

Probation

Structuring the Exercise of Sentencing Discretion in the Federal Courts ⁸³¹⁷⁰..... Brian Forst
William M. Rhodes

Zero-Sum Enforcement: Some Reflections on Drug Control ⁸³¹⁷¹..... P. Andrews
C. Longfellow
F. Martens

Inreach Counseling and Advocacy With Veterans in Prison ⁸³¹⁷²..... Bruce Pentland
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The Probation Officer and the Suicidal Client Frederick F. Casucci
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signing the Criminal Justice System: A Commentary on Selected
Sentential Strategies..... ⁸³¹⁷⁵..... Tommy W. Rogers

Strategies for Maintaining Social Service Programs in Jails ⁸³¹⁷⁶..... Henry Weiss

Issues and Realities of Jail Classification..... ⁸³¹⁷⁷..... James Austin
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Victim Compensation: A Survey of State Programs ⁸³¹⁷⁸..... Gerard F. Ramker
Martin S. Meagher

Probation: A Skills Course — Probation Officers Do Make a
Difference ⁸³¹⁷⁹..... Marilyn R. Sánchez

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MARCH 1982

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Federal Probation

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NUMBER 1

This Issue in Brief

Structuring the Exercise of Sentencing Discretion in the Federal Courts.—Brian Forst and William Rhodes report results of a major study of Federal sentencing practices, focusing on highlights that have special relevance to the probation community: survey results on the purposes of sentencing, an analysis of recent sentencing decisions, and an analysis of the information contained in the presentence investigation report. The survey revealed that Federal probation officers and judges, on the whole, regard deterrence and incapacitation as more important goals of sentencing than either rehabilitation or just deserts. The judges individually, on the other hand, are divided over the goals of sentencing.

Zero-Sum Enforcement: Some Reflections on Drug Control.—This article reflects upon the dilemmas in drug control efforts and suggests that current policy and practices be reviewed and modified in order to evolve a "more coherent" approach to the problem. The authors critique the methods of evaluating drug enforcement efforts and provide a series of rationales that can be employed in the decisionmaking process.

Inreach Counseling and Advocacy With Veterans in Prison.—A self-help model of direct and indirect services is provided through a Veterans Administration veterans-in-prison (VIP) pilot program. Authors Pentland and Scurfield describe objectives and methodology of the program, including the formation of incarcerated veterans into self-help groups, organization of community-based resources into VIP teams that visit the prisons, serving veteran-related issues and services such as discharge upgrading and Agent Orange, and a diversionary program for veterans in pretrial confinement.

The Probation Officer and the Suicidal Client.—This article by Federal probation officers Casucci and Powell attempts to provide the probation officer with enough information to be able to

recognize and deal effectively with the suicidal client. The authors furnish an overview of the problem of suicide, a profile of the suicidal client, and the therapeutic response of the probation officer in this crisis situation.

An Experiential Focus on the Development of Employment for Ex-Offenders.—U.S. Probation Officer Stanley S. Nakamura of the Northern District of California states that a concerted effort

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has been made in his District to establish an employment program that would provide real assistance to those clients interested in working. Integrity, friendship, patience, professionalism, trust, placement, and followthrough are the basis of a successful employment program, he concludes.

Alienation and Desire for Job Enrichment Among Correction Officers.—Responses to a correction officer opinion survey suggest that C.O.'s hold attitudes toward their job that are similar to those of other contemporary workers, report Hans Toch and John Klofas. Like other urban workers, urban C.O.'s tend to be very alienated; like workers generally, most C.O.'s are concerned with job enrichment or job expansion.

BARS in Corrections.—Evaluating the job performance of employees is a perennial problem for most correctional organizations, according to Wiley Hamby and J.E. Baker. The use of Behaviorally Anchored Rating Scales (BARS) appears to be a viable alternative for evaluating the performance of employees in corrections, they maintain.

Redesigning the Criminal Justice System: A Commentary on Selected Potential Strategies.—Selected strategies are highlighted by Attorney Tommy W. Rogers which would appear worthy of consideration in any contemplated alteration of the criminal justice system. Suggestions are made concerning modification of the criminal law detection and apprehension strategies, improving the administrative and judicial efficiency of courts, redressing system neglect of victims, and utilization of research in planning and legislation.

