



# *Issues in Sentencing*

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# **ISSUES IN SENTENCING**

## **A Selected Bibliography**

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**National Institute of Law Enforcement and Criminal Justice**  
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## INTRODUCTION

Criminal sentencing has received considerable attention in recent years. Traditional sentencing philosophies and methods have been subject to increasing criticism from judges, attorneys, law enforcement officials, corrections administrators, citizens groups, and others interested in the criminal justice process. Just as traditional criminal sanctions and their method of application have been challenged, so have they been staunchly defended by others.

This bibliography is designed to highlight the primary issues of the sentencing debate and is not intended to be a comprehensive treatment of sentencing. The citations are drawn from a variety of articles and books, with both practical and theoretical approaches to the subject.

The documents in this bibliography have been selected from the data base of the National Criminal Justice Reference Service and are organized into the following sections:

- **Determinate Sentencing.** "Flat-time," "fixed," or "presumptive" sentences that statutorily attempt to minimize discretion of judges and correctional officials (may entail parole abolition).
- **Mandatory Sentencing.** Penalties fixed by statute for conviction of certain crimes.
- **Indeterminate Sentencing.** Sentencing laws and practices that enable judges and corrections officials to use discretion in determining sentence length for offenders.
- **Alternatives to Incarceration.** Innovations in sentencing that provide alternatives to incarceration.
- **Sentencing Disparity.** Wide variations in sentences imposed and actual time served by offenders with apparently similar circumstances.
- **Sentencing Guidelines.** Sets of criteria developed (often by judges) to guide judges in determining appropriate punishment for particular offenses and offenders.

Within each category the bibliography is arranged alphabetically by author.

Information about how to obtain the documents cited may be found on the following page.





## HOW TO OBTAIN THESE DOCUMENTS

All of the documents in this bibliography are included in the collection of the National Criminal Justice Reference Service. The NCJRS Reading Room (Suite 400, 1015 20th Street, N.W., Washington, D.C.) is open to the public from 9:00 a.m. to 5:00 p.m. All of the documents cited are also available in at least one of the following three ways:

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## **DETERMINE SENTENCING**



1. ALLEN, H. E. and N. GATZ. Abandoning the Medical Model in Corrections--Some Implications and Alternatives. Prison Journal, v. 54, n. 2:4-14. Autumn-Winter 1974. (NCJ 32613)

If rehabilitation is dead, as some researchers maintain, the authors propose a reintegration model which would rely on contract imprisonment, flat-time sentences, and correctional industries. The reintegration model proposed by the authors would make extensive use of community corrections. It would also require the convicted man's decision as to whether he would prefer punishment or reintegration. Since reintegration sentences would specify prison industry work, the system would be less costly than rehabilitation. Certain offenders would not be eligible for reintegration (first-degree murderers, fire-arm offenders, third-time felons, rapists, large-scale drug dealers, and pedophiles). Other advantages of the proposed model are discussed.

2. CALIFORNIA DEPARTMENT OF THE YOUTH AUTHORITY. New Directions for Dealing With the Serious Offender. By J. Petersilia. California Youth Authority Quarterly, v. 30, n. 1:2-12. Spring 1977. (NCJ 41704)

This paper, a product of the Rand Corporation's research agreements program, focuses on the serious habitual offender and summarizes current policy directions for dealing more effectively with this type of offender. A number of major policy issues are addressed, including: shifting the violent juvenile to the adult criminal court, increasing the reliance placed on mere incapacitation, moving toward mandatory, determinate sentencing, making use of voluntary rehabilitation programs, lessening plea bargaining, and increasing the use of proactive policing.

3. CALIFORNIA JUDICIAL COUNCIL. California--Judicial Council--Uniform Determinate Sentencing Act of 1976--Report and Recommendation Concerning Proposed Sentencing Rules and Recommended Reporting System. San Francisco. 1977, 47 p. MICROFICHE (NCJ 39947)

This report by the Sentencing Practices Advisory Committee describes and analyzes California's Uniform Determinate Sentencing Act of 1976, and recommends a new sentence reporting system. Since 1917, the sentencing of felons to prison in California has been on an indeterminate basis, with the judge setting general limits but the prison authorities or, more recently, the parole board, deciding the exact length of sentence. Growing dissatisfaction with the resultant sentence uncertainty and disparity and a reevaluation of the rehabilitation premise have been responsible for the adoption of a new sentencing law, The Uniform Determinate Sentencing Act of 1976, effective July 1, 1977. The new statute restricts the exercise of discretion by the parole board, thus making sentences more certain and uniform.

The advisory committee analyzes the actual mechanics of the act, with explanations of many portions of it. As the new law requires periodic reports to the State judicial council relating to sentencing practices, the advisory committee recommends a system of sentence reporting.

4. ELLIS, L. America's Convicts--How To Let Them Go. Offender Rehabilitation, v. 1, n. 1:5-16. Fall 1976. (NCJ 40128)

A brief discussion is presented of the development of penal philosophy with respect to punishment, incapacitation, deterrence, and rehabilitation; emphasis is placed on the recent turn from the rehabilitation model. The contention that rehabilitation is effective and that community-based facilities have not been given a fair chance is examined and rejected. The article covers the highly inaccurate nature of parole prediction, as well as the various proposals to adopt determinate prison sentences and to abolish parole. The author concludes that the penal system should be predicated on certainty, rather than severity, of punishment.

5. FOGEL, D. Flat-Time Prison Sentences--A Proposal for Swift, Certain, and Even-Handed Justice. Chicago, Illinois Law Enforcement Commission, 1975. 12 p. (NCJ 38251)

The provisions and benefits of flat-time sentencing schemes are described in a question-and-answer format. Also presented are the effects of flat-time sentencing on parole and probation services and on the appeal process. Society, offenders, victims, law enforcement officials, civil libertarians, prison guards, and rehabilitation professionals would all benefit by the implementation of flat-time sentencing, according to the pamphlet.

6. \_\_\_\_\_. Justice Perspective in Corrections. In Fox, Vernon, Southern Conference on Corrections, 20th Annual, 1975 (NCJ 30775). (NCJ 30779)

The author proposes a limited set of objectives for prisons evolved from a series of propositions concerning the author's view of man and law in the context of justice. Transition from indeterminate to flat-time sentencing is urged, as well as abolition of parole. Sentencing would be determined by the nature of the offense and prior criminal record, and would be reducible only according to a fixed good-time allowance. The prison sentence would represent only a deprivation of liberty, not a mandate for rehabilitation by correctional authorities. Participation in rehabilitative programs would, therefore, be voluntary. Correctional facilities would be of three types, depending

upon the degree of security required, but in no case would the population of any facility exceed 300. The author suggests that individual States would have to determine how best to institute such reforms.

7. \_\_\_\_\_ . Justice Perspective in Corrections. Quarterly Journal of Corrections, v. 1, n. 3:14-29. Summer 1977. (NCJ 43708)

Alternative sentencing, parole, and prison administration practices are suggested in a proposal for introducing a justice perspective into correctional operations. The lack of specific correctional purpose in prisons is pointed out. Propositions concerning man and law in the context of justice are set forth as foundations for prison objectives. The need to conceive of incarceration and its place in criminal justice in a new way is pointed out, and a two-pronged reform strategy is suggested. The short-range element of the strategy involves a reconceptualization of imprisonment as representing only a deprivation of liberty imposed as the legal cost for violating laws. It is suggested that, within the restraints imposed by institutional living and the execution of a sentence that restricts freedom of movement, prisoners should maintain all the rights accorded free citizens. The middle-range strategy involves a return to flat time sentences with procedural rules governing sentence selection, the elimination of parole boards and parole agencies, and the transformation of fortress prisons into institutions holding no more than 300 persons and further divisible into subunits of 30. Sentencing and parole alternatives are suggested, and details of the proposed flat-time system are offered. Program elements (e.g., ombudsman, self-governance, law library) conducive to operational justice in prisons are noted. A list of references is provided.

8. \_\_\_\_\_ . Pursuing Justice in Corrections. In Cederblom, J. B. and William L. Blizek, Justice and Punishment. (NCJ 43084). Cambridge, Massachusetts, Ballinger Publishing Company, 1977. 31 p. (NCJ 43088)

A "justice model," which claims prison is only to correct, not to rehabilitate, and which proposes greater use of prison alternatives, is presented to improve U.S. criminal justice. The model says prison should be an enforced deprivation of liberty as punishment for some offense and should be honestly stated as such. When the rhetoric of morality and psychological redemption is eliminated, both correctional officials and prisoners can deal with the system honestly. Goals for the prison environment should include mitigation of harshness, peaceful conflict resolution, and a safer work environment for the staff. Fairness should be the underlying principle. Self-government should be a joint venture between staff and inmates, and

self-government councils could be a good early-warning system for prison troubles. The ombudsman system is recommended to help insure peaceful conflict resolution. Alternatives to prison are considered, including probation, parole, and victim restitution. Tables present a proposed flat-time punishment system which is suggested as a possible deterrent to crime and a way to avoid inconsistencies in administration of the parole system. Mitigating and aggravating factors which should be considered in sentencing decisions are listed. The need for smaller custodial institutions is examined for those whose offenses are not severe enough for larger facilities but whose past behavior indicates need for correctional behavior. These would eliminate the oppressive features of large congregate living, enable more individualized treatment, and provide a safer work environment for the guards. Massive reform is necessary if the crime problem is to be reduced.

9. GETTINGER, S. Fixed Sentencing Becomes Law in Three States, Other Legislatures Wary. Corrections Magazine, v. 3, n. 3:16-26, 28-30, 33, 36. September 1977. (NCJ 43228)

New determinate sentencing laws in California, Maine, Indiana, and other States are described, and their underlying theory and possible ramifications are discussed. Several States have abandoned the indeterminate sentencing system. This article details some of the types of sentencing practices that are replacing indeterminate sentencing, and examines reforms enacted by three States and proposed by other State legislatures. Debate over fixed sentencing, which centers on who should set prison terms and how long the terms should be, has complicated the effort to revise sentencing laws. The effects of determinate sentencing on prisons, such as longer prison terms for some categories of offenders, possible increased prison populations, and the elimination of parole boards, are the subject of much discussion in the criminal justice community. The system instituted in California sets a 3-year range in sentencing to allow for mitigating and aggravating circumstances, permits a judge to add "enhancements" to the base term for crimes involving weapons, bodily injury to victims, and prior convictions; awards up to 10 days per month "good time" for good behavior; and requires 1 year of parole supervision for most offenders. Maine's sentencing law classifies offenses into five degrees of severity, also provides for good time, and entails no parole board or parole supervision. The presumptive sentencing law in Indiana, which sets particular terms for classes of crimes with substantial range for judicial discretion, is discussed. Along with a proposed presumptive sentencing reform in Illinois, new laws passed or proposed in other States and a major sentencing reform in the revised Federal criminal code are also examined.



10. JOHN HOWARD ASSOCIATION. Governor Walker's Proposed Justice Model--An Analysis of Its Impact. Chicago, Illinois, 1975. 13 p.  
MICROFICHE (NCJ 29608)

This document presents the response of the John Howard Association to probation, determinate sentencing, and parole revisions proposed by Illinois' Governor Walker in February 1975. The association endorsed the governor's recommendation that presentence investigation reports be mandatory in all felony cases and misdemeanor cases carrying a jail sentence of more than 90 days. They further proposed strengthening the governor's probation service proposals by establishing a statewide system of juvenile and adult probation services to be administered by the Illinois Department of Corrections. The recommendation to abolish indeterminate prison sentences in favor of fixed, flat-time penalties is examined, as well as the major defects such as longer prison sentences, lack of facilities needed to house an increased population, and prohibitive cost. The proposal's contention that parole is not effective as a crime prevention device, upon which the Governor based his recommendation to abolish parole in favor of good-time credit, is refuted, and conformity with relevant National Advisory Commission on Criminal Justice Standards and Goals (NAC) recommendations is advised. Appendixes contain NAC standards, dealing with sentencing the nondangerous offender and sentencing to extended terms, as well as providing statistics on male parole offenders in Illinois from 1968 to 1973.

11. LET THE PUNISHMENT FIT THE CRIME. Lincoln, Nebraska, Contact, Inc., undated. 223 p. (NCJ 42324)

This booklet contains a wide variety of material based on the theme of determinate, or fixed sentencing. Included are standards and goals related to sentencing and an overview of fixed sentencing in the States. Relevant publications and papers on the topic are listed, summarized, and in some cases, reprinted. The definite sentencing systems of California, Illinois, Maine, and Minnesota are described in a comparative analysis. Fixed sentencing and its accompanying abolition of parole are debated, with arguments from proponents such as David Fogel, Norval Morris, and James Q. Wilson, and opponents such as the American Correctional Society, Sol Rubin, and Robert Martinson. Minnesota's fixed sentencing bill is provided as a sample piece of legislation.

12. MAHLER, J. M. Commentary on Community Service Society's Proposal for Determinate Sentences for Juveniles. New York, Community Service Society of New York, 1976. 10 p. MICROFICHE (NCJ 37606)

A section-by-section analysis of a proposal by the Community Service Society of New York, which calls for imposing determinate sentences

on juvenile delinquents in proportion to seriousness of offenses committed is presented. Under the proposed sentencing procedures, the family court would determine the nature of duration of the sanctions, while the legislature would mandate the guidelines and criteria for the imposition of such sanctions. The choice of a particular program, within the limits of the court-determined sanctions, would be governed by the needs and desires of the juvenile. Reduction or modification of the sentence would be permitted under certain specified circumstances. For the text of the proposal, see NCJ 37605.

13. MAINE BUREAU OF CORRECTIONS. Maine--Bureau of Corrections--Population Projection for Adult Males. By C. Whittenberger. Augusta, Maine, 1976. 52 p. (NCJ 41007)

This study is a detailed analysis of the impact of Maine's law revision code on the adult prison population, with major changes in the code described and summarized. The projections in this report are estimates based solely on changes in the law, changes in sentencing, and the Maine State prison statistical report. The projected sentences are based on the assumption that courts will change their actual sentences in proportion to the change in the maximum sentence allowable by law. Adjustments were also made to compensate for the new code's increased good-time and the elimination of the parole board. The extensive charts indicate that the new code will cause significant prison population increases.

14. McANNANY, P. D., F. S. MERRITT, and E. TROMANHAUSER. Illinois Reconsiders "Flat-Time"--An Analysis of the Impact of the Justice Model. Chicago-Kent Law Review, v. 52, n. 3:621-662. 1976. (NCJ 36171)

This article examines the Justice Model bills (1975 legislative proposals to establish determinate sentencing and sentence equalization) and discusses the changes they will introduce in the State criminal justice system. The criticisms which have overtaken the existing system of indeterminate sentencing are first summarized, emphasizing the prison term disparity caused by widespread use of official discretion. A review of several major issues which the Justice Model bills raise in regard to present sentencing and corrections structure follows. Considered are the introduction of sentencing criteria, flat-time prison terms, and appellate review of sentences. Also discussed are the abolition of parole, the impact of determinate sentences on size of prison population, and the interrelated issues of good-time, discipline, and grievance procedures. In addition, the effect of determinate sentences on programs and the deemphasis on rehabilitation is examined. A final section summarizes the critique of the Justice Model bills and presents some suggested alternatives to justice model proposals which the authors consider critical for improvement over existing structure.

