

PRIOR OFFENSE RECORD AS A SELF-FULFILLING PROPHECY

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Explorations of differential justice suggest that apparent relationships between class, race, and legal treatment may be explained by the more extensive conviction histories found among lower class and minority populations. But these findings have emerged without adequate exploration of the antecedents of a defendant's criminal record. This article examines the determinants of accumulated criminal histories, viewing the conviction awarded a defendant as the first stage in the construction of a prior offense record. Path analytic techniques were applied to data drawn from a sample of persons arrested for murder in order to examine the nature of relationships among the demographic characteristics of defendants, their prior offense records, access to legal resources, and ultimate dispositions. Patterns evident from the analysis suggest that the operation of the criminal record in the legal system constitutes a continual cycle in the confirmation of criminality. Prior record, itself partly a product of discretionary treatment, becomes a salient factor in the accumulation of additional convictions not only through its direct effect but also through its influence on access to private counsel and bail, which in turn significantly affect outcome.

The use of official records of arrest and conviction as indices of criminality has long been a controversial issue in sociology. Many studies utilizing such documents have shown that lower class persons are overrepresented in criminal populations (Shaw, 1929; Shaw and McKay, 1931; Caldwell, 1931; Glueck and Glueck, 1934). Based on these findings, a theoretical tradition has developed that explains crime and delinquency in terms of the characteristics of lower class life (Merton, 1938; Shaw and McKay, 1942; Kobrin, 1951; Cohen, 1955; Miller, 1958; Cloward and Ohlin, 1960). Differentials in legitimate and illegitimate opportunities, institutional disorganization, the conflict of cultural values, and the predominance of norms conducive to criminal behavior have all been offered as explanations of official rates of criminality among the poor.

At the same time, however, it has been argued that law enforcement agencies exercise selective bias against lower class and minority populations (Robison, 1936; Warner and Lunt, 1941; Useem *et al.*, 1942; Sutherland, 1949; Stinchcombe, 1963; Goldman, 1963; Cameron, 1964; Chambliss and Liell, 1966; *UCLA Law Review*, 1966:686; Skolnick, 1966; Chevigny, 1969; Black, 1970). Saturated patrol of slums and lower class neighborhoods, detention of suspicious persons, and harassment of deviant and delinquent groups are illustrative. The self-fulfilling effects of these practices appear in the form of inflated ar-

rest rates and criminal records among the black and the poor (Robison, 1936:228; Swett, 1969:93). In this view, official statistics become indicators of official processing decisions rather than of actual criminality.

Evidence generated by self-report and victimization surveys lends support to this argument (Nye *et al.*, 1958; Akers, 1964; Empey and Erickson, 1966; Gold, 1966; Ennis, 1967; Blankenburg, 1976). These studies suggest that crime levels are several times greater than the officially recorded rates, and that there may in fact be no significant relationship between criminal behavior and socioeconomic status. Statistical differences in criminal involvement, therefore, may only reflect variations in the reporting of offenses and differential law enforcement practices.

In spite of the questionable validity of official data, explorations of differential justice continue to treat arrest and conviction records as indicators of prior criminality. Such studies conclude that apparent relationships between class, race, and legal treatment are explained by the more extensive criminal histories accumulated by lower class and minority groups, and not by overt discrimination (Green, 1961; 1964; D'Esposito, 1969; Willick *et al.*, 1975; Burke and Turk, 1975).

Such a conclusion overlooks the fact that the explanatory variable—criminal history—may itself be a product of differential justice. For “although a disproportionately large number of . . . lower [status] offenders have a prior . . . record, there is at least the possibility that the legal treatment initially given these offenders was influenced by their social status” (Farrell, 1971:57).

An understanding of prior record and its role in the legal process requires an exploration of the factors that lead to a determination of guilt. Unfortunately, research on differential legal treatment has focused almost exclusively on sentencing (for a review and discussion of the literature, see Swigert and Farrell, 1976:15-17; Greenberg, 1977). An exception, however, is the work of Chiricos, Jackson, and Waldo (1972), who have studied adjudication itself, thereby making the construction of what will become a “prior record” a dependent variable. Their analysis indicates that where judges have the option of not entering a felony conviction on a defendant's record, persons who have a prior record, as well as those who are older, black, poorly educated, and defended by appointed counsel, are more likely to be denied this privilege. Thus, in addition to the social

characteristics of defendants, prior contact with the law itself affected subsequent elaboration of a criminal record.

