



National Institute of Justice
Executive Summary

**Determinate Sentencing and
the Correctional Process:**

A Study of the Implementation
and Impact of Sentencing
Reform in Three States

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James K. Stewart

Director

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The history of American correctional policy and practice reflects a curious mixture of lofty goals and harsh realities (McKelvey, 1936; Rothman, 1980; Sherman and Hawkins, 1981; Allen, 1981). Throughout history, American penal policy has embodied humanitarian concerns for offender reformation and betterment, starting from the early belief that regimentation and discipline would lead to good habits, to the emphasis on individualized diagnosis and rehabilitative treatment which followed the Progressive Era, and finally to the current-day preoccupation with the reduction of discretion in the handling of offenders. Yet as Rothman and others (Allen, 1964; Martinson, 1974) have noted, these policies have been less than effective in achieving the goal of offender reformation. They contend that while the policies have embodied humanitarian ideals ("conscience"), correctional practice has been driven by pragmatic concerns, or to use Rothman's phrase, "convenience" (c.f. Wright, 1973; Hagan, 1979; 1980; Platt and Tagaki, 1981).

The rehabilitative model of corrections is generally cited as a case in point of the conflict between conscience and convenience. It was originally conceived as a means by which the criminal tendencies of every offender could be curbed through exposure to specially tailored programs for as long as necessary to generate desired behavior change. However, the reality of the rehabilitative model is that prisoners become the brunt of discretionary decisions which often appear to be blatantly inequitable. Further, it is argued that in prison they are forced to deal with an additional stressor, ignorance concerning their dates of release (Allen, 1964; American Friends Service Committee, 1971; Frankel, 1972; Fogel, 1975; Twentieth Century Fund, 1976; von Hirsch, 1976).

Determinate sentencing has been adopted in a number of jurisdictions as an alternative to the rehabilitative model. Originally inspired by humanitarian concerns, this reform has also suffered greatly in the translation from the ideal to the real. Reformers advocating determinacy did so originally out of a commitment for enhancing basic sentencing equity and treating prisoners with honesty in regard to their expected release dates. Further, these advocates speculated that these "advances" in the handling of offenders would generate benefits for the prisoners, making prison sentences less stressful. However, the results of the study to be discussed below suggest that determinate sentencing has had a negligible effect on the correctional environment and on inmate adjustment to it.

Determinate sentencing reform can perhaps be added to the growing list of recent correctional reform efforts, including participatory management, support teams, citizen involvement, and unionization, that have been largely unsuccessful in substantively changing our prisons (Berkman, 1979; Baunach, 1981; Platt and Tagaki, 1981; Sherman and Hawkins, 1981; Stastny and Tyrnauer, 1982). This executive summary reviews the major arguments and findings of the research that led to this conclusion. In addition, from a corrections perspective, conclusions are drawn about the effects of determinate sentencing on the prison and prisoners' adaptations to it. Finally, the reasons which may account for the insignificant impact that the determinate sentence has had on prisoners and on the prison environment are discussed.

An Overview of the Present Research

The research discussed in this report assesses the impacts of determinate sentencing on prisoners and prisons. The study was funded

by the National Institute of Justice primarily to evaluate the effects of determinate versus indeterminate sentencing on the attitudes and behaviors of prisoners and the social climate of the prison. Determinate sentencing, it has been argued, will be perceived favorably by prisoners because it will provide them with a sense of fair and uniform treatment by the criminal justice system (Frankel, 1972; Gaylin, 1974; Twentieth Century Fund, 1976) and because it will allow them to serve their prison time with greater certainty of their release dates (American Friends Service Committee, 1971; von Hirsch, 1976). These changes in prisoners' perceptions of fairness and certainty are expected to affect their attitudes and adjustment patterns to prison, thereby influencing the social climate of the prison.

The states of Illinois, Connecticut, and Minnesota were targeted for study. Each state had recently implemented a determinate-style reform or was in the process of doing so: Illinois in 1978; Minnesota in 1980, and Connecticut in 1981. In each state the following prisons were selected for intensive investigation: the Connecticut Correctional Institution at Somers, Minnesota's Stillwater Correctional Facility, and Stateville and Logan Correctional Institutions in Illinois. Data collection began in April, 1981 and extended through September, 1982. It involved interviews with prison administrators, staff, prisoners, and selected central office personnel in each state. Self-report questionnaires were also administered to random samples of prisoners at each institution on three separate occasions spaced at six-month intervals, yielding usable data for a total of 1,654 inmates.

A Model for Assessing Impacts of Determinacy

The study was performed within a much broader context than simply obtaining data on outcome measures, however. A growing body of literature on the evaluation of criminal justice and legal reforms cautions against narrowly focused impact assessments (Nimmer, 1978; Berk et al., 1980; Marsh, 1983; Blumstein et al., 1983). Rather, evaluators have been encouraged to acquire a thorough grasp of earlier stages in the process of legal reform in order to better understand the nature of the reform's outcome.

Creating legal reform in criminal justice is a complex undertaking involving an impressive array of individuals, including legislators, jurists, criminal justice administrators, planners and, ultimately, line staff. Additionally, there is a temporal sequence of decision points through which the reform must pass before it is operational and capable of demonstrating impacts. Given the complexity of this process, the reform can be undermined in several ways, such as by a lack of clarity, failure to embody the reform's objectives in law or administrative procedure, and sabotage of the reform during the implementation process. Should any of these or other possibilities occur, the reform's potential for impact would be compromised.

Without exploring the issues of implementation as well as outcome, a finding that the reform has had no measurable effect on the outcome measures is subject to two interpretations. Either the reform indeed had no impact on the outcome measures of interest. Or, the reform would have had the anticipated effect, but since it was not faithfully implemented, it was never actually put to the test.¹

Consequently, the scope of this study is extended to include both an assessment of the impact of the determinate sentence on prisoners and

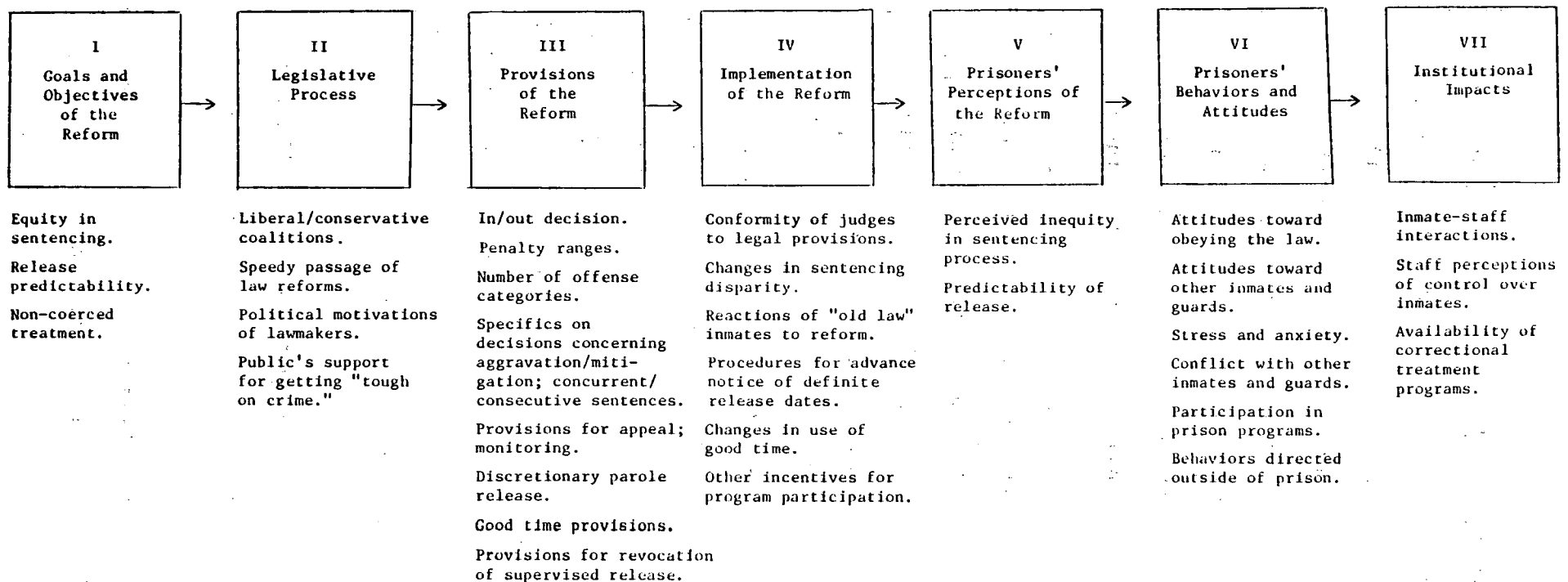
an analysis of the initial and intermediate steps in the legal reform process which bear upon the reform's ultimate impacts. Figure 1 illustrates a causal model tracing the conceptualization, development, implementation, and impacts of determinate sentencing reform, adopted from a more complex model developed by Berk et al. (1980). This model provides a general representation of the six stages of reform examined in this analysis. The model's value for evaluation of legal reforms is illustrated by a brief review of each stage.

1. Defining the reform's goals and objectives. First, attention is paid to the goals and objectives of the original reform advocates. Differences among advocates concerning basic conceptual issues can result in a proliferation of many dissimilar programs and procedures, all of which are considered as part of the reform effort despite the fact that they are functionally quite different. Hence, one objective of the study is to have a thorough understanding of the original concepts that advocates hope to realize.

2. Reviewing the legislative process. Second, as successful legal reform depends upon the accurate translation of the reform's goals and objectives into law through the legislative process, the political context surrounding the adoption of determinate sentencing is a focus of study. Because lawmaking necessarily involves negotiation, compromise, budgetary constraints, and other political exigencies, the reform's ideals may be seriously compromised. Given this likelihood of compromise, a qualitative, descriptive account of the process through which an initial reform becomes law is a necessary part of legal impact evaluation research (For discussion of these issues, see Berk et al., 1977).

FIGURE 1

PROPOSED MODEL OF THE EVALUATION OF DETERMINATE SENTENCING REFORMS



3. Analyzing the legal provisions. A reform can only be as effective as the legal provisions which embody it and operationalize its goals and objectives. To fully understand the nature of the reform, then, it is necessary to examine the degree of correspondence between the essence of the reform (its goals and objectives) and the legal provisions designed to realize these objectives. Hence, the third step involves jurisprudential analyses of the laws in the jurisdictions studied, focusing on changes which constitute the reforms.

4. Monitoring implementation attempts. The outcome of a legal reform is directly determined by those individuals responsible for its implementation. It is here that many reforms apparently fail due to implementation problems stemming from such issues as: (1) inadequate communication of the law's provisions to persons responsible for its execution; (2) lack of positive and negative incentives to inspire desired action; (3) resistance to change among individuals who lose power as a result of the reform; (4) opportunities to disregard an optional law through exercise of discretion; and (5) inadequate monitoring of the implementation process (see, for example, Robertson and Teitelbaum, 1973; Bardach, 1977; and Rein and Rabinovitz, 1978). Hence, actions of individuals responsible for putting determinate sentencing into practice at the correctional level, including administrators, treatment staff members, and parole board members, are monitored.

5. Assessing prisoners' perceptions. The fifth stage concerns intermediate impacts, the degree to which the reform influences prisoners' perceptions of the fairness of their sentences and the degree of certainty of their release dates. These measures are crucial indicators of the effects of determinate sentencing on corrections,

because if inmates' perceptions were not influenced by the reform, one would be forced to question the adequacy of the implementation process or the laws themselves. Also, reform advocates assume that it would be these perceptual effects that mediate the impacts of determinate sentencing on prisoners' attitudes and behavior (American Friends Service Committee, 1971; Morris, 1974).

6. Measuring prisoners' attitudes and behaviors. The sixth stage involves an assessment of the long-range impacts, the attitudinal and behavioral changes among prison inmates which may be attributed to the enactment of determinate sentencing.

