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PRISONS, DOLLARS, AND CRIME

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Prisons, Dollars, and Crime

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In response both to political pressures to "get tough" with criminals and to changes in statutory sentencing provisions, judges in Illinois have for several years now been incarcerating convicted felons at unprecedented rates. In 1972 there were 5,630 prisoners in Illinois' penal system; in 1982 there were 13,983. A prison population of 22,800 is projected for 1986. These increases have necessitated the construction of thousands of additional cells, at the cost of millions of dollars. In addition, the annual cost of housing these inmates has skyrocketed. Table 1 shows the total operating and capital expenditures.

Operating expenditures went from \$69.8 million in 1973 to \$235.5 million in 1982, about a 340 percent increase. Capital expenditures for prisons also rose dramatically. Despite these increases, Michael Mahoney, executive director of the John Howard Association in Illinois (a prison watchdog group), says that:

The State of Illinois, from 1977 to 1980, added 3,336 beds at a cost to the taxpayers of \$78 million. Between '83 and '86, we are going to add another 4,100 beds at a cost of \$175 million. This state, in the period of eight years, will add 7,400 beds at a cost of almost a quarter of a billion dollars. And we'll still be 4,500 short.

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Table 1

Department of Corrections Expenditures
(in millions of dollars)

	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	Fiscal Year		<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
					<u>1977</u>	<u>1978</u>				
Operating Expenses	\$69.8	\$72.6	\$82.5	\$88.6	\$ 96.3	\$115.7	\$142.0	\$171.6	\$223.0	\$235.5
Capital Improvements	<u>\$ 0.4</u>	<u>\$ 0.8</u>	<u>\$ 0.2</u>	<u>\$ 3.8</u>	<u>\$ 4.3</u>	<u>\$ 8.8</u>	<u>\$ 18.4</u>	<u>\$ 51.6</u>	<u>\$ 41.2</u>	<u>\$ 29.3</u>
Total Expenditures	\$70.2	\$73.4	\$82.7	\$92.4	\$100.6	\$124.5	\$160.4	\$223.2	\$264.2	\$264.8

Source: Monthly Fiscal Report, State Comptroller's Office, February 1983.

The dramatic increase in the incarceration rate has been going on for almost a decade. Until recently it went virtually unnoticed by the public. What brought the present situation to a head was an Illinois Supreme Court decision in July, which invalidated the early release policies of the director of the Department of Corrections, Michael Lane. For several years Lane had been giving prisoners many months of "good time," thereby releasing them before their court ordered sentence was completed. This policy helped prevent Illinois' prison system from becoming hopelessly overcrowded while officials waited for more prison space.

There are many dimensions to the present crisis. Most of these are being hotly debated by government officials, law enforcement personnel, and the public. What are the short-term options that will prevent overcrowding, declines in guard and prisoner morale, and possibly prison riots, with their attendant loss of life and property? Is it cost effective to build more prisons? What type of prisons? Are there other, less costly punishment alternatives? If so, what is the danger of building too many prisons?

Despite the many issues presently under discussion, other very important aspects of the prison problem are not being discussed. These relate to the possibility of inter-county disparities in the use of scarce prison spaces. Given the highly decentralized nature of sentencing decisions in this country, it is highly unlikely that counties use prison spaces in a uniform manner. The existence of large disparities across counties would have important political implications.

Although prison spaces are extremely expensive to provide (\$70,000 - \$90,000 for one maximum security cell; \$40,000 - \$50,000 for a medium security cell; \$12,000 - \$14,000 in operating costs per inmate per year), they are "free goods" to the counties that use them. That is, the counties that send inmates to state facilities are not charged a user fee. If, however, the inmates are kept in local facilities, the county must bear the costs. Thus, there is an economic incentive to "over incarcerate." To the extent that counties differ in their incarceration rate for similar types of offenses, a massive redistribution of state funds may be taking place (from under consuming counties to over consuming counties). With a DOC budget of close to \$250 million per year--and growing dramatically all the time--this redistribution could be of significant proportions.