These findings have important implications. Since present adjudications influenced by status criteria, become part of criminal histories, it may be inferred that prior record is itself a product of the differential dispensation of justice. It would appear, furthermore, that the official designation of individuals as career offenders may influence subsequent decisions of law enforcement agents. Once criminality becomes the dominant prophecy, a sequence of events may be set into motion that serves to preclude outcomes inconsistent with the original presumption of guilt. Guided by the theoretical tradition of W. I. Thomas (1923) and Robert K. Merton (1957:421-36), we would suggest that prior offense records, as public definitions (prophecies or predictions), become an integral part of the situation and affect subsequent developments, regardless of the factual basis upon which these definitions are built.

The focus of the present work is an examination of the antecedents of criminal adjudication. Using the convictions of defendants as the dependent variable, an effort will be made to specify the process by which prior records are constructed.

I. THE SAMPLE

The data utilized for this research were part of a larger study of the differential legal treatment of homicide defendants. Cases were drawn from the files of a diagnostic and evaluation clinic attached to the court, and from the indictment records maintained by the Office of the Clerk of Courts in a large urban jurisdiction in the northeastern United States. Four hundred and forty-four defendants were selected for analysis, a 50 percent random sample of all persons arrested on general charges of murder from 1955 through 1973.

As an offense type, criminal homicide provides a valuable opportunity for the study of legal treatment. Homicide defendants are more representative of persons who commit homicide than are defendants accused of any other crime of persons who commit that crime. The visibility of the offense and the high clearance rate of deaths due to homicide suggest that individuals charged with murder exemplify persons who actually commit murder; other offenses display a much greater disparity between crimes known to the police and arrests recorded.¹

1. Of all homicides known to the police, 82 percent are eventually cleared by arrest. Clearance rates for other crimes are much lower: forcible rapes—57 percent, aggravated assaults—66 percent, robbery—30 percent, bur-

The seriousness of the offense is also controlled by the use of a single offense type. This is particularly true in the jurisdiction in which this study was conducted, where defendants are arrested on general charges of murder and indicted for both murder and voluntary manslaughter. The degree of the offense, along with guilt or innocence, is determined at the trial.

The court clinic from which the records were obtained is charged with the evaluation of all persons arrested for homicide. Within 72 hours of the alleged offense extensive psychiatric and social histories are compiled for each defendant. If the accused is subsequently adjudged insane, proceedings are initiated for his commitment to a mental hospital. Otherwise, the clinic report is summarized and forwarded to the presiding judge for use in presentence investigation. If the defendant is found not guilty, or if the case is dismissed, the sealed evaluation is returned to the clinic unopened.

The clinic files included information from a number of diverse sources. FBI and police reports; military, occupational, and educational records; medical histories; social service investigations; and psychiatric evaluations were available for all defendants.

Information regarding the legal aspects of the case was obtained from the Office of the Clerk of Courts, and included the type of legal representation, results of bail hearings, plea, and conviction.²

II. METHODS

Previous research concerning the effects of prior record on legal treatment has traditionally noted the presence or absence of a criminal record (Farrell, 1971; Burke and Turk, 1975) or the number of crimes of which the defendant was found guilty (Bullock, 1961; Green, 1964; Chiricos *et al.*, 1972). Given the reported significance of the variable, a more sensitive index seemed desirable. In the present study it has been operationalized as the sum of the maximum penalties prescribed for each prior conviction. The selection of this measure was guided by a number of considerations. The legislatively determined maximum sentence constitutes the most objective determination of the severity of an offense. Robbery is more serious than book-

glary—19 percent, larceny—20 percent, auto theft—17 percent (see Quinney, 1975:19).