What follows is a study designed to track the progress of the determinate sentencing concept from its rapid gain in popularity during the 1970s through its operationalization as parts of various legislative reforms in three states. These qualitative data, together with quantitative data which assess the reform's measurable intermediate and ultimate impacts on prisoners and the correctional environment, provide a more complete portrayal of the impact of determinate sentencing reform.²

Goals and Objectives of Determinacy

One can understand the goals and objectives of determinacy only in the context of widespread disenchantment with the indeterminate sentence, beginning in the 1960s and reaching a peak in the mid-1970s. The indeterminate sentencing model specifies that offenders are to be sentenced to an indefinite length of incarceration, with the precise release date to be determined by a knowledgeable decision-making body on the basis of rehabilitative criteria.

This type of sentencing structure rapidly gained favor with nearly every state legislature and became the prevailing mode of criminal sanctioning by the beginning of the century (Serrill, 1977). Once this treatment perspective had become firmly established as the predominant ideological framework for corrections, practitioners adhered to this approach with very little adjustment or criticism until the early 1970s.

Several scholarly works appeared early in the 1970s which began to shake the foundation on which the indeterminate sentence has rested for almost a century. Beginning with the American Friends Service Committee's Struggle for Justice, which appeared in 1971, and followed quickly by books by Marvin Frankel (1972), Norval Morris (1974), David Fogel (1975), and Andrew von Hirsch (1976) and an article by Richard McGee (1974), individuals concerned with correctional policy and the sentencing process began to reevaluate the traditional goals of correctional treatment and to articulate new objectives for effective sentencing. The major arguments used to discredit the indeterminate sentence are briefly presented below:

1. The failure of the rehabilitative model. Increasing amounts of empirical evidence cast doubts on the rehabilitative model by suggesting that: (a) correctional rehabilitation programs are ineffective in reducing criminal behavior (Robison and Smith, 1971; Ward, 1973; Martinson, 1974; Lipton, Martinson, and Wilks, 1975; Bailey, 1966); (b) release decision-making bodies cannot accurately predict post-release success on an individual basis (Gottfredson, 1970; O'Leary and Glaser, 1972); and (c) in making their release decisions, parole boards use surprisingly little information concerning the offender's conduct during incarceration (Gottfredson, 1970).

2. Contribution to sentencing disparity. Empirical and anecdotal evidence of similarly situated offenders serving widely disparate prison sentences suggested to many critics that the extent of judicial discretion allowed under indeterminacy leads to unjust sentencing inequities (Frankel, 1972; Greenberg, 1972; Gaylin, 1974; Fogel, 1975; Twentieth Century Fund 1976).

3. Stresses of release uncertainty on prisoners. Inmate uncertainty concerning one's release dates is inherently stressful and creates an additional and unjustifiable hardship for prisoners (American Friends Service Committee, 1971; Greenberg, 1972; von Hirsch, 1976).

4. Disadvantages of coerced treatment programs. The presumed linkage of early release to prisoners' involvement in correctional treatment programs undermines the effectiveness of the programs by fostering "conning" and "game playing" among inmates (American Friends Service Committee, 1971; Manson, 1977; Alschuler, 1978).

Determinate sentencing has been proposed to rectify the problems inherent to the indeterminate sentencing model. By providing inmates with more predictable release dates, determinacy was expected to alleviate inmate stress and anxiety caused by uncertainty (American Friends Service Committee, 1971; Fogel, 1975; von Hirsch, 1976). In addition, advocates argued that if inmates were certain of their dates of release and felt they had been sentenced fairly, they would be less frustrated, causing the incidence of individual and organized violence in prison to decline (Park, 1976; von Hirsch, 1976). Moreover, as Cullen and Gilbert (1982) and Goodstein (1980) suggest, release certainty would strengthen the social ties between the inmate and his or her loved ones on the outside because, with clear knowledge of one's release date, an inmate and his or her family would be able to plan for

the prisoner's return. A number of critics also believed that the determinate sentence would enhance the potential effectiveness of correctional rehabilitation programs because with no external incentives for participation, only genuinely motivated inmates would enroll (American Friends Service Committee, 1971; Manson, 1977). Finally, some critics argued that through more equitable treatment in the sentencing process, prisoners' respect for the criminal justice system and the law in general would be enhanced (Twentieth Century Fund, 1976).

It should be noted that the criticisms listed above are directed to two independent processes: (1) inequities in judicial sentencing decisions, and (2) the ramifications of delayed release date fixing. Early proponents of the reform were often unclear about which specific aspect of the indeterminate model required reworking. Some emphasized problems relating to parole decision-making and release uncertainty and others concentrated on the problem of sentencing disparity. Both considered part and parcel of determinacy, predictability of release and equity in sentencing are independent concepts which can be operationalized separately. This confusion was likely to, and did, manifest itself in the variety of proposals for sentencing reform, contributing to the fact that many determinate models differ considerably from one another in the degree to which they enable these two objectives to be met.

Politics and Sentencing Reform

In the three states studied, as in the nation as a whole, the processes leading to the adoption of determinate reforms were marked by the cooperation of actors with sharp ideological differences. The passage of determinate sentencing legislation reflected concerns among

legislators, other actors in the criminal justice system, and the general public with a number of issues other than those which were of concern to early advocates of determinacy.

During the 1970s, when the liberals were attacking the inequities created by the indeterminate sentence, political conservatives were becoming increasingly concerned about the "crime problem" (Cullen and Gilbert, 1982; Cullen et al., 1983; Travis, 1982a; 1982b). While the basic philosophical assumptions of these two groups were radically divergent, they shared a common dissatisfaction with the criminal justice system and, consequently, they worked together in many states to push for determinate sentencing reform. It was this unlikely coalition of political liberals and conservatives which drafted and passed determinate sentencing laws (Travis, 1982b).

Yet, important differences in focus exist between conservatives and liberals. Whereas liberals focused on the rights and privileges of convicted offenders, conservatives believed that the criminal justice system was too tolerant of crime and too lenient with criminals, and demonstrated too little concern for crime's victims and other lawabiding members of society (Miller, 1973).

With respect to sentencing policy, these concerns translated into an antipathy toward the indeterminate sentence for several reasons. First, as Travis (1982b) notes, conservatives traditionally have been opposed to the discretion inherent in the indeterminate sentence because of the freedom it provides judges to be "soft on criminals." Moreover, according to this perspective, judicial discretion undermines the deterrent value of punishment because offenders are never certain whether they will be punished or, if punished, how severe the punishment will be. Conservatives also viewed the preoccupation of corrections

with rehabilitation as misguided and as responsible for creating an unreasonable fiscal burden on the tax paying public.

In light of their dissatisfaction with indeterminacy, a determinate sentencing model was an attractive alternative to conservatives. Determinacy, after all, offered the prospect of limiting opportunities for judicial leniency, deemphasizing or completely eliminating the rehabilitative goal of corrections, and mandating that offenders serve the sentence imposed by the judge without the intervention of what were often viewed as soft-hearted parole boards.

It must be stressed that while the means shared by conservatives and liberals had common elements, their ends did not. Virtually all liberal treatises advocating determinacy specified that sentence lengths under determinacy should be reduced or remain the same, and that care should be taken to avoid gradual sentence inflation after implementation of reforms. This concern was not shared by conservatives who, if anything, advocated lengthier sentences. Also, while liberal reformers advocated decriminalization and alternatives to incarceration, conservatives supported the increased use of law to sanction undesirable conduct and imprisonment as the preferred sanction (Berk et al., 1977). Therefore, these two groups entered the legislative arena with incompatible agenda items hidden behind apparently consistent positions favoring determinacy.

Scant empirical evidence exists with regard to the forces compelling sentencing reform in the states studied. However, anecdotal accounts suggest that adoption of the reforms was effected less by the principled desire for more equitable treatment of criminals than by the

promise of more certain sentences, primarily through the removal of parole release.

Politics and Sentencing Reform in Illinois

In Illinois, for example, the prospect of determinate sentencing reform was first explored in 1975 by the Judiciary II Committee of the Illinois House of Representatives. This committee developed a series of bills based upon proposal for a "justice model of sentencing," authored by David Fogel, a former university professor who had been appointed Director of the Illinois Law Enforcement Commission in 1974. With the support of Governor Daniel Walker, a series of bills embodying these proposals was introduced in the Senate in April, 1976 as Senate Bills 1882, 1883, 1884, and 1885. However, legislators were apparently uncomfortable with perceived lenient sentences and the degree to which judicial discretion had been restricted in the Fogel bills (Aspen, 1978). Hence, after being assigned to the Senate Judiciary II Committee, no further action was taken, and the Fogel bills died in Committee at the adjournment of the 79th General Assembly in December, 1976.

In subsequent hearings, continued support was generated among legislators for the determinate sentencing concept and, after further proposal modifications, another bill, H.B. 1500, was introduced to the 80th General Assembly on March 31, 1977. However legislators and Governor James Thompson were again concerned that H.B. 1500 was not tough enough on crime. A second set of criminal justice legislation, backed by the governor, was introduced in the Senate shortly thereafter. This legislation, labeled the "Class X" bills, covered several aspects of criminal case processing (e.g., restriction or granting continuances,

substitution of judges by the state, statewide grand jury, etc.). However, it was best known for its provision to establish a new crime classification, Class X, awarding long, mandatory prison sentences for the most serious felonies. These provisions were clearly inconsistent with Fogel's justice model.

Neither H.B. 1500 nor Class X were successfully approved by both houses during the Spring, 1977 legislative session. However, after much negotiating, the Class X provision and several others from the Governor's bill were drafted onto H.B. 1500, and this revised bill was passed by the General Assembly late in Fall, 1977.

Legislative History of Connecticut's Reform

Similarly, the legislative process leading to Connecticut's determinate sentencing law reflects a gradual compromise of the ideals of determinacy. In 1977, the Legislature empaneled a commission to study Connecticut's sentencing system and to make recommendations for reform. Members of this commission reviewed the progress of sentencing reform in other states invited testimony from a number of criminal justice professionals, scholars, and jurists, and reviewed current sentencing and correctional policies and practices in the state. They produced a sentencing code that was a complex form of presumptive sentencing (Committee Bill No. 5987, introduced to the General Assembly, February, 1978). It involved a two-dimensional matrix, which successfully reflected liberals' concern for equity and justice. This legislation promised to regulate judicial discretion in setting sentence lengths while allowing judges to retain considerable discretion over the "in/out decision." It also retained certain "desert or control"

provisions, such as extended terms, which were presumably included to satisfy retributivist legislators (Kress, 1980).

Nevertheless, the bill was viewed as too lenient on criminals and hence was not approved by the Connecticut legislature. After a second unsuccessful attempt at developing sentencing guidelines in 1979 failed, the stage was set for sentencing reform dominated by a conservative ethic. By 1980, legislative interest in sentencing reform was channeled by law-and-order advocates into support for a determinate reform that did virtually nothing to restrict judicial discretion. This bill, which eliminated parole release and established a number of new mandatory sentences, was passed by the Connecticut Legislature and signed into law as the Connecticut Session Laws 1980, Ch. 60-422. It went into effect on July 1, 1981, and applies to offenders convicted of crimes committed after that date.

The Development of Minnesota's Reform

Minnesota's reform represents the "purest," most determinate, example of the three states studied; and the political process which lead to its enactment was characterized by the least dissention. Most individuals concerned with sentencing in that state were in agreement that sentencing discretion, especially that of the paroling authority, required regulation.

Even here, however, several legislators voiced concerns that sentencing reform should not be too lenient. Indeed, one of the first sentencing bills proposed, SF 634 introduced in 1975 by Senator Wm. McCutcheon, would have resulted in mandatory incarceration for large numbers of offenders, potentially flooding the prisons with new inmates. Others involved in a subsequent Joint Senate Subcommittee on Determinate

Sentencing also expressed support for a strong retributive stance in the sentencing process.

Careful study of the issues by several subsequent commissions, coupled by concerns for keeping prison populations under control, resulted in a political climate supportive of high quality sentencing reform. With virtually no dissention, a 1977 Joint Conference Committee supported a single-tier approach with a legislatively established commission responsible for constructing guidelines that would account for both disposition (in/out) and duration (sentence length). The Conference Report was approved by both houses in March, 1978 and signed into law by the Governor in early April.