Strategies for Maintaining Social Service Programs in Jails.—Social services within jails and community-based alternatives to incarceration are vulnerable to cutbacks, asserts Henry Weiss of the Wharton School in Philadelphia. His article suggests a number of strategies for maintaining the improvements in service delivery that have been so painstakingly won over the past 15 years.

Promises and Realities of Jail Classification.—The process by which jails reach classification decisions has rarely been studied due to the preoccupation of the field with predictive models, assert James Austin and Paul Litsky of the National Council on Crime and Delinquency Research Center. The authors' opinions expressed in this article are based on their findings of a comparative process study of four jail classification systems.

Crime Victim Compensation: A Survey of State Programs.—Compensating crime victims for injuries sustained as a result of their victimization has evolved into a highly complex practice, report Gerard F. Ramker and Martin S. Meagher of Sam Houston State University. Their study showed that the state compensation programs in existence today are subject to similarities in certain organizational characteristics and also appear to share certain disparities.

Probation Officers Do Make a Difference.—This article by Marilyn R. Sánchez of the Hennepin County (Minn.) Probation Department examines the successful interaction between probation officer and client. Her article discusses a three-issue model for feedback from probationers: (1) the "exit interview" with the probationer, (2) presentations in schools, and (3) the postprobation checkoff list.

All the articles appearing in this magazine are regarded as appropriate expressions of ideas worthy of thought but their publication is not to be taken as an endorsement by the editors or the Federal probation office of the views set forth. The editors may or may not agree with the articles appearing in the magazine, but believe them in any case to be deserving of consideration.

that we can make a significant and positive impact on their lives by so doing. We have, in short, the right to "sell" our skills to clients. This does involve the conviction, however, that we do have an important function to perform, that rights will be protected in the process, and that the services we have to offer are professional, effective and of real worth.²²

Probation officers work with probationers at a crucial time in their lives: a time when they can seize opportunities for renewal and change. Unlike the offender quoted at the beginning of this article, offenders frequently are able—with the help of probation officers—to say, "The cycle of my life *did* change!"

²² Cunningham, G. op cit., p. 68

News of the Future

RESEARCH AND DEVELOPMENT IN CORRECTIONS

BY JOHN P. CONRAD

The Sam Houston State University, Huntsville, Texas

HERE are too many prisoners, too few guards, too many incompetent managers, too little money. Not enough work for prisoners to do; longer terms for them to serve. Years of poor maintenance have left too many prisons in a state of filthy decay. No other public institution is in such disarray as our penal facilities; no other public institution is less likely to have its troubles remedied. It is no wonder that litigation has been under way in 30 states to correct the outlandish conditions that prevail in so many places of incarceration. After all, judges have consciences, and as one of them recently remarked in anguish, he has to anesthetize his feelings whenever he must sentence a young man to prison in his state. And, as another judge put it, nothing in the Constitution of the United States requires any state to maintain a prison, but if a state chooses to open such a facility it must comply with the terms of the eighth amendment.

What to do? The question was posed by the right party, though too late to act on the answer. In 1976 Congress mandated the National Institute of Justice to survey the Nation's penal facilities and to return with the answers to three questions:

- [1] Are the Nation's Federal, state, and local corrections facilities adequate to meet the needs of their expanding prisoner populations?
- [2] What expectations can be formed about the size of the prison population in the near future?
- [3] How might various proposals for more determinate sentencing affect the use of imprisonment and the need for additional correctional resources?

These weighty questions were turned over to the Abt Associates of Cambridge, Massachusetts. We now have their final report, and the answers are cautiously complex.¹ There are five volumes; none is easy reading. Because the whole report is a landmark in penological research, I want to run through the major findings, not so much to tell you what I think

they mean as to prod you into getting the whole report for yourself to decide what they mean for the prisons and jails in your part of the Nation.

ENOUGH CAPACITY?

