

# RACIAL BIAS IN THE DECISION TO GRANT PAROLE\*

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Research concerning racial discrimination within the criminal justice system has focused largely upon the police and the courts. There is reason to believe, however, that differential treatment may be more common in less visible proceedings. This research addresses that possibility through an examination of the cases of 243 prisoners who appeared before a parole board from October 1, 1970, through September 30, 1971. There is no evidence of direct racial discrimination. There is evidence, however, that the board differentiated between black and white prisoners in selecting and weighting information when deciding parole. Compared to white prisoners, black prisoners had an additional criterion to meet in order to be paroled—participation in institutional treatment programs. The imposition of this additional criterion indirectly resulted in racial inequities. Black parolees who were treatment participants served a significantly longer portion of their sentence than did white treatment participants. The few black prisoners who were paroled without participating in treatment served a shorter proportion of their sentence than other prisoners. These few black prisoners were older, more likely to be property offenders and had slightly more prior convictions than black treatment participants. These findings are interpreted as indicating a bias against racial militancy.

There is widespread belief that blacks and other minorities are victims of discrimination by agents of the criminal justice system. In recent years this belief has been incorporated into several theories concerning the relation between law and social structure (Chambliss and Seidman, 1971:473-75; Quinney, 1975:37-41; Turk, 1972:53-78). These theorists argue that minorities are victims of discrimination in legal processes because they are in conflict with dominant groups that have the capacity to use the law to protect and advance their own interests. Also, it is claimed that minorities are victimized because they lack the resources to protect themselves against the imposition of criminal labels, and because they are the objects of unfavorable stereotyping.

Research evidence bearing upon the question of racial discrimination, however, is inconclusive. Studies reporting differential treatment by the police (Piliavin and Briar, 1964; Ferdinand and Luchterhand, 1970; Thornberry, 1973) are contra-

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dicted by others which conclude that apparent racial differences are spurious, disappearing when relevant controls are introduced, e.g., preferences of complainants (Terry, 1967; Black 1970; Black and Reiss, 1970; Green, 1970). Similarly, a recent review of twenty studies of differentials in sentencing concluded: “. . . while there may be evidence of differential sentencing, knowledge of extralegal offender characteristics contributes relatively little to the prediction of judicial dispositions” (Hagan, 1974:379).

Virtually all of the research concerned with racial discrimination has focused on the police and the courts. But the discretion granted to police and judges may not result in arrest or sentence differentials because the visibility of enforcement and judicial proceedings may exert a constraint on tendencies to discriminate. As Green notes, “if [discrimination] . . . occurs, it is more apt to occur in the less public phases of the administration of justice than in the courtroom” (1964:358).

Decisions by parole boards are one of these less visible phases. Moreover, the grant of parole and the time at which it is granted are almost entirely a matter of administrative discretion. In most jurisdictions the board is free to parole prisoners at any time after the completion of some proportion of the maximum sentence, usually one-third, and in an increasing number of jurisdictions the parole board itself fixes the minimum time to be served (O’Leary, 1974:914).

In making decisions parole boards are provided with little guidance, commonly being directed by statute to base their decisions on grounds such as the probability of recidivism and the welfare of society. Despite the development of sophisticated instruments to predict the probability of recidivism (cf. Gottfredson, 1967), and evidence that these methods are superior to clinical assessments (Gottfredson, 1961), parole boards are reluctant to use them. Part of this reluctance to adopt actuarial techniques may be a lack of the resources, skill, or manpower to develop and keep them current. Equally important, however, is the belief of parole board members that each case is unique and must be decided on the basis of factors relevant to it alone (Hayner, 1958). But in practice the decision to grant or deny parole is commonly made with only the most cursory review of the prisoner’s file and a five or six minute interview (Clark and Rudenstine, 1974:48-52).