15. NEW JERSEY DIVISION OF CRIMINAL JUSTICE. Towards Certainty in Sentencing--  
Correctional Alternatives. By L. Espey. Criminal Justice Quarterly,  
v. 4, n. 3:111-128. Fall 1976. (NCJ 40982)

Numerous alternatives to the discretionary system under which sentences are decided and imposed are considered in this examination of the need for sentencing reform. The strengths and weaknesses of the three basic sentencing structures--indeterminate, indefinite, and definite--are explored, along with several of the alternatives to full-time incarceration--partial confinement, restitution, fines, or special conditions coupled with probation. Proposals for partially divesting the trial court of its sentencing autonomy as a means of reducing discretion are then evaluated. Suggestions relating to the most appropriate agency for imposing sentence include multijudge panels, sentencing tribunals which incorporate nonjudicial members, mandatory legislative sentencing, and sentencing by the trial jury. Based on the foregoing discussion, the author recommends the creation of a permanent legislative commission to implement a quantitative or matrix sentencing structure based on the weighting of a table of variables. Definite-term sentencing and across the board lowering of maximum terms would be adjuncts of the matrix system. This sentencing philosophy is consistent with the proposed New Jersey penal code, or the New Jersey correctional master plan. The sentencing structures of the other 49-State jurisdictions and the District of Columbia are also presented.

16. SERRILL, M. S. Determinate Sentencing--Making the Punishment Fit the Crime.  
Corrections Magazine, v. 3, n. 3:1-72, Special Issue. September 1977.  
(NCJ 43226)

Articles in this magazine's special report present different aspects of the debate surrounding determinate or flat-term sentencing. The new sentencing laws in California, Maine, and Indiana are discussed in depth. The movement to control the abuse of discretion in the criminal justice system through determinate sentencing has begun to see its theories put into practice. Maine, California, and Indiana are the first States to adopt some form of fixed sentencing, and their systems are the subject of careful scrutiny. Following an overview of past and present sentencing procedures, the new sentencing laws and proposals and their ramifications are examined. Aspects of the controversy treated in the articles include the question of whether to abolish, retain, or reform the parole release system; the fate of parole supervision under determinate sentencing; concern about increasing already large prison populations; and difficulties in deciding who should set flat terms and who should exercise discretion.

17. U.S. CONGRESS. Senate Subcommittee on Determinate Sentencing. Determinate Sentencing Survey--Summary Results. Minneapolis, Minnesota Correctional Services, 1976. 13 p. MICROFICHE (NCJ 34959)

This report summarizes the results of a survey conducted by the Minnesota Legislature's Joint Senate Subcommittee on Determinate Sentencing to ascertain what criminal justice officials feel a determinate sentencing system should look like. Questionnaires which were designed to give respondents an opportunity to deal with a broad range of determinate sentencing options were sent to 1,060 key persons in Minnesota's criminal justice system, which included a sample of inmates from the major State adult institution. Responses were received from 64.2 percent of the individuals to whom questionnaires had been sent and were categorized by law enforcement, judiciary, corrections, and other criminal justice people according to respondent's position in the criminal justice system. The numbers in each group were weighted to adjust for unequal numbers in the respondent groups. Major results are summarized in the beginning of the report. Unweighted responses are presented in appended tables to make determination of the effect of adjustments possible. A more detailed final report is anticipated. For a copy of the questionnaire used, see NCJ 34960.

## **MANDATORY SENTENCING**



18. ARKANSAS LEGISLATIVE COUNCIL. Feasibility of Enacting Laws To Prescribe Exact and Mandatory Penalties for Certain Criminal Offenses--Staff Report. Little Rock, Arkansas, 1976. 18 p. (NCJ 40577)

A brief explanation of indeterminate sentencing and a discussion of the sentencing proposals of Illinois, Minnesota, and California are presented. Appendixes contain Minnesota and Illinois legislation and a glossary.

19. BEDAU, H. A. Felony Murder Rape and the Mandatory Death Penalty--A Study in Discretionary Justice. Suffolk University Law Review, v. 10, n. 3:493-520. Spring 1976. (NCJ 35335)

A study providing an examination of mandatory capital sentencing for felony-murder-rape in Middlesex and Suffolk Counties from 1946 to 1970 is presented. The study reported in the article is part of a larger study to determine the significance of the shift from mandatory to discretionary capital sentencing. Data for the Massachusetts study were obtained from special docket and superior court records, Department of Correction files, the Bureau of Vital Statistics, and the newspaper files of the Boston Globe. Of the 17 cases during that time period in which prosecution for felony-murder-rape with its mandatory death penalty was plausible, no defendant was indicted on that charge. The author concludes that switching discretionary powers from the sentencing to the charging phase of the trial in accordance with the Supreme Court's ruling in the Furman v. Georgia (1972) without standards to guide the prosecutor is unconstitutional.

20. CALIFORNIA DEPARTMENT OF THE YOUTH AUTHORITY. New Directions for Dealing With the Serious Offender. By J. Petersilia. California Youth Authority Quarterly, v. 30, n. 1:2-12. Spring 1977. (NCJ 41704)

For complete description, see entry No. 2.

21. COOK, W. J. Bitch Threatens, But Seldom Bites--A Study of Habitual Criminal Sentencing in Douglas County, Nebraska. Creighton Law Review, v. 8:893-922. July 1975. (NCJ 31725)

A study of the application of the habitual criminal sanction in 82 eligible Nebraska cases was undertaken to determine patterns of application, reasons for its application, and sentence lengths for habitual criminals. The current Nebraska statute provides that upon the third conviction of a felony where both prior convictions have carried prison terms, the defendant is to be sentenced under the

10-to-60 year term of the Habitual Criminal Statute. The sentence under the statute is mandatory, but it is up to the prosecutor's discretion to press the supplementary complaint under the Habitual Criminal Statute. The author provides a review of past studies, articles, and inquiries into the sentencing of habitual offenders in the United States. These show that recidivist laws tend to be applied in only a small percentage of the qualified cases, and that there is little correlation between the criminal history and sentencing as a recidivist. In this study, eligible Douglas County cases from 1971 and 1972 were examined. Of the 82 cases found eligible for habitual criminal sanctions, only 3 received such sanctions. Possible reasons for this outcome are discussed. The author maintains that either the statute is being used with a great degree of arbitrariness or it is being consciously used as a threat to induce pleas of guilty from defendants. He concludes that in either case, the present constitutionality, first, of the sentences received by the three men sentenced as recidivists, second, of the conviction of the men whose records show guilty pleas and who were threatened with imposition of the Habitual Criminal Statute, and third, of the Nebraska Habitual Criminal Statute itself, are open to attack. Such attacks could be based upon discriminatory enforcement, coerced pleas of guilty, or the cruel and unusual nature of the statute's application. Repeal or reform of the statute is recommended by the author.

22. HARVARD UNIVERSITY LAW SCHOOL. And Nobody Can Get You Out--The Impact of a Mandatory Prison Sentence for the Illegal Carrying of a Firearm, on the Use of Firearms, and on the Administration of Criminal Justice in Boston. Cambridge, Massachusetts, 1976. 251 p. (NCJ 37283)

The Massachusetts Bartley-Fox amendment provided for a mandatory minimum sentence of 1 year in prison without suspension, parole, or furlough for the carrying of firearms without the appropriate permit. Three different sets of information were collected: 1975 statistics on the law's impact on the illegal carrying or possession of firearms; Boston police department monthly violent crime incident reports covering 3 years before and 1 year after the law's effective date of April 1, 1975; and data on prosecutions for firearm crimes that entered the Boston lower court system during April through September of 1975. Study findings revealed that predictions about police, prosecutorial, and judicial evasion of the law were not proven accurate, that the mandatory minimum did not add to the likelihood that those accused of homicide or armed robbery would receive prison sentences, and that firearm charges could only be used in about one-fourth of all prosecutions for violent crimes allegedly involving firearms. However, lower court judges did appear to be applying the mandated penalty. There was a radical increase in compliance with the law requiring firearms permits and licenses, and crime statistics for the year after the law took effect showed a reduction in the use of firearms in assaults.



23. HAWAII DEPARTMENT OF SOCIAL SERVICES AND HOUSING, Hawaii--Report to the Ninth Legislature on House Resolution No. 622 and House Concurrent Resolution No. 119, The Eighth Legislature, 1976. Honolulu, Hawaii, 1976. 38 p. MICROFICHE (NCJ 39899)

This report responds to House Resolution 622 and House Concurrent Resolution 119, and attempts to clarify issues concerning proposed mandatory sentencing in Hawaii. The report finds four main issues about mandatory sentencing; the scope of assumptions used in arguments concerning mandatory sentencing; basic philosophical differences between mandatory sentencing and reintegration of the incarcerated into society; the effects of mandatory sentencing on the criminal justice system; and the limitations of using data to study mandatory sentencing. Representatives of the judiciary, corrections, and parole on a committee discussing mandatory sentencing oppose it. A copy of the resolution and statistical tables are included.

24. MICHIGAN DEPARTMENT OF CORRECTIONS. Dilemma of Sentencing. Lansing, Michigan, 1977. 10 p. (NCJ 44180)

The purposes and structure of criminal sentencing in Michigan are outlined, determinate and alternative sentencing structures are described, and criteria for evaluating alternatives are stated. In Michigan, public protection is viewed as the overall aim of any criminal penalty. Retribution, deterrence, rehabilitation, and isolation are the aspects of penalty related to crime prevention and public safety. Other aspects include justice and cost-effectiveness. Michigan's modified indeterminate sentencing structure and parole system have been criticized for the disparities and failures of justice that sometimes occur. Alternative sentencing structures include determinate or flat sentencing, mandatory prison terms, and presumptive sentencing. The basic advantages of the existing indeterminate sentencing/parole structure are pointed out. A major advantage is that the correctional system has the opportunity to react to changes in individual offenders. The need for revisions in the existing structure to protect against abuses is noted. It is recommended that proposals to revise sentencing policies be judged by the following criteria: inclusion of adequate penalties for very serious crimes; provision of a reasonable range of discretion for judges; provision for the corrections system to act in light of what it learns about an offender; limitation and control of the corrections system's discretion; and consideration of the offender's conduct as a factor in parole decisions.

25. MORRIS, N. Punishment, Desert, and Rehabilitation. In Equal Justice Under Law. Washington, U.S. Government Printing Office, 1977. 32 p.  
(NCJ 43529)  
Stock No. 027-000-00553-5

The theories of parsimony, rehabilitation or reform, and desert are considered in this argument against mandatory sentences, presented at the University of Colorado College of Law, in Denver, Colorado, November 12, 1976, as part of a bicentennial lecture series. By mandating sentences, the law would merely substitute prosecutorial for judicial discretion. Some argue that equality of treatment should be the object of sentencing; this paper argues for inequality of sentencing because it is impossible for the law to take circumstances into account. The theory of parsimony, the idea of the least afflictive sanction necessary to achieve a defined social purpose, mandates inequality. Crackdowns against drunken driving to reduce road carnage or severe assault sentences for those participating in racial violence are examples of the use of inequality to deter others from this type of behavior. Tax courts are very selective in cases they prosecute, but the deterrent effect can be as great as if all tax violators were sent to prison, while resources used are much less. The notion of rehabilitation should have no bearing on sentencing; sentences should be punishment. Any participation in rehabilitation should be voluntary. The abuse of parole boards using rehabilitation program participation to set release dates has been well documented. The theory of deserts, the amount of punishment a crime deserves, should set maximum and minimum limits for sentences but cannot handle the fine distinctions in between. It is suggested that flat-time sentences with time off for good behavior may meet the need for justice but that mandatory sentencing does not. The American Law Institute's model penal code is considered as a good guide to reform in sentencing procedures. It is suggested that mandatory sentences would increase plea bargaining, sentence bargaining, and other pretrial maneuvers, thus substituting prosecutorial discretion for judicial discretion.

26. SLEFFEL, L. Law and The Dangerous Criminal--Statutory Attempts at Definition and Control. Lexington, Massachusetts, D. C. Heath and Company, 1977. 197 p.  
(NCJ 42770)

State statutes applicable to dangerous offenders are surveyed and analyzed as to their effectiveness, fairness, control, necessity, constitutionality, and ethical quality. It is concluded that the State statutes surveyed leave the problem of the violent offender unsolved and create new problems in the fair and efficient administration of justice. It is objected that most statutes abandon the principle of proportionality; are vague; confuse the goals of punishment, incapacitation, and therapy; allow discretion to be exercised by medical professionals; rely heavily on assessments of per-

sonality traits and prediction of violent behavior; and impose penalties so severe that courts and juries may be unwilling to apply them. The author offers recommendations based on the beliefs that statutes applied to violent offenders must respect and protect the rights of the offender and avoid sanctions predicated on behavior that has not yet happened. Recommendations are designed to eliminate preventive detention, establish punishment as the sole justification for sanctions, create proportionality, and establish and preserve the protection of due process.

27. STAUFFER, C. Attitudes and Opinions of Florida Residents Age 16 to 25 Regarding Crime Prevention Law Enforcement and Related Subjects--Executive Summary. Orlando, Florida, Barbour and Monroe Marketing Research, 1976. 48 p. MICROFICHE (NCJ 41082)

This opinion survey, contracted by the Florida Sheriff's Association, measured public awareness of, and attitude change toward, Florida Senate bill 55 with respect to law enforcement, crime, and the courts. The Florida Legislature passed a law stating that persons convicted of major felonies, such as murder, sexual battery, robbery, and burglary, who had a gun at the time shall be sentenced to a minimum jail term of 3 years without parole. The survey covered a wide range of questions about the public view of the criminal justice system. The demography of the sample base and the methodology employed are described.

28. UNITED STATES CONFERENCE OF MAYORS. Do Mandatory Prison Sentences for Handgun Offenders Curb Violent Crime--Technical Report 1. By M. G. Yeager, Washington, 1976. 36 p. (NCJ 35034)

This report argues that mandatory prison sentences for gun offenders will have little impact on violent crime, while causing severe strains on the criminal justice system. Strict handgun controls are recommended instead. The introduction of mandatory minimum prison sentences for those convicted of using or carrying a gun during the commission of a crime is frequently proposed as a method for curbing misuse of weapons. Such provisions have already been incorporated into the criminal laws of many States, and current opinion among public officials at all levels of government favors increased reliance on this concept. This report, issued by the United States Conference of Mayors, explores the legal, procedural, fiscal, practical, and behavioral questions which will determine whether mandatory minimum prison sentences will deter gun crime. It concludes that mandatory sentences will not significantly reduce the level of serious crime, and may in fact severely hamper the criminal justice process. The pros and cons of mandatory minimum sentences are analyzed in order to develop a realistic picture of what the impact of sentencing might be on gun-using offenders. The four basic

assumptions of the proponents of mandatory sentencing are examined in turn: (1) that the violent offenders who are convicted under our legal system are responsible for the bulk of violent crime; (2) since most of these offenders are recidivists, imprisoning them will significantly reduce the quantity of criminal violence in society; (3) that mandatory prison sentences will act as a deterrent; and (4) that mandatory prison sentences will have little adverse effect on the criminal justice system as a whole. In examining these assumptions, the report explores the manner in which the criminal justice system typically responds to statutory requirements to impose mandatory minimum prison sentences. Central to these explorations are considerations of the judicial system's need for efficiency, its goal of fairness, the role of plea bargaining, the use of prosecutorial discretion, the defendant's right to a jury trial, and the availability of prison facilities. Evidence which refutes each of the assumptions on mandatory sentencing is presented. The author concludes that mandatory sentences would reduce judicial efficiency and cause severe strains on the corrections system. He notes that the U.S. Conference of Mayors favors a ban on the manufacture, importation, sale, and private possession of handguns, except for use by law enforcement personnel, military, and sports clubs. For a second volume in this series, see NCJ 35035.