It should come as little surprise that given its swiftness, the mixed goals of its supporters, and its dependence upon the legislative process, the determinate sentencing movement did not consistently generate high quality reform. In the following section, the legal provisions constituting the reforms in each state studied will be reviewed. Their dissimilarities illustrate the varying degrees to which release certainty and sentencing equity can be provided through the legal reforms themselves.

Three Determinate Sentencing Laws

Illinois' Class X Law

Seven felony classifications, including the newly established "Class X," specifying mandatory and long prison terms for particularly serious offenders, are included in the Illinois determinate sentencing law. As Table 1 illustrates, each class is assigned a sentencing range, limiting judges to sentence defendants within the range when incarceration is selected. However, for the majority of offenders,

TABLE 1

FELONY CATEGORIES AND SENTENCING RANGES FOR ILLINOIS
INDETERMINATE AND DETERMINATE LAWS

Class	Examples	Indeterminate Sentencing Range	Determinate Sentencing Range
Murder		14 years to Life or Death ^a	20-40 years or Life ^b
Habitual Criminal	3rd conviction for forcible offense (e.g., murder, rape, armed robbery, aggravated arson)	-	Mandatory Life
Class X	Rape, armed robbery, aggravated kidnapping	-	6-30 years ^b
Class 1	Dealing in major narcotics	4 years-No limit ^a	4-15 years ^b
Class 2	Burglary, arson, robbery, voluntary manslaughter	1-20 years ^a	3-7 years ^b
Class 3	Theft (over \$150), involuntary manslaughter, aggravated battery	1-10 years ^a	2-5 years ^b
Class 4	Possession of cannabis (30-50 gr.), sale of child pornography	1-3 years ^a	1-3 years ^b

^aUp to double the maximum could be imposed if offense involved serious bodily injury or a firearm was used in the commission of the felony or flight therefrom.

^bUp to double the maximum possible determinate sentence could be imposed if offense "accompanied by exceptionally brutal and heinous behavior" or if offender had prior record (within 10 years) of similar or more serious felonious behavior.

Source: Illinois Revised Statutes 1975 and 1981, Chapters 38, Sections 1005-8-1 to 1005-8-2.

judges retain discretion over the decision as to whether or not to incarcerate. Indeed, the law stipulates a presumption of probation or conditional discharge for felonies permitting these sanctions. Mandatory incarceration is specified for certain offenses, including murder, attempted murder, certain violations of the Controlled Substance Act, and for offenders with certain characteristics, such as an individual with a repeat conviction for a Class 2 or greater felony within ten years. Judges retain discretion to impose "extended term" sentences, for example, when the offense is exceptionally brutal and the offender is 17 years old or older, while extended terms must be imposed when offenders are labeled "Class X" or when they are convicted of their third serious felony. The new law also allows for the imposition of consecutive sentences even when the crimes were committed as part of a single course of conduct under certain conditions,³ again at the judge's discretion.

Illinois' law abolishes parole release and replaces it with mandatory release at the expiration of the sentence minus good time. Good conduct credit accrues at a rate of one day for each day served, enabling inmates to be released after serving half of their sentences. Additionally, inmates can have an additional 90 days subtracted from their sentence for "meritorious service," further potentially reducing time served. Good time is not vested and up to one year may be revoked for a single infraction. Further, all cases for which more than thirty days are being revoked must be reviewed by the Prisoner Review Board, a new decision-making body formed as a result of the new law (Ill. Rev. Stat. 1978, Ch. 38 §1003-6-3). Finally, any amount of revoked good time can be restored by the board on the

recommendation of the Department of Correction (Ill. Rev. Stat. 1978, Ch. 38, §1003-3-2(b)).

After returning to the community, prisoners serve a period of "supervised release," the specific length varying with the class of the offense. For murder or a Class X felony, the period of supervised release is three years; for Class 1 and 2 felonies, two years; and for Class 3 and 4 felonies, one year. These terms are shorter than the parole supervision periods established under indeterminacy. The Prisoner Review Board is also empowered to determine the conditions of release and impose sanctions for violating conditional release status, including revocation. Upon revocation, an offender may be forced to serve the remaining supervised release time, plus up to one year of the original sentence, in prison. Further, recommitted offenders may be required to serve the full time of a second (or third, etc.) supervised release period upon re-release. The Prisoner Review Board also has the authority to release an offender from supervision at any time prior to the completion of the term.

Determinacy in Connecticut

Connecticut's determinate sentencing law specifies six felony classifications, illustrated in Table 2. When incarceration is the selected sanction, the court sets a fixed term of imprisonment within the broad legislative limits provided for each offense class (C.G.S.A., 1981, Ch. 53a-35a). Offenders are then bound to serve the fixed sentence imposed, less good time, and are not eligible for early release on parole.

With the exception of capital felonies, judges retain discretion to impose alternative sanctions for most offenses. Other exceptions involve mandatory sentences of at least the amount specified in statute

TABLE 2
FELONY CATEGORIES AND SENTENCING RANGES FOR CONNECTICUT'S INDETERMINATE
AND DETERMINATE LAWS

Class	Examples	Indeterminate Sentence Range		Determinate Sentence Ranges
		<u>Minimum</u>	<u>Maximum</u>	
Capital Felony	Arson Murder	-	-	Life (60 yrs.) or Death
Class A Murder	Felony Murder	-	-	25 yrs.-Life (60 yrs.)
Class A Felony	Kidnapping 1, Arson 1	10-20 yrs.	Life	10-25 yrs.
Class B Felony	Kidnapping 2, Burglary 1, Manslaughter 1, Robbery 1	1 yr.-1/2 imposed maximum ^a	20 yrs.	1-20 yrs; some cases, 5-20 yrs.
Class C Felony	Manslaughter 2, Burglary 2, Robbery 2, Forgery 1	1 yr.-1/2 imposed maximum ^a	10 yrs.	1-10 yrs.; some cases, 3-10 yrs.
Class D Felony	Assault 2, Burglary 3, Sex Assault 3, Reckless Burning	1 yr.-1/2 imposed maximum ^a	5 yrs.	1-5 yrs.

^aIf maximum is less than three years, minimum could be greater than one-half the imposed maximum.

Source: Connecticut General Statutes Annotated 1981, Vo. 27A § 53a.

for specified offenses including manslaughter 1 with firearm (1 year), assault 1 (5 years), and burglary 1 (5 years). The imposition of "extended terms" is allowed for certain persistent offenders, although application of these terms is discretionary with the judge.

Under the determinate law, Connecticut prisoners are released from all supervision at the expiration of their sentences minus earned good time, which accrues at a rate of ten days for each month served up to five years and twelve days per month for the sixth and subsequent years. In addition, up to an additional 120 days may be earned for meritorious service and an additional one day per week may be earned for employment for seven consecutive days. As the new law abolished both parole review and supervision, inmates are slated for release from all correctional authority after they have completed their fixed sentence minus good time.

Minnesota's Sentencing Guidelines

Of the three states studied, Minnesota is the only one which adopted a reform involving sentencing guidelines constructed by a sentencing commission. These guidelines embody a ten-category scale for offense severity and a seven-point scale measuring prior convictions, creating a seventy-cell matrix, illustrated in Table 3. Dispositions are specified for each of the cells of the matrix, suggesting whether or not a defendant should be sent to state prison and, if so, providing the judge with a presumptive sentence. If the judge deviates from the presumptive sentence by ten percent or less for aggravating or mitigating factors, the sentence is considered as conforming to the guidelines. Factors acceptable for aggravating or mitigating the severity of the sentence, as well as those which are explicitly excluded

TABLE 3
MINNESOTA SENTENCING GUIDELINES GRID

SEVERITY LEVELS OF CONVICTION OFFENSE		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
Unauthorized Use of Motor Vehicle Possession of Marijuana	I	12 ^a	12 ^a	12 ^a	15	18	21	24
Theft Related Crimes (\$150-\$2500) Sale of Marijuana	II	12 ^a	12 ^a	14	17	20	23	27 25-29
Theft Crimes (\$150-\$2500)	III	12a	13	16	19	22 21-23	27 25-29	32 30-34
Burglary - Felony Intent Receiving Stolen Goods (\$150-\$2500)	IV	12*	15	18	21	25 24-26	32 30-34	41 37-45
Simple Robbery	V	18	23	27	30 29-31	38 30-40	46 43-49	54 50-58
Assault, 2nd Degree	VI	21	26	30	34 33-35	44 42-46	54 50-58	65 60-70
Aggravated Robbery	VII	24 23-25 ^b	32 30-34	41 38-44	49 45-53	65 60-70	81 75-87	97 90-104
Assault, 1st Degree Criminal Sexual Conduct 1st Degree	VIII	43 41-45	54 50-58	65 60-70	76 71-81	95 89-101	113 106-120	132 124-140
Murder, 3rd Degree	IX	97 94-100	119 116-122	127 124-130	149 143-155	176 168-184	205 195-215	230 218-242
Murder, 2nd Degree	X	116 111-121	140 133-147	162 153-171	203 192-214	243 231-255	284 270-298	324 309-339

Note: 1st Degree Murder is excluded from the guidelines by law and continues to have a mandatory life sentence.

^aOne year and one day.

^bItalicized numbers within the grid denote the range within which a judge may sentence without the sentencing being deemed a departure.

Source: Hamline Law Review, 1982.

from consideration, such as race, sex, and employment, are also specified as part of Minnesota's determinate reform. The guidelines also provide presumptive rules for the decision to award concurrent and consecutive sentences. Deviation from the guideline ranges is acceptable so long as judges provide written justifications for their decisions. Appeals of any sentence can be made by either the defense or the State, regardless of whether the sentence falls within or departs from the guidelines.

Minnesota's determinate sentencing law abolished parole review, thus inmates are released at the expiration of their sentences minus earned good time. As Minnesota's good time ratio is one day reduction for every two days served, inmates can be released after serving two-thirds of their sentence. Good time is vested, hence, as soon as it is earned, it cannot be rescinded. If an inmate commits a disciplinary infraction specified by the Department of Correction as sufficiently serious to merit loss of good time, that individual then serves a period of incarceration without the privilege of earning additional good time.⁴ The amount of good time that can be lost for any one infraction may not exceed ninety days.

Once released, the offender serves a period of "supervised release" equivalent to the total amount of good time earned. Conditions for revocation of release status and decisions concerning the revocation and reinstatement of specific inmates are made by a designated decision-making body. If revoked, the offender may be reincarcerated no longer than the time left in the original sentence.

Comparisons of the Three laws

While the sentencing reforms adopted in the three states have all been labeled as determinate, they differ widely with respect to the degree of sentencing equity and release predictability they provide for. Compared to the indeterminate models, Minnesota's reform allows for both greater predictability and increased release equity, while Connecticut and Illinois have implemented reforms allowing only for greater predictability.

Under Connecticut's and Illinois' reforms, "similarly situated" offenders may still be sentenced to widely disparate prison terms, or one may be sentenced to prison while the second awarded probation. In contrast, Minnesota's reform incorporates provisions which regulate judicial discretion to a considerable extent, enhancing equity.

We point to several provisions of the sentencing reforms which would be expected to contribute to continued disparities in Illinois and Connecticut and increased equity in Minnesota.

1. Decision to incarcerate. First, neither law in the former two states specifies criteria for the so-called in/out decision, the exceptions being mandatory incarceration for a handful of serious offenders or offenses. In contrast, Minnesota's guidelines explicitly state whether an offender should be sent to the state prison or awarded an alternative sanction.

2. Width of penalty ranges. Second, Illinois' and Connecticut's reforms retain wide penalty ranges for specific offense classes, restricting the judge only to the extent that he or she must select a sentence from within that range if incarceration is the chosen sanction. To some extent, these wide ranges are necessary, given the fact that all

offenses are categorized into only five offense groupings in each state.⁵ Given the variety of offenses of differing degrees of seriousness grouped within each class, judges require a selection of penalties in order to mete out equitable sentences. Yet, these wide ranges also increase the possibility that offenses of equivalent levels of seriousness will be awarded disparate sentences or that defendants convicted of crimes of varying seriousness will receive similar sentences. For example, Class 2,3, or 4 felons in Illinois and Class D,C, or B felons in Connecticut can all be sentenced to three years incarceration. Minnesota's guidelines reflect the development of precise rankings for offense severity and allow for the specification of narrowly restricted penalty ranges, thus enhancing equity.