The most creative research reported has to do with the capacity of American prisons and jails to house the masses of prisoners on hand. At best, administrators have been haphazard in determining the number of people who can be crammed into their accommodations. As the Abt reporters comment: "indeed, the capacities of correctional facilities have been administratively redefined from time to time, often with no attendant changes to the physical plant."² Further, the capacities of two identical prisons may be 500 or 1,000, depending on whether it is planned to put one or two prisoners into a cell. No sense can be made of the prison capacity problem by relying on data of this kind.

The solution was obvious but laborious. In their mail questionnaire to all the Nation's 599 prisons, the investigators asked for measurements. The survey called for physical dimensions in square feet of all the "confinement units" in which prisoners spent the night. Two categories of "confinement units" were defined: those measuring 120 square feet or more, and those measuring less than 120 square feet. Penology is still debating the minimum standards for cell space. Various organizations have recommended standards; the range goes from 50 to 80 square feet, with some adjustments to be made depending on the number of hours a day that prisoners are to be locked up. Abt based its survey on the standard recommended by the American Public Health Association (APHA): 60 square feet for each prisoner, whether in a cell or in a dormitory. Obviously, if two prisoners occupied a unit of 119 square feet or less, the APHA standard was violated.

Across the Nation, about half our prison capacity is in cell housing. That figure is meaningless. Prisons in the Northeast are 88 percent cellular, but in the South only 46 percent of capacity is in cells. That's far from the whole story. Although 61 percent of all Federal prisoners live in cells of 60 or more square feet, only 45 percent of state prisoners enjoy this minimum standard, and the corresponding figure for jails is 39 percent. The authors note that the older the prison the smaller the cells are likely to be. [Volume III, pp. 51-55]

A statistic that will disturb thoughtful prison reformers is the distribution of those 60 square feet cells by security classifica-

¹Abt Associates: *American Prisons and Jails* (Washington, U.S. Department of Justice, October 1980)
 Volume I: Joan Mullen, Kenneth Carlson, and Bradford Smith. *Summary Findings and Policy Implications of a National Survey*.
 Volume II: Kenneth Carlson, Patricia Evans, and John Flanagan. *Population Trends and Projections*.
 Volume III: Joan Mullen and Bradford Smith. *Conditions and Costs of Confinement*.
 Volume IV: Richard Ku. *Supplemental Report: Case Studies of New Legislation Governing Sentencing and Release*.
 Volume V: William DeJong. *Supplemental Report—Adult Release Facilities*.
²Mullen and Smith, Volume III, p. 42.

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tion. Maximum security prisoners occupy 79,900 cells, of which 37 percent exceed 60 square feet, whereas minimum security prisoners all allocated 7,000 cells, of which 96 percent are equal to or greater than the APHA standard. Medium security prisoners occupy 54,800 cells, of which 54 percent meet the APHA standard.

With all this groundwork laid, a responsible answer to the capacity problem becomes possible. In 1978, the state prisons had a "rated" capacity ("rated" by the haphazard methods mentioned above) of 243,500 "confinement units," occupied by 229,200 prisoners. [Volume III, p. 57] No cause for alarm in these naked and unadorned figures. But if the APHA standards are strictly applied, with measurements taken according to instructions, the capacity of the state prisons in 1978 was only 200,200. By the first measurement, our state prisons were at a fairly comfortable occupancy level of 94 percent. By the APHA standard, occupancy was 114 percent. The range around that national figure ran from 90 percent in the Northeast to 138 percent in the South.

But I haven't yet dealt with the most disturbing data. Dormitory space was considered in terms of a distribution of occupants as follows:

- One prisoner
- 2-10 prisoners
- 11-50 prisoners
- More than 50 prisoners

Experienced custodial officials will find this distribution rather silly. A dormitory with only one prisoner is a contradiction in terms. As the numbers of prisoners to be assigned to a dormitory increase, so do the problems; any dormitory with more than 25 prisoners of medium custody may become explosive on occasion. With my own eyes I have seen dormitories with over 250 maximum security prisoners in which the problems so defied resolution that those in nominal charge and the prisoners resigned themselves to a condition of contained chaos. Anything went behind those locked doors, anything except a guard.

