

# MANDATORY SENTENCES FOR FIREARMS OFFENSES IN NEW JERSEY

## PHASE I

### DESCRIPTIVE ANALYSIS & OFFENDER/OFFENSE TYPOLOGY OF THE GRAVES ACT

PREPARED BY:

STATE OF NEW JERSEY  
CRIMINAL DISPOSITION COMMISSION  
DATA COMMITTEE

4-22-92  
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MARCH 1990

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**STATE OF NEW JERSEY  
CRIMINAL DISPOSITION COMMISSION**

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#### NOTE

This study was originally designed to be conducted in two stages. The first stage encompasses a comprehensive review of the gun law literature, a descriptive analysis of the legal and political development of the Graves Act, the extent of "gun crimes" in New Jersey, and a typology of Graves Act offenses and offenders sentenced in 1984. The second stage was designed to examine the future criminality of Graves Act offenders after they served their mandatory prison term testing the deterrent effect of the sentencing provisions.

The results of the first stage of the study are presented in this report. The second stage could not be completed to date because the majority of Graves Act offenders are still incarcerated. Typically, Graves Act offenses include serious violent crimes (i.e. robbery) in which lengthy prison terms (i.e. 5 - 20 years) are ordinarily prescribed by statute. Those offenders that have been released since their imprisonment in 1984 tend to be those convicted of less serious offenses (i.e. aggravated assault), therefore, the follow-up sample contains a specific group of offenders and thus may not be representative of all Graves Act offenders. A follow-up study is proposed and the data collection methods are in place which will track offenders sentenced under these provisions. The results will be made available at a later date.

Edward J. Coyle

## **ACKNOWLEDGEMENTS**

The authors of this study extend their sincere thanks to Thelma Adams and her staff at the Department of Corrections, Offender Records Unit for their generous assistance in providing the many offender folders necessary to support the data collection and coding phases of this study. Appreciation is also extended to Phil Pellegrino, Department of Corrections, Bureau of Correctional Information and Classification Services, for his help in the transmittal of offender records.

Others who have provided help in the data collection and coding phases of this report are Onyewuchi Nkwocha, Governor's Fellow assigned to the Department of Corrections, Marcella Christie, Criminal Disposition Commission, and Terrence Smith, Rutgers University Intern assigned to the Department of Law & Public Safety, Division of Criminal Justice.

In addition, the authors would like to thank Terry Lihvarcik, Department of Corrections, Office of Policy Analysis & Planning, for her assistance in the typing and compilation of this report.

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## EXECUTIVE SUMMARY

This study is designed to provide a descriptive analysis of offenders sentenced under the Graves Act and admitted to state prison in 1984 (Phase I) and to measure the release outcome of the Graves cohort by tracking their subsequent criminal activity (Phase II). The Phase II Graves cohort is comprised of offenders who either completed their sentence or were granted parole. Major findings of this study are summarized as follows:

### PHASE I

- \* Graves Act offenders accounted for over 8% of all adult state prison admissions in 1984. Almost one-third of those admitted with mandatory minimum sentences were Graves Act offenders.

### BASE OFFENSE

- \* Eight out of ten Graves offenders admitted to state prison in 1984 were convicted of a violent crime.
  - \* The primary commitment offense involving a firearm was robbery (45%).
  - \* Based on 1984 adult state prison admissions, 29% of those sentenced for murder, 17% of those sentenced for robbery and 17% of those sentenced for aggravated assault committed crimes with a gun.
  - \* One quarter of the Graves murder/manslaughter admissions were also convicted of robbery and/or assault.
  - \* Data indicate that firearms were not frequently used during the commission of aggravated sexual assault (1% of those admitted in 1984 for aggravated sexual assault involved a firearm).



## AGE

- \* As with all admissions and those sentenced with mandatory minimum terms, younger offenders - those under age 30 - represent six out of ten Graves admissions. Those under age 40 represent almost nine out of 10 Graves admissions.
- \* The 20 to 24 year old age range constituted the largest proportion of state prison admissions (29%) and Graves admissions (31%) in 1984.
- \* The average (mean) age at admission for Graves offenders was 29. This is consistent with the average age of all state prison admissions (age 29) and those admitted with mandatory minimums (age 30).
- \* Half of all Graves robbery admissions, about one-third of all Graves murder admissions and about one quarter of all Graves aggravated assault admissions were less than 24 years old.

## GENDER

- \* Almost 96% of all Graves offenders were male. This is consistent with all admissions and for admissions with mandatory minimum sentences.

## RACE/ETHNICITY

- \* The percentage of Graves offenders in each racial/ethnic category appears to be consistent with the percentage of total adult admissions and those receiving mandatory minimum sentences. This indicates that within racial/ethnic types, the proportion of those sentenced under the Graves Act is roughly equivalent with the other groups.
- \* Approximately one-third of black offenders and over one quarter of both white and hispanic offenders with mandatory minimum sentences were Graves offenders.

- \* Six out of ten Graves offenders were black.
- \* There appears to be a distinct difference in the types of Graves offenses that are committed by blacks, whites and hispanics.
- \* 89% of black Graves offenders, 82% of hispanic Graves offenders and 68% of white Graves offenders had committed violent offenses.
- \* 16% of white Graves offenders, 4% of hispanic Graves offenders and 2% of black Graves offenders were sentenced for property offenses.

#### COUNTY OF COMMITMENT

- \* Essex county committed the largest number of admissions under the Graves Act with 137 admissions, representing over one-quarter of Graves admissions statewide.
- \* This accounted for 12% of total commitments from Essex county and almost one half of their admissions with mandatory minimum terms.

#### SENTENCING

- \* For over half of the Graves admissions, possession of a firearm for unlawful purpose was merged with the mandatory minimum term for the base offense during sentencing.
- \* Almost one-third of the Graves admissions received a concurrent sentence for the possession of a firearm for unlawful purpose (2C:39-4). This appears consistent with case law addressing when consecutive sentences may be rendered. See State v. Yarbough, 100 N.J. 627 (1985).
- \* The base offense in almost half of these cases was robbery.
- \* In 12% of the Graves admissions, the possession of a firearm for unlawful purpose

was the most serious offense.

- \* For these cases, the average mandatory minimum sentence was 3 years.
- \* Approximately 4% of the Graves admissions received an additional prison sentence for possessing a firearm for unlawful purpose.
- \* The base offense in almost half of these cases was murder.
- \* The average mandatory minimum term for the Graves portion of the sentence was 3 years, 8 months.

## PART I - INTRODUCTION AND STATEMENT OF THE PROBLEM

Violent, predatory crime affects the quality of life in the community through its devastating effects upon the victim and through its fear promoting consequences in neighborhoods. The literature on fear of crime is full of studies that demonstrate the negative impact fear has upon commerce, patterns of interaction, and daily routines of citizens, particularly women, urban residents, and the elderly. One of the more prevalent sources of fear and concern in the community is violent, predatory crime like robbery, rape, and assault, especially when it involves strangers armed with a dangerous weapon like a gun.

Few will argue that violent crime in America is not a serious problem. It has received a great deal of national political, research, and public policy attention as the violent crime wave of the late sixties progressed into the seventies, and although that trend began to recede in the eighties, the overall violent crime rate continues to remain at extraordinarily high levels (see Cook and Nagin, 1979; Rand Corporation, 1987). There is a great deal of empirical support for the high priority violent crime has on the American political agenda, although the reported trends and rates of violent crime victimization vary by data source. Langan and Innes (1985)<sup>1</sup> note that 3 percent of

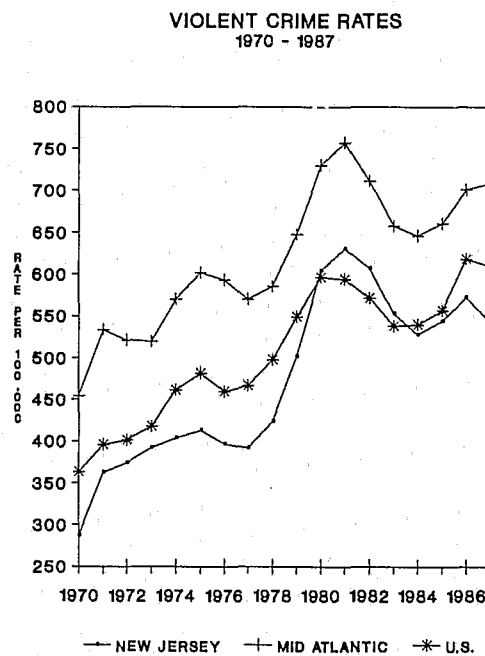
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<sup>1</sup>Langan and Innes developed the Crime Rate Index to compensate for the deficiencies in traditional victimization rates. Using data from the National Crime Survey which accounts for personal victimization rates and households touched by crime, the authors developed an equation that removed repeat entries from the numerator thus providing a more accurate assessment of potential victimization in America.

$$\text{Crime Rate Index} = \frac{\text{Total Number of Distinct Victims Per Year}}{\text{Total Population}}$$

Americans are victims of violent crime each year. The Rand Corporation (1987) reports that, nationwide, violent victimizations increased in the 1970's but began to fall in the 1980's. However, Figure 1 clearly illustrates that this recession was short lived only to rise again in 1984, reaching an all time high level exceeding 600 per 100,000 population in 1986.

Figure 1



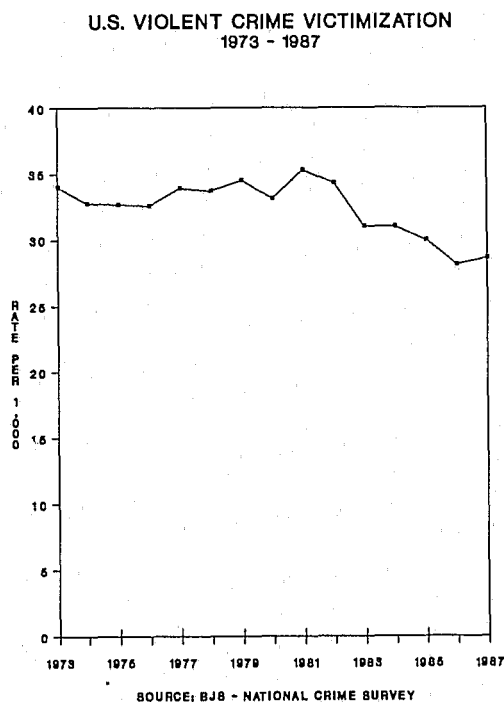
SOURCE: FBI UNIFORM CRIME REPORT 1970-87

As Figure 1 also demonstrates, New Jersey experienced a similar rise in the rate of violent crime victimization since 1970, however, the increase in the rate of victimization became more pronounced in 1977 eventually surpassing the national rate in 1980.

In contrast to the Uniform Crime Report data presented in Figure 1, the National Crime Survey (NCS) reports a far less pronounced trend in violent crime victimization between 1973 and

1986. The NCS data, although reporting a relatively constant rate of victimization during this time frame, indicate a substantially greater risk of violent crime victimization<sup>2</sup> (Figure 2).

Figure 2



<sup>2</sup>The National Crime Survey (NCS) is a survey of a representative sample of U.S. households measuring self-reported victimizations. Unlike the Uniform Crime Report, the National Crime Survey counts multiple victims over age 12 as discrete events. The NCS data collection methods tap into unreported crime, or the "dark figure of crime", and uses persons over age 12 rather than total population in a jurisdiction, thus accounting for higher victimization rates.

$$\text{NCS Rate} = \frac{\text{Total Number of Victimizations}}{\text{Population over Age 12}} \times 1,000$$

$$\text{UCR Rate} = \frac{\text{Number of Reported Offenses}}{\text{Total Population}} \times 100,000$$

These discrepancies are the result of different sampling, data collection and analysis techniques used by the respective reporting agencies. The National Crime Survey is not without methodological limitations, and data quality comparisons have been drawn with the Uniform Crime Report (Beiderman and Reiss, 1967; Reiss, 1967; Levine, 1976; Eck and Riccio, 1979; Nelson, 1980; Gove, Hughes, and Geerken, 1985) but it does provide additional data for assessing the prevalence of violent crime in America (Messner, 1984, p. 436). It appears from the data presented above that, regardless of the source or method of collection, violent crime is a pervasive problem in our society.

Weapons play an important part in violent crime. Armed offenders accounted for 24 million victimizations in the United States between 1973 and 1982 (Rand, et.al., 1986). The role firearms play in violent crime deserves special attention since most gun control legislation is targeted toward specific enumerated offenses that normally include robbery, rape, homicide, and aggravated assault and because these typical street crime offenses tend to create the greatest potential for danger and evoke the most fear in the general public (Wilson, 1985). Zimring (1985) notes that the predominant firearms crimes in the United States are assault and robbery, whereas criminal homicides are an amalgam of assaults and robberies. These armed assaults, particularly by strangers, tend to create more fear among the general public and thus should be the main concern of policy makers and the criminal justice system (Wilson, 1983). Thus, gun control has become a national issue and an appropriate system's response to violent street crimes like robbery and assault, based

upon the public's perception of dangerousness and potential for such violent crime victimization.

For example, based upon National Crime Survey data, about 40% of violent crime victimizations nationwide between 1973 and 1985 involved an armed offender, with approximately 14% of these offenses involving a firearm (Rand Corporation, 1987). Wright and Rossi (1981) estimate that, nationally, 300,000 gun related crimes are reported annually, and in New Jersey, approximately 40% of all murders, 30% of all robberies, and 15% of all aggravated assaults are committed with a gun (Crime in New Jersey, 1970-1987).

