	1	100.0
Total		1	100.0

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TABLE M  
FREQUENCY DISTRIBUTION  
 $\geq 10$  YEAR CRIMES AGAINST PERSONS - FEMALES

<u>Offense</u>	Statutory Maximum <u>Sentence</u>	No. of <u>Cases</u>	<u>%</u>
Third Degree Murder	25 yrs.	1	20.0
Simple Robbery	10 yrs.	1	20.0
Aggravated Robbery	20 yrs.	3	60.0
Total		5	100.0

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TABLE N  
FREQUENCY DISTRIBUTION  
<10 YEAR PROPERTY CRIMES - FEMALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Burglary	5 yrs.	4	8.3
Burglary	1 yr.	1	2.1
Aggravated Criminal Damage to Property	5 yrs.	1	2.1
Receiving Stolen Property	10 yrs.	1	2.1
Receiving Stolen Property	5 yrs.	15	31.3
Unauthorized Use of a Motor Vehicle	3 yrs.	3	6.3
Theft	5 yrs.	6	12.3
Wrongfully Obtaining Public Assistance	5 yrs.	16	33.3
Attempted Simple Arson	2.5 yrs.	1	2.1
Total		48	99.9

TABLE O  
FREQUENCY DISTRIBUTION  
≥10 YEAR PROPERTY CRIMES - FEMALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Aggravated Arson	25 yrs.	2	4.0
Aggravated Forgery - Uttering	10 yrs.	33	66.0
Receiving Stolen Property	10 yrs.	4	8.0
Theft	10 yrs.	1	2.0
Wrongfully Obtaining Public Assistance	10 yrs.	10	20.0
Total		50	100.0



TABLE P  
FREQUENCY DISTRIBUTION  
< 10 YEAR DRUG CRIMES - FEMALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Sale of Schedule I & II Non-Narcotics & Schedule III Drugs	5 yrs.	1	3.6
Sale of Schedule IV Drugs	3 yrs.	1	3.6
Possession with Intent to Sell Schedule I & II Non-Narcotics & Schedule III Drugs	5 yrs.	6	21.4
Possession of Schedule I or II Narcotics	5 yrs.	2	7.1
Possession of Schedule I or II Non-Narcotics or Schedule III Drugs	3 yrs.	10	35.7
Procure or Attempt to Procure Schedule I Con- trolled Substance by Fraud	4 yrs.	2	7.1
Procure or Attempt to Procure Schedule II Con- trolled Substance by Fraud	4 yrs.	1	3.6
Procure or Attempt to Procure Schedule III Con- trolled Substance by Fraud	4 yrs.	4	14.3
Procure or Attempt to Procure Schedule IV Con- trolled Substance by Fraud	4 yrs.	1	3.6
Total		28	100.0

TABLE Q  
FREQUENCY DISTRIBUTION  
≥ 10 YEAR DRUG CRIMES - FEMALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Second Conviction of Possession with Intent to Sell Schedule I or II Non- Narcotics or Schedule III Drugs	10 yrs.	1	100.0
Total		1	100.0

TABLE R  
FREQUENCY DISTRIBUTION  
<10 YEAR "OTHER" CRIMES - FEMALES

<u>Offense</u>	<u>Statutory Maximum Sentence</u>	<u>No. of Cases</u>	<u>%</u>
Obstructing Legal Process or Arrest	1 yr.	1	50.0
Engages in Prostitution	1 yr.	1	50.0
Total		2	100.0

TABLE S  
TYPE OF SENTENCE BY PRIOR  
CONVICTION RECORD - FEMALES

	<u>none</u>	<u>light</u>	<u>heavy</u>
<u>Type of Sentence</u>	% (f)	% (f)	% (f)
no time	87.8 (79)	62.5 (5)	37.5 (3)
jail	8.9 (8)	12.5 (1)	-
prison	3.3 (3)	25.0 (2)	62.5 (5)
Total	100.0 (90)	100.0 (8)	100.0 (8)



**END**