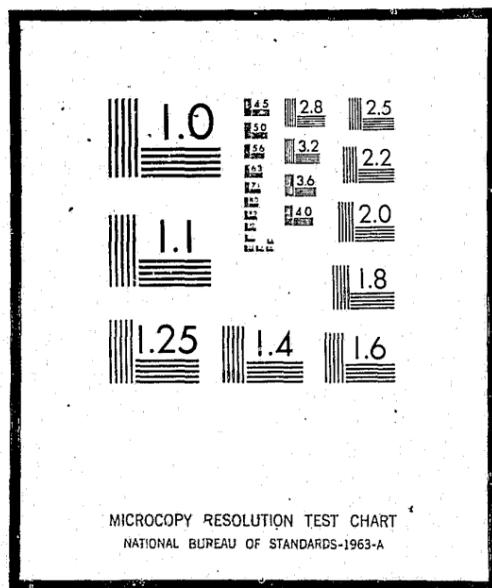


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U.S. DEPARTMENT OF JUSTICE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE
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Date filmed

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FLAT - TIME -

SERVING TIME IN PRISON:

A NEW WAY IN ILLINOIS:

"...the old way hasn't worked. The way we've handled criminals has itself been a crime. I have asked for a new model of justice, a comprehensive program that revamps the system of sentencing criminals in Illinois."

Governor Dan Walker

INTRODUCTION

A legislative program requested by the Governor would dramatically change the current method of sentencing criminals, the way they serve their sentences, and the process by which they return to the community.

Criminals should have greater reason to fear society than society does to fear criminals. We all know that is not the case today.

There also must be even-handed justice in both the sentencing and the serving of those sentences. Under the present system, there is little possibility of either. We know that, too.

The most controversial part of the program you are about to read is the elimination of parole as we know it.

We propose to improve Illinois criminal law by:

...requiring a just and speedy trial of all accused criminals.

...ending the unequal sentencing of persons who have committed the same crime.

...strengthen the resources of the courts and the corrections agencies to effectively administer the program.

THIS PAMPHLET DEALS WITH
QUESTIONS AND ANSWERS ON THE
SUBJECT PREPARED BY DR. DAVID
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Page 1 - Flat-Time

Q. WHAT IS A FLAT-TIME SENTENCE?

A. A set, definite sentence - for example, 5 years.

Q. IN A NUTSHELL, WHAT DOES THIS FLAT-TIME PROGRAM TRY TO DO?

A. Insure that all offenders serve a flat-time sentence. Without parole. Insure as nearly as possible that each offender gets the same time for the same crime.

Q. NO PAROLE? ISN'T THAT TOO HARSH?

A. On the contrary. It lets everybody know where they stand. It is more equitable, more desirable and both convicts and law enforcement officials prefer it.

Q. HOW DO WE SENTENCE NOW?

A. Present law requires the Courts to sentence a criminal to an indeterminate sentence. Such as 1 to 10 years; 4 to 20 years; etc. Actual release is determined by the Parole Board.

Q. CAN YOU GIVE AN EXAMPLE OF INDETERMINATE SENTENCING?

A. Yes. The chart below shows indeterminate sentencing under present law. Under flat-time sentencing this chart would no longer apply.

PRESENT INDETERMINATE SENTENCING IN ILLINOIS

(Court chooses within these ranges*)

FELONIES

Murder, Death or 14 years to Life
Class 1, 4 years to life
(for example, rape, armed robbery)
Class 2, 1 to 20 years
(for example, robbery and burglary)
Class 3, 1 to 10 years
(for example, theft of \$150)
Class 4, 1 to 3 years
(for example, petty theft)

* There is also parole supervision for two to five years

Q. WHAT WOULD HAPPEN UNDER THE NEW FLAT-TIME PLAN?

A. Specific sentences for specific crimes. Fixed. Set. Specified prison terms without parole. The next chart shows how flat-time sentencing would work. The sentences shown are for illustrative purposes only. The General Assembly would fix the terms.

EXAMPLE OF A FLAT-TIME SENTENCING SYSTEM

<u>Offense</u>	<u>Flat Sentence</u>	<u>Range in Aggravation or Mitigation</u>
Murder (capital)	Death	
Murder (non-capital)	Life or 25 years	+ up to 5 years
Felony-Class 1	8 years	+ up to 2 years
Felony-Class 2	5 years	+ up to 2 years
Felony-Class 3	3 years	+ up to 1 year
Felony-Class 4	2 years	+ up to 1 year

Under this schedule, the judge could sentence a murderer to death, or to life in prison, without eligibility for release except for executive clemency.

All other crimes, based upon the existing classification of offenses, would carry flat sentences with a set schedule of longer or shorter ranges for aggravating or mitigating circumstances.