29. WASHINGTON HOUSE OF REPRESENTATIVES. Office of Program Research. Washington--Redirecting the Sentencing System--Staff Report. By B. Naon. Olympia, Washington, 1975. 75 p. (NCJ 44377)

The ability of Washington's determinate sentencing structure to deter crime and rehabilitate offenders is assessed, charges that the structure is discriminatory and inequitable are considered, and reforms are proposed. The mechanics of sentencing in Washington are described in sections on diversionary programs, deferred prosecution, sentencing alternatives, and parole. Research suggesting that rehabilitative assumptions underlying indeterminate sentencing structures are faulty is cited. Arguments for and against the general and individual deterrent effects of punishment are noted. The equity of the discretionary system of sentencing is brought into question, with references to disparity in sentencing by the courts, disparity in setting release date by parole boards, parole board use of base expectancy tables and a scale of offense severity in determining release dates, and interference with the human values of liberty and volition. Sentencing reform trends are outlined, and recommendations for reforms in Washington are set forth. The recommended sentencing structure provides for a determinate sentence for each category in the State's criminal code. Extended terms for repeat and dangerous offenders are provided for. Courts may set sentences within a relatively narrow range subject to the presence of mitigating or aggravating factors. Policies with regard to suspended and deferred sentences for first felony

convictions are permissive. Fiscal and humanitarian arguments for the proposed reforms are presented. Supporting materials, including details of the proposed sentencing structure, are included.

5

## **INDETERMINATE SENTENCING**





30. ALLEN, H. E. Indeterminate Sentence in America--An Empirical Test. In Fox, Vernon and Rick Kasten, Southern Conference on Corrections, 19th Annual (NCJ 30746). Wichita, Kansas, Wichita State University, 1974. 13 p. (NCJ 30748)

An empirical test of one of the assumptions inherent in the philosophy of indeterminate sentencing--that administrative boards are able to predict outcomes of offenders following release--is presented. Data on approximately 450 boys given indeterminate sentences to an unnamed midwestern maximum security juvenile institution contradicted this assumption. Staff members, identified by the inmates as knowing them best, were asked to predict how successful the inmates would be at adjusting to life within the law after release. Comparison of staff predictions with followup data indicated that in only 16 percent of the cases were staff predictions accurate. Inmates who were predicted to be likely to adjust well were almost as likely to be reincarcerated (40 percent) as those expected to do poorly (41 percent). The author suggests that this and other assumptions behind indeterminate sentencing be reexamined.

31. AMERICAN BAR ASSOCIATION. Sentencing and Corrections--A Symposium. American Criminal Law Review, v. 11, n. 1:1-289. Fall 1972 (NCJ 08552)

Designs for reform in the areas of corrections, parole, and sentencing that are being contemplated by Congress and the legal profession are discussed. The incidents at Attica, the Tombs, Patuxent, and Jessup have alerted members of the legal community and correctional administrators to the need for reform in the American corrections system. Former New Jersey Governor Richard Hughes summarizes the wide variety of programs currently being conducted by the the American Bar Association on correctional facilities and services. Senator Charles Percy explains the objectives of his bill for reorganizing the Federal System for the disposition of offenders. The other authors consider a wide variety of legal and administrative issues in corrections: the indeterminate sentence and the right to treatment, the litigation procedure in prisoners' rights suits, trends in the administration of parole, the rights of minors, and the role of the lawyer in securing alternatives to incarceration. There are also notes on suggested legislative changes in the Federal Youth Corrections Act and the emerging case law on a prisoner-press interview right. A comprehensive bibliography is included.

32. ARKANSAS LEGISLATIVE COUNCIL. Feasibility of Enacting Laws To Prescribe Exact and Mandatory Penalties for Certain Criminal Offenses--Staff Report. Little Rock, Arkansas, 1976. p 18. (NCJ 40577)

A brief explanation of indeterminate sentencing and a discussion of the sentencing proposals of Illinois, Minnesota, and California are presented. Appendixes contain Minnesota and Illinois legislation and a glossary.

33. BOGAN, J. B. Relationship of "Time," Management, and Treatment in the Prison. New England Journal on Prison Law, v. 2, n. 2:139-154. Spring 1976. (NCJ 35269)

This paper discusses the relationship between time served in prison, including parole eligibility and early release, and the issues of inmate control and rehabilitation. Examined are the use of indeterminate sentencing as a positive or negative incentive for inmate control and participation in treatment programs and the influence of the prison's sociopsychological environment on inmate rehabilitation. Also considered are the issues of inmate management versus inmate treatment, the voluntary/involuntary nature of an inmate's participation in treatment programs, and the role of rehabilitation programs in prison. The author suggests an integration of the two prison objectives of control and treatment by structuring the environment to encourage the inmate to participate in appropriate treatment, while providing no negative incentives for nonparticipation. At the same time, positive reinforcement would be used to accomplish inmate control, with negative reinforcements or restrictions being used when necessary for disciplinary purposes.

34. CARGAN, L. and M. A. COATES. Indeterminate Sentence and Judicial Bias. Crime and Delinquency, v. 20, n. 2:144-156. April 1974. (NCJ 16081)

This study tested the hypothesis that, because of individual judicial biases, the indeterminate sentence does not reduce sentence disparity. The records of felony cases handled by the common pleas court of Montgomery County, Ohio, were examined for a 2-year period. Emphasis was placed on the sentencing procedures of the six regular judges in eight offense categories, including robbery, forgery, breaking and entering, and narcotics violations. Although the court system used the indeterminate sentence, the study found differences among judges in overall sentencing disparity, among different offenses handled by the same judge, and in the relative severity of the sentence according to the defendant's race. Tables are presented which show the sentences imposed--imprisonment, probation, fine, or suspended sentence--by each of the six judges for each offense. The authors conclude that the use of the indeterminate sentence alters, but does not eliminate, the expression of judicial bias as reflected in unjustified sentencing disparities.

35. CARR, W. S. and V. J. CONNELLY. Sentencing Patterns and Problems--An Annotated Bibliography. Chicago, Illinois, American Judicature Society, 1973. 97 p.

(NCJ 11738)

A listing of articles is presented from "Federal rules decisions" and law reviews since 1952. This report begins with a narrative review of the concerns of sentencing literature, starting in 1952 with the work on the model penal code, and draws some conclusions about the direction of sentencing reform. The articles which provide a background to the problems of sentencing focus on the conflict between retribution, deterrence, and rehabilitation as theories of punishment. Separate sections of the document are devoted to the following topics: guilty pleas and plea bargaining, indeterminate sentences, jury sentencing, appellate review of sentences, increases in sentence and credit for time served, and presentence reports. Articles concerned with special programs of treatment and nonconfinement (probation, parole, and work-release) are listed as well as those dealing with certain groups of offenders (juveniles, mentally ill, and dangerous individuals). One group of articles is concerned with sentencing for specific crimes such as income tax evasion. These articles are written by the judges themselves and are especially revealing of the practice as opposed to the theory of sentencing. The last series of articles concerns miscellaneous items such as specific State laws, multiple sentences, the right to address the court, and delay in sentencing.

36. CEI, L. B. Indeterminate Sentence at the Crossroads. New England Journal on Prison Law, v. 3, n. 1:85-96. Fall 1976. (NCJ 39767)

This article reviews the development of the indeterminate sentence and critically analyzes arguments for and against its effectiveness in inmate rehabilitation. It is suggested that, despite criticisms of arbitrary administration, the questionable constitutionality of using such terms as "mentally ill" and "dangerous" offender, and problems of behavior prediction, the indeterminate sentence should be employed--but only under strict control. Proposed safeguards include written sentencing guidelines which allow for appellate review, statutory definitions of the terms "dangerous" and "mentally ill," voluntary participation by first offenders, and elimination of a minimum time for parole eligibility. It is also suggested that indeterminate commitment be accompanied by an analysis indicating that the person has an identifiable disorder and that offenders be sentenced to programs dealing with their specific problem.

37. COFFEE, J. C., Jr. Future of Sentencing Reform--Emerging Legal Issues in the Individualization of Justice. Michigan Law Review, v. 73, n. 8:1361-1462. August 1975. (NCJ 31769)

This article focuses on the mechanics of the process of individualization: the manner in which dispositional information is collected, the quality of data, and the ways in which it is used by correctional decisionmakers. The author first examines issues relating to the kind of information collected and utilized in the making of dispositional decisions. The three basic methodologies employed to analyze that data are then discussed. These include the "case attribute" system of the caseworker, the actuarial techniques of the statistician, and the typological classification systems of the clinician. A discussion of the legal remedies either developing or foreshadowed by the current case law is provided in order to measure their effectiveness against the problems noted in the article. Finally, alternative configurations to the current structure of dispositional decisionmaking are considered.

38. CONRAD, D. V. Parole Revocation and Indeterminate Sentencing--The California Experience. New England Journal on Prison Law, v. 2, n. 1: 15-26. Fall 1975. (NCJ 32067)

The combined effect of California's indeterminate sentence law and its parole revocation procedures works a great hardship upon the State's prisoners. Under the State's indeterminate sentence law, State courts do not have the power to fix the term of imprisonment when sentencing a prisoner. This power is vested in the Adult Authority, a branch of the Department of Corrections. In addition, the Adult Authority has been granted the power to grant parole; to fix terms of parole; and to suspend, cancel, or revoke parole. A parolee nearing the completion of his previously fixed prison sentence who is suspected of violating any of the terms of his parole, no matter how trivial, can have his parole suspended by the Adult Authority after a preliminary hearing. By Resolution 171, his term is refixed at the maximum allowable for the offense for which he was originally convicted, and the Adult Authority retains its custody over him. If he is found guilty of a violation of his parole at the revocation hearings, with their minimal due process requirements, he will likely have his sentence increased as a result of such guilt. Persons not professionally trained in penology should not be utilized to conduct the revocation hearings and recommend a course of action to the Adult Authority. The Adult Authority itself should more closely participate in parole revocation proceedings. The discretion lodged in the Adult Authority regarding the right for a parolee to confront and cross-examine his accuser and the right to counsel at revocation hearings should be liberally exercised in favor of the parolee. Requirements for evidence could be tightened up to more closely follow those of a judicial proceeding.

Most importantly, however, Resolution 171 should be repealed as not in keeping with the spirit of a parole system.

39. FOGEL, D. Justice Perspective in Corrections. In Fox, Vernon, Southern Conference on Corrections, 20th Annual, 1975 (NCJ 30775).  
(NCJ 30779)

For complete description, see entry No. 6.

40. GRAUPNER, C. P. Constitutional Law--Eighth Amendment--Appellate Sentence Review. Wisconsin Law Review, v. 1976, n. 2:655-669. 1976.  
(NCJ 36814)

This article examines the Sixth Circuit Court ruling in Downey v. Perini (1975) and the proportionality analysis method of examining the constitutionality of sentences in light of Supreme Court cases formulating and defining it. In Downey, the court declared an Ohio Statute to be unconstitutional because the disproportionate length of the indeterminate sentences attached to it constituted "cruel and unusual punishment." The Supreme Court's eighth amendment rulings are analyzed, as are State court decisions overturning sentences on eighth amendment grounds, as a means of tracing the development of the proportionality analysis framework. The use of proportionality analysis as a judicial tool, and its specific application in Downey are also examined. The author concludes that this review technique has shown great potential as a tool for appellate sentence review, and that the Downey decision suggests that appellate court decisions based on the eighth amendment will continue to expand.

41. HAAPALA, K. About Parole in New York State. New York, Citizens' Inquiry on Parole and Criminal Justice, Inc., 1974. 48 p.  
MICROFICHE (NCJ 16211)

A summarized explanation is presented of the parole system, sentences, conditional and good-time release, getting out of prison on parole, conditions of parole, and parole revocation and discharge. This booklet is written primarily for inmates and parolees serving indeterminate sentences. It explains the workings of the parole system and attempts to advise parolees and potential parolees on how to function in the parole system, both within their rights and in their own best interests. It is based on interviews with parolees, inmates, parole officers, lawyers, corrections professionals, and community agency personnel. It is also based on the New York State statutes and regulations, court decisions, and the parole officer's manual. Included is a list of State parole offices and projects which give legal assistance on parole issues.

42. HOOD, R. Tolerance and the Tariff--Some Reflections on Fixing the Time Prisoners Serve in Custody. London, England, National Association for the Care and Resettlement of Offenders, 1974. 18 p.  
MICROFICHE (NCJ 17124)

A criticism of the system of indeterminate sentencing and the injustices that such a system may generate, with suggestions for reducing prison populations by employing shorter, fixed sentences and community supervision is presented at a NACRO meeting in the House of Lords on July 22, 1974. The author challenges the doctrine that the actual period of a custodial sentence served should be fixed by review boards of various kinds advised mainly by penal authorities responsible for the offender. The philosophy behind indeterminate sentencing and several arguments against indeterminacy are reviewed. The author then examines the feasibility of reevaluating sentence lengths and criticizes proposals in the earlier report on young adult offenders insofar as they refer to the system devised for setting the period in custody.

43. ILLINOIS HOUSE JUDICIARY II COMMITTEE. Subcommittee on Adult Corrections. Summary of the Report to the Illinois House Judiciary II Committee. Springfield, Illinois, 1976. 53 p. MICROFICHE (NCJ 38404)

A critical analysis is given of the Illinois criminal code, specifically the system of indeterminate sentences, based on a 7-month study of the adult correctional system in Illinois, including proposals for change. In the report the subcommittee criticizes indeterminate sentencing as "an obstacle to rehabilitation," since it often coerces inmates into participating in treatment programs without significant results. The system is also faulted for the uncertainty it causes on the part of the prisoners as to the length of their sentences, judicial sentencing disparities, and parole/pardon board discretionary decisions. The subcommittee recommends that the judiciary committee study the possibility of instituting a system of determinate sentences for felonies in Illinois. The subcommittee's draft proposal, which comprises the bulk of this summary report, requires a predetermined sentence for all offenders sent to prison and specific ranges of sentences without parole. It allows for aggravating or mitigating circumstances within the ranges of each individual case, doubling the maximum sentence for habitual offenders, and a sentence credit system for each day of good behavior. The subcommittee also proposes that sentencing judges be required to state reasons for selecting the sentencing imposed.

44. MEYERSON, J. Board of Prison Terms and Paroles and Indeterminate Sentencing--A Critique. Washington Law Review, v. 51, n. 3:617-630. July 1976. (NCJ 37561)

This article examines the amount of discretion allowed to the Washington Board of Prison Terms and Paroles and criticizes its susceptibility to manipulation by inmates. The Board's powers and procedures are explained and the current modified indeterminate sentencing system in use in the State is analyzed. An alternative sentencing structure, based on a view of incarceration as a punishment rather than a rehabilitative process, is proposed.

45. MILLER, M. B. At Hard Labor--Rediscovering the 19th Century Prison. Issues in Criminology, v. 9, n. 1:91-114. Spring 1974. (NCJ 16179)

This article traces the evolution of prison labor and the prison practices centered around it, such as work and punishment. Comments are made on contemporary corrections, focusing on community programs, prison life, and assumptions about the treatment of prisoners. The author then explores the evolution of the prison structure. Comments are made on prison labor and the large penitentiary, remarking on prisoner earnings as well as prison costs. The author then discusses control mechanisms, such as executive pardon, good-time laws, parole, and the indeterminate sentence and their effect on convict labor. Tables showing the prison populations for the United States and territories from 1850-1890 and forms of State legislation from 1850-1915 are included. Other topics discussed include bureaucratic demands of prisons, pardons and parole, the antiprison movement, the state-use system, and the indeterminate system.

