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CRIMINAL COURTS TECHNICAL ASSISTANCE PROJECT
Institute for Advanced Studies in Justice
The American University Law School
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OVERVIEW OF STATE AND LOCAL
SENTENCING GUIDELINES ACTIVITY

March 1979

NCJRS

JAN 15 1980

ACQUISITIONS

Prepared by:

Criminal Courts Technical Assistance Project

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FOREWORD

In the Fall of 1978, the Courts Technical Assistance Project began a telephone survey of each state to determine what, if any, sentencing reform activities were underway and, specifically, whether any sentencing guidelines projects were being undertaken. Initially, state planning agencies and/or state court administrative offices were contacted. Where activities were underway, additional calls were made to the appropriate state or local officials involved in the projects. As of March 1979, all 50 states and the District of Columbia have been contacted and, with the exception of South Carolina, information has been obtained from each of these jurisdictions.

Attached is a summary of the status of sentencing reform activities, by state. Specific attention has been given to sentencing guidelines projects underway or planned. Additional information on existing state provisions for appellate review of sentences has also been included for many of the jurisdictions.

In all, twenty sentencing projects are currently underway. Thirteen of these are occurring at the state level,¹ with the remaining seven projects² conducted in local court systems. In addition, ten jurisdictions (five state³ and five local⁴) plan to begin a project shortly.

The focus and scope of these projects vary significantly. Some are designed to analyze sentencing practices per se,⁵ without any mandate to develop sentencing guidelines; others, however, are specifically directed to use this analysis to develop guidelines.⁶ In some cases, the projects are being undertaken at the initiative of the judiciary or the Parole Board; in other cases, they are responding to specific legislative mandates.

The methodologies for the projects also vary considerably; particularly in terms of the extent of data used, the procedures employed for collection, and the type of analysis performed.

Most of the projects are still in a research phase. For those which are sentencing studies only, results will be submitted to the appropriate supervisory body which will determine what further action, if any, will be undertaken in the jurisdictions. Those projects which are geared to the actual development of guidelines, however, will follow up the research and testing phase with activities designed to secure judicial, legislative or other support required to make the guidelines operational.

Of the twenty sentencing projects described, seven have achieved the operational stage.⁷ Although periodic monitoring and evaluation of the guidelines is a built-in feature of each of these projects, a number of issues have been raised during the implementation period, i.e. dealing with subsequent legislation affecting the guidelines developed, obtaining necessary case information, etc. These issues are still to be resolved.

Readers of the overview are encouraged to report to the Courts Technical Assistance Project appropriate update information on sentencing reform activities in the jurisdictions described.

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- 1) Alaska, Connecticut, Florida, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Oregon, Rhode Island, Utah, Washington, Wisconsin.
 - 2) Maricopa Co., Arizona; Denver, Colorado; Cook Co., Illinois; Topeka, Kansas; Lucas Co., Ohio; Essex Co., New Jersey (terminated because statewide guidelines became operational); Philadelphia, Pennsylvania.
 - 3) Florida (completed a preliminary sentencing study; now plans to begin sentencing guidelines development project); Maryland, Georgia, Montana, Pennsylvania.
 - 4) Clayton Co., Georgia; Orleans Parish, Louisiana; Montgomery Co., Ohio; Hamilton Co., Ohio; Cuyahoga Co., Ohio.
 - 5) Florida, North Dakota, Rhode Island, Wisconsin.
 - 6) Alaska; Maricopa Co., Arizona; Denver, Colorado; Connecticut; Cook Co., Illinois; Topeka, Kansas; Lucas Co., Ohio; Massachusetts; Michigan; Minnesota; New Jersey; Essex Co., New Jersey (now terminated); Oregon; Philadelphia, Pennsylvania; Utah; Washington.
 - 7) Maricopa Co., Arizona; Denver, Colorado; Cook Co., Illinois; Lucas Co., Ohio; Essex Co., New Jersey (now terminated); New Jersey; Oregon

STATUS OF
ACTIVITYState Level

No sentencing guidelines activity is presently occurring in Alabama. The state recently passed a new Criminal Code which retains the state's basic determinant sentencing structure but creates classifications of crimes and narrows slightly judicial discretion in sentencing. The Code will become effective in June 1979. Recently, the Office of the State Court Administrator expanded the range of sentencing information which it collects. This expanded data base may eventually be used to conduct a statewide sentencing study.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None unless the sentence is outside the maximum provisions allowed by statute.

POSSIBLE
T/A NEEDS

None

PERSONS
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Alaska is presently developing sentencing guidelines with state funding. The data base for the guidelines was collected during the course of a \$389,000 plea bargaining study funded by the National Institute of Law Enforcement and Criminal Justice. During this study, information on 200 variables for 3,500 cases was collected.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Sentences of over one year are appealable on grounds of excessiveness. The state can also appeal to the Supreme Court on the grounds that the sentence is too lenient. The Supreme Court can only reverse the sentence, however; the sentence cannot be lengthened.

POSSIBLE
T/A NEEDS

None foreseeable. The Judicial Council has spoken with Jack Kress regarding the project and feels that, with the existing statistical base and the expertise of the Judicial Council staff, no outside assistance is needed at this point.

PERSON
CONTACTED

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Anchorage, Alaska 99501
907/274-8611

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

No statewide sentencing guidelines activity is being conducted in Arizona. The state has an Indeterminant Sentencing Law which has been retained even after the new criminal code became effective October 1, 1978. The new Code changes some sentence lengths and establishes a presumptive sentencing scheme.