To obtain a rough idea of the differences in the use of prison facilities, we draw on a larger study of downstate criminal courts in Illinois. The data for this study came from a five-year period (from 1973 to 1977) and included disposition-

al, crime, political, socio-economic, and structural data on all Illinois counties outside of Cook County. The incomparability of Cook County led us to exclude it from the analysis. While Cook is, by far, the largest absolute consumer of prison space in Illinois (it normally accounts for about 55 percent of all prisoners), its exclusion will not prevent us from examining disparities in the other Illinois counties, nor will it invalidate comparisons among other Illinois counties.

To examine these issues we used a standard multivariate data analysis technique (factor analysis) to rank the 101 counties in terms of their propensity to incarcerate defendants convicted of Class 1, Class 2, Class 3, and Class 4 felonies, during the period from 1973 to 1977. Table 2 shows the basic types of offenses included in each of these categories. The data upon which the analysis was based come from the Annual Report of the Administrative Office of Illinois Courts (1973-77). The results enabled us to categorize each county as a high, medium, or low consumer of Illinois state penal services. The counties included in each category are listed in Table 3.

We will examine the aggregate differences in the use of penitentiary commitments by type of county for each of the four classes of offenses. Then we will examine whether different policies resulted in any differences in the trend of crime, using crime data from 1971-72 and from 1978-79. First, however, we need to present the changing relationship between incarceration trends and various measures of crime in Illinois during the 1970s. This will put the analysis in historical perspective. It will also provide some insights into what has happened to sentencing policies across the state.

Incarceration Rates and Crime: An Historical Overview

Graphs 1 and 2 compare changes in the incarceration rate per 100,000 residents with changes in the FBI's Uniform Crime Report (UCR) data on personal (homicide, rape, robbery, aggravated assault) and property (burglary, larceny, and auto theft) crime rates (per 100,000 residents). The base year is 1971. These graphs show that the incarceration rate jumps in 1973-74 and continues to increase dramatically until 1977 when, presumably, the state ran out of space. Post 1980 data show that increases go hand in hand with the addition of new cells.

A couple of points must be noted here. First, the increases began before determinate sentencing and Class X legislation became law in 1978. This legislation merely validated what local judges had already been doing in response to grass roots political pressures. Secondly, the rate of change in the incar-

Table 2

Illustrative Crimes in Class 1, Class 2, Class 3,
Class 4, Felonies During the 1973-77 Time Period

Class 1	Class 2	Class 3	Class 4
Rape	Voluntary manslaughter	Involuntary manslaughter	Reckless homicide
Armed robbery	Robbery	Aggravated battery	Theft (under \$150)
Aggravated arson	Burglary		
Manufacture, delivery or conspiracies involving large amounts of hard drugs	Arson	Theft (over \$150)	Possession of burglary tools
	Manufacture or delivery of large amounts of marijuana	Forgery	Vandalism
Kidnapping		Bribery	Manufacture or delivery of small amounts of marijuana
Indecent liberties with a child			Gambling

Table 3

Consumers of Illinois State Penal Services, by Category*

Rate of Consumption, 1973-77		
High	Medium	Low
Bond	Adams	Boone
Brown	Alexander	Carroll
Bureau	Calhoun	Clinton
Cass	Champaign	DeKalb
Christian	Clay	Douglas
Clark	Coles	Edwards
Cumberland	Crawford	Hamilton
DeWitt	DuPage	Hancock
Edgar	Effingham	Henderson
Fayette	Ford	Henry
Fulton	Franklin	Jackson
Gallatin	Iroquois	Jasper
Greene	Jo Daviess	Jefferson
Grundy	Kankakee	Kane
Hardin	Knox	Kendall
Jersey	La Salle	Lake
Johnson	Lee	McHenry
Lawrence	Livingston	Marion
Logan	McLean	Monroe
McDonough	Madison	Ogle
Macon	Marshall	Perry
Macoupin	Mercer	Piatt
Mason	Pope	Pike
Massac	Randolph	Pulaski
Menard	Saline	Richland
Montgomery	Sangamon	Rock Island
Morgan	Schuyler	St: Clair
Moultrie	Tazewell	Scott
Peoria	Vermillion	Stephenson
Putnam	Wabash	Union
Shelby	White	Washington
Stark	Whiteside	Wayne
Warren	Will	Winnebago
	Williamson	
	Woodford	

* See Appendix, map showing consumption of state penal resources.