2. The characteristics of the sample and the circumstances of the offense did not differ significantly from those reported by earlier studies, cf. Wolfgang (1958); Bensing and Schroeder (1960); Porkorny (1965); Voss and Hepburn (1968).

making because the State authorizes a maximum penalty of 20 years for the former and 5 years for the latter. Records of previous arrests or time actually served introduce subjective considerations. Arrest records are affected by administrative practices such as stacking (the filing of multiple charges in preparation for bargained settlements). Sentence actually served, on the other hand, is a product of the bargaining skills of defense, the capacity of the system to absorb new prisoners, and the presentence evaluation of the defendant's characteristics and circumstances. To be sure, conviction is also a product of the nature of the original arrest and agreements between prosecution and defense. Yet in all succeeding adjudications, the official determination of guilt of a particular offense stands as a decontextualized indicator of prior criminality. The seriousness of a record measured in this fashion describes the crime itself, as legislatively quantified, and not the special circumstances affecting time served. The second degree murderer who serves 5 years and the one who serves 10 years are equally guilty of an offense carrying the maximum penalty of 20 years. We maintain that the records of both are equally serious from the point of view of legal officials.³

The severity of a prior record was measured by summing the maximum penalties for each conviction. A defendant with an earlier conviction for robbery (maximum penalty 20 years) and one for bookmaking (maximum penalty 5 years) would receive a score of 25. Penalties ranged from 0 to 20 years; no defendant had a prior conviction for first degree murder. Sentences of less than a year were given fractional scores.⁴

In the first stage of the analysis we assessed the impact of the prior offense record and social characteristics of defendants, including age, sex, race, and occupational prestige,⁵ upon

3. Evidence that this is actually the court's logic can be found in the fact that the record of relevant *convictions* is utilized by this jurisdiction during bail hearings to determine eligibility and amount.
4. Defendant scores ranged from 0 to 219.25, with a mean of 17.12 and a standard deviation of 31.675.
5. The distribution of the social characteristics of defendants is presented below. Occupational prestige was measured in terms of Treiman's (1977) classification system.

RACE AND SEX OF DEFENDANTS

Race	Sex					
	Male		Female		Total	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
White	134	30.5	26	5.9	160	36.4
Black	215	49.0	64	14.6	279	63.6
Total	349	79.5	90	20.5	439	100.0

conviction severity. Since defendants were sometimes found guilty of charges other than the two degrees of murder and two degrees of manslaughter, the disposition was scaled as first degree murder, first degree felony (including second degree murder), second degree felony (including voluntary manslaughter), first degree misdemeanor (including involuntary manslaughter), acquittal, and dismissal (including *nolle prosequi* and demurrer sustained).⁶

The second stage of the analysis sought to specify the influence of criminal record within the legal process. Here, we tried to determine the role of private attorney, bail, and trial by jury in mediating the effects of prior convictions upon disposition.

The highly structured nature of the judicial system lends itself to a systematic analysis of legal processing. The discrete ordering of events—the social characteristics of the defendants prior to their entry into the system, their accumulated criminal histories, the type of legal representation, pretrial release, the mode of adjudication, and final disposition—constitutes a series of stages that allows the researcher to assert the causal sequence of relationships. The path analytic technique is particularly suited to such an exploration. Having established causal priority among a system of variables, paths of direct as

AGE AND OCCUPATIONAL PRESTIGE OF DEFENDANTS

	<u>Range</u>	<u>Mean</u>	<u>Standard Deviation</u>
Age	13-81	35.73	14.796
Occupational Prestige	5-71	25.34	11.606

6. Although disposition is ordinally scaled, multiple techniques appear to be robust enough to handle the violation of the method's interval assumption, see Bohrnstedt and Carter (1971:118-46). The distribution of cases across the dependent variable is depicted below:

DISPOSITION

	<u>n</u>	<u>%</u>
Dismissed	38	8.96
Acquitted	67	15.80
First degree misdemeanor	40	9.44
Second degree felony	126	29.72
First degree felony	110	25.94
First degree murder	43	10.14
Total	424	100

well as indirect influence may be assessed. Based on multiple regression techniques, path coefficients represent the relative contributions of the several independent variables to predicting the dependent variable (Lin, 1976:315). Where a coefficient failed to reach 0.100 the variable was dropped from the equation and all coefficients were recalculated.

In addition to standardized path coefficients, the multiple correlation coefficient (R^2) is also presented. This statistic indicates the total portion of the dependent variable explained by the combined effects of all independent variables.

III. FINDINGS

The path model presented in Figure 1 depicts the relationships among the social characteristics of defendants, the severity of their prior convictions, and the final dispositions.