46. \_\_\_\_\_. Indeterminate Sentence Paradigm--Resocialization or Social Control. Issues in Criminology, v. 7, n. 2:101-124. Fall 1972. (NCJ 07552)

A historical development of the indeterminate sentence concept and an analysis of California's system for administering such sentences is described. The expectations of proponents of the indeterminate sentence are outlined, as well as the flaws which critics predicted. The procedures which the California Adult Authority employs in reviewing indeterminate sentences are examined from the prehearing stage through parole review. It is concluded that the indeterminate sentence has not resulted in better prisons, better attitudes, or shorter terms, but that such sentences have protected society from dangerous offenders.

47. PENNSYLVANIA PRISON SOCIETY. Indeterminate Sentence. Prison Journal, v. 52, n. 1:1-66. Spring-Summer 1972. (NCJ 11312)

This is a collection of articles presenting arguments for and against the use of the indeterminate sentence. The first article responds to the argument of "struggle for justice," which states that our criminal justice system is, in its very conception, unsound. The second article, a reply to the first, is in favor of the recommendations put forth in "struggle for justice," and suggests that the present discretionary system of individualized justice be replaced with a non-discretionary system of short but fixed penalties. The third article illustrates, through the experience of the Pennsylvania State correctional institution in Muncy, the failure of the indeterminate system to achieve its theoretical goals. The fourth article supports the indeterminate sentence on the grounds that it will provide a more effective sentencing rationale and more individualized treatment. The fifth article details the use of the indeterminate system through the Wayward Minor Act and the lengthy imprisonment which may result for noncriminal acts by minors.

48. ORLAND, L. Prisons--Houses of Darkness. New York, Free Press, 1975. 239 p. (NCJ 28693)

The author believes that the postconviction process--sentencing, imprisonment, and parole--is, and should not be, beyond the scope and protection of law. Judges, prison administrators, and parole boards function with little or no legal accountability. The history of corrections in the United States is reviewed to illustrate the extent to which contemporary corrections is the product of outdated and often discredited concepts. The results are counterproductivity, inequity, and unnecessary expense. The author suggests radical and reformist approaches to changing the system. The radical approach calls for abolishing indeterminate sentences and parole. Precise sentences, the maximum being 5 years, would be predetermined according to the seriousness of the offense. Rehabilitation must be accomplished during this time or, unless a compelling need for further confinement could be demonstrated, the prisoner would be released. The author's more moderate proposal would leave the sentencing and parole processes essentially intact, but would open them to public and judicial scrutiny. The author also calls for a legislative specification of prisoners' rights, and suggests the United Nations standard minimum rules for the treatment of prisoners (included in an appendix) as a model.

49. MORRIS, N. Future of Imprisonment. Chicago, Illinois, University of Chicago Press, 1974. 158 p. (NCJ 16220)

This book is based on three lectures given in the Thomas M. Cooley Series at the University of Michigan Law School in March 1974. It



recommends voluntary rehabilitation prison programs that are not conditions for the length of time in prison and suggests graduated testing as a basis for providing increased increments of freedom. The use of a "coerced cure" that pressures an offender into a program of change whose outcome determines the length of time spent in prison is considered ineffective and unjust. It is recommended that the length of sentence and probation eligibility be fixed and separate from performance standards in prison. The intent of such proposals is that participation in rehabilitation programs will then be non-coercive and will build upon the self-motivation of the inmate. Suggested principles for guiding sentencing are to employ the least punitive sanction necessary to achieve defined social purposes and to impose no sanction that is greater than that warranted by the most recent crime or series of crimes. An operational design of an institution for 200 repetitively violent criminals is offered in which the proposed principles could be tested in practice.

50. \_\_\_\_\_. Future of Imprisonment--Toward a Punitive Philosophy. Michigan Law Review, v. 72, n. 6:1161-1180. May 1974. (NCJ 14913)

The least restrictive sanction, imprisonment only for serious crimes, general deterrence, or when all else has failed, and a maximum deserved punishment are considered sound bases for imprisonment. The preconditions for imprisonment set by the author are compared with those set by the American Law Institute model penal code. They include undue risk that the defendant will commit another crime, need for treatment requiring institutionalization, and sentencing that is appropriate for the seriousness of the crime. The author rejects the risk criterion as lacking adequate predictive procedures and the concept of coercive rehabilitation as an abuse of power over the individual. He accepts imprisonment as a symbol for labeling the seriousness of a crime. This article is based on a lecture given in the Thomas M. Cooley Series at the University of Michigan Law School in March 1974.

51. \_\_\_\_\_. Judge's Declining Role in the Criminal Justice System. In Susman, Jackwell, Crime and Justice, 1971-1972, An AMS Anthology (NCJ 28615). New York, AMS Press, Inc., 1974. 9 p. (NCJ 28621)

The author maintains that selective enforcement and prosecutorial sentencing and correctional discretions (including parole and its revocation) have adversely affected the significance of the trial judge's role. He calls for a reversal of this trend and a reassertion of the trial judge's central role in the criminal justice process.

52. . Punishment, Desert, and Rehabilitation. In Equal Justice Under Law. Washington, U.S. Government Printing Office, 1977. 32 p.  
(NCJ 43529)  
Stock No. 027-000-00553-5

For complete description, see entry No. 25.

53. MORRIS, N. and J. JACOBS. Proposals for Prison Reform. New York, Public Affairs Committee, Inc., 1974. 28 p. (NCJ 18570)

Alternatives to the current overcrowded, rehabilitation-and-deterrence-oriented prison system are suggested, including increased use of community-based corrections, better staff, and due process guarantees in prison. The author contends that the rehabilitative ideal of prisons, like the early Quaker ideal of solitary confinement and meditation in prison, has proven to be unworkable. The use of indeterminate sentences, "coerced cures," and broad administrative discretion in the treatment of prisoners are cited as examples of the unjust procedures brought about by the rehabilitative ideal. It is suggested that humanitarian reform--better facilities, more prison activities, prison furloughs and conjugal visits--are needed in prisons instead of rehabilitative programs. Also discussed are such topics as the reform of local jails, the inequalities of bail, the high costs of prison reform and prisoners' rights.

54. REID, S. T. Rebuttal to the Attack on the Indeterminate Sentence. Washington Law Review, v. 51, n. 3:565-606. July 1976. (NCJ 37559)

This article discusses the history and treatment philosophy underlying the indeterminate sentence, focusing on the philosophical and practical problems of implementing the treatment philosophy. It is concluded that the system itself should not be viewed as solely responsible for its shortcomings because abuses of the system, as well as practical implementation problems, are responsible for the current dissatisfaction with the indeterminate sentence.

55. ROSCOE POUND-AMERICAN TRIAL LAWYERS FOUNDATION. Program for Prison Reform--The Final Report--Annual Chief Justice Earl Warren Conference on Advocacy in the United States, June 9-10, 1972. Cambridge, Massachusetts, 1972. 68 p. (NCJ 12295)

Twenty proposals to radically alter corrections are presented, as well as the theory of corrections as it is applied in the United States. The Chief Justice Earl Warren Conference on Advocacy in the United States asserts that America's penal system is a major national blight

that is too often swept under the rug of public conscience by citizen disinterest. These reforms are directed toward the elimination of prisons--institutions which they contend are useful only to cage society's castoffs. The report advises stripping away the protective covering from current shibboleths which many label "progressive." For instance, the report contends that our parole system and the indeterminate sentence which is its concomitant does not in actual practice operate in response to rehabilitative achievement, but instead is often used as a means of adding punishment. The report is critical of "rehabilitative" procedures which it argues cause the sentencing structure to bear most heavily on the poor. The principal recommendation of the conference is that imprisonment be a last resort. The prosecution, accordingly, should bear the burden of proving that no acceptable alternative exists. In addition, the conferees suggested that "complainant-less" offenses, such as prostitution, homosexuality, and gambling, be decriminalized, since the criminal law and its agencies are inappropriate remedies for such behavior. Where imprisonment is warranted, the report argues, sentences should be predetermined and shorter than the current U.S. average, which is believed to be the longest in the Western World. In all, the conferees present 20 recommendations for reform of the penal system.

56. ROTHMAN, D., W. LEIBOVITZ, D. SHACK, I. GLASSER, J. LEE, L. SAGER, and D. TERYL. Civil Liberties Policy on Sentencing. New York, New York Civil Liberties Union Foundation, 1976. 11 p.  
MICROFICHE (NCJ 40323)

This memorandum discusses the New York Civil Liberties Union's (NYCLU) position on the rights of the accused during sentencing. The NYCLU has positions on the rights of the accused during arrest, trial procedures, appeals, and in postconviction conditions, but the purpose of the memorandum was to discuss the adoption of a position on sentencing rights, a position the NYCLU did not have. Particular attention was paid to the constitutionality of the indeterminate sentence. The arbitrariness of its application was especially criticized. The NYCLU was concerned that the discretion of judges not be prejudicial toward the convicted.

57. SCOTT, J. E. Examination of the Factors Utilized by Parole Boards in Determining the Severity of Punishment. Doctoral Dissertation, Indiana University, Bloomington, 1972. 140 p.  
(NCJ 25591)

The relative importance of legal factors, institutional adjustment variables, and social and biographical factors in determining the actual length of time served in prison is investigated. The data for this research were gathered at Indiana's three adult penal

institutions for felony offenders: the Indiana Women's Prison, the Indiana State Prison, and the Indiana Reformatory. The principle sources of data utilized in this research consisted of the prison records compiled and submitted to the parole boards and observations of the decisionmaking process made by the researcher while attending numerous parole board meetings. The sample of inmates paroled or discharged from prison comprises 359 cases, of which 352, or 95 percent, were paroled. It was found that the seriousness of the crime was by far the most important variable affecting the parole decision. The actual sentences were served by older, less educated, less intelligent, unmarried, nonresident, male, and lower socioeconomic group inmates. The number of disciplinary reports was directly related to the severity of punishment. However, it was noted that greater prior criminal involvement led to less punishment, and that greater institutional adjustment led to longer actual imprisonment.

58. SERRILL, M. S. Profile/California. Corrections Magazine, v. 1, n. 1:3-12, 29-49. September 1974. (NCJ 26338)

This article gives a profile of the California corrections system--the Department of (Adult) Corrections and the Department of the Youth Authority--and the characteristics of its innovative programs. Discussed are the operation and use of probation subsidy and the indeterminate sentence, community corrections, and the adult and youth authority institutions. Highlighted are the high rate of inmate violence and killings associated with gang activity and the wide range of inmate programs made possible by the low staff-inmate ratio. Also included is a special report on the 1973 "lockdown" of 9,000 inmates due to inmate gang violence. A "lockdown" involves an almost complete suspension of all rehabilitation programs, work assignments, and recreation together with a locking up of the inmates in their cells around the clock, except for meals. This "lockdown" occurred at San Quentin, Folsom, Soledad, Tracy, and Vacaville.

59. \_\_\_\_\_. Is Rehabilitation Dead? Corrections Magazine, v. 1, n. 5:3-7. May-June 1975. (NCJ 26487)

This surveys the top prison administrators in the 50 States, D.C., and the Bureau of Prisons on their opinions about the efficacy of programs to rehabilitate inmates and reduce recidivism. The overwhelming majority of America's top prison administrators reject the argument that rehabilitation programs do not work. In a national survey by Corrections Magazine, initiated largely in response to a study by Dr. Robert Martinson and remarks by former Attorney General William Saxbe and other criminal justice experts, 63 percent of the prison officials say that some rehabilitation programs can change

inmate behavior for the better. An additional 14 percent maintain that there is not enough evidence to justify scrapping the idea of rehabilitation. The survey results indicate that the growing movement to declare the concept of rehabilitation defunct has few supporters among the nation's prison administrators. The survey also finds that the administrators are firmly committed to the idea of community corrections. Not only do the great majority (about 90 percent) say that community programs are effective, but 78 percent say that such programs are more effective than programs in institutions, at least for certain offenders. Many administrators fear that corrections are about to be the victim of a conservative backlash. They are apprehensive about losing programs they have struggled many years to launch. Some say that the reaction has already set in. They cite sharp increases in commitments of offenders to prison and in revocations of probation and parole. One of the largest hurdles, they say, is that recidivism rates do not measure the effectiveness of inmate programs, yet those rates are used as the sole criterion for determining success or failure. Although the administrators themselves are divided in their opinions concerning rehabilitation of adult offenders, nearly all of them indicate that such programs do have an effect on juveniles. Contrasted to their mixed feelings about institutional programs, most of the administrators feel that community-based programs have a better chance of success and are economically desirable.

60. SHAIN, I. J. Indeterminate Sentence Concept--A Reexamination of the Theory and Practice. UNAFEI Resource Materials Series, n.12:77-91. October 1976. (NCJ 41784)

A review of the history of the indeterminate sentencing law, which is widely used in the U.S., and its administration in California in recent years, is presented in this paper. Proposals to revise the California law are also discussed. A chart of the provisions of the California Indeterminate Sentencing Statute is appended.

61. TWENTIETH CENTURY FUND. Fair and Certain Punishment--Report of the Twentieth Century Fund Task Force on Criminal Sentencing. New York, 1976. 15 p. (NCJ 34356)

Included in this text are the report and recommendations of the task force in which an end to indeterminate sentencing is proposed. The text of a background paper on methods of criminal sentencing is also provided. The task force report reviews issues in the present sentencing structure, reviews such reform proposals as flat-time and mandatory minimum sentencing, and offers a proposal of its own: presumptive sentencing. Under this method, the legislature would

retain the power to make broad policy decisions and the sentencing judge would have some degree of guided discretion. However, persons convicted of committing a crime would predictably incur a particular sentence unless specific mitigating or aggravating factors are established. The appendixes to this report include an illustrative presumptive sentencing statute for armed robbery and an illustrative list of crimes and presumptive sentences. The background paper discusses such issues as the purposes and mechanisms of the criminal sentence, indeterminate sentencing, and recent judicial limits on indeterminate sentencing.

62. VON HIRSCH, A. Doing Justice--The Choice of Punishments. New York, Farrar, Strauss, and Giroux, 1976. 220 p. (NCJ 31685)

This report proposes a new model of corrections in which discretionary sentencing and the rehabilitative ideal are replaced by a system characterized by sentencing based on crime seriousness and alternatives to incarceration. Theories about sentencing have long been dominated by traditional assumptions--that prisons rehabilitate the criminal or restrain him if he is dangerous, and that to accomplish these aims, judges and other officials should be given the widest discretion in their decisions. This text points out the flaws in such reasoning by documenting the failures of rehabilitation and the futility of predicting recidivism, and then presents an alternative. It argues that under a just system the length of a sentence would be based primarily on the offender's deserts--that the seriousness of the crime should dictate the punishment, and within defined limits. Other reforms of this system would include stringent limitations on incarceration as punishment, alternatives to incarceration for the bulk of criminal offenses, sharply scaled-down penalties for first offenders, reduction in sentencing disparity, narrowing of sentencing discretion, and elimination of the indeterminate sentence. This volume is the result of a 4-year investigation by the committee for the study of incarceration.