Q. BUT AREN'T THERE DIFFERENT DEGREES IN CRIME? COULDN'T ONE ARMED ROBBERY BE MORE VICIOUS THAN ANOTHER?

A. Yes. And there still would be leeway given the courts to increase or decrease the severity of the sentence. But, the final sentence would be for a stipulated, flat-time.

Q. WHAT ABOUT CAREER CRIMINALS OR REALLY DANGEROUS PERSONS? DOES THE FLAT-TIME PROGRAM PROVIDE FOR THEM?

A. Yes. These criminals may receive enhanced or longer flat-time sentences as provided by the General Assembly. For illustrative purposes, such a schedule is shown below.

ENHANCED SENTENCING

<u>Offense</u>	<u>Flat-Time</u>
Felony-Class 1	15 years
Felony-Class 2	9 years
Felony-Class 3	5 years
Felony-Class 4	5 years

Q. WHY CHANGE SENTENCING AT ALL?

A. Because two persons convicted of the same crime can and do receive greatly different sentences and actually serve vastly different time under the present set-up. This is illogical and unfair.

There is nothing to prevent one judge from sentencing armed robbers too lightly and another too harshly. Even if they received the same sentence, for example, 4-12, one could get out in 3 years, the other only after 12.

Q. SO WHAT?

A. This leads to convict frustration, prison tension and riots, and a greater threat to society. Uncertain sentencing does not deter crime. The criminal should know - in advance - the penalty for what he is about to do. Now he doesn't. Under flat-time he would.

PAROLE

Q. BUT DOESN'T OUR PAROLE BOARD DETERMINE WHO SHOULD BE RELEASED AND WHEN?

A. In theory that's right, but actually decisions on who gets released from prison and when, are arbitrary and based on a concept of "rehabilitation" which cannot be proven to have any relation to future criminal behavior. Not only that, parole dates don't seem to be related to the length of sentence imposed originally. (Of all burglars in Illinois paroled over the past two years, the average time served was 1 year 9 months, although the average sentence for burglary is 4 years.)

Q. ARE YOU SAYING THAT WHEN A JUDGE GIVES A CONVICTED CRIMINAL A LONG SENTENCE THAT HE WON'T NECESSARILY SERVE THE SENTENCE?

A. That's right. Nobody knows because the sentence is "indeterminate". The offender must serve the minimum or one third of the maximum of the term to which he is sentenced, less time off for good behavior. This is where the disparity and iniquity for both the public and the offender becomes a reality.

Two offenders with similar backgrounds who have committed the same crimes often receive completely different sentences. This means one will come up for a parole hearing before the other. One may be paroled many years before the other.

The net effect of this present situation is that the public is never assured of just punishment, and the criminal suffers an equal injustice by never knowing how long he must serve.

The system is not only illogical, but leads to serious problems of controlling offenders within prisons.

Q. HOW WOULD FLAT-TIME SENTENCING CHANGE THE WAY CONVICTED OFFENDERS ARE SENTENCED?

A. As we have stated, a flat-time sentence would be given to every offender. Three general rules would apply to all prison sentences:

- 1) The term would be fixed at the beginning of the term by the Judiciary.
- 2) The offender would never have to guess what the punishment would be.
- 3) The inequality which now exists in sentencing would be eliminated.

Q. DOES FLAT-TIME SENTENCING MEAN THAT NO OFFENDER WOULD BE PAROLED BEFORE HIS SENTENCE IS COMPLETED?

A. Right. "Parole", as we know it, is done away with. And along with it, the false pretense that we are only releasing criminals after they are safe. We propose to punish for the crime, and grant release after the punishment has ended.

Q. BUT ISN'T PAROLE USEFUL AS A REWARD FOR STAYING OUT OF TROUBLE IN PRISON?

A. Under the program, we would provide for early release from prison on the basis of "good time" earned.

Q. WHAT DO YOU MEAN BY "GOOD TIME"?

A. Good time is a reward for responsible behavior from offenders. Every prisoner receives a day off his sentence for every infraction-free day in prison. Thus, if a person receives a flat sentence of 8 years, he will be out in 4 years if he is not found guilty of any serious infractions while in prison.

Q. ARE YOU SCRAPPING THE IDEA OF REHABILITATION?

A. No. The flat-time program only rejects "rehabilitation" as the key to release from prison. But, if an inmate truly wants to rehabilitate himself voluntarily - in the sense of learning a trade, completing his basic education or seeking mental health services, even though he knows his release date doesn't depend on it - such services will continue to be made available to him.

The difference is that a convict will ask for these services only because he really wants them - not just so he can convince the Parole Board that he is rehabilitated. For the first time these helping services will be able to operate as they were supposed to - solely as personal incentives for those who wish to spend their time constructively. Because of this, we believe they will be much more effective.