Age and sex are antecedents of a defendant's prior record. Males and older defendants are more likely to have severe conviction histories. These relationships are presumably the result of the greater opportunity that older persons have had to accumulate conviction histories and of the more frequent application of criminal labels to men. Whether the latter reflects more criminal activity (cf. Adler, 1975) or the unwillingness of legal authorities to recognize female criminality (cf. Harris, 1977a) requires further investigation. We have argued elsewhere (Swigert and Farrell, 1977a) that the overrepresentation of males in

TABLE
CORRELATION COEFFICIENTS AMONG ALL VARIABLES
INCLUDED IN THE ANALYSIS

Variables	2	3	4	5	6	7	8	9	10	11
1. Age (L-H)*	-.056	.006	.077	.221	-.050	-.064	-.046	.209	-.057	-.052
2. Sex (F-M)*	—	.080	.057	.151	.034	-.065	.093	.155	.024	.167
3. Race (B-W)*	—	—	.352	-.081	.057	.042	.034	.160	-.063	-.032
4. Occupational Prestige (L-H)	—	—	—	-.131	.316	.153	.104	-.302	.306	-.237
5. Prior Conviction Severity (L-H)	—	—	—	—	-.162	-.161	-.010	.738	-.155	.215
6. Private Attorney (No-Yes)	—	—	—	—	—	.230	.016	-.199	.607	-.165
7. Bail (No-Yes)	—	—	—	—	—	—	.108	-.212	.681	-.293
8. Jury Trial (No-Yes)	—	—	—	—	—	—	—	-.030	.549	-.171
9. Occupational Prestige and Prior Conviction Severity (P-N)*	—	—	—	—	—	—	—	—	-.201	.267
10. Legal Resources (L-H)	—	—	—	—	—	—	—	—	—	-.306
11. Final Disposition (L-H)	—	—	—	—	—	—	—	—	—	—

*(L-H) = low to high
(F-M) = female-male
(B-W) = black-white
(P-N) = positive to negative