The contribution firearms make to the dangerousness of the offender-victim encounter varies by type of offense. For example, the Bureau of Justice Statistics (1982) reports that according to the Uniform Crime Report, guns are used more frequently in homicide than all other weapons combined, thus suggesting that a gunshot wound is more likely to be fatal than injury caused by any other weapon. Wright and Rossi (1981) substantiate the lethal qualities of firearms by demonstrating that the availability of guns, rather than an intent to kill the victim, was a major factor in the escalation of an argument into a homicide. Similar results were also found for aggravated assault where weapon availability, rather than a calculated retaliation, contributed significantly to the degree of injury.

The lethal nature of firearms is rarely disputed, however, most offenders who use a gun in the commission of a violent crime do not intend to, and often do not, inflict injury upon the victim. Wright and Rossi (1986), in a National Institute of



Justice study of 1,876 prison inmates (59% of the respondents reported using a firearm in the commission of their offense) presented findings indicating the offenders' motives for carrying weapons during the commission of their crimes. They found that the most important motive for carrying a gun was so that the respondent would not have to injure the victim (p. 23). They also report that for those who did not fire the weapon, respondents most commonly (89%) stated that they used the gun only to scare the victim. For those respondents who did fire their weapon, the most common (48%) explanation offered was the need for protection from retaliation and attack by the victim (p. 15).

There is other evidence that suggests that victims sustain fewer injuries in robberies when the offender uses a firearm rather than other weapons (Flangan and Jamieson, 1988; see also Zimring, 1985; Cook, 1979; and Cook, 1976). Victims were injured in only 16.8% of the robberies in which a firearm was used compared to 50.6% of the incidents in which some other weapon was employed (Flanagan and Jamieson, 1988, p. 62).

While the statistical evidence presented above may tend to support the contention that crimes involving firearms are not as dangerous as crimes with other types of weapons like knives, clubs, and personal force, the public perception of violent crime is important regardless of the statistical evidence, since violent street crime is perceived as common and threatening (Leepson and Gimlin, 1981).

## PURPOSE AND SCOPE OF THE REPORT

In 1981, State Senator Francis X. Graves, Jr. (D-35th) introduced Senate Bill 1071 to the New Jersey Legislature calling for the imposition of mandatory minimum prison terms for offenders convicted of possessing a firearm with the intent to use it against another, or during the commission, or immediate flight therefrom, of certain enumerated crimes against the person. These offenses, specified in N.J.S.A. 2C:43-6c, include murder, manslaughter, aggravated assault, aggravated sexual assault, aggravated sexual contact, robbery, burglary, or escape. The sentencing provisions, enacted on August 31, 1982, and later amended by Senate Bill 2283 in 1986, call for the imposition of at least one-third to one-half of the sentence, or 3 years, whichever is greater, or 18 months in the case of fourth degree crime, to be served before becoming eligible for parole, as well as extended prison terms for repeat offenders.

The purpose of this report is to analyze the response to violent firearm crime. First, a review of specific strategies to control gun crime is presented to put the Graves Act into context and perspective. Second, the legislative intent and legal development of the Graves Act sentencing provisions will be discussed to provide greater clarity and understanding of this law and its elements. Third, this report will provide a typology of 1984 New Jersey adult prison admissions who received mandatory minimum terms (n=1,693), many of whom received the mandatory minimum term under the Graves sentencing provision set forth in N.J.S.A. 2C:43-6c (n=513). Finally, in a subsequent part of this project (Phase II), some preliminary data will be provided

to measure the release outcome of the Graves cohort who either completed their sentence or were granted parole.

## **PART II - GUN CONTROL STRATEGIES: REVIEW OF THE RELEVANT LITERATURE**

Gun control legislation can focus on guns or on gun use (Moore, 1981). It can limit the availability of firearms to the general public or it can target specific segments in the society for prohibition (Kleck, 1986). As Kleck and Bordua note,

The term control is very broad, referring to anything from increased penalties for the use of guns in felony to a total ban on ownership of firearms (1983, p. 272).

Virtually every state has adopted some form of gun control strategy in an effort to reduce the violent street crime problem in their jurisdictions (Simms, 1981; see also respective state penal codes). However, it has been argued that gun control policies need to strike a balance between preserving legitimate ownership of firearms and reducing the criminal use of handguns (Moore, 1981). This task is not easily accomplished, thus, gun control legislation is often the target of political controversy and debate.

One strategy adopted by some jurisdictions is to limit the availability of handguns by controlling their sale and possession because as Moore notes, "intuition and empirical evidence suggests that widespread gun availability intensifies violent crime" (1981, p.93). Proponents of strict firearm control legislation of this type tend to target handguns because they are reported to be the preferred weapon of criminal offenders (Brill, 1977; Wright and Rossi, 1981).

The effects of reducing gun availability have received some empirical research attention and the availability of handguns has been demonstrated to contribute to the violent crime problem by

providing criminal offenders with an opportunity to obtain weapons through legitimate purchases, theft, private transfers, and the black market (Moore, 1981). Moore found, "legitimate purchases seem most important in supplying assaulters," whereas, "thefts seem to be the most important source in supplying armed robbers" (1981, p. 92). Kleck (1986) identified two effects gun availability has on crime and violence. The first is the "assault instigating" effects of readily available guns where the gun's availability would elicit aggression because the sight of it could stimulate a counter attack by the victim and thus stimulate an escalation of an assault which would otherwise not have occurred. This hypothesis, however, has not received much empirical support (Kleck, 1986). The second effect gun availability has on crime and violence has been called the "crime facilitating" effects where the possession of a gun may make the commission of a planned crime more likely since the offender might not have committed it without the gun. This hypothesis tends to have more intuitive appeal but the research on "across the board" gun control legislation suggests that simply limiting gun availability has a minimal impact on homicide or violent street crime.

#### **FEDERAL GUN CONTROL ACT OF 1968**

Zimring (1975), studying the impact of the Federal Gun Control Act of 1968, found no measurable impact on gun crime in tight gun control cities as might have been expected. Similarly, Lester and Murrell (1986), using data from the United States Public Health Service depicting death rates for homicide,

suicide, and accidental firearm deaths, found that handgun statutes in the United States were unrelated to the incidence of homicide in 1960 and 1970. They did find a reduction in suicide by firearm rates, but they also found a reduction in suicide overall. They concluded, "the absolute rate of homicide by firearms was not related to the strictness of handgun control laws" (1986, p. 316).

In addition to homicide, the correlation between the availability of guns on robbery offenses has also received some research attention. For robbery offenses, Cook reports that the availability of guns had no effect on the robbery rate in large cities (Cook, 1979) but it did appear to affect the kinds of robbery targets (Cook, 1976). Kleck (1986) supports Cook's findings and states that guns merely provide a tactical edge that allows robbers to attack more lucrative, less vulnerable targets.

#### **BARTLEY - FOX GUN LAW (MASSACHUSETTS)**

Massachusetts adopted a somewhat different approach to limiting the availability of guns. Rather than restrict and limit the sale of handguns, Massachusetts created a statute requiring a mandatory one year prison term for anyone found guilty of possessing a firearm without proper credentials. The Bartley-Fox Gun Law, enacted in 1975, mandated this penalty and prohibited any informal dispositions of these cases. Bartley-Fox was perceived as a bonafide strategy to reduce violent crime in the state and it received a great deal of media focus drawing attention to the law's swift and certain response to the illegal possession of guns (Holmberg and Clancy, 1977).

The Bartley-Fox Gun Law was designed and anticipated to fight violent crime and it did have some impact on the reduction of certain types of crimes. Deutsch and Alt (1977) found statistically significant reductions in armed robbery and assaults with guns using iterative analysis procedures which controlled for seasonal effects on the crime rate (p. 566). They concluded that, "the specific time points in which these decreases were noted strongly suggest their probable direct association with the introduction and enactment of this law" (Deutsch and Alt, 1977, p. 566).

Rossman, et.al., (1980) examined the crime rates in Boston, "non-Boston," Massachusetts, and the entire state in an LEAA funded study of the impact of the law. They found that the Bartley-Fox law had a moderate impact on armed robbery in Boston as well as an overall reduction in gun assaults in the state and also concluded that the law did have an impact on the crime rate (p. 153).

Pierce and Bowers (1981) similarly tested the impact of the law on gun and non-gun assaults, robberies, and homicides using interrupted time series and multiple control group comparison procedures. They found that the Bartley-Fox law reduced the incidence of gun assaults but produced a substantial increase in non-gun armed assaults. This "substitution effect" previously demonstrated by Rossman, et.al., (1980) was also found for armed robbery offenses as well.

The Bartley-Fox Gun Law did in fact have a short run impact on crime in Massachusetts. Pierce and Bowers (1981), however, attributed the reduction in crimes to the publicity campaign

rather than to the certainty and severity of the punishment. Beha (1977) tends to agree in that he states the law had very limited utility in prosecuting violent crime offenses. In fact, he notes that the majority of Bartley-Fox offenses did not produce other felony charges.

The effectiveness of the imposition of restrictions that limit gun availability in relation to crime and violence is at best tenuous and inconclusive (Sims, 1981) and such proposed restrictions frequently lead to heated political debate. However, one strategy has been adopted by the majority of the states in an attempt to reduce the prevalence of firearms in criminal offenses and subsequently reduce violent victimizations and the fear of crime. That strategy, commonly referred to as "use" laws, is to impose mandatory prison terms, or enhanced penalties for those convicted of committing an offense with a firearm. There has been a great deal of support for this type of legislation, and even the National Rifle Association and other gun advocacy groups support this type of strategy in fighting gun crime in the community (Kleck, 1986; Sims, 1981).

Lazotte and Zatz (1986) point out that mandatory prison sentences or sentence enhancers could reduce the firearm crime rate through general and specific deterrence as well as through incapacitation. For example, offenders receiving the extended, or mandatory terms without parole eligibility, may be deterred from committing future gun crimes or some may substitute weapon types when considering the "tool of their trade." This observation has received some empirical support. In a study of incarcerated felons conducted for the National Institute of



Justice, Wright and Rossi (1985) found that the two most important motivations respondents had for not arming themselves with a gun prior to the commission of their offenses were: (1) possession of a gun was "just asking for trouble;" and (2) committing a crime with a gun would entail a "stiffer sentence" (p. 24, Table 13). The evidence here seems to suggest that there is some deterrent value in mandatory sentencing schemes, however, there is large body of empirical research that tends to question this deterrent effect. Another, and perhaps more obvious, speculated benefit of mandatory sentences for gun crimes is that offenders serving an extended prison term or a sentence with parole ineligibility are prohibited from participating in gun crimes in the community while incarcerated. The incapacitative effect of such provisions on systems costs and the overall violent crime rate awaits more empirical testing (See Greenwood, 1983).

There is a body of empirical research that tests the impact these types of mandatory sentences have on violent crime. The extensive, and methodologically sound, research projects evaluating the California, Michigan, Florida, and New Jersey firearm crime statutes will be reviewed here. The evaluation literature pertaining to mandatory sentencing schemes in these jurisdictions indicates that there is some doubt about the effectiveness of some of these strategies, as well as problems associated their design and implementation.

## CALIFORNIA GUN LAW

Lazotte and Zatz (1986) conducted an in-depth analysis of the California law, enacted in 1977, which mandates an additional one year prison term for possession of a gun in the commission of a crime; an additional two year prison term if the gun is used in the commission of the offense, or for possession of a gun in a sex offense; and a three year "add-on" term for offenders who use a gun during a sex offense. Using longitudinal data, they tracked a stratified random sample of offenders found guilty of a felony and sentenced to state prison. In order to test whether the firearm actually increased sentence length, Lazotte and Zatz used Ordinary Least Squares (multiple regression) procedures to control, or hold constant, other factors that may influence sentence length.

They found that, "despite the mandated sentence enhancer, use of a firearm did not significantly affect the length of the sentence to prison," and concluded, "that the type and severity of the offense, as well as the method of case disposition, have the greatest effects on sentencing" (1986, p. 210). Lazotte and Zatz also found that, in California, defendants who are convicted of assault or killing with firearms for the first time received statistically identical sentences as those who commit assault and homicide without a gun. It was the severity of the offense rather than the sentence enhancement that influenced sentence length (p. 213). The use of a firearm during the commission of the offense did not significantly increase sentence length until the fourth and fifth arrest, at which time the court increased the sentence by 14 and 29 months respectively (p. 217-218).

Lazotte and Zatz conclude, "that the California sentencing enhancer is not used by the courts" (1986, p.220) and speculate that (1) judges may resent the infringement on their discretion particularly when the penalties for certain offenses are inconsistent with their own personal beliefs and perceptions of the judicial role; (2) defendants who used firearms may quickly enter a guilty plea to reduce the severity of the sentence;<sup>3</sup> (3) the firearm charge may be used as a bargaining chip in plea negotiations; (4) judges may not realize or appreciate the apparent crime reducing potential of mandatory terms; or (5) judges may not administer mandatory penalties in light of the serious overcrowding problem in the state's prisons (p. 220-221). A note of caution is warranted here in that the above explanations are only speculation on the part of the authors and can only act as a guide and offer rival hypotheses for evaluations in other jurisdictions.

#### **MICHIGAN GUN LAW**

In 1977, Michigan enacted a well publicized mandatory sentencing provision requiring a mandatory two year consecutive prison term for offenders who committed a felony while in possession of a firearm. This law, like other jurisdictions, prohibited the suspension of the sentence and imposed a period of parole ineligibility for at least the two year term. Also, most prosecutors, as a matter of administrative policy rather than law, prohibited plea bargaining in Gun Law cases. Like

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<sup>3</sup>It should be noted that the California mandatory sentencing law prohibits offenders from "working down" the additional prison terms but does not restrict plea bargain discretion.

