

Peer Review Prison

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Three Strikes and You're Out: The Political Sentencing Game *Peter J. Benekos*
Alida V. Merlo

Electronic Monitoring in the Southern District of Mississippi *Darren Gowen*

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United States Pretrial Services Supervision..... *Probation and Pretrial Services Division*

The Supreme Court and Prisoners' Rights *Jack E. Call*

Restorative Justice: Implications for Organizational Change..... *Mark S. Umbreit*
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Juvenile Restitution and Recidivism in a Midwestern County *Sudipto Roy*

An Impact Analysis of the Alabama Boot Camp Program *Jerald C. Burns*
Gennaro F. Vito

"Up to Speed"—Our "Top Ten" List of Books and Articles in 1994..... *Ronald P. Corbett, Jr.*
Joan Petersilia

"Looking at the Law"—Determining Mandatory Minimum Penalties in Drug Conspiracy Cases..... *Catharine M. Goodwin*

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This Issue in Brief

Three Strikes and You're Out!: The Political Sentencing Game.—Recent sentencing initiatives which mandate life sentences for three-time convicted felons may appeal to the public, but will they address the realities of crime? Authors Peter J. Benekos and Alida V. Merlo focus on the latest spin on sentencing: "three strikes and you're out." Their article reviews the ideological and political context of recent sentencing reforms, examines "get-tough" sentencing legislation in three states, and considers the consequences of increasing sentencing severity.

Electronic Monitoring in the Southern District of Mississippi.—Although many criminal justice agencies now use electronic monitoring as an alternative to prison, some still hesitate to use it in supervising higher risk offenders. Author Darren Gowen explains how the U.S. probation office in the Southern District of Mississippi began its electronic monitoring program with limited expectations but successfully expanded it for use with higher risk offenders. He describes the district's first year of experience with electronic monitoring and discusses the selection criteria, the types of cases, the supervision model, and offender demographics.

Helping Pretrial Services Clients Find Jobs.—Many pretrial services clients lose their jobs because they are involved in criminal matters; many have been either unemployed or underemployed for a long time. Some are released by the court with a condition to seek and maintain employment. Author Jacqueline M. Peoples describes how the U.S. pretrial services office in the Northern District of California addressed the issue of unemployment among its clients by launching a special project to identify employers willing to hire them. She also explains how the district developed an employment resource manual to help clients find jobs or training programs.

Specialist Foster Family Care for Delinquent Youth.—Authors Burt Galaway, Richard W. Nutter, Joe Hudson, and Malcolm Hill contend that the current focus on treatment-oriented or specialist foster family care as a resource for emotionally or psychiatrically impaired children and youths may disguise its

potential to serve delinquent youngsters. They report the results of a survey of 266 specialist foster family care programs in North America and the United Kingdom. Among their findings were that 43 percent of the programs admitted delinquent youths and that the delinquents were as likely to be successful in the programs as were nondelinquent youths.

United States Pretrial Services Supervision.—In June 1994 the Probation and Pretrial Services Division, Administrative Office of the United States

CONTENTS

Three Strikes and You're Out!: The Political Sentencing Game.....	154279 Peter J. Benekos Alida V. Merlo	3
Electronic Monitoring in the Southern District of Mississippi	154280 Darren Gowen	10
Helping Pretrial Services Clients Find Jobs.....	154281 Jacqueline M. Peoples	14
Specialist Foster Family Care for Delinquent Youth	154282 Burt Galaway Richard W. Nutter Joe Hudson Malcolm Hill	19
United States Pretrial Services Supervision	154283 Probation and Pretrial Services Division	28
The Supreme Court and Prisoners' Rights	154284 Jack E. Call	36
Restorative Justice: Implications for Organizational Change	154285 Mark S. Umbreit Mark Carey	47
Juvenile Restitution and Recidivism in a Midwestern County	Sudipto Roy	55
An Impact Analysis of the Alabama Boot Camp Program	154286 Jerald C. Burns Gennare F. Vito	63
Departments		
Up to Speed		68
Looking at the Law		74
Reviews of Professional Periodicals		79
Your Bookshelf on Review		84
It Has Come to Our Attention		92

Three Strikes and You're Out!: The Political Sentencing Game

BY PETER J. BENEKOS AND ALIDA V. MERLO*

THE "WAR on crime" has added another weapon to the arsenal of getting tough on crime: "three strikes and you're out." From the slogans of "just say no" to "if you can't do the time, don't do the crime," it is ironic that the latest metaphor for crime policy parallels the baseball players' strike of 1994. The recent initiatives to mandate life sentences for three-time convicted felons are responses to the public's fear of crime and frustration with the criminal justice system and indicate the continuation of politicized crime policy.

