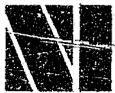




Victimless Crimes

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MICROFICHE



National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

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VICTIMLESS CRIME

A Selected Bibliography

by

Wendy Serbin Smith

National Criminal Justice Reference Service

August 1977

National Institute of Law Enforcement and Criminal Justice

Law Enforcement Assistance Administration

United States Department of Justice

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INTRODUCTION

In any discussion of victimless crimes it must be noted that the term "victimless" is subject to much controversy. Most people have no trouble when applying the term to the public inebriate and this has been reflected in the fact that many jurisdictions no longer treat public drunkenness as a crime. When, however, subjects such as prostitution or private sexual behavior which may differ from the "norm" are discussed, there is a great variance of opinion. Whether we attribute it to our religious background or the puritanism of America's founders, the fact remains that many Americans do believe in legislating morality and do not believe that such acts are "victimless". In a bibliography on victimless crimes, however, these subjects should be included because, unlike a crime such as murder, it is difficult to ascertain exactly who constitutes the victim. For example, with prostitution, it is usually the prostitute who is punished for the crime; but who is the victim of that particular crime? One could say it is society as a whole, if society is morally outraged by the act, or one could say it is the government, because taxable income is not being reported. More generally, however, it is the prostitute herself who is considered the victim of her own crime. We have, therefore, included in this bibliography crimes which may or may not ultimately be considered victimless, but which, at the present time, are still subject to dispute.

The bibliography is divided into sections dealing with specific victimless crimes: drug use, gambling, pornography and obscenity, prostitution, public drunkenness, and sexual morality offenses. The final section treats decriminalization or legalization and includes items which deal with more than one of the crimes in the previous sections. This bibliography is by no means definitive; it is a selection of books, documents, and journal articles from the NCJRS data base which we consider to be of value in the continuing debate on "victimless" crime.

HOW TO OBTAIN THESE DOCUMENTS

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DRUG USE

1. CUSHMAN, PAUL, JR. Relationship Between Narcotic Addiction and Crime.

Federal Probation, v. 38, no. 3: 38-43. September, 1974.

(NCJ 16948)

A study in which the criminal behavior of 269 narcotic addicted individuals, (as reflected in their New York City police arrest records) was examined longitudinally in relation to various stages of narcotics use. Three phases of narcotic addiction were studied: before the onset of addiction, during the years of illicit narcotic use, and during methadone maintenance treatment. Background characteristics and addiction history of the subjects are first discussed; the arrest records of each were studied in detail. For each arrest the calendar year, the age of each patient, and the patient's addiction status were recorded. Arrest records of the general population in the area studied were used as a control. Predominantly noncriminal before addiction, the results showed that the patients had progressively increased rates of annual arrests after addiction started. During heroin use the increased arrests were primarily for violations of the dangerous drug laws, prostitution, violence, property crime, and misbehavior. During Treatment the frequencies of arrests for violations of dangerous drug laws, prostitution, and property crime fell steeply, approaching the level of the control population, while misbehavior and violence remained somewhat higher than the control.

2. DEPARTAMENTO DE JUSTICIA DE PUERTO RICO. Centro de Informacion de Estadistica Criminal. Sintesis del Problema de las Drogas en Puerto Rico ano Fiscal 1967 a 1971. (Puerto Rico — Summary of the Drug Problem, Fiscal Year 1967 - 1971.) San Juan, Puerto Rico, 1971. 35 p.

MICROFICHE (NCJ 26510)

Activities of police, courts, corrections, legislature, and agencies of probation and rehabilitation are discussed, as well as statistics on arrest, disposition, and incarceration. The summary focuses on the number of drug offenders processed by the criminal justice system. It recommends that the drug control programs of criminal justice agencies be evaluated by a private or uninvolved government agency and that follow-up studies be done on offenders who have undergone drug treatment. Included are statistical findings of a study of the social characteristics and drug consumption patterns of drug-using inmates in the Puerto Rican correctional system. — In Spanish.

3. DISTRICT OF COLUMBIA SUPERIOR COURT. Operating Procedures — Superior Court Narcotics Pretrial Diversion Project. By John Bellassai. Washington, 1972. 7 pages.

(NCJ 10316)

A procedural outline of a diversion project for individuals charged with narcotics violations is presented. Topics related to the drug treatment program include eligibility, screening of applicants, selection, supervision during treatment, and disposition following participation in the program.

4. HELLER, DEAN. A Conflict of Laws: The Drug Possession Offense and the Fourth Amendment. Oklahoma Law Review, v. 26, no. 3: 317-341. August, 1973. (NCJ 11919)

The contention is made that drug offenses, which in most instances are consensual, victimless crimes, lend themselves to serious procedural and search problems. Criminal drug laws, especially those aimed at consumption, have numerous enforcement difficulties. Both use and possession normally occur in private, and the quantities possessed are usually small, easily hidden, and quickly destroyed. The current concern with drug use and drug-related crime, however, has pressured law enforcers to the point where Fourth Amendment rights against illegal searches are often ignored in these situations. The author reviews the probable cause standard, informants and their reliability, police bias against the young, especially those with unconventional appearances, and the standards for obtaining search warrants. He discusses warrantless searches, the exceptions to the Fourth Amendment requirements which allow them, and the frequency of incredible fact situations surrounding drug searches that suggests police misrepresentation. In conclusion, the article argues that, if drug laws continue to be enforced as they presently are, Fourth Amendment freedoms may be the first casualty.

5. MACHATA, G. Die Anwendung der Strafrechtlichen Bestimmungen des Sucht- giftgesetzes. (Austria — Application of the Criminal Provisions of the Addictive Drug Law.) Kriminalistik, v.28, no. 6: 280-281. June, 1974. (NCJ 15235)

A basis is offered for defining precisely what amounts of various drugs exceed the limits of legitimate use and constitute trafficking as defined by the Austrian Criminal Code. A 1971 amendment to the Code defined the amount of drugs, the possession of which does not constitute trafficking, as the weekly dosage for the use of one person. In 1972 the Federal Ministry for Health and Environmental Protection recommended a set of standard measures of average weekly dosages for one person. The drugs covered by the standards included hashish, morphine, LSD, and amphetamines. The author observes that precise specifications of the effects of various dosages are inherently limited since the effects depend on other personal and environmental factors in addition to dosage. The article includes tables comparing the dosages of various drugs. — In German.

6. MICHIGAN OFFICE OF DRUG ABUSE AND ALCOHOLISM. The Victimless Crime Study — Summary. Lansing, Michigan, n.d. 41 p. MICROFICHE (NCJ 28108)

This summary confines itself to the victimless crimes of alcohol and drug abuse, presenting legislative histories of controlling legislation, methods of control, and recommendations for improvements and/or legislation. Specific attention is paid to Michigan in the Legislative History and Methods of Control sections. Cost estimates are prepared for the present method of drug and alcohol enforcement and for the future, assuming that trends continue. Alternative methods of control

are proposed, including the decriminalization and subsequent regulation of marijuana. These proposals also encompass the establishment of substance abuse treatment centers which would be staffed and equipped to treat all forms of substance abuse.

7. MILOR, CHARLES A. Becoming a Marijuana Dealer. Criminal Justice Monograph, v. 7, no. 3. 1976. 19 p. MICROFICHE (NCJ 39231)

The author has analyzed the social and personal factors that contribute to marijuana users becoming dealers. The data on which this study is based was derived from interviews and observational material gathered during five months of observation of the marijuana scene. Sixty dealers and users responded to questions asked of them during voluntary interviews. It was concluded that the process of becoming a marijuana dealer involves the development of external relationships which allow entrance into the marijuana-using groups and rationalizing the internal norms and goals of the larger society to those of a marijuana dealer.

8. NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE. Drug Use in America: Problem in Perspective. Washington, U.S. Government Printing Office, 1973. 481 p. (NCJ 09518)
Stock No. 5266-00003

This final report of the National Commission on Marihuana and Drug Abuse examines the roots of the drug problem and suggests ways of reducing its impact. The report explores the way society thinks about drugs by analyzing the vocabulary of the drug culture and the historical roots of contemporary attitudes. After considering the way in which the drug problem is presently defined, the Commission redefines it by first broadening the scope to cover the entire range of drug use in America, then by narrowing it to that drug-using behavior which properly should arouse social concern. The authors focus on drug usage behavior in the context of individual and institutional supports and deterrents. Recent trends in the incidence, prevalence, patterns, conditions, and circumstances of drug use are described and major classes or types of drug-usage behavior are identified. The actual and potential impact on the public safety, public health, and welfare of the patterns of drug abuse are considered. The policy-making process is detailed along with specific recommendations for implementation by governmental and private institutions. The report concludes with a broad perspective on the development of a long-term social response to drug abuse. The appendices contain lists of the many sources of information for the report and an index of the recommendations made by the Commission.

9. Drug Use in America: Problem in Perspective, Appendix, Volume I - Patterns and Consequences of Drug Use. Washington, U. S. Government Printing Office, 1973. 1258 p. MICROFICHE (NCJ 37696) Stock No. 5266-00004

The final report of the National Commission on Marihuana and Drug Abuse describes the phenomena of drug use, drug-induced behavior, and drug dependence and establishes a process for assessing their social impact. This volume, the first in a four-part set of appendices to the final report, contains 27 papers on the patterns and consequences of drug use utilized by the Commission for specific information and supporting data. Specific areas covered by the papers include drugs and their effects, drugs and antisocial behavior, and drug use in general and in selected populations.

10. Drug Use in America: Problem in Perspective, Appendix, Volume II - Social Responses to Drug Use. Washington, U. S. Government Printing Office, 1973. 794 p. MICROFICHE (NCJ 37697) Stock No. 5266-00005

This volume is the second in a four-part set of appendices to the final report of the National Commission on Marihuana and Drug Abuse and contains 23 papers on the social responses to drug use. Specific areas covered by the papers include managing the governmental response, drug education and the response of the educational system, the impact of broadcast media on drug use, and central influences in American life.

11. Drug Use in America: Problem in Perspective, Appendix, Volume III - The Legal System and Drug Control. Washington, U. S. Government Printing Office, 1973. 973 p. MICROFICHE (NCJ 36082) Stock No. 5266-00006

The final report of the National Commission on Marihuana and Drug Abuse describes the phenomena of drug use, drug-induced behavior, and drug dependence and establishes a process for assessing their social impact. The third in a four-part set of appendices to the final report, this volume contains 20 papers on the legal system and drug control. The different areas covered by these papers are the statutory framework of the drug/narcotics control system, legal controls on the availability of psychoactive substances, and the response of the criminal justice system to drug use.

12. Drug Use in America: Problem in Perspective, Appendix, Volume IV - Treatment and Rehabilitation. Washington, U. S. Government Printing Office, 1973. 876 p. MICROFICHE (NCJ 37698) Stock No. 5266-00007

This volume, the last in a four-part set of appendices to the final report of the National Commission on Marihuana and Drug Abuse, contains 17 papers on the treatment and rehabilitation of the drug addict.

The specific areas covered by these papers are crisis intervention and emergency treatment, the treatment of drug dependence, drug dependence and the legal system, and the statutory framework of drug treatment laws.

13. NATIONAL COUNCIL ON CRIME AND DELINQUENCY. Narcotics Law Violations — A Policy Statement. Hackensack, New Jersey, 1964. 20 p.

(NCJ 03481)

Effective penal sanctions should be directed against the drug trafficker and not the user, who is a sick person in need of medical help. A brief sketch of the legal situation and the practices of the U.S. Bureau of Narcotics is presented.

14. ROBERT, CHRISTIAN N. Delinquance Juvenile et Drogue: Limites de Quelques Idees Recués. (Juvenile Delinquency and Drugs — Limits of Some Prevailing Ideas.) Revue Internationale de Criminologie et de Police Technique, v. 27, no. 2: 139-146. April - June, 1974.

(NCJ 28731)

This analysis of juvenile delinquency statistics in Switzerland from 1967 to 1972 is used to argue against a correlation between delinquency and drug consumption and against harsh penalties for juvenile drug offenders. Most drug consumption by juveniles is seen as a contemporary form of normal adolescent transgressive behavior. — In French.

15. SACOTTE, JACQUELINE. Mesures Accessoiries de Droit Penal Francais dans la Lutte Contre la Drogue. (Subsidiary Measures in French Criminal Law in the Fight Against Drugs.) Revue de Droit Penal et de Criminologie, no. 9: 947-957. June, 1976.

(NCJ 38024)

A brief review is given of trends in Europe in supplementing the provisions of criminal codes regarding drug offenses to provide a wider range of sentencing and criminal justice policy alternatives. Basic criminal code provisions are based on the situation prior to the 1960's when the number of drug offenders was small. Supplementary laws in response to the great increase in drug consumption have continued a policy of repression rather than decriminalization or treatment. However, the sanctions provided for by these laws do consist of alternatives to the traditional fines and imprisonment and represent a more flexible and individualized response to drug offenses. The most common measures provided for by these laws are confiscation of property and deprivation of certain rights, such as the right to travel, drive, carry a passport, or practice certain professions (primarily medical). The structure of such laws are similar among countries with the same legal or cultural traditions. — In French.

16. SANDERS, C.R. Caught in the Con-Game -- The Young, White Drug User's Contact With the Legal System. Law and Society Review, v. 9, no. 2: 197-217. Winter, 1975. (NCJ 27955)

Using data collected between 1967 and 1970, the author describes the experiences and perceptions of young, white drug users in their first serious involvement with the legal system. The perceptions of the young recreational drug user prior to contact with the enforcement and legal system are examined on a large midwestern university campus through the use of existing data. The data on drug user perceptions of society after arrest and legal proceedings were collected in the major narcotics court of a large midwestern city. The experience of the young, white recreational drug user with enforcers, lawyers, and the court system, tend to reinforce his original perceptions of enforcement. He sees enforcement personnel as cynically job-oriented, corrupt, and engaged in enforcement activity to legitimately harass the deviant youth culture. In none of the interviews was there an indication that the confrontation with the system made the user reconsider and totally discontinue his deviant behavior.

17. U. S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. Florida - A Statistical Study - An Offender Profile - Drugs. Tallahassee, Florida, Florida Parole and Probation Commission, 1975. 11 p. MICROFICHE (NCJ 27063)

This study defines the average drug offender from data collected on 3986 incoming inmates during the period of October 1972 to October 1974. The data collection instrument used was the Florida Parole and Probation Commission's Parole Information and Prediction Form. A chart for each of the 13 variables used in the profile is included. Based on a sub-population of 476, the average drug offender has the following profile: he is a white male (62% or 294) with some high school education (47% or 220); uses alcohol moderately (61% or 291) and the use of alcohol was not a factor in the instant drug offense; has experimented with narcotics or dangerous drugs, but usage was not a factor in this instant offense (21.1% or 100); was arrested seven or more times (28% or 133); has no prior prison commitments (73% or 346); has no prior misdemeanor convictions (53% or 250); has no prior felony convictions (64% or 304); was not committed as a juvenile (82% or 384); has never escaped (97% or 462); has never been on probation (79% or 377) or parole (92% or 439); and has never violated parole (95% or 451).

18. Law Enforcement Assistance Administration. A Report on Non-Victim Crime in San Francisco, Part III - Dangerous Drugs and Narcotics. By San Francisco Committee on Crime. Washington, 1971. 82 p. (NCJ 00040)

The subject of drugs and narcotics is the most difficult to analyze and resolve of all those discussed in the report on non-victim crime. A major difficulty is that the discussion in the literature is bedeviled

with hyperbole, emotion, irrational argument, and pedantic quibble. To categorize the subject as non-victim crime is itself to jump to a conclusion over obstacles. Drugs and narcotics are placed in that category because the user acts voluntarily. The act of selling is not non-victim conduct in the case of a drug like heroin which addicts the user. One deprived of either physiological or mental power to resist is no longer a voluntary participant. Whether the act of selling can be categorized as non-victim conduct depends upon the nature and effect of a particular drug. It is not clear that the act of use is non-victim conduct. Society can be the victim in several ways. No member of the Committee condones, supports or encourages the use of any mind-altering drug. However, the dangers of marijuana use are grossly overexaggerated. Criminalization has been no more effective in controlling marijuana usage than the laws that once prohibited the use of alcohol. Society should exert every effort to discourage the use of marijuana because people would be better off without it. The use of heroin is unmitigatedly bad. It is destructive to the user and to society. No one is more contemptible than the vendor or pusher who hooks another into use for the sake of profit. The heroin user should not be punished for use, he should be treated. The utilization of criminal process as a machinery for treatment and rehabilitation has not been successful.

19. _____ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Marijuana: A Study of State Policies and Penalties, Volume 1 - Executive Summary. Washington, National Governor's Conference, 1977. 19 p. (NCJ 40225)

This summary offers insight into the marijuana issue and some of the factors that have shaped the policies of the states. Particular attention is paid to the eight states that have decriminalized marijuana possession. Although some data is in on marijuana usage in those states, longer-term statistical information is necessary before the effect of the new laws on the criminal justice and health care systems can be fully gauged. A portion of the summary is devoted to analysis of the issue, the usage dimension, the criminal justice dimension, and the medical health dimension.

