Chapter 1

Municipal Courts and the Judges Who Sit in Them

The judge's gavel pounds furiously as though it has a life of its own, while cries of "Order in the court!" fall on seemingly deaf ears. The courtroom observers appear out of control, leaping up and yelling, some rushing toward the door while others charge to the front of the room. There are gasps of disbelief from all in the court, including the surprised prosecutor. Yet another witness for the prosecution has wavered under the crafty questioning of Perry Mason and confessed to murder, saving an innocent woman from, at best, life in prison.

In another courtroom, the prosecutor and defense attorney battle to the finish, jumping up with expertly timed objections to every question asked by opposing counsel. After intense consideration of each objection, the judge issues a ruling and the attorney rewords the question to the witness, an elderly woman on whose eyewitness testimony the prosecution's entire murder cases rests. When court is recessed until the next day, the two attorneys briskly walk by one another, hardly exchanging even a cold glance. Everyone in the room knows the two will be back at each other's throats when court resumes on the following day, like the ferocious adversaries opposing counsel are supposed to be. During the trial, the media mill about outside the hearing like hungry hounds waiting for a morsel of news to fall from the courtroom table. Such is a day on "LA Law," a syndicated television series that focused on the activities of a Los Angeles–based law firm and its staff.

The public's picture of courtrooms and judges' activities have been largely shaped over the last forty years by television and movie depictions. Even real courtroom scenes on television are dramatic. The trial of the police officers who had beaten Rodney King, for example, earned prime-time coverage because of its great importance. Likewise, the preliminary hearing and trial of O.J. Simpson received a great deal of news coverage because the defendant was a celebrity. Even uninteresting incidents took on added significance when portrayed in Judge Wopner's courtroom on "The People's Court." For years, viewers tuned in daily to hear Wopner rule on cases in which he decided, for example, who would have to pay for the broken rearview mirror on the plaintiff's Honda.

The courtroom depictions portrayed on television and in the movies are understood by the lay public to represent the inner workings of the criminal judiciary. Justice is always served in these courts. Defense attorneys, like Perry Mason or Ben Matlock, always battle to the finish for their innocent clients. Prosecutors are sneaky, less than honorable individuals who will stop at nothing to obtain convictions. If not for the valiant efforts of defense attorneys, innocent defendants would be executed or sent to prison for crimes they did not commit.

Media judges are regal, emotionless creatures in flowing black robes who ponder each motion and objection, rendering a well-formed decision. Judges are more like baseball umpires than members of the courtroom group; they coordinate the activities of the prosecution and defense to ensure that both play by fair rules, but media judges refuse to become involved in the courtroom happenings and rarely get personally absorbed in a case.

The lone exception to media courtrooms, "Night Court," does not focus on the cases processed each day; instead, it centers on the staff of the court and their interactions, which often have little to do with handling cases. Even the bailiff and court clerk have major roles in the show. The sleazeball prosecutor is always up to no good; if he is not picking up on every woman in the courthouse, he is losing large sums of money on nefarious ventures. The defense attorney, a femi-

nist, yet feminine, woman would never willingly socialize with the likes of the prosecutor and often feels uncomfortable when he is in the same room. The judge is an amateur magician who frequently demonstrates his magic tricks to the defendants whose cases are being heard; he is a friendly and compassionate fellow who leads the viewer to wonder why he is trapped in the doldrums of municipal court, doomed forever to hear prostitution cases. The reality of the criminal courts is far from these colorful portraits, which are based more on the American dream of justice than fact. High drama is rarely the stuff of real courts. Courtroom happenings are seldom as exciting as shows like "LA Law" would have their audiences believe. Defense attorneys almost never get a witness to confess on the stand like Perry Mason or Ben Matlock do in nearly every episode. The workings of the courts tend to be uninteresting to the observer, full of whispered sidebar conferences between the judge and attorneys, meetings behind the scenes in the judge's chambers, and legal motions that are difficult for the layperson to understand.

Murder, armed robbery, and rape cases are routinely tried before juries on television, but in the real world, less than 5 percent of all felony filings result in criminal trials (Boland, Mahanna, & Sones, 1992). In fact, courtroom dramas do not depict the reality of courts because almost all of America's criminal cases are processed in municipal courtrooms.