In 1978 a total of 83,655 state prisoners lived in dormitories. Of that total, 52 percent lived in dormitories housing more than 50 prisoners. That situation is bad for prisoners of any custodial classification. What appalls me is the realization that in many prisons maximum custody convicts are housed in such dormitories with virtually no night-time supervision. The Abt investigators did not obtain a distribution of dormitory prisoners by custodial classification. That any maximum security prisoners are assigned to dormitories is one of the most shameful blotches on American penology. What is worse, is the expedient classification that reduces a genuinely maximum security convict to medium status so that he can be shoved into a dormitory when cells are no longer available. Worst of all is the indifference of administrators to the maintenance of realistic supervision when dormitories of this explosive kind are created.

All of the above leads to questions about the seriousness of prison crowding. In the best tradition of value-free social science, the authors remark that "crowding, however, is a subjective phenomenon." [Volume III, p. 83] The implication is inescapable that much more research must be done to assess the objective effects of crowding. I will predict that such research will some day be done, and that the effects will be found to be in the long range, minimal. I can picture, and so can you, those graphs with curves of occupants per 60 square feet on one axis and stabbings, rapes, and recidivism shown on the other axis. Statistical significance will not be found. After all, survivors of Auschwitz and Belsen have managed to resume a fairly normal kind of life in due course; why not survivors of those 250-man dormitories? Some policy decisions should be based on ordinary decency rather than awaiting the design of mountainous research to produce the customary molehill findings.

THE SWELLING STREAM

Granted that prison overcrowding was bad enough in 1978 and worse in 1981, what are the prospects ahead? There used to

be a body of comfortable opinion that once the youth explosion of the seventies had subsided into middle age, the Nation's crime patterns would change, perhaps rather rapidly. Fewer crimes of violence would be committed—after all, mugging is a young man's game—and fewer people would be coming to prison. More would be the persons convicted of crimes against property, and those could be mostly handled in community-based corrections.

If that trend is under way, the tracks have not yet appeared in the Uniform Crime Reports or in National Prison Statistics. Shrewd guesswork can account for the continued elevation of the volume and rate of crime, but planners would like to rely on a more solid foundation than guesses, no matter how shrewd. The main reason for the Abt studies was to discern the lineaments of the future. Will more prisons be needed? If so, how many? Where?

These were the questions that were the bread and butter of the Research Division of the California Department of Corrections when I labored there a good 15 years ago. With the redoubtable Vida Ryan presiding over our administrative statistics, the accuracy of our projections was close enough to sustain a reputation for usefulness that our other achievements did not always match. To achieve projections that made serious planning possible, many factors had to be considered. There was one limiting factor: From year to year the number of persons incarcerated per 100,000 in the general population would not vary by many points. The rules of the game have been changed with the introduction of the Determinate Sentencing Legislation and California is going into a mysterious future in which the projections of population increases are not always going to be as reliable as they used to be.

But the Abt Associates hew closely to common sense in trying to answer the urgent questions that Congress posed to them. Three sets of assumptions constituted the basis for three different projections. Projection I assumed that there would be a rough balance between the capacity of the prisons and the number of prisoners. New prisons would be built but they would replace obsolete capacity rather than expand it. Generally some overcrowding would be tolerated, but there would be a tendency to limit commitments to a volume that fit the general definition of the fraction of the population that would be defined as socially deviant. [Volume II, pp. 68-69]

Projection II was based on the certainty that there would be some sort of understandable relationship between admissions and releases, although the specific arithmetical relationship might be difficult to specify. [Volume II, pp. 69-70]

Projection III was built around the recognition that admissions would approximate the 1976 level, and that releases during the years 1977 through 1982 would equal admissions, lagged by about two or three years—the average duration of a prison term. [Volume II, pp. 70-71]

The projections were computed for the period 1979-1983. The predictions based on Projections I and II led to expectations that there would be a growth rate in prison populations of about 4 percent annually, (Projection I) to 5 percent (Projection II). Projection III led to a prediction of a stable state. [Volume II, p. 79]

The Abt investigators tried out correlations between economic and social trends and the fluctuations of prison population. A study of the populations at risk (that is, the 20- to 29-year-old segment of the population) produced confusing results. Between 1960 and 1973 the ratio of prisoners to the segment of the population declined in Iowa, increased in South Carolina, and fluctuated in Illinois. But nationally, the trend was rather stable, suggesting that for reasons nobody can explain, the state incarceration rates cancel each other out. [Volume II, pp. 46-48]

There was a correlation between unemployment and prison commitments, without any intervening correlations between unemployment and the crimes actually committed. The trouble with this correlation is, as the authors drily suggest, that "unemployment is not much easier to project than prison intake." [Volume II, p. 52] Hindsight in this matter is a great asset

to the social pundit, but of little use to the statistical forecaster.