20. _____ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Marijuana: A Study of State Policies and Penalties, Volume 2 - Findings and Analysis. Washington, National Governor's Conference, 1977. 119 p. (NCJ 40226)

This booklet presents background and scientific information on marijuana and discusses some social implications. The debate on the marijuana issue has been characterized by exaggeration and false data on both sides, according to this study which attempts to cut through the fog. The historical and social information that can serve as a basis for rational policymaking are first summarized. The study also provides legislative guidelines for policymakers who want to consider changing their states' marijuana laws. Studies are cited from states that have decriminalized marijuana to see what results can be drawn.

21. _____ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Marijuana: A Study of State Policies and Penalties, Volume 3 - Research and Case Studies. Washington, National Governor's Conference, 1977. 277 p.

(NCJ 40227)

Contained in this booklet are case studies on marijuana usage to bolster varying positions, pro and con, on legalization of the drug. The written summaries of nine site visits are included to review the process by which selected states considered and analyzed the marijuana issue. Historical and current dimensions of marijuana usage are given.

GAMBLING

22. ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS. Division of Information Systems. Commission on the Review of the National Policy Toward Gambling - Statistical Report. Washington, 1974. 53 p. (NCJ 25026)

Tabular and graphic data on the disposition of defendants charged with gambling offenses are shown with the type of sentence by district for fiscal years 1967-73. Part II of this report contains a special series of charts known as datagraphs which describe dispositional trends for all federal offenses, counterfeiting, bank robbery, narcotics drugs (excluding marihuana), and gambling for fiscal years 1968-73. Data on prior record, sex, and age for the same five categories of defendants are presented in Part III for fiscal years 1967-71. In conclusion, Part IV contains two tables providing historical perspectives on the disposition of defendants charged with interstate travel in aid of gambling racketeering, and the disposition of defendants charged with federal gambling violations, including lottery.

23. ALIX, ERNEST K. The Emergence of Crime in the Community: Sequential Patterning in the Re-Equilibration of a Social System. Ph.D. Dissertation. Carbondale, Illinois, Southern Illinois University, 1966. 310 p. (NCJ 07297)

Sociocultural patterns in the development of gambling and prostitution activities in two selected communities during the depression are described. After the patterned ways in which the communities had been meeting their basic economic, political, and formal control needs were disrupted, new patterned ways of meeting these needs arose. A bibliography is included.

24. COUNCIL OF PLANNING LIBRARIANS. Number and Policy Gambling in New York City, 1872-1973: Guide to New York Times with Annotations. By Ivan Light, Ed. Monticello, Illinois, 1974. 81 p. (NCJ 18812)

A chronological listing is presented of all newspaper articles dealing with those two subjects, together with page and column numbers.

25. CRESSEY, DONALD R. Bet Taking, Cosa Nostra, and Negotiated Social Order. In Susman, Jackwell, Ed. Crime and Justice, 1970-1971. New York, AMS Press, 1972. p. 250-259. (NCJ 27327)

A proposal for a compromise is offered for the federal government and the Cosa Nostra which would allow the Cosa Nostra to legally keep some of the profits on bet taking. In exchange for this, the syndicate would be expected to withdraw from political involvements and the illegal operation of legitimate businesses. The author states

that this could be achieved by legalizing free enterprise bet-taking shops while giving the Cosa Nostra a monopoly on the layoff system needed by owners of these shops.

26. FUND FOR THE CITY OF NEW YORK. Legal Gambling in New York: A Discussion of Numbers and Sports Betting. New York, 1972. 118 p.

(NCJ 10455)

Illegal sports, pool and numbers betting are reviewed with suggestions for a workable legal numbers game. While many states are organizing legal lotteries, few have addressed themselves to the question of legalizing other forms of gambling. The Fund for the City of New York undertook this study of the feasibility and implications of legalizing sports betting and the numbers game in New York. The study notes that the three objectives most often cited for legal gambling - to inhibit organized crime, reduce police corruption, and provide substantial revenue - are in important respects competitive. Its primary conclusion is that gambling should be legalized as a law enforcement tool to fight organized crime and corruption and not as a revenue measure. In reaching this conclusion, the authors examined the current gambling practices of New Yorkers as well as public attitudes toward illicit games. The organization of illegal wagering in New York City is discussed in depth, with particular attention to the financial and operational structure of the numbers game. This is contrasted to the more amorphous forms of organization used in straight sports betting or participation pools. The authors conclude that the numbers game is the most adaptable and present a detailed design for a competitive and legal numbers game which could provide larger payoffs than the current illegal game and could be controlled by independent community corporations under the supervision of a central board. This well-researched document is a valuable contribution to understanding the operation of illegal gambling and offers one possibility for combatting it.

27. KING, RUFUS. Gambling and Organized Crime. Washington, Public Affairs Press, 1969. 248 p.

(NCJ 10821)

The author examines illegal gambling and its interplay with organized crime and official corruption, and reviews gambling law enforcement since colonial times. All common forms of gambling are covered, including those promoted by state governments, as in the case of the New Hampshire and New York lotteries, and those licensed as legal private enterprise, as in Nevada. The pervasively corrupting influence of gambling proceeds and the American public's ambivalence toward gambling are discussed. The author recommends measures for the control of gambling and its connections with organized crime. Among these are the creation of a Federal Bureau of Gambling within the Treasury Department and reliance on the constitutional authority of Congress to regulate the currency, supplementing enforcement based on interstate commerce and taxing powers. The appendices provide a

compilation of statements on gambling by governmental commissions and congressional committees, the text of the model Anti-Gambling Act, gambling characteristics of pinball machines, a selected bibliography, summaries of leading court cases, a list of federal and state laws, and a glossary of gambling terms.

28. MOSER, KARL and JOSEF ZOLLER. Die derzeitigen Verhaeltnisse auf dem Gluecksspielsektor. (Current Situation in the Gambling Sector.) Kriminalistik, v. 28, no. 9: 415-417. September, 1974. (NCJ 18415)

This discussion of the psychology and behavior patterns of gamblers in Germany addresses such factors as the type of game, type of establishment, level of stakes, and the effect of legalization. Although there are legalized forms of gambling in the country, illegal gambling has increased in recent years.

29. NEW YORK STATE COMMISSION ON GAMBLING. Report to Honorable Nelson A. Rockefeller, Governor, and the Legislature - Legalized Gambling. Albany, New York, 1973. 47 p. MICROFICHE (NCJ 13604)

A comparison is drawn of the feasibility of the major forms of possible legal betting including fiscal, organizational and criminological considerations. Numbers, casinos, and two types of sports betting (head-to-head and pool card betting) are discussed in an appended Hudson Institute Report. Given that the main purpose for legalizing betting in New York is to fight organized crime, the Hudson Report recommends that numbers and sports pool betting be legalized and organized by the state. Head-to-head sports betting and casinos are not recommended. The recommendations include a concurrent escalation in the attack on bookmakers and other representatives of organized crime.

30. PRUS, ROBERT C. and C.R.D. SHARPER. Road Hustler--The Career Contingencies of Professional Card and Dice Hustlers. Massachusetts, D.C. Heath and Company, 1977. 189 p. (NCJ 39736)

This book examines the social psychological processes by which people become involved and sustain careers in professional card and dice hustling. Assuming an interactionist orientation, the authors attempt to indicate the perspectives from which professional card and dice hustlers, as individuals and as members of groups, operate and how they go about structuring games and involving others in their hustle. The first part of this examination focuses on contingencies affecting initial involvements in cheating card/dice games and the conditions under which these involvements are likely to become stabilized. The second section emphasizes the processes by which hustlers locate events at which to gamble, gain access to these events, and manipulate the games. The last chapters examine the leisure time activities and home lives of career hustlers, and the difficulties persons experience when they attempt to leave career hustling. Finally, the material

on card and dice hustling is reviewed in the context of Sutherland's (1937) analysis of professional thieves and subsequent research on hustlers and thieves. This is followed by a brief review of some of the major themes in contemporary deviance theory, concluding with a general statement on deviance involvement processes. A four-page glossary of hustling terms, a bibliography, and a subject and author index are included.

31. SKOUSEN, W. CLEON. Gambling — A Special Challenge to the Chief. Law and Order, v. 22, no. 2: 8-13. February, 1974. (NCJ 13092)

A discussion is given of the police chief's dilemma regarding the amount of gambling and the types of gambling he can tolerate without risking takeover by organized crime. Private gambling presents a minimal risk. "Double Standard" gambling may involve bingo games in churches and can extend to the presence of gambling equipment in lodges and clubs. The latter can lead to a takeover by commercial criminal gamblers. Theirs is the most dangerous type, as is evidenced by the control over Kansas City by syndicated gamblers during the Pendergast Machine period in the 1920's and 1930's. The arguments against legalized gambling in Virgil Peterson's book "Gambling — Should It Be Legalized?" are recapitulated. Based on these arguments and the difficulty of preventing a takeover by organized crime, the conclusion is drawn that the chief should push for the suppression of organized gambling no matter where it exists.

32. U.S. COMMISSION ON THE REVIEW OF THE NATIONAL POLICY TOWARD GAMBLING. First Interim Report. Washington, U.S. Government Printing Office, 1975. 55 p. MICROFICHE (NCJ 29003)
Stock No. 052-003-00077-6

This is an initial collection of research data dealing with the state of the art of various types of gambling activities in the United States. This interim report of the Commission on the Review of the National Policy Toward Gambling is the initial phase of a planned process to formulate a definitive national gambling policy. The report covers the creation and membership of the commission, the utilization of hearings and extensive literature, review and research on the subject of gambling, and descriptions of the federal, state and local agencies involved in gambling enforcement. Also included are surveys of legalized gambling and lotteries. It is the overall purpose of this commission to recommend what forms of gambling should be legalized and how they should be administered and taxed.

33. Gambling, Law Enforcement, Organized Crime - Public Hearings held at Boston, Massachusetts on April 9, 10, and 11, 1975. Washington, 1975. 686 p. MICROFICHE (HCJ 38067) PB 253 695

Testimony made before the Commission on the Review of the National Policy Toward Gambling is presented. Witnesses included Massachusetts' Lieutenant Governor, State Treasurer, and Attorney General, as well as Gerald McDowell, Chief Attorney for the New England Organized Crime Strike Force, and Robert J. Digrazia, Police Commissioner of Boston. Topics discussed are the financial benefits from operation of legalized gambling, the enforcement of the nation's laws against syndicated gambling, and organized crime's involvement in illegal betting.

34. Seventh Regional Hearing on Organized Crime and Law Enforcement at State and Local Levels, Problem Gambling and Other Topics. Washington, 1975. 291 p. (NCJ 38107) PB 253 672

Reported here are testimony and other materials presented during two days of field hearings in Chicago, Illinois, by the Commission on the Review of the National Policy Toward Gambling. The hearings were conducted on September 23-24, 1975. Witnesses included the attorney in charge of the Department of Justice Strike Force on Organized Crime in Chicago, the Executive Director of the Illinois Legislative Investigating Commission, and representatives of potential manufacturers of coin-operated gambling devices. Testimony was also heard from state legislators and United States congressional representatives from Illinois.

35. U. S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. The Development of the Law of Gambling, 1776-1976. Ithaca, New York, Cornell University Law School, 1977. 958 p. (NCJ 37369)

Results of a project to review the law of gambling are reported to provide policy makers with the historical and legal context with which to evaluate proposals for the suppression or decriminalization of gambling. State and federal case law and statutes from 1776 to 1976 are examined. English law is also reviewed to place legal developments in their economic, social, and political contexts. General findings include the need to examine each form of gambling - public and private lotteries, wagering on sporting and other events, machine gambling, and casino type operations - on its own terms. The need to consider operators, participants, levels and places of participation, methods of promotion, and degree of regulation is also discussed. It is concluded that state and federal level criminal, civil, and tax policy must be coordinated to effect reform successfully.

36. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. A Study of the Feasibility of Developing New Effectiveness Measures for Organized Crime Control Efforts - Illegal Off-Track Betting - Final Report. Washington, International Research and Technology Corporation, 1971. 23 p.
MICROFICHE (NCJ 35798)

The objective of this study was to identify and examine the predictive utility of several categories of indices directed at monitoring phenomena which may be affected by changes in the level of organized criminal activity. The study was undertaken to provide law enforcement officials with a general approach for the systematic development of indices to evaluate and guide organized crime control programs. It was hypothesized that fluctuations in the sales of racing publications are indices of changes in the level of off-track betting. This hypothesis was tested by plotting weekly sales figures of a popular racing publication at selected newsstands for each of three years to determine if observed fluctuations could be linked to police raids on betting parlors and wire rooms. The relative decline in the sale of racing publications was hypothesized to be a measure of effectiveness of the raids. Tabular and graphic data are presented on the sale of racing publications at several newsstands in one metropolitan area for 1967, 1968, and 1969; the dates of known police raids; and the relationship between the two. Based on analysis results, it is suggested that there may be some relationship between the sale of racing publications and raids.

37. VIRGINIA STATE CRIME COMMISSION. Report of Research Consultants Study on the Impact of Organized Crime and Related Criminal Activities on Pari-Mutuel Wagering on Horse Racing. Norfolk, Virginia, n.d. 97 p.
(NCJ 35120)

This two-part report contains the findings of the 1972 Hearings of the U.S. House Select Committee on Crime on the relationship between organized crime and professional sports. Also included are the findings of a research study on the impact of organized crime and related illegal activities on legalized horse betting. This research study was commissioned in response to Virginia's plans to consider the authorization of pari-mutuel wagering on horse racing. Part one of this report contains the preface to the House Select Committee's final report and summaries of its conclusions and recommendations, together with additional and separate views of some of the Committee's members who took exception to various aspects of the Committee's study. The categories of illegal activities discussed are hidden ownership of track or racing association interest, hidden ownership of horses, race fixing, substitution of horses, ten percenters and twin doubles, illegal bookmaking, and political corruption. The report concluded that its hearings had disclosed some shocking incidents of illegal activities. In general, the horse tracks are operated with integrity and the industry is deserving of public confidence. Two sets of

recommendations - one for federal action and one for state action - are presented. The research study involved review of the Select Committee findings and interviews with state racing, law enforcement, prosecution, and track security officials. With minor exceptions, those contacted were unaware of any hard-core organized crime involvement in racing. Specific findings are presented on bookmaking, hidden ownership of race tracks and horses, drugging of horses, electronic devices, collusion among owners, trainers, jockeys and drivers, substitution of horses, and political corruption.

PORNOGRAPHY AND OBSCENITY

38. BENJOYA, MITCHELL, RICHARD L. ZISSON and DENNIS J. LACROIX. Obscenity: The New Law and Its Enforcement - Two Views. In Schultz, Jon S. and Jon P. Thames, Eds., Criminal Justice Systems Review - 1974. Buffalo, New York, William S. Hein and Company, Inc., 1974. p. 103-140. (NCJ 30755)

This article deals with a series of recent Supreme Court obscenity decisions (the Miller v. California Series) and evaluates them in light of historical and socio-scientific data. The first section of the article is concerned with the substantive effect these decisions have had on the existing law. Earlier rulings and standards used in the evaluation of obscenity are examined and contrasted with the standards recently promulgated. The authors then turn to the question of the constitutionality and desirability of the classification of certain materials as obscene, and thus unprotected by the First Amendment. In general, the problem is discussed in the context of sociological data, reflecting the effect of erotic materials on public morality and welfare. The second portion of the article deals with procedural aspects of the recent rulings. Procedural difficulties which have prevented direct judicial treatment of the substantive issue of obscenity are examined and contrasted with the protections against prior restraints which the Court has recently formulated. The article concludes with the authors' individual evaluations of the decisions.

39. BRONSON, PETER C. New Prosecutorial Techniques and Continued Judicial Vagueness: An Argument for Abandoning Obscenity as a Legal Concept. UCLA Law Review, v. 21, no. 1: 181-241. October, 1973.

(NCJ 11977)

This is an analysis of court decisions on obscenity standards, and a presentation of the thesis that current tests are unworkable and should be clarified by legislative action. The author presents a summary of Supreme Court and state and federal lower court decisions detailing court-prescribed tests for obscenity. He contends that even the most recent decisions present vague guidelines and predicts continued uncertainty in this area of law unless legislatures respond to this demonstrated need for clarification. This response should alter obscenity codes from their current philosophical approach to one that defines specific illegal conduct. He presents a suggested alteration of certain California codes which have been used in the campaign against obscenity.

40. CLINE, VICTOR B., Ed. Where Do You Draw the Line? - An Exploration into Media Violence, Pornography, and Censorship. Provo, Utah, Brigham Young University Press, 1974. 376 p. (NCJ 19162)

This edited collection of 20 papers presents the state-of-the-art in knowledge of the behavioral effects of media violence and pornography and considers the issues of censorship, free speech, morality and court judgments. The papers discuss such topics as types of censorship, impact of violence and pornography on the arts and

desensitization of children to television violence, the building of aggression, and media violence and pornography as political tools. The editor concludes that the facts and opinions presented tend to either explicitly or implicitly indicate the need for a middle ground of censorship. He then outlines possibilities toward that end.