In the 30 states that have introduced "three-strikes" legislation and in the 10 that have passed tougher sentencing for repeat offenders (*Criminal Justice Newsletter*, 1994c, p. 1), politicians have demonstrated quick-fix responses to the complex and difficult issues of crime, violence, and public anxiety over the disorder and decline in America. The United States Congress also finally overcame differences to legislate a new get-tough crime bill that not only includes a provision of life imprisonment for a third felony conviction but also authorizes the death penalty "for dozens of existing or newly created federal crimes" (Idelson, 1994, p. 2138).

Notwithstanding the critics of these sentencing policies (Currie, 1994; Gangi, 1994; Gladwell, 1994; Kramer, 1994; Lewis, 1994; Raspberry, 1993) politicians have rushed to embrace the "get *even* tougher" sentencing proposals because they have learned that "politically, it still works" (Schneider, 1993, p. 24). "Crime used to be the Republicans' issue, just as the economy was the Democrats'. No more" (Schneider, 1993, p. 24). In his commentary on how the "misbegotten" three-strikes piece of legislation became part of the crime bill, Lewis writes that "the answer is simple: politics. Democrats wanted to take the crime issue away from Republicans. Republicans responded by sounding 'tougher' . . . and 'President Clinton wanted something—anything—labeled 'crime bill'" (Lewis, 1994, p. A13).

This article reviews the ideological and political context of these sentencing reforms, examines get-tough legislation in three states and on the Federal level, and considers the consequences of increasing

sentencing severity. The review suggests that baseball sentencing will further distort the distribution of punishments and will contribute to an escalation of political posturing on crime policies.

Politicalization of Crime

In a sense, this is what baseball sentencing is about: using the fear factor as a political issue; relying on what Broder calls "bumper sticker simplicity" to formulate crime policy (1994b, p. 6), and taking a tough stance on sentencing criminals as symbolic of doing something about crime. The politicizing of crime as a national issue can be traced to the 1964 Presidential election when Barry Goldwater promoted the theme of "law and order" and challenged Lyndon Johnson's "war on poverty" as a soft-headed response to crime and disorder (Cronin, Cronin, & Milakovich, 1981).

Thirty years ago the voters chose "social reform, civil rights, and increased education and employment opportunities" over a "get-tough response to crime that included expanding police powers and legislating tougher laws" (Merlo & Benekos, 1992a, p. x). Today's election results reflect a reversal of policy and the expansion of the Federal role in crime control (*Congressional Digest*, 1994).

Even though Johnson won the 1964 election, the "nationalization" of the crime issue was established and the Federal Government began "a new era of involvement in crime control" (*Congressional Digest*, 1994, p. 162): "the law and order issue just wouldn't go away" (Cronin et al., 1981, p. 22) and it became embedded in the public's mind and on the national agenda (Merlo and Benekos, 1992a, p. x).

In his 1965 address to Congress, President Johnson "called for the establishment of a blue ribbon panel to probe 'fully and deeply into the problems of crime in our Nation'" (*Congressional Digest*, 1994, p. 162). This led to the Law Enforcement Assistance Act of 1965, the Omnibus Crime Control and Safe Streets Act of 1968, and more recently to the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, the Anti-Drug Abuse Act of 1988, the Crime Control Act of 1990, and finally, the Violent Crime Control and Law Enforcement Act of 1994 (*Congressional Digest*, 1994, pp. 163, 192), which was signed by President Clinton on September 13, 1994. Since 1965 to 1992, the Federal spending for the "administration of justice" has "risen from \$535 million to an estimated \$11.7 billion" (*Congressional Digest*, 1994, p. 162).