The discretion of parole boards is not commonly fettered by the constraints of due process that regulate operations of the police and courts. A recent survey of state parole board procedures revealed the following: (1) in twenty-nine jurisdictions

parole boards do not inform prisoners directly of their decisions; (2) in thirty jurisdictions prisoners are denied the right to counsel; (3) in thirty-four jurisdictions prisoners cannot present witnesses in their own behalf; and (4) in forty jurisdictions parole boards do not record the reasons for their decision (O'Leary and Nuffield, 1972). Nor is there any right to judicial review. In *Morrissey v. Brewer*, 408 U.S. 471 (1972), the United States Supreme Court established the right to basic due process guarantees in parole revocation hearings. Parole itself, however, is still viewed as a privilege, and therefore the decision to grant or deny it is "almost unreviewable" (Hier, 1973:435).

Whether or not this discretion granted parole boards results in differential treatment for black and white prisoners is not known. A recent investigation of the New York parole system uncovered some evidence suggestive of racial inequities, but the investigators were denied access to the statistical data necessary to make a truly informed judgment (Clark and Rudestine, 1974:xx). However, a study of the criteria employed during 1968 by a parole board in a midwestern state found no relationship between the race of prisoners and parole (Scott, 1974:220). Yet the issue of racial inequities in the dispositions of parole boards is more complex than the question addressed by this latter study. Black and white prisoners may be paroled in about the same proportions but evaluated according to different criteria. If and when this is the case, then there may be racial differentials in measures other than the percent paroled (e.g., time served prior to parole), which will not appear unless comparisons are made between homogeneous subsamples. These questions are explored in the present study.

### DATA AND METHODS

The data presented here were developed from information contained in the prisoner files of the Eastern Correctional Institution (ECI). This institution is located in an eastern industrial state and consists of three facilities—maximum security, medium security, and minimum security. Prisoners sentenced to ECI receive determinate sentences and are eligible for parole after completing one-third of their sentences (ten years for those serving life sentences) and annually thereafter.

The parole board consists of five part-time members appointed by the governor to staggered three-year terms. By statute the following four professions must be represented on the board: psychiatry, law, social work, and education. The fifth appointment is at-large and is customarily used to ensure

black representation. During the time of the study, four members of the board were white and one, a lawyer, was black.

The full parole board meets at ECI for one day each month. In arriving at its decisions the board does not have recourse to predictive instruments. Decisions are based upon a summary of the data contained in a prisoner's institutional file, other information received by the board itself, and a brief interview with the prisoner. The board can make one of three dispositions: (1) parole, (2) denial of parole, and (3) continuance for a specified period not to exceed twelve months.

The present analysis is based upon data obtained from the institutional files of prisoners appearing before the parole board from October 1, 1970, through September 30, 1971. It does not take into account other information known to the parole board but not contained in the institutional file (e.g., letters from wives requesting denial of parole). How extensive such information is or how it affects decisions is unknown. The data to be presented, however, suggest that while such information may be important in some individual decisions, it is not so extensive as to change substantially the conclusions of this research.

During the twelve-month period for which data were collected, the parole board considered 297 cases. Of this number 234 resulted in initial decisions to grant or deny parole, 27 resulted in continuances within the study period, and 9 resulted in continuances beyond the study period. Of the 261 cases that resulted in a decision to grant or deny parole, the files of 18 prisoners could not be located. Thus the study is concerned with the cases of 243 prisoners whose appearances resulted in a decision to grant or deny parole and for whom files were available. Of this number 183 (75.3 percent) were white and 60 (24.7 percent) were black.<sup>1</sup>

Data abstracted from the institutional file of each prisoner included the following: race, age at current confinement, current offense, number of prior convictions, length of sentence, months served on current sentence, proportion of current sentence served, age at parole board appearance, participation in institutional treatment programs, number of disciplinary reports in the preceding year, custody level at time of appearance, and psychiatric recommendation. Other data such as education, occupation, and marital status were available but judged unreliable by

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1. While the exact proportion of blacks in the prison population fluctuates from day to day, during 1971 it averaged about 25 percent. For details on the characteristics of the prison and its population see Carroll (1974).

the senior researcher because of the failure of officials to update such information and because of a known tendency for prisoners to misreport it. The possible impact of these data upon the findings presented here is discussed in the conclusion.