41. COMMISSION ON OBSCENITY AND PORNOGRAPHY. The Report of the Commission on Obscenity and Pornography. Washington, U.S. Government Printing Office, 1970. 646 p. (NCJ 08077)

Findings and recommendations of the advisory commission established by Congress to study the causal relation between pornography and antisocial behavior are presented. The Commission was also assigned the duties of studying the traffic and distribution of sexually oriented materials within the United States and of analyzing laws on obscenity and pornography. An overview of the various research efforts is provided. The findings of the four working panels — legal, traffic and distribution, effects, and positive approaches — are summarized. The Commission suggests that a massive sex education effort be launched to develop more healthy attitudes toward sexuality. It recommends that all legislation interfering with the right of adults to read, obtain, or view explicit sexual material should be repealed. The Commission would retain laws prohibiting the sale of sexual materials to young persons who do not have the consent of their parents, and recommends legislation to protect persons from unsolicited sexual materials through the mail or by open public display. Separate statements by Commission members, including several dissents, are provided.

42. Technical Report of the Commission on Obscenity and Pornography, Volume I — Preliminary Studies. Washington, U.S. Government Printing Office, 1971. 198 p. (NCJ 08074)

This report reviews the state of scientific knowledge on the effects of pornography and obscenity when the Commission began its work. Empirical evidence relevant to the issue of sex censorship is reviewed, and problems of experimental research on sexual arousal and its physiological measurement are analyzed. Research literature on the role of pornography in the causation of juvenile delinquency is outlined. Several papers describe theoretical analyses and initial empirical observations that were made early in the Commission's existence as preparations for the development of a comprehensive research program. This is the first of eight technical reports which supplement a volume of the Commission's findings and recommendations.

43. Technical Report of the Commission on Obscenity and Pornography, Volume II - Legal Analysis. Washington, U.S. Government Printing Office, 1971. 241 p. (NCJ 09964)

Volume Two of the Commission report presents an analysis of Supreme Court decisions and state laws on obscenity and pornography and outlines the censorship laws of several foreign nations. The status of federal and state law on the subject as of the year 1970 is summarized. Special attention is devoted to the implications of the Supreme Court decision in Stanley v. Georgia, which held that an individual may not be punished for possessing obscene material in the privacy of his home. The historical development of laws regulating obscene publications in England and the United States is traced. A perspective is provided on the philosophical debate over the role of the state in legislating private morals. The laws of selected foreign nations on obscene sexual materials are described and commented upon by distinguished legal scholars.

44. Technical Report of the Commission on Obscenity and Pornography, Volume III -- The Marketplace: The Industry. Washington, U.S. Government Printing Office, 1971. 208 p. (NCJ 08075)

A description is provided of the operation of the several industries that publish and distribute sexually oriented materials, with an estimate of the volume of this business. The material covered includes motion pictures, books and magazines, mail order items, and under-the-counter hard-core pornography. The descriptions of the different industries are based on personal observation, interviews with major operators in the industries, and interviews with knowledgeable people outside the industries. The estimates of the volume of this business are based on interviews, examination of the records of individual enterprises, industry statistics, governmental statistics and records, questionnaire data, and analyses which compare and combine information from various sources.

45. Technical Report of the Commission on Obscenity and Pornography, Volume IV -- The Marketplace: Empirical Studies. Washington, U.S. Government Printing Office, 1971. 288 p. (NCJ 08076)

Empirical studies of the marketplace for sexual materials are detailed with emphasis on retail outlets and their customers. The first three studies present what are essentially case studies of three different cities -- Denver, Boston, and San Francisco. The authors of each study come from different disciplines and thereby focus on the marketplace from slightly different perspectives. Massey looks at Denver with the viewpoint of a marketing economist, Finkelstein views Boston with the eyes of a lawyer and Nawy brings a sociologist's orientation to his study of San Francisco. The general observations regarding the characteristics of patrons of adult bookstores and movies made in these three community case studies are confirmed and amplified by Winick's observations of patrons in 10 other communities. These observations provide

information about the limits of generalizing about the characteristics of patrons and demonstrate how these characteristics vary somewhat according to the demographic characteristics of the community in which a bookstore or theater is located. Winick's second paper explores the motivations of patrons of adult movie theaters. The last paper provides a cross-national perspective. Kutschinsky looks at the industry from the producers' viewpoint. He provides a case study of Copenhagen to compare with those of Denver, Boston, and San Francisco, and presents data on the attitudes toward pornography of the citizens of Copenhagen.

46. _____ . Technical Report of the Commission on Obscenity and Pornography, Volume V — Societal Control Mechanisms. Washington, U.S. Government Printing Office, 1971. 373 p. (NCJ 09965)

Society's responses to the presence of explicit sexual material are discussed. Industry self-regulation, citizen action groups, law enforcement, and sex education are included. The results of a mail survey of a stratified random sample of prosecuting attorneys in the United States are presented. The law enforcement policy of various federal agencies regarding obscenity, based on interviews with people in these agencies, is reported, as well as the response of local law enforcement officers to the issues of obscenity, based on interviews in major cities. One author assembles and evaluates the evidence regarding the relationship between the pornography industry and organized crime. The development and functioning of two citizen groups organized to fight pornography are analyzed. One paper provides data relevant to the functioning of the movie industry's rating system and evaluates its effectiveness. An overview of the status of sex education in the schools today is given, along with a discussion of the rationale and content of a recent program developed to train medical students in the area of sex. A similar description is included of a newly developed program for training professionals in such areas as social work, counseling, religion, and education to deal with sex, and some of the trainees' responses to the program. The volume concludes with the results of a mail survey of sex educators regarding their perceptions of adolescents' experience with explicit sexual materials, and the possible relationship between sex education and interest in pornography, or the consequences of exposure to such material.

47. _____ . Technical Report of the Commission on Obscenity and Pornography, Volume VI — National Survey. Washington, U.S. Government Printing Office, 1971. 256 p. (NCJ 09648)

Public attitudes toward and experience with erotic materials are surveyed with a detailed description of the methodological design of the study. One of the main objectives of the study was to "determine the extent of public exposure to and experience with erotic materials, including the media in which erotica are experienced, circumstances of experience, and experience with particular types of erotic content." The study also sought to "assess attitudes towards the desirability of controlling availability of erotic materials, the means for effecting such control, and the gradations of control for erotic materials in

general, and for particular kinds of such material." A third objective of the study was to "examine some of the demographic and attitudinal correlates of experience with erotica as well as other relationships between individual and group characteristics, and attitudes and behavior related to erotic materials." A presentation and discussion of the main findings of the study precedes the methodological report, which is largely an account of the interviewing experience. The appendices contain tables of data which are the basis for this report and copies of the questionnaires and interviewing material.

48. . Technical Report of the Commission on Obscenity and Pornography, Volume VII — Erotica and Antisocial Behavior. Washington, U.S. Government Printing Office, 1971. 340 p. (NCJ 09966)

This is a presentation of empirical research papers which analyze the relationships between exposure to pornographic materials, deviant sexual behavior, and sex crimes. The research teams which prepared these papers interviewed and tested a wide variety of subjects — institutionalized sex offenders, sexually normal prisoners, homosexuals, habitual patrons of erotic theaters and bookstores, and sexually normal control groups. The research papers cover topics such as erotic stimuli and the aggressive sexual offender, sex offenders' experience with erotica, and exposure to pornography and sexual behavior in deviant and normal groups. On the whole, no statistically significant correlations were found between experience with pornography and sex crimes or deviancy. This is the seventh of eight technical reports which provided the basis for the Commission's conclusions.

49. . Technical Report of the Commission on Obscenity and Pornography, Volume VIII — Erotica and Social Behavior. Washington, U.S. Government Printing Office, 1971. 380 p. (NCJ 09967)

Presented here are the results of several experiments which measured the effects of exposure to explicit sexual materials on normal sexual activities, behavior, and attitudes. The research teams conducted a variety of psychological and physiological tests. The procedures and subjects which were employed in each experiment are described, and major findings are reported. The research efforts covered topics such as the effects of erotic films on the sexual behavior of married couples, sexual callousness toward women, and the effect of erotic stimuli on sex arousal, evaluative responses, and subsequent behavior. This is the final volume in a series of eight technical reports which provided the basis for the Commission's conclusions.

50. DAVIDOW, ROBERT P., and MICHAEL O'BOYLE. Obscenity Laws in England and the United States: A Comparative Analysis. Nebraska Law Review, v. 56, no. 2: 249-288. 1977. (NCJ 40764)

This article compares the current laws of obscenity, both statutory and judge-made, in England and Wales, with the U.S. Supreme Court's delineation of constitutionally permissible laws. An outline of the obscenity laws of both countries is made. Areas of similarity such as vague standards and lack of judicial concern for fair notice are analyzed. Areas of difference include discussions of the treatment of violence and drug use, the greater protection of sexual materials in the U.S., willingness to find certain materials not obscene as a matter of law, burden of proof, expert testimony, seizures of allegedly obscene material, and procedural differences not peculiar to obscenity prosecution.

51. FINER, JOEL JAY and PHILIP HARTLEY GRANT. Regulation and Prohibition of Sensual Performances Under Nonobscenity Statutes. Criminal Law Bulletin, v. 10, no. 8: 717-736. October, 1974. (NCJ 16511)

The authors maintain that where a state cannot show that nude dancing or explicit, consensual sexual activities by performers are obscene or violative of a compelling state interest, First Amendment rights protect performers. California v. Larue, Crownover v. Musick, and Yauch v. State are said to fail to deal with the performers and their rights within the framework of the First Amendment. In evaluating the Larue decision, the author considers that the principal weakness is the court's willingness to condition the granting of a liquor license upon the applicant's surrendering some modicum of his First Amendment freedoms. Crownover is considered to involve a failure to protect the First Amendment rights of a nude dancer whose performance is considered an entertaining art form. The Yauch decision is challenged on the basis that the First Amendment's protection of traditional communicative media such as dancing does not require that they lift the spirit or enrich the mind.

52. FRIEDMAN, LAWRENCE M. The Tolerance Level for Crime. Skeptic, no. 4: 11-12. November/December, 1974. (NCJ 32675)

There is debate over whether or not the crime rate has gone up; the author contends that we merely tolerate crime less. He uses pornography as an example. Pornography has always been with us, he states, but only recently has it been flaunted publicly, causing concern to citizens and, consequently, to police.

53. GOLDSTEIN, MICHAEL J. and HAROLD SANFORD KANT. Pornography and Sexual Deviance — A Report of the Legal and Behavioral Institute, Beverly Hills, California. Berkeley, California, University of California Press, 1973. 194 p. (NCJ 26845)

This volume presents research on the psychological effects of exposure to erotica and the relationship of this exposure to crime, and examines the legal implications of censorship of pornography. The study sought to determine whether obscene and pornographic works serve as models for imitation, leading to acts of violence and encouraging perverted or unconventional sexual behavior, or whether they actually help to prevent such acts through the release of sexual tension. In the beginning chapters of the text, the authors present a definition of pornography and review the literature on the effects of pornography. The development of the interview instrument used in this study is described. The persons studied fall into four groups: a sample of those known to be extensive users of pornography; a sample of those whose sexual behavior is considered anti-social (rapists and child molesters); members of nonheterosexual groups; and a sample from the general population. Factors investigated included the frequency of exposure to erotic stimuli, the impact of the most vivid adolescent experience with erotica, and the relationship between an individual's sexual fantasies and his reactions to erotica. Psychological implications of the study and the definition and control of pornography in a free society are discussed in the final chapters.

54. GRUNTZ, LOUIS G., JR. Obscenity 1973: Remodeling the House that ROTH Built. Loyola Law Review, v. 20, no. 1: 159-175. 1973-1974 (NCJ 12923)

The author concludes that a recent Supreme Court decision, while clarifying prior holdings of the Court to a degree, fails to eliminate all problems from this troublesome area of the law. The vast amount of litigation spawned by the 1957 Roth v. United States decision was a result of its broad and ambiguous formula for obscenity. Since the 1973 Miller v. California standard is merely a modification of Roth, viewing it as a broader test is to ignore the Court's awareness of these problems. The modified standards seem to have three basic objectives — (1) to restrict the denial of First Amendment protection to a very small class of hard-core pornography; (2) to reduce the prosecution's burden of proof with respect to material clearly within this class, and (3) once material is classified pornographic, broaden governmental power to regulate and control it. The author feels that Miller did not completely eliminate the vagueness in defining obscenity and that the only way this vagueness might be eliminated is to radically depart from the Roth-Miller approach. Included is a review of obscenity decisions in the Supreme Court.

55. HARRISON, DONALD C. In Quest of a "Decent Society": Obscenity and the Burger Court. Washington Law Review, v. 49, no. 1: 89-135. November, 1973. (NCJ 13005)

Recent Supreme Court obscenity decisions have failed to eliminate conceptual difficulties inherent in prior court tests, according to the author who reviews the history of obscenity decisions from 1868 to the present. He concludes that the reaction to the Burger Court decisions is a combination of disappointment and relief. Observers are disappointed that the concept of obscenity as a breed of speech outside the protection of the First Amendment — believed to be on the way out during the Warren Court years — seems to have been reaffirmed. Relief is also present because the changes in the prior Supreme Court tests were so slight and the effect so much less restrictive than had been feared. He adds that the Court's opinions are less threatening in their formal holdings than in their dominant mood.

56. LAHAYE, NICOLE. Une Definition Juridique de L'Outrage Public Aux Moeurs Est-Elle Possible? (Is a Legal Definition of Outrage to Public Morals Possible?) In University of Brussels, Frontières de la Repression, 2 - Moeurs, Drogue. (Frontiers of Repression, Part 2 - Morals, Drugs). Brussels, Belgium, Editions de l'Université de Bruxelles, 1974. p. 39-54. (NCJ 28525)

This paper presents an analysis of the concept in Belgian law and a comparison with the results of public opinion polls in Europe on the censorship of erotic material in films. The study concludes that it is no longer possible to legislate these matters without reference to current public opinion. —In French.

57. LAW REFORM COMMISSION OF CANADA. Limits of Criminal Law — Obscenity: A Test Case — Working Paper 10. Ottawa, Canada, Information Canada, 1975. 122 p. (NCJ 30173)

Obscenity law in Canada is examined to probe the reasons that justify the use of criminal law in this area, and to suggest possible limits on the imposition of criminal sanctions. Instead of cataloging simple legal issues and answers, this analysis seeks to raise the difficult moral and social questions that are involved in enforcing obscenity laws. There is a discussion of the harm feared from obscenity and pornography, as well as the various societal and individual values which they threaten. It is suggested that public obscenity remain a criminal offense. In practical terms, this means continued prohibition against lurid posters, advertisements, magazines and so on, being shown in public. Private obscenity, it is concluded, should be decriminalized completely except in cases where children would be exposed to it. — In English and French.

58. MILLER, BEVERLY G. Miller v. California: A Cold Shower for the First Amendment. St. John's Law Review, v. 48, no. 3: 568-610. March, 1974. (NCJ 14524)

This is a critique of the judicial interpretations of obscenity as outside the protection of the First Amendment, with particular attention to the 1973 Supreme Court decision allowing a local — not nationwide — obscenity standard. The historical background of the sovereign's attempts to criminalize obscene behavior and literature is traced and the many difficulties involved in satisfactorily defining what is obscene are reviewed. The essence of the Miller decision is the allocation to the local community of the power to determine obscenity. Prior to the Miller decision, concepts such as the "average person" were used. However, the Miller Court recognized that the average citizen may differ among various communities. This left a question as to the optimal size of the community which was to be the foundation of the relevant obscenity standard. The Supreme Court ruled that if states so desire, they may regulate obscenity within their boundaries. Problems of local autonomy of communities within a state have not yet been resolved. There is still a great deal of vagueness in the new legal definition of obscenity. The components of the definition are now left to the interpretation of "local" communities. Which person or group of people should be entrusted with this determination is problematic. If the views of a community are relatively homogeneous, an otherwise difficult task may be alleviated. However, it has not yet been determined what size community might, in fact, be regarded as homogeneous in outlook, or what would be the implications of a great diversity of obscenity laws on an issue touching all of American society. In general, the Supreme Court decision is intended to give prosecutors and police more power to deter the dissemination of pornography.

59. NEEF, MARIAN and STUART NAGEL. Judicial Behavior in Pornography Cases. Journal of Urban Law, v. 52, no. 1: 1-23. August, 1974. (NCJ 16918)

The factors which courts tend to consider in deciding the pornography cases which come before them are discussed. The first part of this article deals with some of the historical background of the question of obscenity, and sets out certain decisions of the Supreme Court in its attempts to formulate guidelines for the lower courts concerning the control of or access to certain types of pornographic materials. The second part of the article describes a quantitative study undertaken by the authors in an attempt to determine how pornography rulings over the years have been affected by certain variables. One hundred appellate court decisions involving obscenity and censorship were used. The variables considered included the nature of the violation, the nature of the materials, the characteristics of the community in which the case was tried, and the timing and level of the decision. Factors shown to most likely affect the outcome of judicial decisions include whether the item was intended for sale, display, or private possession, the method of distribution of material, and the reputation of the author and/or publisher. The decision of the trial court and the religion of the community in which the case was tried were also shown to be significant.

