Equity and Discretionary Justice: The Influence of Race on Police Arrest Decisions

Douglas A. Smith

Christy A. Visher

Laura A. Davidson

EQUITY AND DISCRETIONARY JUSTICE: THE INFLUENCE OF RACE ON POLICE ARREST DECISIONS*

DOUGLAS A. SMITH**
CHRISTY A. VISHER***
LAURA A. DAVIDSON****

I. INTRODUCTION

This paper examines the degree to which race influences police arrest decisions. Two types of possible racial bias are examined. The first, most often addressed in previous research, is suspect-directed and examines whether blacks are more likely to be arrested than whites. The second type of police bias is victim-directed and examines whether police are equally responsive to black and white victims of crime. We found little evidence of suspect-directed racial bias. Our analysis does indicate, however, that police are more responsive to white victims of crime. The implications of these findings for the equitable administration of justice are then considered.

II. THE POTENTIAL FOR BIAS IN POLICE ARREST DECISIONS

Since the discovery of police discretion, scholars have debated the equity of police decisionmaking. The discretionary nature of policing, coupled with the powerful implications of police discretion in the justice system, defines the primary issue of concern: whether decisions to arrest are influenced by suspect characteristics such as race, sex, and age. In light of the potentially severe social, economic, and legal consequences faced by arrestees, it is of singular concern that such decisions be in-

dependent of status characteristics of suspected offenders. Thus, the discretionary nature of police decisionmaking poses a constant challenge to fair and impartial application of law.[1] Indeed, a system of justice which grants broad discretionary power to legal officials invites selective application of law.

Whether police discretion results in discrimination is the essence of current debates regarding police decisionmaking. Some argue that the less powerful members of society are disadvantaged by the discretionary process of defining and responding to criminal conduct, often citing the racial imbalance in arrested populations as support for this position.[2] Others maintain that racial disproportionality in arrest and imprisonment figures is not *prima facie* evidence of racial discrimination. Racial differences instead may reflect actual differences in rates of offending.[3] Alternatively, the racial imbalance of arrestees may reflect the correlation between race and other factors related to arrest, such as differences in suspect demeanor.[4]

The following analysis attempts to reach an empirically grounded understanding of the influence of race on police arrest decisions. Two independent samples of police-citizen encounters are analyzed: one without complainants and one with both suspects and victims. In addition to race, other measured variables include the type of offense, demographic characteristics of offenders, relationship between suspects and victims, and complainant's preference for arrest or nonarrest. The analysis considers selected contextual factors such as the socio-economic status of neighborhoods in which the police-citizen encounters occur and the degree of bureaucratization of the police agencies handling the problem.

A. STUDIES OF RACIAL BIAS IN ARREST

In the growing literature on arrest discretion, considerable attention is devoted to the suspect's race.[5] Despite the volume of research on

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[1] M. GOTTFREDSON & D. GOTTFREDSON, DECISION MAKING IN CRIMINAL JUSTICE, 61-98 (1980).

[2] *See, e.g.*, W. CHAMBLISS, CRIME AND THE LEGAL PROCESS (1969); R. QUINNEY, THE SOCIAL REALITY OF CRIME 104-05, 129-30 (1970); E. SCHUR, LABELING DEVIANT BEHAVIOR (1971); A. TURK, CRIMINALITY AND LEGAL ORDER 96-97 (1969).

[3] Blumstein, *On the Racial Disportionality of United States' Prison Populations*, 73 J. CRIM. L. & CRIMINOLOGY 1259, 1280-81 (1982).

[4] Sykes & Clark, *A Theory of Deference Exchange in Police-Civilian Encounters*, 81 AM. J. SOC. 584 (1975).