63. WILKINS, L. T. Putting "Treatment" on Trial. San Francisco, University of California, 1975. 14 p. MICROFICHE (NCJ 28241)

The author criticizes the use of the clinical, medical analog--"treatment of offenders"--to refer to the disposition of punishment of those found guilty of crimes. He contends that use of this rationale carries the implication that behavior control techniques, usually conceived within a medical or semimedical framework, offer the proper approach to dealing with criminal offenders without the existence of documented supporting evidence. One example of this clinical approach to treatment of offenders--the Patuxent Institution for "defective delinquents" in Jessup, Maryland--is examined. It is suggested that Patuxent's

claims of success (low recidivism rates) for its indeterminate sentence and 3-year probation period are based on dissimilar criteria of comparison, and that, in reality, its 7 percent recidivism rate does not differ substantially from that of other kinds of detention facilities. The author also examines some of the moral implications of using a "medical model" for the disposition of offenders, especially in light of the current rudimentary ability to identify potentially violent individuals. In addition, he considers some alternative ways of thinking about and coping with violence in our society. A list of references is included.

64. WILKINSON, F. T. and F. DEARMOND. Realities of Crime and Punishment--A Prison Administrator's Testament. Springfield, Missouri, Mycroft Press, 1972. 283 p. (NCJ 14916)

This book advocates flexibility in dealing with offenders as individuals to accomplish rehabilitation while maintaining effective controls on criminal behavior where needed. The practice of indeterminate sentencing with more authority entrusted to correctional boards for release decisions is proposed. It is argued that successful rehabilitation will thus be implemented, while unrevised criminal tendencies will be controlled indefinitely. It is recommended that more attention be given to preparing the parolee to reenter the community through comprehensive programs that take seriously the new pressures and responsibilities of a reformed lifestyle.





## **ALTERNATIVES TO INCARCERATION**



65. BERGMAN H. S. Community Service in England--An Alternative to Custodial Sentence. By H. S. Bergman. Federal Probation, v. 39, n. 1:43-46. March 1975. MICROFICHE (NCJ 26234)

A description is presented of this English program, which provides an alternative to the traditional sentencing of an offender by having him complete a specific number of hours of unpaid, voluntary community work. Among the topics discussed in this article are the origins of the community service alternative, the workings of the community service program, the ages and types of participating offenders, the available types of community service, the problems encountered in the use of this program, and the reception this program has received from offenders, the probation service, and the public.

66. COUNCIL OF EUROPE. Alternative Penal Measures to Imprisonment. Strasbourg, France, 1976. 81 p. MICROFICHE (NCJ 37950)

This is a report to the European Committee on Crime Problems discussing the development of alternative measures, evaluation of existing alternatives, resources required, court sentencing policy, and public support. In addition to suspended sentence, probation, and similar measures, the study examines a wide range of penal measures which include a strong training element such as compulsory attendance at day, evening, or weekend training centers which could utilize the already existing resources of the local community to provide a range of facilities; educational, via local centers of education; psychiatric, via outpatient clinics; and industrial training, via specially arranged placements in local industries or through a nearby vocational training center. The study also examines the sophisticated use of fines, compulsory deductions from wages, services performed for the handicapped or the elderly during weekends, and nonfinancial penalties (moral sanctions) such as reprimands or warnings. The report discusses these measures in terms of the existing or possible application by the member nations of the Council of Europe.

67. FOGEL, D. Pursuing Justice in Corrections. In Cederblom, J. B. and William L. Blizek, Justice and Punishment (NCJ 43084). Cambridge, Massachusetts, Ballinger Publishing Company, 1977. 32 p. (NCJ 43088)

For complete description, see entry No. 8.

68. GROVES, P. H. Report on Community Service Treatment and Work Programs in British Columbia. In Community Participation in Sentencing (NCJ 42268). Ottawa, Canada, Printing and Publishing Supply and Services Canada, 1976. 30 p. (NCJ 42270)

This report examines the current and proposed uses of community service treatment in British Columbia, and discusses some of the issues and problems involved in these noncustodial penalties and programs. The present organization and administration of corrections in British Columbia is first outlined. It is noted that the development of work service programs is one of five major innovations planned by the department. The types of work service proposed by the department include involvement of probationers in existing community projects, arranged work projects of a public nature, and special social service programs for offenders who already possess specific skills. Several reports on the actual use of community service treatment in British Columbia are then provided, with the comments of judges and probation officers. Finally, an analysis of some of the problems involved in these types of programs is presented. The appendix provides a discussion of the use of community service in Indian communities.

69. HICKEY, W. L. and S. RUBIN. Suspended Sentences and Fines. Crime and Delinquency Literature, v. 3, n. 3:413-429. September 1971. (NCJ 14580)

A review of domestic and foreign thinking and legislation on suspended sentences and fines, outlining the benefits and applicability of these sentencing alternatives, is presented. The author states that the suspended sentence and the fine should be used more often. Differences between probation and the suspended sentence are indicated. Probation is seen as the proper disposition for many currently incarcerated offenders who require guidance but pose no danger to the community. He states that an expanded use of the suspended sentence would free probation staff for more serious cases while still providing an appropriate disposition for those not requiring supervision. Fines are seen as a valid disposition not only when the motive for the offense is economic gain, but in nonpecuniary offenses as well. The author maintains that imprisonment of indigents for nonpayment of fines should be abolished, but those who are able to pay but willfully refuse should be charged with contempt.

70. HOPKINS, A. Imprisonment and Recidivism--A Quasi-Experimental Study. Journal of Research in Crime and Delinquency, v. 13, n. 1:13-32. January 1976. (NCJ 34746)

Data on defendants sentenced in Hartford (Connecticut) between July 1962 and March 1964 were examined, using a quasi-experimental

technique. The results indicate that imprisonment is less effective than its alternatives. It is noted that most research on recidivism is marked by serious methodological flaws since it is difficult to construct comparative groups equal in every respect but the method of treatment--incarceration vs. probation or suspended sentencing, for example. The research strategy adopted here was designed to overcome this difficulty by identifying truly comparable groups of offenders who were nevertheless subject to differential treatment. The idea was that if cases are allocated at random to judges sitting in the same court, and if some judges are harsher than others, incarcerating a higher proportion of those who come before them, then differences in the subsequent recidivism rates of the groups coming before the various judges can be attributed to differences in the incarceration rates. To facilitate comparisons, a technique was developed for calculating recidivism probabilities for offenders who would be incarcerated by a harsh judge but not by a lenient judge. Data for the study were collected from five Hartford Superior Court judges to whom it appeared that cases were allocated in an essentially random manner. Unfortunately, the offender groups coming before these judges were found to be somewhat dissimilar. However, it proved possible to construct a "composite" judge whose group of offenders was comparable with the group coming before one of the harsher judges. Computations based on this comparison revealed that the recidivism probability of borderline offenders, those who would be incarcerated by the harsh judge but not by the lenient judge, was considerably higher after incarceration than after noninstitutional treatment. This conclusion was qualified by the fact that relatively slight variation in incarceration rates made the computed values quite unstable.

71. INNER LONDON PROBATION AND AFTER-CARE SERVICE. Community Service By Offenders--3rd Annual Report, 1975. London, England, 1975. 37 p.  
MICROFICHE (NCJ 36985)

A narrative and statistical summary of yearly activities for a London program, which provides community service by offenders as an alternative to custodial prison sentences, is presented. After a brief introduction and discussion of the highlights of the year, the impact of the community service program is investigated through an analysis of the statistics. Reports from individual units operating the community service program are included as well. The report attempts to demonstrate how the program operates, the size and nature of its effects on sentencing and the judiciary, its contribution to the community, its effect on improving relationships between the offender and the community, and the social implications of the program for offenders.

72. KENTUCKY DEPARTMENT OF JUSTICE. Owensboro (Kentucky) Court Referral Program--Evaluation Report. By P. Sims and M. E. Curtin. Frankfort, Kentucky, 1976. 32 p. MICROFICHE (NCJ 40199)

This is a 6-month evaluation of the goal achievements of the Court Referral Program (CRP), a program that provides an alternative sentence of community service to adult misdemeanants and juveniles referred by juvenile courts. This postconviction diversion program is designed to provide a beneficial and cost-effective correctional alternative for adult misdemeanants and juvenile court referrals. Its objective is to place 10 offenders a month as volunteers in community service agencies, with an overall success rate of 80 percent among the referred offenders during the project period. The evaluation assessed CRP efforts in terms of project operations, placements, success of placements, agencies receiving placements; and project impact on the criminal justice system, i.e., use of the program by the courts, cost effectiveness, effect of recidivism, and reports from community agencies receiving placements. The evaluation showed that the objective of providing a cost-effective alternative was not met, since most sentencing alternatives are less expensive. It was not possible to directly assess the benefits of the CRP. The objective of a placement rate of 10 referrals per month was partially met.

73. LAW REFORM COMMISSION OF CANADA. Community Participation in Sentencing. Ottawa, Canada, Printing and Publishing Supply and Services Canada, 1976. 257 p. (NCJ 42268)

This volume includes four research papers and two working papers dealing with such community involvement issues as victim compensation, probation, community service orders, and fines. The sentencing options available in the courts have now expanded to include a number of alternatives which call for some participation of the community in the offender's rehabilitation. This book, produced by the Law Reform Commission of Canada, contains a number of papers which examine the various options available and the current and proposed uses of each of these options.

74. Restitution and Compensation--Fines--Working Papers. Ottawa, Ontario, 1974. 98 p. (NCJ 18080)  
Stock No. J32-1/5-1974

These papers suggest that restitution be made a basic principle in criminal law, that it be supplemented by a plan for compensation, and that a system of day-fines be instituted based on income rather than fixed amounts. In these working papers, "restitution" is defined as the responsibility of the offender to the victim to make good the

harm done, and "compensation" as assistance by the state where the offender is not detected or where he is unable to assume responsibility for restitution. Under the proposed law reforms, fines would represent the penalty for an offense, over and above restitution. The automatic alternative of days in jail to fines is also opposed. --In English and French.

75. LEAGUE OF WOMEN VOTERS OF WISCONSIN. After-Conviction--The Adult Offender in Wisconsin. Madison, Wisconsin, 1974. 69 p.  
MICROFICHE (NCJ 32170)

This publication of the Wisconsin League of Women Voters outlines the sentencing procedure; describes Wisconsin correctional institutions, their staff and inmate populations; and outlines alternatives to incarceration. The conflicting goals of the criminal justice system are reviewed in the initial section. Aspects of sentencing such as presentence activities, sentencing alternatives, and sentencing disparity are reviewed, and recommendations on reducing disparity and improving sentencing of adult offenders are offered. The program, facilities, staff, inmates, and administrative procedures of Wisconsin correctional institutions are then outlined. Alternatives to incarceration are examined, including probation, parole, decriminalization of certain behaviors, pretrial intervention, medical treatment, and community-based corrections. Finally, some of the problems faced by ex-offenders as they try to adjust to society are reviewed.

76. SERRILL, M. S. Determinate Sentencing--The History, The Theory, The Debate. Corrections Magazine, v. 3, n. 3:3-13. September 1977.  
(NCJ 43227)

This article discusses the abuses of discretion in the criminal justice system and the movement to control its practice. Proposals for reform and problems of implementation are presented. The "determinate sentencing" movement would abolish or tightly control discretion as practiced by prosecutors in choosing charges or plea bargaining, by judges in sentencing, by prison administrators in deciding prisoner treatment methods, and by parole boards in releasing or not releasing prisoners. Clear, uniform penalties for all crimes, prescribed either through legislation or guidelines, would be adopted. A history of discretion in sentencing and recent examples of sentencing disparity show that discretion has often been abused. Since the 1971 publication of a book detailing a haphazard sentencing and parole situation in California State prisons, determinate sentencing has been a controversial subject in the criminal justice community. Sentencing reforms cited advocate goals such as punishment of the offender and humanization of correctional institutions, which would be achieved through "presumptive" sentencing--a particular sentence

for a particular crime--graded according to the severity of the offense, or through the abolition of parole boards and the establishment of "flat-time" sentences--a single sentence for each class of felony. Although most members of the academic prison reform, or liberal political community, favor a reduction in the amount of discretion currently exercised, specific proposals for determinate sentencing give rise to debate over their implementation. One central question involves which offenders should go to prison and which should not. There is common agreement that uniformity in sentencing cannot take into consideration either the distinction between individual offenses and individual offenders or the conditions of the punishment and an offender's capacity for suffering that punishment. A truly fair, just, and rational criminal justice system will be difficult, if not impossible, to achieve.

77. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Guide to Improved Handling of Misdemeanant Offenders. By T. L. McCrea and D. M. Gottfredson. Washington, U.S. Government Printing Office, 1974. 133 p. MICROFICHE (NCJ 11964)  
Stock No. 027-000-00243-9

This document presents information on nationwide programs which attempt to alleviate problems of the court, reduce pretrial detention, and find alternatives to incarceration. The handbook is one of a series of prescriptive packages sponsored by the National Institute of Law Enforcement and Criminal Justice to provide criminal justice administrators and practitioners with background information and operational guidelines in selected program areas. The purpose of this package is to offer concrete suggestions for improving misdemeanor correctional and lower court practices. Its recommendations are based on both research and experience drawn from programs across the country. It explores such topics as court delay, pretrial jail detention, use of presentence reports, and special misdemeanor treatment programs. Alternatives to incarceration are also examined. The guide is in four parts. The body of the report deals with the pretrial period, trial and sentence, convicted misdemeanants not committed to jail, committed misdemeanants, the postinstitutional period, and establishing reporting and evaluation mechanisms for the misdemeanor justice system. Problem areas are highlighted and programs which improve and strengthen the system are noted. Appendix A is a review of the literature and contains eight sections: (1) models, manuals, and standards; (2) multistate surveys; (3) statewide studies; (4) local studies; (5) classification; (6) programs for inmates; (7) non-institutional programs; and (8) a bibliography. Appendix B consists of descriptive reports on 11 existing programs or projects in various parts of the nation. These reports go into far more detail than is possible in the main text, regarding such aspects of misdemeanor programs as development, administration, organization, cost, and funding. Appendix C is a listing of other programs cited in the text.



78. \_\_\_\_\_ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Guidebook for Planners and Practitioners. By D. E. Aaronson, D. J. Saart, and N. N. Kittrie. Washington, American University Law School, 1975. 393 p. (NCJ 41517)

This guidebook is a report to planners and practitioners of an 18-month survey of alternatives to conventional criminal adjudication and their impact on the activities of the criminal justice system. Researchers collected and analyzed a large amount of written documentation and evaluative reports on alternative projects throughout the country and, in addition, visited over 29 cities to examine their alternative procedures. To facilitate analysis of the relationships among various alternatives and factors in the criminal justice system, a matrix was prepared with the decision points at which alternatives can apply on the horizontal axis and individuals and agencies which might apply alternatives in the vertical axis. Among the individuals and agencies examined are legislators, police, prosecutors, trial courts, defense counsels, public and private agencies, citizens, probation and parole officers, and appellate courts. The decision points were categorized in the following manner; (1) decision to define conduct as a crime; (2) decision to focus attention on a suspect; (3) decision to arrest; (4) decision to charge; (5) decision to release defendant pending trial or disposition; (6) decision on pre-trial motions and applications; (7) decision to try or to accept a plea; and (8) decision to sentence. Within this typology more than 70 different models of alternatives are defined and examined. This guidebook offers criminal justice planners and practitioners new and useful ideas for planning, comparisons of ideas placing them into a new context, a realistic view of alternatives based upon empirical study, and a reference tool for long-term future use. It summarizes the planning tasks which lie ahead for those who wish to consider alternatives to conventional adjudication for less serious offenses and offenders, emphasizing those alternatives which are related to or are likely to have a major impact upon the courts and the adjudicatory process, as opposed to the correctional system. Appended materials include sample texts of alternatives established through legislation and court rule, national standards relevant to alternative planning, and a selected list of alternative projects. For the three volume-report on the original 18-month research project, see NCJ 19974.