60. OWENS, JESSE SAMUEL, JR. *Miller v. California: A Mandate for New Obscenity Legislation.* Mississippi Law Journal, v. 45, no. 2: 435-453. April, 1974. (NCJ 16099)

Discussion is presented of the impact of this 1973 Supreme Court decision that obscenity should be defined by the various states, and the resulting need for reform of Mississippi obscenity statutes. *Miller v. California* offered the following test of obscenity as a basic guideline for triers of fact: (A) whether the average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest...; (B) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (C) whether the work, taken as a whole, lacks serious literary, artistic, political or scientific value. The history of court decisions in the area of obscenity law and procedure (from 1879 to 1972) is reviewed. More recent decisions dealing with the meaning of "community standards" and the need for an adversary hearing prior to the seizure of allegedly obscene material are also discussed. Mississippi obscenity statutes and court procedure are compared with the requirements outlined in these decisions. The author suggests that all state legislation should include a restatement of the *Miller* criteria for determining obscenity and should specifically define obscene acts which it hopes to prohibit. In addition, it is suggested that a civil proceeding be adopted by each state to serve as an additional protection against vaguely worded obscenity legislation. He points out that the present Mississippi law outlining a civil proceeding is commendable, but should be amended to expand its protection.

61. PISAPIA, GIANVITTORIO. *L'Osceno nel Diritto Penale una Ricerca Sull'Opinione del Pubblico.* (Obscenity in Penal Law - A Research on Public Opinion.) Sociologia del Diritto, v. 2, no. 2: 319-358. 1975. (NCJ 20298)

Results of a sociological study, conducted in Italy with the aim of assessing public opinion regarding the pornography phenomenon, are outlined. The study also examines the social validity of the concept of obscenity as defined by the Italian Penal Code, the parameters used by the courts when adjudicating questions of obscene performances and publications, and the need to abolish existing legal restrictions on the publication and sale of pornographic material. The results of the study show that the general public considers the pornographic phenomenon less harmful to the social order than is believed, that there is a considerable gulf between ideas held by the public on the subject and those of the judiciary, and that public opinion is becoming more favorable to the abolition of legal restrictions in this area. The author concludes by stressing the role that sociological studies could play in bringing the law in line with the social perception of obscenity and pornography. --In Italian.

62. RIST, RAY C. The Pornography Controversy — Changing Moral Standards in American Life. New Brunswick, New Jersey, Transaction Books, 1975. 290 p. (NCJ 31116)

This is a collection of fourteen essays dealing with the theoretical, legal, moral, and sociological problems associated with pornography in the United States. The fourteen essays address themselves to two levels of the controversy: one theoretical or philosophical, another operational or pragmatic. The philosophical debate pertains to notions of what is or is not moral in relation to the parameters of civil democracy and to the rights of the individual in society. The pragmatic debate concerns the enactment of law, the use of force to contain and possibly censor cultural expression, and the actual definition of what, in fact, constitutes pornography. Opposing points of view are presented with respect to theoretical as well as operational concerns.

63. SUNDERLAND, LANE V. Obscenity — The Court, the Congress and the President's Commission. Washington, American Enterprise Institute for Public Policy Research, 1974. 127 p. (NCJ 27070)

An analysis is drawn of the content and implications of the five 1973 U.S. Supreme Court obscenity decisions, with consideration of previous Court rulings, the findings of the President's Obscenity Commission, and legislation. The author also addresses the Court's 1974 clarifications to these decisions. Although the author finds important shortcomings in these decisions, he sees in them desirable specificity and moderation. Since the new standards are supported by a majority of the Court, they are said to add authority to an area of law long characterized by uncertainty. Conflict of the decisions with the recommendations of the President's Commission are attributed to important weaknesses in those recommendations and in the research upon which they were based. The author concludes that legislative adoption of important aspects of the Court's decisions would bring needed unity, authority, and clarity to federal obscenity laws.

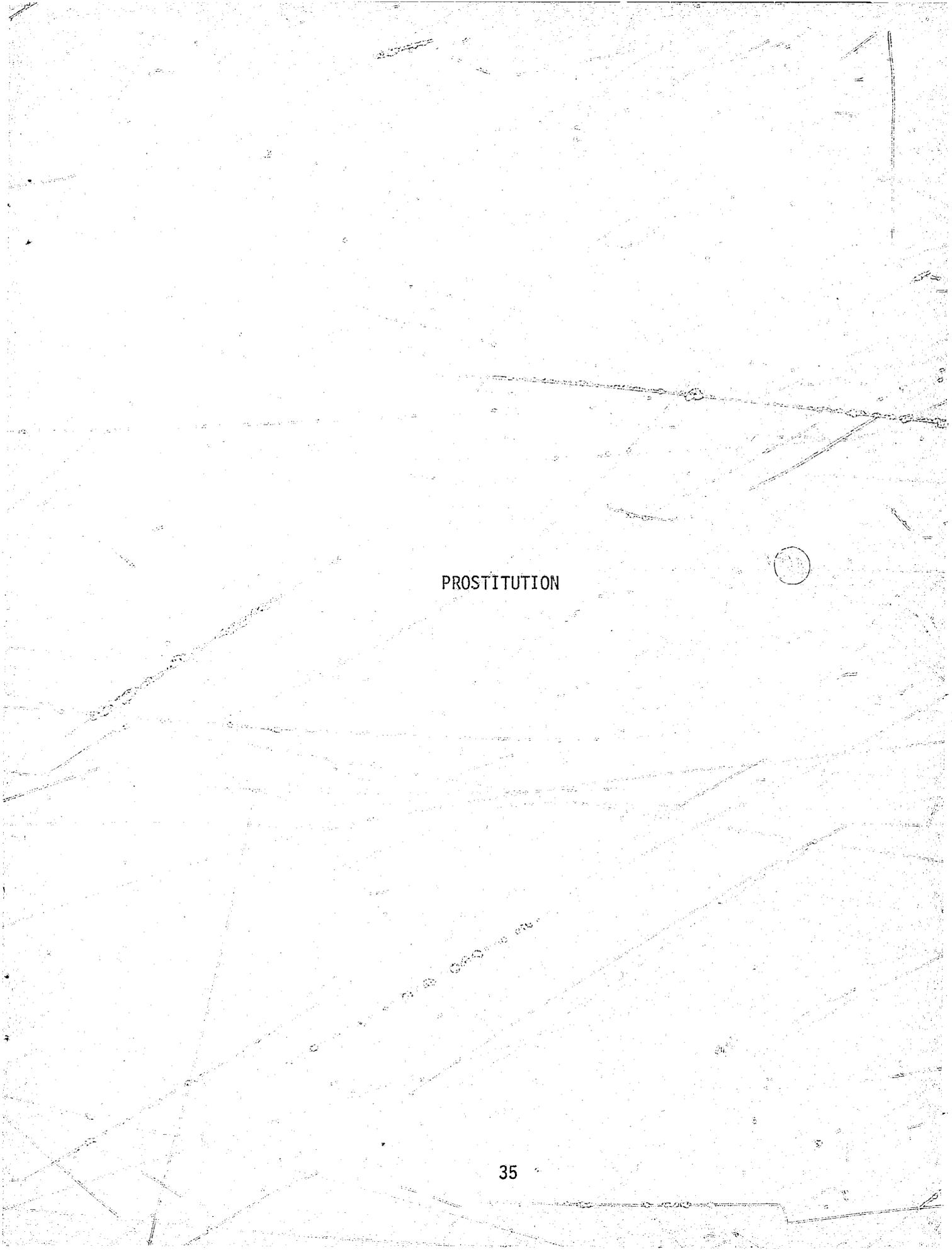
64. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. National Legal Data Center on the Law of Obscenity - Final Report. Thousand Oaks, California, California Lutheran College, 1974. 400 p. (NCJ 36152)

This Center was designed to serve as a nationwide information clearinghouse and legal reference service for prosecutors concerned with obscenity prosecutions. This report covers Center activities during its first year of operation, January 1, 1973 to February 28, 1974, including establishing the primary needs of local prosecutors and developing the most effective manner for serving these needs. Specific activities conducted included: the convening of an advisory panel of specialists to help postulate the hypothesis of the project, a survey of prosecutors' offices, preparation and publication of a "Brief Bank" of obscenity filings, technical and research assistance, and the preparation and publication of "how to do it" manuals for prosecutors,

a bi-monthly newsletter, and an obscenity law reporter. The extensive appendix contains a copy of the advisory panel minutes; the survey questionnaire; the brief bank index; responses to seminars and research materials; the research manual "Techniques in Pornography Investigation"; a copy of the newsletter, "The Amicus"; and an evaluation of the Center's first year of operation.

65. YALE LAW SCHOOL. Still More Ado About Dirty Books (and Pictures): Stanley, Reidel, and Thirty-Seven Photographs. Yale Law Journal, v. 81, no. 2: 309-333. December, 1971. (NCJ 07437)

Recent Supreme Court decisions on obscenity and First Amendment rights are reviewed in cases where two federal obscenity statutes were upheld. Although the Supreme Court has stated that obscenity is not a constitutionally protected form of expression, its decision in *Stanley v. Georgia*, which prohibited state interference with private possession of obscene materials in the home, created confusion about the Government's power to regulate pornographic material. This confusion was lessened when the Supreme Court decided the cases of *U.S. v. Reidel* and *U.S. v. Thirty-Seven Photographs*. In upholding convictions for the violation of federal obscenity statutes, the Court distinguished the *Stanley* case as a protection of the individual right to privacy rather than a ban against all governmental regulations on the commercial distribution of pornography. The author reviews the standards which were used in deciding all of these cases, and offers several observations on the future of the obscenity doctrine.



PROSTITUTION

66. BENNETTS, LAURA and others. Prostitution: A Non-Victim Crime? Issues in Criminology, v. 8, no. 2: 137-162. Fall, 1973. (NCJ 12613)

The argument is made that prostitution should be decriminalized but not licensed because such legalization will perpetuate sexist attitudes, especially against poor women. Problems exist in the present legal status of prostitution, such as inability to enforce the laws and discrimination in penalties for the male clients and prostitutes. It is argued that legalization of prostitution would control the cost to the system of criminal justice of handling hundreds of prostitution cases each year, the spread of venereal disease, the number of women who become prostitutes, pimps, street soliciting, police payoffs, and violent crimes linked to prostitution. The authors propose decriminalization of prostitution to bring an end to the harassment and brutalization of the prostitute by police, courts, and jails. Discussion is then centered on three California statutes against prostitutes which will be attacked because of unconstitutional vagueness, denial of equal protection, and violation of the fundamental right to freedom of speech.

67. DIECKMANN, REIMER. Das Bild des Zuhaelters in der Gegenwart - Erscheinungsformen und Moeglichkeiten der Bekaempfung. (Current Image of the Procurer - Typology and Possibility for Control.) Wiesbaden, West Germany, Bundeskriminalamt, 1975. 117 p.

NCJ 35191)

Offender and offense characteristics of procuring for prostitution in West Germany are reviewed as well as law, procedures, and strategies for controlling the offense by the criminal justice system. Described are 43 illustrative cases of the offense. -In German.

68. HOLMES, KAY ANN. Reflections by Gaslight: Prostitution in Another Age. Issues in Criminology, v. 7, no. 1: 83-101. Winter, 1972.

(NCJ 04532)

The author surveys the history of humanitarian and prosecutory approaches for dealing with prostitution, for the years 1890 through 1915, including the legal heritage of these movements.

69. JENNINGS, M. ANNE. The Victim as Criminal: A Consideration of California's Prostitution Law. California Law Review, v. 64, no. 5: 1235-1284. September, 1976.

(NCJ 36478)

In this comment the author examines the causes of prostitution and the rationales for retaining its criminal status in California. It is concluded that attempts to suppress prostitution through the criminal law have been unsuccessful because of strong social, economic, and psychological pressures that foster and perpetuate such activity.

Current legislative efforts at reform are analyzed, and alternative legislation is suggested. Possible violations of individual privacy rights, Fourth Amendment guarantees, and equal protection of the laws brought about by the current law and its enforcement are investigated. More active judicial supervision of law enforcement practices in the field to ensure protection of individual rights is recommended.

70. INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. Training Key #151
Prostitution. In its Training Key - Volume 7, Issues 145-168.
Gaithersburg, Maryland, 1973. p. 37-42.

(NCJ 35967)

This training key discusses prostitution offenses and techniques that can be used in their control. Techniques of procuring customers are described, as are other crimes which often surround prostitution — such as thefts, robberies, drug violations, and extortion. Police tactics for identifying and apprehending prostitutes are suggested.

71. INTERNATIONAL CRIMINAL POLICE ORGANIZATION. Traffic in Women: Recent Trends. Saint Cloud, France, 1975. 13 p.

(NCJ 36258)

Results are detailed of an Interpol questionnaire survey of member countries requesting statistics and information on traffic in women — defined as the luring of females to engage in prostitution in foreign countries. Disguised traffic, also of interest, was defined as hiring women for positions in another country under conditions which subject, incite, or expose them to prostitution. Survey results are summarized by country. Kidnapping methods were found to be rare; most traffic is in consenting females. Disguised traffic was found to be common; again with most participation apparently consensual. Geographic trends are noted.

72. LLOYD, ROBIN. For Money or Love: Boy Prostitution in America. New York, Vanguard Press, 1976. 256 p.

(NCJ 32536)

Examination is made of the types of offense, extent of the problem, its social causes, and the kinds of lives led by the young boys aged 8 to 17 who sell themselves to male adults. Included are case histories.

73. PENNSYLVANIA PROGRAM FOR WOMEN AND GIRL OFFENDERS, INC. The Decriminalization of Prostitution — The Movement Towards Decriminalization. Philadelphia, Pennsylvania, 1975. 12 p. MICROFICHE (NCJ 31489)

The laws against prostitution, the arguments for decriminalization, constitutional arguments against the laws, the myths about prostitution, and the arguments against legalization are briefly summarized. The Pennsylvania Program for Women and Girl Offenders, Inc., is in favor of decriminalization.

74. Prostitution in Malaysia. International Criminal Police Review, no. 282: 247-250. November, 1974. (NCJ 18653)

The problem of prostitution and the police measures, both preventive and punitive, which have been instituted to combat it are discussed. Provisions of relevant Malaysian laws and statutes are also cited and discussed.

75. REID, ELMER L. Prostitution and the Law: A Descriptive and Analytical Study of Prostitution. M. S. Thesis. Pittsburg, Kansas, Kansas State College of Pittsburg, 1974. 167 p. MICROFICHE (NCJ 28042)

An historical analysis of the role that prostitution has played in western society is presented with an examination of the existing state of societal regulation of prostitution through the passage and enforcement of laws. A discussion of the historical, religious, social, and medical aspects of prostitution is followed by consideration of state prostitution laws and the attitudes and practices of law enforcement officials in their efforts to control prostitution. Questionnaire responses of judges, prosecuting attorneys, and chiefs of police or vice squad members revealed a great deal of disagreement and ambivalence among these authorities about the actual extent and effects of prostitution. The judges and lawyers tended to be less negative in their criticism of the profession of prostitution than were the police officers. The consensus was that prostitutes had to be tolerated as members of our society; that women did not have exclusive control over their own bodies when used in ways that violate the law; that prostitution was a moral, not criminal, problem; and that no useful function could be served by the prostitute. A copy of the attitudes questionnaire used in the study and a three-page selected bibliography are appended.

76. ROBY, PAMELA A. Politics and Prostitution - A Case Study of the Revision, Enforcement, and Administration of the New York State Penal Laws on Prostitution. In Susman, Jackwell, ed., Crime and Justice, 1971-72 - An AMS Anthology. New York, AMS Press, 1974. p. 446-463. (NCJ 28639)

The political processes involved in the contextual, economic, and social changes affecting the formulation, enforcement, and judicial administration of New York state's prostitution laws from 1960 to 1970 were studied. The reform efforts, initiated in 1961, which resulted in the 1965 enactment of a liberalized law on prostitution, are described. This revised law, enacted on March 16, 1965, classified prostitution as a violation and reduced the maximum penalty for prostitution from one year to fifteen days in jail. The law also prohibited the patronizing of prostitutes. Problems in enforcement of the "patron clause" of the law by police and the courts are noted. The article also traces the social and political pressures against the revised law which were initiated by citizens, businesses, and special interest groups. Political pressures caused by the move to "law and order" are also discussed. These influences resulted in a 1969 revision of the law, reclassifying prostitution as a class B misdemeanor, subject to a maximum penalty of

a ninety-one-day sentence. The more recent political and social pressures which may once again force reform of the law are also described. A chart summarizing the history of the prostitution law and the groups involved in the change process is provided.