[5] *See, e.g.*, Black & Reiss, *Patterns of Behavior in Police and Citizen Transactions*, in 2 STUDIES IN CRIME AND LAW ENFORCEMENT IN MAJOR METROPOLITAN AREAS, 1-139 (1967); Black & Reiss, *Police Control of Juveniles*, 35 AM. SOC. REV. 63 (1970); Hepburn, *Race and the Decision to Arrest: An Analysis of Warrants Issued*, 15 J. RESEARCH CRIME & DELINQ. 54 (1978); Lundman, Sykes & Clark, *Police Control of Juveniles: A Replication*, 15 J. RESEARCH CRIME &

this topic, however, the relationship between race and arrest remains problematic. While it is generally agreed that blacks are more likely to be arrested than whites, there is no consensus on explanations for this disparity. An early study of police arrest decisions found blacks more likely to be arrested than whites in both proactive and reactive encounters in three urban police departments.[6] In citizen-initiated encounters, police arrested twenty-eight percent of black suspects and only twelve percent of whites. A similar, although smaller, racial differential was discovered in police-initiated encounters.[7] Additionally, subsequent analysis of these same data revealed that the racial disparity in arrest was independent of offense seriousness.[8] Thus, early evidence indicated that racial differences in arrest could not be explained by source of encounter—whether citizen- or police-initiated—or offense seriousness.

Later analysis, however, found that the race/arrest relationship was artifactual. Based on an analysis of 281 encounters, Black and Reiss found that while police arrested twenty-one percent of black juveniles they encountered compared to only eight percent of white juveniles, this difference was attributable to variation in the dispositional preferences of complainants.[9] Black victims apparently requested police officers to arrest more often than white complainants.[10] Black and Reiss concluded that "while police behavior follows the same patterns for Negro and white juveniles, differential outcomes arise from differences in *citizen* behavior."[11] Since most victim-offender dyads are racially homogeneous, the victim's behavior increased the rate at which black juveniles were arrested. A similar explanation for the racial disparity in arrest was offered by Lundman and his associates, who analyzed 200 police-juvenile contacts and concluded that "the higher rate of arrest for black juveniles is attributable to black complainants who lobby for formal police action."[12]

Additionally, some research indicates that the racial disparity in arrest reflects more antagonistic behavior of black suspects toward police. Black argued that racial differentials are a function of the relatively higher rate at which black suspects display disrespect toward the

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DELINQ. 74 (1978); Smith & Visher, *Street-Level Justice: Situational Determinants of Police Arrest Decisions*, 29 SOC. PROBS. 167 (1981).

[6] Black & Reiss, *Patterns of Behavior, supra* note 5.

[7] *Id.* at 76, Table 13.

[8] D. Black, Police Encounters and Social Organization: An Observational Study (1968) (unpublished doctoral dissertation, University of Michigan).

[9] Black & Reiss, *Police Control, supra* note 5.

[10] *Id.* at 68-72.

[11] *Id.* at 72.

[12] Lundman, Sykes & Clark, *supra* note 5, at 84.

police.[13] Thus, while racial differences in arrest appear to be independent of offense seriousness or source of encounter, they may reflect a more punitive orientation of black complainants or a more disrespectful demeanor among black suspects.

In another study, Hepburn found that blacks were arrested on less stringent legal criteria.[14] Hepburn analyzed the prosecutorial refusal rate for warrant applications in a major mid-western city in 1974. He argued that a high rate of refusals to prosecute indicated that arrests were being made for purposes other than law enforcement, such as harassment. Racial bias in these data was inversely related to the seriousness of the offense and was independent of age and sex. Thus, Hepburn concluded that "[t]he findings of this analysis strongly support the hypothesis that nonwhites are more likely than whites to be arrested under circumstances that will not constitute sufficient grounds for prosecution."[15]

Furthermore, some scholars argue that considerable interorganizational variation may exist in the extent to which race influences arrest decisions. In the classic statement of this position, Wilson argued that in some police agencies, distributive justice is the norm, while others apply the law uniformly.[16] More importantly, certain structural characteristics of police agencies, such as bureaucratization and professionalism, may indicate the operational philosophy which guides discretionary decisionmaking of the organization.[17] Increased bureaucratization may result in more equitable application of the law.[18]

Two additional studies are relevant to this issue. Johnson, Peterson, and Wells calculated arrest probabilities for marijuana use across police departments in three cities—Chicago, Washington, D.C., and Omaha—normed on the population of marijuana users estimated from self-report data.[19] In comparing expected to actual probabilities of arrest, they found that blacks were significantly more likely to be arrested in Chicago, but uncovered no evidence of racial bias in the other cities.[20]

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[13] Black, *The Social Organization of Arrest*, 23 STAN. L. REV. 1087 (1971).

[14] Hepburn, *supra* note 5.

[15] *Id.* at 66.

