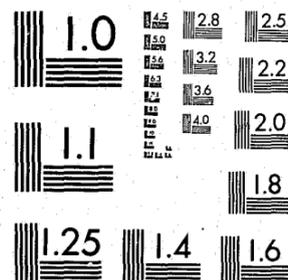


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DEPARTMENT OF OFFENDER REHABILITATION

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Research Study

A HISTORICAL ANALYSIS OF FIXED VS INDETERMINATE
SENTENCING FOR INMATES COMMITTED TO THE CUSTODY OF
THE DEPARTMENT OF OFFENDER REHABILITATION
#77-R-063

Bureau of Planning,
Research and Statistics

SEPTEMBER 27, 1977

A HISTORICAL ANALYSIS OF FIXED VS INDETERMINATE SENTENCING FOR INMATES COMMITTED TO THE CUSTODY OF THE DEPARTMENT OF OFFENDER REHABILITATION

PURPOSE

The purpose of this study is to analyze historical trends in fixed versus indeterminate sentencing patterns and to develop projections forecasting future trends in fixed and indeterminate sentences.

BACKGROUND

In 1957 the Florida Legislature enacted Chapter 57-336 of the Laws of Florida. This act creating Statute 921.18 provided for indeterminate sentencing of felony offenders to a period of from 6 months to a maximum not greater than the maximum provided for the specific offense and not less than the minimum provided for that same offense.

Since 1957 the statute has been revised 6 times. The main difference between the original statute and the statute as it is formulated today is the exclusion of habitual offenders and felons convicted of capital offenses from the provisions of the statute. Florida Statute Chapter 921.18 reads as follows:

"The court in its discretion may sentence a defendant convicted of a noncapital felony to the custody of the Department of Offender Rehabilitation for an indeterminate period of 6 months to a maximum period of imprisonment. The maximum sentence may be less than the maximum prescribed by law, but shall not be less than the minimum, if any, prescribed for the offense. This section shall not apply to sentences imposed under s. 775.084 or any other statute providing for punishment of habitual criminals."

ANALYSIS

Table I presents number and percent distribution for fixed versus indeterminate sentences since 1957 when the statute was originated.

TABLE I

FIXED AND INDETERMINATE SENTENCES FOR FY 1963-72
WITH PROJECTION THROUGH FY 1982

| Fiscal Year | Fixed Sentences | | Indeterminate Sentences | | Total Admissions |
|-------------|-----------------|------------|-------------------------|------------|------------------|
| | Number | Percentage | Number | Percentage | |
| 1957 | 2631 | 96.4% | 97 | 3.6% | 2728 |
| 1958 | 2194 | 79.8% | 555 | 20.2% | 2749 |
| *1959 | 1632 | 79.6% | 247 | 20.4% | 1879 |
| 1959-60 | 2514 | 76.3% | 779 | 23.7% | 3293 |
| 1960-61 | 2462 | 73.7% | 880 | 26.3% | 3342 |
| 1961-62 | 2306 | 63.9% | 1301 | 36.1% | 3607 |
| 1962-63 | 1946 | 65.6% | 1025 | 34.5% | 2971 |
| 1963-64 | 2373 | 73.3% | 902 | 26.7% | 3376 |
| 1964-65 | 2864 | 80.7% | 686 | 19.3% | 3550 |
| 1965-66 | 2656 | 79.6% | 681 | 20.4% | 3337 |
| 1966-67 | 2805 | 85.3% | 485 | 14.7% | 3290 |
| 1967-68 | 2881 | 85.3% | 498 | 14.7% | 3379 |
| 1968-69 | 3128 | 83.7% | 608 | 16.3% | 3736 |
| 1969-70 | 3254 | 85.0% | 575 | 15.0% | 3829 |
| 1970-71 | 5275 | 90.5% | 555 | 9.5% | 5830 |
| 1971-72 | 4746 | 89.6% | 553 | 10.4% | 5299 |
| 1972-73 | 4369 | 88.3% | 577 | 11.7% | 4946 |
| 1973-74 | 4765 | 85.7% | 795 | 14.3% | 5560 |
| 1974-75 | 6410 | 88.8% | 812 | 11.2% | 7222 |
| 1975-76 | 7669 | 91.2% | 742 | 8.8% | 8411 |

*Represents 6 month transition from calender to fiscal year.

On examination of Table I it becomes clear that after the passage of the law in 1957 there was a period of increasing usage of its provision for indeterminate sentences. It appears that approximately 5 years passed before the maximum usage of the statute was reached. This is reasonable to expect since it takes some time

before any new statute is widely known and regularly used. However, after reaching its high point in Fiscal Year 1961-62 there was a steady (with few minor exceptions) decline in its usage. As is presented in the table the usage of the indeterminate provision has declined from 36.1% in Fiscal Year 1961-62 to a current low of 8.8% in Fiscal Year 1975-76.

If the decreasing trend in the use of indeterminate sentences continues at its present rate, we may expect that by the Fiscal Year 1980-81 we will receive virtually no commitments with indeterminate sentences.

This trend by the court in recent years to impose fixed rather than indeterminate sentences might possibly be explained as the court's reaction to current feelings that rehabilitation does not work, and therefore sentences should be more keyed to the offense than to the rehabilitation of the offender. Another possibility is that the trend represents the acknowledgment that parole functions in many ways as an indeterminate sentence and therefore the formal statement of the indeterminate sentence is by and large ignored.