All variables were treated as dichotomies and coded as "dummy variables" for the purpose of regression analysis.<sup>2</sup> Interval scale variables were dichotomized as close to their medians as possible, and where nominal scale variables contained more than two categories, the categories were combined in ways that seemed meaningful. One such combination of categories should be noted: (1) crimes against the person and violations of narcotics laws, and (2) crimes against property and miscellaneous offenses such as harboring a fugitive. This combination was accomplished on the basis of similarities in the disposition by the parole board of drug and violent offenders (31 percent and 43 percent paroled) compared to the disposition of miscellaneous and property offenders (58 percent and 59 percent paroled).

The data were analyzed by correlation and multiple regression techniques. Multiple regression permits the simultaneous statistical control of numerous independent variables thus making it possible to assess the direct effect of each independent

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2. "Dummy variables" are so termed because they are developed by assigning simple scores, usually 0 and 1, to dichotomized variables and treating them as interval scales, representing the difference between the absence and presence of an attribute. Thus, in the present analysis offenses were coded as follows: 0 = crimes against the person and drugs, 1 = otherwise. Readers unfamiliar with this procedure may find a brief introduction and justification in Blalock (1972:498-502). While the use of dummy variables as independent variables in regression analysis is widely accepted, there is some question about their use as dependent variables. Analyses employing dummy dependent variables cannot meet several assumptions of regression: (1) unrestricted range on the dependent variable, (2) homoscedasticity in error variances, and (3) a normal distribution of observations about the regression line. Goodman (1972a, 1972b) has shown how this problem may be avoided by the use of log-linear models. However, the calculations required to fit these models are quite complicated and current approaches are very complex. Moreover, as current approaches utilize a form of chi-square to measure the goodness of fit, a rather large N is required to handle more than four variables simultaneously. In a recent paper Knoke (1975) compared the use of log-linear models to regression with a system of dummy variables. He concluded that while the log-linear models are logically superior to dummy variable regression there is little substantive difference between the two. When the range in the proportions of the dependent dichotomy was between .25 and .75, the two models produced exactly the same result and only slight differences occurred when the dichotomization was more extreme. In our sample nearly half (49.7 percent) of the prisoners were paroled, black (51.7 percent) and white (49.2 percent). As our data fell well within the range specified by Knoke, we decided to employ the more familiar and less complicated regression model. A separate analysis of the data by cross-tabulation produced virtually the same results as those reported here. These tables are available on request from the senior author.

variable upon the dependent variable. The particular technique employed in this study is stepwise multiple regression. In this procedure all independent variables are intercorrelated with the dependent variable. The independent variable that explains the most variance in the dependent is entered into the regression equation first. The next variable to be entered into the equation is the one that explains the most variance in the dependent with the first controlled. This procedure is continued until all variables are entered into the equation or until a previously set criterion is reached, e.g., the absence of a statistically significant partial correlation between any of the remaining independent variables and the dependent variable.

## RESULTS

The zero order correlations among all the variables are presented in Table 1. It is apparent from these data that institutional factors are more powerful predictors of parole than are noninstitutional factors such as race. Four of seven institutional variables—number of disciplinary reports in the previous year (-.47), psychiatric recommendation (.38), custody level (.35) and participation in treatment programs (.22)—are significantly related to parole. Of four noninstitutional variables, only the nature of the offense (.17) is significantly related to parole, and then only weakly.

These findings are consistent with the more impressionistic conclusions of Dawson (1969:268-70) and Clark and Rudenstine (1974:55-58).<sup>3</sup> Despite the greater power of noninstitutional factors to predict success and failure on parole (Gottfredson, 1967), parole boards are inclined to rely upon institutional factors in making their decision either because they are unaware of prediction tables or, perhaps more importantly, because they are concerned with matters other than probable success on parole, matters such as the maintenance of order within the institution.

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3. However, these findings are not consistent with those of Scott (1974). In that study, seriousness of the offense as measured by the legal minimum sentence was found to be considerably more important than institutional factors such as disciplinary reports. This inconsistency is probably due to the differing legal contexts of the decisions. The state in which Scott did his study makes extensive use of indefinite sentences—over 97 percent of the prisoners in his sample were serving indefinite sentences—and the parole board had apparently come to utilize the same criteria that a judge might employ. In contrast, there are no indefinite sentences in the state in which the present study was completed. Hence, the seriousness of the offense has already determined the earliest time at which a prisoner may seek parole, namely, when he has served one-third of his maximum sentence.