[16] J. WILSON, VARIETIES OF POLICE BEHAVIOR, 157-171 (1968); Wilson, *The Police and the Delinquent in Two Cities*, in CONTROLLING DELINQUENTS 9 (S. Wheeler ed. 1968).

[17] J. WILSON, VARIETIES OF POLICE BEHAVIOR (1968); Wilson, *Police and the Delinquent*, *supra* note 16, at 9. For a more recent discussion of this issue, see M. BROWN, WORKING THE STREET (1981).

[18] Hagan, *Criminal Justice in Rural and Urban Communities: A Study of the Bureaucratization of Justice*, 55 SOC. FORCES 597 (1977) (examining the effect of bureaucratization on the administration of justice in urban and rural communities).

[19] Johnson, Peterson & Wells, *Arrest Probabilities for Marijuana Users as Indicators of Selective Law Enforcement*, 83 AM. J. SOCIOLOGY 681 (1977).

[20] *Id.* at 692.

Freidrich presented similar evidence of interorganizational variability in the race/arrest relationship in his reanalysis of the Black-Reiss data for three cities.[21] However, while these studies discover heterogeneous race effects across metropolitan departments, they do not identify the organizational characteristics of police agencies which help explain these differences. Thus, extant evidence on interorganizational variation in the race/arrest relationship is inconclusive.

B.   CLARIFYING THE RACE/ARREST RELATIONSHIP

Collectively, extant research on racial bias in arrest fails to clarify the race/arrest relationship. In part, this reflects the fact that suspect race, the primary focus of past empirical attention, is a confounded variable. Since most victim-offender dyads are racially homogenous,[22] suspect race is a strong, although not perfect, indicator of victim race. Thus, to some extent, examining whether blacks are more likely than whites to be arrested, without considering complainant's race, reflects how police respond to black offenders *and* their victims. This is problematic because police may be less likely to arrest in encounters involving black complainants. Failing to control for a victim's race would underestimate the influence of suspect race on arrest decisions.

Suspect race is also confounded with status characteristics of the neighborhoods in which police-citizen encounters occur. Blacks are more likely to be confronted by police in poorer neighborhoods. Further, some research indicates that offenders encountered in lower status neighborhoods are more likely to be arrested than those encountered in wealthier neighborhoods.[23] If suspects in poorer areas have a greater categorical risk of arrest, then failing to control for this neighborhood effect would overestimate the influence of suspect race on arrest decisions.

Finally, studies of police decisionmaking have predominantly examined large urban police departments. If increasing bureaucratization of police agencies leads to more equity in the administration of arrest discretion, then this research has been conducted in contexts in which racial discrimination should be minimized. Previous studies therefore may have reported conservative estimates of the magnitude of racial bias in arrest decisions.

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[21] R. Friedrich, The Impact of Organization, Individual, and Situational Factors on Police Behavior (1977) (unpublished doctoral dissertation, University of Michigan).

[22] Pittman and Handy, *Patterns in Criminal Aggravated Assault*, 55 J. CRIM. L. CRIMINOLOGY & POLICE SCI. 462, 467 (1964); M. HINDELANG, CRIMINAL VICTIMIZATION IN EIGHT AMERICAN CITIES, 182-85 (1976).

[23] Hepburn, *supra* note 5, at 69-70; Werthman & Piliavin, *Gang Members and the Police*, in THE POLICE: SIX SOCIOLOGICAL ESSAYS 75-83 (D. Bordua ed. 1967).

The following analysis of the race/arrest relationship is designed to overcome some of these problems, and in so doing offer a clearer assessment of the influence of race on decisions to arrest. First, data used in the following analysis represent police practices across different types of police agencies, ranging from large urban police bureaucracies to smaller agencies. Second, the analysis includes characteristics of neighborhoods in which the encounters occur. This allows estimates of the influence of race on arrest independent of neighborhood characteristics such as socio-economic status. Finally, encounters involving both suspects and complainants are analyzed separately from encounters involving only suspects. This allows for a preliminary disentangling of the effects of the race of suspects from the effects of the race of victims.