Graph 1

Percent of
Change From
1971

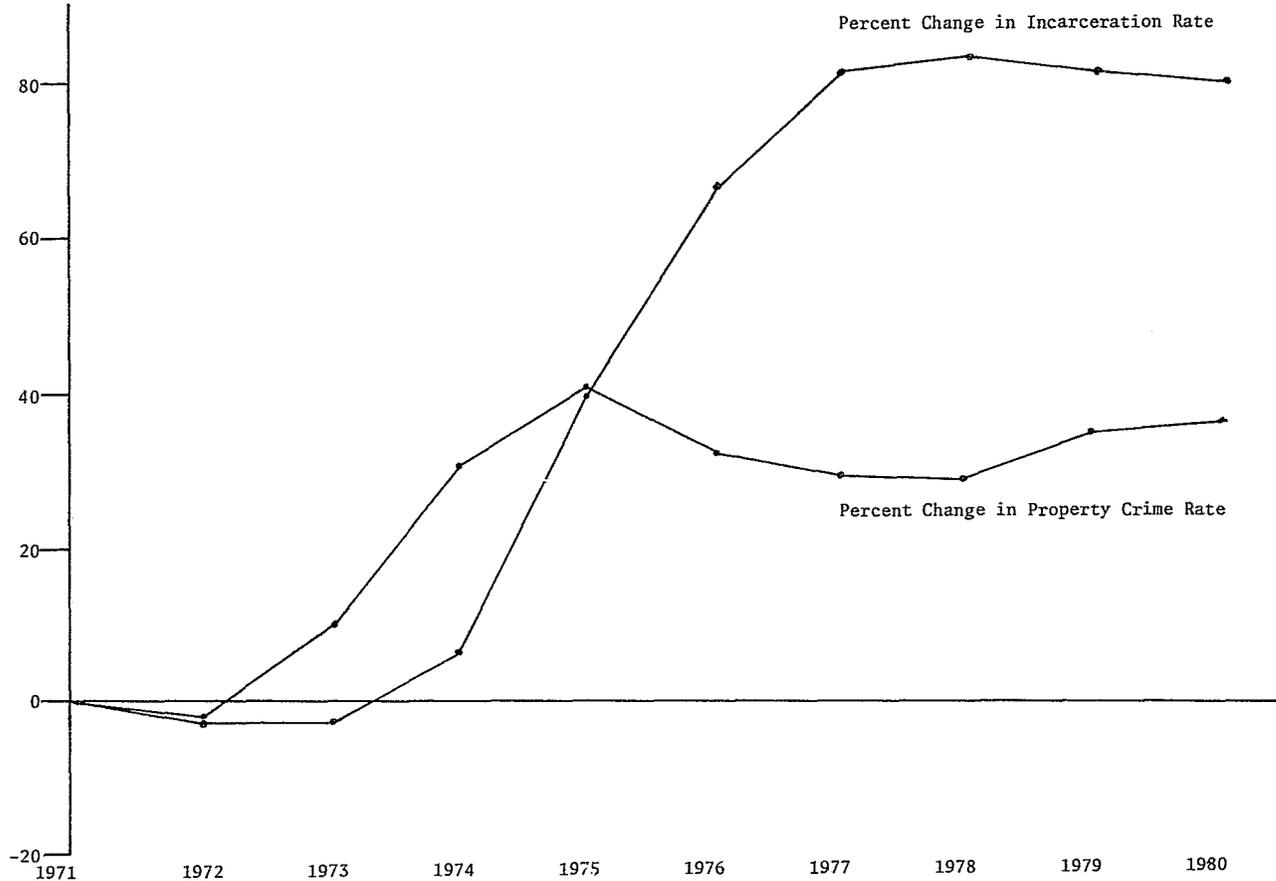
Rate of Change for Incarceration Rate
and UCR Personal Crime Rate, 1971-1980
(per 100,000 residents)



Graph 2

Percent of
Change From
1971

Rate of Change for Incarceration Rate
and UCR Property Crime Rate, 1971-1980
(per 100,000 residents)



ceration rate far outstrips the changes in crime rates, especially for violent personal crime. Thus, the high incarceration rates do not simply reflect traditional sentencing policies being applied to more criminals. Rather, the data suggest that people who would not have been incarcerated prior to 1973 were being incarcerated in the post-1973 years.