California, the effectiveness of the Michigan Gun Law statute has been evaluated and this research provides some interesting results for policy makers in other jurisdictions.

Loftin and McDowall (1981) conducted a study of the Michigan Gun Law asking two very specific questions: (1) What effect did the mandatory minimum terms imposed for gun crimes have on the certainty and severity of sentences? and (2) Did the Gun Law reduce the number of serious violent crimes in Detroit? The researchers collected and coded data from 8,414 files of murder, aggravated assault, felonious assault, and robbery cases disposed of from 1976 through 1978.

To test the first question, Loftin and McDowall, using maximum likelihood statistical procedures, computed expected sentence lengths among defendants charged with one of the four types of offenses above. They found no statistically significant change in expected minimum sentences for murders and robberies involving guns (1981, p. 155). They attribute this lack of distinction between gun and non-gun murders and robberies to the already substantial "going rate" for these offenses. For example, the authors note that for robbery offenses, defendants often receive an average of six years in prison and seldom, if ever, receive non-custodial terms. Loftin and McDowall speculate that the mandatory two year term is easily absorbed in the current "going rate" for murder and robbery offenses. They did, however, find that defendants convicted of aggravated or felonious assault with a firearm did receive longer sentences than those non-gun assaulters. They attribute this finding to the relatively brief custodial terms (6 months on average)

defendants typically receive for this offense. The presence of a firearm simply forced the penalty to a higher level.

Heumann and Loftin (1979) also provided some preliminary conclusions regarding the implementation of the Gun Law and the "going rate" employed by judges in Michigan, thus lending some support to the above findings. In interviewing court personnel, they found that in the more serious cases (robbery and murder), sentences for the primary felony, or initiating offense, were adjusted downward by judges to take into account the additional two year penalty. In the less serious cases (i.e. assault) in which the defendant had no prior prison history, abbreviated bench trials were used to circumvent the mandatory two year term provision by lowering the initiating charge from a felony to a misdemeanor or by dismissing the gun count.<sup>4</sup> This mechanism has been attributed to preserving the "going rate" of noncustodial sentences for assaults (Heumann and Loftin, 1979).

To answer their second question, Loftin and McDowall used an interrupted time series analysis procedure<sup>5</sup> testing the deterrent impact the Gun Law had on violent crime in Detroit. They found that the Michigan Gun Law failed to reduce gun crime in Detroit and concluded, "the Gun Law provided too weak an

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<sup>4</sup>See Heumann and Loftin (1979) for an interesting account of bench trials in enforcing the Michigan Gun Law.

<sup>5</sup>The authors provide an excellent review of the strengths and weaknesses of this particular procedure as well as evidence of its appropriateness in this type of analysis. Interested readers are directed to this article and to the work of Campbell and Stanley (1963) Experimental and Quasi-Experimental Design for Research, Washington, D.C.: American Education Research Association; and Cook and Campbell (1979) Quasi-Experimentation: Design and Analysis Issues for Field Settings, Chicago: Rand McNally.

intervention to produce a measurable effect on crime patterns" (1981, p. 162).

Loftin and McDowall noted that this negligible effect could be the result of either the narrow scope of the Gun Law focusing only on the commission of a felony while in possession of a gun without influencing simply carrying a weapon (i.e. Massachusetts) or to some methodological flaws in the research design by not allowing for enough time to pass for the deterrent effect to become discernible, since often more time is required for statistical models to show some form of impact (1981, p.163-165).

To study the implementation and effectiveness of this statute, Grant (1983) used a stratified random sample (n=456) of offenders convicted and sentenced in 1977 for theft from person offenses who were eligible for prosecution under the Michigan Gun Law. Grant found that the decision to prosecute a defendant under the Gun Law was not as clear cut as was presumed. He identified 8 factors using correlation analysis (i.e. multiple classification analysis) that were associated ( $R^2=0.224$ ) with the decision to prosecute under the mandatory sentencing law: (1) race; (2) criminal history; (3) employment status; (4) relationship of offender and victim; (5) degree of injury sustained by the victim; (6) location and caseload of the court; (7) number of other charges filed; and (8) plea arrangements. Grant also found that judges, as a whole, did not comply with the mandates of the Gun Law and that they did not compensate for the additional penalties when imposing sentence on the initiating offense. He concluded that the inconsistent prosecution of eligible defendants under the Gun Law provisions failed to

increase the certainty and severity of the statute, thus explaining the negligible impact the statute had on gun crime in Michigan (Loftin and McDowall, 1981).

Grant's findings tend to support a previous evaluation of the Michigan Gun Law by the Michigan Department of Corrections in 1977. The DOC found that only 29.2% of eligible offenders were convicted and sentenced according to the two year mandatory consecutive term provision. Also, the DOC reported "no observable impact on the proportion of felonies in which a weapon is used, or the type of weapon" (Grant, 1983, p.27).

Loftin, Heumann, and McDowall (1983) compared the volume of weapons-specific crime before and after the well publicized law went into effect. Using interrupted time series analysis, they were unable to identify the effects of either the Gun Law or its media blitz on the prevalence of violent crime in Detroit. They concluded that the law and the media campaign failed to produce the expected reduction in gun crimes because defendants sentenced for serious violent crimes were not responsive to the mandatory two year increment in sanctions that already carried maximum sentences much greater than two years. Apparently, in this instance, the Gun Law had reached the point of diminishing returns for robbery and homicide offenses. This has important implications for what was once considered a relatively low cost systems response to gun crime. Loftin, Heumann, and McDowall speculate that the "word on the street" was quickly conveyed that the "going rate" for certain offenses like robbery had not changed in Detroit, thus negating the effects of the media campaigns.

## FLORIDA GUN LAW

Loftin and McDowall (1984) also conducted an evaluation of the Florida Gun Law enacted in 1975 which mandated a three year "flat" prison sentence, with parole ineligibility, for those convicted of possessing a firearm while committing, or attempting to commit, a felony. Proponents of this legislative act anticipated that this measure would reduce violent crime in Florida and engaged in a media campaign for an added deterrent effect. Loftin and McDowall tested the deterrent effect of the gun law by estimating the impact it would have on robbery, assault, and murder offenses in Miami, Jacksonville, and Tampa since these three cities comprised almost one third of the violent crime in the state (1984, p. 253).

Loftin and McDowall reported that a visual inspection of the preliminary data, analyzed using interrupted time series analysis procedures, indicated the gun law had an impact on the reduction of violent crime in these cities. However, a more rigid data analysis using the Autoregressive Integrated Moving Average (ARIMA)<sup>6</sup> procedure yielded different results. Loftin and McDowall concluded, "there is little evidence that the introduction of the Florida gun law was followed by a systematic decline in violent gun crime" (1984, p. 255). Again, the authors offered explanations similar to those offered in Michigan concerning why the Florida gun law did not have a measurable effect on violent crime in that state: (1) the scope of the Florida law, like Michigan, was too narrow and did not encompass

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<sup>6</sup>For a detailed explanation of the ARIMA procedure, see Stout (1989).



possession or carrying a firearm apart from its involvement in the commission of a felony; (2) since the underlying offense typically carries a 10 to 20 year prison sentence anyway, the three year increment may appear trivial to most who use guns and are actively involved in committing felonies; and (3) the threat of a three year prison term for possession of a firearm may be offset by the value the offender places on the gun in committing the offense and providing protection during the commission of that crime.<sup>7</sup>

#### **NEW YORK STATE GUN LAW**

The New York State gun law, enacted in 1980, is considered to be "one of the toughest in the country" (Margarita, 1987). This law has received some empirical evaluation research attention, and like in some other states, the results tend to cast doubt upon the utility or effectiveness of these types of strategies in reducing violent firearm crime.

For example, in a National Institute of Justice sponsored study, Margarita (1987) addressed three specific evaluation questions: (1) Did the New York gun law affect the manner in which the criminal justice system approached firearm control? (2) Did the new gun law affect the prevalence of legal and illegal ownership of firearms? and, (3) Did it change the observed frequency of crimes involving guns? Using quantitative analysis of aggregate data from 1979, 1980, and 1981 statewide

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<sup>7</sup>Loftin and McDowall (1984, p. 259) note that most offenders would not be deterred by the mandatory sentence because it was less risky to be arrested with the gun than to be without one when needed.

complaint, arrest, indictment, conviction, and sentence information as well as qualitative interviews with police officers and prosecutors, Margarita found that the new gun law failed to either reduce the number of "guns on the street" or reduce the number of gun related crimes (1987, p. 4). In addition, the data failed to identify any significant change in the number of complaints for crimes involving guns or any reduction in the rate of firearm use in assault, rape, and robbery offenses (Margarita, 1987, p. 4).

In another study of the New York gun law, Castellano (1986) analyzed its development and implementation. The gun law was intended to elevate the "going rates" of imprisonment for firearm related offenses. Castellano found that the gun law had a relatively weak impact on these "going rates" and thus had limited utility in deterring gun crimes. These findings are somewhat consistent with the studies of other jurisdictions reviewed above. Castellano attributes these findings to the variation that exists among local normative legal cultures that tend to informally "neutralize" the impact of penalties that are perceived to be too harsh for the particular offense. The variation that exists throughout a state reduces the certainty of punishment, thus adversely affecting its deterrent utility.

**PART III - NEW JERSEY RESPONSE TO VIOLENT GUN CRIME  
THE GRAVES ACT**

The New Jersey response to violent gun crime appears to consider and compensate for the shortcomings in the other jurisdictions identified above. For example, the New Jersey Supreme Court restricts sentencing judges from accepting plea bargains that dismiss or downgrade the applicable Graves Act charge and limits the suspension of sentences or the imposition of indeterminate terms for youthful offenders, unless the mandatory sentences do not serve the interests of justice.<sup>8</sup> As N.J.S.A. 2C:43-6c states,

A person who has been convicted under 2C:39-4a of possession of a firearm with the intent to use it against the person of another, or of a crime under any of the following sections: 2C:11-3 (murder), 2C:11-4 (manslaughter), 2C:12-1b (aggravated assault), 2C:13-1 (kidnapping), 2C:14-2a (aggravated sexual assault), 2C:14-3a (aggravated sexual contact), 2C:15-1 (robbery), 2C:18-2 (burglary), 2C:29-5 (escape), who, while in the course of committing, or attempting to commit the crime, including the immediate flight therefrom, used or was in possession of a firearm as defined in 2C:39-1f, shall be sentenced to a term of imprisonment by the court. The term of imprisonment shall include the imposition of a minimum term. The minimum term shall be fixed at, or between, one-third and one-half of the sentence imposed by the court or 3 years, whichever is greater, or 18 months in the case of a fourth degree crime, during which the defendant shall be ineligible for parole.

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<sup>8</sup> Senate Bill No. 827, introduced by Senator Graves in 1988, and enacted in 1989, provides that upon motion by the Prosecutor or sentencing court to the Assignment Judge, a defendant, who has not been previously convicted of a Graves Act offense, can be placed on probation or have the mandatory minimum term reduced to one year, if the sentencing court, with the approval of the Prosecutor, believes that the interests of justice would not be served through the imposition of the ordinary Graves Act sentencing provision.

This statute (N.J.S.A. 2C:43-6c) also requires extended prison terms set forth in N.J.S.A. 2C:44-3 for those previously convicted and sentenced for a firearm related crime.

The courts have been quite consistent with the legislative intent when directing the application of the Graves Act to culpable defendants. The Graves Act has been held to be constitutional by the Appellate Division of the N.J. Superior Court in that they ruled that, "a rational relationship exists between the commission of a crime while armed with guns and mandatory parole ineligibility, thus the [Graves Act] does not deprive the defendant of his constitutional right to equal protection" [State v. Trippiedi 204 N.J. Super. 422 (App. Div., 1985)], and by the State Supreme Court in State v. DesMarets, 92 N.J. 62 (1983). The New Jersey Supreme Court has also made it quite clear that the law,

was enacted at the very least to insure incarceration for those who arm themselves before going forth to commit crimes and seeks to deter crime, not rehabilitate criminals [State v. Stewart 96 N.J. 596 (1984)].

The provisions identified above are applied to a defendant, who is the principal actor or an accomplice [State v. Alexander 184 N.J. Super. 615 (Law Div., 1981) and State v. White 98 N.J. 122 (1984)], when the State establishes, based upon the preponderance of the evidence at a separate hearing, that the defendant (1) possessed a weapon for unlawful purposes, and that (2) the weapon was a firearm.

In addressing the first issue, that the defendant possessed a weapon, the courts have held in State v. Hickman, 204 N.J. Super. 409 (App. Div. 1985) that the weapon need not be recovered

to demonstrate that a firearm was present in the commission of an offense - the finding based upon testimony that a weapon was present is sufficient to hold the defendant accountable under the Graves Act.