III. DATA AND VARIABLES

Data used in the following analysis were collected as part of a larger evaluation of police services conducted in 1977.[24] The major source of data is direct observations of police-citizen encounters by trained civilian observers riding on 900 patrol shifts in sixty residential neighborhoods. The sample included officers in twenty-four police agencies operating in three Standard Metropolitan Statistical Areas (St. Louis, Missouri, Rochester, New York, and Tampa-St. Petersburg, Florida). A total of 1,435 officers were observed in 5,682 police-citizen encounters. The present study analyzes 611 encounters involving contact with suspected offenders in some type of criminal activity. Thus, the data are comparable to earlier observational studies on police behavior,[25] but richer in contextual variables. For example, there is considerable organizational variability among the departments studied; they range in size from thirteen to over 2,000 sworn officers. In addition, neighborhoods in which police were observed ranged from very poor inner-city areas to more affluent suburban communities. Median annual family income across these neighborhoods ranged from $4,282 to just under $23,000.[26]

The present analysis includes several variables from the observational data. The dependent variable—arrest—is defined as police taking a suspect into custody. Twenty-two percent of encounters with both suspects and victims end in arrest, compared to seventeen percent of

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[25] Lundman, Sykes & Clark, *supra* note 5; Black & Reiss, *Patterns of Behavior*, *supra* note 5.

[26] For a detailed discussion of these data, see D. Smith, Invoking the Law: Situational, Community, and Organizational Determinants of Police Arrest Decisions, (1982) (unpublished doctoral dissertation, Indiana University).

TABLE 1

CORRELATION MATRIX[a]

	X1	X2	X3	X4	X5	X6	X7	X8	X9	X10	X11	X12	X13	X̄
X1 Arrest	1.0	.20	-.01	.02	.28	.25	.22	-.05	.23	.12				.17
X2 Black Suspect	.06	1.0	.02	.05	.19	.14	.05	-.07	.34	.15				.43
X3 Male Suspect	.07	-.10	1.0	-.18	.01	-.04	.05	.05	.03	.01				.83
X4 Age of Suspect	-.07	.07	-.02	1.0	.18	-.06	.01	-.11	.17	.17				1.75
X5 Demeanor of Suspect	.20	.04	.08	.04	1.0	.01	.05	.08	.20	.12				.10
X6 Property Offense	.17	-.06	.02	-.21	.04	1.0	-.14	-.14	.06	.07				.17
X7 Violent Offense	.23	.08	-.01	.02	.01	-.24	1.0	-.09	.05	.05				.09
X8 Vice Offense								1.0	-.07	-.04				.09
X9 Poverty Level (Neighborhood)	.08	.29	-.05	.12	.08	-.09	.11		1.0	.15				21.66
X10 Bureaucratization	.02	.03	-.09	.05	.05	-.15	.14		.34	1.0	-.08			0.0
X11 White Victim	.02	-.72	.05	-.14	-.05	.13	-.10		-.35	-.08	1.0			
X12 Victim-Suspect Strangers	.21	-.07	.01	-.15	-.09	.29	-.06		-.06	.03	.25	1.0		
X13 Victim wants arrest	.27	-.01	.14	.01	.01	-.03	.21		-.01	.11	.04	.03	1.0	
X̄	.22	.62	.79	1.98	.17	.21	.18		28.22	0.0	.47	.25	.20	

[a] Coefficients below the diagonal are from encounters with victims and offenders. Those above the diagonal are from the sample of offenders only.

encounters with only suspects. A complete correlation matrix with means for all variables is presented in Table 1.

The variables "black suspect" and "male suspect" are dummy-coded, and age is a three-category ordinal indicator of suspect age (under nineteen, nineteen to thirty-five, and over thirty-five). Demeanor is a binary variable, coded "one" if the suspect is antagonistic toward police. Type of offense is coded into a series of dummy variables. For encounters with both complainants and suspects, the offense categories are: property offenses, violent offenses, and interpersonal disputes.[27] For encounters with suspects only, the offense categories are: property offenses, violent offenses, vice offenses, and public order offenses.[28] Additionally, for encounters with suspects and complainants, three other dummy variables are included, representing complainant's race (1=white), victim-suspect relationship (1=strangers), and complainant's preference for arrest (1=victim wants arrest). Poverty level is the percent of households with annual family incomes of less than $5,000. Bureaucratization is the sum of three standardized variables: department size, number of ranks, and number of occupational titles in each department. The mean inter-item correlation among the components of this measure is .739.