Local Level

Sentencing Guidelines have been developed in Maricopa County (Phoenix) under a grant from LEAA's NILECJ. The guidelines have been in use for approximately one year. An analysis has been made of the correlation between the sentences recommended by the guidelines and those actually given during the implementation period. Preliminary results of this analysis indicate that the guidelines are being followed in 85% of the cases where the length of sentence is at issue. If the correlation is found to be weak in any area, the Guidelines will be revised. It is anticipated, however, that the presumptive sentencing scheme established by the new criminal code will reduce the range of cases to which guidelines can be applied. While the in/out decision is still subject to guideline considerations, the terms of probation and/or incarceration are not.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Only for serious abuse of discretion

POSSIBLE
T/A NEEDS

The Maricopa County Court may request assistance to assess the implications of the new criminal code on the guidelines developed.

PERSON
CONTACTED

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INDIVIDUAL
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602/262-3471

UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

Arkansas is not presently developing sentencing guidelines. A new criminal code, effective since 1975, revised the classification of crimes and some sentence provisions.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None, unless sentence exceeds statutory levels.

POSSIBLE
T/A NEEDS

None

PERSONS
CONTACTED

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Little Rock, Arkansas 72201
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UPDATE
INFORMATION

CALIFORNIA

STATUS OF
ACTIVITY

State Level

For all crimes committed prior to July 1, 1977, California applied an indeterminate sentencing scheme under which the principal decision of the judge was whether or not to incarcerate. The length of prison stay for those incarcerated was determined by the parole board. For crimes committed after July 1, 1977, a determinant sentencing scheme, established by statute, permits the judge to make a sentencing decision based on a narrow range of sentence lengths established for specified crimes. The new statute vests responsibility for collecting and analyzing sentencing data in the State Judicial Council. Preliminary analysis of data collected thus far indicates (1) there is apparent political pressure for raising sentence lengths; (2) prison populations are increasing primarily because less serious felonies are sentenced to state prison rather than to jail and probation (judges apparently feel more comfortable giving prison terms because they know the sentence is not of indefinite length); and (3) some of the discretion which has been removed from the parole board has moved to the prosecutor function where plea bargaining is deemed an effective method for controlling sentence length.

Local Level

None

PROVISIONS
FOR APPELLATE
REVIEW OF
SENTENCING

The new sentencing law originally provided for appellate review. Although this provision was not completed in the final version of the draft, it is generally felt that the new procedural requirement for sentence determinations will permit considerable opportunity for sentence review.

POSSIBLE
T/A NEEDS

If interest in sentencing guidelines is sufficient an education seminar would be desirable.

PERSON
CONTACTED

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UPDATE
INFORMATION

* Directing LEAA project comparing sentencing systems of California and Oregon

STATUS OF
ACTIVITY

State Level

There is apparently no interest in developing statewide sentencing guidelines at this time. It is anticipated that local development will continue, however, on a judicial district-by-district basis.

Local Level

Denver (the 2nd Judicial District of Colorado) was the first jurisdiction to implement sentencing guidelines in the United States. The City was one of four sites participating in the Sentencing Guidelines Feasibility Study undertaken by the Criminal Justice Research Center (CJRC) under the sponsorship of LEAA's NILECJ. Actual use of the guidelines began in accordance with the design established by CJRC. The Colorado Judicial Department is now collecting data on present sentencing decisions to permit comparison with the sentencing grids established for the guidelines and modification of the grids as necessary. These comparisons are made at six-month intervals. As of the last comparison (May 1978) no grid changes have been found necessary.

Colorado Springs (the 4th Judicial District of Colorado) is now considering the possibility of developing sentencing guidelines for that district. The State Judicial Department is presently assessing the adequacy of existing data as a basis for developing sentencing grids.

PROVISIONS
FOR APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

T/A may be needed in Colorado Springs in the next few months. The precise nature of that assistance, however, cannot be determined at this point.

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Hon. Susan G. Barnes
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

No sentencing guidelines activity is presently occurring in Delaware. In 1975, the Delaware Legislature passed a criminal code revision which included provisions for mandatory sentencing. These provisions were designed to reduce sentencing disparity in the state. One result of the law, however, has been to increase the prison population. The Delaware Criminal Justice Planning Commission (SPA) is currently applying for funds from the National Institute of Corrections to study this problem. Although guidelines are not presently under consideration, if the proposed study is undertaken, their development may be a result of recommendations.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSON
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UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

The District of Columbia has just completed a study by the Law Reform Commission which was submitted to Congress. The Commission did not specifically propose Sentencing Guidelines, but its proposals are not inconsistent with guidelines development. The study recommends the establishment of a determinant sentencing with 15% leeway in either direction. This leeway is an area in which guidelines might be desirable. However, the process of Congressional implementation of the proposals may take some time.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None at present

PERSONS
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

During the past year, the State Court Administrator's Office (AOC) has conducted a research study, funded by LEAA block grant support, to gather information on sentencing practices in the state. An Advisory Committee composed of judges, prosecutors and public defenders was established to work with the AOC staff on the projects. As a result of that study, a recommendation was made to the Florida Supreme Court that the state develop sentencing guidelines and also establish sentencing review panels composed of three circuit judges to review, on appeal, sentences outside of the guidelines.