TABLE 1  
MATRIX OF INTERITEM PRODUCT MOMENT CORRELATION COEFFICIENTS

Items	1	2	3	4	5	6	7	8	9	10	11	12	13
1. Race†		.18 <sup>a</sup>	.12	.07	.00	.11	.05	.13	.07	.00	.06	-.05	-.02
2. Age at Confinement			-.12	.40 <sup>c</sup>	.09	.06	.27 <sup>c</sup>	.67 <sup>c</sup>	.17 <sup>a</sup>	.13	.20 <sup>b</sup>	-.04	.09
3. Offense‡				.10	-.32 <sup>c</sup>	.02	-.22 <sup>c</sup>	.16 <sup>a</sup>	-.03	-.04	.09	.12	.17 <sup>b</sup>
4. Prior Convictions					.09	.11	.23	.32 <sup>c</sup>	.04	.15 <sup>a</sup>	.01	-.24 <sup>c</sup>	-.13
5. Sentence						-.05	.69 <sup>c</sup>	.32 <sup>c</sup>	.13	.12	.06	-.15 <sup>a</sup>	-.07
6. Percent Served							.19 <sup>b</sup>	.04	-.03	.15 <sup>a</sup>	-.10	-.14	-.06
7. Months Served								.43 <sup>c</sup>	.30 <sup>c</sup>	.11	.12	.17 <sup>a</sup>	-.01
8. Age at Appearance									.20 <sup>b</sup>	-.12	.16 <sup>a</sup>	-.12	-.01
9. Participation in Treatment										-.12	.00	.09	.22 <sup>c</sup>
10. Discipline Reports											-.21 <sup>b</sup>	-.33 <sup>c</sup>	-.47 <sup>c</sup>
11. Custody Level												.24 <sup>c</sup>	.35 <sup>c</sup>
12. Psychiatric Recommendation													.38 <sup>e</sup>
13. Parole													

<sup>a</sup> < p .05

<sup>b</sup> < p .01

<sup>c</sup> < p .001

† Race: 0 = black, 1 = white

‡ Offense: 0 = crimes against the person, 1 = property crimes

It is consistent with the relative unimportance of noninstitutional factors, and with the previous findings of Scott (1974:220) that the correlation between prisoner's race and the parole board's decision is negligible (-.02). Moreover, the general lack of correlation between race and each of the other variables indicates that the black and white prisoners who appeared before the board were substantially alike. Hence, it is unlikely that a relation between race and parole decision is being suppressed by another variable. Nonetheless, this possibility was examined. In the stepwise multiple regression of the twelve independent variables on parole, race entered as the tenth variable. The partial correlations between race and parole remained negligible, varying from -.02 to -.06 at each of the nine orders of association. Clearly, then, these data contain no evidence of differential treatment.

**Criteria Used by the Board**

While similar black and white prisoners are paroled in approximately the same proportions, the parole board may nonetheless evaluate them according to different criteria. Table 2 presents data relevant to this question. These data are the results of three stepwise multiple regressions of the independent variables on parole decision, one for all prisoners and one each for black and white prisoners separately.

TABLE 2

STEPWISE MULTIPLE REGRESSIONS OF SEVERAL INDEPENDENT  
VARIABLES ON PAROLE FOR ALL PRISONERS AND BY RACE

Variable entered and controlled <sup>a</sup>	R	R <sup>2</sup>	partial r	Beta-coefficient at final step
A. All Prisoners				
Disciplinary Reports	.47	.22	—	-.35
Custody Level	.54	.29	.29	.24
Psychiatric Recommendation	.57	.32	.23	.18
Participation in Treatment	.59	.35	.19	.18
Nature of the Offense <sup>b</sup>	.60	.36	.15	.11
Age at Appearance	.61	.37	-.15	-.09
B. White Prisoners				
Disciplinary Reports	.43	.18	—	-.32
Custody Level	.53	.28	.35	.30
Psychiatric Recommendation	.57	.32	.25	.20
Age at Appearance	.59	.35	-.17	-.13
Prior Convictions	.60	.36	-.15	-.11
C. Black Prisoners				
Participation in Treatment	.60	.36	—	.42
Disciplinary Reports	.78	.61	-.61	-.33
Nature of the Offense	.80	.64	.29	.28
Age at Confinement	.82	.67	.31	.24
Psychiatric Recommendation	.83	.69	.26	.20

a Entry into the equation is restricted to variables whose partial correlation with parole is statistically significant ( $p \leq .05$ ) with previously entered variables controlled.