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From Horton to Davis and McFadden

The lessons of crime and politics were learned again in the Presidential election of 1988 when the then Vice President George Bush invoked the get-tough issue when he challenged Massachusetts Governor Michael Dukakis on his state's correctional policies that allowed a convicted murderer serving a life sentence to participate in the furlough program (Merlo & Benekos, 1992a, p. x).

Willie Horton became the poster child of Republicans and reminded Democrats (as well as doubting Republicans) that appearing to be soft on crime (and criminals) was politically incorrect. The Willie Horton incident "effectively crystalized a complex problem by presenting it as a dramatic case history of one individual" (The Sentencing Project, 1989, p. 3). Ironically, even without the Willie Horton incident, the 1980's were a period of conservative crime policy in which get-tough sentencing reforms were implemented throughout the country (Merlo & Benekos, 1992b). As part of these get-tough, get-fair, just deserts, determinate sentencing reforms, penalties were increased, mandatory sentences were legislated, and prisons became overcrowded (Shover & Einstadter, 1988, p. 51).

Similar to the Willie Horton situation, in 1993 another tragic case also became a "condensation symbol" for the public's perception that crime was increasing, that violent criminals were getting away with murder, that sentences were too lenient, and that offenders were getting out of prison after serving only small portions of their sentences. The California case which outraged the public was the October 1, 1993, abduction and murder of 12-year-old Polly Klaas by a parolee who had been released after serving 8 years of a 16-year sentence for a 1984 kidnapping (*New York Times*, 1993, p. A22).

Richard Allen Davis, who was arrested November 30, 1993, had convictions for two kidnappings, assault, and robbery and had spent "a good part of his adult life in jail" (*New York Times*, 1993, p. A22). At the time of his arrest, he was in violation of a pass from the halfway house that he was released to and therefore was also charged as a parole violator.

This type of crime fuels public fear and outrage and becomes fodder for politicians who respond by calling for tougher sentences to curb the perceived increases in crime and violence. Coincidentally to Davis' arrest, the FBI released its semiannual tabulation of crime which "showed that the rate of crime as a whole declined 5 percent in the first six months of 1993 from the same period the year before and that the rate of violent crime dropped 3 percent" (Lewis, 1993, p. B6).

These data, however, are not comforting to a public which sees the Klaas incident as evidence of the horrific and violent crimes which grip the Nation in fear.

"The public doesn't rely on statistics to generate their perception of the level of crime. People's perceptions are based on what they see and hear going on around them" (Michael Rand of the Justice Department, cited in Lewis, 1993, p. B6). In reviewing 1994 state political campaigns, Kurtz observed that "although other traditional hot-button issues—welfare, taxes, immigration, personal ethics—also are prominent, crime remains the 30-second weapon of choice, and the charge most often is that an incumbent is responsible for turning dangerous inmates loose" (1994, p. 12).

Recent "Baseball Sentencing" Legislation

In order to provide a clearer picture of the legislation that is designed to impose mandatory life sentences (without possibility of parole or early release), we examined the recently enacted Violent Crime Control and Law Enforcement Act of 1994 and similar statutes in the states of Washington, California, and Georgia. The Violent Crime Control and Law Enforcement Act of 1994, signed by President Clinton on September 13, 1994, authorizes mandatory life imprisonment for persons convicted on two previous separate occasions of two serious violent felonies or one or more serious violent felonies and one or more serious drug offenses. According to the new Federal code, a "serious violent felony" includes offenses ranging from murder and aggravated sexual abuse to arson, aircraft piracy, carjacking, and extortion (U.S. Government Printing Office, 1994, pp. 194-195).

In the State of Washington, the "Persistent Offender Accountability Law" was approved by the voters in November 1993 by a 3 to 1 victory and became effective in December 1993 (*Corrections Digest*, 1994a). Under the revised statute, an offender who is categorized as a "persistent offender" must be sentenced to life imprisonment without any hope of parole if he or she has been convicted of a "most serious offense" and has two prior separate convictions for crimes that meet the "most serious offense" definition (*Washington Laws*, 1994, p. 1). Included in the definition of "most serious offense" are crimes ranging from "manslaughter in the second degree" to "promoting prostitution in the first degree" or any felony defined under any law as a Class A felony or criminal solicitation of or criminal conspiracy to commit a Class A felony (*Washington Laws*, 1994, p. 13).