3. Discretion in awarding extended or reduced sentences. Third, in both Connecticut and Illinois, the discretion to award so-called "extended terms" for particularly serious cases remains with the judge. Moreover, neither law indicates specific criteria to be considered or ignored by the judge in making this decision. Again, Minnesota's reform provides more structure for the judge in this area through the specification of factors to be and not to be considered in sentencing.

4. Rules for awarding consecutive or concurrent sentences. Fourth, in neither Illinois nor Connecticut is the judge restricted in his or her decision to award consecutive versus concurrent sentences, while Minnesota's judges are expected to conform to the presumptions articulated in the guidelines.

For these four reasons, Minnesota's reform, as the provisions are written, considerably surpasses the reforms of Illinois and Connecticut in providing for equity. Indeed, it has been acknowledged as one of the

highest quality determinate sentencing reforms enacted (von Hirsch and Hanrahan, 1981; von Hirsch, 1982).

With regard to the second major dimension of determinacy, release certainty, all three jurisdictions have adopted reforms allowing for greater predictability. This increased potential for certainty in all states is due primarily to the elimination of the parole review process. Inmates now can project their release dates as their expiration dates minus their earned good time. In all three states, the formulas for computing good time are clear and simple, and offenders should have little difficulty computing their release dates assuming all possible good conduct credit is earned. Two interconnected issues that could potentially reduce release certainty in Illinois are: a) the large proportion of the inmate's sentence that can be reduced and b) the fact that good time is not "vested." Further, the retention of release supervision in Illinois and Minnesota may also create a measure of uncertainty, because offenders on supervised release may still be returned to prison for violations of specified conditions.

Legislative provisions as they are drafted and codified as law constitute the necessary foundation for accomplishing the goals and objectives of a reform effort. However, the implementation process must be addressed as well to determine whether the reform is being carried out as intended.

The Implementation of Determinate Sentencing Reform

It is axiomatic among observers of planned change that attempts to implement even the best of ideas may result in a continuation of the status quo or occasionally in conditions worse than those being replaced (Nakamura and Smallwood, 1980). Organizational theorists suggest, for

example, that if key personnel perceive an incompatibility between the innovation and their "deeply cherished beliefs" (Van Meter and Van Horn, 1975) or tacitly accepted bureaucratic norms (Blau and Meyer, 1971), they may silently work against its success. Similarly, if the innovation conflicts with "bureaucratic imperatives," such as concern for organizational maintenance, protection, and growth (Rein and Rabinovitz, 1978), or leads to reduction in power and prestige for some organizational members, resistance to change can result (Klein, 1966; Watson, 1972). With the implementation of determinate sentencing in three states studied, both the paroling authorities and correctional treatment staffs were faced with status changes which might be expected to lead to attempts to subvert the reform's success.

Other problematic consequences of policy innovations stem from the fact that they apply only to persons after a certain date. For example, Minnesota's sentencing guidelines were designed to apply only to individuals convicted of crimes committed after May 1, 1980; thus all pre-guidelines prisoners continue to serve indeterminate sentences. Similar conditions exist in Illinois and Connecticut. This is a major problem for policy makers who must weigh the benefits of improving conditions for those eligible for the new policy with the disadvantages of having a system with different rules and procedures for various groups depending upon their dates of eligibility (Goodstein, 1983).

In the sentencing area this is especially perplexing because the reform explicitly aimed at reducing inequities in some cases has the side-effect of potentially increasing inequities in other cases. Moreover, given that prison inmates sentenced under the old and new laws are housed in close proximity and can readily compare their relative conditions, they may be particularly sensitive to these disparities.

In light of these and other possible critical consequences of the adoption of determinate sentencing reforms, information from a variety of sources⁶ is used to describe and discuss the implementation process in each of the three states.

Factors Affecting Release Certainty

Shortly after entry to prison, determinate sentenced inmates in all three states are routinely informed of their projected release dates, and are reapprised throughout their prison careers as outdate revisions occur. Hence, all determinate sentenced inmates are provided with information concerning their release dates early in their prison terms. However, it is inaccurate to speak of high levels of release certainty if these dates are subsequently readjusted with any frequency. Under determinacy three mechanisms which operate in one or more of the states studied continue to significantly affect release predictability: (1) good time provisions, (2) new release procedures, and (3) policies concerning post-release supervision.

Impact of good time

One's release date is difficult to anticipate if one is subject to the risk of gaining or losing large amounts of good conduct credit during incarceration. This has been the case especially in Illinois where, from approximately May 1981 to early 1982, it was possible for Illinois prisoners to earn up to 180 days of Meritorious Good Time per year. Thereafter, until July 1963, inmates could earn up to 120 days per year in addition to day for day statutory good conduct credit.⁷

Officially, the maximum amount of good time was not automatically awarded and any Meritorious Good Time award required approval by the

Director of Corrections upon recommendation from the Warden. In practice, however, the first 60 days (45 in 1982) were routinely awarded "if they're breathing and not causing trouble" (Dillon, 1982), and by 1982 inmates came to expect that their outdates would be advanced by at least another 1 1/2 months after every six months served. For obvious reasons, inmates favored this practice. Moreover, the Department of Corrections defended it as a mechanism for keeping the prison population under control (Bigman, 1983). Nonetheless, the unpredictable procedure by which Meritorious Good Time was awarded did not contribute to the goal of increased release predictability.

Frequent readjustments in the outdates of Illinois inmates occur also as a result of the large amounts of good time, up to 120 days, that can be revoked and restored for a single major disciplinary infraction. Thus the possibility that one's sentence may be significantly lengthened through the revocation of good conduct credits remains throughout an inmate's prison term, contributing to continued release uncertainty. Moreover, as reported by Bigman (1981a,b), revocation rates have varied widely across institutions, with Stateville inmates losing considerably more good time than inmates at other institutions. This discrepancy may reflect somewhat noncompliant characteristics of the Stateville inmate population. However, it also suggests that the use of revocation as a disciplinary sanction differs among prisons (Cullen et al., 1983). This, in turn, leads to more frequent changes in prisoners' expected outdates at some prisons than other prisons.

Finally, there is evidence that the Illinois Department of Corrections is increasingly more likely to restore good conduct credits that had been revoked. While the total number of days of good conduct credit that were revoked annually remained constant from 1978 through

1981, the number of days of credit restored increased dramatically from 18,401 in 1978 to 22,770 in 1980 to 79,642 in 1981 (Illinois Department of Corrections, 1982).

Illinois' expanded use of meritorious good time and increase in restoring good conduct credits are both reactions to an increasingly serious overcrowding problem (Cullen et al., 1983; Bigman, 1979). There is no reason to believe Illinois' inmate population increased as a direct result of the determinate sentence. After all, the inmate population increase began in 1972 and continued with no change in slope through 1982 (Illinois Department of Corrections, 1982b). However due to these deviations from the design of the sentencing reform, the degree of certainty of release has been compromised in Illinois.

Release date adjustments due to good time provisions have been less prevalent in Minnesota, where good time is vested, and in Connecticut, which has a low good time ratio and where relatively few good conduct credits are revoked.

New release procedures

The objective of release certainty under determinacy has been compromised to some extent in Connecticut as a result of the 1982 passage of a bill (P.A. 82-383, Sect. 2) which has been labeled the Community Residence Law. Enacted in response to prison overcrowding, the law provides for the release of all convicted felons, at the discretion of the Department of Corrections, within one year of their projected release dates. The decision-making process is extremely similar to a classical parole review, the major difference being that the administrative decision-making body is now part of the Department of Corrections rather than an independent body, as was the case formerly.

The administrative procedures for Community Residency stipulate reviews of all inmates by two staff committees; one at the institution and the other at central-office, who consider criteria including background characteristics, criminal history, and institutional record data. Throughout the entire period of community residence, offenders must report to "field supervisors" who retain the authority to initiate revocation procedures if the releasee has not abided by the stipulated conditions.

With the passage of the Community Residence Law, Connecticut has functionally reinstituted both discretionary release decision-making and post-release supervision with the chance of revocation. For the Connecticut's prisoners this has lead once again to a situation of uncertainty concerning both initial release and revocation, although, compared to indeterminacy, the range of time during which an inmate can be released is narrower. Additionally, it is important to note that, like the awarding of Meritorious Good Time, Community Residence serves only to shorten an inmate's prison time, never to lengthen it. Consequently, inmates may accept the added uncertainty in return for shortened periods of confinement in prison.

Post-Release Supervision

With the enactment of Connecticut's Community Residence Law, all three states can be viewed as having retained procedures for post-release supervision and revocation. Hence, once released from prison, inmates in all three states continue to experience uncertainty about being returned to prison for the violation of specified conditions, many of which do not involve criminal acts.

Sentencing Equity for Determinate and Indeterminate Sentenced Inmates

In addition to limiting release certainty, the potential sentence adjustments described above can also adversely affect sentence equity. Assuming that the initial sentence imposed by the judge was equitable, alterations due to good time, release review, and revocation from supervised release potentially compromise this objective.

Even if the new laws are successful in providing equity for determinate sentenced inmates, there is reason to expect that treatment of indeterminate sentenced inmates by paroling authorities may become somewhat less equitable during the transition to determinate sentencing. Individuals threatened with reduced status or prestige may be most resistant to the change and may attempt to subtly subvert the reform's success (Rein and Rabinovitz, 1978; Klein, 1966). Sentencing reforms in all three states eliminated discretionary parole release, depriving the Connecticut Parole Board, the Illinois Parole and Pardon Board, and the Minnesota Corrections Board of their major responsibility. If board members react to this change by altering their parole decisions for prisoners still under their jurisdiction, greater inequity could result for the indeterminate sentenced prisoners who remain in the systems.

There are indications that after the determinate laws went into effect in both Minnesota and Illinois, indeterminate sentenced prisoners were treated more harshly in the release decision. In Minnesota, for example, where a parole guidelines system had been in use, three types of evidence suggest that the Minnesota Corrections Board altered its procedures and practices following implementation of the determinate sentencing law. First, the Board increased the average sentence lengths of indeterminate inmates from 24.1 months in 1977 to 31.9 months

in 1981 (Minnesota Department of Corrections, 1982). Second, there have been complaints that inmates were detained in prison beyond their projected parole dates without justification. Minnesota Corrections Board rules (1976) stipulate that inmates must be released on their target dates unless they have been convicted of "misconduct which would have been a crime in the free community." However, there are reports that inmates charged with noncriminal institutional misconducts were held beyond their target dates (Guidelines Committee, 1982). Third, the board also increased its rate of parole revocations for noncriminal violations of general or special conditions of parole, such as failure to complete a residential treatment program. The rate of these technical violations had doubled between 1976 and 1980; it nearly tripled between 1972 and 1980. In addition, the length of additional prison time required of parole violators increased by more than two months (from 3.9 to 5.3) from 1979 to 1981 (Strathman, 1981).

Like the Minnesota Corrections Board, the Illinois Prisoner Review Board (formerly the Parole and Pardons Board) was stripped of much of its power and prestige when it lost its discretionary release authority over determinate sentenced inmates. In response to this reduction in status, some observers suggest that this body became more conservative toward inmates over whom it still had authority. Specifically, the Executive Director of the Prisoner Review Board (Kaufman, 1982) indicated that, compared to the period prior to the enactment of the determinate law, the Board was more likely to grant continuances and denials than parole for similar cases. This observation is supported by Prisoner Review Board's annual reports (1979, 1980, 1981, 1982) which indicate that the percentage of cases that were continued increased each year from 1978 until 1982.