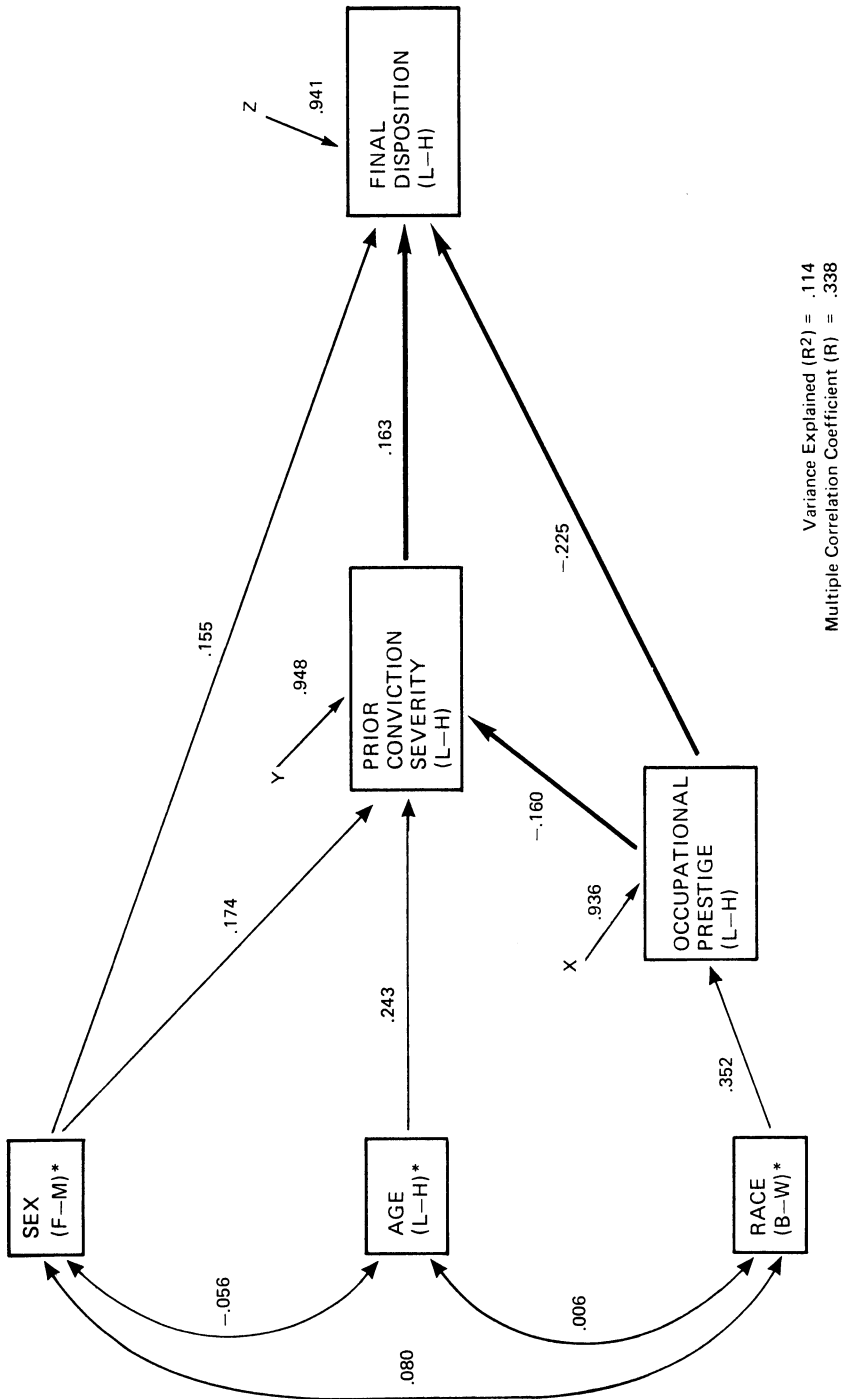


Figure 1. Final Disposition By Defendant Characteristics and Prior Conviction Severity

offender populations may be a function of the applicability of a criminal imagery to this group (see also Harris, 1977). The relationship between sex and disposition lends support to this argument: even when males and females are charged with the same offense, males are more likely to be convicted of more serious charges. In this way the imagery of the violent male is reinforced by statistics concerning violent criminality, statistics that reflect the failure of officials to perceive and label females involved in violent crimes.

Occupational prestige also influences the development of a prior offense record. There are two competing explanations of this relationship: lower status persons may actually have committed more crime, or their more extensive records may indicate differential treatment in the past. In order to choose between these explanations, it is sufficient to observe that in the present adjudication defendants of lower status still receive more severe sanctions when we control for prior record. Given this finding, it is reasonable to assume that occupational prestige may also have affected previous dispositions. Since today's conviction decision is tomorrow's record, a relationship between social status and prior offense record must be expected.

Race was found to have no independent effect on either prior record or disposition. Rather, race operates in the legal process through its association with occupational prestige. Blacks tend to have lower status and thus to have acquired more extensive records and to receive severe dispositions.

Of particular interest is the effect of prior convictions on further elaboration of a criminal record. If a defendant comes to court with a history of criminality, the probability of exacerbating that history increases. On the other hand, if the defendant's record is minimal he is likely to be spared the more severe dispositions. Given this pattern, it is possible to envision that the present adjudication is likely to have a similar effect on future contacts with the law.

It is important to point out that an accused person must be judged by evidence of the crime with which he is charged; prior offenses are supposed to be irrelevant, and admissible only for the purpose of impeaching the credibility of a defendant who testifies in his own behalf. The path from prior record to disposition, though it may reflect that limited admissibility, therefore deserves further investigation.

In order to specify the effects of criminal record on disposition, it was necessary to examine several intervening events: the type of counsel retained, whether the defendant was re-

leased on bail, and the mode of adjudication.⁷ The influence of each of these variables on disposition has received abundant empirical support. The differential resources available to private and public attorneys for investigation of the case have been shown to affect the outcome of legal proceedings (Ehrmann, 1962; Chiricos *et al.*, 1972). Similarly, studies have shown that, among defendants charged with similar offenses, those jailed before trial are more often convicted than those released on bail or on their own recognizance (Foote, 1959:47; *Louisiana Law Review*, 1961; Ares *et al.*, 1963:83; cf. Clarke and Koch, 1976:83). Finally, the defendant has a right to trial by jury, but may also choose to be tried by a judge or to plead guilty. In fact, more than 90 percent of all convictions involve the negotiation of a guilty plea between defense and prosecution (Newman, 1956; Blumberg, 1967; Alschuler, 1968). This may defeat the ends of justice, for not only are the guilty neither prosecuted nor sanctioned for the offense originally charged, but the innocent are often encouraged to enter a plea of guilt and accept a certain but slight penalty rather than run the risk of a more serious conviction (Rosett, 1967).