IV. FINDINGS

Table 1 describes bivariate relationships between arrest and various aspects of police-citizen encounters. The coefficients above the diagonal were generated from the sample of encounters where both suspects and victims were present. There is a moderate association between race and arrest (r=.20) in the suspects-only data, but almost no race/arrest relationship exists when both victims and suspects were involved (r=.06). Similarly, in encounters with suspects only, arrest is moderately correlated with the poverty level of the neighborhoods in which encounters occurred (r=.23). When the encounter involved both a suspect and a victim, however, the association between arrest and poverty level is considerably weaker (r=.08).

While bivariate measures suggest that race and poverty level are more strongly related to arrest decisions in encounters which do not involve complainants, it would be premature to accept this position. A multivariate method is necessary to assess the effect of race on arrest after controlling for other potential specifiers of arrest decisions. Due to the inapplicability of OLS in the presence of a binary dependent varia-

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27 'Interpersonal Disputes' is treated as the reference category in subsequent analysis.

28 'Public Order Violations' is treated as the reference category in subsequent analysis.

ble, the following analysis uses probit, a nonlinear probability model.[29]

A.   ENCOUNTERS WITH OFFENDERS ONLY

We begin our analysis by examining determinants of arrest in encounters without complainants. Table 2 presents a series of probit models addressing the influence of race on arrest decisions. Model 2.1 predicts arrest only on the basis of suspect race. Results of this model

TABLE 2

PROBIT ESTIMATES OF DETERMINANTS OF
ARREST FOR ENCOUNTERS WITH
SUSPECTS ONLY (N=339)

Variable	Alternative Models			
	2.1	2.2	2.3	2.4
Black Suspect	.610*	.376	.244	1.190
	(3.69)**	(2.03)	(1.25)	(2.18)
Male Suspect		.001	−.014	.643
		(.003)	(−.06)	(1.36)
Age of Suspect		.004	−.055	−.070
		(.03)	(−.41)	(−.51)
Demeanor of Suspect		1.075	1.032	1.034
		(4.07)	(4.66)	(3.82)
Property Offense		1.031	2.032	1.023
		(4.70)	(4.40)	(4.57)
Violent Offense		1.224	1.231	1.216
		(4.47)	(4.39)	(4.30)
Vice Offense		.044	.079	.057
		(.12)	(.23)	(.16)
Poverty Level (Neighborhood)			.014	.015
			(2.19)	(2.33)
Bureaucratization			.002	−.002
			(.06)	(−.06)
Black Suspect × Male Suspect				−1.107
				(−1.91)
Constant	−1.26	−1.69	−1.84	−2.40
Likelihood Ratio	13.93	65.54	71.01	75.10
R²***	.04	.21	.23	.24

*   Maximum likelihood probit coefficient.

**   Asymptotic T-Ratio.

***   This statistic is analogous to the coefficient of determination in linear regression models. For computational details, see G. Judge, W. Griffiths, R. Hill, & T. Lee, *The Theory and Practice of Econometrics* 525 (1982).

[29] *See generally* D. FINNEY, PROBIT ANALYSIS (1971).

show race to be a significant determinant of arrest when other aspects of police-citizen encounters are ignored (t=3.69).

The significant bivariate race effect on arrest decisions is a point of general consensus. Controversy emerges when one attempts to explain this effect. As noted earlier, several scholars argue that the apparent race effect is merely a consequence of the correlation between race and other arrest determinants, such as socio-economic status. Others maintain that the race effect persists after controlling for other determinants of arrest. Model 2.2 directly addresses this debate. This model posits arrest as a function of suspect race, sex, age, demeanor, and the type of offense (violent, property, vice, or public order violation). Results indicate that suspect race continues to have a significant effect on the probability of arrest when other encounter-level covariates are held constant (t=2.03). Thus, blacks still appear more likely to be arrested after controlling for demeanor, offense type, and other demographic characteristics.

In model 2.3, two contextual variables are introduced as controls: poverty level of neighborhood and bureacratization of police agency. When these variables are included, the race effect is no longer significant (t=1.25). This model indicates that police are more likely to arrest as the poverty level of the neighborhood increases, but that police arrest decisions are not affected by bureaucratization of police agencies. Thus, as Werthman and Piliavin have suggested, different styles of policing are related to the socio-economic contexts in which police-citizen encounters occur.[30] That suspect race becomes nonsignificant when status characteristics of neighborhoods are controlled suggests that socio-economic status rather than suspect race is the axis around which arrest discrimination revolves. Both black *and* white offenders encountered in poorer neighborhoods suffer from discriminatory application of law by police.