In March 1994, Governor Pete Wilson signed California Assembly Bill 971 into law. Its most publicized provision is the requirement that judges impose "... an indeterminate sentence of a minimum of 25 years to life, or triple the normal sentence, whichever is greater, on offenders convicted of certain serious or violent felonies if they have two previous convictions for any felony" (Tucker, 1994, p. 7). The offenses in-

cluded in the category of serious or violent felony range from murder and rape to burglary, any felony using a firearm, and selling or giving drugs such as heroin, cocaine, and PCP to a minor (California Penal Code, s1192.7).

In Georgia the voters approved "The Sentence Reform Act of 1994" which authorizes life imprisonment without possibility of parole, pardon, early release, leave, or any other measure designed to reduce the sentence for any person convicted of a second "serious violent felony." Under Georgia law, a serious violent felony is defined as "...murder or felony murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy and aggravated sexual battery" (Georgia Statutes, 17-10-6.1).

Despite the fact that this law became effective January 1, 1995, any felony committed before that date in Georgia or in another jurisdiction, which meets the Georgia definition of a "serious violent felony," would count as one of the "strikes." The Federal code and the Washington and California laws contain similar language. The offender's criminal record in the state where the most recent conviction occurs as well as his or her record in other states or on the Federal level determine the number of "strikes." In short, an offender may already have the requisite number of convictions even as the mandatory sentencing provisions first become effective.

When the Federal criminal code and the three strikes laws are compared, it appears that the Georgia law is the most restrictive. Unlike the others, it contains a "two strikes" versus a "three strikes" provision. However, upon closer inspection, Georgia's law is the only one of the four reviewed here that requires mandatory life imprisonment for crimes that can be strictly identified as violent. By contrast, the Federal law and the Washington and California laws include a variety of nonviolent crimes such as burglary, prostitution, and drug trafficking that can result in a mandatory life sentence in prison. In California, for example, a criminal twice convicted of the property crime of burglary may be sentenced to life in prison for a third burglary conviction.

In order to clarify the intent of the legislation—that these offenders serve lengthy prison sentences—some states such as Washington stipulate that the Governor is "urged to refrain from pardoning or granting clemency" to offenders sentenced until the offender has reached the age of 60 (*Final Legislative Report*, 1994, p. 1). In order to discourage the Governor's use of pardons as a way to minimize the effects of the legislation, Washington law mandates that the Governor provide reports twice each year on the status of these "persistent offenders" he or she has released during his or her term of office and that the reports continue

to be made for as long as the offender lives or at least 10 years after his or her release from prison (*Final Legislative Report*, 1994, p. 1).

Effects of Baseball Legislation

Thermodynamic Effects of Baseball Punishment

While the get-tough rhetoric continues to capture the public's support, the consequences of increased sentencing penalties are having an unintended but not unanticipated impact on the criminal justice system. In California where the mandatory statute "makes no distinction between 'violent' and 'serious' felonies . . . a superior court judge, Lawrence Antolini, declared the three-strikes law unconstitutional" because it "metes out 'cruel and unusual' jail terms" for nonviolent criminals and "robs justices of the power to evaluate the nuances of individual cases" (Peyser, 1994, p. 53). In an article about the tough California sentencing law, a *New York Times* report indicated that "judges in many California jurisdictions have been indicating their reluctance to follow the new law . . . by changing some felony charges to misdemeanors" (1994c, p. A9). In addition, Supreme Court Justice Anthony Kennedy has also criticized the "increasing use of mandatory minimum sentences, saying the practice was unwise and often unfair" (*New York Times*, 1994a, p. A14).

And, as some judges find fault with the harsher sentencing laws, prosecutors are also raising doubts about the ability of the courts to handle the number of cases which fall under the baseball sentencing provisions. In California, where the District Attorneys' Association opposed the three-strikes law, Los Angeles County District Attorney Gil Garcetti voiced concerns that the broad nature of California's sentencing law would expand the number of felons subject to life in prison (*Criminal Justice Newsletter*, 1994a, p. 6). In an interview with National Public Radio, Garcetti stated that Los Angeles County alone would need 40 more prosecutors to handle the increase in the number of cases (National Public Radio, 1994).