77. SCHARBERT, JOSEPH. Kommunale Dirnenwohnheime - Loesung des Dirnenproblems? (Municipal Houses of Prostitution - Solution to the Prostitution Problem?) Kriminalistik, v. 28, no. 8: 337-341. August, 1974. (NCJ 15223)

The author reports on a 1973 assessment of prostitution in Munich, West Germany, and on a recommendation that the city establish and directly control houses of prostitution. The assessment and recommendation were made by the Munich Polizeipraesidium (Municipal Police Executive Committee). The recommended system aims to prevent robberies, assaults, and other crimes often related to prostitution. It also aims to eliminate the influence of panderers and to prevent prostitution in the city from being organized and controlled by persons who would make it a basis for criminal activity. The plan includes decentralizing the location of the houses and increasing restrictions on forms of prostitution not controlled by the city. The article discusses the advantages of renting the location, allowing private firms to be involved, and keeping the project entirely under the control and ownership of the city. Statistics are provided comparing the number and concentration of registered prostitutes and houses of prostitution in Munich with those in other large German cities. Also given are data on the ages, incomes, and social characteristics of prostitutes in Munich. - In German.

78. SKOUSEN, W. CLEON. The Perennial Problem of Prostitution. Law and Order, v. 22, no. 4: 8-12. April, 1974. (NCJ 13884)

An historical review is made of prostitution, its spread, and rationale and experience of suppressive legislation. The author reviews sexual practices and prostitution in ancient societies as well as in pre-war Europe and in America. He discusses the post-war suppression policies of the United States and argues that as a result of these policies, sex crimes and venereal disease have actually decreased.

79. _____. The Perennial Problem of Prostitution - How to Beat the Call Girl Racket. Law and Order, v. 22, no. 5: 8-15. May, 1974. (NCJ 14739)

This is a report of how community involvement and cooperation eliminated the "call girl racket" in a city of 200,000. A newly appointed police chief resolved to end prostitution in his city by utilizing all the resources available. Since most call girl rendezvous are set up by bartenders, cabdrivers and bellhops, the chief sent flyers out to these people instructing them that their employers would be questioned if they made appointments or failed to report contacts with prostitutes. Police women were used as decoys and examples were made of the first few

uncooperative "pimps". The city hall also cooperated by suspending licences of bars and motels that would not terminate their illicit activities. Through the efforts of the police department and the community, the call girl racket was virtually eliminated from this city.

80. STUEMPER, ALFRED. Massnahmen zur Wirksamen Bekaempfung der Zuhaeltereii. (Measures for an Effective Fight Against Pandering.) Kriminalistik, v. 28, no. 3: 97-104. March, 1974. (NCJ 14515)

This is a discussion of the nature of prostitution, the methods and characteristics of pandersers, and existing and recommended measures against them in West Germany. The author cites a growing social tendency to no longer consider prostitution a criminal or immoral activity. As a result, it has become more lucrative and tends to operate in an atmosphere of legitimate entertainment rather than of sordid illegality. The author contends, however, that prostitution poses serious dangers because it is controlled by criminals and is connected with other crimes such as extortion and violence. He further asserts the need to overhaul the legal, investigative, prosecution, and correctional procedures for fighting prostitution and pandering in order to deal justly and effectively with their growing social and organizational complexity. The author provides an outline of legislative, police, court, and correctional measures which he recommends to fight pandering. — In German.

81. WADE, DANIEL E. Prostitution and the Law: Emerging Attacks on the "Women's Crime". UMKC Law Review, v. 43, no. 3: 413-428. Spring, 1975. (NCJ 28147)

A review is given of the constitutional challenges to prostitution laws, with specific attention paid to the Kansas City, Missouri, ordinance used to combat prostitution. The author argues that enforcement of the Kansas City ordinance violates the equal protection clause of the Fourteenth Amendment, First Amendment guarantee of free speech, and the constitutional right to privacy. Successful constitutional challenges against other prostitution laws have been based on violation of these rights as well as claims of cruel and unusual punishment and charges of vagueness and overbreadth.

82. WANDLING, THERESE M. Decriminalization of Prostitution: The Limits of the Criminal Law. Oregon Law Review, v. 55, no. 4: 553-566. 1976. (NCJ 39383)

The author examines the Oregon prostitution laws and proposes that they be repealed, because she believes enforcement of those laws is an inappropriate and inefficient use of criminal law and government resources. This article contains arguments for either the legalization or decriminalization of prostitution, illustrating the premise that

solicitation for prostitution cannot be prohibited unless that prohibition serves a public interest. The author concludes that action by the legislature to decriminalize prostitution would not be a judgment on the desirability of prostitution, it would be a judgment on the proper limits of the criminal law.

PUBLIC DRUNKENNESS

83. CALIFORNIA COUNCIL ON CRIMINAL JUSTICE. Sun Street Center — Drunk Arrest Reduction Effort — Final Report, June 1, 1972 — May 31, 1973. By Martin H. Dodd. Sacramento, California, 1973. 30 p.

MICROFICHE (NCJ 18496)

An assessment is presented of this project which was designed to motivate and improve the life style of the chronic alcoholic and to reduce recidivism rates, court appearances, and detention of chronic alcohol offenders. The Sun Street Center program is based on the social model of treatment. This approach seeks to create a new environment for alcoholics which is conducive to sobriety, and to bring about a change in community attitudes which will aid motivation to treatment and acceptance of the recovering alcoholic. The SSC program makes use of existing community resources of employment, rehabilitation, medical and social services for various needs of alcoholics rather than duplicating these services within the SSC program. Evaluation activities included resident follow-ups, a comparison of drunk arrest rates for 1968 and 1973, an estimate of costs and savings, and a survey of public drunkenness arrests from 1968 to 1972. It was found that the primary objectives of the project had been met. Although individual improvement and recovery rates were lower than expected, drunk arrests were down 61.6 percent from 1968; court appearances decreased 84.2 percent; and sentenced detention dropped 70.1 percent for the same period. An estimate of the savings to the criminal justice system for 1972 in personnel and resources, which had heretofore been applied to public drunkenness, was \$270,400. Admissions increased by 50 percent over the previous grant year. Referrals from health and welfare agencies to SSC went from 2.6 percent in 1968 to 40.2 percent in 1972, while referrals from criminal justice agencies fell from 50 percent to 11 percent for the same period. This was seen as a strong indication of the shift of the alcohol problem from the criminal justice system to the health system.

84. CANADIAN CRIMINOLOGY AND CORRECTIONS ASSOCIATION. The Canadian Council on Social Development. Drain the "Drunk Tank" — An Official Statement of Policy. Ottawa, Ontario, 1970. 38 p.

MICROFICHE (NCJ 27941)

The authors propose that public intoxication not be defined as criminal behavior and that a public health and welfare system could deliver services more appropriate to the needs of chronic public inebriates. Canadian federal and provincial laws, U.S. federal and state laws, and judicial decisions in the area of public drunkenness are reviewed. Information is also given on the number of convictions and the costs of incarcerating the public inebriate for each of the Canadian provinces.

85. COOK, TIMOTHY, DENNIS GATH AND CELIA HENSMAN, Eds. The Drunkenness Offence - The Proceedings of an International Symposium Held at the Institute of Psychiatry, Maudsley Hospital, London. Elmsford, New York, Pergamon Press, 1969. 204 p. (NCJ 10710)

Legal, penal, social, and medical aspects of intoxication and alcoholism are considered. The proceedings contain selected papers describing male and female offenders in court and in prison, and discuss the legal aspects of the drunkenness offence in Great Britain and the United States. Additional papers examine current methods of handling the problem and explore prospects for the future in the courts, treatment centers, and in research.

86. GAMMAGE, ALLEN Z., DAVID L. JORGENSEN and ELEANOR M. JORGENSEN. Alcoholism, Skid Row and the Police. Springfield, Illinois, Charles C. Thomas, 1972. 91 p. (NCJ 16019)

The purpose of this study was to analyze the problem of the public drunkenness offender on skid row and the manner in which this problem is being handled. The subculture of skid row — its inhabitants and their relationship to alcoholism — is described. The different types of skid row drinking patterns are compared. The conflicts which problem drinkers encounter when they come in contact with the police and the courts are also presented. In addition, various experimental rehabilitative programs are discussed. The authors propose a police-sponsored community program for the treatment of alcoholism. This diagnostic, treatment and after-care program would set up a center which would offer medical, psychiatric, psychological and social treatment and support. A bibliography and index are included.

87. GRAD, FRANK P., AUDREY L. GOLDBERG and BARBARA A. SHAPIRO. Alcoholism and the Law. Columbia University, Legislative Drafting Research Fund. Dobbs Ferry, New York, Oceana Publications, Inc., 1971. 329 p. (NCJ 13393)

This study addresses the present legal approaches to public intoxication and treatment of alcoholism and the extent of the alcoholic's criminal responsibility, with the inclusion of a model treatment act. The study examines state statutes governing intoxication in public and treatment and rehabilitation programs. The results of the research are based largely on questionnaires sent to health officials in all the states and the District of Columbia. The model act presented decriminalizes public drunkenness apart from a specific criminal violation or operation of a motor vehicle. Emphasis is given to state-funded voluntary treatment programs. Involuntary treatment is to be required only after it has been established through a hearing process that a person is dangerous to others or is so mentally or physically impaired that he is incapable of making a rational decision about his need for care. Tabulations of the results of the questionnaire are included in the appendix.

88. HAUGHEY, DAVID W. and NORMAN A. NEIBERG, Eds. Alcohol, Alcoholism and Crime— A Conference at Chatham, Massachusetts, 1962. 129 p. (NCJ 03265)

Representatives from agencies throughout Massachusetts met in a conference dealing with the problems of alcohol, alcoholism and crime. Topics include alcoholism and the arresting agency, drinking and delinquency, and correctional views on alcohol, alcoholism and crime. Group discussions were held after each address to compare views on treating the alcoholic.

89. THE HUMAN ECOLOGY INSTITUTE, Alternative Approaches to the Public Inebriate Problem in Metropolitan Areas: A Summary of Findings From Atlanta, Georgia, and Baltimore, Maryland. Raleigh, North Carolina, 1974. 12 p. (NCJ 29004)

A summary is given of a study which estimated the current costs of handling public inebriates and projected the future costs of both maintaining existing approaches and implementing new systems. This study was commissioned by the Special Projects Branch of the National Institute on Alcohol Abuse and Alcoholism (NIAAA). The two metropolitan areas studied were Atlanta, Georgia, and Baltimore, Maryland. Atlanta was chosen as a study site because it exemplified the traditional approach of heavy reliance on criminal prosecution of public inebriates. Baltimore was selected as a study site because in 1968 the Maryland state law was changed to prohibit charges for public intoxication, which has resulted in the development of an extensive network of rehabilitative services for public inebriates. Based on comparisons of the approach to the public inebriate in these two areas, it is concluded that rehabilitation is a more cost-effective approach to the problem than a punitive approach utilizing criminal justice agencies. Coordination of rehabilitation services and provision of services sufficient to demand is stressed. Implications for other metropolitan areas are also discussed.

90. HUTT, PETER BARTON. The Changing Legal Approach to Public Intoxication. Federal Probation, v. 31, no. 3: 40-44, September, 1967. (NCJ 05935)

Public intoxication is discussed as a public health rather than a criminal problem. Recently, the rationale that public drunkenness is a criminal offense has been subjected to close scrutiny by both the courts and the public, and has been found seriously deficient. The courts have held that an alcoholic may not properly be convicted for publicly displaying symptoms of his alcoholism, thus precluding conviction of the derelict alcoholics who typically comprise the vast majority of persons arrested for intoxication. Moreover, the public, in the form of two crime commissions, has gone further and has recommended that public intoxication should be handled as a public health problem, thus requiring the imposition of rehabilitative measures rather than criminal sanctions.

91. MILLER, PETER M. An Analysis of Chronic Drunkenness Offenders With Implications for Behavioral Intervention. Jackson, Mississippi. Mississippi State Board of Health, n.d. 14 p. MICROFICHE (NCJ 29519)

Social-psychological survey data on a random sample of 34 drunkenness offenders in Jackson, Mississippi, are presented as a basis for a behavior modification intervention program using positive incentives to encourage long-term participation. All subjects surveyed had been arrested within the past 24 hours and charged with public drunkenness. The survey covered the following 15 major areas: education, military service, marital status, health, alcohol consumption, family background, employment, religion, financial status, living arrangements, current needs, police record, civic participation, social involvement, and free-time activities. Survey results are discussed separately for each area. Findings revealed that alcoholics were more dependent on externally imposed reinforcement systems (presence of alcohol or drinking buddies) in regard to the initiation and termination of drinking, than on internal precipitants (anxiety or depression). Therefore, researchers suggest a halfway house or community alcoholism behavior modification program in which the basic needs of the public inebriate could be met (employment counseling and placement, food, shelter, etc.) in exchange for decreases in alcohol consumption. Low blood alcohol concentrations would earn points for the purchase of needed goods and services. A list of references is included.

92. NIMMER, RAYMOND T. Two Million Unnecessary Arrests — Removing a Social Service Concern from the Criminal Justice System. Chicago, American Bar Foundation, 1971. 202 p. (NCJ 01978)

Policy, practice, and facilities should be altered to reduce the role of criminal law while improving the quality of handling the skid row population. Economic marginality is commonly cited as the primary factor in skid-row deviance. The author presents an overview of the literature concerning skid row. Chicago and New York arrest-prosecution procedures are discussed. Police-initiated detoxification systems in St. Louis and Washington are surveyed since the police-initiated model is the most widely accepted reform format. The Vera Institute program in New York's Bowery is considered interesting because it recognizes the service problem as a skid-row issue and because it avoids the use of uniformed police to remove patients from the streets. Policy implications are discussed.

93. PENNSYLVANIA GOVERNOR'S JUSTICE COMMISSION. Erie County (PA) - Crossroads - Police Pick-Up Program - Evaluation Report. Harrisburg, Pennsylvania, 1974. 18 p. MICROFICHE (NCJ 30688)

This project was designed to reduce the criminal justice resources committed to the public intoxicant and to increase the resources devoted to his treatment. Under this project, Crossroads Center staff were called by police whenever a public intoxicant was found. This community treatment center provides meals, medical and dental

services, professional counseling and other referrals, and jobs to those men picked up as public intoxicants. Police responsibility ended with the arrival of the Crossroads van. The rehabilitative effect of this program was evaluated by following up a sample of 432 men (57 per cent) admitted to the Center in 1973 (the second full year of program operation) and rating them according to eight classifications of success ranging from "high potential" to "psychological problems". A total of 176 men were classified as having either a "high potential" or a "potential" for success; 122 were classified as needing a structuring environment to insure abstinence from alcohol ("maintenance") or "unsuccessful". Compared to a base year of 1970 when the project did not exist, total dollar savings (arrest, incarceration, sentencing) resulting from operation of the Crossroads Center were \$832,693 after deducting the 1973 costs of the program. The evaluator rated this program "an unqualified success", and suggested that it may have even exceeded its objectives and provided services beyond the scope of the program.

94. THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE. Task Force on Drunkenness. Task Force Report: Drunkenness. Washington, U. S. Government Printing Office, 1967. 131 p.

(NCJ 00178)

Stock No. PR 36.8-L41/D84/2

Present methods of treating drunkenness offenders and an exploration of promising alternatives are reexamined. One of every three arrests is for public drunkenness. The criminal justice system appears ineffective to deter drunkenness or to meet the problems of the chronic alcoholic offender. Including drunkenness within the system of criminal justice burdens and distorts system operations. Recommendations include that drunkenness should not in itself be treated as a criminal offense, and that adequate civil detoxification procedures be established. Communities should establish detoxification units as part of comprehensive treatment programs and should coordinate and extend aftercare resources. Appendices include articles on various alternatives to present methods of treatment.

95. ROBB, JAMES J. The Revision of Wisconsin's Law of Alcoholism and Intoxication. Marquette Law Review, v. 58, no. 1: 87-107. 1975.

(NCJ 18151)

The author examines the Act's constitutionality in preserving individual rights in the light of the *Lessard v. Schmidt* decision in the United States District Court for the Eastern District of Wisconsin. The Alcoholism and Intoxication Treatment Act of Wisconsin intends that alcoholics and intoxicated persons not be subjected to criminal prosecution because of their consumption of alcoholic beverages, but rather should be afforded a continuum of treatment. Definitions of "alcoholic", "incapacitated by alcohol", and "intoxicated person" are examined as described in the Act. The nature of the voluntary treatment of alcoholics, the emergency treatment for intoxicated persons or

persons incapacitated by alcohol, emergency commitment, and involuntary commitment are analyzed. The sections of the Act most extensively changed in the revision dealt with procedural mechanisms for securing treatment for intoxicated persons and alcoholics. The revisions intend to adopt the guidelines for due process in civil commitment actions laid down in *Lessard v. Schmidt*, a class action which challenged the constitutionality of Wisconsin's mechanism for the civil commitment of alleged mentally ill, mentally infirm, or mentally deficient persons. The author considers that the revisions of the Act are necessarily complex in effectively protecting the rights of the individual while offering the probability of success in achieving intended goals in the treatment of inebriated persons.