79. \_\_\_\_\_ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Instead of Jail--Pre- and Post-Trial Alternatives to Jail Incarceration, Volume 4--Sentencing the Misdemeanant. By W. H. Busher, G. Kemp, K. Hoffman, W. Greene-Quijano, and N. Harlow. Sacramento, California, American Justice Institute, 1976. 171 p. MICROFICHE (NCJ 42241)

This is the fourth in a series of five reports on alternatives to the use of jail incarceration. This volume reviews a broad range

of sentencing options and discusses the rationales for their use based on contemporary practices and views. The series on alternatives to jail was written for local officials seeking help in formulating policies to reduce or contain jail populations through the use of viable alternatives. The study sought to identify promising alternatives to pretrial and posttrial detention in use in the United States and to develop guidelines on selecting, initiating, operating, and assessing the impact of the various alternatives identified. Materials for these volumes were gathered through a literature review, a national census of selected alternative programs, data collected from programs, and site visits to criminal justice agencies. The emphasis of this volume is on the many alternatives to a traditional jail sentence and the methods of implementing these sentences. A review of such issues in sentencing as the purpose of sentencing, benefits and costs of various sentences, and presentence investigations is included. A number of alternatives to confinement are then discussed, including diversion, reparations, conditional release, probation, and community service. Examples of specific alternative programs for nonserious offenders and higher risk cases are provided. Finally, modifications to the use of confinement are investigated. Among these are partial confinement, early release, and "voluntary" confinement. For other volumes in this series, see NCJ 42223, 42224, 42240, and 42251.

80. \_\_\_\_\_ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Instead of Jail--Pre- and Post-Trial Alternatives to Jail Incarceration, Volume 5--Planning, Staffing, and Evaluating Alternative Programs. By W. Greene-Quijano, N. Harlow, K. Hoffman, G. Kemp, and W. H. Busher. Sacramento, California, American Justice Institute, 1976. 118 p. MICROFICHE (NCJ 42251)

This is one of a series of reports on alternatives to jail incarceration. This volume presents comparative cost figures, personnel requirements, issues of administrative organization, and issues of program funding. The series on alternatives to jail was written for local officials seeking help in formulating policies to reduce or contain jail populations through the use of viable alternatives. The study sought to identify promising alternatives to pretrial and posttrial detention in use in the United States and to develop guidelines on selecting, initiating, operating, and assessing the impact of the various alternatives identified. Materials for these studies were gathered through a literature review, a national census of selected alternative programs, data collected from programs, and site visits to criminal justice agencies. This volume reviews issues and presents information relating to pretrial release, diversion, and posttrial alternatives to traditional jail sentences. The first part of this volume is specially designed for persons concerned with jail administration. It reviews some strategies available to the jailer trying to contain his population and presents a system for population

analysis to support such efforts. The system is adaptable for use in budget development and control and longer range planning. It can also be used to monitor the use and selected outcomes of alternatives to jail. The volume then discusses line-level personnel requirements for alternative programs, presenting the results of a simplified task analysis. Cost data for both jailing and its alternatives are reviewed, and comparative figures are presented. The final section is an essay on the viability of alternative programs which raises some fundamental considerations for criminal justice planning. For other volumes in the series, see NCJ 42223, 42224, 42240, and 42241.

81. \_\_\_\_\_ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Sentencing to Community Service. By J. Beha, R. H. Rosenblum, and K. Carlson. Cambridge, Massachusetts, Abt Associates, Inc., 1977. 74 p. (NCJ 43460)

Sentencing selected offenders to perform services for the community has become an increasingly popular option for judges. Several types of community service alternative sentencing programs are set forth in this publication. Based on the notion that a fine and/or jail term is not always in the best interest of society or the offender, many courts have embraced the concept of community service in lieu of the traditional sentences, particularly in cases involving misdemeanors. The purpose of this document is to set forth several types of community service alternative sentencing programs, also known as court referral programs, and to discuss the issues and problems typically and/or potentially facing these programs. After an introductory chapter discussing the theory behind alternative sentencing, chapter 2 describes three different types of alternative community service or court referral programs. At the conclusion of chapter 2, the major issues of concern to planners and administrators of such projects are discussed. Chapter 3 involves the legal issues concerning sentencing to community service. Included in this chapter is a discussion of the statutory bases and legal authority for such sentencing, potential constitutional issues, and the increasingly troublesome issue of potential tort liability of court referral programs. The fourth and final chapter is a discussion of the need and methods for monitoring and evaluating court referral programs. The extent to which community service sentencing is currently being used and its impact on the judicial system are questions yet to be answered. However, the projects and their results described in this document suggest that sentencing to community service as an alternative to fines and jail may be of benefit to interested communities.

82. VARNE, S. Saturday Work--A Real Alternative. Australian and New Zealand Journal of Criminology, v. 9:95-108. June 1976. (NCJ 20652)

This article is an analysis of the use of the Saturday work order in Tasmania, Australia. The Saturday work order scheme was introduced in Tasmania in 1972. It is meant to replace imprisonment and can only be given if the sentence would otherwise have been imprisonment. In the verdict, the offender is given a choice between a prison sentence of unknown length or a Saturday work order which cannot exceed 25 Saturdays. The author contests the claim that the work order scheme has been effective in reducing the prison population, on the basis of an analysis of statistical data available. The author concludes that the work order in many cases has been given to offenders who would not, prior to the legislation, have received a prison sentence. Thus it appears to replace fines and good behavior bonds. One recommendation emerging from this study is that the act should be changed to allow judges to offer work orders as alternatives to bond, probation, or a fine, as well as imprisonment, enabling the offender to make a real choice. An effort should be made, claims the author, to adhere to the spirit of the law that created the Saturday work order.

## **SENTENCING DISPARITY**



83. APPELLATE REVIEW OF SENTENCES AND THE NEED FOR A REVIEWABLE RECORD. Duke Law Journal, v. 1973, n. 6:1357-1376. January 1973. (NCJ 15826)

The origin and history of the judge-made rule against sentence review and the means of avoiding this rule are discussed. It is argued that a reviewable record of the sentencing process should be made. Adherence to the rule against sentence review has occasionally resulted in clearly excessive but unchallengeable sentences and in unjustified disparity in punishment for similar crimes. Not surprisingly, the rule is still widely followed, though it has been subjected to relentless criticism. In response to such criticism and to frequent instances of unfairness, Federal appeals courts have increasingly avoided the rule against sentence review. Given the apparent breadth of these judicially developed avoidance techniques, it can probably be said that an appeals court now has ample precedent for the review of any sentence it considers outrageous. Among the techniques employed to review sentences are a review on due process or procedural grounds; reviews on the grounds of protecting the defendant's privilege against self-incrimination; review to enforce sentencing statutes; exercise of supervisory control; and review of abuse of discretion. It is stated that access to serious review is dependent upon the existence of a reviewable record. At present, a sentencing judge is usually not required to disclose to the defendant or to an appeals court either the presentence report or the judge's grounds for a particular sentence. The author contends that this freedom to operate in secret, if at all justifiable, accords only with a system where sentencing decisions are not reviewable. If sentences may be subjected to appellate scrutiny, the compilation of a reviewable record of the sentencing decision would appear to be mandated.

84. CARGAN, L. and M. A. COATES. Indeterminate Sentence and Judicial Bias. Crime and Delinquency, v. 20, n. 2:144-156. April 1974. (NCJ 16081)

A study which tested the hypothesis that, because of individual judicial biases, the indeterminate sentence does not reduce sentence disparity, is discussed in this article. The records of felony cases handled by the common pleas court of Montgomery County, Ohio, were examined for a 2-year period. Concentrated on were the sentencing procedures of the six regular judges in eight offense categories, including robbery, forgery, breaking and entering, and narcotics violations. Although the court system used the indeterminate sentence, the study found disparities among judges in overall sentencing disparity, among different offenses handled by the same judge, and in the relative severity of the sentence according to the defendant's race. Tables are presented which show the sentences imposed (imprisonment, probation, fine, or suspended sentence) by each of the six judges for each offense. The authors conclude that the use of the indeterminate sentence alters, but does not eliminate, the expression of judicial bias as reflected in unjustified sentencing disparities.

85. CARTER, R. M. and L. T. WILKINS. Some Factors in Sentencing Policy. In Saunders, William B. and Howard C. Daudistel, Criminal Justice Process--A Reader (NCJ 34969). New York, Praeger Publishing, 1976. 21 p. (NCJ 34979)

An examination of the presentence probation report recommendation and its relationship to the court dispositions, based primarily on data from the U.S. District Court for Northern California, 1964-1965, is presented. This report indicates that the relationship between recommendations for and dispositions of probation are high, and that the relationship diminishes when viewed from the recommendations against and the subsequent grant of probation perspective. It was found that the overall relationship between recommendation and disposition does not vary from district court to district court, but rather remains relatively constant, regardless of the percentage use of probation. It is suggested that disparities in sentencing are supported by the probation officer and it appears that these differences, in part, are a reflection of the officer's individual academic training and experience. Suggestions are made for future areas of inquiry.

86. DIAMOND, S. S. and H. ZEISEL. Sentencing Councils--A Study of Sentence Disparity and Its Reduction. University of Chicago Law Review, v. 43, n. 1:109-149. Fall 1975. (NCJ 42565)

The problems caused by sentencing disparity are reviewed in this reprint, and a method of measuring disparity is developed and tested. The article first reviews the problems created by sentencing disparity and recounts earlier efforts to study the phenomenon. It then develops a measure of disparity and uses it to assess the magnitude of the problem in two Federal district courts: the Northern District of Illinois (Chicago) and the Eastern District of New York (Brooklyn). Finally, it describes the operation of the sentencing councils in these two courts and tries to assess their ability to reduce disparity.

87. GAYLIN, W. Partial Justice--A Study of Bias in Sentencing. New York, Random House, 1974. 262 p. (NCJ 27033)

Through the examination of trial transcripts, taping of judge sentencing seminars, and direct interviews with judges, the author demonstrates factors which influence sentencing and lead to sentencing disparity. The text opens with a discussion of the various types of sentencing disparity and the possible sources of this disparity. Principles of the sentencing process are next outlined. Four long interviews with four very different judges are presented, as well as shorter excerpts of interviews with other judges. From the conclusions drawn from these interviews, the author offers his own suggestions for change in our legal system.



88. GREATER CLEVELAND BAR ASSOCIATION. Greater Cleveland Bar Association--  
Report to the Special Committee to Review Sentencing Procedures,  
December 1975. Cleveland, Ohio, 1975. 75 p.  
MICROFICHE (NCJ 31860)

A final report and series of recommendations produced by the Special Committee to Review Sentencing Procedures, which was established to analyze the Cuyahoga County sentencing process, define the purpose of sentencing, and investigate sentencing disparity. A description of the committee operations and the formation of the committee is first provided. The report then presents an analysis of five competing sentencing philosophies which dictate the conduct of the key legislative and criminal justice agencies involved in the process. This analysis is followed by a discussion of the ways in which these key agencies are called upon to exercise discretion or to delegate the exercise of discretion. A rationale is suggested for the development of program solutions to minimize the potential for possible abuse of discretion in the sentencing process. The issue of the exercise of discretion is then related to the specific activities and responsibilities of the actors in the local criminal justice process, and various factors are identified which influence these individuals and agencies in the exercise of this discretion, based on the committee's analysis. A series of recommendations is proposed which was designed to address the identified problems through the establishment of programs designed to expressly define what is involved in potential sentencing disparity and to set into motion mechanisms to minimize the potential for unwarranted disparity. These recommendations cover the need for public education and information programs for system personnel and the general public; presentence reports; the need for improved pretrial and trial procedures; legislation providing for short, mandatory sentences; and establishment of a standing committee to review and evaluate the sentencing process. The appendixes include relevant newspaper clippings, a list of reference materials, a sample presentence report, and a list of statutory criteria for sentencing.

89. HARRIS, M. K. Disquisition on the Need for a New Model for Criminal Sanctioning Systems. West Virginia Law Review, v. 77, n. 2:263-326. February 1975. (NCJ 35873)

This article highlights some of the major problems, sources of confusion, and matters of controversy surrounding existing sentencing practices and proposes a new model for criminal sanctioning. The subject areas addressed include sentencing discretion, lack of clarity or consensus regarding the purposes to be served in imposing criminal sanctions, disparity in sentencing, the acceptability of current sanctions by humanitarian and legal standards, and the parole release

function as a part of sentencing. The primary focus is the impact of the legislature, judiciary, and paroling authorities on the sanctioning process and the endemic flaws in the criminal justice process. The major types of reform that have been suggested are also summarized. Identified as one of the major flaws in the criminal justice process is the failure of the legislative branch to develop and declare a coherent public policy to govern the criminal sanctioning process. An alternative sanctioning system is proposed in which the system design would focus on the future--the desired consequences for society--while system operation would be based on the past--on the offense for which the individual has been convicted in the instant case.

90. HEWITT, J. D. Individual Resources, Societal Reaction, and Sentencing Disparity. Western Sociological Review, v. 7:31-56. 1976.  
(NCJ 42840)

This is a reprint of a paper that is an attempt to develop a conceptual framework from which to explain and predict judicial sentencing disparities. It draws upon the contemporary theoretical perspective of the interactions-labeling school in suggesting the role of societal reaction in the creation of positive or negative images about an actor in a sentencing situation. Three propositions specifying the relationship between an actor's individual resources and the sentence he or she receives are presented. A statistical analysis of 504 convicted adult felony cases is then presented.

91. HOFFMAN, P. B. and L. K. DEGOSTIN. Argument for Self-Imposed Explicit Judicial Sentencing Standards. Journal of Criminal Justice, v. 3, n. 3:195-206. Fall 1975.  
(NCJ 30165)

It is argued that the most appropriate remedy for sentencing disparity lies not in an attempt to eliminate judicial sentencing discretion, but rather through the development of explicit sentencing guidelines. Building upon the experience gained in a recent study with the United States Board of Parole, a model is put forth for the development and articulation of sentencing policy on a district or circuit basis that could be applied to structure and control discretion without removing individual case consideration.

92. HOOD, R. Sentencing the Motoring Offender--A Study of Magistrates' Views and Practices. London, England, Heinemann, 1972. 256 p. (NCJ 25457)

This book reports the first detailed study of the practice of magistrates' in relation to eight kinds of offenses, ranging from drunken driving to speeding, in England. The study examines the variations in sentences imposed on motoring offenders in magistrates' courts. It charts the extent of disparity in sentences passed on identical cases and exposes the differences in the underlying philosophy and approach to the problem. The research also examines the sentencing process and in particular, underlines the influence of local bench traditions and tariffs. Personal data gathered from over 500 magistrates provides vital information about the composition of the courts.

93. HOPKINS, J. D. Reviewing Sentencing Discretion--A Method of Swift Appellate Action. UCLA Law Review, v. 23, n. 3:491-500. February 1976. (NCJ 34028)

Appellate delay in cases involving sentencing disparity is discussed, and the approach used by the New York intermediate appellate courts to alleviate that delay is described. The new internal operating procedure provides that the motion papers, record, and presentence report are submitted to a five-judge panel without argument. The appeal is assigned to one of the judges who prepares and circulates a report to other panel members within a week, with a voting slip attached. If all five members agree with the recommended disposition, the decision is handed down within a week. If not, the appeal is placed on the next consultation calendar to be discussed and determined and a decision is handed down within that week. The author concludes that the procedures appear to be working well and are an improvement over usual appellate handling of sentencing review cases.

94. McANANY, P. D., F. S. MERRITT, and E. TROMANHAUSER. Illinois Reconsiders "Flat-Time"--An Analysis of the Impact of the Justice Model. Chicago-Kent Law Review, v. 52, n. 3:621-662. 1976. (NCJ 36171)

For complete description, see entry No. 14.