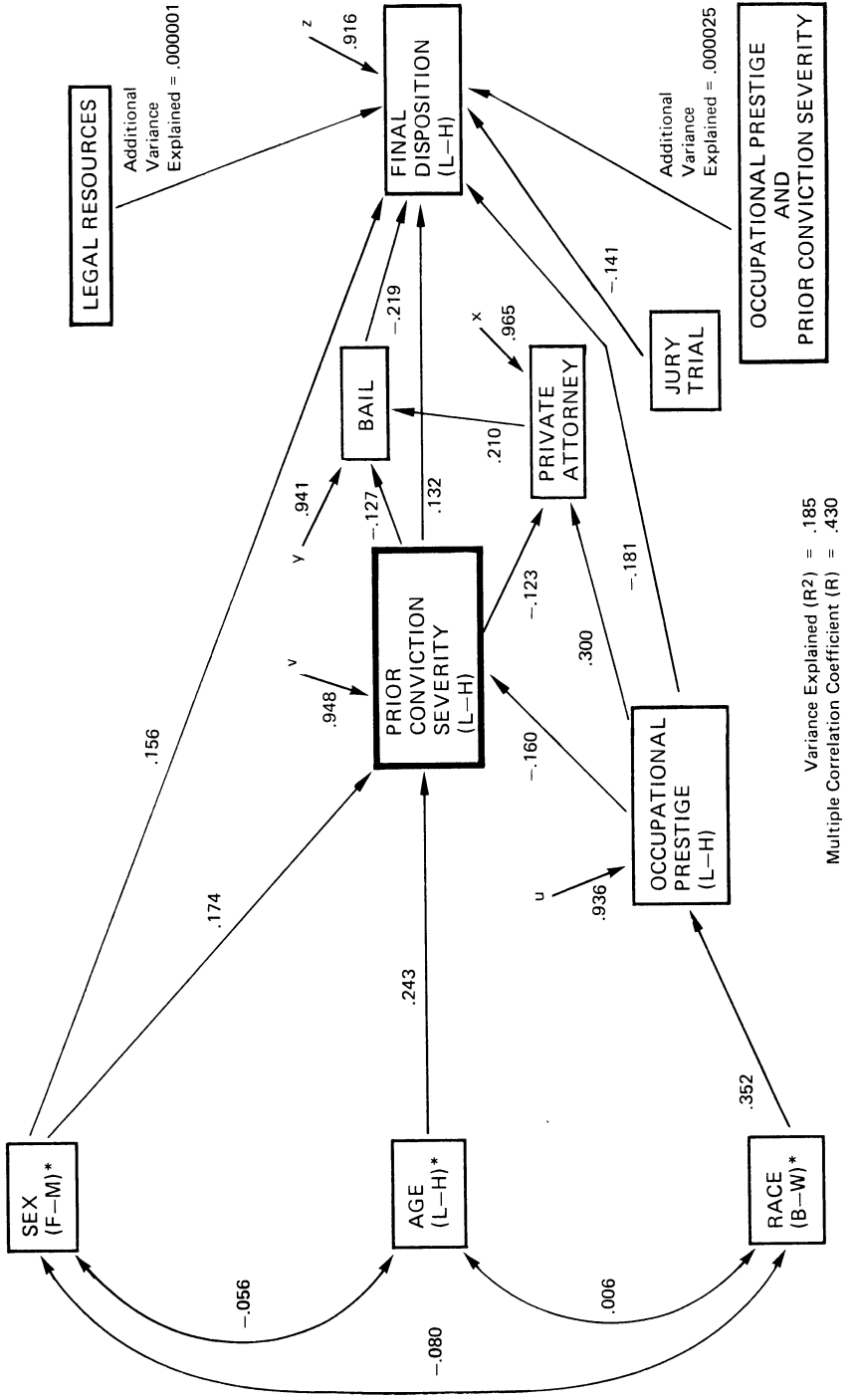
In an effort to determine the interrelationships among prior record, the several legal variables, and disposition, a second path model was generated. As shown in Figure 2, prior record is an important determinant of the ability to retain private counsel and to secure pretrial release, but not of the mode of adjudication.