What Garcetti was referring to is the potential increase in the number of accused offenders who refuse to plea-bargain and would rather take their chances on a trial (Peyser, 1994, p. 53). For example, a convicted murderer in California, Henry Diaz, originally entered guilty pleas to three counts of child molestation. When he learned that "one of the incidents occurred after the 'three-strikes' law went into effect on March 7 (1994), making (him) eligible for sentencing under the new law," he withdrew his guilty plea and requested a trial (*New York Times*, 1994d, p. A19). Responses such as this give the California Judicial Council reason to "estimate that the new law will require an additional \$250 million per year to try more

felony cases" (*Criminal Justice Newsletter*, 1994a, p. 7).

These types of judicial responses illustrate a hydraulic, thermodynamic effect where getting tough may in fact result in being softer. For example, "the law allows prosecutors to move to dismiss criminals' prior convictions 'in the furtherance of justice'—namely, if they believe the law mandates an elephantine sentence for a puny offense" (Peyser, 1994, p. 53). Another avenue to circumvent the law is a "wiggle" factor where district attorneys can "classify certain crimes that straddle the felony-misdemeanor line as misdemeanors" (Peyser, 1994, p. 53).

In addition, some district attorneys have reported "instances in which crime victims had told prosecutors they would not testify if a conviction meant the defendant would fall under the requirements of the new law" (*New York Times*, 1994c, p. A9). As Griset observed in her study of determinate sentence reforms, legislators fail to "recognize the inevitability of the exercise of discretion at all points in the criminal justice system" and as a result develop policies which are incongruent and inconsistent with the reality of the criminal justice system (1991, p. 181). The above examples illustrate her conclusions and also suggest an inverse relationship between the severity of sanctions and the likelihood that those sanctions will be applied (Black, 1976).

Police officers are also experiencing the effects of these baseball "swings" at offenders: "suspects who are more prone to use violence when cornered" (Egan, 1994, p. A11). In one case in Seattle, a suspect threatened to shoot police after he was cornered. "After the suspect was taken into custody, the police were told by his acquaintances that he thought he was facing a three-strikes charge. Rather than face life in prison, he decided to confront officers" (Egan, 1994, p. A11).

Prisons and Prisoners: Economic and Social Impact

With crime uppermost in voters' minds, the new Federal crime bill was frequently featured in the 1994 election campaigns. Incumbent members of Congress informed their constituents of the immediate effects of the legislation on their home state. For example, New Jersey has been promised \$77 million for new prisons and 3,800 police officers. Pennsylvania is slated for \$110 million for prisons and 4,200 new police officers (*The Vindicator*, 1994, p. A5). These tangible results of the crime bill are intended to provide voters with a sense of security and satisfaction. However, the public has not yet focused on the long-term costs of these new initiatives.

There is little doubt that an immediate effect of the legislation will be to increase the already enormous prison population in the United States. According to

The Sentencing Project research, there are currently 1.3 million Americans incarcerated (Mauer, 1994a, p. 1). The incarceration rate is 519 per 100,000, making the United States' rate second only to Russia's (Mauer, 1994a, p. 1). In the United States, the incarceration rate of African-Americans (1,947 per 100,000) as compared to the incarceration rate of whites (306 per 100,000) is even more striking; Mauer's analysis illustrates that there are currently more African-American males in prisons and jails in the United States than enrolled in institutions of higher education (Mauer, 1994a, pp. 1-2). In terms of future projections, the National Council on Crime and Delinquency (NCCD) contends that if the remainder of the states follow in the footsteps of the Federal Government and of those states such as Washington and California, the inmate population in American prisons will rise to a minimum of 2.26 million within the next 10 years (*Corrections Digest*, 1994b, p. 1).