Graphs 3 and 4 lend more support to the view that sentencing practices have changed significantly since the early 1970s. The changes in the incarceration rate far outstrip changes in arrest rates, especially for personal offenses. Changes in the arrest rate for property offenses (Graph 4) were much greater than they were for personal offenses (Graph 3); the latter actually declined. This raises the possibility that many of the "new" inmates in the post-1973 era were property offenders, not violent offenders. As disturbing as this prospect might be (for financial as well as other reasons), the available data cannot be used to prove the point. Given the economic implications mentioned by Mahoney and cited earlier, further research should be conducted to determine if the hundreds of millions of dollars to be spent over the next few years would merely accommodate more property offenders. If so, less costly alternatives should be investigated.

Intercounty Disparities in Incarceration Rates

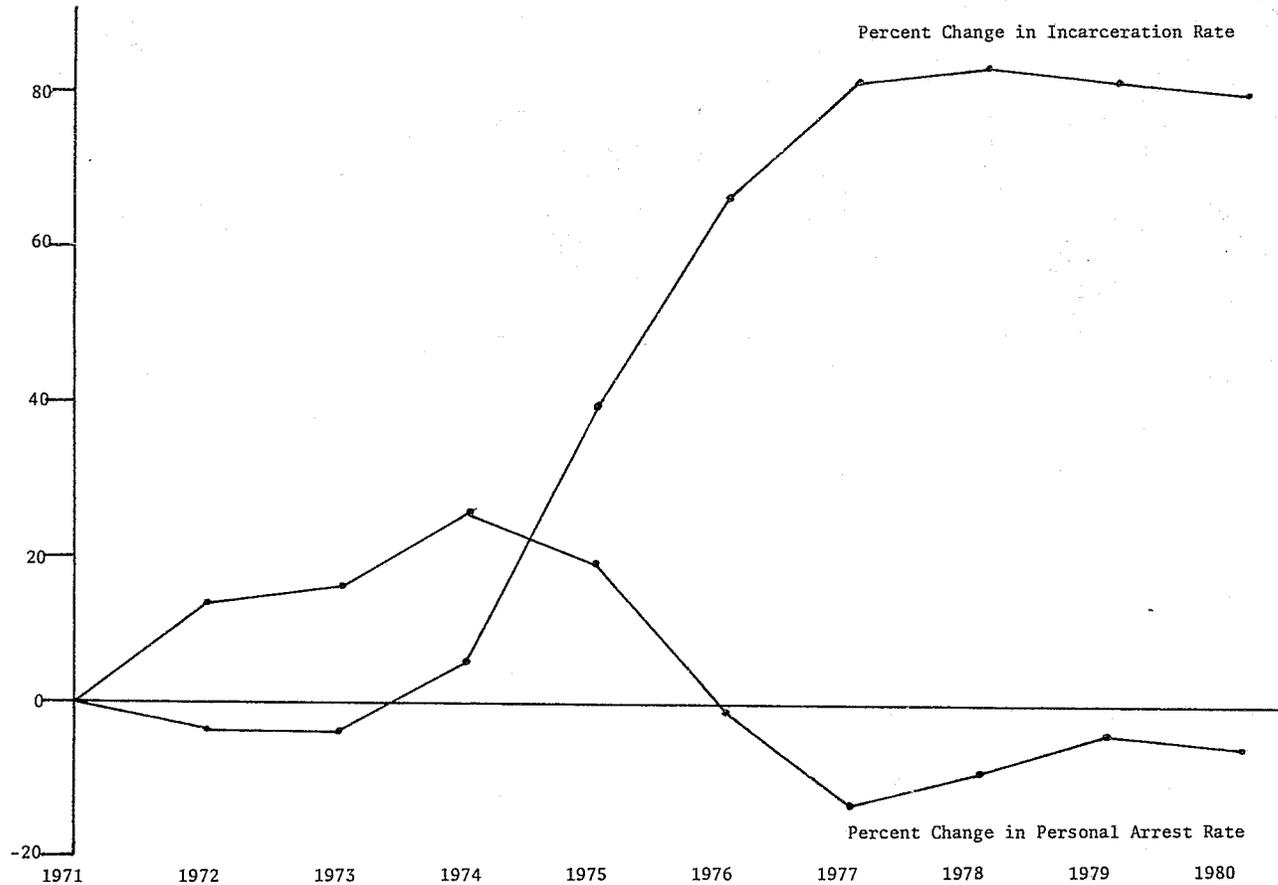
The data on incarceration rates reported in Graphs 1-4 show that during the period covered in this study (1973-77) Illinois experienced significant changes in its sentencing patterns and policies. Incarceration rates shot up, presumably in response to "law and order" pressures, resulting in the incarceration of many who would not have been imprisoned under the circumstances prevailing prior to 1973. However, as suggested in Table 4, not all counties reacted to these political pressures identically. Table 4 reports average incarceration rates for the five-year period of this study for the three categories of counties discussed earlier (Table 2), by class of offense.