Municipal Courts

Unlike federal and felony-level magistrates, municipal judges and their courtrooms have been the subjects of very little research and are the least understood branch of the judiciary (to ease the reader's burden, we use the terms judge, justice, and magistrate interchangeably). One court expert commented: "Many individuals get into and out of trouble in these [urban] courts, but the general public knows almost nothing about their operation" (Jacob, 1980, p. 93). Researchers, too, know little about municipal court judges; the academic literature has virtually ignored them (Alfini & Passuth, 1981;

Brickey & Miller, 1975; Feeley, 1979, p. xvi). They are very important, however, because the lower court judges handle most of the judiciary's criminal work load and their actions serve as a focal point for the formation of public opinion about the entire court system (Brickey & Miller, 1975).

Ninety percent of criminal cases in the United States are heard in the municipal or other lower courts (Ashman, 1975; Feeley, 1979, p. xv). Generally, municipal judges hear misdemeanors, which are offenses that can be punished by less than one year in jail.[1] These tribunals also serve as the beginning point for felony cases (offenses that can be punished by any term of imprisonment or the death penalty), which can later be transferred to higher state courts.[2] They also serve as the "principle forum for negotiating the settlement of private disputes" by acting as neutral arbitrators between acquaintances in minor criminal offenses and petty civil claims cases (Ashman, 1975, p. 3).

The municipal courts are busy. In California, nearly 9,000,000 cases (not counting parking offenses) were disposed of by municipal court judges during the 1990–91 fiscal year, for an average of more than 11,000 cases per judicial position (Judicial Council of California, 1992, p. 78), or an average of 43 cases per day per judge. In contrast, California's superior courts (which process felony cases) disposed of 825,935 cases the same year, for an average of 865 per judicial position or 3 a day (Judicial Council of California, 1992, p. 41). If only in terms of sheer volume, municipal court is truly where the action is.

When the public has contact with the judiciary, it is most likely with municipal judges. A courtroom researcher observed that one municipal court judge in Texas saw over 100,000 people (including defendants, witnesses, jurors, and friends of the various participants) during the course of one year, and "all were forming their impressions of our system of laws in that judge's court" (Ashman, 1975, p. 588).

Although they may enter with idealized visions of what happens in court from dramatic portrayals in the media, it is in the lower tribunals that defendants, complainants, witnesses, jurors, and bystanders form their opinions of the criminal jus-

tice system (Brickey & Miller, 1975) and "often they come away with a less-than-favorable impression" (Neubauer, 1984, p. 358).

Brief History of Municipal Court Judges

The manner in which municipal court judges dispose of their cases is rooted in the history of the lower courts. Misdemeanor crimes came into existence in the 1700s. Few legal offenses existed at the time and those that did had severe punishments attached to them, death or loss of property being the most common ones. The creation in England of misdemeanors, or lesser crimes to be punished by a fine, allowed the Crown to extend its control and provided it with a way to raise money (Lindquist, 1988, p. 15).

The introduction of municipal courts to the youthful United States was a response to the democratic, rural nature of its inhabitants. Modes of transportation available during the nation's infancy and the considerable distances between existing courts necessitated the birth of a local form of justice for those charged with the statutorily less serious misdemeanors. It did not make sense to transport many miles to a district court a person accused of a crime for which the maximum sentence was a short jail term or small fine. It was also perceived as inappropriate to make an accused person wait weeks to be tried. The municipal courts were created to provide access to justice that was "responsive to early American needs" (Ashman, 1975, p. 4).

Depending on population size, a municipal court judge (for urban areas) or justice of the peace (for less densely populated rural areas) heard misdemeanor cases, settled local disputes, and occasionally added a local flair to justice. Although capable of providing some sort of equity, it seems likely that judicial decisions in these far flung tribunals were based more on local custom or personal gain and less on rule of law or systematic justice. Judges' rulings were often designed to ensure that some funds flowed their way. In one case, for example, the justice demanded that the victim's recovered

property be sold to pay the fine he had just levied against the indigent thief. Vehement protests from the victim and his attorney only resulted in further loss of money as the judge was quick to fine them for their outbursts (*In Re Jesus Ramirez*, Tuolumne County, Case No. 516, printed in McClay & Matthews, 1991, p. 133).

For most of the nineteenth century the lower courts were scenes of little activity. Few minor infractions had been enacted and city police departments, which produce most of the defendants for today's municipal judiciary, did not exist. There was no need for full-time judges or permanent structures. They worked with little or no support staff. Few of the judges were educated in the law. They held their hearings in dilapidated buildings or makeshift courtrooms, stores and private homes.