Evidence also suggests that the Prisoner Release Board began to treat technical violators of parole more harshly after the determinate law went into effect. Bigman (1979) reports that the likelihood of having one's parole revoked increased significantly by 77 percent between early 1978 and late 1979.⁹ More recently, however, decision-making trends of the Prisoner Review Board have again reversed, this time toward greater leniency. In 1983, the Board began approving a significantly higher proportion of indeterminate sentenced inmates for parole and revoking significantly fewer parolees on technical violations (Bigman, 1983). This leniency is most likely associated, again, with severe overcrowding, creating a need for the institutional bed-space vacated by those on parole (Bigman, 1983).

The decision-making patterns of the Prisoner Release Board have therefore shifted at least twice since 1978. Unless these patterns reflect reactions to radical changes in prisoner and parolee behavior (which is unlikely), one could conclude that inequities for indeterminate sentenced inmates may have increased since the determinate law went into effect.

In Connecticut, as well, several inmates and staff mentioned that the Parole Board has become more conservative since the determinate sentencing law went into effect. The Board has been accused of denying parole to a larger proportion of indeterminate sentenced inmates and of establishing longer periods of time until subsequent hearings. Indeed, one inmate who has been denied parole filed a lawsuit arguing that the Parole Board is denying parole more frequently in the interest of keeping its power.

Although this observation is clearly part of the "social reality" of inmates and staff in Connecticut's prisons, it finds no support in the limited data available. Proportions of parole denials and the average lengths of continuances for the years 1978 through June of 1982 have remained constant over the five-year period (Harris, 1982). Hence, Connecticut's Parole Board has not become more conservative as a result of or in anticipation of determinate sentencing reform. Nor, apparently, has it become more liberal in reaction to overcrowding.

Continued Coercion for Program Involvement

The determinate sentencing provisions in the three states, which eliminate discretionary parole release, appear to break the connection between inmate program involvement and early release, reducing coercion. In light of the long-standing commitment of these correctional systems to the rehabilitative philosophy, however, it has been difficult for treatment staff members and administrators to suddenly adopt a laissez-faire attitude to the rehabilitation process. In interviews with treatment staff members in the three states, many appear dismayed by the independence of program participation from the release decision under the determinate laws. Most perceive advantages in the rehabilitative model of corrections, espousing the commonly held argument that many initially disinterested prisoners are "won over" after they join a treatment program for the benefit of early release. Therefore, it is worthwhile to explore possibilities that continued uses of extrinsic incentives for participation in treatment programs exist at the institutional level and after release.

Program participation in prison

The enactment of Illinois' determinate sentencing law resulted in an initial reduction of the coerciveness of institutional treatment programs, according to staff and inmates interviewed. The link between program participation and early release was restored to some extent, however, when the administrative procedures for awarding Meritorious Good Time were used rather freely between May, 1980 and July, 1983. During this time, prisoners were able to reduce their sentences by up to an additional 4 months per year, with one of those months being awarded for the completion of a prison program. This promise of Meritorious Good Time served as an incentive for program participation. Moreover, because some programs could be completed more quickly than other programs, thus enabling prisoners to accrue good time at differential rates, the shorter programs became more "attractive" than the other programs to the prisoners. Consequently, treatment staff stated, program participation increased after the Meritorious Good Time provisions were implemented.

Connecticut's Community Residence program also has the potential of increasing coercion for inmate program involvement. Indeed, the Director of this program indicated that "special problems" (e.g., chemical dependency) and the inmate's demonstrated motivation to deal with them are legitimate factors for consideration in the decision to grant Community Residency.

In Minnesota, as well, there are indications that inmate involvement in treatment is not entirely free from external pressure. For example, treatment staff are searching for new mechanisms for attracting and rewarding inmates for program participation. Some have suggested that inmates who successfully complete treatment programs be

rewarded with higher paying industry jobs. Others suggest organizing state institutions into a "security ladder," with increased privileges at the less secure institutions where the majority of the rehabilitation programs are offered. At present, there is at least one example of this internal incentive system: inmates who choose to withdraw from the transitional sex offender program offered at a medium custody prison are forced to return to the more secure facility at Stillwater.

Post-release incentives for program involvement

Some inmates are experiencing coercion for program participation during their period of supervised release as well. The post-release supervision period is considered much like parole by the three states' departments of correction. Released inmates may therefore be returned to prison for violations of special conditions, including non-participation in community rehabilitation programs. In Minnesota, a small number of releasees have already been returned to prison because they failed to enter or to complete their prescribed community programs (Strathman, 1982). Other supervised releasees have allegedly been required to attend community programs which the board had good reason to expect would reject them, thus practically ensuring their return to prison (Guidelines Committee, 1982).

Clearly, the practice of setting conditions for post-release supervision which involve coerced participation in treatment programs contradicts the spirit of determinate sentencing. One could question the legitimacy of requiring an inmate to engage in behavior during supervised release which cannot be required while the person is in prison. Indeed, some Minnesota inmates, informed of their supervised release conditions early in their prison stays and given the option of

enrolling in a program "now or later," are actually subjected indirectly to this pressure while in prison. Similar pressures might be expected under Connecticut's Community Residence Program.

Assessment of Implementation Efforts

Certain individual and organizational responses to the legal reforms, coupled with the conditions of severe overcrowding, have limited prisoners' opportunities for equity and predictability under determinacy. However, the effects of sentencing reform have not been totally neutralized. While release dates may still not be certain under determinacy, the ranges within which uncertainty exists are significantly narrowed when compared with those under indeterminacy. As implemented, the reforms appear to have made a difference in the processing of inmates through the correctional system. Further confirmation of this inference can be found in the results of the prisoner survey.

The Prisoner Survey--Methodological Issues

Central to the research effort are attempts to identify aspects of prisoners' institutional adjustment affected by serving determinate, as opposed to indeterminate, sentences. Jurisdictions intentionally were selected which differed in the types of reforms enacted so that the relative impacts of reforms allowing for predictability and equity as opposed to predictability alone, could be compared. Specifically, the effects of predictability alone are assessed in the two prisons in Illinois and the one in Connecticut, while impacts of a reform incorporating predictability plus equity are investigated in Minnesota's facility.

The study also addresses cumulative impacts that occur as the inmate population of a prison is increasingly comprised of a larger proportion of inmates serving determinate sentences. The impacts of determinate sentencing on both individual inmates and the prison environment as a whole may vary as the inmate population becomes increasingly one of prisoners serving determinate sentences. For example, the determinate sentence may not affect prisoners until those entering the prison with determinate sentences constitute a substantial proportion of the total inmate population. Conversely, it is feasible that significant individual effects observed when determinate sentenced inmates comprise a minority of the population will be reduced as they increase their numbers and become a majority of the population. Or, perhaps, all inmates, both indeterminate and determinate, would be influenced as an increasingly larger proportion of determinate sentenced inmates enter the prison. To assess these and other potential contextual effects (Lazarsfeld and Menzel, 1961; Firebaugh, 1980; Erbring and Young, 1980), the study was designed to include successive waves of data collection in the same institutions as a means to assess the impact of determinate sentencing as the prison populations contained greater proportions of determinate sentenced inmates.¹⁰

Prisoner Survey Research Questions

In sum, the following three basic research questions formed the focus of the evaluation efforts:

- 1) What are the impacts of serving determinate sentences on individual inmates?
- 2) Do the effects of determinate sentencing on inmates differ due to the nature of the reform?

- 3) To what degree is the impact of the reform dependent upon the proportion of the prison population serving determinate sentences?

Instrumentation and Analyses

Data were analyzed by means of a statistical technique (analysis of variance with covariates) which allows for comparisons of indeterminate to determinate sentenced inmates on a large number of variables measuring prisoners' perceptions, attitudes, and behaviors. In addition, this technique allows for the identification of differential impacts of the reform among the four institutions (interaction effects). For example, differences between inmates sentenced under the "old" and "new" laws which appear at one institution but not the others can be uncovered. The impact of changes in the proportion of determinate sentenced inmates over time on prisoners' perceptions, attitudes, and behaviors can also be explored.

As previously mentioned, questionnaire data were gathered from random samples of prisoners at each of the four institutions studied on three separate occasions.¹¹ Valid and reliable scale instruments were employed to measure six general aspects of inmate adjustment to prison: (1) attitudes toward the law, (2) attitudes toward inmates and staff, (3) stress, (4) interpersonal conflict and misconduct, (5) program participation, and (6) extramural contacts. In addition, instruments measuring inmates' perceptions of the certainty of their release dates and how equitably they were treated in the sentencing process were administered. Table 4 presents the list of scales and instruments used to measure prisoners' perceptions, behaviors, and attitudes and notes some of their psychometric properties.

TABLE 4

SUMMARY DESCRIPTION OF MAJOR VARIABLES OPERATIONALIZED FOR STUDY

Variable	Number of Items	Alpha Reliability Coefficient	Range	Mean	Standard Deviation
Sentence Type	1	---	1-2	---	---
Perceived Inequity	6	.81	6-30	21.36	5.65
Certainty of Release	1	---	1-9	6.04	2.56
Attitudes Concerning the Law					
Cynicism Toward Justice System	6	.64	6-30	20.71	4.13
Propriety of Evading Law	3	.66	3-15	7.53	2.73
Attitudes Concerning Adjustment to Prison					
Prisonization	8	.56	8-40	27.33	4.53
Isolation	6	.66	6-30	21.23	4.35
Identification w/Staff	7	.68	7-35	17.38	4.69
Stress-Related Variables					
Anxiety	20	.86	20-80	53.90	10.62
Depression	5	.78	5-20	10.69	4.05
Number of Somatic Symptoms	12	---	0-12	3.20	2.67
Frequency of Infirmary Visits	1	---	1-5	2.04	1.34
Lack of Control Over Events	6	.85	6-30	16.53	5.11
Interpersonal Conflict and Misconduct					
# Major Misconducts/Month	1	---	0-	.14	.48
# Minor Misconducts/Month	1	---	0-	.15	.40
Severity of Conflict w/Prisoners	6	.95 ^a /.77 ^b	0-6	2.93	1.75
Severity of Conflict w/Guards	6	.95 ^a /.74 ^b	0-6	2.11	1.73
Frequency of Conflict w/Prisoners	6	.85	6-36	12.21	5.81
Frequency of Conflict w/Guards	6	.85	6-36	10.49	5.47
Assertive Interactions	9	.70	9-45	31.54	5.77
Fear of Victimization	4	.66	4-20	13.71	3.40
Program Involvement					
Rehabilitation Programs	5	---	0-5	.52	.68
Social Activities	5	---	0-5	.33	.60
Sports	5	---	0-5	.67	.76
Extramural Contacts					
Family Involvement	3	.53	3-6	4.53	1.02
Outside Contacts	6	.77	6-30	11.78	3.66
Plans for Release	7	.87 ^a /.30 ^b	1-7	1.26	1.35

^a coefficient of reproducibility.^b coefficient of scalability.

Comparison of Indeterminate and Determinate Sentenced Inmates

Overall, no differences between inmates sentenced under the determinate versus indeterminate models were found for most socio-demographic variables (e.g., race, education, area of residence) or for prior convictions. Inmates serving indeterminate sentences had spent more time in prison on their current charge than had determinate sentenced prisoners. In addition, indeterminate sentenced respondents are serving longer sentences for more serious offenses and are older than determinate sentenced inmates.

These differences are attributed, for the most part, to the elapsed time between the implementation of the reforms in the respective states and time of commencement of data collection. As these reforms were not made retroactive, inmates are serving determinate sentences only if they committed their offenses after the effective dates for the reforms in each state. Thus, it is logical that determinate sentenced prisoners have served less time in prison than inmates with indeterminate sentences. This explanation also accounts for the fact that determinate sentenced inmates are younger than their indeterminate sentenced counterparts.

Moreover, in the periods between the implementation of the reforms and the time of data collection, inmates with briefer sentences for less serious offenses had been released, leaving primarily indeterminate inmates with more serious offenses in the respondent pool, especially in Illinois.

The above differences in the inmate samples on the variables of time served, sentence length, and offense severity are included as statistical controls in the analyses of the impact of determinate sentencing on inmate perceptions, attitudes, and behaviors, which follow.