The AOC has applied for funds under NILECJ's Multi-Jurisdictional Test Design Program to conduct a sentencing guidelines study. Included in the proposed study are an analysis of a 1000 case date sample collected from the state's twenty judicial circuits; examination of pre-sentence investigation reports; a study of the effect of plea bargaining on the sentence decision-making process and an examination of the feasibility of developing guidelines for misdemeanor offenses.

Local Level

None

PROVISIONS FOR
APPELLATE REVIEW
OF SENTENCING

None

POSSIBLE
T/A NEEDS

T/A may be needed to assist the AOC with the design of the pleas bargaining study, to develop data collection procedures for the sentencing study and to orient judges and other justice system staff to the use of sentencing guidelines.

PERSONS
CONTACTED

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Sentencing Study
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UPDATE
INFORMATION

GEORGIA

STATUS OF
ACTIVITY

State Level

The Georgia Administrative Office of the Courts (AOC) has applied for funds to develop sentencing guidelines under NILECJ's Multi-Jurisdictional Test Design Program. A decision on that application is expected shortly.

Local Level

The Courts Technical Assistance Project is presently providing technical assistance to the Clayton County Superior Court, a 3-judge court in suburban Atlanta, for the purpose of developing and implementing a local sentencing guidelines program. Since existing data is not adequate for guidelines development, the Project's technical assistance services are being used at this point to assist the court in collecting data on future sentencing decisions and upon developing a set of informal guidelines for interim use.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Appellate review of sentencing has existed in Georgia for three years. A 3-judge panel composed of trial court judges who are rotated every three months reviews all petitions for review of sentences of 5 years or more. The panel is empowered to lower but not raise the sentence. Over the 3-year period in which this review has taken place, 7% of the approximately 3,000 sentences reviewed have been reduced.

POSSIBLE
T/A NEEDS

Technical assistance is presently being provided to the Clayton County Superior Court (see above).

PERSON
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

Hawaii is not presently developing sentencing guidelines or any other sentencing reform plan. The state still has an indeterminate sentencing system which leaves the sentencing decision to the discretion of the judge.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

A sentencing appeal mechanism exists in the court where sentencing occurred. At this appeal, sentences may be reduced but not increased.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

There is presently no sentencing guidelines activity in the state. A constitutional amendment provides for mandatory minimum sentencing. Court Rules also provide for minimum standards in sentencing and require specific findings on the record in order for judgment to be withheld and the case to be dismissed.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None unless sentence is outside of statutory limits.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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UPDATE
INFORMATION

INDIANA

STATUS OF
ACTIVITY

State Level

Indiana has passed a determinat sentencing law which applies to crimes committed after September 1, 1977. No sentencing study is being conducted at this time.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

The Indiana Constitution provides for review of sentences by the Supreme Court. Court rules require a showing that the sentence is "manifestly unreasonable" in order to obtain review.

POSSIBLE
T/A NEEDS

None

PERSON
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(member of State Sentencing Commission and faculty member on sentencing at National College of State Judiciary in Reno and at Notre Dame Law School)

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

There is no sentencing guidelines activity presently being conducted on a state level. Illinois is one of four states which uses determinant sentencing. For crimes committed after February 1978, Illinois applies determinant sentencing provisions. One of the principal advocates of this determinant sentencing structure is David Fogel, author of We Are the Living Proof who was SPA Director when the sentencing changes took place.

Local Level

Cook County uses sentencing guidelines which were developed as part of a pilot study conducted by the Criminal Justice Research Center (CJRC) under LEAA's NILECJ grant. Data regarding offender characteristics (past record, past incarceration, etc.) and offense characteristics (use of a weapon, injury to victim, etc.) is collected from all Cook County Criminal Court judges. The use of the guidelines is not mandatory and a written explanation for deviations is not required.

DuPage County, located in suburban Chicago, is considering the development of sentencing guidelines and a request for funds for their development, has been included in a mini-block grant plan approved by LEAA. However, to initiate the guidelines project, the program must be included in the Illinois State Supreme Court plan. A decision in that regard will be made after DuPage County is able to consider the experiences reported by two DuPage County judges who are on temporary assignment to the Cook County Criminal Court and using the guidelines developed in that jurisdiction.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

No T/A needs were anticipated for Cook County where the guidelines appear to be functioning well. In DuPage County, technical assistance will probably be needed if the Chief Judge decides to pursue the project to design a data collection analysis format and provide orientation to judges once the program is underway.

PERSONS
CONTACTED

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DuPage County Courthouse
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STATUS OF
ACTIVITYState Level

No sentencing study is presently being conducted; however, much interest is being generated by Judge Anthony Critelli who serves on the Fifth Judicial Circuit of Iowa and is a member of the Steering and Policy Committee of LEAA's NILECJ study on Sentencing and Judicial Discretion. Jack Kress of the Criminal Justice Research Center (CJRC), which has conducted much of the sentencing guidelines research to date, conducted a seminar at the Continuing Judicial Education meeting in June 1978. Response to the seminar was very favorable. Both judges and parole board members appear interested in developing guidelines and it appears likely that a commission will be created by either the Legislature or the Governor within the year to study sentencing.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

If a commission is created, T/A may be required to provide guidance in data analysis and sentencing guidelines development.