In the late 1800s, increases in city populations, largely fueled by newly arrived immigrants, resulted in escalating crime. The addition of municipal police departments increased urban court caseloads to the extent that they overloaded the existing judicial system (Ashman, 1975, p. 5). Many scholars and courtroom observers felt that without increased support the municipal courts would soon crumble beneath their awesome caseloads and recommended that they be eliminated or subsumed by the felony court system (Geis, 1979; President's Commission Task Force Report on the Courts, 1967).

Assembly Lines Versus Justice

The municipal courts, of course, did not die, but neither did their excessive caseloads. If anything, the twentieth century has been accompanied by more work for the lower courts with many of today's judges handling more than 10,000 cases a year and some justices hearing in excess of 20,000 actions (The President's Commission Task Force Report on the Courts, 1967, p. 31; Ashman, 1975; Judicial Council of California 1992, pp. 78–81).

The concern with overloaded courts is that to accomplish their work judges, prosecutors, and defense counsel can

spend no more than a minute with each case and justice is trampled in such circumstances (Lindquist, 1988, p. 24; Feeley, 1979, p. 11; Mileski, 1971). To speed arraignments, for example, defendants may be read their rights in groups or not at all (Mileski, 1971). The dilemma of huge caseloads versus due process of law, one expert noted, "is frequently resolved through bureaucratically ordained short cuts, deviations, and outright rule violations by members of the court, from judges to stenographers (Blumberg, 1967, p. xi)."

The most common way that members of the court deal with their excessive caseloads is by the use of plea bargains. These oft-repeated courtroom rituals involve negotiations between key players about the fates of defendants who plead guilty to criminal charges rather than exercising their rights to time consuming trials. Compliant defendants are typically rewarded with lesser punishments than they would receive if found guilty following a trial (Mileski, 1971).

Plea bargains in many courts are initiated by defense attorneys, who approach prosecutors with offers to "settle" cases. In a system that depends heavily on guilty pleas, this is one of the defense attorney's primary functions. Prosecutors may accept the offers of defense counsels or they may negotiate further (McCall, 1978, p. 99). In the end, the bargains are submitted to the presiding judges for approval, but the recommendations of the prosecutors and defense attorneys are usually followed (Cramer, 1981, p. 185; Feeley, 1979; Neubauer, 1976, p. 93).

Organizational Theory

The court system operates much as other organizations with a "community of human beings who are engaged in doing certain things with, to, and for each other" (Blumberg, 1967, p. ix). It is mutual cooperation between the key players in the court system that explains what happens in court, including sentencing decisions by judges.

Those who form the "courtroom work group" (the judge, prosecutor, and defense attorney) are driven by "incentives

and shared goals" (Eisenstein and Jacob, 1977, p. 10). Further, these organizational goals may be more important when determining the severity of sentences handed out by judges than individual biases against any particular type of defendant (minorities, murderers, or recidivists, for example).

Judges, prosecutors, and defense attorneys have their own covert goals that coopt the ideals of justice (Blumberg, 1967; Eisenstein & Jacob, 1977; Mileski, 1971; Nardulli, 1978). Plea bargaining is the primary way these major players in the court system work together to achieve their individual goals (Blumberg, 1967; Eisenstein & Jacob, 1977; Nardulli, 1978).

Plea bargaining allows judges to "avoid the time consuming, expensive, unpredictable snares and pitfalls of an adversary trial" (Blumberg, 1967, p. 65). Trials require extra work for justices who have to familiarize themselves with prior legal reasoning in order to make educated decisions about motions submitted by defense and prosecuting attorneys. Judicial determinations also raise the possibility that appellate courts may at a later date disagree with the justices' reasoning and overturn their rulings: at best, a matter of embarrassment; at worst, expensive retrials and potential loss of their seats on the bench as dissatisfied electorates choose more efficient judges.

Judges are, to a certain extent, administrators. They must be able to handle excessive caseloads and shoulder their fair share of the judicial burden. Justices who are unable to guide satisfactory plea bargains will most likely be reproached by their brethren who have to pick up the courtroom slack.

Plea bargains also allow judges to "engage in a social-psychological fantasy" wherein the defendant has already admitted his guilt and stands before the judge as "an already repentant" individual (Blumberg, 1967, p. 65). Judges who value remorseful defendants may inflate the worth of this part of the plea bargaining ceremony, thus allowing themselves to feel better about leniently sentencing defendants who plead guilty.