The second element that must be determined by the judge during the hearing to decide if the imposition of the Graves Act is appropriate is proof that the weapon was a firearm. The Act specifically requires that the weapon be defined according to N.J.S.A. 2C:39-1f which states,

"Firearm" means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device, or instrument in the nature of a weapon from which may be fired or ejected any solid projectile ball, slug, pellet, missile or bullet, or any gas, vapor, or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

Using this definition of firearm, the courts were confronted with the task of providing a standard to judge a firearm's operability. The N.J. Superior Court - Appellate Division held that the definition of "handgun" does not require any showing of present operability but only that the gun was "originally designed and manufactured" to be operable in a particular manner. Simply to provide evidence that the gun was "real" was sufficient to demonstrate operability [State v. Gantt, 195 N.J.Super. 114

(App Div., 1984). In State v. Harmon, 203 N.J.Super. 216 (App Div., 1985), the court held that the Graves Act does not require proof of current operability to subject the defendant to the mandatory minimum term of imprisonment. Gantt was heard by the N.J. Supreme Court in 1986 and affirmed the conviction, sentence, and parole ineligibility term of the defendant. The Court ruled that the State's burden of proof that the weapon was a firearm required neither proof nor court finding that the weapon was operable, only that the device was originally designed to fire a lethal projectile [State v. Gantt, 101 N.J. 573 (1986)]. The Court also ruled that lay testimony was sufficient in order to establish "realness" and therefore, it did not require an actual physical examination. The Gantt decision did, however, exclude weapons that had undergone substantial alteration or mutilation which completely and permanently remove all characteristics of "realness" from the gun. Other court decisions [State v. Ortiz, 187 N.J.Super. 44 (App Div., 1982)] also excluded bonafide "toy guns" from the Graves Act purview since they were not designed to fire bullets or other noxious things.

The second element of the Graves Act, requiring an extended prison term for repeat firearm offenders, has also been tested in the courts. As illustrated below, the issue of the applicability of the extended term for subsequent offense has been the focus of considerable review and interpretation by the courts. For example, in State v. Gillespie, 203 N.J.Super. 417 (Law Div., 1984), the court imposed an extended term for a subsequent gun conviction even though the offense forming the second conviction occurred before the first conviction. The court stated,

The Legislative intent of this statute is clear as a bell for all to hear. If you commit a crime with a handgun you go to jail and if you do it more than once you go to jail for a longer period of time. Plea bargains are not permitted to avoid parole ineligibility in either case and the dates of the offenses are irrelevant.

The Legislative intent is reflected in the clear language of the statute. The statute states that a person "who has been previously convicted of an offense involving the use or possession of a firearm," 2C:43-6c, shall receive an extended term of imprisonment "notwithstanding that extended terms are ordinarily discretionary with the court." It is stated in simple and concise language that cannot possibly be the subject of interpretation. In clear terms it says that sequential convictions result in an enhanced penalty and that the court has no discretion to impose a term which is not dictated by the statute [State v. Gillespie, 203 N.J.Super. 417 (Law Div., 1984), p. 422-423].

Similarly, in State v. Windsor 205 N.J.Super. 450 (Law Div., 1985), the court ruled that a defendant's prior conviction for robbery with a firearm mandated an extended term, even though the prior conviction was for an offense which occurred after the one for which the sentence was being imposed. However, in 1986, the Appellate Division overruled the Gillespie and Windsor decisions in State v. Lightfoot 208 N.J.Super. 475 (App Div., 1986) ruling that a subsequent offense subject to the sentencing enhancement under the Graves Act requires that a conviction be entered at the time of the subsequent offense. Citing State v. Anderson, 186 N.J.Super. 174 (App Div., 1982), the appellate court in Lightfoot held,

It is obvious therefore that the enhanced penalty aspect of a statute would only go into effect when an offender has ignored the warning and again violates the law.

Sufficient proof must be provided to the judge during the hearing to determine the applicability of the Graves Act in a particular case. The subsequent offense, and thus the appropriateness of the extended term can only be established by a certified copy of the Judgement of Conviction for the previous offense(s) [State v. Latimore, 197 N.J. Super. 197 (App. Div., 1984)].

The description presented in this section indicates that both the courts and the Legislature share a common belief that this approach will deter violent gun crime in New Jersey.<sup>9</sup> Stout (1989) tested the general deterrent effect of the Graves Act sentencing provisions on violent crime in Newark. Again, using ARIMA analysis procedures, he found an, "abrupt decrease in the number of firearm robberies which was attributed to the deterrent effect of the Act" (1989, p. ii). Stout also found, "an abrupt but temporary increase in the percentage of aggravated assaults that involved firearms" but states that this change may have been due to changes in citizen reporting or prosecutorial charging behavior (1989, p.ii-iii).

#### **METHOD OF INQUIRY**

The present study is separated into two phases, each dealing with a specific concern of Senator Francis X. Graves. It is designed to address two specific issues. First, a descriptive analysis of offenders sentenced under the Graves Act will be

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<sup>9</sup>Bruce Stout's dissertation provides a complete review of the legislative and legal development of the Graves Act. Those interested in a more detailed account of this development should refer to this work.



provided to create a typology of Graves Act offenders and offenses. This group will then be compared with other prisoners serving non-Graves mandatory prison sentences to identify similarities and distinctions between the groups. These descriptions and comparisons will provide a clearer and more detailed identification of typical Graves Act offenders.

In a subsequent phase of this project (Phase II) the impact of the Graves Act on release outcome will be measured by tracking the subsequent criminal involvement of those offenders, sentenced under Graves, who either completed their sentence or were granted parole (n=258).

#### PHASE I

The Criminal Disposition Commission staff collected and coded data from Department of Corrections files for all 1984 adult state prison admissions with mandatory terms (n=1,693). Prison admissions in 1984 were selected as the sample for two reasons: (1) it allowed the law to take effect and for people to be sentenced under the provisions; and (2) it provided a reasonable time frame for a follow-up, since some will have served the minimum 18 month to 3 year term and been released into the community.

Information was collected using a standardized coding form (Appendix A) and included information on charge, length and type (i.e. concurrent, consecutive, merged) of sentence, period of parole ineligibility imposed by the court, location of offense, various demographic characteristics (i.e. age, gender, race, marital status), and whether the inmate is serving the mandatory

minimum term pursuant to the Graves Act provisions. This instrument has acceptable levels of reliability and validity in that: (1) the instrument was modeled after a previous release outcome study and designed to collect information that was theoretically relevant and requested by the project's sponsor; (2) one staff member was designated the project coordinator who conducted the training and supervision of other staff members; and (3) this member of the research team was also responsible for reviewing a random sample of coding forms at the end of each day and to check them with the Department of Corrections files for consistency and to make certain that the data was properly coded and entered on the forms.

There were some files that appeared inconclusive about whether or not the individual inmate was serving a mandatory sentence imposed under the Graves Act. Many of the Judgements of Conviction included in each file did not explicitly state that parole ineligibility was required because of N.J.S.A. 2C:43-6c. In these cases, the research team was required to use intuition and review the facts presented in the Pre-Sentence Investigation Report (i.e. witness statements, hospital reports of gunshot wounds, etc.) to determine if a firearm was, in fact, part of the initiating offense. Those cases where that fact could not be clearly determined, were included in the control group of non-Graves offenders. Given the relatively large number of Graves offenders (n=513) coded for this descriptive analysis, this limitation will not constrain the analysis or bias the findings to any substantial degree.

It should be noted, however, that there are three very

important limitations in Phase II of this project. First, this release sample is not representative of all Graves offenders sentenced in 1984, since most of the offenders - by virtue of the length of the sentence imposed for their initiating offense (i.e. first and second degree offenses) - are not included in the analysis as they have not yet been released from incarceration. The majority of the offenders in this sample were sentenced in 1984 for third and fourth degree offenses that involved a firearm, therefore, any conclusions drawn from this data may not apply to Graves Act offenders convicted of more serious offenses. To draw conclusions based solely upon this sample could lead to erroneous conclusions about the effectiveness of this strategy which may not reflect the Act's true impact on violent crime. A study of the release outcome of these more serious offenders is strongly recommended for a later time when those sentenced to lengthier terms are finally released.

Second, since Phase II of this project does not include criminal activity committed in jurisdictions outside of New Jersey, the various outcomes examined (i.e. rearrest, reconviction and reincarceration for Graves Act offenses) are likely to be slightly higher than recorded in this study. Third, given the relatively short period of time most of the 1984 offenders have been in the community, those who do get rearrested may not have been convicted or sentenced to date. The controversy that surrounds the definition of recidivism also applies here and the reader is cautioned not to draw hasty conclusions at this juncture, but to wait for further analysis with longer follow-up periods.

## PHASE II

The second phase of this project will collect and analyze data on the release outcome of Graves offenders sentenced in 1984. The sample (n= 258) will be comprised of 1984 offenders sentenced under the Graves Act provisions and released upon completion of their sentence or to parole supervision. Subsequent criminal activity will be tracked using State Bureau of Identification (SBI) numbers, a methodology similar to the one created in the Parole Release Outcome Study (Corbo, 1988) completed by the Criminal Disposition Commission. The research staff matched SBI numbers with the names and reported aliases of the inmates released from their 1984 mandatory sentence, either through parole or satisfaction of their maximum term, and included them in the sample. Subsequent criminal activity, including arrest, conviction and reincarceration will be identified through a check of the Computerized Criminal History (CCH) system.

The analysis conducted in Phase II will provide some preliminary descriptive and inferential information on the release outcome of this particular cohort. In each comparison group various descriptive distribution schemes, probabilities, and correlations will be provided for each of the subsamples depicted in Appendix C. It is anticipated that these comparisons will yield rich data, thus providing a preliminary test of the effectiveness of the Graves sentencing provisions on this group of offenders.

## PART IV - GRAVES ACT OFFENDER/OFFENSE CHARACTERISTICS

### Base Offense

Offenders sentenced under the Graves Act accounted for 8%, or 513 of 6,379 of all adult state prison admissions in 1984. Graves offenders represented almost 30%, or 513 of 1,693 of those state prison admissions receiving mandatory minimum terms.

Table 1

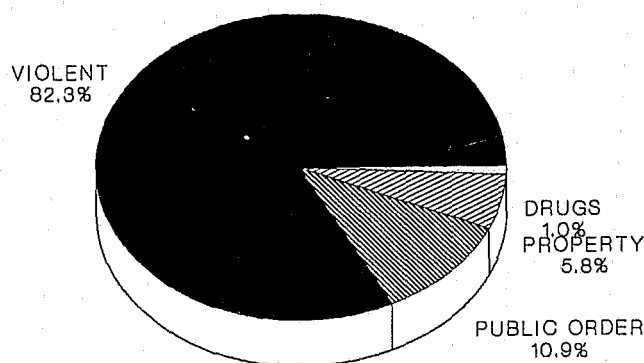
MOST SERIOUS OFFENSE DISTRIBUTION						
MOST SERIOUS OFFENSE	1984 ADULT ADMISSIONS		1984 NEW COURT ADM WITH MINS		GRAVES CASES	
UNCODED	73	1.1%	2	0.1%	0	0.0%
VIOLENT OFFENSES:						
MURDER/MANSLAUGHTER	263	4.1%	184	10.9%	76	14.8%
KIDNAPPING	51	0.8%	31	1.8%	8	1.6%
RAPE	288	4.5%	83	4.9%	3	0.6%
OTHER SEXUAL OFFENSES	34	0.5%	6	0.4%	0	0.0%
ROBBERY	1,363	21.4%	495	29.2%	231	45.0%
ASSAULT	620	9.7%	179	10.6%	103	20.1%
OTHER PERSON OFFENSES	11	0.2%	10	0.6%	1	0.2%
	2,630	41.2%	988	58.4%	422	82.3%
PROPERTY OFFENSES:						
BURGLARY	1,245	19.5%	227	13.4%	26	5.1%
LARCENY/THEFT	478	7.5%	77	4.5%	4	0.8%
ARSON	87	1.4%	15	0.9%	0	0.0%
FRAUD/FORGERY	94	1.5%	12	0.7%	0	0.0%
RECEIVING STOLEN PROPERTY	231	3.6%	32	1.9%	0	0.0%
	2,135	33.5%	363	21.4%	30	5.8%
DRUG OFFENSES:						
TRAFFICKING	791	12.4%	185	10.9%	2	0.4%
POSSESSION	294	4.6%	51	3.0%	3	0.6%
	1,085	17.0%	236	13.9%	5	1.0%
PUBLIC ORDER OFFENSES:						
WEAPONS	244	3.8%	82	4.8%	56	10.9%
ESCAPE	28	0.4%	1	0.1%	0	0.0%
OTHER PUBLIC ORDER OFFENSES	184	2.9%	21	1.2%	0	0.0%
	456	7.1%	104	6.1%	56	10.9%
TOTAL	6,379	100.0%	1,693	100.0%	513	100.0%

As Table 1 indicates, 422 of 513, or 82% of Graves offenders admitted to state prison in 1984 were convicted of a violent

crime, thus reflecting the legislative intent of the Graves Act, which was to target violent crime by incarcerating offenders convicted under N.J.S.A. 2C:39-4 of possessing a firearm for unlawful purpose in crimes against the person (Figure 3).

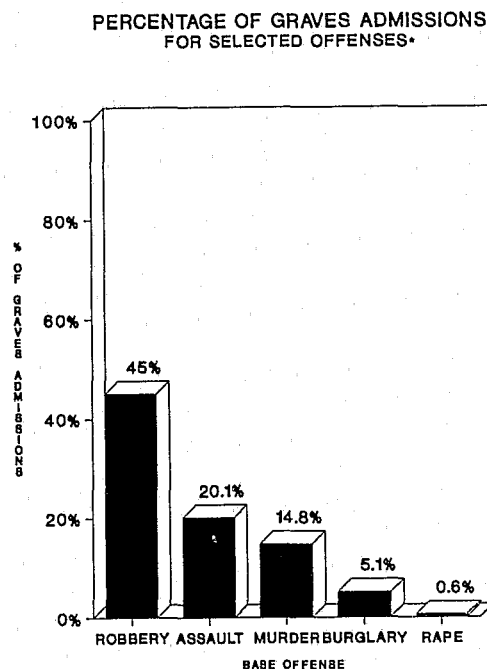
Figure 3

1984 GRAVES ADMISSIONS  
BY BASE OFFENSE



As Figure 4 indicates, approximately 65% of the Graves Act base offenses were either robbery (45%) or assault (20%). New Jersey data seem to support Zimring's finding that the primary crimes involving firearms in the United States are robbery and assault. In 19 of 76, or 25% of the murder or manslaughter admissions involving a firearm, offenders were additionally sentenced for robbery and/or assault, thus supporting Zimring's point that criminal homicides are "an amalgam of assaults and robberies".