Impacts of the Determinate Sentence on Prisoner Perceptions, Attitudes, and Behaviors

Prisoner Perceptions of Sentencing Inequity and Predictability of Release

If the objectives of determinate sentencing, to increase equity and predictability, have been achieved even to a minor extent, one would expect to find a shift in the perceptions of determinate sentenced inmates relative to these issues. Specifically, inmates sentenced determinately should perceive their sentences as more equitable than their predecessors, particularly in Minnesota, the jurisdiction which had implemented a reform designed to regulate judicial discretion. Under determinacy, prisoners should also perceive their release dates as being more certain.

Simple comparisons of means, illustrated in Table 5, reveals that determinate sentenced inmates in all institutions studied perceive that they were treated more equitably in the sentencing process and are more certain of their release dates. A more exacting assessment, however, necessitates an analysis of the variance in predictability of release and inequity in sentencing which is explained by the three factors of prison, time of observation, and type of sentence. The results of this analysis, while controlling for sentence length, time served, and offense severity, are consistent with the findings reported above. These three independent variables have a significant main effect on both predictability and inequity, but most of the variance in predictability and inequity is accounted for by type of sentence. These results also demonstrate that significant interaction effects are not present, suggesting that the effect of type of sentence is not restricted to a certain prison or prisons, nor is it affected by the changing proportion

TABLE 5

MEANS FOR PREDICTABILITY AND INEQUITY BY SENTENCE TYPE, FOR COMBINED
SAMPLES AND FOR EACH PRISON

	Combined Samples ^a			Prison							
				Somers		Stillwater		Stateville		Logan	
	\bar{X}	(N)	t	\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)
Predictability											
Total	6.04			5.31 ^{1b}		6.01 ²		6.01		6.95 ³	
Indeterminate	5.17	(691)	13.19*	5.02	(364)	5.33	(205)	4.98	(88)	5.06	(34)
Determinate	6.86	(726)		7.12	(59)	6.87	(116)	6.39	(236)	7.16	(315)
Inequity											
Total	21.36			21.30 ^{1,2}		21.31 ^{1,2}		21.99 ²		20.90 ¹	
Indeterminate	22.14	(746)	5.33*	21.61	(387)	22.06	(225)	24.00	(96)	23.21	(38)
Determinate	20.60	(754)		19.24	(58)	19.86	(118)	21.21	(246)	20.64	(332)

^aFor the combined samples difference of means tests were run. "*" indicates a difference of means significant at $p < .05$.

^bThe means for each prison were compared using the Newman Keuls procedure. Means which are not significantly different share the same numerical superscript.

of the prison population serving determinate sentences over the three observation periods.

It is noteworthy that determinate inmates in both Illinois and Connecticut perceive less inequity, even though the reforms in these jurisdictions did not limit judicial discretion to any great extent. It is possible that simply being sentenced to a definite prison term leads one to perceive that one has been sentenced more fairly; or, perhaps, this result simply reflects a more positive response to a relatively new reform. It should also be noted that while statistically significant differences in prisoners' perceptions of equity and predictability exist, they are quite small, suggesting only a weak effect of determinate sentencing on these two variables.

Prisoner Attitudes and Behaviors

The finding that determinate sentencing has an impact on inmates' perceptions of inequity and predictability gives credence to the general hypothesis that this reform also will have an impact on inmate adjustment to prison. Advocates of sentencing reform have proposed that prisoners' attitudes and behavior will be influenced by the transition to determinacy, and these are also investigated. Data were gathered on multiple measures of six general aspects of inmate adjustment to prison, presented below.

1. Attitudes concerning obeying the law

It has been assumed that determinate sentencing reform, particularly if it is a principled attempt to regulate judicial discretion, should lead to increased respect for the law among prisoners. It is reasoned that determinate sentence law (DSL) inmates will view the sentencing process as less arbitrary and capricious and

their treatment by the system as more fair than inmates sentenced under the indeterminate law (ISL).

Table 6 presents the mean scores for ISL and DSL inmates on two attitudes concerning obeying the law: cynicism concerning the criminal justice system and the propriety of evading the law. For neither is there a significant difference between those inmates serving a determinate sentence and those serving an indeterminate sentence. As measured by these scales, both groups of inmates are moderately cynical and in slight disagreement that it is appropriate to evade the law. That is, ISL and DSL inmates are equally likely to believe, for example, that the criminal justice system favors the rich and powerful (cynicism) and that violations of the law are acceptable if one can avoid being caught (propriety of evading law).

The analyses of variance also finds no effects of sentence type after appropriate controls are introduced, and no interaction effects are found. Inasmuch as ISL and DSL inmates in all states and at all observations respond similarly, Minnesota's effort to implement an equitable reform (as well as one which increases predictability) does not seem to have influenced the attitudes of determinate sentenced inmates toward obeying the law.

2. Attitudes toward other inmates and staff

There is speculation that an indirect effect of determinate sentencing will be improved relations between inmates and staff. It is widely acknowledged that, especially in the more custody-oriented prisons for adult males, an adversarial relationship characterized by suspicion and distrust exists between inmates and staff. One factor thought to contribute to this type of relationship is the inmates' lack

TABLE 6

MEANS FOR ATTITUDES CONCERNING THE LAW, ATTITUDES TOWARD INMATES AND STAFF, CONFLICT,
PROGRAM INVOLVEMENT, AND EXTRAMURAL CONTACTS BY SENTENCE TYPE,
FOR COMBINED SAMPLES AND FOR EACH PRISON

	Combined Samples ^a			Prison							
	\bar{X}	(N)	t	Somers		Stillwater		Stateville		Logan	
	\bar{X}	(N)		\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)
<u>Attitudes Concerning Obeying the Law</u>											
Cynicism											
Indeterminate	20.88	(755)	1.58	21.00	(394)	20.29	(225)	21.71	(101)	20.83	(35)
Determinate	20.54	(775)		20.84	(62)	19.91	(120)	21.14	(259)	20.25	(334)
Propriety of Evading the Law											
Indeterminate	7.40	(731)	1.90	7.74	(380)	7.02	(221)	6.99	(95)	7.14	(35)
Determinate	7.66	(750)		7.69	(59)	7.17	(118)	8.18	(247)	7.45	(326)
<u>Attitudes Concerning Inmates and Staff</u>											
Prisonization											
Indeterminate	27.43	(737)	0.78	27.74	(384)	27.72	(225)	26.35	(93)	25.03	(35)
Determinate	27.25	(771)		27.98	(59)	28.13	(120)	27.31	(255)	26.75	(337)
Isolation											
Indeterminate	21.07	(738)	1.38	21.50	(382)	20.30	(227)	20.77	(93)	22.19	(36)
Determinate	21.38	(767)		22.81	(59)	20.42	(120)	21.55	(254)	21.34	(334)
Identification with Staff											
Indeterminate	16.84	(594)	4.06*	16.89	(313)	15.78	(185)	18.19	(68)	19.93	(28)
Determinate	17.81	(642)		17.29	(51)	16.18	(103)	18.07	(205)	18.30	(283)
<u>Stress</u>											
Anxiety											
Indeterminate	53.61	(719)	1.03	55.23	(377)	51.33	(218)	53.53	(89)	50.60	(35)
Determinate	54.18	(736)		58.24	(55)	52.80	(115)	56.07	(244)	52.56	(322)
Depression											
Indeterminate	10.75	(574)	0.52	11.54	(291)	9.64	(195)	10.80	(60)	10.14	(28)
Determinate	10.62	(488)		11.00	(14)	9.77	(61)	11.55	(164)	10.19	(249)
Stress-Related Symptoms											
Indeterminate	3.20	(744)	0.07	3.29	(389)	2.94	(222)	3.36	(95)	3.50	(38)
Determinate	3.19	(768)		3.39	(61)	3.03	(120)	3.29	(252)	3.14	(335)

(cont'd.)

Table 6 (Continued)

	Combined Samples ^a			Prison							
				Somers		Stillwater		Stateville		Logan	
	\bar{X}	(N)	t	\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)	\bar{X}	(N)
Frequency of Infirmary Visits											
Indeterminate	1.96	(730)	2.32*	2.09	(378)	1.73	(222)	2.11	(94)	1.61	(36)
Determinate	2.12	(763)		2.52	(60)	1.87	(121)	2.19	(252)	2.08	(330)
Lack of Control Over Events											
Indeterminate	16.39	(714)	0.00	17.12	(375)	15.18	(215)	17.08	(89)	14.29	(35)
Determinate	16.39	(752)		18.00	(60)	15.81	(118)	16.92	(251)	15.89	(323)
<u>Interpersonal Conflict and Misconduct</u>											
Major Misconducts per Month											
Indeterminate	.10	(621)	3.02*	.09	(324)	.11	(193)	.11	(73)	.15	(31)
Determinate	.18	(662)		.03	(54)	.03	(105)	.18	(209)	.27	(294)
Minor Misconducts per Month											
Indeterminate	.12	(606)	2.76*	.12	(314)	.07	(186)	.17	(75)	.20	(31)
Determinate	.18	(644)		.22	(52)	.04	(100)	.10	(205)	.28	(287)
Severity of Conflict with Prisoners											
Indeterminate	3.08	(710)	3.25*	3.16	(369)	3.20	(219)	2.65	(91)	2.68	(31)
Determinate	2.79	(74)		3.43	(58)	2.87	(112)	2.76	(239)	2.66	(331)
Severity of Conflict with Guards											
Indeterminate	2.21	(713)	2.11*	2.35	(368)	2.02	(216)	2.10	(94)	2.17	(35)
Determinate	2.01	(741)		2.74	(58)	1.74	(113)	2.07	(241)	1.94	(329)
Frequency of Conflict with Prisoners											
Indeterminate	12.42	(740)	1.37	12.85	(388)	12.13	(221)	12.16	(97)	10.18	(34)
Determinate	12.01	(765)		13.86	(58)	11.81	(116)	12.60	(255)	11.32	(336)
Frequency of Conflict with Guards											
Indeterminate	10.76	(734)	1.87	11.63	(383)	9.65	(219)	10.42	(97)	9.06	(35)
Determinate	10.23	(758)		11.98	(59)	9.22	(116)	10.69	(249)	9.92	(334)
Assertive Interactions											
Indeterminate	31.85	(742)	2.05*	32.43	(387)	32.13	(226)	29.89	(93)	28.89	(36)
Determinate	31.24	(772)		32.95	(59)	32.32	(119)	31.15	(256)	30.64	(336)
Fear of Victimization											
Indeterminate	14.00	(746)	3.29*	14.31	(390)	13.27	(227)	15.51	(93)	11.28	(36)
Determinate	13.43	(778)		15.53	(59)	13.10	(120)	15.07	(259)	11.93	(340)

(cont'd.)

Table 6 (continued)

Program Involvement	Combined Samples ^a			Prison							
	\bar{X}	(N)	t	Somers		Stillwater		Stateville		Logan	
				\bar{X}	(n)	\bar{X}	(n)	\bar{X}	(n)	\bar{X}	(n)
Rehabilitation Programs											
Indeterminate	.57	(601)	0.92	.61	(290)	.57	(195)	.36	(84)	.78	(32)
Determinate	.53	(681)		.27	(56)	.50	(107)	.40	(215)	.68	(303)
Social Activities											
Indeterminate	.37	(601)	1.43	.37	(290)	.32	(195)	.58	(84)	.19	(32)
Determinate	.32	(681)		.20	(56)	.46	(107)	.33	(215)	.28	(303)
Sports Activities											
Indeterminate	.69	(601)	2.64*	.67	(290)	.61	(195)	.85	(84)	.94	(32)
Determinate	.83	(681)		.64	(56)	.58	(107)	.91	(215)	.90	(303)
Extramural Contacts											
Family Involvement											
Indeterminate	4.49	(719)	1.61	4.55	(371)	4.25	(221)	4.83	(92)	4.46	(35)
Determinate	4.57	(764)		4.33	(61)	4.24	(118)	4.71	(250)	4.63	(335)
Outside Contacts											
Indeterminate	11.64	(738)	1.41	12.09	(383)	10.69	(225)	12.04	(95)	11.71	(35)
Determinate	11.91	(777)		12.72	(61)	11.76	(120)	12.05	(255)	11.70	(341)
Release Plans											
Indeterminate	1.37	(308)	1.71	1.42	(185)	1.16	(63)	1.43	(51)	1.33	(9)
Determinate	1.21	(459)		1.29	(51)	1.11	(88)	1.31	(142)	1.16	(178)

^aFor the combined samples difference-of-means tests were run. "*" Indicates difference of means significant at $p < .05$.

of respect for the criminal justice system, a feeling generated in large part by their perception that they personally have been treated unfairly during the sentencing process (American Friends Service Committee, 1971). Viewing themselves as victimized by the criminal justice system, inmates may be especially resistant to prison administrators, correctional officers, and other staff whom prisoners view as representatives of that system. In light of the finding that determinate sentencing decreases perceived inequity and increases predictability of release, it is hypothesized that determinate sentencing will have the consequent effect on attitudes toward other inmates and staff.