7. Type of attorney is a two-category variable: privately retained and state subsidized. The latter category includes court appointed private attorneys who are compensated by the state at a fixed rate per case, and salaried public defenders.

Persons without pretrial release may remain incarcerated either because bail was denied or because it was set at a prohibitive level.

Mode of adjudication was dichotomized into jury and no jury trial. In most cases, the absence of a jury trial was the product of the defendant's plea to the original or reduced charges. In a few, it represented a decision to be tried by a judge. The distribution of cases across each of these variables is as follows:

INTERVENING EVENTS						
	Private Attorney		Bail		Trial by Jury	
	<i>n</i>	%	<i>n</i>	%	<i>n</i>	%
Yes	192	48.7	125	33.0	147	39.8
No	202	51.3	254	67.0	222	60.2
Total	394	100	379	100	369	100



* (F-M) = female-male
 (L-H) = low to high
 (B-W) = black-white

Figure 2. Final Disposition by Defendant Social Characteristics, Prior Record, and Intervening Events

The influence of prior record on access to a private attorney is independent of the defendant's occupational status and may be a product of the presumption of guilt implied by a criminal history. Private attorneys, sensitive to the importance of prior record in arriving at negotiated settlements and fearful of loss of payment when incarceration appears to be the inevitable outcome, may refuse to accept defendants whose earlier experiences with the law are seen as predictive of career criminality. But occupational prestige also exerts a strong independent influence on access to private counsel. It becomes apparent, then, that the failure of lower class persons to retain private counsel is a product of their financial inability to purchase such services as well as of the more extensive criminal histories found in this group.

A defendant with a record of serious convictions is also more likely to be detained before trial. Such a pattern may likewise be a consequence of the presumption of guilt created by a criminal record. The belief that individuals previously convicted on violating the law are more likely to be guilty of the present offense is institutionalized in the standards recommended for granting bail.⁸ Access to bail is also influenced by the type of legal representation: private attorneys are more successful in securing pretrial release.

An assessment of the effects of bail on disposition reveals that pretrial release directly results in greater leniency. The effects of type of attorney on disposition, on the other hand, are not direct but mediated by the ability of private counsel to secure pretrial release for their clients. Persons with private attorneys are more often awarded bail, a resource which in turn produces the more favorable dispositions.

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8. In the jurisdiction studied, because the degree of the offense is determined at the time of the trial, homicide defendants are eligible for pretrial release. The purpose of bail is to ensure the presence of the defendant at subsequent proceedings. The official standards include:
- i. the nature of the offense charged and any mitigating or aggravating factor that may bear upon the likelihood of conviction and possible penalty;
 - ii. the defendant's employment status and history and his financial condition;
 - iii. the nature of his family relationships;
 - iv. his age, character, reputation, mental condition, *record of relevant convictions*, and whether addicted to alcohol or drugs; and
 - v. any other facts relevant to whether the defendant has strong ties with the community or is likely to flee the jurisdiction.

[Criminal Code Manual issued by the state in which this study was conducted; italics added]

There are no significant relationships between the social characteristics of defendants, prior conviction severity, access to a private attorney, and bail, on the one hand, and the mode of adjudication selected by the defendant, on the other.⁹ Persons who waive their right to a jury *are* found guilty of more serious charges. But it must be remembered that most defendants who waive a jury trial plead guilty to the original or a reduced charge. Since a plea of guilty is virtually synonymous with an adjudication of guilt, the path coefficient between this variable and conviction severity would necessarily link more serious convictions to nonjury trials.¹⁰

On the basis of these findings, it is possible to assert the nature of the relationships that exist among prior offense record, intervening legal variables, and adjudication severity. Defendants with histories of repeated criminality have less access to a private attorney or bail. This latter relationship is not only a product of the immediate influence of criminal record, but is also an indirect result of the inability of defendants represented by publicly paid counsel to obtain pretrial release. Finally, persons who are incarcerated pending adjudication are convicted of more serious charges.