Figure 4



\* Note: In order to highlight those crimes that produce the most fear provoking consequences in the community, drug and public order offenses are excluded.

Based on 1984 adult state prison admissions, approximately 29% of all murders, 17% of all robberies and 17% of all aggravated assaults were committed with a gun. New Jersey Uniform Crime Report data for 1984 indicated that 42% of those arrested for murder had used a firearm during the commission of the crime; 24% of those arrested for robbery had used a gun during the robbery; and 13% of those arrested for aggravated assault had used a gun. It should be noted that Uniform Crime Report data reflect arrests rather than prison admissions, thus the differences in the percentages presented above could be the result of time lags that occur between arrest and disposition or prosecutorial charging decisions.

The data also suggest that firearms are not frequently used during the commission of aggravated sexual assault. Only three of a total of 288 state prison admissions for aggravated sexual assault, or approximately 1%, involved a firearm. As Figure 4 indicates, 26 of 513, or 5% of the Graves admissions had burglary as the base offense. Research has indicated that in the majority of similar cases, firearms were stolen during the commission of the burglary, as opposed to commission of armed burglary (Moore, 1981, p.92).

#### Age

Based on data found in Table 2, the 20 to 24 year old age range constituted the largest group in two of the three admission types - 1984 adult admissions (29%) and Graves admissions (31%). This group accounted for 415 of 1,867, or only 22% of all 1984 adult prison admissions receiving mandatory minimum sentences, with 39% of those admitted as Graves cases. Median and average ages within the three admission categories remained relatively constant, with an average admission age of 29 for 1984 adult admissions and for Graves admissions and an average admission age of 30 for state prison admissions with mandatory minimum terms. The median age at admission was 27 for all adult admissions; 28 for the state prison admissions with mandatory minimum sentences; and 26 for the Graves admissions.



Table 2

DISTRIBUTION BY AGE AT ADMISSION					
AGE AT ADMISSION	1984 ADULT ADMISSIONS		1984 NEW COURT ADM WITH MINS		GRAVES CASES
19 OR YOUNGER	304	4.8%	86	5.1%	43 8.4%
20 - 24	1,867	29.3%	415	24.5%	161 31.4%
25 - 29	1,704	26.7%	452	26.7%	112 21.8%
30 - 34	1,132	17.7%	328	19.4%	77 15.0%
35 - 39	677	10.6%	209	12.3%	53 10.3%
40 - 44	327	5.1%	78	4.6%	21 4.1%
45 - 49	174	2.7%	56	3.3%	20 3.9%
50+	194	3.0%	69	4.1%	26 5.1%
TOTALS	6,379	100.0%	1,693	100.0%	513 100.0%
AVERAGE AGE AT ADMISSION	29 YRS		30 YRS		29 YRS
MEDIAN AGE AT ADMISSION	27 YRS		28 YRS		26 YRS

The largest proportion of Graves offenders (31%) were within the 20 to 24 year old age category, and a total of 40% were under 24 years of age (Table 2). Comparing offense type in Table 3, 23 of 76, or 30% of all Graves admissions for murder were less than 24 years old, as were 115 of 231, or 50% of the Graves robbery admissions; 27 of 103, or 26% of the aggravated assault admissions committed with a firearm; 18 of 26, or 70% of the Graves burglary admissions; and 16 of 56, or 29% of the state prison admissions with a firearm offense as the base offense. These findings support the research that the majority of crime is committed by offenders during the "crime-prone" years of 18-24

(Steffensmeier, 1987, p.25).

Table 3

GRAVES OFFENDERS																			
MOST SERIOUS OFFENSE DISTRIBUTION BY AGE AT ADMISSION																			
=====																			
		19 OR																TOTAL	
MOST SERIOUS OFFENSE		YOUNGER		20 - 24		25 - 29		30 - 34		35 - 39		40 - 44		45 - 49		50+		GRAVES CASES	
=====																			
VIOLENT OFFENSES:																			
MURDER/MANSLAUGHTER		7	16.3%	16	9.9%	16	14.3%	10	13.0%	7	13.2%	3	14.3%	7	35.0%	10	38.5%	76	14.8%
KIDNAPPING				1	0.6%	2	1.8%	3	3.9%	1	1.9%	1	4.8%					8	1.6%
RAPE				2	1.2%			1										3	0.6%
ROBBERY		25	58.1%	90	55.9%	58	51.8%	28	36.4%	19	35.8%	6	28.6%	3	15.0%	2	7.7%	231	45.0%
ASSAULT		6	14.0%	21	13.0%	21	18.8%	15	19.5%	18	34.0%	6	28.6%	5	25.0%	11	42.3%	103	20.1%
OTHER PERSON																1	3.8%	1	0.2%
OFFENSES		-	----	---	----	--	----	--	----	--	----	--	----	--	----	--	----	---	----
		38	88.4%	130	80.7%	97	86.6%	57	74.0%	45	84.9%	16	76.2%	15	75.0%	24	92.3%	422	82.3%
=====																			
PROPERTY OFFENSES:																			
BURGLARY		3	7.0%	15	9.3%	2	1.8%	3	3.9%	3	5.7%							26	5.1%
LARCENY/THEFT				2	1.2%	1	0.9%	1	1.3%									4	0.8%
		-	---	--	----	-	---	-	----	-	---							--	---
		3	7.0%	17	10.6%	3	2.7%	4	5.2%	3	5.7%							30	5.8%
=====																			
DRUG OFFENSES:																			
TRAFFICKING								2	2.6%									2	0.4%
POSSESSION						1	0.9%							1	5.0%	1	3.8%	3	0.6%
						-	---	-	----					-	----	-	----	--	----
						1	0.9%	2	2.6%					1	5.0%	1	3.8%	5	1.0%
=====																			
PUBLIC ORDER OFFENSES:																			
WEAPONS		2	4.7%	14	8.7%	11	9.8%	14	18.2%	5	9.4%	5	23.8%	4	20.0%	1	3.8%	56	10.9%
OTHER PUBLIC ORDER																			
OFFENSES		-	---	--	----	--	----	--	----	-	----	-	----	-	----	-	----	--	----
		2	4.7%	14	8.7%	11	9.8%	14	18.2%	5	9.4%	5	23.8%	4	20.0%	1	3.8%	56	10.9%
=====																			
TOTAL		43	100.0%	161	100.0%	112	100.0%	77	100.0%	53	100.0%	21	100.0%	20	100.0%	26	100.0%	513	100.0%

## Gender

Based on data found in Table 4, males comprised almost 96% of the Graves offenders, while 4% of the Graves offenders were females. These percentages appear to be consistent with total adult admissions and those receiving mandatory minimum sentences during 1984.

Table 4

DISTRIBUTION BY GENDER						
SEX	1984 ADULT ADMISSIONS		1984 NEW COURT ADM WITH MINS		GRAVES CASES	
UNCODED	1	< 1%	2	0.1%	0	0.0%
MALE	6,103	95.7%	1,634	96.5%	491	95.7%
FEMALE	275	4.3%	57	3.4%	22	4.3%
TOTAL	6,379	100.0%	1,693	100.0%	513	100.0%

GRAVES OFFENDERS MOST SERIOUS OFFENSE DISTRIBUTION BY GENDER						
MOST SERIOUS OFFENSE	MALES		FEMALES		TOTAL GRAVES CASES	
VIOLENT OFFENSES:						
MURDER/MANSLAUGHTER	74	15.1%	2	9.1%	76	14.8%
KIDNAPPING	7	1.4%	1	4.5%	8	1.6%
RAPE	3	0.6%	0	0.0%	3	0.6%
ROBBERY	223	45.4%	8	36.4%	231	45.0%
ASSAULT	94	19.1%	9	40.9%	103	20.1%
OTHER PERSON OFFENSES	1	0.2%	0	0.0%	1	0.2%
	402	81.9%	20	90.9%	422	82.3%
PROPERTY OFFENSES:						
BURGLARY	26	5.3%	0	0.0%	26	5.1%
LARCENY/THEFT	4	0.8%	0	0.0%	4	0.8%
	30	6.1%	0	0.0%	30	5.8%
DRUG OFFENSES:						
TRAFFICKING	2	0.4%	0	0.0%	2	0.4%
POSSESSION	3	0.6%	0	0.0%	3	0.6%
	5	1.0%	0	0.0%	5	1.0%
PUBLIC ORDER OFFENSES:						
WEAPONS	54	11.0%	2	9.1%	56	10.9%
	54	11.0%	2	9.1%	56	10.9%
TOTAL	491	100.0%	22	100.0%	513	100.0%

Race/Ethnicity

Black offenders represented 62% of all Graves offenders (Table 5). Approximately 33%, or 319 of 963 black offenders with mandatory minimum sentences were Graves offenders, compared to 26%, or 139 of 525 for white offenders and 27%, or 50 of 188

for hispanic offenders. Table 5 also indicates that the percentage of Graves offenders for each racial/ethnic category appear to be consistent with the percentage of total adult admissions and those receiving mandatory minimum sentences.

Table 5

COMPARISON OF 1984 ADULT ADMISSIONS BY RACE									
RACE	TOTAL ADMISSIONS		MANDATORY MINIMUM SENTENCES:			GRAVES SENTENCES:			
	NUMBER	% ADM	NUMBER	% MAND MINS	% ADM	NUMBER	% GRAVES	% MAND MINS	% ADM
UNCODED	32	1%	17	1%	< 1%	5	1%	< 1%	< 1%
BLACK	3,388	53%	963	57%	15%	319	62%	19%	5%
WHITE	1,976	31%	525	31%	8%	139	27%	8%	2%
HISPANIC	975	15%	188	11%	3%	50	10%	3%	1%
ASIAN	8	< 1%	0	0%	0%	0	0%	0%	0%
TOTAL	6,379	100%	1,693	100%	27%	513	100%	30%	8%

As Table 6 indicates, black and hispanic Graves offenders were more often committed for violent crimes than white Graves offenders. Of blacks and hispanics sentenced under the Graves Act, 89% and 82%, respectively, were sentenced for violent offenses. Approximately 68% of whites sentenced under Graves provisions had committed violent offenses. However, 16% of whites were sentenced under the Graves Act for property offenses - compared to only 2% of blacks and 4% of hispanics. Therefore, there is a distinct difference in the types of Graves offenses for which whites are sentenced, compared to blacks and hispanics. However, these data are generally consistent with data for all

admissions and admissions with mandatory minimum terms in the violent and property categories. In the drug category, the number of Graves sentences is so small that no comparisons can be drawn with the larger groups. A more complete distribution of admissions by race/ethnicity and base offense is found in Appendices C & D.

Table 6

DISTRIBUTION OF ADMISSIOON TYPE BY RACE/ETHNICITY AND BASE OFFENSE																										
BASE OFFENSE	1984 ADULT ADMISSIONS										1984 NEW COURT ADMISSIONS WITH MINS								GRAVES ADMISSIONS							
	UNCODED		BLACK		WHITE		HISPANIC		ASIAN		UNCODED		BLACK		WHITE		HISPANIC		UNCODED		BLACK		WHITE		HISPANIC	
UNCODED	2	6%	47	1%	19	1%	5	1%			2	12%														
TOTAL VIOLENT	17	53%	1,603	47%	669	34%	337	35%	4	50%	8	47%	635	66%	251	48%	94	50%	3	60%	282	89%	95	68%	42	82%
TOTAL PROPERTY	7	22%	1,001	30%	875	44%	251	26%	1	13%	2	12%	169	18%	164	31%	28	15%		6	2%	22	16%	2	4%	
TOTAL DRUG	3	9%	522	15%	237	12%	321	33%	2	25%	2	12%	111	12%	68	13%	55	29%		2	1%	3	2%			
TOTAL PUBLIC ORDER	3	9%	215	6%	176	9%	61	6%	1	13%	3	18%	48	5%	42	8%	11	6%	2	40%	28	9%	19	14%	7	14%
TOTAL	32	100%	3,388	100%	1,976	100%	975	100%	8	100%	17	100%	963	100%	525	100%	188	100%	5	100%	318	100%	139	100%	51	100%

Note: Due to rounding, percentages in subcategories may not sum to total.

### County of Commitment

As Table 7 indicates, Essex county committed 137 Graves offenders, representing the largest percentage (27%) of the statewide 1984 Graves admissions. This accounted for 12% of that county's total 1984 state prison admissions. A distribution of most serious offense by county is found in Appendix E.