Prosecutors also find plea bargaining advantageous. The government attorneys are evaluated on their ability to obtain convictions and plea bargaining allows them to improve their "batting average" and avoid trials which, in addition to con-

suming great amounts of time and requiring much work, can result in acquittals (Blumberg, 1967, p. 179). District attorneys who repeatedly lose cases might find their jobs in jeopardy. The public may be disturbed by the funds expended on the cases as well as the release of defendants who they view suspiciously. Individuals who are exonerated at trials may further damage the image of prosecutors, who may be viewed as picking on innocent citizens. In a system that places more value on convictions than actual sentences, prosecutors can easily view plea bargaining as a way to increase their conviction rates while avoiding potential problems (Kunkle, 1989).

Many private defense attorneys maximize their efficiency and profit through careful use of plea bargaining since it requires less time and effort than a full trial (Knowles & Prewitt, 1969; Moran & Cooper, 1983, p. 75). Clients are often unaware of the "worth of a case" and hire counsel in the belief that they will get them the best deal. Many attorneys, in fact, specialize in bargains and are hired for this expertise rather than any courtroom skill (Moran & Cooper, 1983, p. 75).[3]

Private attorneys who acquiesce to the goal of the courtroom work group may be granted favors by prosecutors and judges, while those who take up court time and demand trials may be penalized. Preferential scheduling of their cases allows attorneys to maximize the use of their time and accept more clients. The granting of continuances helps attorneys collect fees from defendants who will not pay once the case is decided (Blumberg, 1967, p. 114). Scheduling of cases before a "favorable" judge can improve attorneys' reputations and fatten their fees (Blumberg, 1967, p. 105).

Prosecutors also may favor compliant counsel. For one, they may lower charges against certain defendants who are particularly important to the business of helpful attorneys. Recalcitrant counsel, on the other hand, may find that they are granted no favors. Quite the contrary, judges may vent their feelings toward such attorneys with longer sentences for their clients. This system of incentives and disincentives "coaxes" defense attorneys into cooperation.

Public defenders are not immune from the courtroom work groups' pressures to utilize plea bargains to speed cases

along. The publicly appointed attorneys have sizable caseloads in urban centers and in order to manage their work must carefully select only a few cases for trial. The counsel are part of the system. They daily talk and socialize with other members of the courtroom scene including prosecutors and judges. The defendants are outsiders whose presence in the court will last only minutes. It should not be surprising that the attorneys serve the system's rather than their clients' needs (Blumberg, 1967, pp. 114–115).

Outside Influences on the Courtroom Workgroup

The court work group's goal of expeditiously disposing of cases is affected by "outside" groups. The media may expose the darker side of plea bargaining to the public. For some of the audience, the decreased penalties afforded defendants who bargain is enough reason to terminate the courtroom ritual. At the other end of the spectrum, there are those who detest the trampling of individual rights in favor of bureaucratic efficiency.

Appellate decisions also play some role in lower court behavior. If the work group were to simply sanction defendants for refusing to cooperate with internal norms, due process would suffer. This would certainly attract attention and restrictive action by the appellate courts and professional groups (for example, bar associations) that monitor qualitative aspects of the work group's procedures (Nardulli, 1978, p. 76). Besides, judges do not like to have cases overturned due to errors they made while the cases were in their courts. It is a public announcement of their mistakes; mistakes that may have released criminals back into society.

The state legislature also influences the work group through its ability to pass criminal laws, set minimum sentences, and enact legislation that controls the functioning of the court itself. The best illustration of such activities is Alaska's legislative ban on plea bargaining in criminal courts. But, other laws often indirectly affect the plea bargaining process. Mandated jail terms for convictions for certain offenses

removes the possibility of bargaining with respect to punishment for these offenses. Rather, the negotiations between the courtroom group center on the charges to which defendants will eventually plead guilty. For example, defendants may be allowed to plead guilty to reckless driving rather than be charged with drunk driving, which often carries mandated penalties.

Local political parties, civic reform groups, and quasi-governmental watchdog agencies act as additional monitors on the operations of the court work group (Nardulli, 1978, pp. 75–76). Inadequate attention to conviction rates, statistics regarding case dispositions, or severity of sentences may likely result in media exposes and recall elections. If murderers, rapists, and robbers received ridiculously low sentences in order to persuade them to plead guilty, the public would certainly be outraged. Therefore, the courtroom work group cannot dispose of its cases by simply lowering the price of crime until defendants accept the sentencing offer. Public outrage would also result if those convicted of minor offenses after jury trials were sentenced too harshly for resisting the work group's norms. It is for this reason, that while the decision to exercise one's right to trial must involve some cost to ensure cooperation, that cost cannot be too high (Nardulli, 1978, pp. 74–76).