The indicator that most interested me was the relationship between changing capacity and population. It is an article of faith among the advocates of a moratorium on prison construction that empty cells are filled, and that the increasing prison population can best be explained by the increasing capacity to lock up prisoners. The authors put this assumption through a mathematical analysis and wound up with the following conclusions:

- "1. Capacities do not appear to be changed more often in crowded conditions than at other times;
- "2. additions to rated capacity are filled by the second year after opening additional space;
- "3. within five years, the occupancy of the new space averages 130 percent of rated capacity." [Volume II, p. 58]

What do these conclusions mean? Carlson and his coauthors refuse to make a judgment as to whether it is socially desirable to continue with the spiral from equilibrium through intolerable overcrowding to a new equilibrium—the spiral that moratorium advocates denounce as a vicious waste—and content themselves with the value-free conclusion that, "What we can say is that there appears to be evidence that a decision to build more prisons seems to imply a decision that there should be more prisoners." [Volume II, p. 107] In that value-free and ever so carefully hedged sentence everyone can find a comfortable area of agreement.

These data and the projections constructed from them go back to 1978. Carlson may have been cautious about his interpretations but caution was flung aside when he methodically made projections from those data, using Assumptions I, II, and III. As I write this report, the data most immediately available to me are those of the Texas Department of Corrections, where tent cities now accommodate an unceasing flow of convicts that has brought the Texas prison population to the unprecedented level of 31,000. According to Carlson, if the Capacity Model for projection were to be used, the 1981 Texas prison population should not exceed 25,586; the Capacity Model is off by about 21 percent. A Linear Growth Model fares worse: our prison population should not exceed 24,315; the error is about 27.5 percent. The Intake-Release Model produced a high projection of 26,717; the error is about 16 percent. [Volume II, p. 151]

The Mid-1981 Report of the Bureau of Justice Statistics shows that Texas is not alone.³ Although we lead the Nation in absolute numbers of prisoners, our rate of growth, at 7.2 percent, was little more than half of the national rate of 12.4 percent. State prisons held 323,385 convicts as of 30 June 1981, as compared with the 1978 figure, used by the Abt group, of 229,200. It is obvious that factors are at work on the prison population problem that are not susceptible to statistical analysis and projection.

So what use is the projection process, anyway? I think Carlson and his colleagues have put the matter very well; there are three important values to be gained from keeping at this exercise. First, those who make policy can have a fuller appreciation of the forces that make for change in prison populations and a better appreciation of the points at which change can be brought about—as for example, the uses of parole decisionmaking and good-time statutes in reducing population. Second, we have some sense of the range within which populations are likely to move and a better idea of the consequences of changing patterns in decisionmaking. And third, we can have some notion of the variables that should be monitored in building a warning system to alert us to pressures that impend but which are not upon us yet. [Volume II, p. 94] The use that we would like to make of the immense amounts of data that we annually accumulate on the criminal justice system—the precise prediction of future prison populations—is simply not available now, and as long as the discretionary factors in the administration of

justice operate as they do, we are not going to be satisfied by the statisticians.

THE NEW JUSTICE AND THE PRISONS

The third question posed by Congress had to do with the effects of determinate and mandatory sentences on the future populations of the country's prisons. A good question, and one which has worried everyone working in the criminal justice system. Before our eyes, a drifting revolution is taking place. We are uncertain of its outcome, we are even more uncertain of what outcome we want, but for many critics of the system, whether from liberal or the conservative end of the continuum of discourse, almost anything we might try would improve the present shambles.