To this point, we have concentrated on the direct effect of race on decisions to arrest. We now turn to the question of whether race interacts with other variables in our model to systematically influence the likelihood of arrest. To identify interaction effects, we initially reestimated model 2.3, without the race variable, in two independent samples: encounters with white suspects and encounters with black suspects. Estimated effects of the independent variables across these two samples were tested to determine if their differences could be attributable to chance.[31] This procedure identified only one significant interaction—

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[30] Werthman & Piliavin, *supra* note 23, at 75-89.

[31] For a detailed discussion of the procedure for testing of parallel slopes, see Smith, The Organizational Context of Legal Control, 22 Criminology —, n.5 (1984) (forthcoming), and Visher, *Gender Police Arrest Decisions, and Notions of Chivalry*, 21 Criminology 5, 25 (1983).

black suspect-male suspect—and a term representing this interaction was computed and included in model 2.4.

Examination of coefficients from model 2.4 indicates that when other variables are held constant, the suspect's race affects police arrest decisions for females but not for males. While black and white males appear equally likely to be arrested, black females are significantly more likely to be arrested than their white counterparts. Moreover, white females are the least likely group to be taken into custody by police, suggesting that chivalrous treatment is only directed toward white female offenders while black female suspects are treated similarly to males, both black and white.[32]

B.   ENCOUNTERS WITH COMPLAINANTS AND SUSPECTS

The second set of models in Table 3 examines the direct and conditional effects of suspect and victim race on arrest decisions. Model 3.1 estimates the effect of both suspect race and victim race on arrest decisions, ignoring other aspects of police-citizen encounters. The results indicate that black suspects are somewhat more likely to be arrested in encounters involving both complainants and suspects when controlling for race of victim. Furthermore, arrest occurs slightly more often in encounters involving white victims, once race of suspect is held constant.[33] Thus, race of suspect and victim have independent direct effects on the probability of arrest. Specifically, the predicted probabilities of arrest for all racial combinations of victims and offenders are .107 (white suspect-black victim), .189 (white suspect-white victim), .218 (black suspect-black victim), and .336 (black suspect-white victim).

The race effects in model 3.1 vanish when other potential determinants of arrest are included. Model 3.2 indicates that arrest decisions in these encounters are explained by suspect demeanor, type of offense, relationship between victim and suspect, and complainant's desire that the offending party be arrested. Once these factors are held constant, race, sex, and age have no direct effect on the probability of arrest. Additionally, model 3.3 indicates that contextual variables (poverty level and bureaucratization of police agency) do not significantly affect the probability of arrest independently of encounter-level factors. Thus, in encounters involving suspects *and* victims, both race of suspect and socio-economic status of neighborhood have little direct impact on arrest decisions.

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[32] Visher, *supra* note 31, at 20-22.

[33] Additional analysis involving product terms failed to indicate any interaction effect between these two variables.

Finally, model 3.4 examines the interaction between race and other aspects of police-citizen encounters. To identify interaction terms included in this model we reestimated model 3.3 for independent samples

TABLE 3

PROBIT ESTIMATES OF DETERMINANTS OF
ARREST FOR ENCOUNTERS WITH
COMPLAINANTS AND SUSPECTS
(N=272)

Variable	Alternative Models			
	3.1	3.2	3.3	3.4
Black Suspect	.456*	.340	.295	.228
	(1.83)**	(1.20)	(1.02)	(.72)
White Victim	.360	.120	.172	−.163
	(1.50)	(.36)	(.58)	(1.55)
Male Suspect		.123	.177	.349
		(.47)	(.66)	(1.19)
Age of Suspect		−.108	−.124	−.171
		(−.79)	(−.90)	(−1.17)
Demeanor of Suspect		.883	.881	.928
		(3.71)	(3.67)	(3.72)
Property Offense		.659	.645	−.376
		(2.73)	(2.64)	(−.92)
Violent Offense		.947	.961	.938
		(3.89)	(3.89)	(3.71)
Strangers		.671	.690	.601
		(2.92)	(2.96)	(2.43)
Complainant Wants Arrest		.837	.897	.575
		(3.78)	(3.85)	(1.82)
Poverty Level (Neighborhood)			.010	.013
			(1.45)	(1.80)
Bureaucratization			−.033	−.034
			(−.99)	(−1.00)
White Victim × Property				1.923
				(3.65)
White Victim × Wants Arrest				.827
				(1.78)
Constant	−1.24	−1.92	−2.21	−2.04
Likelihood Ratio	3.44	65.40	67.86	84.28
R²***	.01	.23	.24	.30

*   Maximum likelihood probit coefficient.

