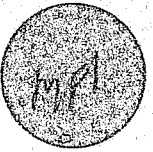


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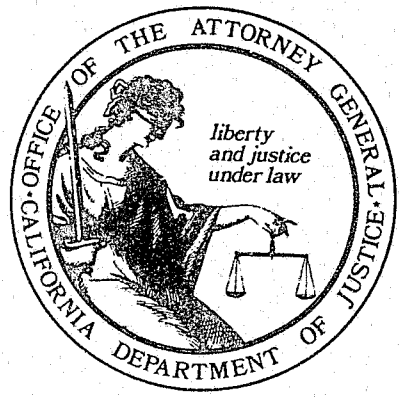
This BCS FORUM series publicizes the findings of projects undertaken by the Attorney General's Office in collaboration with scholars from academic institutions across the nation. Through this collaborative program, the Department of Justice supports private academicians to undertake research on policy issues of current interest.

FORUM

COORDINATING JUSTICE IN CALIFORNIA

"There ought to be a law about it"

Malcolm Davies
 (Law School, University of California, Davis)



Office of the Attorney General

State of California/Department of Justice/Division of Law Enforcement
 Criminal Identification and Information Branch
 Bureau of Criminal Statistics and Special Services

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California Department of Justice

COLLABORATIVE RESEARCH PROGRAM

In an effort to increase the comprehensiveness and quality of criminal justice research in California, the Attorney General developed the Collaborative Research Program within the Bureau of Criminal Statistics (BCS).

The goals of this effort are to:

- Make better use of the criminal justice data maintained by BCS;
- Forge stronger ties between state government and private scholars; and
- Furnish policy makers with sound information about crime, its causes, and the responses of public institutions to crime and criminals.

The Collaborative Research Program provides a unique structure for achieving these goals. Pooling the resources of the academic community and BCS offers a cost-effective way to undertake sophisticated research projects. Scholars work closely with BCS staff, effectively blending their special expertise in research design and methodology with the technical expertise found in BCS.

This **FORUM** is a brief summary of the findings from a survey on criminal justice in the 1980s. A monograph containing more extensive analyses, entitled "Survey Report: The Expansion of the Criminal Justice and Penal System in California: Is Greater Coordination Required?" can be obtained free of charge from the Bureau of Criminal Statistics and Special Services, P. O. Box 903427, Sacramento, CA 94203-4270.

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The views and opinions expressed by the author do not necessarily reflect those of the Department or its officers and employees. This report is published as a public service to encourage debate and broader understanding of critical criminal justice policy issues.

COORDINATING JUSTICE IN CALIFORNIA "THERE OUGHT TO BE A LAW ABOUT IT"

Excerpts from a Survey Report on the Expansion of the Criminal Justice and Penal System During the 1980s

The earthquake which shook local government ten years ago came in the form of Proposition 13. In response to the anticipated problems associated with Proposition 13, a "Commission on Governmental Reorganization" was established. As part of the Commission's inquiry a "Corrections Task Force" was set up which included Richard McGee, the former long-serving and highly respected director of the Department of Corrections in California, and Jerry Hill, the Chief Probation Officer in San Bernardino County. The Commission's 1979 report recommended: "A review of the probation and parole functions to determine if any savings could be achieved by consolidating them." Further, "The Commission finds that the 'Correctional System' in California is a diverse combination of state and local government functions which operate without reference to common standards and policy objectives without overall guidance and direction."

Although the enlarged edifice of criminal justice in California has not fallen down in the after-shock of Proposition 13, the consequences are being felt by those who are responsible for a system which is squeezed between increased public demands and insufficient resources.

THE SURVEY

To discover the views about the current state of the criminal justice and penal system in California a questionnaire was mailed on February 22, 1988 to 420 notables responsible for the local criminal justice system in the 58 counties of California. By July, 289 (69 percent) had completed the questionnaire. The survey asked the respondents about their views on the expansion of the criminal justice and penal system during the 1980s.

The survey included all district attorneys, chief probation officers, public defenders, sheriffs, police chiefs in cities with a population in excess of 100,000 and the presiding judges of the courts of appeal, superior courts and municipal courts.

The survey sought to probe aspects of the 'criminal justice culture' in California. It focused on the following themes:

- the perceptions of problems facing individual criminal justice agencies and the system as a whole;
- problems associated with the lack of coordination in the criminal justice system;
- attitudes toward forms of state intervention to promote coordination;
- the impact of jail overcrowding and the costs of incarceration; and
- the strength of feelings among the system leaders about the need for and direction of change.