Organizational theory indicates that to study sentencing adequately, researchers must consider the identity and strength of the work groups involved in disposing of the cases under study. Sentencing decisions, although they rest with judges, are controlled by concerns of the three members of the courtroom elite. Other characteristics of the defendants may have little effect on sentencing once one controls for the severity of the offense and the identity of the work group.

Organizational theory, however, does not fully explain sentencing in judicially dominated situations. Assigning judges a half-hearted role in sentencing downplays their importance in circumstances where other members of the courtroom work group are not present or play minimal roles. While plea bargaining is often controlled by prosecutors and defense attorneys, sentencing in municipal courts may be minimally

affected by factors posited as important by organizational theorists. Offenders in misdemeanor criminal cases, for example, are seldom represented by counsel and plea bargaining may not be important in minor offenses (Mileski, 1971). Prosecutors also are sometimes absent from traffic courts (Brickey & Miller, 1975).

Low visibility of municipal tribunals is related to the "highly discretionary brand of justice" found in the lower courts (Bartollas et al., 1983, p. 131). Judges may view due process rules as obstacles and only follow them when an appeal is possible (Mileski, 1971, p. 486). Record keeping at the municipal court level, however, is often irregular and inadequate (Ashman, 1975, p. 31). Transcripts are seldom made due to the absence of court reporters. Even simple records regarding which defendants appeared in court and the outcomes of the hearings are often not kept. As a result, lower court decisions are seldom appealed, and the routines established in them may continue undisturbed (Mileski, 1971, p. 518). Lacking other work group members or outside influences, the judges are free to determine penalties.

Variety of Sanctions Available

Misdemeanor courts may "experiment with a wide variety of sanctions" since they hear less serious cases (Ragona & Ryan, 1983, p. 199). The punishments employed by the misdemeanor courts include many of those found in the higher criminal courts: fines, probation, and incarceration. The misdemeanor courts, however, also routinely sentence offenders to community service, placement in rehabilitation-oriented institutions such as alcohol or drug treatment centers, required attendance in education programs, mandatory counseling, and restitution.

The felony courts do not share the lower tribunal's ability to utilize a broad assortment of sanctions with great discretion. Sentencing in federal and many state courts, for example, is now accomplished through utilization of strict sentencing guidelines, where each legal factor in a case (for example, type

of offense, harm to victim, monetary damage, offender's role in the crime, number and type of priors) contributes to a narrowly defined sentence.

Fines are the most common sanction utilized by the lower criminal courts. More than 40 percent of sentenced offenders receive only a fine as punishment and an equal amount are sentenced to a fine plus probation or jail (Ryan, 1980–81; Ragona & Ryan, 1983; Feeley, 1979; Lindquist, 1988, p. 26; President's Commission Task Force Report on the Courts, 1967, p. 18). It is this phenomenon that lead one expert (Mileski, 1971, p. 501) to note that "offenders must pay in dollars more often than in days in all offense categories."

Jail sentences are rarely imposed in cases at the misdemeanor level, but there are considerable variations from court to court. Studies of the subject indicate that the percentage of convicted offenders sent to jail range from less than 5 percent of misdemeanants in one lower court (Feeley, 1979, p. 137) to a high of 35 percent in another district (Ryan, 1980–81, see also Mileski, 1971). Judges, in general, feel few criminals should go to jail and cite several reasons for their belief: costs to society, loss of defendants' freedom, possible rape and/or injury of defendants while in jail, and loss of taxes on defendants' income (Wice, 1985, p. 150).

Imposition of jail sentences may also be affected by external limitations. Increased criminalization of behaviors have combined with harsher penalties to overfill our jails. Taxpayers, however, have been somewhat reluctant to approve the funds to build new facilities. Moreover, they have ferociously fought attempts to place county jails in their neighborhoods. The few new jails that have been built have done little to alleviate the cramped conditions. An increasing number of jurisdictions have been ordered by higher courts to lessen their jail populations. Shorter terms result because prisoners in these counties must be released to make room for incoming captives.

Judges are aware of the burgeoning jail overcrowding and divert some offenders to less restrictive punishments. Municipal court judges have recently adopted community service as a sanction. Although utilized somewhat in colonial Boston

(sentencing drunkards to chop wood) and in the South (chain gangs building highways), modern community service began in Alameda County, California, during the mid-1960s (Klein, 1988, p. 175). County judges did not want to sentence female traffic offenders to jail and opted to place them in community agencies as volunteers.