**   Asymptotic T-Ratio.

***   This statistic is analogous to the coefficient of determination in linear regression models. For computational details, see G. Judge, W. Griffiths, R. Hill, & T. Lee, *The Theory and Practice of Econometrics* 525 (1982).

based on race of offender and victim. This procedure identified two in-
teraction effects which are included in model 3.4. First, with property
offenses, police are significantly more likely to arrest when the victims
are white. Second, police are somewhat more likely to comply with
white victims' requests for arrest.

These results suggest that in encounters involving victims and of-
fenders, police decisionmaking turns more on the race of the victim than
the offender. Indeed, in these encounters, the suspect's race has no di-
rect or conditional impact on the probability of arrest. Collectively,
these results have important implications, given the reactive nature of
most law enforcement. They suggest that police are more willing to ab-
dicate their adjudicatory role to white complainants and to define prop-
erty offenses committed against whites as more serious and subject to a
more legalistic response. This pattern of differential police response
means that black victims are, in certain circumstances, denied the pro-
tection of law.

V. DISCUSSION

Results from this analysis indicate that police arrest decisions are
influenced by the race of victims in encounters involving both suspects
and complainants, and by the race of female suspects. Previous research
on racial bias in arrest decisions has limited discussion to whether black
suspects are more likely to be arrested. This approach addresses only
one possible form of racial disadvantage, which might be called *punitive
differential enforcement*. Focusing on whether police arrest more blacks
than whites ignores a possible form of racial bias, which might be called
differential responsiveness to black victims. The major differences between
these two forms of racial bias is that one is suspect-directed while the
other is victim-directed. The following discussion focuses on findings
relevant to both forms of racial bias in police decisionmaking.

In encounters without complainants, the suspect's race has no di-
rect impact on decisions to arrest. Although initial analysis (models 2.1
and 2.2) did reveal a significant race effect, the introduction of contex-
tual factors, such as neighborhood poverty level, eliminated this rela-
tionship; arrests were found to occur more often in the relatively poorer
neighborhoods. Thus, in encounters without complainants, race *is* arti-
factual, although not for previously suggested reasons such as differences
in demeanor.[34] Moreover, while both black and white suspects are more
likely to be arrested in poorer neighborhoods, the differential racial
composition of lower-status neighborhoods creates a significant racial
disparity in populations of arrested persons.

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[34] *See supra* note 4 and accompanying text.

There is support for the thesis that police behave differently across status context. In their analysis of police encounters with gang members, Werthman and Piliavin argue that "residence in a *neighborhood* is the most general indicator used by police to select a sample of potential law violators."[35] To the extent that police may be predisposed to arrest in poor neighborhoods, suspects encountered in poorer areas suffer from a form of "ecological contamination." Police may ascribe more perjorative traits to these suspects, heightening their propensity to arrest.[36]

Despite previous supporting research, interpretation of this finding must be made cautiously. The data do not reflect income or occupational status of individual suspects, only of the neighborhoods in which they were encountered. Thus, the effect of neighborhood socio-economic status on the probability of arrest may be picking up the unmeasured effect of a causal relationship at the individual level.[37] However, the neighborhood effect is independent of the race of encountered suspects which is, to some extent, an imperfect proxy for the socio-economic status of individual offenders. To the degree that race is a proxy for individual status position, then the effect of neighborhood status on arrest decisions suggests that all suspects confronted in poorer neighborhoods share a common fate—an increased probability of arrest.

The data regarding the differential treatment of black vis-a-vis white female offenders, however, is more conclusive. The predicted mean probability of arrest for black females is within the sampling error of arrest probabilities for all male offenders, both black and white. Thus, one could not argue that all female offenders receive preferential treatment from police. This finding is similar to results reported in two recent studies that found black females, relative to white females, to be treated more punitively by police and the courts than black males vis-a-vis white males.[38] In summary, race has limited utility in explaining police arrest decisions in encounters without complainants, with the exception of differential police response to black and white female suspects.