CHANGES OVER THE PAST TEN YEARS

The diversity in the sizes of the 58 counties did not prevent a common concern being expressed about the consequences of the increase in the volume of crimes reported, arrests, criminal filings, prosecutions, court cases, and offenders sentenced to jail and prison. Associated with this growth were problems of funding; changes in agency organization; an increasing complexity in criminal procedure in respect to defendant and victim rights; and tougher sentencing associated with the introduction in 1977 and subsequent evolution of determinate sentencing laws.

CURRENT PROBLEMS

Resource issues were identified by an overwhelming majority as the paramount problem. The lack of long-term planning and the inability to develop a long-term strategy were other identified problems. These shortcomings were seen as resulting from the uncertainty about resources and the impact of new policies which were likely to change with the whims of public opinion and the politically sensitive reactions associated with the formulation of crime policy in California.

FRAGMENTATION AND COORDINATION PROBLEMS

The problem of fragmentation in the administrative political structure of California was captured in this comment by an agency head in Tulare County: "By necessity Tulare County is required to conduct business dealings with special districts, cities, counties, California and other states and the federal government. The absence of a single agency which transcends political boundaries leads to bureaucratic delays and misunderstanding." One sheriff added the comment: "There are too many law enforcement agencies at the state level (California State Police; California Highway Patrol; Department of Parks and Recreation; Alcoholic Beverage Control; Department of Justice, Bureau of Narcotic Enforcement, etc.)"

Strong views about the dysfunctional nature of the system were made by those who identified examples of: inadequate communication, non-cooperation, rivalry even hostility between the agencies, "turf issues" and "cross-purposes," non-existent planning and consolidation, and short-term crisis management which resulted in "chaos." One sheriff explained: "There is little time for coordinating, cooperating or communicating when you are up to your ass in alligators."

IMPACT OF OVERCROWDING AND INCARCERATION COSTS

Jail and prison overcrowding and the operational costs of incarceration were seen as a major resource constraint which affected decisions in most of the agencies and courts (see Table 1). As a result of this bottleneck in the system, decisions were made which were not always in the public interest. Offenders avoided "deserved" punishment and public safety was not always the paramount consideration in those counties which were under court-ordered jail population limitations. The shortage of county funds led some respondents to conclude that some offenders were sent to state prison instead of being given shorter periods of incarceration in the county jails.

TABLE 1: OVERCROWDING AND INCARCERATION COSTS

Does the cost of incarceration have any impact on the decisions made by you and your colleagues?

Yes	No	No response
37%	62%	1%

Does the current level of overcrowding in jails and prisons have any impact on the decisions made by you and your colleagues?

Yes	No	No response
59%	38%	3%

HOW TO COPE WITH THE DEMAND IN THE SHORT TERM

There was no consensus among the respondents as to how the problems of the system could be resolved. More resources was the most popular solution so that more jails and prisons could be built. However, while resources are being increased it is unlikely that funds will be sufficient to cover the cost of building and operating all the jails and prisons required as demands on the criminal justice system expand in the future. Hence the reluctant acceptance of the proposal to develop alternative sentences to incarceration. Because of its comparative cheapness, electronic surveillance and home confinement were looked on as short-term solutions preferred by most of the respondents.

TABLE 2: COPING WITH OVERCROWDING—SPECIFIC PROPOSALS

**If the Number of Convicted Criminals Given a
Prison Sentence Increases in the Future,
Should the State/Counties and Municipal Authorities:**

Description	Agree	Disagree	Don't know/ no response (shown in percents)	Total
Build more prisons	77	17	5	100
Develop sentencing alternatives to imprisonment	69	25	6	100
Make greater use of electronic surveillance	54	29	17	100
Reduce sentence lengths for non-violent offenders	42	51	7	100
Reduce sentence lengths for less serious offenders	42	47	11	100
Increase the density of inmates housed in existing institutions	30	62	8	100
Develop early-prison- release schemes	27	66	7	100
Introduce a state coordinating commission to regulate and limit the use of imprisonment	20	67	13	100
Reduce sentence lengths for all offenders	4	91	5	100

[Total = 289]

Note: Percents may not add to 100 due to rounding.

LONG-TERM SOLUTION — IMPROVE PUBLIC UNDERSTANDING

In the long term, more planning and consistent policy making were desired. The lack of public understanding of the problems of the criminal justice agencies was seen as a barrier to achieving these goals. A large number of the respondents endorsed the proposal to survey public knowledge of the system and to promote better understanding of the costs, conditions and consequences of the justice and penal system in California.