PERSON
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

There is presently no sentencing guidelines activity on a statewide level in Kansas. Judge Michael Barbara of the Third Judicial District, however, is quite interested in developing guidelines. In 1977, Judge Barbara organized a sentencing guidelines presentation by Arthur Gelman of the Criminal Justice Research Center and Judge Clifton Flowers of the Denver District Court. The meeting did not generate sufficient interest in sentencing guidelines and no statewide activity has occurred since that time. However, Judge Barbara remains interested in the development of statewide guidelines and feels that recent events may lead to greater interest in the guidelines. These events include the statewide unification of the District Court system, new legislation which requires judges to deal with variable maximum sentences, and a recent state Supreme Court decision reversing a lower court's sentence of an offender despite the fact that the sentence was within the statute's authorization. Judge Barbara is, however, active in developing guidelines on a pilot basis in the Third Judicial District (see below)

Local Level

The Third Judicial District (Shawnee County) in Topeka, is presently developing guideline grids for use in a pilot program. These grids have been developed with the assistance of the Criminal Justice Research Center in Albany.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Sentences are reviewable by the State Supreme Court if they are outside of the sentence lengths prescribed by statute.

POSSIBLE
T/A NEEDS

Judge Barbara has recently been asked by the State Court Administrator to assist in setting up a sentencing conference for state judges in May 1979. T/A may be sought for the purpose of developing a presentation for this conference.

PERSONS
CONTACTED

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Elaine Esparza
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Governor's Committee on
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913/295-4350

KENTUCKY

STATUS OF
ACTIVITY

State Level

There is no current sentencing guidelines activity underway in Kentucky. The Judicial Planning Council, however, has asked the Administrative Office of the Courts to consider undertaking a misdemeanor and felony sentencing study. Although no decision has yet been made in this regard, one factor bearing on such a study is the state's current provision for jury determination of sentences.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

There is no present sentencing guidelines activity underway at the state level. Interest has been expressed on the subject, however, by both the Legislature and the Governor. It is anticipated that the Judicial Planning Commission may seek such a study if the local project (described below) in Orleans Parish is successful.

Local Level

Orleans Parish, which handles 32% of the state's judicial docket, has recently received a grant to develop guidelines on the basis of 1,500 of the 6,000 misdemeanor and felony cases disposed of in 1978. It is anticipated that the guidelines will be tested out over a six-month trial period during which five of the ten sections of the Orleans Parish Criminal District Court will use the guidelines. The results of this effort will then be assessed.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

The Legislature has mandated the provision of sentence review and the State Supreme Court has recently overturned a sentence on the grounds that it was too harsh.

POSSIBLE
T/A NEEDS

None noted at this time.

PERSONS
CONTACTED

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MAINE

STATUS OF
ACTIVITY

State Level

There is no sentencing guidelines activity underway in Maine. A grant was awarded by LEAA's NILECJ to Pennsylvania State University to assess the effect of the new criminal code which took effect May 1, 1976. Among the provisions of the code were the establishment of determinate sentencing and the abolition of parole. (Maine was the first state to enact a determinate sentencing statute). Since enactment of the statute, the state has expanded its sentencing data collection activities and plans to undertake an evaluation of the sentencing provisions of the new Code within the next year.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

An Appellate Division composed of 3 justices has been established within the Supreme Court with the sole function of reviewing sentences appealed. Sentences must exceed 1 year to qualify for review.

POSSIBLE
T/A NEEDS

None at this time

PERSONS
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

A Committee of judges working in conjunction with the State Administrative Office of the Courts is considering the relative merits of developing sentencing guidelines for the state. An application has been submitted to LEAA's NILECJ for the state to participate in the NILE Field Test Design Program.

Local LevelPROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

If the state receives the LEAA funding requested some technical assistance may be desired.

PERSON
CONTACTED:

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Court of Appeals Building
P.O. 431
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(301) 269-2141

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

The Massachusetts Committee on Criminal Justice (SPA) awarded the Superior Court funds to develop and implement statewide sentencing guidelines. The Superior Court has jurisdiction over all felonies in the state. The Project began in July, 1978, with guidelines implementation slated for December, 1979. To date, staff has been hired, survey instruments have been designed and tested, and statewide data collection has begun.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

None at present. In October, 1978, the Courts Technical Assistance Project provided the services of Professor Jack Kress and Judge Leonard Plank of the Denver District Court to provide the State Judicial Council with an overview of the process of developing and using guidelines and the specific experiences of the Denver District Court in this regard. In February, 1979, a second phase of technical assistance was provided by Dr. Marvin Zalman and staff of the Michigan Felony Sentencing Project for the purpose of reviewing a draft of the Coding Manual developed for the project.

PERSON
CONTACTED

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Director
Superior Court Sentencing Guidelines Project
New Courthouse
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(617) 725-8130

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

The Michigan Administrative Office of the Courts is completing a one-year study (April 1978 - March 1979) funded by LEAA for the purpose of establishing baseline data on sentencing practices and to develop guidelines and a suggested legal framework for guidelines implementation. Approximately 400 items of information are being collected for each case studied. The Project has relied heavily on the methods for information gathering used by the New Jersey Administrative Office of the Courts and staff of that office have provided technical assistance to the Michigan project. Project staff are presently preparing a sentencing guidelines model for presentation to the Project's Policy and Steering Committee.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

The Institute for Social Research at the University of Michigan assisted the project in developing sampling techniques. In December 1979, the Courts Technical Assistance Project provided the services of Dr. Chris Zimmerman of Carnegie-Mellon University to assist the project in constructing matrices.