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[35] Werthman & Piliavin, *supra* note 23, at 76 (emphasis in original).

[36] Black concurs with this thesis in his recent study of dispute settlement by police, noting that social class is a major determinant of how police handle interpersonal disputes. D. BLACK, THE MANNERS AND CUSTOMS OF THE POLICE 142-47 (1980); *see also* P. ROSSI, R. BERK & B. EIDSON, THE ROOTS OF URBAN DISCONTENT 165-79 (1974); J. RUBINSTEIN, CITY POLICE 218-66 (1973). Thus, our finding that socio-economic status of neighborhood, rather than race of offender, influences police arrest decisions had been anticipated in some earlier work.

[37] For a discussidn of issues in cross-level inference, see 8 L. BURNSTEIN, REVIEW OF RESEARCH IN EDUCATION 155 (1980).

[38] *See* Visher, *supra* note 31, at 20-22; Datesman & Scarpitti, *Unequal Protection for Males and Females in the Juvenile Court*, WOMEN, CRIME AND JUSTICE 300-19 (S. Datesman & F. Scarpitti eds. 1980).

In encounters with both complainants and suspects, police have more information at hand to assess the propriety of arrest. The social relationship between the suspect and victim will be known to police. In addition, complainants may request specific police action, such as arrest or leniency. Our analysis indicates that in these encounters, suspect race has neither direct nor conditional effect on the probability of arrest.

Although we discovered little evidence of racial bias against suspects, differential police responsiveness toward victims is evident. Police are more likely to arrest in situations involving white complainants, while denying black complainants in similar situations the protection of law. Differential responsiveness appears strongest with property crimes and encounters in which complainants want offenders arrested. In both situations, police are more responsive to white victims.

Why are police more likely to comply with requests for arrests from white victims? Why are police more likely to arrest in encounters involving property crimes if the victim is white? One plausible interpretation is that differential treatment reflects the degree of social distance between police and blacks. Previous work suggests that police view non-whites as hostile and resentful toward them.[39] Police may view black complainants as less deserving of legal protection. Reduced police responsiveness toward black victims may be one manifestation of a generally unsympathetic police posture toward minority groups generally, and blacks specifically.[40] In encounters without complainants, arrest is more likely to occur in lower status neighborhoods perhaps because offenders encountered in such contexts are viewed as more deserving of arrest. When complainants are present, decisions to arrest may reflect police perceptions of the credibility of victims and police feelings as to whether the complainants deserve to have the law mobilized in their behalf. In both situations, subjective evaluation by police will determine police action. In the subjective calculus of police decisionmaking, suspects confronted in poorer neighborhoods and black victims appear disadvantaged.

Differential police responsiveness has crucial implications for our reactive policing system which depends on citizen complainants.[41] Differential responsiveness toward victims is a more invisible form of police discrimination. Proactive racial bias in policing directed against black suspects can be offset, in part, by prosecutors refusing to fully prosecute such cases. Yet if police are less likely to arrest in instances involving

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[39] *See, e.g.*, P. ROSSI, R. BERK & B. EIDSON, *supra* note 36, at 165-79.

[40] In some ways, this argument parallels our interpretation of more punitive police action toward lone offenders encountered in poor neighborhoods.

[41] *See, e.g.*, M. BROWN, *supra* note 17; Reiss, *Discretionary Justice*, HANDBOOK OF CRIMINOLOGY (D. Glaser ed. 1974).

black complainants, the matter is closed. Moreover, the results of this study show that differential responsiveness to victims may be greater in magnitude than suspect-directed bias, thus representing a greater challenge to equitable adminstration of justice.

VI. CONCLUSION

In summary, police do appear to invoke the law selectively, with more punitive treatment directed at offenders encountered in lower status neighborhoods. Punitive differential enforcement occurs only in encounters without complainants, however, and race is not the axis around which such discrimination revolves. The bivariate association between race of suspect and the probability of arrest, reported in earlier studies, is attributable to the larger proportion of blacks residing in lower status neighborhoods. More clear-cut evidence of racially based discrimination occurs in the police's differential responsiveness to victims. In general, police arrest more often in encounters in which whites have been victimized. The systematic denial of legal protection to black victims appears to be a more likely form of racially motivated police discrimination than more frequent arrests of black offenders.