96. U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE. Health Services and Mental Health Administration. National Institute on Alcohol Abuse and Alcoholism. Joint Conference on Alcohol Abuse and Alcoholism. Washington, U.S. Government Printing Office, 1972. 284 p. (NCJ 13636)

This is a collection of papers presented at the Interagency Conference on Alcohol Abuse and Alcoholism held at the University of Maryland's Center of Adult Education. The major objective of this conference was to assist the development of joint planning, programming and coordination at the regional, state and local levels to deal with the alcoholic offender, the drinking driver and the public inebriate. To this end, the conference was divided into three workshops, each dealing with one category. The papers circulated in advance of the conference served as the basis for discussion in each workshop. In general, discussion centered on defining problems and suggesting cooperative and pragmatic methods for solution. The three workshops presented their recommendations at the conference's final session. A list of references is provided for each paper. The appendix includes agency profiles, a list of regional and state personnel, a list of state alcoholism authorities, the conference agenda, and the roster of participants.

97. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. A Report on Non-Victim Crime in San Francisco - Part 1 - Basic Principles - Public Drunkenness. By San Francisco Committee on Crime. Washington, 1971. 53 p. MICROFICHE (NCJ 00038)

The San Francisco Committee on Crime has the duty of reporting and making recommendations for a more effective and economical system of criminal law. Previous reports of the committee have examined how laws are currently enforced and what improvements can be made in enforcement. The present report asks more basic questions: why and how far certain laws should be enforced and why they should even exist. This report tends to be philosophical - but to the end of being highly practical. Drunkenness is considered first because it is an object lesson. Knowledgeable opinion has come to recognize that drunkenness must not be handled as it has been, although the method of handling it is still in a state of transition. Many

jurisdictions deal with it as a public health problem, and the Crime Committee approves of that concept. Without the expense of attempts at complete medical rehabilitation and cure, drunkenness should be taken out of the criminal process entirely. Not included in the use of the term drunkenness is the act of driving while drunk because it contains a strong probability of injuring other people and ought to be held criminal.

98. _____ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Alcohol and the Criminal Justice System: Challenge and Response. By Helen Erskine. Washington, 1972. 30 p. (NCJ 02278)
PB 214 626

Treatment and education on alcohol problems are shown as leading to a decrease in alcohol-related crime. The historical basis for considering alcohol abuse an illness rather than a crime, the relationship between alcohol and crime, various detoxification programs, and current trends in treatment of alcohol problems are discussed. Specific mention is made of the St. Louis Detoxification Center, the District of Columbia Program, and the Vera Institute Bowery Program.

99. _____ . Law Enforcement Assistance Administration. National Institute of Law Enforcement and Criminal Justice. Alcohol and the Criminal Justice System — L.E.A.A. Efforts — 1968 - 1972. By Helen Erskine. Washington, 1973. 33 p. (NCJ 35577)

This paper reviews the way in which LEAA has handled the problems of the public inebriate, drinking driver, and alcoholic felon from the standpoint of patterns and levels of funding. The overall LEAA effort and the status of state statutes regarding alcoholism are discussed first. The breakdown of expenditures in the areas of education, research, courts, law enforcement programs, and rehabilitation is then considered. A breakdown of the data by region is also included. Noted are the fact that less than one per cent of total LEAA funds is allocated to the alcohol problem, the lack of any budgetary items relating to the alcoholic felon, and the lack of emphasis on research in the area of alcohol problems. Recommendations include using the impact cities for collecting information and evaluating some of the existing issues, and coordination of program efforts with the National Institute for Alcohol Abuse and Alcoholism and the Office of Alcohol Counter-measures. Specific areas for future research are also identified.

100.

Law Enforcement Assistance Administration. National
 Institute of Law Enforcement and Criminal Justice. Diversion of
 the Public Inebriate from the Criminal Justice System - Prescriptive
 Package. By Charles W. Weis. Washington, U.S. Government Printing
 Office, n.d. 64 p. (NCJ 10946)
 Stock No. 2700-00226

Various means are suggested for removing the skid-row drunk from the revolving door process of prosecution and jail into community health or social service agencies. Public inebriates have traditionally accounted for one-third to one-half of total arrests in municipalities and have long clogged U.S. jails and courts. The intent of this handbook is to suggest diversionary programs which will not only relieve the burden on law enforcement but will also enhance the legal, physical, and social well-being of this victimless crime offender. Five specific types of services, each filling a concrete need of the skid-row inebriate, are viewed in terms of their objectives, components, requirements, and implementation variables. The first two are directly diversionary in that they can have an immediate impact on relieving law enforcement personnel. Medical evaluation and subacute detoxification (MESAD) combine a number of functions including emergency pick-up, out-patient medical evaluation, and in-patient treatment. The second of these is the provision of shelter, food, and clothing, not only to inebriates but to homeless men as well, thus eliminating a major factor leading to arrests. The three other services discussed are indirectly diversionary and include intermediate care offering structured treatment through aftercare services. General guidelines are provided for mobilizing community support, securing financing, and training staff personnel.

101. Law Enforcement Assistance Administration. National
 Institute of Law Enforcement and Criminal Justice. The Impact of
 Decriminalization on the Intake Process for Public Inebriates--
 Third Project and Report. By David E. Aaronson, C. Thomas Dienes,
 and Michael C. Musheno. Washington, 1976. 288 p.
 MICROFICHE (NCJ 36030)

This is a comparative analysis of police attitudes in five cities on the handling of public drunkenness offenses and the relationship between these attitudes and intake for public inebriates (criminal versus therapeutic). Questionnaire survey results are presented comparing the attitudinal findings between the "criminal" (Houston, Texas, and Richmond, Virginia), and "decriminalized" (District of Columbia, Minneapolis, Minnesota, and St. Louis, Missouri) jurisdictions. Five city papers provide background information on the jurisdictions and compare the attitudes of officers in the target city with those of officers in each of the other cities, as well as intrajurisdictional differences between police districts within each city. The relationship between attitude and the officer's subject report of his behavior is also analyzed. In addition, a prescriptive model is presented which probes the relationship of policy goals and techniques of administrative enforcement. The tentative model is premised on four principal elements:

the goals that a jurisdiction may wish to achieve; the conflict and compatibility of these goals; the delivery mechanisms available to achieve these goals; and techniques of administration whereby the delivery mechanisms are utilized to achieve the goals. Possible sites for study in regard to the prescriptive model (all jurisdictions which have made innovative attempts to handle the intake of public inebriates) are identified.

SEXUAL MORALITY OFFENSES

102. BARNETT, Walter. Sexual Freedom and the Constitution - An Inquiry into the Constitutionality of Repressive Sex Laws. Albuquerque, New Mexico, University of New Mexico Press, 1973. 342 p. (NCJ 12265)

Discussion centers on current constitutional arguments that are available to attack criminal laws on sex so as to exclude from their scope activities between consenting adults. Focusing on sodomy statutes, the author analyzes the void-for-vagueness doctrine, the right-of-privacy doctrine, and the independent rights doctrine. In addition, the relationship of homosexuality to religion, equal protection, and cruel and unusual punishment is presented. Appended are examples of statutes proscribing sexual misconduct from selected states.

103. FAIRBAIRN, N.H. Homosexuality and the Law. In Loraine, J.A., Ed., Understanding Homosexuality: Its Biological and Psychological Bases. New York, American Elsevier Publishing, 1974. p. 159-164. (NCJ 26064)

The author discusses whether consenting homosexual activity infringes on society's rights to such an extent that criminal sanctions are justified, and reviews the gradual evolution of homosexuality laws in Great Britain.

104. GREY, ANTONY. Homosexuality - Some Social and Legal Aspects. In Loraine, J.A., Ed., Understanding Homosexuality: Its Biological and Psychological Bases. New York, American Elsevier Publishing Co., 1974. p. 141-157. (NCJ 26063)

This article provides a brief overview of the European and North American laws on homosexuality, the legal and social attitudes toward homosexuality, and the movements and organizations providing support to homosexuals.

105. Homosexuals. (Motion Picture). Berkeley, California, University of California, 1967. 45 min., Black and White. (NCJ 33092)

Problems created by society's refusal to face the existence of sexual deviation are addressed, along with medical, legal, clerical and sociological points of view. An attorney describes a one-year investigation of the homosexual "underground" in Boise, Idaho.

106. LORAIN, J.A., Ed. Understanding Homosexuality: Its Biological and Psychological Bases. New York, American Elsevier Publishing Co., 1974. 217 p. (NCJ 26062)

This text presents nine articles which deal with causal, legal, social, moral, and medical aspects of male and female homosexuality. Among the specific topics covered in these articles are psychological and biological causes of homosexuality, a case study of homosexuality in the Netherlands, homosexuality and the law, religious aspects of homosexuality, the difficulties encountered by the homosexual in society, and popular misconceptions about homosexuality.

107. MALMQUIST, CARL P. Juvenile Sex Offenders. In Resnik, H.L.P. and Marvin E. Wolfgang, Eds., Sexual Behaviors - Social, Clinical, and Legal Aspects. Boston, Massachusetts, Little, Brown and Company, 1972. p. 63-87. (NCJ 32115)

Psychiatric and psychological motivations of juvenile sex offenders are discussed in relation to the possibilities of effective treatment and the effects of institutionalization. The problems associated with juvenile status offenses, loose adult morality, and double standards are discussed. General factors in perverse development, justifications and problems in legal disposition, and homosexual behavior in the adolescent are also examined.

108. MICHIGAN LAW REVIEW ASSOCIATION. The Constitutionality of Laws Forbidding Private Homosexual Conduct. Michigan Law Review, v. 72, no. 8: 1613-1637. August, 1974. (NCJ 16660)

The constitutional pros and cons relative to the prohibition of private homosexual acts between consenting persons are examined. Compelling state interests in controlling venereal disease, promoting traditional heterosexual marriages, and setting the traditional sexual behavioral patterns of society are viewed as the main constitutional arguments for preserving the proscription of private, consenting adult homosexual behavior. It is argued, however, that in extending the right of privacy to all forms of heterosexual conduct, the courts have gone so far that exclusion of homosexuality cannot be justified. It is felt that the privacy argument should in time be the basis for decriminalizing private, consensual adult homosexual activity.

109. NAGEL, WILLEM H. Plaisir et Deplaiser en Matiere de Delinquance Sexuelle. (Pleasure and Dissatisfaction in Matters of Sexual Offense.) In University of Brussels, Les Frontieres de la Repression, 2 - Moeurs, Drogue. (Frontiers of Repression, Part 2 - Morals, Drugs.) Brussels, Belgium, Editions de L'Universite de Bruxelles, 1974. p. 113-133.

The social and legal limitations of sexual behavior and deviance in the Netherlands are discussed, including the concepts of morality, obscenity, and protection of youth. The paper features a discussion of victimology in moral offenses. The author recommends decriminalization of many offenses and cites such concepts as the "approbation of the holy spirit" as indicative of the inadequacy of the law in defining standards for evaluating sexual behavior.
-- In French.

110. POWER, D.J. Sexual Deviation and Crime. Medicine, Science and the Law, v. 16, no. 2: 111-128. April, 1976. (NCJ 34546)

This paper reviews the various types of sexual deviation and describes relevant case histories within the personal experience of the writer; treatment is also discussed. Coming within the purview of this article are the following topics: sadism, homosexuality, sexual exhibitionism, transvestism, incest, obscene telephone calls, rape, and bestiality. Types of treatment discussed include psychotherapy, aversion therapy, hormonal treatment, and surgery.

111. RAINWATER, LEE, ED. Social Problems and Public Policy - Deviance and Liberty. Chicago, Illinois, Aldine Publishing, 1974. 445 p. (NCJ 19170)

This collection of 39 articles examines the problems of deviance in relation to the individual's determination of his own best interest, free from arbitrary interference by the state, and to his security to exercise it. Topics covered include modern perspectives on deviance and social problems, deviant exchanges (victimless crimes), and deviant personal control. Also discussed are people defined as deviant because of some characteristic of the way they live, rather than because they violate a particular norm, and the relative costs and benefits of particular (institutional) ways of enforcing norms. An index is provided.

112. RESNIK, H.L.P. and MARVIN E. WOLFGANG, Eds. Sexual Behaviors: Social, Clinical, and Legal Aspects. Boston, Massachusetts, Little, Brown and Company, 1972. 456 p. (NCJ 32113)

A collection of analytical articles focus on a variety of aspects of evaluation and treatment of sex offenders and on current legal and psychiatric moralities.

113. ROBITSCHER, JONAS. Statutes, Law Enforcement, and the Judicial Process. In Resnik, H.L.P. and Marvin E. Wolfgang, Eds., Sexual Behaviors: Social, Clinical, and Legal Aspects. Boston, Massachusetts, Little, Brown and Company, 1972. p. 1-20. (NCJ 32114)

The effectiveness, propriety, and reform of statutes dealing with sexual offenses are discussed. Social mores do not necessarily mandate statute changes, states the author, the changes come about through selective enforcement of the laws. The problems inherent in selective enforcement are discussed in the light of other sets of problems that arise when laws are partially modified and when a "treatment model" is the prevalent philosophy.

114. SARTORIUS, ROLF E. The Enforcement of Morality. Yale Law Journal, v. 81, no. 5: 891-910. April, 1972. (NCJ 07540)

A critical examination is presented of Mill's principle that only self-preservation of society warrants interference with absolute individual freedom. The enforcement of sexual morality by the criminal law is the focus of discussion. The positions of Mill's utilitarian school and its critics are explored.

115. SCHUR, EDWIN M. Crimes Without Victims - Deviant Behavior and Public Policy - Abortion, Homosexuality, Drug Addiction. Englewood Cliffs, New Jersey, Prentice-Hall, 1965. 180 p. (NCJ 09439)

The author provides a sociological perspective on deviant behavior in relation to human needs and social values and institutions. Fundamental questions about the definition of deviance and crime are raised. Each problem involves the willing exchange between consenting individuals of a desired product or service proscribed by law. Such laws, because there is no complaining victim, are unenforceable. Their very existence gives rise to secondary pathology, abortion rackets, blackmail, police corruption, and dope pushing. The author analyzes the impact of laws on deviant behavior and looks at societal reaction as a behavior-shaping influence. He proposes policy changes and concludes that only through an informed public and an understanding of the motivations and patterns of deviance can existing laws be revised to help rather than reject the deviant.

116. Some of Your Best Friends. (Motion Picture). Berkeley, California, University of California, 1972. 38 min., color.

(NCJ 33160)

Discrimination against homosexuals is discussed and some activities of the gay liberation movement are shown. Included are candid interviews with male and female homosexuals, scenes from group meetings, demonstrations, and a gay parade. A homosexual lawyer amusingly recounts his entrapment by police and describes his subsequent trial.

117. UNIVERSITY OF IOWA COLLEGE OF LAW. Constitutional Protection of Private Sexual Conduct Among Consenting Adults: Another Look at Sodomy Statutes. Iowa Law Review, v. 62, no. 2: 568-590. December, 1976.

(NCJ 39277)

A review is made of the federal court decision in *Doe v. Commonwealth's Attorney for the City of Richmond* (1975), which rejected the application of the right of privacy to homosexual activity between consenting adults. The *Doe* ruling was recently affirmed by the U. S. Supreme Court without written opinion. This comment evaluates the soundness of the *Doe* decision and its summary affirmation by the Supreme Court, primarily in light of the protection of privacy through substantive due process guaranteed by the Fourteenth Amendment. Constitutional sources of the right of privacy as it relates to sexual relations are reviewed. The arguments developed by the District Court in *Doe* are analyzed. The issue of whether the right of privacy protects private, consensual male homosexual relations is fully discussed, examining both the privacy of the individual and the privacy of the home. State interests which might be deemed sufficiently compelling to justify interference with these manifestations of privacy through criminal sodomy laws are assessed, along with the contrary state interest in decriminalizing homosexual activities. Finally, the effects of sodomy laws on consenting adult homosexuals are discussed. The author argues that *Doe* was improperly decided in the District Court and that the Supreme Court erred in not reviewing that decision on its merits.

118. USHER, ALAN. Sexual Violence. Forensic Science, v. 5, no. 3: 243-255. June, 1975.

(NCJ 31013)

Case histories illustrate the broad spectrum of sexual activities that can initiate violent and even fatal reactions. Crimes of violence such as homicide and assault resulting from normal and abnormal sexual activity are discussed as well as accidental death and suicide resulting from sexual aberrations.

119. WASHINGTON UNIVERSITY. Social Science Institute. Law Enforcement Study Center. Sexual Deviancy and Law Enforcement. St. Louis, Missouri, 1970. 37 p. (NCJ 08490)

An overview is given of various sexual offenses with a brief discussion of homosexuality and considerations in the formation of policies regarding law enforcement priorities. Sex offenses such as incest, voyeurism, masochism, transvestism, and sex-associated crimes including prostitution, pornography, and abortion are discussed. Homosexuality is viewed historically, in terms of the British experience and with regard to four current schools of thought as to its legality. Guidelines for establishing policies regarding the enforcement of laws on sexual deviance are given. The appendix consists of an outline of a modus operandi system for investigating sexual offenses.