Richard Ku, the author of Volume IV (Case Studies of New Legislation Governing Sentencing and Release), made five detailed analyses of the innovative legislation that has been enacted in Florida (a "felony-firearms" mandatory prison sentence); in California (Determinate Sentences); Indiana (another version of Determinate Sentences); Minnesota (the Community Corrections Act, concerning which I have reported in an earlier issue of FEDERAL PROBATION); and Oregon (the Parole Matrix). It is not surprising that he was unable to arrive at a firm conclusion about the effects of reduced discretion in the sentencing process.

The Florida law expressed a determination to get tough with felons who commit crimes with guns in their hands. A mandatory minimum sentence was required whenever a convicted defendant was found in possession of a firearm at the time of the commission of his crime. For the most serious crimes, of course, the minimum to be served would be much more than 3 years. In Ku's study of the effects of this law, two features stood out. Not many Florida citizens knew of the law's existence, and there was nothing to negotiate in the more serious crimes. In the less serious crimes, the felony-firearm statute was rarely invoked. Ku could find no evidence that this statute had any effect at all on prison population. That was in 1978, when the Florida prison population totaled 17,009; as of the Midyear 1981 report, the population is now 21,579. There is no way of knowing from the latest figures whether getting tough is a policy that is getting anywhere in Florida.

The Determinate Sentencing Legislation (DSL) in California has been the subject of a report in this column last year. Ku had only 1 year's data to guide him, and anything said had to be tentative. Some of the alarming predictions of an immense growth in the prison population proved to be unfulfilled, but it turned out that a lot of offenders who would formerly have received probation were now serving short prison sentences. The Department's own analysis of the prospects for the immediate future were disturbing; the projection was from an actual 17,747 on 30 June 1978 to 23,550 on 30 June 1982. The actual figure on 30 June 1981 was 26,792. The capacity of the system in 1978 was 22,810. These data speak for themselves, but there will be differing interpretations of the message. Between Proposition 13, which surely accounted for the influx of short-termers, the DSL, a situation has been created in California that is getting much more difficult than any that have been heretofore encountered.

In Indiana, more flexibility was built into the Determinate Sentencing Law, and that was a good thing, too, because there seemed to be a lot of conflicting expectations of its eventual effects. Todd Clear and his associates concluded their analysis of the legislation with a memorable summary: "In the eyes of one interest group or another, the new Indiana Penal Code is variously expected to increase deterrence, increase humaneness, decrease discretion, increase prison populations, make penalties more appropriate to the offense, equalize penalties, reduce arbitrariness, increase public protection, increase system efficiency, reduce harshness and reduce leniency. Someone is bound to be disappointed."⁴

Ku had only a year's data to study, and the results were fairly reassuring. The number of admissions to the prison system had not risen, and the time served had dropped slightly. [Volume

³Bureau of Justice Statistics Bulletin: Prisoners at Midyear 1981." (Washington, U.S. Department of Justice, September 1981)

⁴Quoted in Volume IV, p. 5.

IV, pp. 83-84] The 1978 population was 3,814. On 30 June 1981, the total was 7,614, and growing at an annual rate of 15 percent. In a prison system with an antiquated physical plant and very little for the prisoners to do, this result must certainly have disappointed a lot of advocates of the new penal code.

The approach in Minnesota was much more intricate. It was agreed that certain very serious crimes had to be punished severely, but the legislature also adopted the position that the less serious offenses should be punished locally. This principle was at the heart of the Community Corrections Act of 1973. There is good reason to believe that it has been generally followed, so far as the principle itself goes. What happened to confound the planners and the well-wishers was a deceleration of paroles, such that the population rose from 1,276 in midyear 1974 to 2,003 in midyear 1977—and that in spite of a sentencing commission bound to create guidelines partially based on a recognition of the capacity of state prison facilities. Last year, the parole board was abolished in Minnesota, and the guideline process appears to be working well; in midyear 1981 the population was 2,063, a comparatively trivial accretion. Adjustment of guidelines to the physical capacity of the prisons surely is no panacea, but it must be a better contribution to penal realism than some of the nostrums that have been successfully peddled to our state legislatures.