The three scales of prisonization, identification with staff, and isolation from other inmates are used, and the mean scale scores for indeterminate and determinate sentenced inmates are presented in Table 6. These data indicate that the scale scores of ISL and DSL inmates do not differ on any of the three measures. Further, the mean scale scores reveal that both groups of inmates score below the scale's midpoint, a finding which suggests that both groups have a low level of prisonization and that both groups maintain a certain degree of social distance from both staff and fellow inmates.

To explore the possibility that (1) the sentencing reform may have operated as intended at some prisons and not at others and (2) a contextual effect may be operating on these variables, analyses of variance were performed. When sentence length, time served, and offense severity are controlled, the type of sentence an inmate is serving does not significantly affect his scores on the prisonization, staff identification, or isolation scales. Nor does type of sentence served interact with either prison or observation time in predicting inmates'

scores on these measures of attitudes toward inmates and staff. Since determinate sentencing does not influence these attitudes in any of the prisons studied, and since there is no cumulative impact as a result of an increased proportion of determinate sentenced inmates over time, there is no support for the hypothesis that sentencing reform will foster more favorable inmate-staff relationships in prisons.

3. Stress

The reduction of uncertainty concerning one's release date is also expected to lower the level of stress among inmates. As uncertainty is generally linked to anxiety (Lazarus, 1966; Staub, Tursky, and Schwartz, 1971), it was assumed that greater release predictability would lead to reduced stress levels and smoother adjustment to prison.

Again, however, analyses fail to uncover effects of determinacy on four of the five measures used, as Table 6 illustrates. Compared to indeterminate sentenced inmates, determinate sentenced inmates do not have significantly lower levels of either situational anxiety or depression, do not have a significantly lower number of stress-related symptoms, and do not have significantly higher perceived control over events.

Moreover, results of the analyses of variance indicate that type of sentence does not have a significant main effect on anxiety, depression, stress-related symptoms, or perceived control. In addition, the absence of significant interaction effects between type of sentence and either (1) prison or (2) observation time indicates that differences between ISL and DSL inmates in these four measures of inmate stress do not occur, respectively, (1) in any of the four prisons studied or (2) over time.

The main effect of type of sentence on the final measure of stress, frequency of infirmary visits, also fails to reach significance once the appropriate control variables are introduced. There is, however, an interaction between sentence type and observation time in predicting frequency of infirmary visits, with ISL inmates reporting significantly fewer visits to the infirmary the third observation period than DSL inmates. While this difference suggests that a contextual effect is operating, such a conclusion must be viewed cautiously due to the small magnitude of the difference. What is clear is that not one of the five measures of stress supports the view that determinate sentences reduce stress among inmates.

4. Interpersonal conflict and institutional misconduct

Many advocates of determinate sentencing propose that because it should lead to reduced stress, the determinate sentence will result in less interpersonal conflict and institutional misconduct as well. On the other hand, there is some concern that determinate sentencing could result in an increase in interpersonal conflict and institutional misconduct because prisoners would no longer worry about blemished records leading to parole denials.

Rates of minor and major misconducts represent the types of institutional misconduct that are formally recognized and negatively sanctioned by institutional authorities. Because these measures reflect only behaviors which come to the attention of and are sanctioned by correctional officers, and because a misconduct report may occur for reasons unrelated to interpersonal conflict (e.g., tardiness, taking food from the dining room, etc.), four additional measures are examined. These scales measure the (1) frequency and (2) severity of self reported

conflict with other inmates and the (3) frequency and (4) severity of self-reported conflict with correctional officers. Measures of the inmate's fear of being physically victimized in prison and the inmate's assertive attitudes toward other inmates were also obtained.

Although the difference-of-mean t-tests illustrated in Table 6 reveal apparently higher misconduct rates and lower assertive interactions and fear of victimization scores among determinate sentenced prisoners, results of the analyses of variance yield no overall significant impacts of the determinate sentence on any of these six measures.¹³ These results indicate that when controls for time served, sentence length, and offense severity are introduced, essentially no differences are found in the levels of conflict engaged in by determinate and indeterminate sentenced inmates, nor do these groups differ in their degrees of fear of victimization or willingness to act assertively toward other inmates.

The unavoidable conclusion to emerge from these data is that determinate sentencing does not affect interpersonal conflict and institutional misconduct. With consistency, the findings reveal that major and minor misconduct reports, inmate-inmate conflict, inmate-staff conflict, fear of victimization, and assertive interactions are no lower among inmates serving determinate sentences than among inmates serving indeterminate sentences. Consequently, the data do not support those who maintain that determinate sentences will lessen conflict and hostilities within prisons. Neither do the data provide support to those who contend that determinate sentencing will exacerbate prison conflict and hostilities due to an increased inmate disregard for prison rules. In sum, determinate sentencing has no apparent impact on inmate conflict and misconduct.

5. Program involvement

Frequently voiced is the criticism of indeterminate sentencing that inmates do not have the proper motivation to benefit from existing rehabilitation programs. Their participation is seen as more coerced by the need to make a good appearance before the parole board than by any real desire to improve or change themselves. With determinate sentencing, it is argued, inmate participation in treatment programs will be truly voluntary and would lead to more high quality involvement in programs by inmates fewer in number.

Data were collected on inmate involvement in all types of prison activities which were classed into three categories: rehabilitation, social activities, and sports. Here too, the determinate sentence apparently has little impact. Indeterminate and determinate sentenced inmates could not be differentiated from one another in their involvement in social activities (e.g., Jaycees, jazz band). While it appears from the data presented in Table 6 that DSL inmates are more actively involved in sports than are ISL inmates, this difference is due to the fact that prisons comprised of the largest proportions of determinate sentenced inmates also promote greater involvement in sports (the two Illinois prisons). When the effects of prison and other relevant factors are controlled, type of sentence is unrelated to participation in sport activities.

The one difference between ISL and DSL inmates found among all of the dependent measures employed in the study concerns involvement in rehabilitation programs. When the group means are adjusted for the control variables and the effects of prison and observation time, determinate sentenced inmates at all prisons are found to participate in

fewer rehabilitation programs than inmates serving indeterminate sentences. However, the difference between ISL and DSL inmates is quite small--in fact, the average for both groups is less than one rehabilitation program--so caution must be exercised in concluding that determinate sentencing has an impact on program participation.

6. Extramural Contacts

By increasing the predictability of release, inmates are assumed to be better able to sustain existing contacts with family and friends outside of prison and to make post-release plans with prospective employers. In short, release certainty is argued to permit pre-prison relationships to be maintained and to encourage inmate involvement in release preparations.

The data illustrated in Table 6 provide no support for this argument, however. Determinate and indeterminate sentenced inmates do not differ on any of the three measures of extramural contact: (1) the extent of contacts with significant others outside the prison, (2) the degree of involvement with immediate family members, and (3) the extent of inmates' pre-release planning. Even after controls are introduced and prison and observation time are included in the analysis, type of sentence is not found to be directly related to any measure of extramural contacts. We are forced again, in this final segment of data analysis, to make the inference that the determinate sentence has had no substantial impact on the ways prisoners deal with their families and plan for their release.

Summary of Findings

There is no systematic support for the general hypothesis that determinate sentencing has an impact on prisoner attitudes and behaviors. This examination of data obtained from indeterminate

sentenced and determinate sentenced inmates confined in four prisons in three states finds that they do not differ significantly with regard to any of the variables measured, with the exception of a slight tendency for DSL prisoners to be less involved in treatment programs. We cautiously conclude that determinate sentencing reform has had minimal impact on the attitudes and behavior of prison inmates.

Predictability and Equity as Influences on Prisoner Attitudes and Behavior

This finding, that type of sentence does not have the hypothesized effect on various attitudinal and behavioral measures of prisoner adjustment, raises an important question about the public rationale for determinate sentencing policies. Determinate sentencing was expected to have an effect on prisoner adjustment because it would reduce sentencing inequity and increase predictability of release. Our data indicate that type of sentence does have a significant, although moderate, effect on inequity and predictability. Yet these data reveal no consistent effects on our measures of prisoner adjustment. If the type of sentence is having the hypothesized effect on the intervening variables (inequity and predictability) but not on the dependent variables (prisoner attitudes and behavior), then there is reason to question whether inequity and predictability have the hypothesized effects on prisoner adjustment.

Analysis were performed to determine whether, and to what extent, regardless of the type of sentence served, inmates' perceptions of the fairness of their sentencing process and their level of release certainty affect their attitudes and behavior. The results of these analyses are presented in Table 7. While many of the relationships were

TABLE 7

BIVARIATE CORRELATION COEFFICIENTS, INEQUITY IN SENTENCING AND
PREDICTABILITY OF RELEASE WITH MEASURES OF PRISONER ADJUSTMENT AND
INSTITUTIONAL CLIMATE

<u>Dependent Variables</u>	<u>Inequity</u>	<u>Predictability</u>
<u>Attitudes toward Law</u>		
Cynicism to criminal justice system	.26	-.14
propriety of evading law	-.04	-.06
<u>Attitudes toward Inmates and Staff:</u>		
Prisonization	.11	-.09
Staff Identification	-.10	.13
Isolation from other inmates	.12	-.03
<u>Stress-Related Factors:</u>		
Anxiety	.15	-.11
Depression	.13	-.14
Number of symptoms	.16	-.08
Number of infirmary visits	.11	-.02
Lack of control over events	.11	-.14
<u>Interpersonal Conflict and Institutional Misconduct:</u>		
Severity of conflict with prisoners	.04	-.08
Severity of conflict with guards	.10	-.13
Frequency of conflict with prisoners	.09	-.12
Frequency of conflict with guards	.13	-.15
Fear of victimization	.18	-.16
Assertive interactions	.06	-.09
Minor misconducts	.08	-.01
Major misconducts	.02	.00
<u>Program Participation:</u>		
Participation in rehabilitation programs	.04	.02
Participation in social activities	.04	.01
Participation in sports activities	-.04	.05
<u>Extramural Contacts:</u>		
Contacts with significant others	-.02	.05
Involvement with family	.03	.05
Pre-release planning	.00	-.11

Due to the large number of cases, any bivariate correlation coefficient $\geq .05$ is statistically significant at the .05 level.

statistically significant, little of the variation in these measures of prisoner adjustment can be accounted for by inequity and predictability. Therefore, even were determinate sentencing to achieve its immediate and primary objectives of reduced inequity in sentencing and increased predictability of release, there is no basis in these data to conclude that determinate sentencing would have the hypothesized secondary impacts on prisoner adjustment. Stated simply, prisoner attitudes and behavior are not affected substantially by increased predictability and decreased inequity, regardless of the technique which might be used to achieve these objectives.

Conclusions and Implications

How can the failure of determinate sentencing to influence the prison and prisoners' adjustment to prison be explained? Two general reasons for the failure of determinate sentencing to change our prisons are proposed. The first is the inadequacy of the "match" between determinate sentencing reform in theory and in practice. Obviously, if the ideals of determinacy are not operationalized and perceived by criminal offenders as creating real change, it is unreasonable to expect that determinate sentencing reform should generate measurable impact.