It should be emphasized that though part of the impact of criminal history on disposition is mediated, a significant direct effect remains evident. Explanations of this relationship must remain speculative, given the limitations of the data. It may be suggested, however, that though the law requires a determination of guilt without reference to a defendant's background, such information actually influences the legal process at a number of stages. Prosecutors, defense attorneys, and judges do have access to the prior record. The vehemence with which defense counsel will press for acquittal and the prosecutor for conviction, or the weight a judge accords to evidence in a bench trial, may in fact be influenced by their familiarity with the defendant's criminal history. It is an issue certainly deserving of empirical attention.

The remainder of the analysis involves an assessment of the interactive effects of several variables on disposition. A significant interaction was anticipated between occupational pres-

9. Elsewhere we have shown that the extent to which the defendant resembles criminal stereotypes affects the availability of a jury trial (Swigert and Farrell, 1976, 1977a).

10. An analysis of the effects of mode of adjudication on sentence severity, not reported here, shows that persons who are found guilty following a jury trial are penalized more severely. This supports the contention that defendants who make greater demands on the scarce resources of the legal system are treated more harshly (Tiffany *et al.*, 1975).

tige and prior record—that dispositions for persons from the lowest occupational levels would be most affected by extensive criminal histories. For while the imagery of guilt created by prior criminal involvement might lead to a less favorable disposition, both directly and through the mediating variables, persons of higher status might be able to compensate for these disadvantages. Likewise, we thought that the combined influence of private attorney, bail, and jury trial upon disposition might exceed the sum of the effects of each. In both cases, however, the additional variance explained is insignificant. This would suggest that the effects of each variable are additive, which supports our original interpretation.

IV. CONCLUSION

In their study of the application of the felony label, Chiricos *et al.* (1972:569-70) have noted:

the privileged status of first offenders before the law is neither surprising nor uncommon. In fact, many statutes explicitly provide harsher penalties for repeat offenders. A reasonable—though not necessarily correct—interpretation of these findings would be that judges recognize the self-fulfilling character of the formal convict label and purposely withhold it from first offenders in the interests of possible “rehabilitation.”

But the pattern observed in this research has even more important implications. The use of a prior record as meaningful information in the disposition of a criminal case compounds the discretion of prior adjudications.

We have seen that lower status offenders are more likely to have accumulated long histories of criminal conviction. Similar observations have led researchers to conclude that the relationship of class to differential criminal justice is explained by the greater involvement of lower status persons in lives of crime. Thus it is argued that if Blacks and members of the lower classes are more severely sanctioned for their offenses, it is because of the judicial decision to penalize the repeat offender.

We have also seen, however, that each criminal conviction is itself influenced by class. Lower status defendants, independent of their prior criminal involvement, receive more severe dispositions. The relationship between social status and prior record is therefore not simply the result of a tendency toward criminality on the part of the lower classes, but is also a reflection of the influence of class on those previous convictions. Furthermore prior record, both independently and through the three mediating legal variables, was found to be associated with the severity of disposition. Since occupational

prestige affects severity of disposition directly and also indirectly, through its historical influence on prior record, the introduction of that record into the criminal process may amplify its class bias.

The influence of prior record within the legal system produces a cyclic reconfirmation of criminality. Prior record, itself partly a product of discretionary treatment, becomes a salient factor in the accumulation of additional convictions. This occurs not only through its direct effect on disposition but also through its influence on access to private counsel and bail, themselves important determinants of outcome.

Such findings are obviously significant for the criminal justice system. Prior record is presently an important source of information at a number of stages in the legal process. The use of previous convictions in habitual offender laws, in eligibility for suspension of sentence and probation, in the standards for granting of bail, and as evidence of a defendant's credibility, are an official sanction of discretionary treatment. More important, such practices constitute an institutionalization of prior record as a self-fulfilling prophecy. The lower classes, by virtue of social and economic disadvantages, more often accumulate more serious convictions. These convictions, in their turn, serve to justify differential treatment in any succeeding adjudication. The process is continuous and serves to fulfill the original prediction that the lower classes are dangerous classes, prone to lives of criminality.

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