The Oregon plan was based on the "just desert" concept of sentencing that Andrew von Hirsch has been urging.⁵ As a result of the familiar penal bind—something *must* be done about overcrowding, and something *must* be done about the lenient sentences that offenders are receiving—the whole sentencing process was overhauled. The legislature created an Advisory Commission on Prison Terms and Parole Standards consisting of the five members of the Parole Board and five circuit court judges, chaired by the legal counsel to the governor. The Advisory Commission was charged with designing guidelines to govern the length of prison terms. It proceeded to adopt the guidelines used by the Federal parole commission, with the important modification that instead of relying on a statistical analysis of past practice, as the United States Parole Commission has done, the Advisory Commission tried to relate the length of terms to "just desert" reflecting society's norms. Ku does not make clear how this difference was operationalized, but the matrix that results has a strong family resemblance to the Gottfredson-Wilkins-Hoffman model.⁶ Down the Y-axis there are seven categories of offenses ranging from least serious at the top to most serious at the bottom. Across the X-axis are four categories of risk-assessment scores ranging from 11-9, "excellent," to 2-0, "poor." Any offender can be located on this matrix and his proper time will be found in the proper

square with a minimum and a maximum expressed in months, and slightly reduced terms for offenders 21 years of age or younger. Parole board members may deviate from the matrix for good cause, as for example, severe emotional disturbances, serious disciplinary infractions, and an inadequate parole plan.

So far, so good. The conclusions drawn by Ku are that on the evidence available in 1978 the prison population increase had abated, but not enough experience had accumulated with parole revocations to be sure that the abatement would hold firm over the years to come. In the final analysis, Ku thought, the recommendations of the Advisory Commission "may prove to be the most significant determinant of prison population."

A little more time has passed. The population of Oregon's prison system in midyear 1978 was 2,505. In midyear 1981 it was 3,082, a decline at the annual rate of 5.6 percent from the figure at the end of 1980.

WHAT KIND OF A NATIONAL CORRECTIONAL POLICY?

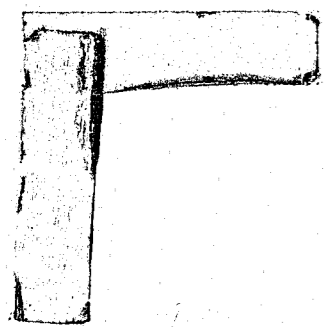
For several years Allen Breed, the director of the National Institute of Corrections, has been urging the creation of a national correctional policy. He has scrupulously avoided recommending specifics for inclusion in such a policy, but he has also indicated his aversion for the haphazard aggregation of speculations, public fury, cynical negotiations in legislatures and prosecutors' offices and the various other elements, both idealistic and discreditable, that pass for such a policy now. If we are to get tough, how tough and with whom? If too many offenders are locked up in prison, should we release that part of the surplus that is least dangerous or least obnoxious and keep on the really violent specimens—and how shall we decide how long these specimens shall be kept? Or should we just keep on building more prisons so that those men and women sent to incarceration by the courts will at least be kept in tolerable physical conditions?

In past years, one could always evade decisions on these and similar questions by invoking the old refrain—"more research is needed. . . ." We now have that research, and there ought to be a subcommittee of every judiciary committee in the land considering its implications for corrections in each state. It is at least possible that many states may find that disaster can be averted without much capital outlay if a more rational structure of sentencing guidelines can be instituted. Other states must renovate, rebuild, and expand, even if enlightened guidelines are adopted. Making constructive use of the patterns of analysis employed by the Abt investigators should lead to an understanding of the policy directions we must take if those arithmetical imbalances of population and capacity are not to be underlined by gunfire and corpses.

More research is still needed. Those models should be kept up to date; projections should be checked against realities; the impact of sentencing innovations should be kept under continuing scrutiny. There is more to be done; one must hope that somewhere in Washington someone is thinking hard about the priorities in criminal justice research and arriving at the right answers.

⁵Andrew von Hirsch, *Doing Justice: The Choice of Punishments*. (New York: Hill and Wang, 1975).

⁶Don Gottfredson, Leslie T. Wilkins, Peter Hoffman, *Guidelines for Parole Decision-Making*. (Lexington, Massachusetts: Lexington Books, 1978).



END