This report has reviewed the stages in the development of determinate sentencing reform, from the early advocates' articulation of its goals and objectives, through the modifications which resulted from political processes, to the operationalization of the concepts in legal statutes and, finally, to the process of implementation in three correctional systems. Some jurisdictions, most notably Minnesota, have created reforms which more closely resemble the original determinate ideals than others, such as Connecticut and Illinois. Yet, the

objectives of determinacy have certainly not been met in their entirety in any jurisdiction studied. This review of the processes of operationalization and implementation of determinate sentencing suggests that determinacy has taken on many different meanings. One can assume virtually nothing about a particular reform simply because it has been labeled as determinate by those who created it.

This review has also highlighted the obvious difficulties inherent in creating and sustaining system change. The tendency for organizations to move toward equilibrium has probably best been demonstrated by the resurrection of Connecticut's parole review process as the Community Residence Program. The behavior of certain individuals in the correctional systems has contradicted the spirit of the reform as well. For example, those responsible for parole decision-making appeared to become less equitable after the new laws went into effect, and some correctional treatment staff members pushed for continued control over inmate involvement in treatment programs both inside and outside of prison.

It is important to note that Connecticut's and Illinois' severe overcrowding problems indirectly limited the degree to which the objectives of equity and predictability could be met. The demands faced by states to release inmates as quickly as possible to make room for new admissions apparently took precedence over existing organizational commitments to the ideals of determinacy.

While problems in operationalization and implementation of the reform's ideals exist among the three jurisdictions studied, they did not totally neutralize the reforms as mechanisms for change. Determinate sentencing has been shown to have some impact on prisoners, if only to influence their perceptions of release certainty and

sentencing equity. Although this effect of determinate sentencing is not strong, it would be inappropriate to discount its impact altogether. Rather, it is appropriate to conclude that determinate sentenced inmates do feel both more certain about their release dates and more equitably treated in the sentencing process, but that these perceptions apparently do little to influence the types of adjustments they make to prison life.

This point relates to the second reason for the absence of more wide-ranging impacts of the determinate sentence on the prisoner and the correctional environment--weaknesses of the reformers' assumptions concerning projected impacts of determinacy on corrections. Other correctional reforms have initially been viewed as capable of significant and widespread change, only later to be found to have had much more limited impacts. Likewise, the potential of determinate sentencing to change the correctional institution may have been overrated by early reform advocates. When one considers the influences which directly affect inmate behavior in prison, one suspects that supporters of determinacy were overly optimistic in their claims of the potential value of this reform in changing the prison environment.

The importance of sentence equity and release predictability for prisoners should be placed in perspective. In interviews, prisoners indicate that both equity and predictability are important to them. Many prisoners spend great amounts of time discussing their "cases," focusing upon whether a fair deal was received through the sentencing process and, if not, whether these are grounds for case review and appeal. Concurrently, anticipation of one's release date is an aspect of one's prison career which receives much attention. When asked about

their earliest possible date of release from prison, most prisoners can respond quickly with the year, month, and day. Moreover, they often demonstrate a better grasp of the administrative policies and procedures used to arrive at that date than many correctional staff members.

However, from the standpoint of a prisoner's day-to-day routine, the realities of fairness in the sentencing process and the certainty of one's anticipated release date are peripheral. The former reflects an event which occurred before the individual began his current prison career, and the latter relates to the termination of that career. These issues, surrounding entrance to and exit from prison, are clearly less salient in shaping prisoners' behaviors and attitudes than their everyday experiences of prison life.

In interviews with both inmates and correctional line-staff, respondents ascribed little importance to the impact of the determinate sentence on prisoner adjustment or the institutional climate. When asked about factors which affected the prison environment and inmate behavior, most responded by citing overcrowding problems, racial and gang-related conflicts, and fears of victimization by inmates and guards. Even when we probed for impacts of determinacy by asking respondents directly about changes in levels of conflict or experienced anxiety, for example, as a result of the reform, most simply did not perceive an association. Even among the small minority who comprehended an hypothetical connection, very few concurred that determinacy had had the theoretically anticipated impacts.

As so many investigators of the social organization of correctional institutions have noted (Toch, 1975; 1977; Johnson, 1976; McCarthy, 1979; Bowker, 1980; Irwin, 1980; Parisi, 1982), prisons are highly stressful environments for most inmates. Individual prisoners may

differ in terms of the specific pressures and problems they find most difficult to deal with and the coping mechanisms they use. However, they all must respond to a host of unwanted personal infringements and deprivations, including threats to their physical safety, affronts to their sense of identity, restrictions of choice, lack of privacy, and absence of emotional support. It is our suspicion that these elements of the prison reality override the importance of release certainty and sentencing equity in influencing most prisoners' strategies of prison adjustment.

The findings from the qualitative and quantitative investigations reported lead to the conclusion that while it may have many other merits, determinate sentencing should not be adopted for the purpose of changing our prisons. All of the available research on the behavioral effects of determinate sentencing (Messinger, von Hirsch and Sparks, 1981; Stone-Meierhofer and Hoffman, 1982; Goodstein, 1982) contribute to the conclusion that determinate sentencing reform has had no significant impact on prisoner adjustment or institutional climate.

It would be irresponsible to the major constituency in this project, the prisoners, if this report did not end with a guarded endorsement for determinacy nevertheless. While most prisoners do not view the determinate sentence as a significant influence in changing their behavior or attitudes, they overwhelmingly prefer it to indeterminacy. Except for the minority of inmates with extremely long determinate sentences who see no hope of early release, most prisoners, if given the choice, would select determinate over indeterminate sentences. Indeed, when questionnaire respondents were asked whether they would prefer serving time under the "new" or "old" law, prisoners chose the

determinate sentence at a rate of two to one. They like it primarily because of the "peace of mind" (an expression which many volunteered) that knowing their release date in advance gives them. Moreover, prisoner preference for determinacy has been substantiated by other research evidence on prisoner attitudes toward sentencing (Cole and Logan, 1977; Holbert and Webb, 1978; Homant, 1978; McNeese and Lusk, 1979; Schachinger, 1980; Goodstein and Hudack, 1982).

Given that determinacy is preferred by most prisoners and has been demonstrated to lead to no ill-effects on inmate behavior, it would be unreasonable to abandon it as another correctional failure. It has succeeded in providing inmates with perceptions of equity and certainty. These limited impacts may be all that realistically should be hoped for.

NOTES

¹Several criminal justice and legal reforms have apparently failed to demonstrate significant impacts because of this second explanation. For example, the fact that New York's harsh drug laws did not curb drug use and sales cannot be interpreted as a refutation of the deterrence model, as these laws were never adequately enforced or applied by police, prosecutors, or judges (Association of the Bar, 1977; Wilson, 1983).

²The general question under investigation is whether determinate sentencing reform has resulted in a noticeable impact on prisoners and the prisons in which they are confined. To address that question, considerable attention is directed to the legislative and implementation processes in three states which only recently adopted some variation of determinate sentencing. Yet the scope of this research on the impact of determinate sentencing reform is not unlimited. The impact on the prosecutor's office is not examined, for example, even though there may be effects on the prosecutor's plea bargaining and charge reduction procedures and practices. Similarly, the crime deterrent impact of the determinate sentence, in terms of either general or specific deterrence, is unaddressed within this volume. Nor is the relationship between determinate sentencing and prison overcrowding addressed. While these and countless other issues are worthy of examination, they are not a part of this study of the impact of determinate sentencing on prisoners.

³At least one offense was a Class X or 1 felony and severe bodily injury was inflicted.

⁴A maximum of 90 days of good time can be lost for any one disciplinary infraction.

⁵Excluding categories of Class X and Habitual criminals in Illinois and Capitol Felony in Connecticut.

⁶The data used in this section are primarily qualitative in nature. They were obtained from a variety of sources, including official and unofficial documents (e.g., reports from the correctional agencies and the Minnesota and Illinois Sentencing Guidelines commissions, internal memoranda, etc.), available published articles (Knapp, 1982; Burke and Holton, 1981; Bagley, 1979; Carey, 1979; Bigman, 1979; 1981a,b; Schiller, 1978; Aspen, 1978; Cullen et al., 1983), as well as single and multiple interviews with at least 30 key informants (e.g., prison administrators and staff, Sentencing Guidelines Commission Staff, prisoners, etc.) in each state.

⁷This practice of sentence reduction ultimately came under attack from various members of the legal community. In 1982 and 1983 several lawsuits were filed by Cook County State's Attorney Richard M. Daley and several other attorneys against Corrections Director Michael Lane on the grounds that excessive amounts of meritorious good time (MGT) were being awarded to inmates in order to reduce prison sentences (Orso, 1983). The suits attempted to force the Department of Corrections to abandon the procedure. In July 1983, the state Supreme Court ordered the Department of Corrections to immediately stop all releases in less than the statutory half-time, except for an additional 90 days for rare individuals who have performed truly meritorious service (Galvan and Mount, 1983; Mount and Galvan, 1983; Orso, 1983; Illinois prisons, 1983).

⁸The procedure for revocation of good conduct credit first involves a disciplinary hearing within the institution, where an initial determination is made as to whether the inmate has violated an administrative regulation. Approval of the Prisoner Review Board must be granted to revoke more than 30 days for a single offense or cumulatively more than 30 days within any 12-month period. This body has by and large upheld the recommendations for good conduct revocation made by the Department of Corrections, denying revocation requests on only 2% of the cases reviewed during its first 16 months of operation (Bigman, 1979).

⁹The figures used in this analysis include both indeterminate sentenced parolees and determinate sentenced inmates on mandatory supervised release. Hence, it is not possible to determine whether this increase reflects greater post release inadequacies among determinate sentenced inmates or increasing board conservatism. According to observations of individuals close to the board, however, this radically increased revocation rate cannot be explained entirely by changes in parolees' behaviors (Kaufman, 1982).

¹⁰The pattern of increasing proportions of determinate sentenced inmates over time was evident in the Connecticut and Minnesota prisons. In the Illinois prisons, the proportion of inmates with determinate sentences was high, approximately 85 percent, at the first data collection period and remained constant throughout the project. As the Illinois reform became effective on February 1, 1978, apparently the large majority of inmates sentenced under the "old" law had already been released prior to the start of data collection.

¹¹On each occasion, in each prison site, approximately 200 inmates were selected from the total prison population through systematic random

sampling using an alphabetical listing of the population. Inmates assigned to the infirmary and those not confined within the prison during the time of our observation (due to court dates, work release, or some other reason) were excluded. Those selected were brought together in groups ranging in size from fifteen to sixty. The purpose of the project was explained to the inmates and their cooperation was solicited. Those willing to participate completed the questionnaire only after an informed consent form was explained to and signed by each respondent. Those who declined to participate were permitted to leave immediately. Each inmate who appeared at one of the group sessions, whether he completed the questionnaire or not, received two dollars.

Those who failed to appear were called back for a later session. After the second call-back, no further effort was made to solicit those who had not appeared. Inmates in protective custody unit or disciplinary units were visited by one of the research staff who explained the project, provided the questionnaire to those willing to complete it, and returned shortly to collect the questionnaires.

The response rate varies from a low of 57 percent to a high of 83 percent, not an uncommon response rate when seeking inmate respondents. Data on age and ethnicity suggest that the sample characteristics closely parallel those of the population at each observation within each prison. Data were also collected from all respondents on a number of socio-demographic, criminal history, and sentence-related variables for control purposes.

¹²Complete copies of all scales and instruments used in this study may be obtained by writing to the senior author, Dr. Lynne Goodstein, at

the Administration of Justice Program, S-159 Human Development Building,
The Pennsylvania State University, University Park, PA 16802.

¹³The greater rate of misconduct reports among determinate sentenced inmates is due to the fact that the prisons which are most heavily comprised of DSL inmates are also the prisons which have the highest rates of misconduct reports. This interpretation is confirmed by the analysis of variance which reveals that the variation in both major and minor misconducts is due to prison rather than to type of sentence served. Consequently, there is no apparent difference in either major or minor misconduct reports between ISL and DSL inmates confined within the same prison. Similarly, lower scores among DSL inmates on assertive interactions and fear of victimization are due to interprison differences. Within prisons, ISL and DSL inmates score similarly on these variables.

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