b Nature of the offense was coded as follows: 0 = crimes against the person, 1 = crimes against property.

As indicated by the zero order correlations, the first variable to enter the multiple regression equation for all prisoners is the presence or absence of disciplinary reports in the year preceding the appearance before the board. This one variable alone explains 22 percent of the variance, and remains the most strongly related to parole after the other five variables have been entered and controlled (beta = -.35). Custody level retains a moderately strong relation to parole (partial  $r = .29$ ) after disciplinary reports is entered and controlled and is thus entered at the second step, followed by psychiatric recommendation, participation in treatment, nature of the offense, and age at appearance before the board. The standardized regression coefficients (beta coefficients) indicate that when the other five variables are controlled simultaneously the direct effects of each of these variables on parole retain approximately the same order of importance as their order of entry into the regression equation.

The results of the multiple regression do not differ significantly from the zero order associations. The only substantial difference is the entry into the regression equation of age at appearance before the parole board. Lacking a zero order asso-



ciation with parole ( $r = -.01$ ), age at appearance assumes a significant relation to parole (partial  $r = -.15$ ) when the other variables entered prior to it are controlled.

The six independent variables entered into the equation explain 37 percent of the variance in the decision to parole and suggest the presence of a rather systematic policy guiding parole decisions. To a large extent parole appears to be a reward for good institutional adjustment. Four of the six independent variables entered in the regression equation are indicators of institutional adjustment, and together these four variables explain 35 percent of the variance in the decision to parole. The two noninstitutional variables in the equation add only two percent to the explained variance. Thus, prisoners who receive no disciplinary reports, those who advance to minimum security, those who receive favorable psychiatric recommendations, and those who participate in institutionally sponsored treatment programs are the most likely to be paroled. It is only after these factors are taken into account that the board is inclined to parole younger prisoners and property offenders.

The stepwise multiple regressions done for black and white prisoners separately (cf. Sections B and C, Table 2) show that the factors most strongly related to parole for the entire sample of prisoners are not equally important for the prisoners of each race. Five variables explain 36 percent of the variance in the decision to parole white prisoners. Of these five variables, the presence or absence of disciplinary reports is most strongly related to parole decision both before ( $R = .43$ ) and after (beta =  $-.32$ ) the other four variables significantly related to parole are entered and controlled. As is the case in the entire sample, custody level retains a moderately strong relation with parole decision (partial  $r = .35$ ) after the effects of disciplinary reports are controlled and enters the equation at the second step. Disciplinary reports explain 18 percent of the variance in the parole decision and the entry of custody level into the equation add 10 percent to the explained variance. Psychiatric recommendation, age at appearance, and prior convictions are entered at the third, fourth, and fifth steps respectively. Together these three variables explain an additional 8 percent of the variance in the decision.

Only two of the variables related to the parole of white prisoners—disciplinary reports and psychiatric recommendation—are related to the parole of black prisoners. Participation in institutionally sponsored treatment programs has the strongest zero order association ( $r = .60$ ) with the decision to grant or deny

parole to black prisoners and enters the regression equation first. This one variable alone explains 36 percent of the variance in the decision to parole black prisoners and its direct effect on parole decision is not substantially reduced by the entry and control of additional variables ( $\beta = .42$ ). After participation in treatment is entered and controlled, the presence of disciplinary reports retains a strong correlation ( $r = .61$ ) with parole decision and enters at the second step. Participation in treatment and disciplinary reports have only a moderate correlation with each other ( $r = -.20$ ), and the entry of disciplinary reports into the regression equation explains an additional 25 percent of the variance in the parole decision. Following disciplinary reports, the nature of the offense, age at current confinement, and psychiatric recommendation enter at the third, fourth, and fifth steps respectively. The order of the direct effect of each variable on the parole decision is the same as the order of their entry into the regression equation.