95. ORLAND, L. and H. R. TYLER, JR., Eds. Justice in Sentencing--Papers and Proceedings for the Sentencing Institute for the First and Second United States Judicial Circuits. Mineola, New York, Foundation Press, 1974. 365. p. (NCJ 25174)

An edited transcript of the discussions during a 3-day seminar for Federal trial judges, probation officers, corrections officials, prosecutors, and academicians on problems of sentencing and corrections is presented. This book covers most, if not all, of the current problems of sentencing in the Federal System. Justice in Sentencing, which emerged from a sentencing institute conducted for Federal judges of the first and second circuits in 1973, begins with an edited transcript of discussions on the following central issues: the objectives of sentencing; the question of whether or not to incarcerate a defendant, and if so, for how long; the desirability of shared responsibility in sentencing, either by collegial sentencing or appellate review of the sentence itself; the relevance of the controversial practice of plea bargaining to the sentencing process; and the interrelationships between sentencing and parole. The Sentencing Institute, conducted shortly after publication of the official report on the prison riot at Attica, heard from Arthur Liman, then general counsel of the Attica Commission, and Russell Oswald, New York's Commissioner of Correction at the time of the uprising, who present frequently conflicting but occasionally concurrent perspectives on the causes and consequences of the riot and its aftermath. This book also brings together a series of significant public documents dealing with problems of sentencing; some are relatively nonaccessible studies of sentencing disparity prepared for or used in conjunction with the institute proceedings. In addition, the influential sentencing standards of the American Bar Association and the sentencing portions of the authoritative reports of the President's Commission on Law Enforcement and Administration of Justice and the National Advisory Commission on Criminal Justice Standards and Goals, are presented in their entirety.

96. SERRILL, M. S. Determinate Sentencing--The History, The Theory, The Debate. Corrections Magazine, v. 3, n. 3:3-13, September 1977. (NCJ 43227)

For complete description, see entry No. 75.

97. SINGER, R. G. and R. C. HAND. Sentencing Computation--Laws and Practices. Criminal Law Bulletin, V. 10, n. 4:318-347. May 1974. (NCJ 14079)

This article is a narrative discussion of State and Federal practices based on statute and case law, as well as information supplied by all of the jurisdictions' attorney general staff. The authors survey sentencing structures and disparities in sentencing practices, habitual offender laws, credit for time spent awaiting a further dis-

position of the case, street time, and good time. They found that there is little uniformity in sentencing practices between the jurisdictions and much ambiguity within each jurisdiction's provisions.

98. U. S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Criminal Justice Information and Statistics Service. Judicial Processing of Assault and Burglary Offenders in Selected California Counties--Utilization of Criminal Justice Statistics Project. By C. E. Pope. Albany, New York, Criminal Justice Research Center. U.S. Government Printing Office, 1975. 76 p. (NCJ 29644)  
Stock No. 027-000-00382-6

Utilizing a transaction data base, this report focuses upon sentence dispositions accorded defendants charged with assault or burglary offenses in 12 California counties. Figures are presented depicting the processing of both assault and burglary defendants through the California judicial system and those sentences accorded each offender group. This report empirically demonstrates the utility of transaction data as a solid basis for crime-specific analysis dealing with the criminal processing of selected offender groups. It is part of the Utilization of Criminal Justice Statistics Project designed to illustrate to State and local planners and other users of criminal justice statistics how available data can be utilized for solving practical problems.

99. \_\_\_\_\_. Law Enforcement Assistance Administration. National Criminal Justice Information and Statistics Service. Sentencing of California Felony Offenders--Utilization of Criminal Justice Statistics Project. By C. E. Pope. Albany, New York, Criminal Justice Research Center. U.S. Government Printing Office, 1975. 73 p. (NCJ 29646)  
Stock No. 027-000-00381-8

Utilizing transaction statistics obtained from the California Bureau of Criminal Statistics, this report examines sentencing practices in municipal and superior courts for both urban and rural counties. The age, race, sex, and previous criminal histories of felony defendants are examined with regard to sentence outcome and the length of both probation and jail terms. This report demonstrates the complexity of any attempt to examine differential sentencing practices and the utility of transaction data for such an undertaking. It is part of the Utilization of Criminal Justice Statistics Project designed to illustrate to State and local planners and other users of criminal justice statistics how available data can be utilized for solving practical problems.

100. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Prosecution of Adult Felony Defendants in Los Angeles County--A Policy Perspective. By P. W. Greenwood and S. Wildhorn. Santa Monica, California, Rand Corporation, 1973. 174 p.

MICROFICHE (NCJ 10332)

Using data from the California Bureau of Criminal Statistics, the treatment of adult felony offenders is traced from arrest through sentencing or acquittal. This research project was undertaken as a demonstration of the value of empirical analysis and as a description of the functioning of the criminal justice process in Los Angeles County. Findings and recommendations resulting from this research concentrate on the district attorney, since the work is done mainly for his agency. Most of the conclusions drawn from analysis of the data are not readily explicable, resulting in the principal recommendation to seek answers through additional research. The single most important conclusion is that there are serious doubts concerning the consistency or fairness with which defendants are treated in Los Angeles County. Findings which lead to that conclusion include the existence of wide disparities among police departments, district attorney's offices, and courts in the way in which similar offenses are handled; forceful incentives are offered by the system to plead guilty since those defendants who plead not guilty receive harsher sentences on conviction; and defendants who await trial in jail have less chance of being dismissed or acquitted. The report also finds that no objective performance standards exist by which law enforcement agencies can rate the work of their employees, nor are there sufficient data systems available which allow the district attorney's office to systematically diagnose problems and formulate policies. For a 1976 update of this document, see NCJ 34331.

101. VON HIRSCH, A. Doing Justice--The Choice of Punishments. New York, Farrar, Strauss, and Giroux, 1976. 220 p. (NCJ 31685)

For complete description, see entry No. 62.

102. ZEISEL, H. and S. S. DIAMOND. Sentence Review in Massachusetts and Connecticut. Chicago, Illinois, University of Chicago, 1977. 103 p. (NCJ 42511)

This study examines the Massachusetts and Connecticut sentence review procedures and their results. The frequency and circumstances of appeals, conditions for modification, and effects on trial courts are viewed. In Massachusetts, every defendant sentenced to State prison to serve a term of 2.5 years or more, not mandated by law or to be committed to the women's reformatory for 5 years or more, has a right

to apply for sentence review. In Connecticut, every defendant sentenced to serve a term of 1 year or more in prison or the reformatory has the right to apply for a review of that sentence. The general purpose of such review systems is to reduce the incidence of sentence disparity. While the measurement of the effects of sentence review in reducing disparities is acknowledged to have been imprecise, the authors consider it safe to conclude that extreme disparities have been reduced. As a constructive suggestion, the study recommends classifying crimes, offenders, and attendant sentencing on a graph, so as to portray the range of sentencing associated with particular offenses. Such graphs would caution judges and give guidance to review boards in identifying extreme cases of sentencing.





## **SENTENCING GUIDELINES**



103. AMERICAN BAR ASSOCIATION. Compendium of Model Correctional Legislation and Standards, Second Edition. Chicago, Illinois, 1975. 870 p.  
MICROFICHE (NCJ 19976)

This compendium contains the full texts of model correctional statutes and standards which have been drafted by major professional and governmental organizations since 1962. It has been designed to apprise legislators, correctional administrators, and professional groups on the large number of legislative alternatives and approaches that have been considered in recent years at Federal, State, and local levels to strengthen different aspects of corrections. This second edition adds some 360 pages and 14 new items to the 1972 edition. The selected models cover the areas of sentencing, postconviction remedies, State corrections departments, the status and rights of prisoners and ex-offenders, probation and parole, and interstate correctional compacts. The important new items contained in this edition include the standards set forth by the National Advisory Commission on Criminal Justice Standards and Goals and the National Sheriffs' Association's standards for inmates' legal rights. Other added items include standards for activities such as halfway houses and correctional officer education, various legislative models including interstate parole and probation hearings, and many charts on such topics as State correctional laws, sentencing, and jail standards. Introductory comments describe the problems in each subject area, the key features in each of the model standards, and the differences in the included materials. In addition to the model statutes and standards, recommendations are included from the work of four national study commissions that have addressed correctional problems.

104. AMERICAN BAR ASSOCIATION. Use of the ABA (American Bar Association) Standards in the Military. By K. J. Hodson. American Criminal Law Review, v. 12, n. 3:447-457. Winter 1975. (NCJ 25097)

This article discusses the applicability of the standards of the American Bar Association to court-martial procedures, and compares military procedures to those proposed by this organization. The acceptance of the standards by the Army, the Air Force, the Navy, the Marine Corps, and the Coast Guard is discussed. Other topics examined in this article include the value of the standards to the military lawyer and judge; seminars, conferences, and continuing legal information programs for the military which have dealt with the ABA standards; and legislative plans by Congress for implementation of the ABA standards through amendment of the Uniform Code of Military Justice. Comparisons of such areas as jury selection, sentencing standards, legal counsel, pretrial discovery, and speedy trial rules for the military and the ABA standards are provided.

105. LAW REFORM COMMISSION OF CANADA. Principles of Sentencing and Dispositions (Principes de la Determination de la Peine et du Prononce de la Sentence). Ottawa, Ontario, 1974. 73 p. (NCJ 26738)  
Stock No. J32-1/3-1974

This is a working paper on sentencing and dispositions. Written to invite public discussion, the paper discusses major issues in the sentencing process, examines the nature of crime, and suggests a Canadian approach to handling it. The paper suggests that crime should be recognized as a form of conflict; criminal law assumes importance in a role of clarifying the values at stake in that conflict. Arrest and trial, as well as settlement and mediation procedures, are seen as carrying an educative and sanctioning effect which can operate at three levels; pretrial diversion by settlement or mediation, the trial itself, and the sentence of the court. The paper considers such aspects of sentencing philosophy as restitution, the victim's claim upon society for compensation for criminal injuries, disparities both of sentences and prison terms served, proportionality of sanction to offense, and fairness of decisionmaking in matters affecting prisoners' interests. The issues and principles discussed in this paper are intended to guide the Canadian Law Reform Commission's approach in making subsequent recommendations. --In French and English.

106. Report on Dispositions and Sentences in the Criminal Process--Guidelines (Principes Directeurs--Sentences et Mesures non Sentencielles dans le Processus Penal). Ottawa, Ontario, 1976. 150 p. (NCJ 34312)  
Stock No. J31-16/1975

This summary and consolidation of the work of the Law Reform Commission of Canada on dispositions and sentences offers guidelines and recommendations for the improvement of the Canadian sentencing process. The article also appears in the April 1976 issue of the Canadian Journal of Criminology and Corrections. The basic principles proposed in this report are that the criminal justice process should be used with restraint; that dispositions should promote a sense of responsibility on the part of the offender; that some form of reparation or restitution should be made by the offender; and that coercion should be reserved for those who do not accept their responsibilities or whose behavior threatens the community. With these principles as a guide, recommendations are then outlined for dispositions at the community police, prosecution, and court stages of the criminal justice process. A wide range of possible sentences are then described. Recommendations on the sentencing process and on policy formation and implementation are provided in the final two sections. --In French and English.

107. MICHIGAN ADVISORY COMMISSION ON CRIMINAL JUSTICE. Michigan--Criminal Justice Standards and Goals. Detroit, undated. 222 p. (NCJ 18801)

The goals and standards recommended by the six task forces of the Michigan Advisory Commission on Criminal Justice to reduce crime and the causes of crime, to insure equal treatment under the law, and to improve criminal justice management are described. This document discusses standards, goals, and implementation strategies in six major areas of criminal justice concern: community crime prevention, juvenile justice, investigation and arrest, adjudication, rehabilitation, and criminal justice management.

108. MISSOURI JUDICIAL CONFERENCE. Comparative Analysis of American Bar Association Standards for Criminal Justice With Missouri Law, Rules, and Legal Practice. Jefferson City, Missouri, 1971. 212 p. (NCJ 13120)

This publication is a tabulated review of American Bar Association (ABA) and Missouri standards, with commentary explaining any divergence, pending legislation, or conflict. The standards being compared are categorized under the following general topics: pretrial release, providing defense services, guilty pleas, joinder and severance, speedy trial, trial by jury, sentencing alternatives and procedures, appellate review of sentences, postconviction remedies, discovery and procedure before trial, the prosecution and defense function, probation, criminal appeals, and electronic surveillance.

109. MORRIS, N. Future of Imprisonment--Toward a Punitive Philosophy. Michigan Law Review, v. 72, n. 6:1161-1180. May 1974. (NCJ 14913)

For complete description, see entry No. 50.

110. NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS. Corrections--Report of the National Advisory Commission on Criminal Justice Standards and Goals, 1973. Washington, U.S. Government Printing Office, 1973. 656 p. MICROFICHE (NCJ 10865)  
Stock No. 027-000-00175-1

The National Advisory Commission on Criminal Justice Standards and Goals recommends specific standards in pursuit of the achievement of six major goals for the improvement of the American correctional system. The American correctional system today appears to offer minimum protection for the public and maximum harm to the offender. The

Commission, in its report on corrections, has proposed about 140 standards designed to change that situation. The standards spell out in detail where, why, how, and what improvements can and should be made in the corrections segment of the criminal justice system. This report is a reference work for the corrections professional, as well as for the interested layman. Among its goals, the Commission urges that disparities in sentencing be removed and justice in corrections be upheld by measures guaranteeing offenders' rights during and after incarceration. The scope of corrections can, and should, be narrowed by diverting many juveniles and sociomedical cases (alcoholics, drug addicts, prostitutes, and the mentally disturbed) to noncorrectional treatment programs and by decriminalizing certain minor offenses such as public drunkenness and vagrancy. Another goal states that probation should become the standard criminal sentence, retaining confinement chiefly for dangerous offenders and releasing a majority of offenders to improved and extended community-based programs. Corrections should undergo a planned integration into the total criminal justice system with each State unifying all correctional functions and programs for adults and juveniles within its executive branch.

111. Courts--Report of the National Advisory Commission on Criminal Justice Standards and Goals, 1973. Washington, U. S. Government Printing Office, 1973. 379 p.  
MICROFICHE (NCJ 10859)  
Stock No. 027-000-00173-4

A major restructuring and streamlining of procedures and practices in processing criminal cases at State and local levels is proposed by the National Advisory Commission on Criminal Justice Standards and Goals. The proposals of the Commission appear in the form of specific standards and recommendations--almost 100 in all--that spell out in detail where, why, how, and what improvements can and should be made in the judicial segment of the criminal justice system. The report on courts is a reference work for the practitioner--judge, court administrator, prosecutor, or defender--as well as the interested layman. The Commission argues that the problems which keep the criminal court system from performing its functions are inconsistency in the processing of criminal defendants, uncertainty concerning results obtained, unacceptable delays, and alienation of the community. In composing suggested improvements for the court system, the Commission's first priority is to devise standards for attaining speed and efficiency in the pretrial and trial processes and prompt finality in appellate proceedings. The second priority is the upgrading of defense and prosecution functions, and the third priority is the assurance of a high quality in the judiciary. To expedite pretrial procedures, the prosecutor should screen all criminal cases coming before him and divert from the system all cases wherein further processing by the prosecutor is not appropriate. Among Commission recommendations are elimination of all but the investigative

function of the grand jury, elimination of formal arraignment, unification of all courts within each State, and the upgrading of criminal court personnel.