Q. IS THE PARDON AND PAROLE BOARD ABOLISHED UNDER THE JUSTICE MODEL?

A. No. Quite the contrary is true. The work of the Pardon and Parole Board takes on new meaning under the flat-time sentencing law. Its duties will include:

- 1) Paroling and releasing of all inmates sentenced under prior law, based upon the new flat-time law, and the actual term intended by the sentencing court.
- 2) Reviewing for release all prisoners sentenced under the new law, certifying good time and time served by the Department of Corrections.
- 3) Advising the Governor in commuting, reprieving, and pardoning offenders.

This function provides a "safety valve" and the avenue for release from prison of unusual offenders whose continued imprisonment would be an injustice.

PROBATION

Q. DOES ALL THIS MEAN PROBATION IS ENDED?

A. No. It becomes even more important.

First, let's define Probation:

It is supervision outside of prison subject to conditions, aimed at young or first offenders.

Q. WHAT HAPPENS TO PROBATION?

A. The system would be strengthened. The program proposes a Bureau of Community Safety within the Department of Corrections, to provide supervision of all adult offenders not in prison. This includes 30,000 adults now on probation.

The term "Probation" is changed to "Mandatory Supervision", which cannot be imposed without added conditions such as financial restitution to the crime victim, periodic imprisonment, fines, and so forth. This insures that every felony offender will receive some degree of punishment, even outside prison.

Q. IF THE BUREAU OF COMMUNITY SAFETY IS ESTABLISHED, WHAT WILL HAPPEN TO THE PRESENT PROBATION OFFICERS?

A. Circuit-wide departments of Court Services will be instituted under the authority of the Chief Circuit Judge. Employees of the Circuit Court Services departments shall remain County employees.

All present county adult and juvenile probation officers will remain employees in the Circuit Court Service Department embracing their county. They will have a crucial job of assisting the court in pre-sentence investigations of each convicted criminal. These investigative reports will become mandatory.

APPEAL

Q. WITH EVERYTHING SO CUT AND DRIED, WHAT HAPPENS TO THE RIGHT OF APPEAL?

A. It is retained as always.

Q. WHAT ABOUT THE APPEAL OF THE SENTENCE?

A. The power of the Illinois Appellate Court to review the sentence imposed on convicted criminals will be expanded.

Q. WHY IS THIS SPECIAL REVIEW DESIRABLE?

A. The flat-time program is rooted in the principle that persons who commit the same offense in similar circumstances should receive substantially the same sentence. Right now there are great disparities in sentencing by trial judges which cannot be effectively reviewed because the legislature has permitted a wide range of sentences without clear standards.

This legislation both provides clear standards and permits the Appellate Court to modify sentences imposed by the trial court to insure:

- 1) That the sentence was appropriate to the offense committed as aggravated or mitigated in that particular case;
- 2) The sentence was consistent with the public interest and safety of the community and most likely to work a full measure of justice between the offender and his victim;
- 3) The sentence was in line with the sentences imposed on other offenders for similar offenses committed in similar circumstances.

Q. WHO MAY APPEAL A SENTENCE TO THE APPELLATE COURT?

A. Either the defendant or the State may appeal the sentence, although the grounds upon which the State may appeal are restricted.

Q. THUS FAR, ALL OF THE PROVISIONS OUTLINED IN THIS PROPOSAL ADDRESS THE ADULT CRIMINAL JUSTICE SYSTEM. WHAT ABOUT JUVENILES? WHAT HAPPENS TO THEM?

A. First of all, it must be recognized that the program is an adult criminal law and correctional model. Under present Illinois law, juvenile (17 years and under) offenders are governed under the Juvenile Court Act (Chapter 37, Illinois Revised Statutes).

Juveniles are specifically excluded from the provisions of the flat-sentence program in recognition of the more malleable nature of youth, the difference in treatment accorded juveniles under present law, and the juvenile's likelihood for positive response to rehabilitative measures. There are, however, four major provisions in the Justice Program Model legislation that address various aspects of juvenile justice. They are:

- 1) Provisions for juvenile probation services
- 2) Removal of juvenile parole from the jurisdiction of the Parole and Pardon Board
- 3) Due-process rights of juveniles in custodial institutions.
- 4) The Department of Corrections is reorganized to provide for a "Bureau of Youth Services".

Q. WHO GAINS MOST BY THE PASSAGE OF THIS PROGRAM?

A. Six groups:

- 1) Victims of crime and witnesses at trials who will see cases handled more quickly and with justice.
- 2) Law enforcement officials who need no longer concern themselves with soft sentences and soft-hearted judges.
- 3) Civil libertarians need not be concerned about "hanging" judges and the inequities in the current system.
- 4) Offenders who receive uniform and reviewable sentences.
- 5) Guards who will work in a better atmosphere, one in which offenders have a stake in maintaining order.
- 6) Professionals who have an opportunity to service those offenders who really want to learn and change.

Q. HOW IS THIS PROGRAM TO BE IMPLEMENTED?

A. Representative Michael Getty has introduced legislation for a commission to report back on this program during 1975.

END