For the most serious type of offense, incarceration rates are high (51-64%), and not much variance exists across the three types of counties. However, sizable differences exist for the more discretionary offenses. For example, the incarceration rate for Class 2 convictions for the high users of penitentiary services was more than double that for low users (.27 compared to .64); medium users were about midway between these extremes. The discrepancies for Class 3 and 4 offenses are even greater. High users incarcerate at almost three times the rate of low users. These figures are particularly disturbing because Class 3 and 4 offenses are largely property offenses (theft, forgery, vandal-

Graph 3

Rate of Change for Incarceration Rate
and Arrest Rate for UCR Personal Crimes, 1971-1980
(per 100,000 residents)

Percent of
Change From
1971



Graph 4

Rate of Change for Incarceration Rate
and Arrest Rate for UCR Property Crimes, 1971-1980
(per 100,000 residents)

Percent of
Change From
1971

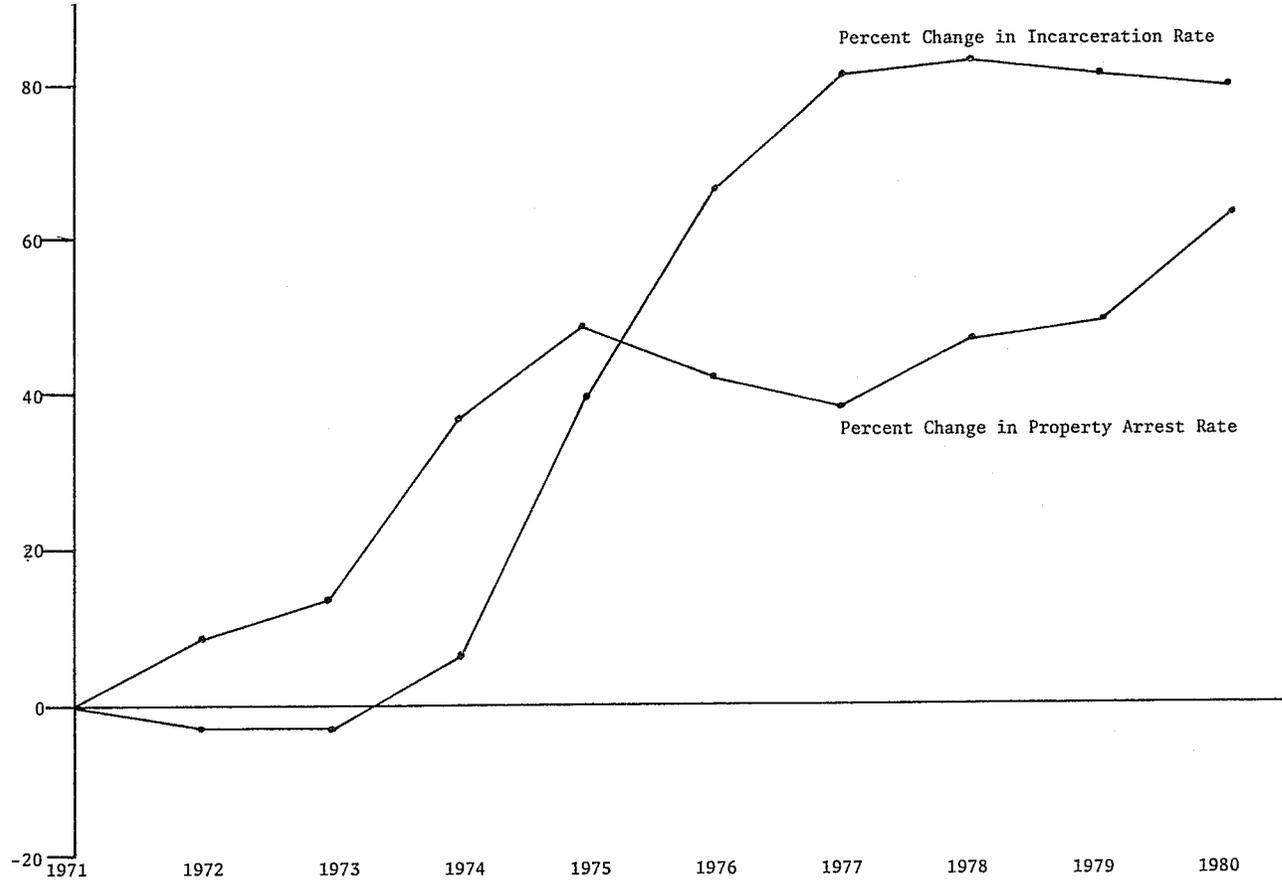


Table 4

Incarceration Rates by Class of Offense And County Type
 (All counties except Cook)

	Type of County		
	Low Users	Medium Users	High Users
Class 1 Convictions	.51	.64	.61
Class 2 Convictions	.27	.42	.64
Class 3 Convictions	.14	.26	.41
Class 4 Convictions	.11	.22	.32
Number of counties	(33)	(35)	(33)

ism) or victimless offenses (gambling, marijuana) and because they are far more common than the more serious offenses. Small differentials in incarceration rates can lead to very significant differences in numbers of inmates and the consumption of scarce state penal resources.

The results reported in Table 4 demonstrate that marked sentencing differentials existed across Illinois counties (excluding Cook) during the 1970s. There is little reason to think that these differentials have moderated. The decentralized, democratized nature of American criminal justice almost insures the existence of disparities across political units. Elected judges and state's attorneys as well as appointed public defenders across the state face constituencies with different interests, preferences, and beliefs. Officials respond accordingly, leading to different bail, plea bargaining, and sentencing policies. These differences raise important questions. On a political level one might ask: Is it just for similar burglaries to receive two years in one part of the state and probation in another? Some would say that such a situation is not at all just. But one could argue that, as long as cases are handled equitably within a county, inter-county differences are politically acceptable. We elect officials at the county level to express county preferences, and these preferences are acceptable criteria to use in sentencing.