An increase of over a million inmates will mandate an increase in the level of funding necessary to accommodate such a large population. According to NCCD estimates, the Federal Government and the states will need an additional \$351 billion during the next 10 years (*Corrections Digest*, 1994b, p. 1). In California, the effects of the three strikes provision are estimated to increase the costs of operating the state prisons by \$75 million for fiscal year 1994-1995 (Tucker, 1994, p. 7). The requisite prison construction that will be necessary to fulfill the legislative provisions is estimated to cost California residents \$21 billion (Mauer, 1994a, p. 22). The Federal grants that the states are hoping to receive from the Federal Government will fall far short of these costs.

In addition, there are also the costs associated with providing health care and security for inmates over the age of 50. Based upon demographic data obtained from the California Department of Corrections, NCCD projects that the number of inmates who are 50 years of age or older will increase by 15,300 from 1994 to 1999. Although these older inmates comprised only 4 percent of California's prison population in 1994, it is estimated that they will represent 12 percent of the prison population in 2005 (NCCD, 1994, p. 3). State officials in California expect that the full impact of this legislation will be realized in the year 2020 at which time over 125,000 inmates or 20 percent of the prison population will be 50 years of age or older (NCCD, 1994, p. 3).

The New Jersey Department of Corrections has estimated that a new baseball sentencing bill would have a substantial financial impact on prison costs. In a financial impact statement, the Office of Legislative Services reported that "for every inmate who is not paroled as a result of this bill, an additional \$80,000

in construction costs and \$1 million in operating costs would be incurred over the lifetime of that inmate...that accounting breaks down to \$25,000 per year per inmate for operating costs or an additional \$3.75 million each year for 30 years, or \$1.7 billion" (Gray, 1994, p. B9). In other words, Todd Clear estimates it would cost "\$1 million to lock up a 30-year criminal for life" (Clear cited in Levinson, 1994, p. B2).

In his review of the costs of crime and punishment, Thomas not only finds that "the fastest growing segment of state budgets in fiscal 1994 is corrections" but he considers that as more funds are put into public safety and crime control, there are fewer funds for other public and social programs (Thomas, 1994, p. 31). For example, Geiger reports that "seventy percent of all the prison space in use today was built since 1985. Only 11 percent of our nation's classrooms were built during the 1980s" (1994, p. 22).

In an assessment of the consequences of baseball sentencing laws on prison costs, The Sentencing Project cautioned that "the most significant impact of these proposals, though, will begin to take place 10-20 years after their implementation, since the prisoners affected by these proposals would generally be locked up for at least that period of time under current practices" (1994, p. 2).

Confronted with the fact that an older inmate population will have a higher incidence of circulatory, respiratory, dietary, and ambulatory difficulties than younger inmates, prison officials need to anticipate and plan for geriatric services and programs now. Another realization is that these inmates pose the least risk in terms of criminal behavior. As a group, they are not a threat to society since crime is primarily an activity of young males. As a result, while the United States will be spending millions of dollars on the incarceration of these older prisoners, this is unlikely to reduce the incidence of crime.

Mauer (1994a) contends that these sentencing policies will have several lasting effects. First, the money spent to build new prisons will represent a commitment to maintain them for at least 50 years. Once the public has invested the requisite capital for construction, the courts will continue to fill the beds. Second, the funds that will be allocated to the increased costs of corrections will not be able to be used for other crime prevention measures. There will be little money available to improve the effectiveness of other components of the system such as juvenile justice, and diversion or early intervention programs will receive only limited funding and support. Third, the incarceration rate of African-American males will continue to increase. As a result, there is little reason to believe that the status of young African-American males will improve when their representation in American prisons and jails

exceeds their representation in college classrooms. Fourth, there will be little opportunity to fully examine and discuss crime in the political arena because prevailing policies will be so dependent upon a limited range of sentencing initiatives (Mauer, 1994a, p. 23). Once the "quick fix" mentality to crime has been adopted, it is less likely to expect a divergence from the "punitive-reactive" response to crime.

Assessing the Effectiveness of Baseball Sentences

While some legislatures and policy wonks would disagree, "there is no reason to believe that continuing to increase the severity of penalties will have any significant impact on crime" (The Sentencing Project, 1994, p. 2). In their critique of incarceration trends, Irwin and Austin observed that political rhetoric has distorted rational sentencing policies and resulted in large increases in the number of prisoners, many of whom are nonviolent, without any corresponding reductions in crime (1994).