PERSON
CONTACTED

Dr. Mavin Zalman
Director
Michigan Felony Sentencing Project
Administrative Office of the Courts
320 N. Washington Square
Lansing, Michigan 48909
517/373-0382

-UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Minnesota has been operating under an indeterminate sentencing practice, with paroling and early discharge authority vested in the Minnesota Corrections Board, a full-time parole board. In 1978, the Minnesota Legislature, after three years of active debate over determinate, indeterminate or fixed sentencing, passed a law calling for the creation of a Sentencing Guidelines Commission (Laws 1978, Chapter 723). The Commission is comprised of the Chief Justice of the State Supreme Court, or his designee; two district court judges appointed by the Chief Justice; one prosecutor, one public defender, and two citizen members, appointed by the Governor; the Commissioner of Corrections; and the Chairman of the Minnesota Corrections Board. The Commission must submit to the Legislature, on or before January 1, 1980, sentencing guidelines which will be advisory to the trial court judges, and will become effective on May 1, 1980. The Minnesota Corrections Board (MCB) will continue to exercise all of their present powers and duties regarding persons convicted of offenses committed prior to May 1, 1980; after that time, the Board's general power to discharge sentences or grant parole before expiration, is removed.

The Commission has approved a three-component research design, which will consist of: 1) a dispositional study to describe current sentencing practices, and which will be used later in the monitoring and evaluation aspects of the guidelines; 2) a durational study which will describe current releasing practices via the MCB actions and sentence expirations; this study will also investigate recidivism rates and assess risk potential and 3) a simulation study which will assess impact on correctional resources and minorities. Data will be collected from about 3,000 case files from fiscal year 1978 (July 1, 1977 to June 30, 1978) and samples will be taken from a stratified population by analysis of sentencing practices involving women offenders can be obtained. A similar stratification will also be applied to other minority groups.

The Legislature appropriated from the general fund to the Sentencing Guidelines Commission, the sum of \$200,000 for the biennium ending June 30, 1979. A budget for this same amount has been submitted by the Commission for the biennium ending June 30, 1981.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Presently no sentence review unless violation of the statute is shown. New legislation, however, provides an unlimited right of appeal by both the prosecution and the defendant for any sentence issued on a showing of illegality or disparity with other sentences for similar offenses. This legislation will be effective May 1, 1980.

POSSIBLE
T/A NEEDS

None at this time

PERSONS
CONTACTED

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Jan Smaby
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Rep. Donald M. Moe
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St. Paul, Minnesota 55487
612/296-4264

UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

Missouri is not undertaking any sentencing guidelines activity at this time.

Local Level

None

PROVISIONS
FOR APPELLATE
REVIEW OF
SENTENCING

None unless the sentence given is outside of the statutory authorization.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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314/751-4377

UPDATE
INFORMATION

**STATUS OF
ACTIVITY**State Level

Hon. Gordon R. Bennett of the First Judicial District Court in Helena has recently requested technical assistance to explore the feasibility of developing and implementing sentencing guidelines in the state. The request was stimulated by concern on the part of both justice system staff and the public over the disparity of sentences given to offenders. The requested assistance will be provided by the Courts Technical Assistance Project during April and May.

Local Level

None

**PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING**

Montana presently has a system for review of sentences. A Sentencing Review Board composed of 3 District Court judges appointed by the Supreme Court meets at the prison and every state inmate has a right to request a review of his sentence. The Board may raise or lower the sentence originally given.

**POSSIBLE
T/A NEEDS**

See above

**PERSONS
CONTACTED**

Clyde Peterson
Board of Crime Control
1336 Helena Avenue
Helena, Montana 59601
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**INDIVIDUAL WHO
CAN PROVIDE
ADDITIONAL
INFORMATION**

Hon. Gordon R. Bennett
District Judge
First Judicial District
Helena, Montana 59601
406/442-6430

**UPDATE
INFORMATION**

STATUS OF
ACTIVITYState Level

Mississippi is not pursuing sentencing guidelines at this time. Two bills on guidelines were introduced in the state Legislature last session but never got out of committee because they had no significant support. The SPA Court Specialist indicated, however, that there may be some interest in developing guidelines in the future but that, at this time, several other items were of much higher priority.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

Jim Pierce
Court Specialist
Mississippi Criminal Justice Planning Division
Office of the Governor
723 N. President Street, Suite 400
Jackson, Mississippi 39202
601/354-4111

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

No activity is being undertaken in the area of sentencing guidelines. A new criminal code became effective January 1, 1979, which includes a classification scheme for all crimes and expands the discretion available to the sentencing judge.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW

None. However, the State Bar Association has proposed to the Legislature that provision be made for appellate review of sentences. The Legislature has asked the Bar Association to study this issue further.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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Nebraska Supreme Court
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402/477-4620

UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

No state activity is presently underway; however, if sufficient interest is generated from local activity (described below), sentencing guidelines efforts may get underway on a statewide basis.

Local Level

Judge Paul Goldman, Chief Judge of the 10th District Court in Las Vegas, is conducting a small sentencing study in his court with the assistance of his law clerk.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

POSSIBLE
T/A NEEDS

T/A may be needed to assist the 10th District Court in the area of statistical analysis and possible computer applications.