TABLE 3: STATEWIDE COORDINATION TASKS

**If a Greater Level of Statewide Coordination
were Sought, Should More be Done to:**

Description	Agree	Disagree	Don't know/ no response (shown in percents)	Total
Advise the executive and legislature on impact of policy innovations	85	4	12	100
Survey public knowledge and promote public understanding of the system	81	7	11	100
Establish minimum standards for county jails	73	16	12	100
Establish minimum standards for state prisons	72	14	15	100
Plan the long-term fiscal needs of the agencies	71	17	12	100
Monitor the agencies' workloads	68	16	17	100
Recommend prosecution standards in respect to charging offenses	63	26	11	100
Review policy objectives	62	21	17	100
Promote uniformity in conditions of probation supervision	61	26	14	100
Establish a hierarchy of seriousness of offenses	60	26	13	100
Monitor agency costs	59	23	18	100
Promote greater uniformity on all aspects of sentencing	55	35	10	100
Stimulate policy debate between the agencies	50	23	27	100
Regulate and limit the use of incarceration	26	59	16	100
Regulate and limit incarceration when jail/prison capacity reached	23	63	13	100

[Total = 289]

Note: Percents may not add to 100 due to rounding.

COMMENT

The use of the term "coordination" in the survey did not imply one specific proposal for the reform of the system in California, but it did encourage a system-wide approach to the issue. Coordination can take many forms and the survey discovered relative degrees of support for and opposition to a range of proposals to improve coordination. A low-key approach involves a greater emphasis on liaison, consultation, research and deliberation to improve communication and cooperation among the agencies. Coordination could take the form of detailed monitoring of existing agencies and establishing clearer guidelines for prosecution and sentencing. The regulation and rationing of expensive state resources is another approach to coordination which could limit the availability of places in state prisons. The idea of integrating some parts of the county system into regional and statewide organizations was another proposal made by respondents to improve the coordination of the system. Suggestions based on this approach included a statewide probation service, a statewide court system, a reduced number of law enforcement agencies, consolidation of jails and prisons under one agency, a merger between probation and parole services, and the introduction of a statewide coordinating body.

BLUE RIBBON COMMISSION

A "Blue Ribbon Commission" was established by the Legislature in 1988 to examine the management of the "dramatically increased numbers of convicted criminals serving time in California state prisons." The commission does not have an easy task. The difficulties it faces are in part an unavoidable consequence of a criminal justice and penal system which in its Penal Code and Rules of Court seeks to denounce the wrongful, deter the calculating, incapacitate the incorrigible, rehabilitate the wayward, recompense the victim and punish only the culpable. But other difficulties stem from a criminal justice and penal system which refuses to see itself as a "system." The Commission is unlikely to achieve much that is useful if it looks at prisons as if they are isolated institutions with a logic which starts and ends at the prison gate. The problems of the prisons, in this case, are the problems of an institution which is at the back end of a system. A system which starts with the utterance: "There ought to be a law about it."

ACKNOWLEDGEMENTS

I would like to express my gratitude to the following for their help during my sabbatical year:

- The 289 individuals from across the state who responded to the survey
- Margaret Jackson and Bob Livingston of the Bureau of Criminal Statistics and Special Services for their computer expertise and advice
- Richard Jacobs and Nelson Kempsey from the Attorney General's Office and William E. Davis from the Administrative Office of the Courts for their support of this project
- Barbara Hadley and Bob Holmes from Senator Presley's office; James Park, consultant to the Joint Legislative Committee on Prison Construction and Operations; and Art Letter from Larry Stirling's office for keeping me informed on developments in penal politics
- For the information I badly needed: Jerry Benson and John Dwyer (San Francisco District Attorney's Office); Bob Cushman (Santa Clara County); Jay Goetting and John Pearson (Napa County); Don Kirkman (Los Angeles Countywide Criminal Justice Coordination Committee); Sylvia Smith (Los Angeles County Probation Department); Marie K. Whittington (Orange County Probation Department); Bob Borg, Bob Dickover, Jim Gomez; Dave Winett, Danny Vasquez (Department of Corrections); and Cheryl Stewart (Legislative Analyst's Office)
- For their helpful advice, comments and criticisms: Ed Barrett (University of California, Davis), Dick Berk (University of California at Los Angeles), John Berecocheo (University of California at Berkeley), and John Conrad
- The Nuffield Foundation, London, for financial support
- The Dean, staff and faculty of the law school, Davis for their kindnesses and support
- The School of Law and Social Science, Ealing College, London, for the year's sabbatical
- For innumerable insights bordering on wisdom; for encouraging my research through their sound advice; and for their courtesy and humor I thank Floyd Feeny, Sheldon Messinger, Jim Rasmussen and Brian Taugher