Even if we accept this latter position--recognizing that it is hardly a universally acclaimed proposition--still other questions emerge. These are political-economic questions. Succinctly stated: "Should the state be responsible for funding the expression of local preferences?" Under present arrangements it is relatively painless for a local official to mount a law and order campaign. For a variety of reasons--ranging from personal political ambitions to heartfelt beliefs--local officials can pursue "get tough" policies without affecting the local county budget. Sentences can be stiffened so that state imprisonment is required in many cases (any sentence longer than one year generally requires state confinement). This means, of course, that the state will pay the entire cost of "get tough" campaigns--an expensive proposition, as Table 1 demonstrates. In very real terms the low user counties are subsidizing the policies of the high user counties.

Crime and the Consumption of State Penal Resources

This somewhat peculiar arrangement--whereby county officials have large amounts of discretion in making decisions which the state must then pay for--is more difficult to justify, either politically or economically. One possible, if shaky, justifica-

tion for the existence of these large differentials is that they result in a reduction in crime levels which, even if specific to the county, benefit the state as a whole. The data set used to establish the large differences in sentencing policies presents us with a unique opportunity to examine the effectiveness of get "tough policies." The data presented thus far show 1) a marked jump in state level incarceration rates between 1973 and 1978 and 2) marked differences in incarceration rates across counties for less serious crimes during the same period. This suggests that not all counties "got tough" during the mid-seventies, or at least not to the same degree. Thus, the question is: Did the counties that got tougher (the high users of state penal resources) have a greater positive impact upon crime rates than did the counties that were less tough (the low users)?