PERSON
CONTACTED

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PERSON
WHO CAN
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INFORMATION

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10th Judicial District Court
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

There is presently no formal sentencing guidelines activity underway in New Hampshire. However, a recent Judicial Conference addressed the issue of sentencing disparities. Participating judges were presented with various hypothetical situations and asked to issue an appropriate sentence. The session generated considerable interest among the judges although no further activity on the subject has been undertaken at this date.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

A Sentence Review Commission composed of trial court judges is available to review the sentence of anyone convicted in the state. Although sentence review is a matter of right if the defendant chooses to pursue it, the sentence upon review may be either raised or lowered.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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Director
Judicial Planning Commission
Supreme Court
Concord, New Hampshire 03301
(603) 271-2521

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

The Administrative Office of the Courts has just completed a two-year analysis of all New Jersey criminal sentences (approximately 15,000 cases) and the guidelines have recently been implemented in the state's trial courts. In developing the guidelines, each case was coded according to 840 items of information relating to the offender, offense, victim, judge assigned, attorney of record, etc. The study was intended to be crime-specific, although some problems have been encountered resulting from availability of required data. The project is, however, the most crime-specific study which has been done to date.

Several developments may occur shortly which can have potential impact on the project. The Legislature is expected to pass a Model Penal Code within the next few months. This Code will change some crimes and sentences and will, at least to some extent, have impact on the sentencing interest in the state in instituting determinant sentencing. Implementation of a determinant sentencing scheme, however, would require at least one year after passage so that modifications which would be required for the guidelines could be made. Nonetheless, the guidelines would be substantially changed.

Local Level

The Essex County (Newark) Courts developed local guidelines which were in use from July 1976 until the state guidelines became effective in 1978. The Essex County guidelines were developed during the feasibility and implementation study conducted by the Criminal Justice Research Center (CJRC) under LEAA's NILECJ sponsorship. These guidelines are presently being challenged in Whitehead v. State (159 N.J. Supra. 433, 388 A.2d 280 (1978); N.J. Supreme Court Docket No. 14912) which is pending before the New Jersey Supreme Court. The challenges are based on alleged violations of due process and equal protection rights and a claim that the guidelines constituted illegal local judicial rulemaking.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

Since New Jersey is one of the first states to implement sentencing guidelines on a statewide basis, it appears that T/A needs at this point can probably be met by AOC staff or through consultation with the Criminal Justice Research Center (CJRC) with which the AOC has already been working.

PERSON
CONTACTED

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609/984-5032

NEW JERSEY
(cont'd.)

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(609) 984-5032

UPDATE
INFORMATION

NEW MEXICO

STATUS OF
ACTIVITY

State Level

New Mexico presently has no sentencing guidelines activity. However, in a survey done last year by the AOC, about 50% of the state judges expressed an interest in the possibility of using guidelines after the new state sentencing law goes into effect on July 1, 1979. This law will replace the present indeterminate sentencing system with a set of narrower sentencing ranges. However, since courts will be setting more definite terms, it is anticipated that discretion in the system will move to the courts and away from the parole board. Thus, judges will actually have more responsibility regarding sentencing than they had earlier and interest in sentencing guidelines may increase.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

If judges pursue the interest that was expressed in a survey conducted by one AOC last year, T/A may be desired.

PERSON
CONTACTED

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OTHER PERSONS
WHO MAY PROVIDE
INFORMATION

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NORTH CAROLINA

STATUS OF
ACTIVITY

State Level

There is presently no sentencing guidelines activity
in North Carolina.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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Director
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UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

Two committees are presently studying the issue of sentencing: a State Bar Association and a special Governor's Committee - (the Morgenthau Committee). Both of these committees are in the process of developing recommendations.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

New York allows appeals of sentences on the basis of excessiveness. The appeals go to the Intermediate Appellate Court. This court may modify a sentence even if the original sentence was within the statutory limits.

POSSIBLE
T/A NEEDS

None at this time

PERSON
CONTACTED

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New York, New York 10007
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UPDATE
INFORMATION

NORTH DAKOTA

STATUS OF
ACTIVITY

State Level

A Sentencing Committee composed of members of the Judicial Council, Parole Board and the Warden of the State Correctional Institution has been established to explore the desirability of developing sentencing guidelines. The Committee, which is receiving staff support from the State Court Administrator's Office (AOC), has identified approximately 20 factors which appear relevant to the sentencing decision for felony cases. The AOC will begin shortly to collect this information on future sentencing decisions and to share the data collected with the state's general jurisdiction court judges. At this point, the purpose of the project is to disseminate information to the judges on current sentencing practices. However, the information collected will be analyzed by specific types of offenses to identify possible areas of disparity for which sentencing guidelines might be developed.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

No provisions for appellate review exist at this time.

POSSIBLE
T/A NEEDS

None at this time.

PERSONS
CONTACTED

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Ted Gladden
Assistant State Court Administrators
State Court Capitol Building
Bismarck, North Dakota 58501
(701) 224-2689

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

No statewide sentencing guidelines activity is presently occurring in Ohio. However, the Administrative Office of the Courts has prepared a publication, Sentencing in Ohio, which lists factors which a judge should take into account when making a sentencing decision. The publication indicates that some guidelines were developed through a data collection effort sponsored by the Ohio Judicial Conference in 1977, and includes forms for determining offender and offense characteristics and a matrix for using this information to determine an appropriate sentence.

Local Level

As a result of a sentencing seminar held by the Ohio Judicial College in 1977, the Ohio State Bar Foundation has developed guidelines and began testing them in Lucas County (Toledo) in 1978. These guidelines have been revised and will be tested in Montgomery County (Dayton), Hamilton County (Cincinnati), and Cuyahoga County (Cleveland). The guidelines developed include both felony and misdemeanor cases.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSONS
CONTACTED

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Tom Swisher
Director of Research
Ohio State Bar Foundation
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Columbus, Ohio 43201
614/421-2500

UPDATE
INFORMATION

OKLAHOMA

STATUS OF
ACTIVITY

State Level

At this time Oklahoma has no activity in sentencing guidelines. The Criminal Jurisprudence Committee of the state Senate is presently studying sentencing questions, but no bills have been proposed as yet.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Oklahoma allows sentences to be appealed to the Court of Criminal Appeals. This court handles all criminal matters on appeal and is not subject to State Supreme Court review.