Table 7

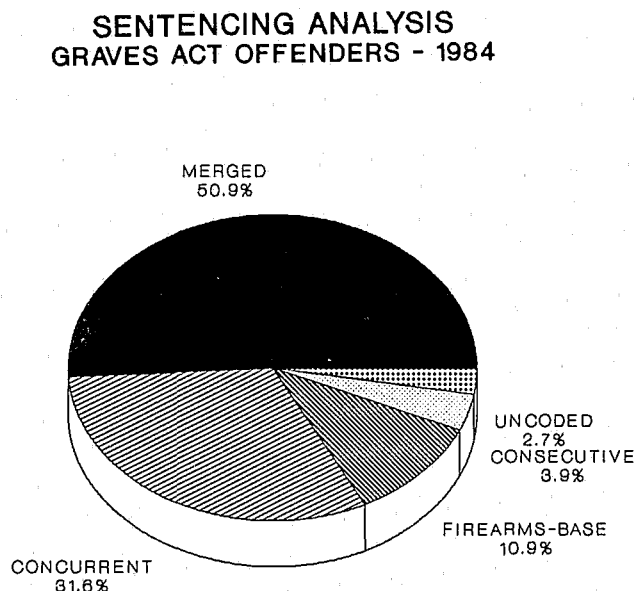
COMPARISON OF 1984 ADULT PRISON ADMISSIONS BY COUNTY  
(RANKED BY % OF GRAVES ADMISSIONS TO TOTAL COUNTY ADMISSIONS)

TOTAL ADMISSIONS:			MANDATORY MINIMUM SENTENCES:			GRAVES SENTENCES:			
COUNTY	NUMBER	%	NUMBER	%	% COUNTY ADM	NUMBER	%	% COUNTY: MAND MINS	ADM
SUSSEX	39	1%	12	1%	31%	6	1%	50%	15%
HUNTERDON	42	1%	15	1%	36%	6	1%	40%	14%
GLOUCESTER	81	1%	27	2%	33%	11	2%	41%	14%
ESSEX	1,147	18%	330	19%	29%	137	27%	42%	12%
UNION	463	7%	158	9%	34%	47	9%	30%	10%
HUDSON	470	7%	122	7%	26%	47	9%	39%	10%
MIDDLESEX	265	4%	77	5%	29%	25	5%	32%	9%
PASSAIC	592	9%	203	12%	34%	51	10%	25%	9%
CUMBERLAND	117	2%	17	1%	15%	10	2%	59%	9%
CAMDEN	583	9%	154	9%	26%	45	9%	29%	8%
BURLINGTON	149	2%	43	3%	29%	10	2%	23%	7%
BERGEN	356	6%	87	5%	24%	22	4%	25%	6%
SALEM	65	1%	12	1%	18%	4	1%	33%	6%
ATLANTIC	380	6%	82	5%	22%	23	4%	28%	6%
OCEAN	86	1%	10	1%	12%	5	1%	50%	6%
MONMOUTH	585	9%	134	8%	23%	34	7%	25%	6%
MERCER	341	5%	118	7%	35%	18	4%	15%	5%
MORRIS	153	2%	32	2%	21%	7	1%	22%	5%
SOMERSET	123	2%	28	2%	23%	2	< 1%	7%	2%
WARREN	65	1%	14	1%	22%	1	0%	7%	2%
CAPE MAY	63	1%	9	1%	14%	0	0%	0%	0%
UNCODED	214	3%	9	1%	4%	2	< 1%	22%	< 1%
TOTALS	6,379	100%	1,693	100%	27%	513	100%	30%	8%

## PART V - SENTENCING IMPACT

Analysis of sentencing data for offenders convicted under N.J.S.A. 2C:39-4 of possession of a firearm for unlawful purpose during the commission of a crime, indicates that in 262 of 513, or 51% of the 1984 Graves admissions, the firearms offense was merged with the base offense during sentencing (Figure 5). In 162 of 513, or 32% of the Graves cases were sentenced to concurrent terms for the firearms offense. Consecutive sentencing was not as prevalent, with only 20 of 513, or less than 4% receiving an additional prison sentence for the firearms offense. Possession of a firearm for unlawful purpose (2C:39-4) was the base offense in 56 of 513, or 11% of the 1984 Graves admissions.

Figure 5



### MERGED SENTENCING

In the largest segment of the 1984 Graves admissions (51%), the possession of a firearm for unlawful purpose was merged with

the base offense for sentencing purposes (Figure 5). In these cases, offenders received a parole ineligibility term of between one-third and one-half of the sentence imposed by the court for the base offense. The data presented here appears to be consistent with the data presented in Table 1, the "legislative intent" of the Graves Act, and the concept of merger which protects against double punishment for a single offense (N.J.S.A. 2C:1-8). Briefly, merger is a matter of legislative intent and refers to a process where the sentencing court, after a finding of guilt, incorporates "indistinguishable, contemporaneous separate offenses" into a single base offense for sentencing purposes to protect against double punishment for a conceptually single offense (*State v. Best*, 70 N.J. 56, 1976). The concept of merger has received a considerable amount of judicial scrutiny, particularly in cases where the possession of a weapon was involved in the commission of the base offense.<sup>10</sup> Generally, the courts have ruled that when the weapon possession charge and the base offense (i.e. armed robbery) resulted from the same criminal incident, or when the possession of a weapon elevates the severity of the offense to a higher degree<sup>11</sup>, the weapon possession charge will merge with the base offense for the purposes of sentencing (See *State v. Best*, 70 N.J. 56, 1976).

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<sup>10</sup>See *Blockburger v. U.S.*, 284 U.S. 299, 1932; *State v. Carlos*, 187 N.J. Super. 406, App. Div. 1982; *State v. Truglia*, 97 N.J. 513, 1984; *State v. Anderson*, 198 N.J. Super. 340, App. Div. 1985; *State v. Miller*, 108 N.J. 112, 1987; and *State v. Davis*, 68 N.J. 69, 1975.

<sup>11</sup>For example, the possession of a weapon is the force, or threat of force, often necessary to raise theft to robbery, thus, the offenses merge.



In some instances, the sentences imposed for certain base offenses ordinarily do not carry mandatory minimum terms. However, when these offenses are committed with a firearm, and although the weapon possession charge merges with the base offense not ordinarily subject to mandatory minimums, the Graves Act sentencing provision must be applied to that base offense (State v. Connell, 208 N.J. Super 688, App.Div., 1986).

#### CONCURRENT SENTENCING

As Table 8 indicates, 123 of 162, or 76% of the 1984 Graves offenders receiving concurrent sentences received a mandatory minimum sentence for the base offense enumerated in and indicated by the Graves Act, with no mandatory minimum term imposed for the possession of a firearm for unlawful purpose offense. This appears consistent with case law addressing when consecutive sentencing may be rendered (State v. Yarbough, 100 N.J. 627, 1985). For these cases, 42 of 123, or 34% were sentenced to a four year term for the possession of a firearm for unlawful purpose (Table 8). Since the presumptive term for third degree crimes is four years, it seems that in the majority of these cases, the firearms offense was a third degree crime. Graves offenders sentenced to a concurrent term without a mandatory minimum term imposed for the the possession of a firearm for unlawful purpose, received an average maximum concurrent sentence of 4 years, 8 months.

Table 8

CONCURRENT GRAVES SENTENCING DISTRIBUTION (WITHOUT MANDATORY MINIMUM TERMS)									
=====									
MAXIMUM TERM:									
1 YR	1.5 YRS	3 YRS	4 YRS	5 YRS	7 YRS	9 YRS	10 YRS	TOTAL	
=====									
1	6	19	42	34	11	1	9	123	
0.8%	4.9%	15.4%	34.1%	27.6%	8.9%	0.8%	7.3%	100.0%	

Of the 24%, or 39 of 162 Graves offenders receiving concurrent sentences with mandatory minimum terms for the possession of a firearm for unlawful purpose, the most frequent (46%) parole ineligibility term imposed was three years (Table 9).

Table 9

CONCURRENT GRAVES SENTENCING DISTRIBUTION (WITH MANDATORY MINIMUM TERMS)						
=====						
MINIMUM TERM:						
1.5 YRS	2 YRS	2.5 YRS	3 YRS	4 YRS	5 YRS	TOTAL
=====						
1	7	7	18	2	4	39
2.6%	17.9%	17.9%	46.2%	5.1%	10.3%	100.0%

As Table 10 indicates, 74 of 162, or in over 45% of the 1984 Graves cases receiving concurrent sentences for the firearms offense with mandatory minimum terms, the base offense was robbery. In cases where a concurrent term was imposed, the average mandatory minimum term for the base offense was a parole ineligibility term of 5 years, 3 months, with an average maximum sentence of 10 years, 7 months.

Table 10

CONCURRENT GRAVES SENTENCING MOST SERIOUS OFFENSE DISTRIBUTION		
=====		
VIOLENT OFFENSES:		
MURDER/MANSLAUGHTER	29	17.9%
KIDNAPPING	3	1.9%
RAPE	2	1.2%
ROBBERY	74	45.7%
ASSAULT	40	24.7%
OTHER PERSON OFFENSES	1	0.6%
	---	---
	149	92.0%
PROPERTY OFFENSES:		
BURGLARY	8	4.9%
LARCENY/THEFT	2	1.2%
	---	---
	10	6.2%
DRUG OFFENSES:		
TRAFFICKING	2	1.2%
POSSESSION	1	0.6%
	---	---
	3	1.9%
TOTAL	162	100.0%
=====		

#### POSSESSION OF A FIREARM FOR UNLAWFUL PURPOSE AS BASE OFFENSE

For 56 of 513, or approximately 11% of the Graves cases admitted to state prison in 1984, the possession of the firearm for unlawful purpose (2C:39-4) was the most serious offense, rather than one of the other offenses enumerated in the Graves Act. In these cases, the average mandatory minimum term was 3 years, with an average maximum term of 6 years, 5 months. The sentencing data appear to be consistent with the sentencing provisions of the Graves Act, which specifies a mandatory minimum term of 3 years, excluding fourth degree crimes.

#### CONSECUTIVE SENTENCING

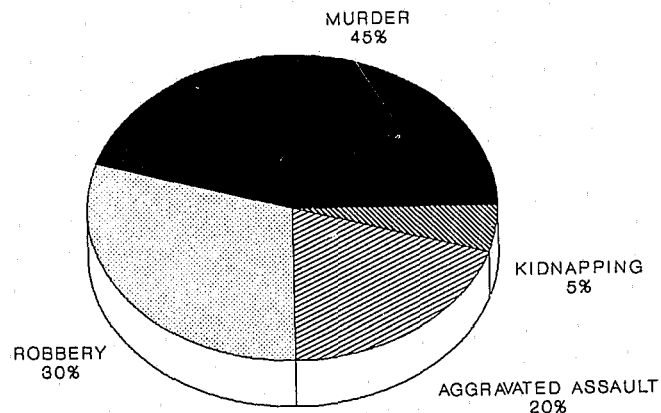
Approximately 4%, 20 of 513 of the Graves admissions in 1984 were sentenced to a consecutive term of imprisonment for the possession of a firearm for unlawful purpose. Apparently, these cases survived the merger test briefly described above and were considered "factually" or "legislatively intended" separable offenses. In 45%, 9 of 20 of the Graves cases sentenced to consecutive terms, the base offense was murder. For those receiving consecutive sentences for the firearms offense, the average mandatory minimum term imposed for the base offense was 9 years, 4 months, with an average maximum sentence of 16 years, 3 months. This compares to an average mandatory minimum term of 5 years, 3 months for the base offense, with an average maximum term of 10 years, 7 months for those offenders receiving concurrent sentences for the firearms offense. Lengthier sentences in cases where a consecutive term was imposed would support the notion that the circumstances surrounding the base

offense were more serious in nature.

Since the presumptive term for first degree offenses is 15 years, the sentencing data suggest that in the majority of the Graves cases receiving consecutive terms, the base offense was a first degree crime. The average term for the Graves portion of that sentence was a parole ineligibility term of 3 years, 8 months, with an average maximum term of 8 years, 2 months.

Figure 6

CONSECUTIVE GRAVES SENTENCING  
BASE OFFENSE DISTRIBUTION



## REFERENCES

- American Bar Association. (1983). Criminal Justice Section Task Force on Crime: Report to the House of Delegates. Washington, D.C.: American Bar Association.
- Beha, J.A. (1977). "And Nobody Can Get You Out" - The Impact of a Mandatory Prison Sentence for the Illegal Carrying of a Firearm on the Use of Firearms and on the Administration of Justice in Boston, Boston University Law Review, 57, (2): 99-146, 289-333.
- Buddingh, J.K. (1981). California's "Use a Gun - Go to Prison" Laws and Their Relationship to the Determinate Sentencing Scheme, Criminal Justice Journal, 5, (1): 297-323.
- Bureau of Justice Statistics. (1982). Violent Crime by Strangers. Washington, D.C.: U.S. Department of Justice.
- Bureau of Justice Statistics. (1984). The Severity of Crime. Washington, D.C.: U.S. Department of Justice.
- Carlson, K. (1982). Mandatory Sentencing: The Experience of Two States. Washington, D.C.: National Institute of Justice.
- Castellano, T.C. (1986). The Development and Implementation of New York's Gun Control Law: A Normative Perspective. Ann Arbor, MI: University Microfilms International. (Dissertation: SUNY - Albany).
- Colijn, G.J., Lester, D., and Slothouwer, A. (1985). Firearms and Crime in the Netherlands: A Comparison with the United States of America, International Journal of Comparative and Applied Criminal Justice, 9, (1): 49-55.
- Cook, P.J. (1976). A Strategic Choice in Robbery. In W. Skogan (Ed.), Sample Surveys of the Victims of Crime (p. 173-187). Cambridge, MA: Ballinger.
- Cook, P.J. (1979). The Effect of Gun Availability on Robbery and Robbery-Murder: A Cross-sectional Study of Fifty Cities. In R. Haveman and B. Zellner (Eds.), Policy Studies Review Annual (p. 743-781). Beverly Hills, CA: Sage.
- Cook, P.J. (1981). The Effect of Gun Availability on Violent Crime Patterns, The Annals of the American Academy of Political and Social Sciences, 455, (May): 63-79.
- Cook, P.J. (1985). The Case of the Missing Victims: Gunshot Woundings in the National Crime Survey, Journal of Quantitative Criminology, 1, (1): 91-102.
- Corbo, C.A. (1988). Release Outcome in New Jersey: 1982 Release Cohort. Newark, NJ: Criminal Disposition Commission.