112. O'DONNELL, P., D. E. CURTIS, and M. J. CHURGIN. Toward a Just and Effective Sentencing System--Agenda for Legislative Reform. New York, Praeger Publishers, 1977. 155 p. (NCJ 44842)

Topics of discussion in this book include Federal sentencing, parole, probation, and related correctional problems. A sentencing strategy is proposed to ensure effectiveness and fairness. Against the backdrop of legislative indifference, judicial neglect, and administrative uncertainty, the authors develop a sentencing scheme to address three documented flaws in the Federal sentencing process: lack of legislatively prescribed sentencing criteria; inadequate trial and appellate court procedures to ensure rationality and fairness and to lessen sentencing disparities; and a dearth of information about virtually all aspects of the sentencing, parole, and corrections processes. The authors propose a procedural framework that ensures a just and effective sentencing system by requiring judges to explain and justify each sentence, by supplanting the parole system with a determinate sentencing scheme, by providing for appellate review of sentences, and by establishing a national commission on sentencing and corrections that will, through research and experience, devise guidelines for Federal sentencing policy. The appendix presents the proposed Federal sentencing statute and Senate bill 2699 for the establishment of the National Commission on Sentencing and Corrections.

113. PALMER, L. I. Model of Criminal Dispositions--An Alternative to Official Discretion in Sentencing. Georgetown Law Journal, v. 62, n. 1:1-59. October 1973. (NCJ 11946)

A proposal is presented of a new model of criminal dispositions which would replace official discretion at sentencing with judicially created standards for sentencing officials. In Part 1, the author outlines the role of the appellate judiciary in developing an interest analysis to enunciate standards to guide criminal dispositions. In Parts 2 and 3, he examines the roles of administrative agencies and legislatures in perfecting the dispositional process under standards initially articulated by the judiciary. The article emphasizes the concept of individual liberty as a central value of society and shows how a new system of criminal disposition can enhance that value as a goal of the criminal law.

114. PENNSYLVANIA BAR ASSOCIATION. Comparative Analysis of American Bar Association Standards for Criminal Justice With Pennsylvania Law, Rules, and Legal Practice. Harrisburg, Pennsylvania, 1974. 400 p.  
MICROFICHE. (NCJ 17200)

This publication is a tabulated review of American Bar Association (ABA) and Pennsylvania standards. The standards being compared are categorized under the following general topics: pretrial release, providing defense services, guilty pleas, joinder and severance, speedy trial, trial by jury, sentencing alternatives and procedures, appellate review of sentences, postconviction remedies, discovery and procedure before trial, the prosecution and defense function, probation, criminal appeals, and electronic surveillance.

115. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Documentation and Prioritization of Misdemeanor Court Management Problems and Proposed Management Innovations. Chicago, Illinois, American Judicature Society, 1977. 102 p. (NCJ 43482)

Surveys and onsite visits found that management problems of rural and urban courts vary greatly. Findings, possible solutions, and four innovative programs are presented. Both rural and urban courts suffer from too rapid processing of cases, inadequate support for probation and nonjudicial services, and a feeling of isolation. However, this study found that rural courts suffer a backlog at initial appearance because most cases are resolved with a guilty plea, while urban courts have a backlog at the plea-bargaining stage because most defendants have an attorney and negotiate the guilty plea. Few misdemeanor courts have sufficient case record information to determine case flow, backlogs, and effectiveness of court probation services. The feeling of isolation and unimportance is emphasized by the fact that whenever a conflict exists, it is nearly always resolved in favor of the general trial court. The specific management findings in this report are based on a literature search, a preliminary telephone survey, a mail survey of a statistical sample of 1,366 lower court judges (54 percent of whom responded), and onsite visits to 12 courts of varying size. Recommendations were refined at two conferences held in Denver in April and May of 1977. Innovations recommended are using the probation officer as a resource broker to help utilize community facilities; community restitution programs to provide an offender with a meaningful way to work out his penalty; volunteer services, with a summary of problems involved; and a citizen advisory board to facilitate public knowledge of misdemeanor court and to encourage support. Possible means of implementing each suggestion are given.



116. WILKINS, L. T., D. M. GOTTFREDSON, A. M. GELMAN, J. M. KRESS, J. G. CALPIN, and S. WERNER. Sentencing Guidelines---Structuring Judicial Discretion--Final Report of the Feasibility Study. Des Moines, Iowa Fifth Judicial District. U.S. Government Printing Office, 1976. 199 p.

MICROFICHE (NCJ 38269)  
Stock No. 027-000-00583-7

Sentencing guidelines are viewed as a method of reducing sentencing disparities while preserving judicial discretion. Justice demands that two individuals convicted of similar offenses, with similar backgrounds and criminal histories, should receive sentences that are roughly the same. Nevertheless, perceived disparities in sentencing have led to public loss of confidence in the fair and impartial administration of justice and have led many to advocate the elimination of the sentencing discretion of the trial court judge. Building upon their earlier success in devising guidelines for parole decisionmaking, the research staff here describe their efforts at testing the feasibility of developing sentencing guidelines. Their report details the premises, methodology, and findings of the 2-year feasibility study which undertook to see whether or not a guideline system could make explicit the underlying sentencing policy of a given court system. The research staff relates such methodological concerns as site selection, pilot analysis, preliminary modeling, testing, and validation. Hundreds of actual sentencing decisions from Colorado and Vermont were coded and analyzed to identify the significant information items actually used by judges to determine a sentence. The analysis showed that only a relatively small number of key items were used as the basis for the sentencing decision in the vast majority of cases. By showing the weights given to factors such as crime seriousness and prior criminal record of the defendant, the staff was able to develop a simple chart that provided judges with information on how their colleagues would have sentenced in the vast majority of similar cases.



## APPENDIX A—LIST OF SOURCES

1. Pennsylvania Prison Society  
Room 302  
Social Service Building  
311 South Juniper Street  
Philadelphia, PA 19107
2. California Department of the  
Youth Authority  
714 P Street, Room 1050  
Sacramento, CA 95814
3. California Judicial Council  
State Building  
Room 4200  
San Francisco, CA 94102
4. Haworth Press  
149 Fifth Avenue  
New York, NY 10010
5. Illinois Law Enforcement  
Commission  
120 South Riverside Plaza  
10th Floor  
Chicago, IL 60606
6. Available only through  
NCJRS Document Loan Program
7. State Technical Institute  
of Memphis  
5983 Macon Cove at Interstate 40  
Memphis, TN 38134
8. Ballinger Publishing Company  
17 Dunster Street  
Harvard Square  
Cambridge, MA 02138
9. Correctional Information  
Service, Inc.  
801 Second Avenue  
New York, NY 10017
10. John Howard Association  
67 East Madison Street  
Suite 216  
Chicago, IL 60603
11. Contact, Inc.  
P.O. Box 81826  
Lincoln, NE 68501
12. Community Service Society of  
New York  
105 East 22nd Street  
New York, NY 10010
13. Maine Bureau of Corrections  
700 State Office Building  
Augusta, ME 04333
14. Illinois Institute of Technology  
Chicago-Kent College of Law  
77 South Wacker Drive  
Chicago, IL 60606
15. New Jersey Division of  
Criminal Justice  
Appellate Section  
7 Glenwood Avenue  
East Orange, NJ 07017
16. Same as No. 9.
17. Minnesota Correctional Services  
1427 Washington Avenue, South  
Minneapolis, MN 55404
18. Arkansas Legislative Council  
Room 315  
State Capitol  
Little Rock, AR 72201
19. Suffolk University  
Law Review Office  
41 Temple Street  
Boston, MA 02114

20. Same as No. 2.
21. Creighton University  
School of Law  
2500 California Street  
Omaha, NE 68178
22. Harvard University Law School  
Langdell Hall  
Cambridge, MA 02138
23. Hawaii Department of Social  
Services and Housing  
1149 Bethel Street  
Room 416  
Honolulu, HI 96813
24. Michigan Department of  
Corrections  
Steven T. Mason Building  
Lansing, MI 48913
25. Superintendent of Documents  
U.S. Government Printing Office  
Washington, DC 20402
26. D.C. Heath and Company  
125 Spring Street  
Lexington, MA 02173
27. Barbour and Monroe  
Marketing Research  
239 Pasadena Place  
Orlando, FL 32803
28. United States Conference of  
Mayors  
1620 Eye Street, N.W.  
Washington, DC 20006
29. Washington House of  
Representatives  
Office of Program Research  
House Office Building  
Room 202  
Olympia, WA 98504
30. Wichita State University  
1845 Fairmont  
Wichita, KS 67208
31. American Bar Association  
1155 East 60th Street  
Chicago, IL 60637
32. Same as No. 18.
33. New England Journal on  
Prison Law, Inc.  
126 Newbury Street  
Boston, MA 02116
34. National Council on Crime  
and Delinquency  
Continental Plaza  
411 Hackensack Avenue  
Hackensack, NJ 07601
35. American Judicature Society  
Suite 1606  
200 West Monroe Street  
Chicago, IL 60606
36. Same as No. 33.
37. Michigan Law Review Association  
Hutchins Hall  
Ann Arbor, MI 48109
38. Same as No. 33.
39. Same as No. 6.
40. University of Wisconsin  
Law School  
Madison, WI 53706
41. Citizens' Inquiry on Parole  
and Criminal Justice, Inc.  
84 Fifth Avenue  
New York, NY 10011

42. Georgia Institute of Technology  
School of Industrial and Systems Engineering  
Atlanta, GA 30332
43. Illinois House Judiciary Subcommittee on Adult Corrections  
Springfield, IL 62706
44. University of Washington Law School  
Seattle, WA 98105
45. University of California, Berkeley  
School of Criminology  
101 Haviland Hall  
Berkeley, CA 94720
46. Same as No. 45.
47. Same as No. 1.
48. Free Press  
866 Third Avenue  
New York, NY 10022
49. University of Chicago Press  
5801 South Ellis Avenue  
Chicago, IL 60637
50. University of Georgia  
Athens, GA 30601
51. AMS Press, Inc.  
56 East 13th Street  
New York, NY 10003
52. Same as No. 25.
53. Public Affairs Committee, Inc.  
381 Park Avenue South  
New York, NY 10016
54. Same as No. 44.
55. Roscoe Pound-American Trial Lawyers Foundation  
20 Garden Street  
Cambridge, MA 02138
56. New York Civil Liberties Union Foundation  
84 Fifth Avenue  
New York, NY 10011
57. University Microfilms  
300 North Zeeb Road  
Ann Arbor, MI 48106
58. Same as No. 9.
59. Same as No. 9.
60. United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders  
26-1 Harumi-Cho, Fuchu  
Tokyo, Japan
61. McGraw-Hill  
1221 Avenue of the Americas  
New York, NY 10020
62. Farrar, Strauss, and Giroux  
19 Union Square  
New York, NY 10003
63. University of California Hastings College of Law  
198 McAllister Street  
San Francisco, CA 94102
64. Mycroft Press  
2043 South Scenic Avenue  
Springfield, MO 65804

65. Administrative Office of the  
United States Courts  
Supreme Court Building  
Washington, DC 20544
66. Council of Europe  
Librarie Berger-LeVrault  
Place Broglie  
Strasbourg, France
67. Same as No. 8.
68. Printing and Publishing Supply  
and Services Canada  
Ottawa K1A 059, Canada
69. Same as No. 34.
70. Same as No. 34.
71. Inner London Probation  
and After-Care Service  
73 Great Peter Street  
London SW1P 2BN  
England
72. Kentucky Department of Justice  
209 St. Clair Street  
Frankfort, KY 40601
73. Same as No. 68.
74. Information Canada  
171 Slater Street  
Ottawa, Ontario K1A 0S9
75. League of Women Voters of  
Wisconsin  
433 West Washington Avenue  
Madison, WI 53703
76. Same as No. 9.
77. Same as No. 25.
78. American University Law School  
Institute for Advanced Studies  
in Justice  
4900 Massachusetts Avenue, N.W.  
Washington, DC 20016
79. American Justice Institute  
1007 7th Street  
Sacramento, CA 95814
80. Same as No. 79.
81. Abt Associates, Inc.  
55 Wheeler Street  
Cambridge, MA 02138
82. Butterworth  
586 Pacific Highway  
Chatswood, Australia
83. Duke University  
Campus Drive  
Durham, NC 27706
84. Same as No. 34.
85. Praeger Publishers  
111 Fourth Avenue  
New York, NY 10003
86. University of Chicago  
Center for Studies in Criminal  
Justice  
1111 East 60th Street  
Chicago, IL 60637
87. Random House  
201 East 50th Street  
New York, NY 10022
88. Greater Cleveland Bar Association  
118 St. Clair Avenue  
Cleveland, OH 44114

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| 89. West Virginia University<br>Law School<br>Morgantown, WV 26506                     | 101. Same as No. 62.   |
| 90. Available only through<br>NCJRS Document Loan Program.                             | 102. Same as No. 86.   |
| 91. Pergamon Press, Inc.<br>Maxwell House<br>Fairview Park<br>Elmsford, NY 10523       | 103. Same as No. 31.   |
| 92. Heinemann<br>48 Charles Street<br>London, England                                  | 104. Same as No. 31.   |
| 93. University of California,<br>Los Angeles<br>School of Law<br>Los Angeles, CA 90024 | 105. Same as No. 73.   |
| 94. Same as No. 14.  | 106. Same as No. 73.   |
| 95. Foundation Press<br>170 Old Country Road<br>Mineola, NY 11501                      | 107. Same as No. 89.   |
| 96. Same as No. 9.   | 108. University of Missouri-Kansas City<br>Kansas City, MO 64141   |
| 97. Warren, Gorham, and Lamont, Inc.<br>210 South Street<br>Boston, MA 02111           | 109. Same as No. 50.   |
| 98. Same as No. 25.  | 110. Same as No. 25.   |
| 99. Same as No. 25.  | 111. Same as No. 25.   |
| 100. Rand Corporation<br>1700 Main Street<br>Santa Monica, CA 90406                    | 112. Holt, Rinehart, and Winston<br>383 Madison Avenue<br>New York, NY 10017                                 |
|  | 113. Georgetown University<br>Law Journal Association<br>600 New Jersey Avenue, N.W.<br>Washington, DC 20001 |
|  | 114. Pennsylvania Bar Association<br>401 North Front Street<br>Harrisburg, PA 17101                          |
|  | 115. Same as No. 35.   |
|  | 116. Iowa Fifth Judicial District<br>Department of Court Services<br>1000 College<br>Des Moines, IA 50314    |





## APPENDIX B—RESOURCE AGENCIES

This list identifies some of the agencies and organizations that are performing research or funding projects in the general area of sentencing. These agencies may be able to provide additional information for researchers studying specific aspects of sentencing.

American Bar Association  
1800 M Street, N.W.  
Washington, DC 20036

American Judicature Society  
Suite 1606  
200 W. Monroe Street  
Chicago, IL 60606

American Justice Institute  
1007 7th Street  
Sacramento, CA 95814

Criminal Justice Reference  
and Information Center  
L 140 Law Library  
University of Wisconsin  
Madison, WI 53706

John Howard Association  
67 East Madison Street  
Suite 216  
Chicago, IL 60603

Law Reform Commission of Canada  
130 Albert Street  
Ottawa, Ontario KA 066

National Council on Crime  
and Delinquency  
Continental Plaza  
400 Hackensack Avenue  
Hackensack, NJ 07601

Rand Corporation  
1700 Main Street  
Santa Monica, CA 90406

Roscoe Pound-American Trial  
Lawyers Foundation  
20 Garden Street  
Cambridge, MA 02138



**END**