POSSIBLE
T/A NEEDS

None

PERSONS
CONTACTED

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Oklahoma Crime Commission
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Mike Louder
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

In 1976, a set of guidelines were developed by the State Parole Board to deal with sentencing and parole decisions. The purpose of these guidelines was to articulate a public policy regarding sentencing and parole decisions which would be geared to the severity of the crime and the prior history of the defendant. The guidelines were developed to reflect this policy rather than any past practices or data analysis. In 1977, the Oregon Legislature passed a statute mandating the development of guidelines and thereby authorizing the guidelines developed by the Parole Board. As a result of the guidelines, greater structure has been provided to both judicial and Parole Board decisions. The judges are now in the process of revising some of the guidelines based on their experience in using them. One of the unique features of this project is the cooperative relationship that has developed among judges and the Parole Board.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Every sentence is reviewable through a postconviction review by the Court of Appeals. Additional review can be sought on constitutional grounds.

POSSIBLE
T/A NEEDS

None at this time

PERSON
CONTACTED

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Project Director
Sentencing Guidelines Project
Parole Board
2575 Center Street, N.E.
Salem, Oregon 97310
(503) 378-2334

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

A bill mandating the development of Sentencing Guidelines has recently been passed by the Pennsylvania Legislature. The legislation creates a Sentencing Commission which will have the responsibility of developing Guidelines and submitting them to the Legislature for approval.

Local Level

A local study has been conducted in Philadelphia which is court funded. This project is working only with the Court of Common Pleas which handles felonies sentenceable to five years and over. The study is in the second stage of statistical analysis, and testing of the guidelines will begin shortly.

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCINGPOSSIBLE
T/A NEEDS

At the State level, both Sam McClea and Rep. Sirica felt that T/A will be needed to orient the Commission members to the Guidelines. At the local level, technical assistance has been provided to the Court of Common Pleas. Judge Stanley Goodfarb of the Maricopa County (Phoenix) Superior Court met with the Common Pleas Judges on October 24, 1978, to discuss his experience in implementing guidelines in Phoenix. An additional area in which T/A may be needed is refinement of the computer program being used for data analysis. Specific interest was expressed in alternative programs (including FORTRAN) for computer analysis and development of the sentencing grids. Steve Greenstein of the Criminal Justice Research Center in Albany has worked with the Court and may provide additional assistance in this area.

PERSONS
CONTACTED

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Chairman
House Judiciary Committee
Pennsylvania House of Representatives
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Main Capitol Building
Harrisburg, Pennsylvania 17120
717/787-5499

Rep. Anthony Sirica
Maine Capitol Building
Harrisburg, Pennsylvania 17120
717/787-2686
(sponsor of Sentencing Bill in the Pennsylvania House)

PENNSYLVANIA
(cont'd.)

PERSONS
CONTACTED
(cont'd)

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INDIVIDUALS
WHO CAN
PROVIDE
ADDITIONAL
INFORMATION

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Hon. David N. Savitt
Court Administrator
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215/686-2525

UPDATE
INFORMATION

Local

Statistical analysis has been completed and guidelines are currently being tested.

STATUS OF
ACTIVITYState Level

The Rhode Island Governor's Justice Commission (SPA) recently awarded a \$16,500 grant to the National Center for State Courts to assist the State Court Administrator's Office to review past sentencing practices and explore the feasibility of developing sentencing guidelines. The study is being undertaken at the request of the Chief Justice. The Advisory Committee which was established for the project is chaired by a Supreme Court Justice and composed of three trial court judges, one District Judge, one Family Court Judge, the State Court Administrator, a state legislator, representatives from the public defender and prosecutor offices and a political science professor from Brown University. The study will be completed by September 30, 1979 at which time the study results will be submitted to the Chief Justice.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Constitutionally, the Supreme Court has the inherent power to review sentences. In a recent Supreme Court case (State vs. Levitt), the Supreme Court noted that no sentence will be reviewed unless the record clearly shows that "there is no justification" for the imposition of the sentence and that it is "grossly disparate" from a sentence generally imposed for a similar offense.

POSSIBLE
T/A NEEDS

None at this point

PERSONS
CONTACTED

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Office of the State Court Administrator
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(401) 277-3382

STATUS OF
ACTIVITY

State Level

South Dakota has no sentencing guidelines activity
at present.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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South Dakota Supreme Court
Pierre, S.D. 75701
605/773-3474

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Tennessee is not presently involved in sentencing guidelines activities. The AOC has considered the possibility of conducting some type of sentencing research but no specific activities are planned at this time.

Local Level

None

PROVISIONS FOR
APPELLATE REVIEW
OF SENTENCING

None

POSSIBLE
T/A NEEDS

None

PERSONS
CONTACTED

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Planning Division
Office of the Executive Secretary
Supreme Court
422 Supreme Court Building
Nashville, Tennessee
615/741-2687

UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

No sentencing guidelines or reform activities are underway or planned.