DECRIMINALIZATION OR LEGALIZATION

120. AKINS, CARL. Political Issues in Labeling: Criminalization and Decriminalization. In Gardiner, John A, and Michael A. Mulkey, Eds., Crime and Criminal Justice. Lexington, Massachusetts, D.C. Heath and Company, 1975. p. 63-71.

(NCJ 37754)

The author discusses the possible areas for political science research into the potential impact of proposed criminalization and decriminalization policy reforms. The areas of policy-related research considered concern victimless crimes, traffic regulation, and substance abuse.

121. BLOM-COOPER, LOUIS. To prosecute or Not to Prosecute. In Alderson, J. C. and Philip John Stead, Eds. The Police We Deserve. London, Wolfe Publishing, Ltd., 1973. p. 67-77.

(NCJ 25838)

Recognizing that the police do and probably should have wide discretionary powers concerning the selective enforcement of the laws, the author suggests some types of proscribed behavior that should be decriminalized. These areas are victimless crimes, sexual offenses, and crimes against public morality. Some of the specific crimes alluded to are gaming, homosexuality, incest, and pornography.

122. BORUCHOWITZ, ROBERT C. Victimless Crimes: A Proposal to Free the Courts. Judicature, v, 57, 2: 69-78. August-September, 1973.

(NCJ 16145)

The impact and nature of such victimless crimes as vagrancy, gambling, drunkenness, juvenile status offenses, drug use, and sexual deviance are discussed and suggestions for decriminalization of these acts are made. The author states that victimless crimes - acts which are presently outside the law but which have no readily identifiable

victim — account for almost half of the cases handled by the United States courts. A general review of the types of statutes and laws applying to victimless crimes is provided. The author also cites several sources which support the decriminalization of these acts. He argues that the delay in providing justice in other cases could be significantly reduced and more just treatment could be given to the perpetrators of victimless crimes if these kinds of behavior were decriminalized and removed from the criminal courts to other public and private agencies, whose underlying purpose would be to help, not to punish.

123. BOYDELL, CRAIG L. and CARL F. GRINDSTAFF. Public Attitudes Toward Legal Sanctions for Drug and Abortion Offences. In Scarpitti, Frank R. and Paul T. McFarlane, Eds., Deviance; Action, Reaction, Interaction — Studies in Positive and Negative Deviance. Reading, Massachusetts, Addison-Wesley Publishing Company, 1975, p. 209-232. (NCJ 34343)

Results are shown of a poll of 450 residents of Ontario, Canada, to determine attitudes toward sanctions and to determine if attitudinal variations exist between different sub-categories of society. The majority of respondents favored no imprisonment for marijuana or hard drug use, but imprisonment for sale of either class of drug was favored. Prison terms were disapproved for medical doctors who perform illegal abortions, but were encouraged for non-physicians. Analysis of the data indicated that age, education, income, and religion were significantly associated with attitude toward legal sanctions for these offenses.

124. BROWN, W.L., JR. Concerning Crimes Without Victims. State Government, v. 47, no. 1: 24-26. Winter, 1974. (NCJ 15481)

A California legislator summarizes his support for decriminalizing acts which do not infringe upon the legal rights of others. The author concludes that fear is the greatest obstruction to reform in this area.

125. CLARK, RAMSEY. Crime, Hypocrisy, and the Just Society. In Viser, Festus Justin, Ed., Crime and Justice. Memphis, Tennessee, Memphis State University Press, 1974. p. 1-10. (NCJ 19392)

The author discusses the need to remove unenforceable statutes from the law books to make the law a more effective instrument for social change and a positive power for good. This lecture begins with a discussion of Prohibition and its social failures. Clark states that the experience proved that we could not legislate morals and prevent acts which have no victims.

126. CRICK, BERNARD. Crime, Rape and Gin - Reflections on Contemporary Attitudes to Violence, Pornography and Addiction. London, Elek Books, 1974. 96 p.

(NCJ 26793)

The author appeals for more strident persuasion and social pressure and less litigation and formal control in enforcing standards of morality. It is in the interests of society to set standards of behavior. Violence, pornography, and drug abuse do not now present a threat to the social order, so damaging over-reaction is not justified.

127. DASH, SAMUEL. Means and Methods Employed in Penal Law. Criminal Law Bulletin, v. 10, no. 7: 571-588. September, 1974.

(NCJ 16516)

Discussion focuses on proposed and actual trends toward reform of the United States penal law. Trends toward decriminalization and/or a more liberal attitude toward drunkenness, gambling, drug abuse, obscenity, sexual conduct, vagrancy and the use of the death penalty are highlighted. New tasks identified for the criminal justice system include increased efforts in the areas of organized crime, white-collar crime, consumer protection, and environmental control. Changes in correctional approaches, such as probation, community-based corrections, and diversion are discussed. Also referred to is the need to improve the training of all criminal justice personnel. The author calls for an end to bribery and corruption of public officials and the payment of political favors as a way to make the criminal justice system more responsive to the problem of crime.

128. FROST, ALVIN F., JR., and GEORGE W. MCLAIN, JR. To Arrest or Not to Arrest. Police Chief, v. 41, no. 9: 36-37. September, 1974.

(NCJ 14924)

Results of an attitude survey of police and civilians on various victimless crimes indicate a general lack of condemnation of these activities and reluctance to arrest. To determine the attitudes of police and civilians, 75 inquiries concerning Sabbath laws, consensual sodomy, gambling, prostitution, pornography, loan-sharking, and marijuana were devised and administered. It was found that police attitudes are less liberal than those of civilians. In general, the behaviors involved in those victimless crimes were viewed as normal or elicited only vague opinions. Civilians were found to feel very strongly that no arrests should be made for any of these violations except loan-sharking. Policemen were reported to think that loan-sharks, prostitutes, and marijuana smokers should be arrested while the rest should not.

129. GEIS, G. One Eyed Justice - An Examination of Homosexuality, Abortion, Prostitution, Narcotics, and Gambling in the U.S. New York, Drake Publishers, 1974. 270 p.

(NCJ 29474)

A monograph draws on evidence from the fields of the law, psychology, psychiatry, sociology, and anthropology on the social effects of victimless crimes and their legal sanctions. The author suggests a two-fold evaluation of such proscribed behavior: Are such actions truly undesirable in that they will have damaging social consequences?; And what will be the consequences of continued criminalization of such behavior? Victimless crimes often represent defined deviations singled out for more subtle reasons than those stated in campaigns against them. Singling out behavioral items and labeling them creates designated groups and pushes these groups toward alienation if their actions are viewed as invidious. Given such a situation, there is the need to emphasize the vital importance of tolerance and flexibility, combined with attitudes designed to encourage and reward desired behavior.

130. GITCHOFF, G. THOMAS, JOSEPH ELLENBOGEN and ELSIE ELLENBOGEN. Victimless Crimes: The Case Against Continued Enforcement. Journal of Police Science and Administration, v.1, no. 4: 401-408, December 1973.

(NCJ 11904)

This article is a rebuttal to another supporting continued prosecution of victimless crimes such as prostitution, homosexual practices, obscenity, gambling, and narcotics abuse. The authors use factual information to disprove contentions that prostitution is controlled by organized crime. They also discredit the correlation between prostitution and drug use. Comments on homosexuality indicate that the crimes committed by these individuals (seducing minors, performing felonious sex acts, assault, robbery, and murder) are also committed by heterosexuals and are not sound bases for the enforcement of laws against homosexuality. Surveys of psychiatrists, sex educators, and social workers are cited to disprove the notion that pornographic material has harmful effects on adults or adolescents. In light of the finding that gambling has taken place in all societies in some form, the authors recommend uniform gambling laws and maximum safeguards against infiltration by organized crime rather than prohibition against gambling. In the section on drug abuse, the authors state that what a person does with his own body should be no concern of the law, and they discredit the finding that marijuana is a stepping-stone to heroin addiction.

131. GREAT BRITAIN LAW COMMISSION, Codification of the Criminal Law - Conspiracies Relating to Morals and Decency - Working Paper No. 57, London, Her Majesty's Stationery Office, 1974. 81 p.

(NCJ 29948)

The law relating to the offenses of conspiracy to corrupt public morals and conspiracy to outrage public decency is examined, with proposals for legislative reform. This paper first reviews statutory and case law relating to morals and decency prior to the 1962 decision of the House of Lords in *Shaw v. Director of Public Prosecutions*, which established the existence of the broad offense of conspiracy to corrupt public morals. This is followed by an examination of the conduct which has been prosecuted under this offense. The provisions of the Obscene Publications Act of 1964 and the 1967 Sexual Offenses Act are also considered briefly. In addition, the 1973 decision of the House of Lords in *Knulier v. Director of Public Prosecutions* is discussed. This decision established the generalized offense of conspiracy to outrage public decency. The gaps in the law, which the abolition of all common law offenses in this area of law would leave, are then identified. It is proposed that conspiracy to corrupt public morals and conspiracy to outrage public decency should cease to be criminal where the object of the conspiracy falls short of being a crime. Also recommended is the abolition of a number of common law offenses - corrupting public morals, outraging public decency, indecent exposure, public exhibition of indecent acts and things, keeping a disorderly house, obscene libel, and conspiracy to debauch. Also proposed is the creation of new offenses penalizing solicitation in a public place to induce attendance at film exhibitions or other obscene performances, sale of accoutrements for use in deviant sexual practices, and advertisements by prostitutes in shopkeepers windows and other displays.

132. HEWITT, WILLIAM H. Non-Victim Crime: Some Police Perspectives. In Kinton, Jack, Ed., Police Roles in the Seventies - Professionalization in America. Aurora, Illinois, Social Science and Sociological Resources, 1975. p. 147-166.

(NCJ 31610)

The author criticizes the use of police resources in combatting victimless crimes - drunkenness, narcotic addiction, gambling, and traditionally unacceptable sexual conduct. It is suggested that over-extension of the criminal law be avoided and that specific regulatory programs be instituted.

133. JUNKER, JOHN M. Criminalization and Criminogenesis. In Susman, Jackwell, Ed., Crime and Justice, 1971-1972 - An AMS Anthology. New York, AMS Press, 1974. p. 303-317.

(NCJ 28634)

The author reviews and criticizes the arguments of those who urge the exclusion from the criminal code of private offenses (victimless crimes), concluding that victimless crime laws express the preference of the

majority. The general thesis of those who urge decriminalization of private offenses because of their effects on the criminal justice system is that such offenses are, for a variety of reasons, themselves criminogenic and cause an increase in criminal behavior. This article examines the four arguments most commonly advanced in support of this general thesis: (1) that these laws cause diminished respect for law; (2) that they are unenforceable and cause corruption; (3) that they serve to increase crime activities which support the illegal services; and (4) that they result in a misallocation of enforcement resources. The author argues that there is no fundamental moral basis for limiting the scope of the criminal law, since the majority would seem to support preservation of the sanctions against these behaviors. He also maintains that the "crime causative" argument against victimless crime penalties is invalid, because this theory cannot distinguish between those offenses marked for repeal and those which should be preserved, such as bribery or weapons offenses.

134. KEISTER, EDWIN, JR. Crimes With No Victims - How Legislating Morality Defeats the Cause of Justice. New York, New York, Alliance for a Safer New York, 1972. 82 p.

(NCJ 09570)

The social and economic costs to society of such victimless crimes as prostitution, homosexual activities, and drunkenness are surveyed. The author defines victimless crime to include gambling, pornography and drug abuse. He presents narrative arguments to support the position that social problems should not be dealt with by the criminal law. He states that, if safeguarding morals and controlling crime are different things, it follows that the law has no business forbidding certain actions it now forbids. Some of these actions do not properly fall within government's sphere at all and ought to be decriminalized. Others may be proper concerns of government but should be dealt with by regulation rather than criminal statute. The foundation of a rational policy must be that acts which harm no one but the doer should be beyond the scope of the police and the courts and should be taken out of their hands as promptly as possible. No matter how offensive public intoxication, "pot" smoking, or gambling may be to many Americans, a pluralistic society cannot properly use the power of the criminal law to impose the moral standards of one group on another.

135. MORRIS, NORVAL and GORDON HAWKINS. The Honest Politician's Guide to Crime Control. Chicago, Illinois, University of Chicago Press, 1969. 271 p.

(NCJ 01811)

A program of increased political responsibility is proposed for the reduction and control of crime. "Our criminal justice system is a moral busybody." With that statement as a first premise, the authors go on to state that they have a cure for crime. They systematically present a program which covers the amount, costs, causes, and victims of crime; the reduction of violence; the police; juvenile

delinquency; the function of psychiatry in crime control; organized crime; and the uses of criminological research. On each topic precise recommendations are made and carefully defended. The Honest Politician's Guide to Crime Control is a lively and controversial presentation of criticisms and suggestions regarding the criminal justice system. While much of the material will be familiar to the practitioner, the authors' conclusions are all their own. For example, the chapter on organized crime compares the arguments for the existence of God with those purporting to establish the existence of an organized crime syndicate. They conclude that acceptance of either argument must be based on faith, not fact. Whether or not they are right in all their reasoning, the authors do present an overview of some of the major areas of concern in the criminal justice field in a manner calculated to provoke thought in layman and professional alike.

136. _____ . Letter to the President on Crime Control. Chicago, Illinois, University of Chicago Press, 1977. 103 p. (NCJ 39996)

The authors approach what they call our major domestic problem — the alarming growth of crime — with a seven-step program of crime control. As the prime function of the criminal justice system is the protection of persons and property, the program emphasized the need to reduce violent and predatory crime. The police and courts must be unburdened of victimless crime to pursue more serious matters. A federal gun control policy has high priority in the recommended crime prevention strategy. The present laws dealing with addictive drugs are seen to be criminogenic, and an alternative drug policy is outlined. The police function must be reorganized to reduce the scope of duties. The police officer is so laden with administrative duties and community services that he is unable to devote a sizable portion of his time to crime prevention. A formalization of plea bargaining and uniformity of sentencing are recommended to expedite the judicial process. Increased rehabilitative opportunities for prisoners and a federal victim compensation program are also suggested.

137. THE NATIONAL COMMISSION ON REFORM OF FEDERAL CRIMINAL LAWS. Study Draft of a New Federal Criminal Code. Washington, U.S. Government Printing Office, 1970. 344 p.

(NCJ 00372)

A new federal criminal code draft is presented to permit Congress, the judiciary, and law enforcement agencies to comment prior to the Commission's final recommendation to Congress. Recommendations are given to revise and recodify criminal laws in the United States under federal jurisdiction, including the repeal of unnecessary or undesirable statutes and changes in the penalty structure. The proposed code is divided into general provisions, specific offenses, and the sentencing system.

138.

NATIONAL COMMISSION ON THE CAUSES AND PREVENTION OF VIOLENCE. The Problem of "Overcriminalization". In Cole, George F., Criminal Justice — Law and Politics. Belmont, California, Duxbury Press, 1972. p. 403-418.

(NCJ 25815)

The effects of criminal sanctions on activities such as drug addiction, prostitution, and loitering — the victimless crimes — are reviewed, and it is argued that such activities should be decriminalized. A major source of crime is seen to be the misuse of the criminal sanction to regulate conduct regarded as legitimate by substantial segments of society. Three categories of "overcriminalization" are reviewed. These are the morals statutes (prostitution, homosexuality, and sexual conduct statutes), the illness statutes (laws against alcoholism and drug use), and nuisance statutes (disorderly conduct, vagrancy, and loitering). The costs of this overcriminalization are described in terms of the harm done to those sanctioned for these actions and to public attitudes about the laws and law enforcement. It is stated that overcriminalization can cause disrespect for the law, can cause discriminatory enforcement of the law, and can drain resources away from the control of more serious misconduct. The consequences of decriminalization of these victimless crimes are then discussed.

139. NEIER, ARYEH. Crime and Punishment — A Radical Solution. New York, Stein and Day, 1976. 239 p. (NCJ 34788)

This text presents a series of recommendations which call for the restructuring of public policy on street crime through decriminalization of less serious crimes and revision of the methods of sentencing and punishment. The author points out the inequalities of the existing criminal justice process, which expends a disproportionate amount of time and money dealing with crimes that harm no one, while affording inadequate protection against serious crimes. In the first section of this text, the author offers proposals for redirecting the energies of law enforcement to make it more effective in combating crime. Changes in public policy aimed at mitigating the causes of crime are also proposed. Recommendations are provided on decriminalization of consensual sexual relations, possession of drugs, and status offenses; strict limitations on gun ownership; police management policies which allow police corruption; and reforms of social agencies to reduce family disruption caused by these bureaucracies. In the second part of this text, the author proposes an end to plea bargaining, abolishment of parole, abandonment of the rehabilitative model of corrections, use of prison as punishment for serious crimes, and adoption of a policy of deterrence with respect to imprisonment.