Together the five variables that enter the equation for the black prisoners explain 69 percent of the variance in the decision to parole, nearly twice the percentage explained by the five strongest predictors of parole for the white prisoners. Thus, it would appear that the parole board operated in a more systematic fashion when evaluating black prisoners than when evaluating white prisoners.

Not only is the policy for black prisoners apparently more systematic, however, it is also quite different. Participation in treatment programs is not significantly related to the parole of white prisoners. Yet this one variable alone explains as much of the variance in the decision to parole black prisoners as the five strongest predictors together explain in the decision to parole white prisoners. Also, the nature of the offense, which similarly bears no relation to the parole of white prisoners, has a moderate relation ( $\beta = .28$ ) to the parole of black prisoners. And, finally, while the age at appearance before the board is related negatively to the parole of white prisoners ( $\beta = -.13$ ) age at the time of confinement is related positively ( $\beta = .24$ ) to the parole of black prisoners.

These data clearly indicate the influence of racial bias in the decisions of the parole board. While black and white prisoners who were similar in other respects were paroled in about the same proportions, decisions to grant or to deny parole to black prisoners were made according to criteria quite different from those employed in the evaluation of white prisoners.

### Percentage of Sentence Served

It is possible that the bias on the part of the parole board indirectly resulted in differential treatment of black prisoners. Up to this point we have been concerned only with the decision to grant or to deny parole. We have not considered the time served by prisoners prior to their parole. As a result of the importance placed by the parole board on participation in treatment by black prisoners, 77 percent of the black prisoners who were paroled had participated in some form of institutionally sponsored treatment program. If the bias of the board is translated into differential treatment, we might expect that the imposition of this additional condition upon black prisoners would result in black parolees serving more time prior to their parole than is served by white parolees.

Data relevant to this hypothesis are presented in Table 3. The percentage of sentence served prior to parole is used in preference to actual time served in order to control for disparities due to differences in length of sentence.

TABLE 3  
MEAN PERCENTAGE OF SENTENCE SERVED BY PAROLEES  
BY RACE OF PRISONER AND PARTICIPATION IN TREATMENT

Participation in treatment	Race of prisoner		t <sup>a</sup>	p
	Black	White		
All Parolees	45.9% (31)	43.3% (90)	.96	ns
Treatment Participants	48.3 (24)	43.3 (55)	1.76	<.05
Nonparticipants in Treatment	37.7 ( 7)	43.3 (35)	2.00	<.05

<sup>a</sup> one-tailed test

All black prisoners granted parole served, on the average, 45.9 percent of their sentences and white parolees served, on the average, 43.3 percent of their sentences. This difference, while in the predicted direction, is not statistically significant. Among treatment participants granted parole, however, the black parolees served, on the average, 5 percent more of their sentences than did white parolees, a difference which is statistically significant. Finally, and rather surprisingly, the small number of black parolees who did not participate in treatment on the average served 5.6 percent less of their sentences than did white nonparticipants. Moreover, this small number of black prisoners paroled without participating in treatment served on the average more than 10 percent less of their sentences than did the black treatment participants.

Clearly these few black treatment nonparticipants were favored by the parole board in comparison to both white and black prisoners. It might, therefore, be instructive to see how they differed from the black parolees who participated in treatment. In comparison to black parolees who had participated in treatment, black parolees who had not were on the average older at the time of the commitment ( $\bar{x} = 30.3$  v. 27.8), older at the time of their parole board appearance ( $\bar{x} = 31.7$  v. 30.0), had more prior convictions ( $\bar{x} = 1.1$  v. 0.9), and were more likely to be property offenders (71.4 percent v. 59.2 percent). Other than these differences the two groups were virtually identical.

In sum, then, imposition by the parole board on black prisoners of participation in treatment programs as an additional criterion for parole resulted in racial inequities. Those black parolees who participated in treatment served a significantly longer proportion of their sentence, on the average, than did similar white parolees. The few black prisoners who were paroled without participating in treatment were advantaged in comparison both to other black parolees and to white parolees. In comparison to other black parolees these few were on the average older, more likely to be property offenders, and had slightly more prior convictions.