Table 5 displays, by type of county, the FBI's UCR index crime rates (total, personal, property) for a two-year period (1971-72) before the large increases in incarceration rates and for a two-year period after (1978-79). Regardless of which crime rate is examined, a similar picture emerges. Large increases in crime are recorded for all three sets of counties. At first glance it appears that the slowest rate of increase is among the high user counties, while the highest rate of increase was for the medium users. However, tests of statistical significance for the differences in the mean across the three categories showed that the differences were too small to be significant. That is, there is a high probability that the differences were due to chance fluctuations. In short, we do not find any real difference in crime rates between the high and low user counties. Moreover, even if we did, there is no causal relationship or clear implication for crime policy: the medium user counties had a greater increase in crime than the low user category, which would not be the case if a causal relationship existed. Thus, there appears to be no clear relationship between sentencing policies and crime rates.

Summary and Policy Implications

The data presented here show quite clearly that Illinois counties differ markedly in their sentencing policies and, correspondingly, in their consumption of state penal resources. These differences may well serve particular needs of local law enforcement officials and their constituents. However, if incarceration is supposed to discourage criminal behavior, it should be pointed out that according to available data the policies of high user counties had no greater impact upon the crime rate than those of low user counties. In light of these findings several questions must be raised.

Table 5

Changes in Crime Rates by County Type
(per 100,000 residents)

	<u>High Users</u>			<u>Medium Users</u>			<u>Low Users</u>		
	1971-72	1978-79	Percent Change	1971-72	1978-79	Percent Change	1971-72	1978-78	Percent Change
Total Crime Rate	1139.31	2611.15	+129.19	1503.07	4454.51	+196.36	1407.52	3639.16	+158.55
Personal Crime Rate	71.80	150.83	+117.03	99.12	268.50	+170.88	88.06	223.36	+153.65
Property Crime Rate	1067.51	2455.32	+130.00	1403.95	4186.01	+198.16	1319.45	3415.80	+158.88

Can the state continue to subsidize the "get tough" policies of high user counties (especially with regard to Class 3 and Class 4 offenses) without some demonstration that these costly policies have some impact? What proportion of the projected increases in inmates (for which the state is planning to spend hundreds of millions of dollars) will come from the incarceration of less serious offenders by high user counties? Are the state's costly plans to build more prisons likely to result in a reduction in the crime rate? If not, is it not possible to devise less costly programs of punishment? If the state proceeds with its building plans, will the present maldistribution of penal resources worsen? What will happen to these facilities if, as some experts argue, the crime-prone population decreases after 1990? Will they stand vacant (as many schools are now)? Or, worse yet, will we continue to fill them with less serious offenders, at substantial annual costs?

Our findings suggest a somewhat different picture of the state's prison problem from the one usually presented. What emerges is not a picture of penal resources overwhelmed by marked jumps in the number of dangerous felons. Rather, we see a system whose resources and capacity have outstripped increases in the crime rate. The prison crunch is due to people being incarcerated today who would not have been sent to prison in the pre-1973 era. Judges are responding to pressures to get tough by getting tough. However, because of the decentralized nature of sentencing, not everyone is getting equally tough. This leads to a maldistribution of state penal resources across counties, with no offsetting benefits. The sentencing policies of the high user counties did not have a greater impact on crime than did the policies of the low user counties. One can only guess what some future increase in penal resources will do to these imbalances.

If we view the data presented here from a broader perspective, we can see that the current crisis in the state, as well as the nation, is due to a mix of economic and political forces. Two are most important.

First, from the perspective of county officials, state penal facilities are a "free good." This encourages severe sentences. If a judge gives a defendant a short sentence (less than a year), the county bears the costs of incarceration. If the defendant is given a longer sentence, he is transferred to a state facility where the state bears virtually the entire cost. Secondly, for at least the past decade the political pressure on local criminal justice officials has been in one direction: "get tough" with criminals. There is no organized pressure to seek other, perhaps more appropriate sentences. In fact, because locally administered punishments require local expenditures, there is a disincentive to use them. It is cheaper, easier, and

politically more feasible to incarcerate defendants for an extended period of time, since those costs are borne by the state.

One might legitimately ask: Isn't this good? Aren't elected officials supposed to respond to public opinion? Isn't this the way to solve the crime problem and improve our quality of life?