Local Level

None

PROVISION FOR
APPELLATE
REVIEW OF
SENTENCING

Sentences are appealable only if they are outside of the statutory authorization.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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Criminal Justice Division
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Austin, Texas 78701
512/475-6026

UPDATE
INFORMATION

STATUS OF
ACTIVITY

State Level

In response to Judicial Council recommendations, Utah has recently completed the development of sentencing guidelines which will become operational July 1, 1979. The guidelines apply to capital felonies, Class B misdemeanors and bail decisions and will be used by the state's District and Circuit Courts and Board of Pardon. The project, which was undertaken initially through the state Department of Public Safety, with work performed by Ernest Wright, a private contractor, will be completed by the Division of Corrections and operated by the Department of Adult Probation.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

None at this time

PERSONS
CONTACTED

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Ernest D. Wright
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Dr. Richard Oldroyd
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Utah Division of Corrections
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Salt Lake City, Utah 84103
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Although Vermont was an original pilot site for sentencing guidelines under the Albany study, it presently does not have a sentencing guideline project. Some Vermont judges attended a conference on guidelines in Boston last Fall. This presentation was conducted by Jack Kress and was well received. Judge Lewis Springer of the Vermont District Court in St. Johnsbury is among the most interested judges and is leading a move to find funding to develop guidelines. A proposal for a grant application to LEAA has been approved by the District Court judges and discussions are presently being conducted with the State Supreme Court seeking its endorsement of the idea.

Local Level

No Activity

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Vermont has no appellate review of sentencing. It does, however, have a provision for a 90 day sentence review in the trial court where sentencing originally occurred.

POSSIBLE
T/A NEEDS

None at this time

PERSON
CONTACTED

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Vermont Supreme Court
Montpelier, Vermont 05602
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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Virginia presently has no sentencing guidelines activity. However, legislation is pending in the state Legislature that would substantially alter sentencing practice in the state. A similar bill was proposed and defeated in the last legislative session. The present bill is supported by the State Attorney General, but has been specifically rejected by the Judicial Conference, an organization of which all state judges are members. The Conference recently studied the sentencing issue and issued a report calling for a continuation of the present sentencing system.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

No appellate review of sentencing exists at this time. The sentencing bill as proposed in the last session included provisions for such review and this was one of the reasons the bill failed. Since Virginia has no intermediate appellate court at this time, it was felt that appellate review might overburden the state Supreme Court. The bill currently under consideration by the legislature does not include provisions for appellate review of sentencing.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Washington is in the midst of developing sentencing guidelines under an LEAA grant to the State Court Administrator's Office. The project is being conducted under contract with the Criminal Justice Research Center (CJRC) and is being overseen by an Advisory Committee composed of five Superior Court general jurisdiction Judges and five District Court (limited jurisdiction) Judges. Unlike most sentencing guidelines studies underway, the Washington project will include offenses handled by the limited as well as general jurisdiction courts. Grids for these courts have been developed in draft form. Prior to implementing the guidelines, orientation sessions will be held for the judges.

In addition to the sentencing guidelines study, there is considerable interest in the state legislature in sentencing reform. Several sentencing bills are presently being considered, one of which calls for mandatory sentencing of certain offenses. The State Court Administrator's Office hopes that a decision regarding any pending legislation can be deferred until completion of the sentencing guidelines study in February.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None

POSSIBLE
T/A NEEDS

T/A may be needed in the Spring of 1979 after the CJRC contract has expired. The Judicial Conference for Superior Court judges next Spring has already been scheduled as a judicial training program on the sentencing guidelines. The judges of the courts of limited jurisdiction will have a separate conference at that time. Both of these conferences may need outside assistance in orienting conferees to the background and utility of the sentencing guidelines project results.

PERSON
CONTACTED

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Temple of Justice
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UPDATE
INFORMATION

WEST VIRGINIA

STATUS OF
ACTIVITY

State Level

West Virginia is not presently involved in sentencing guidelines activity.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

None unless the sentence is outside of the statutory authorization.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

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304/348-0145

UPDATE
INFORMATION

STATUS OF
ACTIVITYState Level

Considerable interest has been expressed by the Wisconsin Legislature in sentencing reform. In 1978, a determinant sentencing bill was deferred, largely due to the request of the SPA and the governor that the Legislature await the results of a sentencing study presently being conducted. This study is being performed by the Center for Public Policy under LEAA and SPA funding and is designed to conduct an analysis of sentencing patterns in five counties, during the years 1974 and 1975. These counties include both the most populous and the least populous in the state. The study is intended to provide the Legislature with an understanding of the sentencing process in the state and the nature of discretionary judgments which are made at a variety of points.

Local LevelPROVISIONS FOR
APPELLATE REVIEW
OF SENTENCINGPOSSIBLE
T/A NEEDS

Although the statistical analysis which is being performed in Wisconsin is somewhat different than that being done elsewhere, the project director felt that the statistical and computer expertise developed in other sentencing projects might be quite useful to the Wisconsin study.

PERSONS
CONTACTED

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UPDATE
INFORMATION

WYOMING

STATUS OF
ACTIVITY

State Level

Wyoming has no sentencing guidelines activities at the present time.

Local Level

None

PROVISIONS FOR
APPELLATE
REVIEW OF
SENTENCING

Appellate review of sentencing is available only in capital cases or in cases where the minimums or maximums of the statute are violated.

POSSIBLE
T/A NEEDS

None

PERSON
CONTACTED

Judge J. Reuel Armstrong
Court Coordinator
Wyoming Supreme Court Building, 4th Floor
Cheyenne, Wyoming 82001
(307) 777-7581

UPDATE
INFORMATION

END