- Deutsch, S.J., and Alt, F.B. (1977). The Effect of Massachusetts' Gun Control Law on Gun Related Crimes in the City of Boston, Evaluation Quarterly, 1, (4): 543-568.
- Dezee, M.R. (1982). Law, Policy, and Criminal Choice: A Box-Tiao Intervention Analysis of Florida's Mandatory Gun Law. Ann Arbor, MI: University Microfilms International. (Dissertation: The Florida State University).
- Garner, A., and Clancy, M. (1979). Firearm Statutes in the United States. Washington, D.C.: United States Conference of Mayors.
- Grant, D.M. (1983). An Empirical Examination of Michigan's Felony Firearm Statute. Ann Arbor, MI: University Microfilms International. (Dissertation: Michigan State University).
- Greenwood, P.W. (1983). Controlling the Crime Rate Through Imprisonment. In James Q. Wilson (Ed.), Crime and Public Policy, New Brunswick, NJ: Transaction Books.
- Heumann, M., and Lester, C. (1979). Mandatory Sentencing and the Abolition of Plea Bargaining: The Michigan Felony Firearm Statute, Law and Society Review, 13, (2): 393-430.
- Holmberg, J.V., Clancy, M., Guziec, J., and Nichols, P.D. (1977). People vs. Handguns: The Campaign to Ban Handguns in Massachusetts. Washington, D.C.: United States Conference of Mayors.
- Jacobs, J.B. (1986). Exceptions to a General Prohibition on Handgun Possession: Do They Swallow Up the Rule? Law and Contemporary Problems, 49, (1): 5-34.
- Jones, E.D. (1981). The District of Columbia's Firearms Control Act of 1975: The Toughest Handgun Control Law in the United States - Or Is It? The Annals of the American Academy of the Political and Social Sciences, 455, (May): 138-149.
- Kates, D.B. (Ed.). (1979). Restricting Handguns: The Liberal Skeptics Speak Out. North River Press Inc.
- Kates, D.B. (1983). Introduction, Law and Policy Quarterly, 5, (3): 261-270.
- Kates, D.B. (Ed.). (1984). Firearms and Violence: Issues of Public Policy. San Francisco, CA: Pacific Institute for Public Policy Research.
- Kleck, G. (1986). Policy Lessons from Recent Gun Control Research, Law and Contemporary Problems, 49, (1): 35-62.

- Kleck, G., and Bordua, D.J. (1983). The Factual Foundation for Certain Key Assumptions of Gun Control, Law and Policy Quarterly, 5, (3): 271-298.
- Kukla, R.J. (1973). Gun Control: A Written Record of Efforts to Eliminate the Private Possession of Firearms in America. Harrisburg, PA: Stackpole Books.
- Langan, P.A., and Innes, C.A. (1985). The Risk of Violent Crime. Washington, D.C.: U.S. Department of Justice.
- Leepson, M., and Gimlin, H. (1981). Violent Crime's Return to Prominence. Washington, D.C.: Congressional Quarterly Inc.
- Lester, D. (1985). The Use of Firearms in Violent Crime, Journal of Criminal Justice, 8, p.115-120.
- Lester, D., and Murrell, M.E. (1986). The Influence of Gun Control Laws on Personal Violence, Journal of Community Psychology, 4, (3): 315-318.
- Lizotte, A., and Zatz, M.S. (1986). The Use and Abuse of Sentence Enhancement for Firearms in California, Law and Contemporary Problems, 49, (1): 199-221.
- Loftin, C., and McDowall, D. (1981). One With a Gun Gets You Two: Mandatory Sentencing and Firearms Violence in Detroit, The Annals of the American Academy the Political and Social Sciences, 455, (May): 150-167.
- Loftin, C., Heumann, M., and McDowall, D. (1983). Mandatory Sentencing and Firearms Violence: Evaluating an Alternative to Gun Law, Law and Society Review, 17, (2): 287-318.
- Loftin, C., and McDowall, D. (1984). The Deterrent Effects of the Florida Felony Firearm Law, Journal of Criminal Law and Criminology, 75, (1): 250-259.
- Margarita, M. (1987). The 1980 New York Gun Law: An Evaluation of its Implementation and Impact. Washington, D.C.: National Institute of Justice.
- Moore, M.H. (1983). Controlling Criminogenic Commodities: Drugs, Guns, and Alcohol. In James Q. Wilson (Ed.), Crime and Public Policy. New Brunswick, NJ: Transaction Books.
- Moore, M.H. (1981). Keeping Handguns From Criminal Offenders, The Annals of the American Academy of the Political and Social Sciences, 455, (May): 92-109.
- Pennsylvania Commission on Crime and Delinquency. (1986). The Effects of Five Year Mandatory Sentencing in Pennsylvania. Harrisburg, PA: Bureau of Statistics and Policy Research.

- Pierce, G.L., and Bowers, W.J. (1981). The Bartley-Fox Gun Law's Short Term Impact on Crime in Boston, The Annals of the American Academy of the Political and Social Sciences, 455, (May): 120-137.
- Pierce, G.L., and Bowers, W.J. (1979). The Impact of the Bartley-Fox Gun Law on Crime in Massachusetts. Boston, MA; Northeastern University.
- Rand, M.R. (1987). Violent Crime Trends. Washington, D.C.: U.S. Department of Justice.
- Rand, M., DeBerry, M., Klaus, P., and Taylor, B. (1986). The Use of Weapons in Committing Crimes. Washington, D.C.: U.S. Department of Justice.
- Rossmann, D., Froyd, P., Pierce, G.L., McDevitt, J., and Bowers, W.J. (1980). The Impact of Massachusetts' Mandatory Minimum Sentence Gun Law. Boston, MA: Boston University School of Law.
- Rossmann, D., Froyd, P., Pierce, G.L., McDevitt, J., and Bowers, W.J. (1980). Massachusetts' Mandatory Minimum Sentence Gun Law: Enforcement, Prosecution, and Defense Impact, Criminal Law Bulletin, 16, (2): 150-163.
- Santarelli, D.E., and Calio, N.E. (1982). Turning the Gun Law on Tort Law: Aiming at Courts to Take Products Liability to the Limit. Washington, D.C.: Washington Legal Foundation.
- Sherman, L.W. (1980). The Police and the Mandatory Gun Law, Criminal Law Bulletin, 16, (2): 164-167.
- Singer, L., Dumin, M., and Lake, J. (1985). 1983 Violent Felony and Firearm Offenses in New York State. Albany, NY: New York State Division of Criminal Justice Services.
- Skalnik-Leff, C., and Leff, M.H. (1981). The Politics of Ineffectiveness: Federal Firearms Legislation, 1919-1938, The Annals of the American Academy of the Political and Social Sciences, 455, (May): 48-62.
- Stout, B.D. (1989). An Empirical Assessment of the Impact of the Graves Act on the Weapons Involvement Character of Violent Crime in New Jersey. (Dissertation: Rutgers - The State University of New Jersey).
- Timrots, A.D., and Rand, M.R. (1987). Violent Crime by Strangers and Nonstrangers. Washington, D.C.: U.S. Department of Justice.
- Tonso, W.R. (1983). Social science and Sagecraft in the Debate Over Gun Control, Law and Policy Quarterly, 5, (3): 325-343.



United States Congress. (1982). Federal Regulation of Firearms: A Report Prepared for the Use of the Committee on the Judiciary, 97th Congress. Washington, D.C.: United States Government Printing Office.

United States General Accounting Office. (1985). Statistics on Sentences and Parole for Federal Offenders Who Commit Crimes Involving Firearms, Washington, D.C.: United States Government Printing Office.

Wilson, J.Q. (1983). Crime and Public Policy. New Brunswick, NJ: Transaction Books.

Wright, J.D. (1981). Public Opinion and Gun Control: A Comparison of Results from Two Recent Studies, The Annals of the American Academy of the Political and Social Sciences, 455, (May): 24-39.

Wright, J.D., and Rossi, P.H. (1981). Weapons, Crime, and Violence in America. Washington, D.C.: National Institute of Justice.

Wright, J.D., and Rossi, P.H. (1985). The Armed Criminal in America: A Survey of Incarcerated Felons. Washington, D.C.: National Institute of Justice.

Zimring, F.E. (1985). Violence and Firearms Policy. In Lynn A. Curtis (Ed.), American Violence and Public Policy. New Haven, Conn: Yale University Press.

APPENDIX A  
GRAVES STUDY CODING FORM

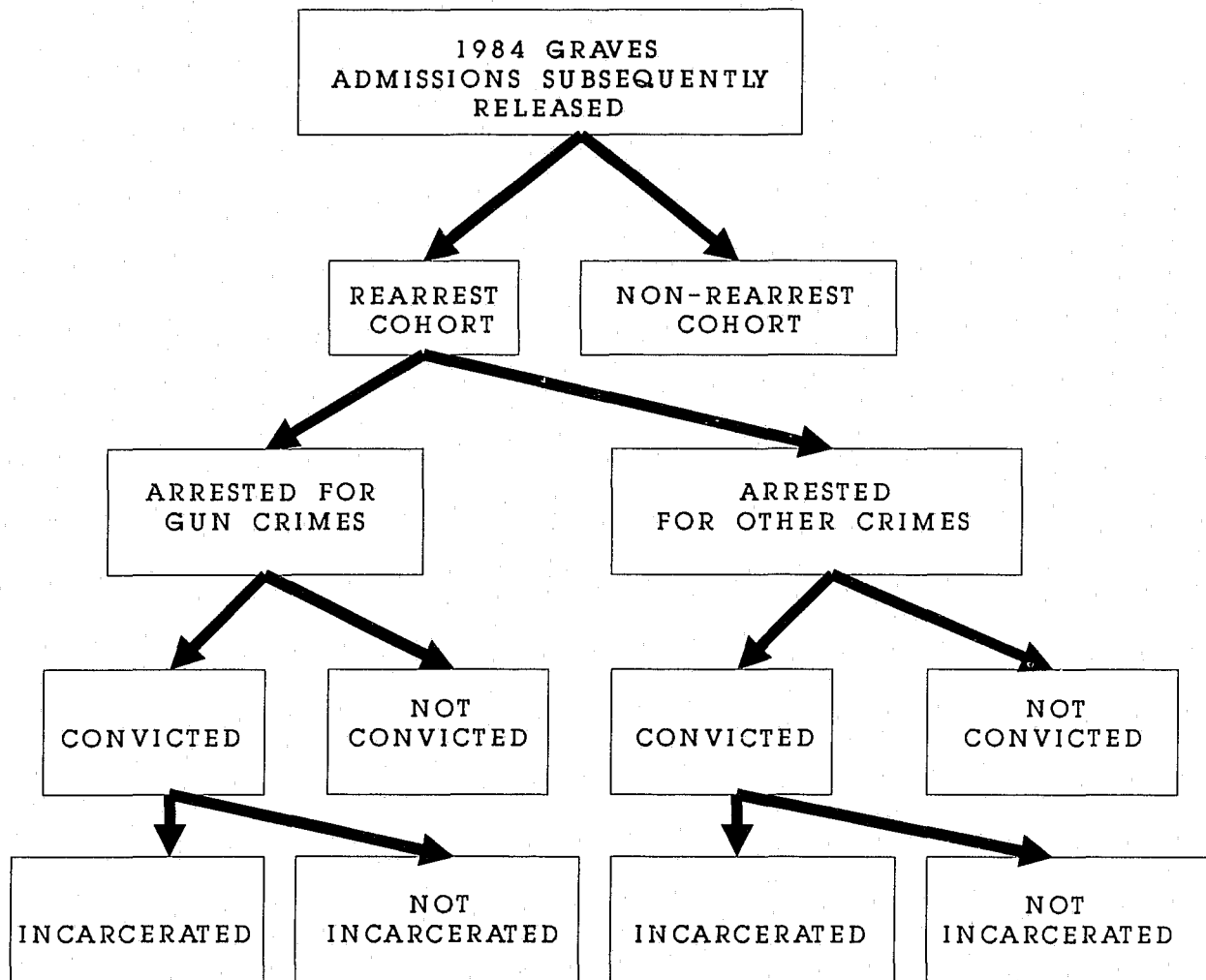
NAME: \_\_\_\_\_  
INSTITUTION: \_\_\_\_\_  
PRISON #: \_\_\_\_\_ SBI #: \_\_\_\_\_  
BIRTHDATE: \_\_\_\_\_ SEX: \_\_\_\_\_  
RACE: \_\_\_\_\_ MARITAL: \_\_\_\_\_  
DET/INDET: \_\_\_\_\_ COUNTY: \_\_\_\_\_

OFFENSES IN ORDER OF SERIOUSNESS		
STATUTE:	DESCRIPTION & DEGREE:	SENTENCE:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

TOTAL TERM: \_\_\_\_\_  
GRAVES? (Y/N): \_\_\_\_\_  
ARREST DATE: \_\_\_\_\_  
CONVICTN DATE: \_\_\_\_\_  
SENTENCE DATE: \_\_\_\_\_  
JAIL CREDITS: \_\_\_\_\_  
BAIL: \_\_\_\_\_  
PAROLE DATE: \_\_\_\_\_