Not necessarily. We have already seen the problematic relationship between get tough policies and crime. Moreover, the achievement of a high quality of life requires a blend of public goods and services, as well as private ones. Whether the cost of a public good is hidden or explicit, resources are scarce and costs are real. However, when one particular public good appears to be free to the immediate consumer (the county court system in this case), the mix of public goods can become unbalanced. This is why the allocative device of cost sharing is so widely used on federal grants. Once a price tag is attached to a public good, people begin to scrutinize their need for it more carefully. It encourages responsible consumption of such goods.

This approach would be useful in the area of criminal justice today. Increased fiscal accountability could help reduce the inter-county disparities reported in Table 4. Some prior research suggests that the severity of sentences in a county increases with the capacity of the prison system (i.e., the availability of free spaces). This is alarming because excess penal capacity may lead to less care in differentiating between truly dangerous offenders and those who are merely social nuisances. The incarceration of dangerous offenders makes a marked contribution to our quality of life; the incarceration of social nuisances makes a much smaller contribution. Indeed, it can lead to long-term social costs if the merely wayward become truly criminal. Creative, but meaningful, forms of punishment that are locally administered may be the best way to deal with these individuals.

Even an eminent law and order advocate like Attorney General William French Smith has taken note of incarceration costs and urges the use of other forms of punishment for nonviolent offenders. In a recent speech at the Vanderbilt Law School he said: "We must recognize that we cannot continue to rely exclusively on incarceration and dismiss other forms of punishment." In many cases, the cost of keeping a criminal in prison is worth it, but according to Mr. Smith, "in other cases it is too high a price."

These costs are all the more important to consider if, as many experts predict, the crime-prone population will markedly

decline in the 1990s. The additional cells we begin to build today will be ready just in time for the projected decline in criminals. What will happen to these additional cells? If our research is correct, these cells will simply be filled, and the additional space may exacerbate differences across counties. The distinction between truly dangerous persons and social nuisances will be blurred as more "free space" becomes available, especially in some counties. This will lead to even greater imbalances in our mix of public goods.

If we do not find a way to insure selectivity, creativity, and accountability in incarceration decisions, the present crisis may become a permanent and even more costly one. One way to do this is to restructure the financing of prison costs so as to enhance the accountability of county officials. This would entail shifting some of the costs of incarceration to the county.

Shifting the costs of incarceration would enhance accountability because local officials would have to weigh more carefully the costs and benefits of incarceration for each specific case. This process would unleash the creative potential of the many thoughtful officials at the local level. This would likely lead to the development of more appropriate and less costly forms of punishment for nondangerous offenders. It would be along the lines recommended by Attorney General Smith. It would also reserve costly prison space for those who most require social isolation. Sentencing decisions belong at the county level where the officials are closest to the facts of the case and the sentiments of the community; but so does the cost of carrying out those decisions.

If properly designed and implemented, this reform would not increase correctional costs. It need not even increase county taxes. Indeed, it may lead to long-term reductions in costs both economic and social. While the reform could be structured in a number of ways, I suggest the following.

For each defendant sent to a prison whose crime does not mandate incarceration, the county would have to pay for the incarceration, from a special account. This account would be created by fairly apportioning the existing correctional budget to each county, in accordance with a formula. Each county could draw on this account to pay for the cost of its incarcerations. Once the fund is depleted, discretionary incarcerations would have to be paid for entirely from county funds. Depletions of these accounts would not necessarily occur on a routine basis because of another stipulation: excess funds from a county's account would revert to the county for local correctional purposes. This, of course, would create an incentive to develop innovative local programs.

Won't this plan lead to less severe sentences, thereby undermining popular sentiment? This would be true only in cases of nonviolent offenders--and not even then if the taxpayers of a county are willing to pay the cost of their preference. The plan simply prevents punitive counties from shifting the costs of their preference to the rest of the state. Also, it should not be assumed that county-level programs would be any less punitive or effective than state programs. Indeed, our research has uncovered many interesting innovations by thoughtful and creative local officials. The prospects of a fund to finance these ideas would doubtless foster more new ideas, thereby breathing new life into our tired system of criminal justice.

The structure of this reform would require wide consultation and careful planning. Many factors would have to be considered. Despite such difficulties we should begin the process now. Not to do so might mean that the present prison crisis becomes a continuing one. Even worse, if some form of early release power is granted to a state official, the situation may lapse into remission giving us a sense that all is well when in fact the underlying problem has not been treated, let alone cured.

Appendix

Map showing consumption of state penal resources