### CONCLUSION

This study is based upon data on the operations of one parole board with respect to one institution at one point in time. Moreover, not all data available to the parole board were available to researchers, and the researchers were not permitted to observe parole board proceedings nor did they interview parole board members. Consequently, the conclusions of this research must be regarded as suggestive rather than in any sense definitive.

Nonetheless, given these limitations, the data clearly suggest the operation of racial bias. While black prisoners were paroled in about the same proportion as were similar white prisoners, they were evaluated according to different criteria. Specifically, most black prisoners had to meet an additional requirement not imposed upon white prisoners—participation in institutional treatment programs. The result of this additional criterion is that most black prisoners who were paroled (77 percent) served a significantly longer proportion of their sentences than did similar white prisoners. Moreover, there was an apparent tendency of the parole board to favor older black prisoners and black prisoners with prior convictions and to penalize younger black prisoners and those with no prior convictions.

It is difficult to interpret the findings presented here without the benefit of observational and/or interview data. One plausible interpretation is that the bias of the parole board was not racial per se but was a bias against perceived militancy. The goals established for parole—the protection of the community and the rehabilitation of prisoners—are such that parole boards and parole supervisors are subject to endemic role conflict (cf. Glaser, 1969:289 ff.). Operating on a case by case basis, without a conscious explicit policy, the obligation to protect the community against the threat of criminality might readily be translated into a policy of bias against political militancy. Our data are consistent with such an interpretation because they suggest that younger black prisoners and those convicted of drug and violent offenses—those most likely to be seen as militant—were to some extent required by the parole board to participate in institutional treatment programs in order to be paroled. Such participation was not required of white prisoners nor of older black property offenders. This pattern suggests that participation in these programs was seen not as rehabilitative but as an indication that the offender was not militant, or that the parole board in fact confused rehabilitation and nonmilitancy.

The apparent leniency displayed by the board to older black prisoners, despite their somewhat more extensive criminality, lends credibility to this interpretation. This leniency bespeaks of a benign paternalism, a form of bias not uncommon in relations between whites and subordinate blacks who are perceived as nonthreatening, and one which earlier research found to be operative in Southern courts (cf. Johnson, 1941; Bullock, 1961).

As noted above, one limitation of this study was the omission of data on prisoners' education, occupation, and marital status. Might the inclusion of reliable data on these attributes have altered substantially the findings presented? We think not. The most plausible assumption concerning the relation of these variables to parole is that prisoners with more prior education, those previously employed at stable jobs, and those who are married would be more likely to be paroled. Given this assumption, then these variables would have to have a very strong positive association ( $>.60$ ) with both participation in treatment by black prisoners and their parole if the reported participation in treatment-parole association were to be explained by them. We regard this possibility as unlikely. And, even if it were to occur, it would leave open the question of why these variables found to be so strongly associated with participation in treatment by black prisoners were not associated with participation in treat-

ment by white prisoners.<sup>4</sup> If found, a discrepancy such as this might well be in line with the interpretation we have presented. One could argue, for example, that the more educated black prisoners tend to participate in treatment in order to appear accommodating, and accordingly those who do participate are paroled by a board with a bias against racial militancy.

It would be premature to conclude on the basis of studies of the police and courts that blacks and other minorities are not victims of discrimination within the criminal justice system. A recent investigation of an experiment in early release from confinement found race to be the strongest predictor of early release (Peterson and Friday, 1975). That study, together with the present one, suggests that racial discrimination may be widespread in those areas of the criminal justice system less visible to public scrutiny than are the police courts and where administrative discretion is unfettered by the constraints of due process of law. Quite clearly research into agencies that guard the back door of the system is needed every bit as much as research into agencies that keep the front gate.

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4. If these variables had a strong positive association with parole, as assumed, then it follows logically that they could not be related to participation in treatment by the white prisoners. If they were, then we would have found participation in treatment to be strongly associated with the parole of white prisoners as it was with the parole of black prisoners.

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