In a study of California's get-tough-on-crime strategy, "which quadrupled the prison population between 1980 and 1992," Joan Petersilia concluded "that the much higher imprisonment rates in California had no appreciable effect on violent crime and only slight effects on property crime" (Petersilia, cited in Broder, 1994a, p. 4). Despite such findings that these measures may be ineffective in reducing crime, and notwithstanding the spiraling costs of baseball sentencing, the punishment model continues to prevail.

In her review of retributive justice and determinate sentencing reforms, Griset (1991, p. 186) concludes that :

the determinate ideal arose as a reaction, a backlash against the perceived evil of the reigning paradigm. While the theoretical underpinnings of determinacy attracted a large following, in practice the determinate ideal has not lived up to the dreams or the promises of its creators.

With a similar argument, Robert Gangi, executive director of the Correctional Association of New York, writes that "three strikes and you're out represents extension of a policy that has proven a failure" (1994, p. A14).

With a strong momentum toward tougher sentences and the success of get-tough political posturing on crime issues, it is unlikely that baseball metaphors will fall into disuse. For example, a proposal in Oregon would offer voters a "grand slam" package for crime. This package would require prisoners to work or study, prohibit sentence reductions without a two-thirds legislative vote, make sentencing alternatives to prison more difficult, and impose mandatory minimum sen-

tences for all violent offenders older than 15 (Rohter, 1994, p. A12).

Conclusion

In this review of the recently enacted Federal crime bill and the Washington, California, and Georgia statutes, and in the assessment of the anticipated consequences of recent sentencing statutes, baseball punishment is characterized as the latest episode in the search for the "quick fix" to a complicated and disturbing social problem. These attempts to prevent crime, however, are misguided and will prove to be far more costly and ineffective than their proponents and the public could have anticipated. In the rush to enact "three strikes legislation," elected officials and the electorate appear to have given little thought to the long-term effects of these provisions.

In terms of additional systemic costs, these laws will have a considerable effect on an already over-burdened court system. The process of justice relies extensively on an offender entering into a plea agreement. Once these laws become enacted, there will be little incentive for an offender to plead guilty to any charges which could result in longer periods of incarceration. If offenders know that pleading guilty will constitute a first or second strike let alone a third, there is a greater likelihood that they will demand a trial. As a result, such legislation will necessitate additional funding for more prosecutors, judges, and court administrative and support staff.

One of the distressing aspects of these sentencing proposals is that they seem to have far-reaching effects on other offender populations. Included in the newly enacted Federal code is a provision to try as adults those juveniles who are 13 years of age and charged with certain violent crimes. It will be possible for the first strike to have been committed at age 13. This tendency to treat juvenile offenders more harshly is but one manifestation of a trend in juvenile justice mandating waiver into the adult court and sentencing younger juveniles to prison. Efforts to confront the crime problem would be more effective if society addressed the tough issues of gun availability, family violence, and drug prevention (Mauer, 1994c).

The "three strikes" legislation has also raised public expectations far beyond the likelihood of success. A *Wall Street Journal/NBC News* poll found that 75 percent of Americans interviewed believed that enacting such legislation would make a "major difference" in the crime rate (*Criminal Justice Newsletter*, 1994d, p. 1). Apparently, elected officials and the media have succeeded in pandering to the American penchant for oversimplifying the causes of crime.

Despite legislative sentencing changes, the crime problem has not been addressed. Absent a commit-

ment to do more than get tough on criminals, the "three strikes" legislation is just one more costly slogan which will have no appreciable benefit for society. Research and commentary on the consequences of baseball punishment suggest that prison populations will continue to grow, corrections expenditures will consume larger percentages of government budgets, and sentence severity will have "no discernible effect on the crime rate" (Currie, 1994, p. 120). As the rhetoric pushes punitive policies to the margin, baseball metaphors and politicalization of sentencing will continue to divert attention from addressing the antecedents and correlates of crime. It is not surprising that the emotionalizing of policy results in "feel-good bromides, like 'three-strikes'...that create the illusion of problem solving" (Kramer, 1994, p. 29).

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