A decision (*Tate v. Short*) handed down by the U.S. Supreme Court in 1971 prohibiting the incarceration of indigent offenders for an inability to pay fines fueled the use of community service. The benefits are many: the community profits from the labor of the offender, who may learn basic work skills or discipline, and jail overcrowding is not increased (Klein, 1988, pp. 173, 174, 178).

By 1976, over 4,500 offenders had been placed by the Alameda County court system (Klein, 1988, p. 175). Use of community service sentences then spread to other regions of the nation and elsewhere. Officials from New York, for example, visited Great Britain in 1976, observed the British community service program, and decided to implement their own program (Klein, 1988, p. 176).

Community service sentences are used by the courts in place of fines or jail for nonserious offenses (for example, shoplifting and disorderly conduct) and can involve a variety of tasks. Community service placement sites are usually with nonprofit or governmental agencies. Typical community service sites in one California county included youth and charitable organizations, homes for the elderly or handicapped individuals, recycling centers, schools, parks, and libraries; typical tasks involved "maintenance, clerical work, or assisting others" (Meeker et al., 1992, p. 200). One expert noted:

> Community service is viewed by some as a panacea: Unlike the more traditional probation conditions which are based on the offender refraining from doing something negative such as committing a new crime, community work service orders require the offender to do something positive. They are easily measurable and enforced. The sanction is almost excuse proof, as indigence is not a bar to its completion. In fact, unemployed

> offenders have more time to complete work service hours. . . . Further, there is consistently enthusiastic public support for such sentences. Not only does the public understand that the offender is being required to make up for the crime, it actually sees the results in terms of repainted fire hydrants, cleaned beaches, dusted library books, and so on. (Klein, 1988, p. 187)

Estimates indicate, for example, that community service workers provide the California transit authority in Los Angeles and Ventura counties free labor worth more than $30 million each year (Webber & Nikos, 1992).

In some jurisdictions, an argument has developed between the courts and service agencies. Many local government agencies desire the large revenues the lower courts generate through the collection of fines (Ashman, 1975, p. 16; Lindquist, 1988, p. 24; President's Commission Task Force Report on the Courts, 1967, p. 35). Since the imposition of community service sentences decreases monetary penalties, arguments have developed between agencies and government over their use. In California's San Fernando Valley, for example, the application of community service penalties has recently decreased, probably to help meet budgetary problems faced by the courts (Stevenson, 1993). Only truly indigent offenders now qualify for the alternative punishment in lieu of fines, leading to heavy financial penalties for many offenders who would have been given the option of community service. The government and nonprofit agencies where offenders had completed their sentences have felt the crunch due to this new policy. These agencies are less able to perform their duties effectively as fewer and fewer offenders are available to help.

The situation in the San Fernando Valley demonstrates that sentences in municipal courts are open to influence from other than legal variables. Budget problems, jail overcrowding, or local sentencing preferences may all influence how sentences are imposed. These external limitations may vary from county to county and, therefore, affect sentencing in distinct ways based on local conditions. They establish an accepted range of sanctions in which judges are free to deter-

mine sentences. Variation among the judges within this range is based on individual differences, such as judicial punishment philosophy.

Community service sentences are open to judicial bias since they are discretionary. They were meant to be biased in some group's favor. Judges in Alameda County, for example, sentenced some female traffic offenders to community service, but males, who committed similar offenses, did jail time. To this point, one study (Meeker, Jesilow, & Aranda, 1992) found that Hispanics and males were more likely to be sentenced to pick up trash along freeways as their community service placements, while whites and women were sent to more pleasant surroundings, such as libraries, hospitals, and parks.

Conclusions

It is likely that sentences are based on a wide array of factors; some are legal characteristics such as the severity of the crimes or offenders' prior criminal records; some are extralegal characteristics of the defendants (ethnicity or gender, for example); others may be matters connected to individual judges (for example, their philosophies of punishment).

The concern of many in our society is that individual philosophies and biases of judges will lead them to punish some offenders more severely than others who commit similar crimes. Judges, for example, occasionally dismiss minor offenses committed by college students so they avoid the stigmas of convictions (Feeley, 1979, p. 23). Inequities resulting from judicial bias can undermine public trust in the criminal justice system; in particular, minorities might perceive the courts as part of an oppressive structure. Such fears have led many to look for evidence of judicial favoritism. The next chapter reviews the literature with respect to bias in judicial sentencing, paying particular attention to the methodological difficulties of such research.