140. NEUHAUS, RICHARD J. Sense and Nonsense About Victimless Crimes. Skeptic, no. 4: 37-41. November-December, 1974.

(NCJ 32678)

The debate about what ought and what ought not to be a crime is a debate about morality; the author takes exception to the argument that we cannot or should not legislate morality. While not absolutely against the decriminalization or legalization of many of the so-called "victimless crimes", he points out inconsistencies in many of the arguments for decriminalization.

141. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE. Limits of the Criminal Law as a Means of Social Regulation. In Bersani, Carl A., Ed., Crime and Delinquency, a Reader. New York, MacMillan, 1970. p. 78-92.

(NCJ 10191)

An examination is made of the proper scope and operation of the substantive criminal law, with respect to those crimes for which there are no complaining victims. The criminal law covers many activities which society considers undesirable and therefore seeks to control and discourage. The author attempts to establish that the criminal law is an ineffective and costly method of social regulation since these activities usually involve consenting adults and do not involve a victim willing to report the crime to the police. Another objection which can be made against regulating deviant behavior through the criminal law is that it will engender cynicism and disrespect for the whole criminal justice system. It would be more appropriate for conduct such as public drunkenness, gambling, narcotics consumption, vagrancy, and sexual behavior, to be dealt with by the civil, and not criminal law.

142. ROGERS, A.J., III. The Economics of Crime. Hinsdale, Illinois, Dryden Press, 1973. 188 p.

(NCJ 15344)

A cost-benefit analysis is presented of society and the individuals involved in crimes against persons, crimes against property, and so-called crimes without victims. Emotional and economic cost benefit are viewed as prime determinants of behavior. Behavior that involves high cost and little benefit is deemed to be minimal. It is considered that the principal purpose of law is to increase the cost to a prohibitive level of behavior which, if uncontrolled, creates disturbing costs to the dominant socioeconomic control groups. Sexual crimes and a high percentage of murders and assaults are viewed as holding emotional benefit for the offenders, so that laws intended to impose subsequent socioeconomic costs on the offender do not stem the benefits derived from the emotional activity of the momentary crime. Property crimes are deemed most susceptible to reduction by imposing an effective cost structure through law that

will deprive the offender of any benefit. The importance of providing socioeconomic alternatives that are acceptable and within reach for the offender's benefit is emphasized. Prostitution, gambling, and drug use are considered to impose more costs on society through prohibitive legislation than through controlled legalization.

143. SCHUR, EDWIN M. and HUGO ADAM BEDAU. Victimless Crimes - Two Sides of a Controversy. Englewood Cliffs, New Jersey, Prentice-Hall, 1974. 158 p. (NCJ 15304)

A look at so-called victimless crimes is taken from the viewpoints of a sociologist and a philosopher, who agree on decriminalization of such acts as prostitution and gambling, but argue from different bases. The sociologist Schur defines victimless crimes as those which involve the exchange of goods or services by willing participants where the act causes no overt injury to the property or person of any not consenting to the act. Schur argues that prohibitory legislation expands rather than decreases the harmful consequences of such acts, both for participants and the larger society in terms of cost, waste of time and manpower, and the devaluation of personal worth and goals of participants. The philosopher Bedau argues against Schur's concepts of acts to be included under the rubric of victimless crimes, as well as the term victimless crimes itself. He maintains that the determination of the fact or extent of victimization is an impossible criterion for assessing an act, as is the utilitarian measure of the degree of social harm of good. Bedau argues each act must be viewed independent of broad classifications where legislative generalizations are applied. If a particular act harms only those adults who knowingly and willingly choose to do it, Bedau holds it should not be subject to prohibition.

144. SCREVENS, RAYMOND. Les Frontieres de la Repression en Motiere de Moeurs. (Frontiers of Repression in Morals Offenses). In University of Brussels, Les Frontieres de la Repression, 2 - Moeurs, Drogue. (Frontiers of Repression, Part 2 - Morals, Drugs.) Brussels, Belgium, Editions de L'Universite de Bruxelles, 1974. p 55-111. (NCJ 28526)

This is a review of existing Belgian laws and possible alternative methods of control regarding abortion, rape, indecent assault, prostitution, and public acts of indecency with gestures, images, objects, or written materials. This paper is a report of a study group of medical, legal, and criminological specialists organized by the School of Criminology of the University of Brussels, Belgium. He compares methods of controlling these categories of behavior in other countries. The conclusions of the report emphasize the variability of legal limits for this behavior according to place and time. Also emphasized is the failure of the law to accurately reflect changes in social, moral, and religious concepts. -- In French.

145. SIMHADRI, Y.C. Law Enforcement - Social-Legal-Individual Lag. Social Defence, v.9, no. 35: 16-23, 34. January, 1974. (NCJ 26238)

The author presents a broad discussion of the social functions of laws and the problems that occur when social feeling, the law, and individual predilection do not coincide. References are made specifically to victimless crimes.

146. SMITH, ALEXANDER B. and HARRIET POLLACK. Crimes Without Victims. Case and Comment, v. 77, no. 4: 9-15. July-August, 1972. (NCJ 06999)

A rationale for the elimination of morals offenses from the penal code is offered. The authors insist that acts which are malum prohibitum, or evil because they are prohibited, cannot be controlled by the use of punitive sanctions and should be dropped from the criminal code. The enforcement of morals laws, such as those prohibiting gambling and drug abuse, are dangerous to civil liberties since crimes resulting from their violation have no victims. Because there are no victims available to testify for the state, the burden of producing enough evidence for the prosecution rests entirely on the police. It is this need for evidence that traditionally has produced the greatest number of civil liberties violations by the police. The authors go on to suggest that a revision of the penal code would help eliminate police corruption and aid in lessening the overwhelming workload now imposed on the criminal justice system.

147. _____. Less, Not More: Police, Courts, Prisons. Federal Probation, v.36, no. 3: 12-18. September, 1972. (NCJ 07658)

Increasing the number of criminal justice personnel or facilities is seen as ineffective in controlling America's crime problem. More police will only exacerbate the problem by further overloading the courts; more courts will only perpetuate the plea bargaining system; and more prisons will only continue the ineffectiveness of present prison policies. The authors suggest that by legalizing or decriminalizing victimless crimes the deterioration might be halted.

148. _____. Some Sins are not Crimes - A Plea for Reform of the Criminal Law. New York, New Viewpoints, 1975. 222 p. (NCJ 30009)

The authors argue that the effectiveness and efficiency of the criminal justice system could be greatly increased through decriminalization of certain victimless and morals-decency "crimes" viewed as undesirable by society. They contend that the up-to-90 per cent of police, court,

and correctional resources allocated to enforcing and punishing activities in these areas could, through decriminalization, be freed to pursue the really serious felony crimes and criminal offenders. Trends toward reform in the areas of prostitution, homosexuality, gambling, obscenity, alcoholism, and drug law enforcement are identified and discussed. An index is included.

149. TITUS, HERBERT W. The Perils of Decriminalization. (Audio Cassette). Santa Barbara, California, Center for the Study of Democratic Institutions, 1973. 79 min.

(NCJ 31374)

This taped discussion is concerned with the social priorities involved in the decriminalization of victimless crimes and with the treatment alternatives currently available. Both kinds of decriminalization (removing certain activities from the criminal category and diverting certain offenders away from the criminal justice system) pose serious problems in public policy making, asserts the discussion leader. This tape is part of a series of eight tapes on the posture of the criminal justice system in the year 2000. The tapes were edited from the proceedings of a conference on "The Politics of Change in the Criminal Justice System".

150. TROPIN, L.A. Repeal of Victimless Crime Laws. Justice Magazine, v.1, no. 4: 25-27. May, 1972.

(NCJ 04820)

An argument is made for the removal of victimless crimes such as drunkenness, gambling, addiction, loitering, and prostitution from state criminal codes. Today, legislative and administrative change in the victimless crime area is a persistent phenomenon. Laws in a dozen states have been changed on drunkenness, vagrancy, and other crimes and, in a far greater number of cities, administrative decisions by police on what laws they enforce have simply negated some victimless crime laws that are on the books. The principal reason for this change is the recognition by police and public officials that as long as they attempt to enforce victimless crime laws, they will have scant time for anything else. Two additional indices suggest the great scope of the problem: (1) Half of all the people in jail are in for victimless crime; and (2) The cost of dealing with such offenses through the criminal justice system is held to be in excess of two billion dollars a year.

151. U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE. National Institute of Mental Health, Center for Studies of Crime and Delinquency. Not the Law's Business? An Examination of Homosexuality, Abortion, Prostitution, Narcotics, and Gambling in the United States. By Gilbert Geis, Washington, U.S. Government Printing Office, 1972. 269 p. (NCJ 11443)
Stock No. 1724 - 0237

This discussion uses material from an interdisciplinary range of literature, including law, psychology, sociology, and anthropology. The point is often made that homosexuality between consenting adults, prostitution, gambling, or some kinds of drug use are neither harmful to the individuals involved nor to others. The author attributes the current attention given to consensual adult homosexuality to increasing frankness about overall sexual behavior. A cross-cultural discussion of homosexuality is included. A detailed treatment of abortion presents comments on the legal, moral and social issues involved, case studies, and a survey of domestic and foreign abortion laws. The controversy over the voluntary use of illicit drugs is the third issue analyzed. The author discusses different categories of drugs and their impact on society. He contends that the possibility of social harm from the use of opiates lies not so much in the drugs themselves, but rather in the effects of their use. For example, dietary deficiencies resulting from drug use contributes to the high death rate among drug users. The section on prostitution includes arguments for and against prostitution and comments on practices in different areas of the United States and in some European countries. The author notes that the issue of gambling differs from the others discussed since it is legal under certain conditions such as state lotteries and legalized off-track betting. Comments are also presented on the illegal numbers game.

152. U.S. DEPARTMENT OF JUSTICE. Law Enforcement Assistance Administration. Final Report of the San Francisco Committee on Crime. Washington, 1971, 17 p.

MICROFICHE (NCJ 00041)

The committee believes seven principles should be applied in determining whether criminal law is properly used to control conduct: (1) The law cannot successfully make criminal what the public does not want made criminal; (2) Not all the ills or aberrations of society are the concern of the government — government is not the only human institution to handle the problems, hopes, fears or ambitions of people; (3) Every person should be left free of the coercion of criminal law unless his conduct impinges on others and injures others, or if it damages society; (4) When government acts, it is not inevitably necessary that it do so by means of criminal processes; (5) Society has an obligation to protect the young; (6) Criminal law cannot lag far behind a strong sense of public outrage; and (7) Even where conduct may properly be condemned as criminal under the first six principles, it may be that the energies and resources of criminal law enforcement are better spent by concentrating on more serious

things. This is a matter of priorities. The reports of the Committee deal with the qualitative aspects of non-victim crime and also consider the cost-effectiveness of enforcing the present laws.

153. _____ . Law Enforcement Assistance Administration. The Public View of Sentencing and Corrections. By David J. Roberts. M.S. Thesis. Oklahoma City, Oklahoma City University, 1976. 143 p.
MICROFICHE (NCJ 35692)

Results are presented of a survey conducted in Denver, Colorado, to determine public opinion on the effectiveness and propriety of the penal sanctions currently in use against ten crimes (against persons and property, and victimless). The crimes were murder, forcible rape, armed robbery, aggravated assault, burglary, auto theft, marijuana use, homosexuality, prostitution, and gambling. The survey also attempted to discover the penal sanctions that were desired by the public. Bivariate relationships were calculated for respondents' age, sex, ethnicity, religion, educational attainment, and income. The survey questionnaire is included.

154. _____ . Law Enforcement Assistance Administration. A Report on Non-Victim Crime in San Francisco -- Part II -- Sexual Conduct, Gambling, Pornography. By the San Francisco Committee on Crime. Washington, 1971. 105 p.

(NCJ 00039)

It is in matters of sex that criminal law has made its boldest efforts to legislate morals. According to the Committee's report, there is no justification for making sexual conduct between adults, if consensual and private, criminal. As for pornography, there should be prohibition of (1) sale or display to minors, (2) public display or exhibition whereby the pornography is called to the attention of the general public or the passerby, and (3) commercial advertising or solicitation that is offensive, vulgar, lewd, or obscene. Gambling is an activity of humans that occurs on two levels. One is typified by Sky Masterson in *Guys and Dolls*, betting on which of two raindrops on a window pane will reach the bottom first -- two guys getting pleasure or excitement out of chance. The other consists of commercialized operations, in which hard-eyed men organize machinery to profit from the frailty of humans. The first seems as old as mankind and is doubtless incurable. The second is as old as the rapacity of some men to profit from the weakness of others. If crime is involved in the first, it is non-victim crime. But crime in the second is not non-victim crime for it does involve injury to society.

155. UNIVERSITY OF IOWA. Institute of Public Affairs. Victimless Crimes. By Kristine Cordier Karnezis. Iowa City, 1974. 25 p. (NCJ 32422)

The question of whether sex offenses and the status crimes of vagrancy and public drunkenness should continue to be dealt with by the criminal law in Iowa is examined. This paper begins with a discussion of the general issues underlying the debate about the proper use of the criminal law. Then it turns to a discussion of specific acts designated as crimes: adultery, bigamy, incest, statutory rape, lascivious acts with children, sodomy, indecent exposure, prostitution, and obscenity. Each of these crimes is reviewed in relation to arguments about whether to continue to treat the act as criminal. Also examined is how the act is treated in the Iowa law and in the proposed code revision. A list of sources which discuss gambling and drugs -- not covered in this paper -- is appended.

156. VAN TIL, JON. Shortening the Long Arm of the Criminal Law: Toward a strategy for Decriminalization. Pennsylvania Association on Probation, Parole, and Correction Quarterly, v. 31, no. 3: 54-59. Autumn, 1974. (NCJ 36751)

This paper reviews the case for the decriminalization of nine victimless crimes and proposes the development of a broad-based coalition of citizens and professional groups to repeal pertinent restrictive legislation. A distinction is drawn between decriminalization (the removal of the criminal sanction), and regulation (legislative and administrative oversight of the free market availability of the act). However, it is contended that while all of the offenses examined should be decriminalized, most of them should be regulated and/or legalized as well. Discussed are public drunkenness, disorderly conduct and vagrancy, gambling, prostitution, pornography and obscenity, homosexuality and other consensual acts among adults, possession and use of marijuana, and abortion.

157. WACKER, JOHN R. and LYLE KNOWLES. Victimless Crimes -- Perceptions and Attitudes of Television Writers, High School Teachers, and Police Officers. Police Chief, v. 42, no. 11: 38-39. November, 1975. (NCJ 29910)

The authors report on a study which examined differences in the perceptions held by these three groups about victimless crimes and attitudes toward the handling of such violations by arrest. The respondents of each group were asked to examine a list of randomly ordered crimes and to place a check mark opposite those to which they believed the term "victimless crime" applied. The crimes listed were narcotics violations, sale of marijuana, auto theft, child abuse, prostitution, forgery, pornography, gambling, homosexuality, and shoplifting. All three groups of respondents agreed that narcotics violations and the

sale of marijuana had victims. The vast majority of writers and teachers perceived the following crimes as being victimless: marijuana use, homosexuality, prostitution, pornography, and gambling. A slight majority of police officers viewed the following crimes as victimless: prostitution, pornography, and gambling. The majority of writers, teachers, and police officers all agreed that narcotics violations and the sale of marijuana should be enforced by arrest. Writers and teachers, however, disagreed with arrest for marijuana use, homosexuality, prostitution, pornography, and gambling.

158. WINSLOW, ROBERT W. The Emergence of Deviant Minorities - Social Problems and Social Change. San Ramon, California, Consensus Publishers, 1972, 387 p.

(NCJ 12317)

Discussion is presented of societal reactions to youth, the poor, homosexuals, alcoholics, prostitutes, pornography supporters, and those convicted of crime. A discussion of social problems and minorities includes excerpts from the Kerner Report on Civil Disorders, the Moynihan Report on the Black Family, and the President's Commission Report on Law Enforcement and the Administration of Justice. The author devotes a separate section to each group defined as a deviant minority. By his definition, the author has in mind people whose morality or way of life is in conflict with the law and values of society and who are coming out in the open to assert the validity of their value systems. The final chapters present a description of treatment of deviant minorities in San Francisco with a tolerant approach which has led to the breakdown of stereotypes and reduction in crime and aggression on the part of the deviants.

APPENDIX A - LIST OF SOURCES

All references are to bibliography entry numbers, not pages.

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Administrative Office of the
United States Courts
Supreme Court Building
Washington, DC 20544
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San Juan, Puerto Rico 00936

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National Criminal Justice
Reference Service
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Rockville, MD 20850
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Court
400 F Street, N.W.
Washington, DC 20001
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University of Oklahoma
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630 Parrington Oval
Norman, OK 73069
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2000 Hamburg 13
Heimhuder Strasse 53
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Lewis Cass Building
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Case Postale 129
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1000 Bruxelles
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200 West 14th Avenue
Denver, CO 80204

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