PAROLE RELEASE AT FIRST ELIGIBILITY? (Y/N): \_\_\_\_\_  
NUMBER OF MONTHS UNTIL NEXT PAROLE HEARING: \_\_\_\_\_

APPENDIX B  
PHASE II - RELEASE OUTCOME REPORT



## APPENDIX C

## DISTRIBUTION OF ADMISSION TYPE BY RACE/ETHNICITY AND BASE OFFENSE (HORIZONTAL PERCENTAGES)

BASE OFFENSE	1984 ADULT ADMISSIONS									1984 NEW COURT ADMISSIONS WITH MANDATORY MINS					GRAVES ADMISSIONS																	
	UNCODED		BLACK		WHITE		HISPANIC		ASIAN		TOTAL		UNCODED		BLACK		WHITE		HISPANIC		TOTAL		UNCODED		BLACK		WHITE		HISPANIC		TOTAL	
UNCODED	2	3%	47	64%	19	26%	5	7%			73	100%	2	12%							2	100%										
VIOLENT OFFENSES:																																
MURDER/MANSLAUGHTER	4	2%	142	54%	73	28%	44	17%			263	100%			103	56%	63	34%	18	10%	184	100%		41	54%	25	33%	10	13%	76	100%	
KIDNAPPING			30	59%	13	25%	8	16%			51	100%			21	68%	4	13%	6	19%	31	100%		5	63%	1	13%	2	25%	8	100%	
RAPE			113	39%	139	48%	36	13%			288	100%	2	2%	31	37%	44	53%	6	7%	83	100%		2	67%	1	13%			3	100%	
OTHER SEXUAL OFFENSES			10	29%	22	65%	2	6%			34	100%			1	1%	5	83%			6	100%										
ROBBERY	7	1%	963	71%	237	17%	153	11%	3	<1%	1,363	100%	5	1%	367	74%	82	17%	41	8%	495	100%	2	1%	167	72%	42	18%	20	9%	231	100%
ASSAULT	6	1%	341	55%	179	29%	93	15%	1	<1%	620	100%	1	1%	108	60%	48	27%	22	12%	179	100%	1	1%	66	64%	26	25%	10	10%	103	100%
OTHER PERSON OFFENSES			4	36%	6	55%	1	9%			11	100%			4	40%	5	50%	1	10%	10	100%		1	100%						1	100%
	--		-----		---	---	-	-----			---		-		---	---	--	---			---		-	---	---	--	---					
TOTAL VIOLENT	17	1%	1,603	61%	669	25%	337	13%	4	<1%	2,630	100%	8	1%	635	64%	251	25%	94	10%	988	100%	3	1%	282	67%	95	23%	42	10%	422	100%
PROPERTY OFFENSES:																																
BURGLARY	2	<1%	580	47%	513	41%	150	12%			1,245	100%	2	1%	106	47%	104	46%	15	7%	227	100%		5	19%	19	73%	2	8%	26	100%	
LARCENY/THEFT	4	1%	241	50%	193	40%	40	8%			478	100%			34	44%	37	48%	6	8%	77	100%		1	25%	3	75%			4	100%	
ARSON	1	1%	21	24%	50	57%	15	17%			87	100%			4	27%	10	67%	1	7%	15	100%										
FRAUD/FORGERY			45	48%	46	49%	3	3%			94	100%			5	42%	7	58%			12	100%										
RECEIVING STOLEN PROP			114	49%	73	32%	43	19%	1	<1%	231	100%			20	63%	6	19%	6	19%	32	100%										
	-		-----		---	---	-	-----			---		-		---	---	--	---			---		-	---	---	--	---					
TOTAL PROPERTY	7	<1%	1,001	47%	875	41%	251	12%	1	<1%	2,135	100%	2	<1%	169	47%	164	45%	28	8%	363	100%		6	20%	22	73%	2	7%	30	100%	
DRUG OFFENSES:																																
TRAFFICKING	3	<1%	348	44%	176	22%	263	33%	1	<1%	791	100%	2	1%	81	44%	57	31%	45	24%	185	100%		1	50%	1	50%			2	100%	
POSSESSION			174	59%	61	21%	58	20%	1	<1%	294	100%			30	59%	11	22%	10	20%	51	100%		1	33%	2	67%			3	100%	
	-		---		---	---	-	---			---		-		---	---	--	---			---		-	---	---	--	---					
TOTAL DRUG	3	<1%	522	48%	237	22%	321	30%	2	<1%	1,085	100%	2	1%	111	47%	68	29%	55	23%	236	100%		2	40%	3	60%			5	100%	
PUBLIC ORDER OFFENSES:																																
WEAPONS	2	1%	136	56%	77	32%	29	12%			244	100%	2	2%	40	49%	30	37%	10	12%	82	100%	2	4%	28	50%	19	34%	7	13%	56	100%
ESCAPE			12	43%	13	46%	3	11%			28	100%				1	1%															
OTHER PUBLIC ORDER	1	1%	67	36%	86	47%	29	6%	1	<1%	184	100%	1	5%	8	38%	11	52%	1	5%	21	100%										
OFFENSES	-		---		---	---	-	---			---		-		---	---	--	---			---		-	---	---	--	---					
TOTAL PUBLIC ORDER	3	1%	215	47%	176	39%	61	13%	1	<1%	456	100%	3	3%	48	46%	42	40%	11	11%	104	100%	2	4%	28	50%	19	34%	7	13%	56	100%
TOTAL	32	1%	3,388	53%	1,976	31%	975	15%	8	<1%	6,379	100%	17	1%	963	57%	525	31%	188	11%	1,693	100%	5	1%	318	62%	139	27%	51	10%	513	100%

## APPENDIX D

## DISTRIBUTION OF ADMISSION TYPE BY RACE/ETHNICITY AND BASE OFFENSE (VERTICAL PERCENTAGES)

BASE OFFENSE	1984 ADULT ADMISSIONS										1984 NEW COURT ADMISSIONS WITH MINS						GRAVES ADMISSIONS											
	UNCODED		BLACK		WHITE		HISPANIC		ASIAN	TOTAL	UNCODED		BLACK		WHITE		HISPANIC		TOTAL	UNCODED		BLACK		WHITE		HISPANIC		TOTAL
UNCODED	2	6%	47	1%	19	1%	5	1%		73	2	12%							2									
VIOLENT OFFENSES:																												
MURDER/MANSLAUGHTER	4	13%	142	4%	73	4%	44	5%		263			103	11%	63	12%	18	10%	184			41	13%	25	18%	10	20%	76
KIDNAPPING			30	1%	13	1%	8	1%		51			21	2%	4	1%	6	3%	31			5	2%	1	1%	2	4%	8
RAPE			113	3%	139	7%	36	4%		288	2	12%	31	3%	44	8%	6	3%	83			2	1%	1	1%			3
OTHER SEXUAL OFFENSES			10	<1%	22	1%	2	<1%		34			1	<1%	5	1%			6									
ROBBERY	7	22%	963	28%	237	12%	153	16%	3	38%	5	29%	367	38%	82	16%	41	22%	495	2	40%	167	53%	42	30%	20	39%	231
ASSAULT	6	19%	341	10%	179	9%	93	10%	1	13%	1	6%	108	11%	48	9%	22	12%	179	1	20%	66	21%	26	19%	10	20%	103
OTHER PERSON OFFENSES			4	<1%	6	<1%	1	<1%		11			4	<1%	5	1%	1	1%	10			1	<1%					1
-----																												
TOTAL VIOLENT	17	53%	1,603	47%	669	34%	337	35%	4	50%	8	47%	635	66%	251	48%	94	50%	988	3	60%	282	89%	95	68%	42	82%	422
PROPERTY OFFENSES:																												
BURGLARY	2	6%	580	17%	513	26%	150	15%		1,245	2	12%	106	11%	104	20%	15	8%	227			5	2%	19	14%	2	4%	26
LARCENY/THEFT	4	13%	241	7%	193	10%	40	4%		478			34	4%	37	7%	6	3%	77			1	<1%	3	2%			4
ARSON	1	3%	21	1%	50	3%	15	2%		87			4	<1%	10	2%	1	1%	15									
FRAUD/FORGERY			45	1%	46	2%	3	<1%		94			5	1%	7	1%			12									
RECEIVING STOLEN PROP			114	3%	73	4%	43	4%	1	13%			20	2%	6	1%	6	3%	32									
-----																												
TOTAL PROPERTY	7	22%	1,001	30%	875	44%	251	26%	1	13%	2	12%	169	18%	164	31%	28	15%	363			6	2%	22	16%	2	4%	30
DRUG OFFENSES:																												
TRAFFICKING	3	9%	348	10%	176	9%	263	27%	1	13%	2	12%	81	8%	57	11%	45	24%	185			1	0%	1	1%			2
POSSESSION			174	5%	61	3%	58	6%	1	13%			30	3%	11	2%	10	5%	51			1	0%	2	1%			3
-----																												
TOTAL DRUG	3	9%	522	15%	237	12%	321	33%	2	25%	2	12%	111	12%	68	13%	55	29%	236			2	1%	3	2%			5
PUBLIC ORDER OFFENSES:																												
WEAPONS	2	6%	136	4%	77	4%	29	3%		244	2	12%	40	4%	30	6%	10	5%	82	2	40%	28	9%	19	14%	7	14%	56
ESCAPE			12	<1%	13	1%	3	<1%		28					1	<1%			1									
OTHER PUBLIC ORDER OFFENSES	1	3%	67	2%	86	4%	29	3%	1	13%	1	6%	8	1%	11	2%	1	1%	21									
-----																												
TOTAL PUBLIC ORDER	3	9%	215	6%	176	9%	61	6%	1	13%	3	18%	48	5%	42	8%	11	6%	104	2	40%	28	9%	19	14%	7	14%	56
-----																												
TOTAL	32	100%	3,388	100%	1,976	100%	975	100%	8	100%	17	100%	963	100%	525	100%	188	100%	1,693	5	100%	318	100%	139	100%	51	100%	513

# APPENDIX E

## GRAVES OFFENDERS MOST SERIOUS OFFENSE DISTRIBUTION BY COUNTY

MOST SERIOUS OFFENSE	ATLANTIC	BERGEN	BURLNGTN	CAMDEN	CUMBERLND	ESSEX	GLOUCSTR	HUDSON	HUNTERDN	MERCER	MIDDLESEX
VIOLENT OFFENSES:											
MURDER/MANSLAUGHTER	1 4%	5 23%		5 11%		28 20%	3 27%	11 23%	1 17%	2 11%	5 20%
KIDNAPPING						4 3%			1 17%		
RAPE				2 4%							
ROBBERY	12 52%	14 64%	7 70%	18 40%	4 40%	68 50%	2 18%	23 49%		6 33%	10 40%
ASSAULT	3 13%	1 5%	2 20%	15 33%	4 40%	27 20%	1 9%	7 15%	2 33%	6 33%	4 16%
OTHER PERSON OFFENSES	1 4%										
	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --
	17 74%	20 91%	9 90%	40 89%	8 80%	127 93%	6 55%	41 87%	4 67%	14 78%	19 76%
PROPERTY OFFENSES:											
BURGLARY	3 13%	1 5%		1 2%	2 20%	1 1%	2 18%	1 2%	1 17%		2 8%
LARCENY/THEFT									1 17%		
	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
	3 13%	1 5%		1 2%	2 20%	1 1%	2 18%	1 2%	2 33%		2 8%
DRUG OFFENSES:											
TRAFFICKING						1 1%					1 4%
POSSESSION	1 4%			1 2%						1 6%	
	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
	1 4%			1 2%		1 1%				1 6%	1 4%
PUBLIC ORDER OFFENSES:											
WEAPONS	2 9%	1 5%	1 10%	3 7%		8 6%	3 27%	5 11%		3 17%	3 12%
OTHER PUBLIC ORDER OFFENSES	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -
	2 9%	1 5%	1 10%	3 7%		8 6%	3 27%	5 11%		3 17%	3 12%
TOTAL	23 100%	22 100%	10 100%	45 100%	10 100%	137 100%	11 100%	47 100%	6 100%	18 100%	25 100%

## APPENDIX E (CONTINUED)

 GRAVES OFFENDERS  
 MOST SERIOUS OFFENSE DISTRIBUTION BY COUNTY

MOST SERIOUS OFFENSE	MONMOUTH	MORRIS	OCEAN	PASSAIC	SALEM	SOMERSET	SUSSEX	UNION	WARREN	UNCODED	TOTAL GRAVES
VIOLENT OFFENSES:											
MURDER/MANSLAUGHTER	2 6%	1 14%	1 20%	3 6%				8 17%			76 15%
KIDNAPPING	1 3%			2 4%							8 2%
RAPE			1 20%								3 1%
ROBBERY	8 24%	1 14%		26 51%	2 50%		3 50%	24 51%	1 100%	2 100%	231 45%
ASSAULT	10 29%	3 43%		10 20%	2 50%	1 50%	2 33%	3 6%			103 20%
OTHER PERSON OFFENSES	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	1 < 1%
	21 62%	5 71%	2 40%	41 80%	4 100%	1 50%	5 83%	35 74%	1 100%	2 100%	422 82%
PROPERTY OFFENSES:											
BURGLARY	6 18%	2 29%	2 40%	1 2%				1 2%			26 5%
LARCENY/THEFT	1 3%			1 2%		1 50%					4 1%
	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --
	7 21%	2 29%	2 40%	2 4%		1 50%		1 2%			30 6%
DRUG OFFENSES:											
TRAFFICKING											2 0%
POSSESSION											3 1%
											-- --
											5 1%
PUBLIC ORDER OFFENSES:											
WEAPONS	6 18%		1 20%	8 16%			1 17%	11 23%			56 11%
OTHER PUBLIC ORDER OFFENSES	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --	-- --
	6 18%		1 20%	8 16%			1 17%	11 23%			56 11%
TOTAL	34 100%	7 100%	5 100%	51 100%	4 100%	2 100%	6 100%	47 100%	1 100%	2 100%	513 100%